*Government of the District of Columbia*
**OFFICE OF ZONING**

**Z.C. CASE NO.: 02-29**

As Secretary to the Zoning Commission, I herby certify that on JUN 1 2 2003 copies of this Z.C. Order No. 02-29 were mailed first class, postage prepaid or sent by inter-office government mail to the following:

1. *D.C. Register*

2. Craig Ellis
Craig Ellis & Associates
1436 Fenwick Lane
Silver Spring, MD 20910

3. John W. Finney, Chair
ANC 3D
Ernst Auditorium, Sibley Hospital
P.O. Box 40846
Washington, D.C. 20005

4. Tanya K. Hamilton
ANC/SMD 3D03
5025 Overlook Road, N.W.
Washington, D.C. 20016

5. Gottlieb Simon
ANC
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

6. City Councilmember Kathleen Patterson – Ward 3
Suite 106
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

7. Office of Planning (Ellen McCarthy)

8. Zoning Administrator

**ATTESTED BY:** Alberto P. Bastida

**Alberto P. Bastida, AICP**
**Secretary to the Zoning Commission**



ZONING COMMISSION
District of Columbia
Case 02-29
Exhibit 29
ZONING COMMISSION
District of Columbia
CASE NO.02-29
EXHIBIT NO.29

Government of the District of Columbia
ZONING COMMISSION

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**
**ORDER NO. 02-29**
**Z.C. Case No. 02-29**
**(Map Amendment - Square N-1448, Lot 803)**
**May 12, 2003**

The Lucy Webb Hayes Training School for Deaconesses and Missionaries, doing business as Sibley Memorial Hospital ("Sibley"), pursuant to 11 DCMR § 102.2(a), filed an application with the Zoning Commission on August 2, 2002, to amend the Zoning Map for Lot 803 in Square N-1448, from unzoned to R-5-A. After a public hearing, the Commission took action to rezone the property R-5-A.

## PROCEDURAL BACKGROUND

Public Notice. The Office of Zoning published a notice of the filing of the application in the *D.C. Register* on August 13, 2002, at 49 DCR 8257. The notice of the public hearing on the application was published in the *D.C. Register* on January 17, 2003, at 50 DCR 549. A copy of the notice was posted in the Office of Zoning, and copies were provided to the District of Columbia public library system.

By letter dated August 13, 2002, the Office of Zoning mailed a notice of the application to the owners of all property within 200 feet of the subject property; the District of Columbia Office of Planning; Advisory Neighborhood Commission (ANC) 3D, the ANC for the area within which the property is located; the Office of the Advisory Neighborhood Commissions; the single member ANC district for the subject property; the Ward 3 Councilmember; and the Zoning Administrator.

The applicant submitted an affidavit of posting, dated February 13, 2003, indicating that it posted the property with four zoning notices. However, this date was only thirty days before the hearing, whereas the Commission's Rules of Practice and Procedure in 11 DCMR § 3015.4 require posting at least 40 days before the hearing. The applicant indicated that, in addition to the notice that had been provided, it had presented its proposal to the ANC and had engaged in numerous meetings and discussions with community members regarding the application. At the applicant's request, the Commission waived the 40-day requirement pursuant to § 3000.8, determining that, given the extensive notice provided through other means, the waiver would not prejudice the rights of any party and was not otherwise prohibited by law. The applicant testified at the hearing, in accordance with 11 DCMR § 3015.9, that these posters had been maintained.

D.C. Office of Planning (OP) Reports. In its preliminary report dated August 27, 2002, OP recommended set down of the proposed map amendment for the zoning of Square N-1448, Lot

803 to the R-5-A zone. The Commission voted on October 28, 2002, to set the matter for hearing to consider establishing the proposed zoning.

In its final report dated February 19, 2003, OP noted that Sibley had just recently purchased the 8.54-acre property from the United States Government (2.09 acres of the property are deed restricted for parking purposes). OP recommended that the Commission approve the map amendment. OP stated that the proposed uses and restrictions on the property are consistent with the R-5-A zone district and with the Comprehensive Plan. The Commission, which is required under D.C. Code, 2001 Ed., 6-623.04 to give great weight to OP's recommendations, agrees that for the reasons stated in OP's report, the application should be approved.

ANC 3D. By letter dated February 7, 2003, ANC 3D indicates that at a regularly-scheduled meeting, with a quorum present, the ANC voted to appoint Chairman Finney as its representative in this case.

Public Hearing. The Commission held a public hearing on the application on March 13, 2003. John Finney, ANC 3D-04 Single-Member District Commissioner and ANC 3D's designated representative, stated that ANC 3D did not object to the requested zoning but had some concerns regarding future development as a result of the addition of this new property to the hospital. The principal concern expressed by Mr. Finney was whether the hospital could build a doctor's office building without zoning relief. Mr. Finney was informed that this issue was not before the Commission , but that such a building would require a special exception in an R-5-A district. Additionally, Mr. Finney was concerned that the Commission's action would affect the public use of the Little Falls Road. Mr. Jerry Price, Sibley's Chief Operating Officer, stated that the hospital did not intend to discontinue public use of Little Falls Road. The Commission also received testimony from Mr. Andrew Dean, who endorsed the zoning requested by the hospital. No other oral or written comments on the application were received.

