

April 7, 2008

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VIA HAND DELIVERY

Zoning Commission for the
District of Columbia
441 4th Street, N.W.
Suite 210-S
Washington, DC 20001

Re: Zoning Commission Case No. 07-02 – 1444 Irving Street, N.W.
Proposed Findings of Fact and Conclusions of Law

Dear Members of the Commission:

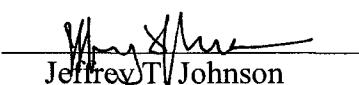
On behalf of Columbia Heights Ventures Parcel 26, LLC and the Office of the Deputy Mayor for Planning and Economic Development (the "Applicants"), enclosed please find twenty copies of the Applicants' Proposed Findings of Fact and Conclusions of Law in the above-referenced case. We look forward to the Commission's decision on this application.

Sincerely,

HOLLAND & KNIGHT LLP

By: 

Norman M. Glasgow, Jr.

By: 

Jeffrey T. Johnson

cc: Advisory Neighborhood Commission 1A
Stephen Cochran, Office of Planning
Jennifer Steingasser, Office of Planning

ZONING COMMISSION
District of Columbia

CASE NO. 07-02

EXHIBIT NO. 48

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RECORD

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 07-02
Case No. 07-02

**Consolidated Planned Unit Development – 1444 Irving Street, N.W.
Columbia Heights Ventures Parcel 26, LLC and the RLA Revitalization Corporation**

[Date of Final Action]

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held a public hearing on February 4, 2008 to consider an application from Columbia Heights Ventures Parcel 26, LLC ("Donatelli") and the Office of the Deputy Mayor for Planning and Economic Development (collectively, the "Applicants") for consolidated review and approval of a planned unit development ("PUD") and related zoning map amendment from R-5-B to C-3-A for a portion of the site. The Commission considered the application pursuant to Chapters 24 and 30 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR"). The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Zoning Commission hereby approves the application.

FINDINGS OF FACT

The Application, Parties, and Hearing

1. On January 3, 2007, the Applicants filed an application with the Commission for consolidated review and approval of a planned unit development ("PUD") for property located at 1444 Irving Street, N.W. and designated as Lot 726 in Square 2672 (the "Original PUD Site"). Square 2672 is bounded by Irving Street on the north, 14th Street on the east, Columbia Road on the south, and 15th Street on the west in Northwest Washington, D.C. The Original PUD Site has a land area of approximately 25,415 square feet and is located within the R-5-B and C-3-A Districts. The Applicants also requested that the Commission rezone the western portion of the Original PUD Site—which is currently zoned R-5-B—to the C-3-A District so that the entire site would be zoned C-3-A. As originally submitted, the PUD application contemplated the construction of a 69-unit apartment building and a community-based residential facility ("CBRF") with 104 beds. The project was to contain a total of 114,368 square feet of gross floor area (4.5 FAR), including approximately 80,703 square feet of gross floor area in the apartment building and 33,665 square feet in the CBRF. The apartment building was to be constructed to a maximum height of eight-one feet, eight inches, while the CBRF would reach a maximum height of eighty-two feet, four inches. As discussed below, these plans have been superseded by subsequent plans.
2. At its public meeting on April 9, 2007, the Commission voted to schedule a public hearing on the application.
3. On November 13, 2007, the Applicants filed a Prehearing Statement and revised architectural plans and elevations, dated November 7, 2007. The Applicants' Prehearing Statement

addressed a number of issues raised by the Office of Planning and the Zoning Commission at the public meeting on April 9, 2007.

4. Advisory Neighborhood Commission ("ANC") 1A unanimously voted to approve the PUD and related zoning map amendment at its regularly scheduled meeting on January 9, 2008. The ANC submitted a letter to the Commission, dated January 9, 2008 and marked as Exhibit 30 of the record, recommending approval of the application.
5. On January 15, 2008, the Applicants filed supplemental materials in support of the application, including a revised set of architectural plans and elevations, dated January 15, 2008 and marked as Exhibit 24 of the record. These revised plans provided an interior connection between the mixed-income apartment house and the adjacent CBRF and a glass and steel corridor between the mixed-income apartment house and the existing Highland Park building at 1400 Irving Street, N.W. In response to inquiries from the Office of Planning and input from the Office of the Attorney General, the Applicant expanded the boundaries of the PUD application to include both Lot 726 and Lot 884 (the "Subject Property"). The new above-grade connections rendered Highland Park and the mixed-income apartment building a single building for zoning purposes. The design of the CBRF has been modified as discussed below.
6. After proper notice, the Zoning Commission held a public hearing on the application on February 4, 2008. The parties to the case were the Applicants and ANC 1A.
7. The Applicants submitted a revised set of architectural plans and elevations at the Commission's public hearing on February 4, 2008. These plans, which are marked as Exhibit 31 of the record, included updated development data to reflect the new boundaries of the PUD.
8. The Applicants presented four witnesses at the Commission's hearing on February 4, 2008, including Christopher J. Donatelli of Donatelli Development and Laurence Caudle, Holly Lennihan, and Eric Inman of Hickok Cole Architects. Also available to testify were Lindsley Williams, land use planning consultant to Holland & Knight LLP, and Iain Banks of O.R. George & Associates. Based upon their professional experience, as evidenced by the resumes submitted for the record and prior appearances before the Commission, Messrs. Donatelli, Caudle, Inman, Williams, and Banks, and Ms. Lennihan were qualified by the Commission as experts in their respective fields.
9. On February 25, 2008, the Applicants filed a letter, marked as Exhibit 36 of the record, requesting that the Commission defer its decision on the application until its regularly scheduled public meeting on April 14, 2008. By letter dated February 27, 2008 and marked as Exhibit 37 of the record, the Commission granted the Applicants' request.
10. On March 31, 2008, the Applicants submitted supplemental materials in support of the application. These materials included a revised set of architectural plans and elevations, dated March 25, 2008 and marked as Exhibit 38 of the record (the "Final Plans"). The Final Plans eliminated the interior connection between the CBRF and the mixed-income apartment

