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January 5, 2009

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VIA HAND DELIVERY

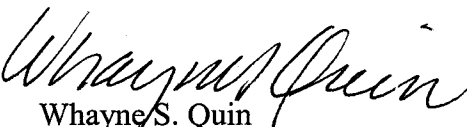
D.C. Zoning Commission
Suite 210
441 4th Street, N.W.
Washington D.C. 20001

Re: Zoning Commission Case No. 08-13
Marriott Convention Center Hotel

Dear Members of the Commission:

Attached, please find copies of the Applicant's proposed findings of fact and conclusions of law in one consolidated order for the planned unit development, zoning map amendment and use of air space. We look forward to the Commission's consideration of this case at its public meeting on Monday, January 12, 2009.

Sincerely,


Wayne S. Quin

Attachments

cc: Advisory Neighborhood Commission 2F
Jennifer Steingasser, D.C. Office of Planning

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2009 JAN -5 PM 4:41
D.C. OFFICE OF ZONING

ZONING COMMISSION
District of Columbia

CASE NO. 08-13

EXHIBIT NO. 57

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ZONING COMMISSION
District of Columbia
CASE NO.08-13
EXHIBIT NO.57

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ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 08-13
Case No. 08-13

Consolidated Planned Unit Development and Related Zoning Map Amendment – Marriott International, Inc. – Square 370, Lots 18, 21, 22, 24, 801 through 806, 830 through 839, 843, 845 and Private Alley to be closed)

[Date of Final Action]

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held a public hearing on November 24, 2008, to consider an application from Marriott International, Inc., on behalf of the Washington Convention Center Authority and the District of Columbia, the owners of Square 370, Lots 18, 21, 22, 24, 801 through 806, 830 through 839, 843 and 845, and a private alley to be closed, for consolidated review and approval of a planned unit development ("PUD") and related map amendment to construct a hotel on the property. 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 Commission hereby approves the application.

FINDINGS OF FACT

The Application, Parties, and Hearing

1. On May 1, 2008, Marriott International, Inc. ("Marriott"), on behalf of the Washington Convention Center Authority and the District of Columbia (collectively, the "Applicant"), filed an application with the Commission for the consolidated review and approval of a PUD, related map amendment, and air space development for Square 370, Lots 18, 21, 22, 24 and 801 through 806, 830 through 839, 843 and 845, and a private alley to be closed (the "Property").
2. Originally, the application requested only the consolidated PUD approval and related map amendment. By letter dated July 22, 2008, the Applicant amended its application to request the concurrent consideration of an air space development pursuant to the Public Space Utilization Act (D.C. Official Code § 10-1121.01 *et seq.*) and § 3010.2(c) of the Zoning Regulations for approval of improvements in the public space below Massachusetts Avenue, L Street, and 9th Street. The Commission consolidated the PUD, map amendment and air space development applications so that they were heard together at a single hearing.
3. The Property is located in the northwest quadrant of Washington, D.C. and is adjacent to Mount Vernon Square. The Property consists of approximately 82,887 square feet of land area and is bounded by L Street on the north, 9th Street on the east, Massachusetts Avenue on the south, and 10th Street on the west. The western portion of the Property is zoned DD/C-2-C and the eastern portion of the Property is zoned DD/C-3-C. With the

map amendment requested as part of the application, the entire Property would be in the DD/C-3-C District.

