Government of the District of Columbia
Office of Zoning

Z.C. CASE NO.: 02-24A

As Secretary to the Zoning Commission, I herby certify that on JAN 2 7 2005 copies of this Z.C. Order No. 02-24A were mailed first class, postage prepaid or sent by inter-office government mail to the following:

1. Richard B. Nettler, Esq.
   Robins, Kaplan, Miller & Ciresi, LLP
   Suite 1200
   1801 K Street, N.W.
   Washington, D.C. 20006-1301

2. Presidential Property Owners, Inc.
   1026 16th Street, N.W.
   Washington, D.C. 20036

3. Darren Bowie, Chair
   ANC 2B
   St. Thomas Parish
   9 Dupont Circle, N.W.
   Washington, D.C. 20036

4. Office of Advisory Neighborhood Commissions (Gottlieb Simon)

5. Councilmember Jack Evans (Ward 2)

6. Office of Planning (Ellen McCarthy)

7. Zoning Administrator (Toye Bello)

8. Office of Attorney General (Alan Bergstein)

ATTESTED BY: Jerrily Kress
Jerrily R. Kress, FAIA
Director

ZONING COMMISSION
District of Columbia
CASE NO. 02-24A
EXHIBIT NO. 4

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GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION ORDER NO. 02-24A
Zoning Commission Case No. 02-24A
(PUD Modification – 1601 K Street, N.W.)
October 25, 2004

Pursuant to notice, the Zoning Commission for the District of Columbia held a public meeting on October 25, 2004. At the meeting, the Zoning Commission approved with modifications an application from JBG/Rockwood 1601 K, L.L.C. (the "Applicant") for a minor modification to an approved planned unit development ("PUD") pursuant to Chapter 24 and the Consent Calendar Regulations of Chapter 30 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Code. Because the modification was deemed minor, a public hearing was not conducted.

The Zoning Commission determined that this modification request is properly before it under the provisions of §§ 2409.9 and 3030 of the Zoning Regulations.

FINDINGS OF FACT

By Zoning Commission Order No. 906, dated October 16, 2000, the Zoning Commission approved the Applicant's application for a consolidated PUD and related map amendment from SP-2 to C-4 for the property located in Square 184, Lots 59 and 842. The Zoning Commission Order approved the development of a commercial office building consisting of approximately 200,247 square feet of gross floor area, not to exceed 125.5 feet in height on the C-4 portion of the site or 90 feet in height on the SP-2 portion of the site, with setbacks from the 16th Street frontage of the building. The Commission required that JBG provide a minimum of forty-two (42) fixed parking spaces or seventy-six (76) managed spaces in a parking garage to be entered from 16th Street.

As the PUD did not meet the normal matter-of-right requirements of the Zoning Regulations regarding roof-structure setbacks, the Zoning Commission granted a minor deviation from the roof structure setback requirements. The Zoning Commission granted additional minor deviations from the restrictions on non-accessory retail uses in the SP-2 portion of the site and the minimum requirements for loading berths.

Pursuant to 11 DCMR § 3028, the Commission's Order became final and effective upon publication in the District of Columbia Register on November 24, 2000.

By Zoning Commission Order No. 02-24(906), dated November 18, 2002, the Zoning Commission modified the PUD in order to allow the relocation, by one bay, of the front entrance and corresponding projection bay in the direction of K Street, improvements to the proportions of the projection bay and façade components, refinements to the exterior skin detailing, and relocation of the parking garage entrance from 16th Street to K Street or, at the Applicant's discretion, to the rear of the building off the public alley. The proposed modifications resulted in a further setback of the penthouse structure an additional four (4) feet along 16th Street, improved and increased green space, an increased distance between the front entrance of the PUD project and its residential neighbors, a reduction in area to contiguous paved areas along 16th Street, and improved visual balance of the 16th Street elevation.

Pursuant to 11 DCMR § 3028, the Commission's Order became final and effective upon publication in the District of Columbia Register on December 13, 2002.