building. Because the removal of this connection rendered the CBRF a separate building with frontage only on Irving Street, the Applicants reduced the height of the CBRF to seventy feet in order to comply with the Height of Buildings Act of 1910. This modification reduced the total number of units in the CBRF from 104 to 82, and decreased its gross floor area to 28,634 square feet. The Final Plans retained the above-grade connection between the mixed-income apartment building and Highland Park, and those structures will continue to function as a single building for zoning purposes.

11. The Office of Planning submitted a Supplemental Report dated April 4, 2008, recommending that the Zoning Commission approve the revised plans with the following to be addressed in the Applicants' Proposed Findings of Fact and Conclusions of Law:
 - a. the Applicants agreement to work with the District Department of Transportation to provide a curbside car-sharing parking space adjacent to the property; and
 - b. confirmation that the Applicants would provide a twenty-dollar Metro pass per individual unit at the time of the initial move-in of the initial tenant for that unit.
12. The Deputy Mayor for Economic Development submitted a letter dated March 27, 2008 in support of the project and plans.
13. At its public meeting on April 14, 2008, the Commission took proposed action by a vote of _____ to approve with conditions the applications and the Final Plans.
14. The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") under the terms of the District of Columbia Home Rule Act. NCPC, by action dated _____, found that the proposed PUD and related map amendment would not affect the federal establishment or other federal interests in the National Capital, nor be inconsistent with the Federal Elements of the Comprehensive Plan for the National Capital.
15. The Zoning Commission took final action to approve the application on _____ by a vote of _____.

History of Parcel 26

16. In July 2001, the RLA Revitalization Corporation ("RLARC") issued a request for proposals ("RFP") for all of Parcel 26, which includes Lots 726 and 884 in Square 2672. The RFP provided that the redevelopment of the 2.69-acre site should consist primarily of new residential uses. The RFP contained no discussion of the existing La Casa shelter or any requirement to provide replacement facilities on the property.
17. On November 5, 2001, Donatelli submitted a response to the RFP. This response contemplated the redevelopment of Parcel 26 with apartments, townhouses, and ground-floor retail space along both 14th and Irving Streets. Donatelli Development's response to the RFP did not include a proffer to provide replacement facilities for La Casa.

18. In November 2002, RLARC selected Donatelli's response to the RFP and entered into an exclusive rights agreement ("ERA") to govern the development of the site. The ERA included the first mention of the La Casa shelter and provided for the continued presence of the shelter on the site until it was relocated to its new location on Spring Road. The ERA also required that twenty percent of the residential floor area in the new residential development be set aside as affordable housing. The ERA did not require the construction of permanent replacement facilities for La Casa on the site.
19. On November 19, 2003, RLARC and Donatelli executed a land disposition agreement ("LDA") providing for the transfer of fee simple title to Parcel 26 from RLARC to Donatelli. Like the ERA, the LDA required that twenty percent of the residential floor area in the development be reserved for households earning no more than eighty percent of AMI. The LDA did not provide for the construction of replacement facilities for the existing La Casa shelter.
20. In 2004, RLARC first requested that Donatelli design and obtain the necessary zoning approvals for a new single room occupancy ("SRO") facility on Parcel 26 to replace the existing La Casa shelter. Donatelli agreed to this request and entered into a memorandum of understanding ("MOU") with the District on March 29, 2004. Under this MOU, Donatelli agreed to bear the costs of designing the proposed SRO, obtaining the necessary zoning approvals for the project, and dedicating a portion of Parcel 26 to the District for the new facility. The new SRO would be constructed under the auspices of the Office of Property Management and would be operated by the Department of Human Services.
21. After Parcel 26 was conveyed to Donatelli, ownership of what is now designated as Lot 726 was transferred back to the RLARC in order to avoid any potential liability associated with the La Casa trailers on the site. RLARC agreed to convey the property back to Donatelli after the trailers had been relocated to another site.
22. Donatelli and RLARC filed the present application with the Zoning Commission as co-applicants on January 3, 2007.
23. On October 1, 2007, RLARC was dissolved and all of its powers and assets—including the portion of Parcel 26 now designated at Lot 726—were transferred to the Office of the Deputy Mayor for Planning and Economic Development ("DMPED").