4. The Applicant proposes to construct the Marriott Marquis Washington Convention Center Headquarters Hotel (the "Hotel") on the Property, which will consist of approximately 751,832 square feet of gross floor area and approximately 1,166 guest units. The Hotel will have a maximum building height of 130 feet and a maximum FAR of approximately 9.3. An underground parking garage will occupy the two lowest levels of the Hotel and accommodate approximately 400 valet-parked vehicles.
5. At its public meeting held on July 14, 2008, the Commission voted to schedule a public hearing on the PUD and map amendment applications. On July 28, 2008, the Commission voted to include the air space development application as part of the proceedings.
6. On August 8, 2008, the Applicant submitted a Prehearing Statement, along with revised architectural plans and elevations, respectively marked as Exhibits 17 and 18 of the record in this case. The Prehearing Statement provided additional information requested by the Office of Planning and the Zoning Commission, including more information regarding use of public space; details of the proposed landscaping and streetscape improvements; refined elevations; clarification of the project's sustainable features; and a summary of the Applicant's community outreach efforts. The Prehearing Statement also discussed the approval sought under the Public Space Utilization Act and the Historic Preservation Review Board's review of the application.
7. On September 24, 2008, the Applicant submitted a supplement to the traffic report filed with the initial application and a traffic management plan for the project, both of which are marked as Exhibit 24 of the record in this case.
8. On October 31, 2008, Gregory A. O'Dell, on behalf of the Washington Convention Center Authority, submitted a letter to the Commission, urging the Commission's support of the PUD application. The letter is marked as Exhibit 26 of the record in this case.
9. On November 3, 2008, the Applicant submitted supplemental prehearing materials, marked as Exhibits 28 and 29 of the record in this case. The supplemental prehearing materials included revised plans, information regarding the Public Space Utilization Act along with a copy of the Applicant's application to the Building and Land Regulation Administration, and an updated list of the Applicant's community outreach meetings.
10. On November 4, 2008, the Applicant filed with the Commission a letter from Neil Albert, the Deputy Mayor for Planning and Economic Development, in support of the PUD application. The letter is marked as Exhibit 30 of the record in this case.
11. The Washington Convention Center Authority Advisory Committee ("WCCAAC") submitted a letter in support of the application on November 18, 2008. WCCAAC's letter, marked as Exhibit 32 of the record in this case, indicates that the Applicant has participated in several briefings and presentations to the community providing details of

the proposed development, and that the WCCAAC supports and recommends that the Commission approve the project.

12. On November 20, 2008, Advisory Neighborhood Commission ("ANC") 2F submitted a letter in support of the application, marked as Exhibit 34 of the record of the case. The letter, dated November 18, 2008, indicates that at a duly noticed public meeting on June 4, 2008, and with a quorum present, ANC 2F unanimously approved the concept, design and massing of the Hotel project and the PUD application. ANC 2F advised the Commission to approve the PUD application.
13. After proper notice, the Commission held a public hearing on the application on November 24, 2008. The parties to the case were the Applicant and ANC 2F (the ANC within which the Property is located).
14. Five principal witnesses testified on behalf of the Applicant at the public hearing -- Steven Siegel from the Office of the District of Columbia Deputy Mayor for Planning and Economic Development; Marlene L. Johnson, Esq., for the Washington Convention Center Authority; Norman Jenkins of Marriott; Robert Neal of Cooper Carry architects. Louis Slade of Gorove/Slade Associates, Inc. and Randolph Peterson of A. Morton Thomas & Associates, Inc. also testified on behalf of the Applicant. Based upon their professional experience, as evidenced by the resumes submitted for the record, Mr. Neal, Mr. Peterson, Mr. Slade were qualified by the Commission as experts in their respective fields. Craig Atkins of Lee & Papa and Associates, Inc. was also qualified as an expert, but did not testify at the hearing.
15. The Office of Planning ("OP") testified in support of the project.
16. Alexander M. Padro, as the Executive Director of Shaw Main Streets, testified that the community was supportive of the project, but dissatisfied with the community benefits and amenities package proffered in connection with the PUD. A letter from Shaw Main Streets representing the same was submitted to the Commission at the public hearing, and is marked as Exhibit 38 of the record in this case.
17. Deanna Brown and Virginia Lee of ONE DC Community Development Corporation both testified in opposition of the application based on their belief that the project did not provide a sufficient level of public benefits and amenities.
18. At the public hearing, a letter from Emmaus Services for the Aging was filed. The letter, marked as Exhibit 39 of the record in this case, expresses dissatisfaction with the community benefits and amenities package proffered in connection with the PUD.
19. On November 24, 2008, at the public hearing on the application, the Applicant submitted a PowerPoint presentation, marked as Exhibit 40 of the record in the case, and a booklet, marked as Exhibit 41 of the record in this case, containing a revised traffic management plan for the project, an addendum to the traffic impact statement filed September 24, 2008, and a list of the PUD community benefits and amenities.

20. On December 22, 2008, the Applicant filed a post-hearing submission, which included revised architectural drawings and elevations and a booklet containing a discussion on the atrium skylight enclosure, the construction management plan for the project, a summary of the monetary contribution to neighborhood organizations, and an estimate of Marriott's in-kind contribution to a job training program that will be implemented in connection with the PUD. The drawings and booklet are marked as Exhibit _____ and _____, respectively, of the record in this case.
21. At its public meeting held on _____, the Commission took proposed action by a vote of _____ to approve, with conditions, the application and plans that were submitted into the record.
22. 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 would not affect the federal establishment or other federal interests in the National Capital, nor be inconsistent with the Comprehensive Plan for the National Capital.
23. On _____, the Applicant filed with the Office of Zoning a set of all of the architectural drawings and elevations that were reviewed and approved by the Commission (the "Plans"). The Plans are marked as Exhibit of _____ the record of this case.
24. The Commission took final action to approve the application on _____ by a vote of _____.

