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September 12, 2003

D.C. Office of Zoning
2003 SEP 15 AM 11:50

Carol J. Mitten, Chair
Zoning Commission of the
District of Columbia
441 – 4th Street, N.W.
Suite 220 South
Washington, D.C. 20001

Re: Zoning Commission Case No. 02-43; MedStar Health PUD

Dear Ms. Mitten and Members of the Commission:

Enclosed for filing is a copy of a land use covenant, duly executed and filed in the land records of the District of Columbia on September 10, 2003. A receipt evidencing that filing is also enclosed.

Kindly ensure that the D.C. Zoning Map reflects the change of zoning authorized by Zoning Commission Order No. 02-43. Thank you.

Sincerely,

Jerry A. Moore III

JAM/ydl

Enclosures

cc: Robert J. Ryan
Michael Rogers
Clarence Brewton

ZONING COMMISSION
District of Columbia
Case 02-43
Exhibit 26

482318.v1
12659.186038

ZONING COMMISSION
District of Columbia
CASE NO.02-43
EXHIBIT NO.26

PLANNED UNIT DEVELOPMENT COVENANT

THIS COVENANT, made as of this 9th day of September 2003, by and between WASHINGTON HOSPITAL CENTER CORPORATION, a Delaware corporation and the successor in interest to WASHINGTON HOSPITAL CENTER CORPORATION and a subsidiary of MedStar Health, Inc., a Maryland corporation (hereinafter referred to as "Developer") and the DISTRICT OF COLUMBIA, a municipal corporation (hereinafter referred to as the "District").

WITNESSETH:

WHEREAS, the Developer is the owner of certain portions of Lot 2 in Square 3129, as recorded in the Office of the Surveyor in Book 157 at Page 15 and more fully described in Zoning Commission Case No. 02-43 (hereinafter referred to as the "Subject Site"); and

WHEREAS, Developer intends to develop the Subject Site for use as a Planned Unit Development (hereinafter referred to as the "Project") under Chapter 24 of the Zoning Regulations of the District of Columbia in accordance with Zoning Commission Order No. 02-43 effective July 18, 2003, in Zoning Commission Case No. 02-43; and

WHEREAS, said Chapter 24 further requires that Developer enter into this Covenant with the District of Columbia assuring Developer's (and its respective successors in title) development and use of the Project as approved by the Zoning Commission of the District of Columbia (hereinafter referred to as the "Zoning Commission") in Order No. 02-43 and all modifications, alterations or amendments thereto.

NOW, THEREFORE, in consideration of the foregoing recitals, which are a material part hereof, it is agreed among the parties hereto as follows:

1. Approved Plans. The terms and conditions of the Zoning Commission's approval of the Planned unit Development and Amendment to the Zoning Map under Order No. 02-43 effective July 18, 2003, in Zoning Case No. 02-43 (as the same may be amended and/or modified from time to time, the "Order"), are incorporated herein by reference and made a part hereof as Exhibit A and shall be considered a part of this Covenant. The Subject Site will be developed and used in accordance with the plans approved by said Order and in accordance with the conditions and restrictions contained in said Order, subject to such changes thereto as the Zoning Commission and/or the Zoning Administrator of the District of Columbia, pursuant to 11 DCMR 2409.6, may authorize. Developer covenants that it will use the Subject Site only in accordance with the terms of the Order, as the same may be further amended and/or modified from time to time by the Zoning Commission, subject to the terms and conditions contained herein and the provisions of Chapter 24 of the Zoning Regulations.

2. Additional Time To Construct Planned Unit Development. If Developer should fail to file for a building permit and to commence construction of the approved Planned Unit Development within the time specified in the Order, the Zoning Commission may duly consider an application for an extension of time in accordance with 11 DCMR 2408.10.

3. Default. In the event that Developer fails to file for a building permit and to commence construction of the approved Planned Unit Development within the time specified in the Order or within any extension of time granted by the Zoning Commission

for good cause shown, the benefits granted by the Order shall terminate pursuant to Section 2408.14 of the Zoning Regulations.

4. Future Conveyance. Developer covenants that if any conveyance of all or any part of the Subject Site takes place, such conveyance shall contain a specific covenant binding the grantee, its successors and assigns to develop and use the Subject Site in accordance with the terms and conditions of this Covenant.

5. Successors and Assigns. The covenants and restrictions contained herein shall be deemed real covenants running with the land, and shall bind the parties hereto, their successors and assigns, and shall inure to the benefit of the parties hereto, their successors and assigns. Such covenants are not binding upon any party who no longer has a property interest in the Subject Site. The District shall have the right to enforce all covenants, conditions and restrictions contained herein.

6. Recordation. Developer shall record this Covenant, as fully executed by the parties hereto, among the Land Records of the District of Columbia, and shall file a certified copy of this Covenant with the Zoning Administrator and the Zoning Commission.