The PUD Project

24. As currently designed, the proposed project will include the construction of a 64-unit apartment building and an 82-bed CBRF. The PUD will also include the existing Highland Park apartment building. The project will contain approximately 400,517 square feet of gross floor area. The project will have an overall density of approximately 3.96 FAR and a maximum height of eighty-six feet, two inches.

25. The existing Highland Park apartment building is located on Lot 884, on the southwest corner of Irving Street and 14th Street, and was constructed pursuant to Board of Zoning Adjustment ("BZA") Order No. 17029 (effective July 13, 2003). Highland Park contains 229 residential units and ground-floor retail space. The existing building has a total gross floor area of 291,180 square feet and a maximum height of eighty-one feet, ten inches. The loading facilities for the Highland Park building are located at the northwest corner of Lot 884 and are accessed directly from Irving Street. The existing building is served by an underground parking garage containing 338 parking spaces.
26. The mixed-income apartment building will be constructed to the west of the Highland Park and will occupy most of Lot 726. This portion of the project will contain 80,703 square feet of gross floor area and will rise to a maximum height of eighty-six feet, two inches. Pursuant to the requirements of the Land Disposition Agreement for the Subject Property, twenty percent of the residential floor area in the mixed-income apartment building will be set aside for households earning no more than eighty percent of AMI. Approximately sixty-four parking spaces will be provided for the mixed-income apartment building in an underground parking garage, which will be accessed from 14th Street through the existing parking garage at Highland Park. The mixed-income apartment building will include a thirty-foot loading berth, a twenty-foot service/delivery space, and a 200-square-foot loading platform adjacent to the public alley at the south end of Lot 726.
27. The CBRF will contain 28,634 square feet of gross floor area and will be constructed to a maximum height of seventy feet. The facility will be located near the northwest corner of Lot 726 and will be set back approximately twelve feet from the northern property line along Irving Street. The CBRF will be allowed to use the Highland Park loading facilities and will have three parking spaces for employee use in the mixed-income apartment building's underground parking garage. As noted above, the CBRF will be constructed by the Office of Property Management and operated by the Department of Human Services.
28. The mixed-income apartment building will be set back approximately sixty feet from the property line along Irving Street to provide sunlight for the windows on the eastern elevation of the CBRF. Residents and visitors will reach the mixed-income apartment building from Irving Street through a one-story glass gallery along the eastern side of the CBRF. The proposed apartment building's community room will be located beneath the glass gallery and will open onto a recessed garden terrace along the eastern edge of Lot 726. An iconic glass-and-steel sculptural bay will rise from the recessed garden terrace to create visual interest on the apartment building's north façade. The rear block of the apartment building will wrap around the CBRF and will be set back from the east and west property lines to create large landscaped courts. These courtyards will provide open space for passive recreation by the building's residents and will protect the light and air of the adjacent properties to the west. The lobby of the mixed-income apartment building will be connected to the community room in the existing Highland Park building through an above-grade corridor and to the joint landscaped garden.

Matter of Right Development under Existing Zoning

29. The Subject Property consists of Lots 726 and 884 in Square 2672 and contains approximately 101,194 square feet of land area. Lot 884, which contains approximately 75,779 square feet of land area, is zoned C-3-A in its entirety. Lot 726 includes approximately 25,415 square feet of land area and is split-zoned between the R-5-B and C-3-A Districts.
30. The R-5 Districts are designed to permit flexibility of design by permitting within a single district all types of urban residential development that conform to the height, density, and area requirements established for the particular district. 11 DCMR § 350.1. The R-5-B District allows residential buildings to be constructed to a maximum height of 50 feet and a maximum density of 1.8 FAR as a matter of right. 11 DCMR §§ 400.1, 402.4. Buildings within the R-5-B District may not occupy more than sixty percent of the lot upon which they are located. 11 DCMR § 403.2. All structures located within the R-5-B District must provide a rear yard with a minimum depth of four inches for each foot of vertical distance between the mean finished grade at the middle of the building's rear wall and the highest point of the building's main roof or parapet, with a minimum required depth of fifteen feet. 11 DCMR § 404.1. Under the PUD guidelines for the R-5-B District, a residential building may be constructed to a maximum height of 60 feet and a maximum density of 3.0 FAR. 11 DCMR § 2405.1, 2405.2.
31. The C-3-A District allows medium-density development, with a density incentive for residential development within a general pattern of mixed-use development. 11 DCMR § 740.4. Buildings within the C-3-A District may be constructed to a maximum height of 65 feet with no limitation on the number of stories. 11 DCMR § 770.1. The maximum density permitted within the C-3-A District is 4.0 FAR, of which no more than 2.5 FAR may be devoted to nonresidential uses. 11 DCMR § 771.2. Residential buildings within the C-3-A District may not occupy more than seventy-five percent of the lot upon which they are located. 11 DCMR § 772.1. All structures located within the C-3-A District must provide a rear yard with a minimum depth of 2.5 inches for each foot of vertical distance between the mean finished grade at the middle of the building's rear wall and the highest point of the building's main roof or parapet, with a minimum required depth of twelve feet. 11 DCMR § 774.1. Under the PUD guidelines for the C-3-A District, a residential building may be constructed to a maximum height of 90 feet and a maximum density of 4.5 FAR, of which no more than 3.0 FAR may be devoted to nonresidential uses. 11 DCMR § 2405.1, 2405.2.