The PUD Project

25. In April 2006, the City Council passed the Washington Convention Center Hotel Omnibus Financing and Development Act of 2006. The legislation authorized, among other things, bond financing for the proposed Convention Center Hotel project, leasing of land in Square 370 by the District and the Washington Convention Center Authority to a private development team led by Marriott, and tax increment financing to support the development of the Hotel.
26. Square 370 is an irregularly shaped parcel adjacent to Mount Vernon Square, N.W., and is bounded by 9th Street on the east, 10th Street on the west, L Street on the north and Massachusetts Avenue on the south. A Pepco substation is located at the northwest section of Square 370, at the intersection of 10th and L Streets. An abandoned building is located on the northeast corner of the square, at the intersection of 9th and L Streets. The American Federation of Labor Building, a landmark designated on the District of Columbia Inventory of Historic Sites and the National Register of Historic Places, is situated on the southeast corner of Square 370 at Massachusetts Avenue and 9th Street. The balance of Square 370 is improved as a paved parking lot. A 20-foot wide private alley extends from 9th Street into the square. The Property consists of approximately

82,887 square feet, and includes all of the lots within Square 370, except Lot 846, where the Pepco substation is located.

27. The Property is designated in the mixed use High Density Residential and High Density Commercial land use category on the District of Columbia Comprehensive Plan Future Land Use Map, and is designated in a Land Use Change area on the District of Columbia Comprehensive Plan Generalized Policy Map.
28. The Applicant proposes to construct the Marriott Marquis Washington Convention Center Headquarters Hotel, which will consist of approximately 765,400 square feet of gross floor area and approximately 1,166 guest units. The Hotel will have a maximum building height of 130 feet and an FAR of approximately 9.3. An underground parking garage will occupy the two lowest levels of the Hotel and accommodate approximately 400 valet-parked vehicles. The PUD includes subsurface improvements within the public space, including, but not limited to, an underground pedestrian tunnel that connects to the Washington Convention Center on the east side of 9th Street, an underground loading dock area below 9th Street, and parking, meeting space, mechanical equipment, and other hotel uses (including, but not limited to, stairs, escalators, and kitchen space) below Massachusetts Avenue and L Street.

Matter of Right Development under Existing and Proposed Zoning

29. The Property is currently split-zoned DD/C-2-C and DD/C-3-C. As part of the application, the Applicant is seeking to rezone the entire Property to the DD/C-3-C District in connection with this Application. Thus, the development of the Property is subject to the DD Overlay District, C-3-C District, and PUD regulations.
30. In the C-2-C District, the maximum permitted FAR is 6.0, of which no more than 2.0 may be nonresidential; the maximum permitted lot occupancy is 80%; and the maximum permitted building height is 90 feet. 11 DCMR §§ 771.2, 772.1, 770.1.
31. The DD Overlay District regulations (11 DCMR § 1706.11) were amended under Z.C. Case No. 08-05 to remove the residential use requirement for any portion of Square 370 improved with a Convention Center Headquarters Hotel.
32. Under the C-3-C District standards, the maximum permitted FAR is 6.5; the maximum permitted lot occupancy is 100%; and the maximum permitted building height is 90 feet. 11 DCMR §§ 770.1, 772.1, 770.1. For a PUD in the C-3-C District, the permitted maximum building height increases from 90 to 130 feet. Also, under the PUD regulations (11 DCMR § 2405.3) amended in Z.C. Case No. 08-05, the Commission may authorize an increase in the FAR to support the development of the Hotel.
33. The following regulations for the C-3-C District would also apply to the PUD: (i) housing for mechanical equipment of a stairway or elevator penthouse on the roof of a building shall not extend above 18 feet 6 inches in height of the housing, and shall be set back from all exterior walls a distance at least equal to its height above the roof upon which it is located; (ii) each structure shall have a rear yard with a minimum depth of 2-1/2 inches

per foot of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof or parapet wall, but not less than 12 feet, provided that on a corner lot fronting on three or more streets (like the subject property), the depth of rear yard may be measured from the centerline of the street at the rear; and (iii) while a side yard is not required under the C-3-C District, where one is provided, it shall be at least 6 feet wide. 11 DCMR §§774.1, 775.4, 775.5. The Schedule of Requirements for Parking requires that a hotel or inn in the C-3-C District have one (1) parking space for each four (4) rooms usable for sleeping plus one (1) for each 300 square feet of floor area in either the largest function room or the largest exhibit space, whichever is greater. 11 DCMR §2101.1 The loading berth requirements are two 55-foot bays, two 30-foot bays, and one 20-foot bay. 11 DCMR § 2201.1.