By letter dated October 6, 2004, counsel for the Applicant filed a request to place a minor modification to Zoning Commission Order No. 02-24 on the Commission's Consent Calendar pursuant to § 3030 of the District of Columbia Zoning Regulations. The letter requested a minor modification to the approved PUD in order to introduce rooftop landscaping to the ninety-foot (90') section of the building's roof along the 16th Street frontage. The Applicant's request involved the installation of planters of varying heights for small scrubs and flowering trees with a maximum tree height of fifteen (15) feet, or, in the alternative, to a maximum height of ten (10) feet, measured from the base of the roof. The maximum height of the tree planters would be three feet (3'), so that the visible portion of the tallest tree would be twelve (12) or seven (7) feet, depending upon the alternative selected.

The Applicant stated in its request for a minor modification that it had duly served a full copy of its request on Advisory Neighborhood Commission 2B and Presidential Owners, Inc., the parties to the original proceeding. No comments were received from any of the parties.

On October 25, 2004, at its regularly scheduled meeting, the Zoning Commission reviewed the request as a Consent Calendar matter. The Zoning Commission granted approval of the minor modification to the approved PUD, except that, due to concern with the visibility of taller trees from street level, the maximum height of the introduced trees was limited to five (5) feet, measured from the top of the planters in which the trees would be located.

The Zoning Commission concurs with the Applicant that approving the application, as modified by the Commission, is appropriate and not inconsistent with the intent of 11 DCMR §§ 2409.9 and 3030.

The Zoning Commission further believes that its decision is in the best interest of the District of Columbia and is consistent with the intent and purpose of the Zoning Regulations and the Zoning Act.

CONCLUSIONS OF LAW

Upon consideration of the record in Applicant's request for minor modification, the Zoning Commission concludes that the proposed modification is minor and consistent with the intent of the previously approved PUD, as modified by the Zoning Commission in its Order No. 02-24(906). Furthermore, the approval of the modification is not inconsistent with the Ward 2 Elements of the Comprehensive Plan and the Comprehensive Plan General Land Use Map's designation of the site, including the designation of the site for high-density commercial use and the designation of the 16th Street frontage for mixed-use, high density residential/medium-high density commercial use.

The approval of the modification will not affect any of the other conditions to the approved PUD. The modification is of such a minor nature that its consideration as a Consent Calendar item without public hearing is appropriate.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this order, the Zoning Commission of the District of Columbia orders **APPROVAL** of this application for modification to the original PUD approved by the Zoning Commission Order No. 906, as modified in Zoning Commission Order No. 02-24(906), for the property located at Lot 74 (formerly lots 59 and 842) in Square 184, subject to the following guidelines, conditions, and standards:

> Trees to be introduced in the ninety-foot (90') section of the building's roof along the 16th Street frontage shall be limited to no more that five (5) feet in height, as measured from the horizontal surface of the three (3) foot tall planters in which they are to be planted.

Pursuant to the intent of 11 DCMR § 2409.3 this modification shall not become effective until a Notice of Modification of Zoning Commission Order No. 906 is filed in the land records of the District of Columbia. That Notice of Modification shall include true copies of Zoning Commission Order No. 906, Zoning Commission Order No. 02-24(906), and this modification order, which the Director of the Office of Zoning has certified. The recordation of the Notice of Certification shall bind the Applicant and any successors in title to construct on and use the PUD Site in accordance with this modification order and any amendments thereof. Because construction of the building has already begun, this minor PUD modification shall be fully vested upon the filing of the Notice.

After recordation of the Notice of Modification, the Applicant shall promptly file a certified copy of the Notice of Modification with the Office of Zoning.

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 Applicant 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.

Vote of the Zoning Commission taken at the public meeting on October 25, 2004: **4-0-1** (John Parsons, Kevin Hildebrand, Anthony Hood, and Gregory N. Jeffries to approve; Carol J. Mitten not voting, having recused herself).

In accordance with the provisions of 11 DCMR § 3028.9, this Order shall become final and effective upon publication in the District of Columbia Register; that is, on FEB - 4 2005.

ANTHONY J. HOOD
Vice Chairman
Zoning Commission

JERRILY R. KRESS, FAIA
Director
Office of Zoning

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