Matter of Right Development under Proposed Zoning

32. The Applicants have applied for a map amendment to rezone the western portion of Lot 726 from the R-5-B District to the C-3-A District. The requested map amendment would result in a zoning designation of C-3-A for the entire Subject Property and would allow a maximum PUD height and residential density of 90 feet and 4.5 FAR, respectively. As discussed previously, the development proposed is at eighty-six feet, two inches and seventy feet for

the mixed-income apartment building and CBRF, respectively. The overall FAR of the project is approximately 3.96 FAR.

Development Incentives and Flexibility

33. The Applicants have requested flexibility from the loading, off-street parking, court width, rear yard depth, and roof structure setback requirements. The Applicants also seek to construct two separate buildings on a single record lot as permitted under Section 2517. As permitted under Section 2405.8, the Commission may grant such flexibility without the need for special exception approval from the Board of Zoning Adjustment or compliance with the special exception standards that might otherwise apply.

Public Benefits and Amenities

34. The Commission finds that the following benefits and amenities will be created as a result of the PUD:

- a. *Urban Design, Architecture, Landscaping, and Open Space.* The proposed development has been sensitively designed by the exceptional architectural firm of Hickok Cole to enhance the streetscape and surrounding neighborhood. The superior quality of the proposed project's architectural design far exceeds that of most matter-of-right projects and is consistent with principles of sound urban design. The project will also include extensive landscaping along Irving Street and within the development's courtyards, and the unique glass-and-steel structural bay on the mixed-income apartment building's north façade will serve as an attractive neighborhood landmark.
- b. *Site Planning and Efficient Land Utilization.* The configuration of the proposed project will promote the efficient utilization of land on a relatively narrow site while protecting the light and air of the development's occupants and their neighbors through the use of multiple courts and building setbacks. By setting the mixed-income apartment building back from the east and west boundaries of Lot 726, the Applicants will provide significant open space for the development's residents and will minimize the project's impact on adjacent properties.
- c. *First Source Employment Agreement.* The Applicants have executed a First Source Employment Agreement with the Department of Employment Services ("DOES") in order to achieve the goal of utilizing District residents for at least fifty-one percent of the new jobs created by the PUD project. The Applicants will use DOES as their first source for recruitment, referral, and placement of new hires for employees whose jobs are created by the PUD.
- d. *Housing and Affordable Housing.* The single greatest benefit to the area and the city is the creation of a substantial amount of new housing consistent with the goals of the Zoning Regulations, the Comprehensive Plan, and the Mayor's housing initiative. The proposed CBRF and mixed-income apartment building

will provide approximately 109,337 square feet of new housing just steps away from the Columbia Heights Metrorail station. Twenty percent of the residential floor area in the mixed-income apartment building will be reserved for households earning less than eighty percent of AMI. The Applicants are setting aside two and one-half times the amount of affordable housing that would be required under the District's proposed inclusionary zoning regulations. On an FAR basis, affordable housing—including the affordable units in the apartment building and the CBRF—will account for approximately forty percent of the new development. This new housing is a significant benefit to the surrounding neighborhood and the District as a whole.

- e. *Social Services and Facilities.* In addition to providing over 28,000 square feet of affordable housing, the proposed CBRF will also offer a number of critical social services to its residents. The facility will provide meals, case management, employment and housing placement assistance, and substance abuse counseling for the individuals living there.
- f. *Environmental Benefits.* The proposed development will incorporate a number of environmentally sensitive design features and construction practices that will provide significant environmental benefits to the District. Extensive landscaping in the development's courtyards and along Irving Street will improve water quality by reducing the volume of runoff from the site. The development's HVAC and fire-suppression systems will not use HCFCs or Halon, and the Applicants also intend to use low-VOC paints, sealants, adhesives, and carpeting on the buildings' interiors. All of these features will help diminish the project's environmental footprint.
- g. *Uses of Special Value to the Neighborhood and the District.* La Casa, a District-owned homeless shelter, is currently located on Lot 726. The proposed CBRF will replace the existing trailers on the site and will provide a number of social services that are not presently offered by La Casa. The Applicants will convey the land for the CBRF to the District and is bearing all of the costs associated with designing the facility and obtaining the necessary zoning approvals for its development. The Applicants have estimated that the cost of the architectural design fees for the CBRF is approximately \$340,000, and the Commission has no reason to doubt that assessment. As indicated in the written report of ANC 1A, moreover, the community strongly supports the retention of the La Casa shelter in the Columbia Heights neighborhood. The proposed project is clearly a use of special value to the neighborhood and the District as a whole.

Consistency with the Future Land Use Map and Generalized Policy Map

- 35. The Future Land Use Map of the Comprehensive Plan designates the Subject Property for mixed-use development including medium-density residential and moderate-density commercial land uses. The proposed residential project and the related map amendment to rezone the western portion of the site to the C-3-A District are consistent with this

designation and will also be compatible with the land use designations for the surrounding area. The proposed project is also consistent with the site's designation as a Multi-Neighborhood Center on the Generalized Policy Map.