Development Incentives and Flexibility

34. The Applicant requested the following areas of flexibility:
- i. To be able to provide a range of 1150 to 1182 guest units.
 - ii. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not materially change the exterior configuration of the building.
 - iii. To vary the interior of the parking levels including the location and arrangement of parking spaces so as to provide valet parking for no less than the minimum number of spaces required for a hotel in the C-3-C District.
 - iv. 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; and to make minor refinements to exterior details and dimensions, including curtainwall mullions and spandrels, window frames, glass types, belt courses, sills, bases, cornices, railings and trim, or any other changes to comply with the District of Columbia Building Code or that are otherwise necessary to obtain a final building permit. All such changes may be subject to the review and approval of the Historic Preservation Review Board.

Public Benefits and Amenities

35. 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 - 11 DCMR § 2403.9(a). The construction of the Hotel will provide a formal presence on Massachusetts Avenue, a community presence on 9th Street, and a neighborhood/residential presence on L Street. The architectural design and elements of the Hotel will reflect an appropriate level of modernity while

respecting the traditional Washington architecture and the L'Enfant planning parameters. The building facades will have articulations that break up the massing, similar to the Washington Convention Center, so as to not overwhelm the existing urban scale and fabric. The urban building fabric will be enhanced with high quality exterior materials such as stone and glass, while high quality hardscape materials and patterns will enhance the streetscape. Finally, substantial glass exposure at the street level, coupled with sumptuous interior finishes and high level of activity will animate the street from within the Hotel.

- b. Site Planning and Efficient and Economical Land Utilization - 11 DCMR § 2403.9(b). The design of the proposed PUD includes a number of site planning and efficient and economical land utilization features. First, an internal, underground concourse is planned to connect the Hotel to the Washington Convention Center, which will reduce excessive on-street pedestrian movement at high traffic periods. Second, traffic impacts will be mitigated because truck deliveries for the Hotel dock are planned to occur from a loading area below 9th Street, and buses and taxis will queue on L Street rather than 9th Street or Massachusetts Avenue. Third, the design and layout of the PUD will visually enhance the experience on Massachusetts Avenue by masking the Pepco substation at 9th and L Streets.
- c. Effective and Safe Vehicular and Pedestrian Access, Transportation Management Measures, Connections to Public Transit Service, and Other Measures to Mitigate Adverse Traffic Impacts - 11 DCMR § 2403.9(c). An underground pedestrian concourse is planned to connect the Hotel to the Washington Convention Center, which will reduce excessive on-street pedestrian movement at high traffic periods. Traffic impacts will be mitigated because truck deliveries for the Hotel will occur at a below-grade loading dock; buses and taxis will queue on L Street rather than 9th Street or Massachusetts Avenue. L and 10th Streets will be changed from one-way to two-way operations in order to provide more efficient traffic circulation around the perimeter of the site. The Hotel will have two main entries, one on Massachusetts Avenue and one on L Street with a bus lay by. This allows passenger vehicles to be segregated from charter buses and commercial buses dropping off hotel guests. The Hotel will operate under the Traffic Management Plan prepared by Gorove Slade Associates, dated November 17, 2008, included as part of Exhibit 41 of the record in this case, which includes provisions for taxi management and valet parking operations.
- d. Historic Preservation of Private or Public Structures, Places, or Parks - 11 DCMR § 2403(d). The PUD incorporates the historic American Federation of Labor Building. The exterior of the building will be restored, and the interior will be completely renovated to house 42 distinctive guestrooms and a public restaurant/bar at the street level.
- e. Employment and Training Opportunities - 11 DCMR § 2403.9(e). Marriott will facilitate the D.C. Citizens' Job Program at an estimated in-kind cost of \$90,000. The New Convention Center Hotel Omnibus Financing and Development Act of