7. Counterparts. This Covenant may be executed in counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

8. Rescission/Alteration of Chapter 24 Covenant. The covenants hereby created may not be modified or extinguished without the prior approval of the Zoning Commission and the written consent of the District. In the event any amendment, modification, rescission or alteration of the Order is adopted or authorized by the Zoning

Commission, or in the event of a lapse of said Order by its terms, the District shall, upon the request of Developer, execute an instrument, in recordable form, evidencing such action or lapse, which instrument shall amend, modify, rescind, nullify or alter this Covenant, as the case may be.

[SIGNATURES FOLLOW]

IN WITNESS WHEREOF, Washington Hospital Center Corporation, a Delaware corporation and MedStar Health, Inc., a Maryland corporation have, as of the day and year first above written, caused this Covenant to be signed by Myles P. Lash, and Kenneth Samet their President and President/Chief Operating Officer, respectively, and do hereby appoint the said presidents to be its attorneys-in-fact, for them and in their name to acknowledge and deliver this Covenant according to law.

WASHINGTON HOSPITAL CENTER CORPORATION
a Delaware corporation

By: _____
Name: Myles P. Lash
Title: President

MEDSTAR HEALTH, INC.,
a Maryland corporation

By: _____
Name: Kenneth A. Samet
Title: President/Chief Operating Officer

_____, ss:

I, Donella L Hickman, a Notary Public in and for Washington DC, do hereby certify that Myles P. Lash, _____ of Washington Hospital Center Corporation, a Delaware corporation, party to the foregoing Covenant bearing date as of the 25th day of April 2003, the said president being named as attorney-in-fact for said limited partnership in the foregoing and annexed Covenant, personally appeared before me and, being personally well known to me as such attorney-in-fact, acknowledged said Covenant to be the act and deed of said limited partnership and that he delivered the same as such.

GIVEN under my hand and seal this 25th day of April 2003.

_____
Notary Public

My Commission expires: _____

[Notarial Seal]

My Commission Expires 11/14/06

448393.v1

I, Mary Ciesielski, a Notary Public in and for Maryland, do hereby certify that Kenneth A Samet, President/COO of MedStar Health, Inc., a Maryland corporation, party to the foregoing Covenant bearing date as of the 29th day of April 2003, the said president/coo being named as attorney-in-fact for said limited partnership in the foregoing and annexed Covenant, personally appeared before me and, being personally well known to me as such attorney-in-fact, acknowledged said Covenant to be the act and deed of said limited partnership and that he delivered the same as such.

GIVEN under my hand and seal this 29th day of April 2003.

Mary D Ciesielski
Notary Public

My Commission expires: July 1, 2004

[Notarial Seal]

[ADDITIONAL SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the Mayor of the DISTRICT OF COLUMBIA, having first considered and approved the foregoing Covenant, has directed the execution thereof in the name of said DISTRICT OF COLUMBIA, by the Secretary, D.C., who has hereunto set her hand and affixed the seal of the District of Columbia hereto under authority of the Act of Congress entitled "An Act to Relieve the Commissioners of the District of Columbia of Certain Ministerial Duties," approved February 11, 1932.

WITNESS:

DISTRICT OF COLUMBIA
a Municipal Corporation

By: _____
Secretary, D.C.

(Corporate Seal)

DISTRICT OF COLUMBIA, ss:

I, Tabatha Braxton, a Notary Public in and for the District of Columbia, do hereby certify that Sherryl Hobbs Newman, who is personally well known to me as the person named as Secretary of the DISTRICT OF COLUMBIA in the foregoing Covenant bearing date of the 29 day of August, 2003, and hereunto annexed, personally appeared before me in said District and, as Secretary of the DISTRICT OF COLUMBIA aforesaid, and by virtue of the authority in her vested, acknowledged the same to be the act and deed of the Mayor of the DISTRICT OF COLUMBIA.

GIVEN under my hand and seal this 29 day of August 2003.

_____
Notary Public, D.C.

My commission expires: _____

[Notarial Seal]

TABATHA BRAXTON
Notary Public District of Columbia
My Commission Expires April 14, 2007

APPROVED:

Zoning Division, Department of
Consumer and Regulatory Affairs

APPROVED AS TO LEGAL SUFFICIENCY:

Assistant Corporation Counsel, D.C.

EXHIBIT A

Government of the District of Columbia

ZONING COMMISSION

Zoning Commission Order No. 02-43
Case No. 02-43/00-02
(PUD Map Amendment – MedStar Health)
February 24, 2003

Pursuant to notice, public hearing of the Zoning Commission for the District of Columbia was held on January 9, 2003, to consider the application of MedStar Health, Inc. ("MedStar" or the "Applicant"). The application requested final (second-stage) review and approval of a planned unit development ("PUD") and related map amendment to SP-1 and SP-2 for all of the area of Square 3129 that is zoned R-5-A, pursuant to Chapter 24 and § 102, respectively, of the District of Columbia Municipal Regulations ("DCMR"), Title 11 Zoning. The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission grants second-stage approval with conditions.