Consistency with the District Elements of the Comprehensive Plan

36. *Land Use Element (Chapter 3).* The Comprehensive Plan provides that “[b]ecause the Land Use Element integrates the policies and objectives of all the other District Elements, it should be given greater weight than the other elements as competing policies in different elements are balanced.” 10 DCMR § 300.2. The underlying goal of the Land Use Element is to ensure the efficient use of land resources to meet long-term neighborhood, citywide, and regional needs; to help foster other District goals; to protect the health, safety, and welfare of District residents and businesses; to sustain, restore, or improve the character and stability of neighborhoods in all parts of the city; and to effectively balance the competing demands for land to support the many activities that take place within District boundaries. 10 DCMR § 302.1. The proposed project will advance this important goal by complying with a number of the policies set forth in the Land Use Element of the Comprehensive Plan.

- a. *Policy LU-1.3.3: Housing Around Metrorail Stations.* The proposed project will provide a substantial number of new housing units in close proximity to the Columbia Heights Metrorail station. The new mixed-income apartment building will contain approximately 80,703 square feet of residential space, twenty percent of which will be reserved for households earning no more than eighty percent of AMI. The 82-bed CBRF will provide approximately 28,634 square feet of housing for some of the District's most economically disadvantaged residents. The proposed project represents precisely the type of transit-oriented development that Policy LU-1.3.3 is designed to encourage.
- b. *Policy LU-1.3.5: Edge Conditions Around Transit Stations.* The proposed project will provide an effective buffer between the 14th Street commercial corridor and the residentially zoned properties to the west. The density and use of the proposed development is appropriate for this location, and its design will respect the character, scale, and integrity of adjacent properties.
- c. *Policy LU-1.4.1: Infill Development.* The proposed development is an exceptional example of urban infill development. The Applicants intend to provide an attractive new residential development on an underutilized site in close proximity to public transit. The mixed-income apartment building and CBRF will significantly enhance the pedestrian experience along Irving Street by filling the existing gap in the urban fabric.
- d. *Policy LU-2.2.4: Neighborhood Beautification.* The proposed project will further the important goal of neighborhood beautification by replacing an unsightly collection of trailers with a new development of extraordinary architectural distinction. New landscaping and trees along Irving Street will dramatically improve the appearance of the site.

37. *Transportation Element (Chapter 4).* The stated goal of the Transportation Element of the Comprehensive Plan is to create a safe, sustainable, efficient, multi-modal transportation system that meets the access and mobility needs of District residents, the regional workforce, and visitors, supports local and regional economic prosperity; and enhances the quality of life for District residents. 10 DCMR § 401.1. The proposed development will further these purposes through compliance with a number of the specific policies contained in the Transportation Element of the Comprehensive Plan.

- a. *Policy T-1.1.4: Transit-Oriented Development.* The proposed development will provide approximately 109,337 square feet of new housing just a short walk from the Columbia Heights Metrorail station. This project represents precisely the type of transit-oriented development that Policy T-1.1.4 is designed to achieve.

38. *Housing Element (Chapter 5).* The proposed project will help achieve the District's housing goal of developing and maintaining a safe, decent, and affordable supply of housing for all current and future residents of the District of Columbia. 10 DCMR 501.1. The proposed CBRF and mixed-income apartment building will further a number of the policies set forth in the Housing Element of the Comprehensive Plan.

- a. *Policy H-1.1.1: Private Sector Support.* The mixed-income apartment building will provide approximately 80,703 square feet of residential gross floor area, twenty percent of which will be reserved for households earning no more than eighty percent of AMI. The CBRF will contain approximately 28,634 square feet of new housing for some of the District's poorest residents. The proposed project will further the District's policy of leveraging private development to create affordable housing at locations consistent with District land use policies and objectives.
- b. *Policy H-1.1.4: Mixed Use Development.* Although the mixed-income apartment building and the CBRF are exclusively residential buildings, the Highland Park portion of the PUD contains significant ground-floor retail space. These new residential uses will also complement the nearby commercial uses along the 14th Street corridor. The proposed project will further the objectives of Policy H-1.1.4 by contributing to a diverse mix of land uses in close proximity to Metrorail and along major commercial corridors.
- c. *Policy H-1.1.5: Housing Quality.* Under the terms of the Land Disposition Agreement, the affordable units in the mixed-income apartment building will be evenly distributed throughout all but the top two floors of the building and will be comparable in exterior design, materials, and finishes to the market-rate units. The affordable housing units in the Highland Park portion of the development are subject to the same requirements. Significantly, the residents of the La Casa shelter will be moved from the existing trailers into the attractively designed CBRF. From the outside, the CBRF will be virtually indistinguishable from a market-rate apartment building.
- d. *Policy H-1.2.3: Mixed Income Housing.* The proposed development is a fine example of mixed-income housing. At least twenty percent of the residential floor area in the new apartment building will be set aside for low- and moderate-income households. The

remaining portions of the apartment building will consist of market-rate units, while the CBRF will serve some of the District's poorest residents. The PUD will further the objectives of Policy H-1.2.3 and is consistent with the District's long-term vision of an inclusionary city.