2006 earmarks \$2 million in bond financing for the job training program provided that, among other things, (a) the job program begins no later than two years before the completion of the construction of the New Convention Center Hotel; (b) the program provides for the hiring and training of citizens of the District for permanent employment positions in the Washington Convention Center Hotel; and (c) the program is designed to provide job-specific training that meets the specifications of positions to be filled at the Washington Convention Center Hotel, and provides that District citizens who successfully complete the training be given first consideration for the jobs for which they have been trained. The Hotel is expected to generate 1000 to 2000 permanent new jobs and 1500 to 1800 construction related temporary jobs. Of the permanent new jobs generated, approximately 10% are classified as management positions. The Hotel workforce will include associates focused on guest services, sales, engineering, finance, housekeeping, banquets, and various attendants and servers. Additionally, the Applicant will voluntarily enter into an agreement to participate in the Department of Employment Services ("DOES") First Source Employment Program to promote and encourage the hiring of District of Columbia residents in the construction and operation of the project, and the Applicant has entered into a Certified Business Enterprise Agreement with the Office of Local Business Development ("OLBD") to use the resources of the OLBD to utilize local business enterprises in the development of the project.

- f. Environmental Benefits - 11 DCMR § 2403.9(h). The Hotel will achieve LEED Silver status by incorporating protocols in the five categories of the USGB LEED certification process: (i) sustainable sites, (ii) water efficiency, (iii) energy and atmosphere, (iv) materials and resources, and (v) indoor air quality. The project will include landscape elements to promote the following green building objectives: (i) stormwater design/quantity control through the use of low impact development ("LID") tree pits and pervious paving; (ii) heat island effect, non-roof through planting a double row of trees along Massachusetts Avenue; and (iii) water efficient landscaping through the use of a stormwater management cistern, drip irrigation system, and native or adapted plant species.

- g. Uses of Special Value to the Neighborhood or the District as a Whole - 11 DCMR § 2403.9(i). The PUD would be of special value to the District, generally, by (i) providing lodging and conference facilities that support the Washington Convention Center; (ii) providing additional lodging options that further the City's hospitality and tourism industry; and (iii) preserving the landmark American Federation of Labor Building. The proposed PUD also has special value to the Mount Vernon Square neighborhood because it will replace an underutilized site and abandoned building with an exemplary, well-designed convention headquarters hotel that promotes the continued redevelopment of this section of the City. Also, the retail and restaurants at the perimeter of the ground floor of the Hotel will provide additional services to the neighborhood and enliven the streetscape.

- h. Additional Contribution to Shaw Community. The Applicant will contribute \$50,000 to various non-profit organizations in the Shaw community. The funds will be used to support senior citizens' nutritional programs, employment training in the healthcare industry, medical screenings for low-income Shaw residents, meals for the homeless and low-income families, and similar services provided by the non-profit organizations.

Compliance with Guiding Principles of the Comprehensive Plan Amendment Act of 2006 (D.C. Law 16-300, effective March 8, 2007)

36. The Property is designated in the mixed use High Density Residential and High Density Commercial land use category on the District of Columbia Comprehensive Plan Future Land Use Map. The High Density Residential designation is used to define neighborhoods and corridors where high-rise apartment buildings are the predominant use, and the corresponding zones districts are generally R-5-D and R-5-E (although other zones may apply). The High Density Commercial designation is used to define the central employment district of the City and other major office employment centers on the downtown perimeter. It is characterized by office and mixed office/retail buildings greater than eight stories in height, although many lower scale buildings (including historic buildings) are interspersed. The corresponding zone districts are generally C-2-C, C-3-C, C-4, and C-5, although other districts may apply.
37. The Commission finds that the Applicant's proposal to construct a hotel on the Property is consistent with the Future Land Use Map's designation of the Property. The western portion of the Property is zoned DD/C-2-C and the eastern portion of the Property is zoned DD/C-3-C. The Applicant proposes to rezone the entire property to the DD/C-3-C District as part of this application. One of the purposes of the C-3-C District is to encourage a diversity of compatible land uses that may include both residential and commercial uses, which is also consistent with the stated principle of the mixed-use designation of the Property.
38. The Property is designated in a Land Use Change Area on the District of Columbia Comprehensive Plan Generalized Policy Map. The guiding philosophy in these areas is to encourage and facilitate new development and to promote the adaptive reuse of existing structures. As Land Use Change Areas are redeveloped, the District aspires to create high quality environments that include exemplary site and architectural design and that are compatible with and do not negatively impact neighborhoods. The Commission finds that the proposed PUD and zoning map amendment are consistent with this philosophy since the development will have a positive impact on the surrounding area by virtue of the exceptional site and architectural design. The proposed PUD's design carefully considers the nearby uses and, accordingly, will not have an unacceptable impact on the area. Moreover, the proposed PUD will have no unacceptable impact on existing or future traffic conditions.
39. The Commission finds that the proposed PUD furthers the objectives and policies of many of the Comprehensive Plan's major elements as follows:

- a. Policy LU-1.4.1: Infill Development. Encourage infill development on vacant land within the City, particularly in areas where there are vacant lots that create "gaps" in the urban fabric and detract from the character of a commercial or residential street. Such development should complement the established character of the area and should not create sharp changes in the physical development pattern.
- b. Policy ED-2.3.1: Growing the Hospitality Industry. Develop an increasingly robust tourism and convention industry, which is underpinned by a broad base of arts, entertainment, restaurant, lodging, cultural and government amenities.
- c. Policy ED-2.3.4: Lodging and Accommodation. Support the development of a diverse range of hotel types, serving travelers with varying needs, tastes, and budgets. New hotels should be encouraged both within central Washington and in outlying commercial areas of the City, particularly in areas which presently lack quality accommodation.
- d. Policy HP-2.4.1: Rehabilitation of Historic Structures. Promote appropriate preservation of historic buildings through an effective design review process. Apply design guidelines without stifling creativity, and strive for an appropriate balance between restoration and adaptation as suitable for the particular historic environment.
- e. Policy HP-2.4.2: Adaptation of Historic Properties for Current Use. Maintain historic properties in their original use to the greatest extension possible.
- f. Policy HP-2.4.3: Compatible Development. Ensure that new construction, repair, maintenance, and improvements are in scale with and respect the historic context through sensitive siting and design and the appropriate use of materials and architectural detail.
- g. Policy HP-2.4.4: Suitability to the Historic Context. Apply design standards in a manner that accounts for different levels of historic significance and different types of historic environments. Encourage restoration of historic landmarks while allowing enhancements of equivalent design quality, provided such enhancements do not damage the landmark. Allow greater flexibility where the inherent character of historic properties can accommodate greater intervention or more dramatic new design, for example, in non-residential areas and in areas without a significant design pattern.
- h. Policy HP-2.4.5: Protecting Historic Building Integrity. Protect historic buildings from demolition whenever possible, and protect the integrity of whole buildings.
- i. Policy CW-1.1.10: Central Washington Hotels and Hospitality Services. Encourage the development of additional hotels in central Washington, including around the new Convention Center. A range of hotel types, including moderately priced hotels, and hotels oriented to family travelers as well as business travelers

should be encouraged. Hotels generate jobs for District residents and revenues for the general fund and should be granted incentives when necessary.

- j. Policy CW-2.4: Mount Vernon District. Mount Vernon Square itself was designed to be a focal point among Washington's ensemble of great civic landmarks. Its focus is the 1902 former Carnegie Library building, an elegant historic structure that is now in use by the Washington Historical Society. Facing the north edge of the Square is the 2.3 million square foot Washington Convention Center, completed in 2003. To the southwest, the now vacant site of the former convention center is awaiting redevelopment. Immediately northwest of the Square, a major convention hotel is planned. Large-scale office buildings occupy other sides of the Square, framing it as potentially great public space.
- k. Policy CW-2.4.3: Convention Center Area Land Uses. Encourage land uses around Mount Vernon Square that capitalize on the presence of the Washington Convention Center. Such uses include hotels, restaurants, retail, and entertainment uses. Convention-related hotel construction should be focused on vacant or underutilized land immediately adjacent to the Washington Convention Center to minimize impacts on the surrounding neighborhood.
- l. Action CW-2.4.B: Convention Center Hotel. Develop a major convention center hotel in close proximity to the Washington Convention Center. The Hotel should be sited and designed to complement adjacent uses and add activity and aesthetic value to the Mount Vernon Square neighborhood.