Proposed Action. At the conclusion of the public hearing on March 13, 2003, the Commission took proposed action to approve the zoning of the property as R-5-A.

NCPC Review. The National Capital Planning Commission, by letter dated April 10, 2003, found that the proposed rezoning would neither adversely affect the identified federal interests nor be inconsistent with the Federal Elements of the Comprehensive Plan for the National Capital.

Final Action. The Commission took final action to approve the amendment at its regularly scheduled meeting held May 12, 2003.

## FINDINGS OF FACT

1. The Subject property, Lot 803 in Square N-1448, adjoins the northern property line of Sibley Memorial Hospital, which is on the north side of Loughboro Road, N.W. and is bounded by the Dalecarlia Parkway on its east side and MacArthur Boulevard on its west side.

2. The property encompasses an area of 8.54 acres and was previously owned by the United States Government.

3. The property is currently unzoned.

4. Sibley Hospital property is zoned R-5-A. The neighborhood south of Loughboro Road is zoned R-1-B and is primarily one-family residential in character. The areas east of Dalecarlia Parkway are zoned R-1-A.

5. Pursuant to 11 DCMR § 359.1, the R-5-A District is designed to include health care facilities for sixteen (16) to three hundred (300) persons, not including resident supervisors or staff and their families. Section 359.3 permits the Board of Zoning Adjustment to approve a facility for more than three hundred (300) persons, not including resident supervisors or staff and their families, or if the Board finds that the program goals and objectives of the District of Columbia cannot be achieved by a facility of a smaller size at the subject location and if there is no other reasonable alternative to meet the program needs of the area on the District of Columbia. Pursuant to § 402.4 the maximum permitted density in the R-5-A district is 0.9 floor area ratio (FAR) and pursuant to § 403.4 the maximum percentage of lot occupancy is forty percent (40%).

6. Sibley Memorial Hospital has been in operation for more than 100 years as a private, non-profit, full-service 344-bed community hospital.

7. The Comprehensive Plan Generalized Land Use Map indicates institutional use for the Sibley Hospital site. The prominent uses of the institutional designation are "[L]ands and facilities occupied by colleges, universities, hospitals, religious institutions and similar facilities" The subject lot is adjacent to the hospital site and is identified as Parks, Recreation and Open Space on the Generalized Land Use Map.

8. The Ward 3 Plan identifies the reservoir property as a public facility and the hospital as an established institutional use (§§ 1405.1 and 1401.2 (c)). No specific language is provided regarding expansion of the hospital within the Ward 3 Plan. However, there is general language regarding sensitive development and minimizing impacts on residential neighborhoods. This application does not contradict either of these principles.

9. The use of the property by the hospital for parking and the new oncology wing, and the continued use of the perpetual easement for Little Falls Road fit into the character of the community and are not inconsistent with the Generalized Land Use Map or the Comprehensive Plan.

## CONCLUSIONS OF LAW

1. The Zoning Commission is authorized under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended, D.C. Code, 2001 Ed. § 6-641.02), to amend the Zoning Map.

2. The public notice, public hearing, and NCPC referral requirements for the map amendment, including the requirements in 11 DCMR §§ 102.6 - 102.9, 3015, and 3028, have been met.

3. The Commission concludes that the requested map amendment will promote the general welfare of the District of Columbia and further its planning and orderly development as the national capital, in that it will allow for the development of a critical care facility that has operated in the City for more than 100 years. The map amendment will contribute to the overall health initiatives of the City, and will not result in objectionable traffic conditions or the overcrowding of land.

4. The proposed map amendment is not inconsistent with the designations of the Generalized Land Use Map for institutional use for the abutting property and as Parks, Recreation and Open Space for the subject property.

5. Based upon the above findings and conclusions, the Zoning Commission concludes that the requested map amendment is in the best interests of the District of Columbia, consistent with the Zoning Regulations and Map, and not inconsistent with the Comprehensive Plan for the National Capital.

## DECISION

In consideration of the findings and conclusions set forth in this order, the Zoning Commission for the District of Columbia hereby orders **APPROVAL** of the following amendment to the District of Columbia Zoning Map:

> Change the zoning of Lot 803 in Square N-1448, located at north side of Little Falls Parkway, west of Dalecarlia Parkway and east of MacArthur Boulevard, from unzoned to R-5-A.

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 which 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 March 13, 2003**

Vote of the Zoning Commission taken after the public hearing held on March 13, 2003, to **APPROVE** the proposed map amendment: 4-0-1 (Anthony J. Hood, James H. Hannaham, Peter G. May and Carol J. Mitten, to approve; John G. Parsons, not present, not voting).

**Vote of May 12, 2003**

The Zoning Commission at its public meeting held on May 12, 2003, **ADOPTED** this order by a vote of 4-0-1 (Carol J. Mitten, Peter G. May, Anthony J. Hood, and James H. Hannaham to adopt; John G. Parsons, not voting, having not heard the case).

In accordance with the provisions of 11 DCMR § 3028.9, this order shall become effective upon publication in the *D.C. Register*; that is on JUN 20 2003.

CAROL J. MITTEN
Chairman
Zoning Commission

JERRILY R. KRESS, FAIA
Director
Office of Zoning