- e. *Policy H-1.2.5: Workforce Housing.* Twenty percent of the residential floor area in the mixed-income apartment building will be reserved for families who earn no more than eighty percent of AMI. These units will be priced at a level that is affordable for nurses, teachers, police officers, firefighters, and other members of the occupational groups listed in Policy H-1.2.5.
- f. *Policy H-1.3.6: Single Room Occupancy Units.* Although the new La Casa facility is referred to as a CBRF for zoning purposes, it was designed and will function as a single room occupancy ("SRO") building. The proposed project is therefore consistent with Policy H-1.3.6, which encourages the development of SROs in appropriate zone districts.
- g. *Policy H-4.1.3: Coordination of Housing and Support Services.* The proposed CBRF will provide its residents with more than just physical shelter; it will also offer job training, housing placement and assistance, case management, substance abuse counseling, and other programs designed to promote self-sufficiency and upward mobility. This combination of housing and social support services is consistent with Policy H-4.1.3.
- h. *Policy H-4.2.5: Ending Homelessness.* The city's homeless individuals are the target population of the proposed CBRF. As noted above, the facility is not intended to serve as an emergency shelter. On the contrary, it seeks to reduce homelessness by providing its residents with support services and a path to upward mobility.
- i. *Policy H-4.2.8: Neighborhood-Based Homeless Services.* The CBRF will require its residents to enter into a lease with the District. Unlike the occupants of large institutional facilities and emergency shelters, the residents of the proposed CBRF are expected to become long-term members of the Columbia Heights community.

39. *Environmental Protection Element (Chapter 6).* The principal purpose of the Environmental Protection Element is to protect, restore, and enhance the natural and manmade environment in the District of Columbia, taking steps to improve environmental quality, prevent and reduce pollution, and conserve the values and functions of the District's natural resources and ecosystem. 10 DCMR § 601.1. The proposed project will significantly advance this goal by furthering a number of the policies of the Environmental Protection Element.

- a. *Policy E-1.1.3: Landscaping.* The proposed project will include extensive landscaping in the courtyards and along Irving Street and is therefore consistent with Policy E-1.1.3. This landscaping will help beautify the city and will reduce stormwater runoff from the site.

40. *Economic Development Element (Chapter 7).* The proposed project will strengthen the District's economy by accommodating future job growth, revitalizing neighborhood commercial centers, improving resident job skills, and helping a greater number of District residents find and keep jobs in the Washington regional economy. 10 DCMR § 701.1. In addition to creating new jobs and tax revenues for the District, the proposed project will also advance the specific policies set forth in the Economic Development Element of the Comprehensive Plan.

- a. *Policy ED-4.2.1: Linking Residents to Jobs.* The proposed CBRF will further Policy ED-4.2.1 by providing job training and placement assistance to its residents. Finally, the project will provide a substantial amount of affordable housing in close proximity to public transit. The development will clearly further the policy of linking District residents to jobs.
- b. *Policy ED-4.2.3: Focus on Economically Disadvantaged Populations.* The CBRF component of the project will provide housing and social services for some of the District's most economically vulnerable residents. Under the District's pending inclusionary zoning regulations, any new development located within the C-3-A District that is subject to the program will be required to set aside 100 percent of its inclusionary units for households earning no more than eighty percent of AMI. The individuals to be served by the proposed CBRF will be far too impoverished to benefit from the District's proposed inclusionary zoning program. The proposed CBRF will further the objectives of Policy ED-4.2.3 by focusing on the District's most economically disadvantaged residents.
- c. *Policy ED-4.2.4: Neighborhood-Level Service Delivery.* The social service programs offered at the CBRF represent a community-based approach to addressing the issues of homelessness and unemployment. These programs will further the District's policy of encouraging the administration and delivery of such programs at the neighborhood level.
- d. *Policy ED-4.2.12: Local Hiring Incentives.* The Applicants have entered into a First Source Employment Agreement with the Department of Employment Services to achieve the goal of utilizing District residents for fifty-one percent of the new jobs created during construction of the proposed project. This agreement will further the goals of Policy ED-4.2.12.

41. *Urban Design Element (Chapter 9).* The goal of the Urban Design Element is to enhance the beauty and livability of the city by protecting its historic design legacy, reinforcing the identity of its neighborhoods, harmoniously integrating new construction with existing buildings and the natural environment, and improving the vitality, appearance, and security of streets and public spaces. 10 DCMR § 901.1. The unique design of the proposed project will further this important objective.

- a. *Policy UD-2.2.4: Transitions in Building Intensity.* The proposed project will provide an effective transition from the intensive commercial uses along the 14th Street corridor to

the residential neighborhoods to the west. The new buildings have been carefully designed to minimize their impact on Irving Street and on other neighboring properties.