Air Space Development

- 40. The PUD includes subsurface improvements within the public space, including, but not limited to, an underground pedestrian tunnel that connects to the Washington Convention Center on the east side of 9th Street, an underground loading dock area below 9th Street, and parking, meeting space, mechanical equipment, and other hotel uses (including, but not limited to, stairs, escalators, and kitchen space) below Massachusetts Avenue and L Street.
- 41. The subsurface improvements are the subject of the air space development approval requested under the application, pursuant to the Public Space Utilization Act (D.C. Official Code § 10-1121.01 *et. seq.*) and § 3010.2(c) of the Zoning Regulations (Title 11 DCMR).
- 42. Under the Public Space Utilization Act (§ 10-1121.04), the Zoning Commission, after public hearing and after securing the advice and recommendations of the National Capital Planning Commission, has determined the uses to be permitted in such airspace, and has established regulations applicable to the use of such airspace consistent with regulations applicable to the abutting privately owned property, including limitations and requirements respecting the height of any structure to be erected in such airspace, off-street parking and floor area ratios applicable to such structure, and easements of light, air, and access.

43. In accordance with the New Convention Center Hotel Amendment Emergency Act of 2008, the Applicant and the District desire to supplement vault permits issued for the construction of the Hotel with an underground airspace lease in order to use vault space for loading facilities and a portion of the pedestrian connection between the Hotel and the Washington Convention Center and auxiliary function space for the Hotel.

Office of Planning ("OP") Report

44. By report dated July 3, 2008, OP recommended that the Commission schedule a public hearing on the application. The report is marked as Exhibit 13 of the record in this case.
45. By report dated November 31, 2008, marked as Exhibit 31 of the record in this case, OP recommended final approval of the application. OP indicated that the application will further a number of the elements and principles of the Comprehensive Plan and is not inconsistent with the Comprehensive Plan's policies and land use maps. OP also indicated that the proposed hotel and the amenities identified by the Applicant would be of benefit to the Mount Vernon Square neighborhood as well as the District overall. OP also supported the proposed DD/C-3-C designation and indicated that the proposed zoning is not inconsistent with the Comprehensive Plan's Future Land Use designation for high density residential and commercial uses and the District's goal of developing a convention center hotel on the site.

District of Columbia Department of Transportation ("DDOT") Report

46. DDOT submitted a memorandum dated November 17, 2008, marked as Exhibit 33 of the record in this case, recommending that the project be approved. DDOT indicated in its report that the transportation impacts of the development will not compromise the proper-functioning network that already exists. DDOT also noted that the Applicant's proposal to change 10th and L Streets to two-way operations will increase neighborhood access, and the loading underground would decrease potential impacts on traffic.

Response to Contested Issues

47. In response to the concerns raised by Shaw Main Street, ONE DC Development Corporation, and Emmaus Services for the Aging, the Applicant amended its community benefits and amenities package to include a monetary contribution of \$50,000 to various non-profit organizations in the Shaw community. The funds will be used to support senior citizens' nutritional programs, employment training in the healthcare industry, medical screening for low-income Shaw residents, meals for the homeless and low-income families, and similar services provided by the non-profit organizations. The Commission finds that this addition benefit is reasonable in light of the PUD's impact to the area and the development flexibility requested.
48. In the plans that were filed as part of the post-hearing submission, the Applicant has reduced the height of the atrium skylight cover so that it does not exceed the height of the roof structure penthouse at 18' 6". The skylight cover will be mostly surrounded by the roof structures for mechanical equipment, stair towers and elevator overrides and will not be visible from the Massachusetts Avenue or L Street frontages. The Commission finds

that the design is consistent with past approvals of many buildings in the Downtown area, including buildings approved as PUDs by this Commission and other regulatory approvals granted by the BZA and other District board and agencies.

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 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, parking and loading, or for yards and courts. The Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment.
3. Development of the property included in this application carries out the purposes of Chapter 24 of the Zoning Regulations to encourage the development of well-planned developments which 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 PUD meets the minimum area requirements of § 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 uses for this project are appropriate for the Property. The impact of the project on the surrounding area is not unacceptable. 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 Applicant's request for flexibility from the Zoning Regulations is consistent with the Comprehensive Plan. Moreover, the project benefits and amenities are reasonable trade-offs for the requested development flexibility.
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 Comprehensive Plan. In addition, the proposed development will promote the orderly development of the Property in conformity with the entirety of the District of Columbia Comprehensive Plan as embodied in the Zoning Regulations and Map of the District of Columbia.