- b. *Policy UD-2.2.5: Creating Attractive Façades.* The innovative architectural design of the proposed project is consistent with the objectives of Policy UD-2.2.5. The façades of both the mixed-income apartment building and the CBRF will significantly enhance the pedestrian experience along Irving Street and will improve the overall appearance of the Columbia Heights neighborhood.
- c. *Policy UD-2.2.7: Infill Development.* Consistent with Policy UD-2.2.7, the proposed project has been designed to promote urban infill development near Metrorail stations while avoiding overpowering contrasts of scale, height, and density.
- d. *Policy UD-3.1.11: Private Sector Streetscape Improvement.* The Applicants intend to provide significant new landscaping on private property adjacent to the sidewalk along Irving Street, which will greatly improve the appearance of the existing streetscape.

42. *Mid-City Area Element (Chapter 20).* One of the primary goals of the Mid-City Area Element of the Comprehensive Plan is to stimulate high-quality transit-oriented development around the Columbia Heights Metrorail station, including the construction of new mixed-income housing and community service facilities. 10 DCMR § 2008.3. In addition to furthering that general objective, the proposed development will also advance a number of the stated policies of the Mid-City Area Element.

- a. *Policy MC-1.1.2: Directing Growth.* Policy MC-1.1.2 is designed to stimulate high-quality transit-oriented development around a number of specific areas, including the Columbia Heights Metrorail station area. The policy places particular emphasis on the production of mixed-income housing and community services. The proposed project will substantially advance the objectives of this policy by providing a new mixed-income apartment house and a CBRF just steps away from the Columbia Heights Metrorail station.
- b. *Policy MC-1.1.7: Protection of Affordable Housing.* Policy MC-1.1.7 encourages the retention of the Mid-City Area as a mixed-income community by preserving its existing affordable housing stock and promoting the construction of new affordable housing at appropriate locations. The construction of the mixed-income apartment building will result in a significant addition to the area's affordable housing stock, and the proposed CBRF will provide housing and social services for some of the District's most economically disadvantaged residents.
- c. *Policy MC-2.2.1: Columbia Heights Metro Station Area Development.* Policy MC-2.2.1 is designed to promote development that is consistent with the District's vision of this area as a thriving mixed-use community center. The policy strongly encourages the construction of mixed-income housing that meets the needs of local residents. The proposed project will further these objectives.

Office of Planning Reports

43. The Office of Planning ("OP") filed a report with the Commission on January 25, 2008. Although OP was generally supportive of the proposed PUD and related map amendment, it was not prepared to make a final recommendation without additional information from the Applicants. OP concluded that the application was consistent with the Comprehensive Plan and that the project would have a positive impact on the surrounding community. OP requested that the Applicant provide additional information on a number of specific issues.
44. The Office of Planning filed a final report with the Commission on April 4, 2008. OP indicated that the Applicants had complied with its earlier request for additional information and recommended that the Commission approve the PUD application and related map amendment. The Office of Planning requested that the Applicants work with the District Department of Transportation to establish a curbside car-sharing space and confirm that the initial tenant of each individual unit in the mixed-income apartment building will be provided with a twenty-dollar SmartTrip card upon that tenant's initial move-in.

District Department of Transportation Report

45. The District Department of Transportation ("DDOT") filed a report with the Commission on February 4, 2008. DDOT recommended approval of the PUD and map amendment subject to the Applicants' adoption of a transportation demand management ("TDM") plan including the five following features: (1) the provision of a minimum of five bicycle parking spaces in the underground garage; (2) a curbside or garage parking space for a car-sharing service; (3) a twenty-dollar SmartTrip card for each residential tenant upon initial occupancy; (4) links to goDCgo.com and CommuterConnections.com on the developer and property management websites; and (5) the distribution of alternative transportation information and brochures via lobby kiosks, welcome packets, and bulletin boards.
46. At the public hearing on February 4, 2008, the Applicants agreed to substantially comply with DDOT's proposed conditions. However, the Applicants indicated that they would not provide a car-sharing space in the underground parking garage for security reasons. The Applicants also clarified that they would provide a twenty-dollar SmartTrip card for each *residential unit*—rather than for each individual tenant—upon initial move-in.

Advisory Neighborhood Commission Report

47. ANC 1A submitted a letter dated January 9, 2008 expressing its unanimous support for the PUD and related map amendment.

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality development that provides public benefits. 11 DCMR § 2400.1. The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project "offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience." 11 DCMR § 2400.2.
2. Under the PUD process of the Zoning Regulations, the Zoning Commission has the authority to consider this application as a consolidated PUD. The Commission may impose development conditions, guidelines, and standards that may exceed or be less than the matter-of-right standards identified for height, FAR, lot occupancy, off-street parking and loading, or for yards and courts. The Zoning Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment.
3. The development of the proposed project carries out the purposes of Chapter 24 of the Zoning Regulations to encourage the development of well-planned developments that will offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter-of-right development.
4. The proposed PUD meets the minimum area requirements of Section 2401.1 of the Zoning Regulations.
5. The PUD, as approved by the Commission, complies with the applicable height, bulk, and density standards of the Zoning Regulations. The residential uses for this project are appropriate for the PUD site. The impact of the project on the surrounding area is not unacceptable. Indeed, the project will provide a number of significant benefits to the District. Accordingly, the project should be approved.
6. The application can be approved with conditions to ensure that any potential adverse effects on the surrounding area from the development will be mitigated.
7. The Applicants' request for flexibility from the Zoning Regulations is consistent with the Comprehensive Plan. The project benefits and amenities, moreover, are reasonable tradeoffs for the requested development flexibility, particularly given the scale and massing of other nearby developments in the neighborhood.
8. Approval of this PUD is appropriate because the proposed development is consistent with the present character of the area and is not inconsistent with the District Elements of the Comprehensive Plan. In addition, the proposed development will promote the orderly development of the site in conformity with the entirety of the zone plan as embodied in the Zoning Regulations and Zoning Map of the District of Columbia.
9. The Commission is required under D.C. Code § 1-309.10(d)(3)(A) (2001) to give great weight to any issues or concerns raised in the written recommendations of the affected ANC. The Commission has carefully considered the written report of ANC 1A and concurs in its recommendation to support the PUD and related zoning map amendment.

10. The application is subject to compliance with D.C. Law 2038, the Human Rights Act of 1977.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia hereby orders **APPROVAL** of the application for the consolidated review and approval of a PUD and the application to amend the Zoning Map from the R-5-B District to the C-3-A District for the site, subject to the following guidelines, conditions, and standards:

1. The PUD shall be developed substantially in accordance with the architectural plans and elevations prepared by Hickok Cole Architects, dated March 25, 2008 and marked as Exhibit 38 of the record in this case (the "Plans"), as modified by the guidelines, conditions, and standards set forth herein.
2. Landscaping in the public space along Irving Street, N.W. shall be in accordance with the Final Plans, subject to approval by the Public Space Division of the District Department of Transportation. The Applicants or their successors shall maintain all landscaping in public space.
3. The Applicants shall work with the District Department of Transportation to provide a curbside car-sharing space adjacent to the proposed project.
4. The Applicants shall provide a twenty dollar (\$20.00) Metro per individual unit at the time of the initial move-in of the initial tenant of that unit.
5. No less than twenty percent of the residential floor area in the mixed-income apartment house shall be reserved for households earning no more than eighty percent of AMI.
6. The Applicants shall provide five bicycle parking spaces in the mixed-income apartment building's underground garage.
7. The Applicants shall provide links to goDCgo.com and CommuterConnections.com on its developer and property management websites.
8. The Applicants shall provide informational materials on transportation alternatives to the development's residents through a lobby kiosk, bulletin board, and welcome packets for new tenants.
9. The Highland Park community room shall be open to the residents of the new mixed-income portion of the building pursuant to the terms, procedures, and conditions applicable to the residents of the Highland Park portion of the building, including, but not limited to, terms and restrictions concerning maximum capacity, operating hours, reservation fees, deposits, and usage restrictions.

10. The Applicants shall have flexibility with the design of the PUD in the following areas:

- a. to vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, elevators, atria, toilet rooms, stairways, and mechanical rooms, provided that the variations do not materially change the exterior configuration of the building;
- b. to vary the location and unit type of affordable housing units in the mixed-income apartment building, provided that the total floor area devoted to such units never accounts for less than twenty percent of the total residential floor area in the mixed-income apartment building;
- c. to vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction, without reducing the quality of the materials;
- d. to vary the number and location of off-street parking spaces, not to decrease below the minimum of sixty-four spaces; and
- e. to make refinements to exterior materials, details, and dimensions, including belt courses, sills, bases, cornices, railings, roof, skylights, architectural embellishments and trim, or any other minor changes to comply with the D.C. Building Code or that are otherwise necessary to obtain a final building permit. Only those exterior changes initiated by the Building and Land Regulation Administration of DCRA will be permitted within the context of this design flexibility.

11. No building permit shall be issued for the approved PUD until the Applicants have recorded a covenant in the land records of the District of Columbia, between the owners of the subject property and the District of Columbia, that is satisfactory to the Office of the Attorney General and DCRA. Such covenant shall bind the owners and all successors in title to construct improvements upon and use this property only in accordance with this Order or amendment thereof by the Zoning Commission.

12. The Office of Zoning shall not release the record of this case to the Zoning Division of DCRA until the Applicants have filed a copy of the covenant with the records of the Zoning Commission.

13. The PUD approved by the Zoning Commission shall be valid for a period of two years from the effective date of this Order. Within such time, an application must be filed for a building permit as specified in Section 2409.1 of the Zoning Regulations. Construction shall begin within three years of the effective date of this Order.

14. The Applicants are required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this Order is conditioned upon full compliance with

those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Code § 2-1401.01 *et seq.* (the "Act"), the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, familial status, family responsibilities, matriculation, political affiliation, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The failure or refusal of the Applicants to comply shall furnish grounds for the denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this Order.

At its public meeting on April 14, 2008, the Zoning Commission **APPROVED** the application by a vote of ().

This Order was **ADOPTED** by the Zoning Commission at its public meeting on , 2008, by a vote of ().

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon its publication in the *D.C. Register*; that is on .

ANTHONY HOOD
Chairman
Zoning Commission

JERRILY R. KRESS, FAIA
Director
Office of Zoning