9. In accordance with the Public Space Utilization Act (§ 10-1121.04 of the D.C. Code), the Zoning Commission, after public hearing and after securing the advice and recommendations of the National Capital Planning Commission, has determined the uses to be permitted in the airspace below Massachusetts Avenue, 9th Street, and L Streets, N.W., adjacent to the private property included within the PUD. Further, pursuant to this Order, the Commission has established regulations applicable to the use of such airspace consistent with regulations applicable to the PUD, including limitations and requirements respecting the height of any structure to be erected in such airspace, off-street parking and floor area ratios applicable to such structure, and easements of light, air, and access.
10. The Commission is required under D.C. Code Ann. § 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. In this case, ANC 2F voted unanimously to approve the PUD application. (See Exhibit 34.) The Commission has given ANC 2F's recommendation great weight in approving this application.
11. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code § 6-623.04) to give great weight to the Office of Planning's recommendations. The Office of Planning recommended approval of the PUD and zoning map amendment. The Commission has given the Office of Planning's recommendation great weight in approving this application.
12. The application for a PUD is subject to compliance with D.C. Law 2-38, 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 orders **APPROVAL** of the Application for consolidated review and approval of a planned unit development ("PUD"), subject to the following guidelines, conditions and standards:

1. The PUD shall be developed substantially in accordance with the Plans, as prepared by The CooperCarry – TVS Collaborative, dated _____, marked as Exhibit ____ in the record (the "Plans"); and as further modified by the guidelines, conditions and standards herein.
2. The PUD shall have a maximum FAR of approximately 9.3 and a gross floor area of approximately 751,832 square feet. The project shall contain between 1,150 and 1,182 guest units.
3. The maximum height of the building shall be 130 feet, not including roof structures, which may exceed the permitted height by no more than 18 feet, 6 inches.
4. The project shall include an underground parking garage to accommodate approximately 400 valet-parked vehicles.

5. In the loading dock area below 9th Street, the PUD shall provide a minimum of three loading berths at 55 feet, three loading berths at 30 feet, and one loading berth at 20 feet.
6. The Applicant shall also have flexibility with the design of the PUD in the following areas:
 - i. To be able to provide a range of 1,150 to 1,182 guest units.
 - ii. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not materially change the exterior configuration of the building.
 - iii. To vary the interior of the parking levels including the location and arrangement of parking spaces so as to provide valet parking for no less than the minimum number of spaces required for a hotel in the C-3-C District.
 - iv. 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; and to make minor refinements to exterior details and dimensions, including curtainwall mullions and spandrels, window frames, glass types, belt courses, sills, bases, cornices, railings and trim, or any other changes to comply with the District of Columbia Building Code or that are otherwise necessary to obtain a final building permit.
7. No building permit shall be issued for this PUD until the Applicant has submitted to the Zoning Division of the Department of Consumer and Regulatory Affairs ("DCRA") a fully-executed First Source Employment Agreement with the Dept. of Employment Services and a fully-executed Certified Business Enterprise Agreement with the Office of Local Business Development.
8. No building permit shall be issued until for the PUD until the Applicant has contributed \$50,000 to organizations in the Shaw community. As evidence of same, letters from each organization receiving a contribution shall be submitted to the Office of Zoning's Compliance Review Manager. The letters shall describe the initiatives/programs that will be supported by the contribution.
9. No building permit shall be issued for this PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the owners and the District of Columbia, that is satisfactory to the Office of the Attorney General and DCRA. Such covenant shall bind the Applicants and all successors in title to construct on and use the Subject Property in accordance with this Order or amendment thereof by the Zoning Commission.
10. The Office of Zoning shall not release the record in this case to the Zoning Division of DCRA until the Applicant has filed a copy of the covenant with the records of the Zoning Commission.

11. The air space development approved by the Commission for the PUD shall be subject to a lease agreement between the District and the Applicant, in accordance with the New Convention Center Hotel Amendment Emergency Act of 2008, or applicable subsequent legislation approved by the Council for the District of Columbia.
12. The PUD approved by the Zoning Commission shall be valid for a period of two (2) years from the effective date of this Order. Within such time, an application must be filed for a building permit as specified in 11 DCMR § 2409.1. Construction shall begin within three (3) years of the effective date of this Order.
13. The Applicant is 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. Official Code § 2-1401.01 et seq., ("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 _____, ____, 2009, the Zoning Commission **APPROVED** the application by a vote of _ - - (_____).

The Order was **ADOPTED** by the Zoning Commission at its public meeting on _____, by a vote of _ - - (_____).

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

ANTHONY HOOD
Chairman
Zoning Commission

Director
Office of Zoning