FINDINGS OF FACT

1. On November 4, 1999, MedStar filed an application requesting a map amendment rezoning all of the area within Square 3129 that is zoned R-5-A, a flexible multi-family residential classification, (the "Site" or "PUD Site") to SP-1 and SP-2, medium-density and medium-high-density districts, respectively. The Site is part of Lot 2 in Square 3129 and contains approximately 1,460,851 square feet or 33.53 acres of land area.

2. MedStar filed an application with the Zoning Commission requesting final (second-stage) approval of a PUD and a related map amendment for the PUD site from a Zone District classification of R-5-A to the Zone District classifications of SP-1 and SP-2. The application was assigned Zoning Commission Case No. 02-43 (the "Second-Stage Case") by the Office of Zoning.

3. The Zoning Commission previously granted preliminary (first-stage) approval of the PUD and related map amendment changing the Zoning Map designation of the PUD Site from a Zone District classification of R-5-A to the Zone District classifications of SP-1 and SP-2, subject to certain guidelines, conditions, and standards. Zoning Commission Order No. 969, dated October 17, 2002, reflects the Zoning Commission's decision on that application ("First-Stage Order").

4. Square 3129 contains numerous medical facilities, including the Washington Hospital Center, The National Rehabilitation Hospital, The Children's Hospital National Medical Center, and the Veterans Affairs Medical Center.

5. Lot 2, a portion of which is the subject of this application, is occupied by the Washington Hospital Center and The National Rehabilitation Hospital. The remaining portion of Lot 2 was rezoned by Zoning Commission Order No. 784 (September 11, 1995), in which the Commission approved a PUD and related map amendment to allow the construction and use of the Physicians' Office Building, certain adjunct hospital related facilities, and a parking structure. That PUD also approved a rezoning from R-5-A to SP-1 of approximately 238,928 square feet of land (5.48 acres), which was used predominantly for surface parking. All other areas of Lot 2 remained in the R-5-A district.

6. The Site is located in the northwest quadrant of the District of Columbia and is bounded by Irving Street to the north, Michigan Avenue to the south and west, and First Street to the east. Directly to the north and south of the Site are government facilities that are unzoned, including the United States Armed Forces' and Airmen's Home to the north, the Veterans Administration Hospital to the east, and the Macmillan Reservoir and (old) Sand Filtration site to the south. The reservoir property is operated by the U.S. Army Corps of Engineers. The old Sand Filtration site is owned by the Government of the District of Columbia. The Site slopes approximately fifteen (15) feet from the northwest to the southeast and is forty percent (40%) occupied by buildings and structures, thirty-one percent (31%) paved, and twenty-nine percent (29%) open space.

7. The R-5-A district permits matter-of-right single-family detached and semi-detached dwellings, and, with the approval of the Board of Zoning Adjustment, low-density development of general residential uses including row houses, flats, and apartments to a maximum density of 0.9 floor area ratio ("FAR"), a maximum lot occupancy of forty percent (40%), and a maximum height of three (3) stories/forty (40) feet.

8. The SP-1 district permits matter-of-right, medium/high-density development, including all kinds of residential uses and office development, both to be compatible with surrounding properties, to a maximum height of sixty-five (65) feet, a maximum density of 4.0 FAR for residential use and 2.5 FAR for other permitted uses, and a maximum lot occupancy of eighty percent (80%) for residential uses.

9. The SP-2 district permits matter-of-right, medium/high-density development, including all kinds of residential uses and office development, both to be compatible with surrounding properties, to a maximum height of ninety (90) feet, a maximum density of 6.0 FAR for residential use and 3.5 FAR for other permitted uses, and a maximum lot occupancy of eighty percent (80%) for residential uses.

10. The Applicant assembled and submitted a "Master Plan 2000" for its campus, including the Site, upon which it based its application for the map amendment. That document sets forth the history of the medical uses on the Site; the current zoning scheme; the development objectives of the Applicant for a fifteen- (15) year period; the methodology that was used to assemble the Master Plan 2000; a description of the streets, buildings, topography, political jurisdictions, and comprehensive plan land use designations, adjacent planning considerations, and adjacent zoning considerations; a public and bicycle transportation plan; an assessment of public transportation and bicycle routes; an explanation of existing conditions and a discussion of the programmatic and space needs of the hospital; development guidelines; a discussion of planning alternatives; floor plans; landscape plans; design illustrations, signage plans, circulation, and way-finding designs; and an implementation schedule for the proposed development.

11. The implementation sequences are described as Phase I (the Emergency and Intensive Care Unit addition); Phase II (Laboratory and Administrative addition); Phase III (the Radiology and Mechanical Equipment addition); Phase IV (the Cancer Institute Expansion); Phase V (the addition to the East Building); and Phase VI (the Southeast Complex). Master Plan 2000 suggests three (3) zoning alternatives, labeled "A," "B," and "C". Of these, the Applicant seeks approval, through the PUD process, of Zoning Strategy B which is described at Figure 6.6c of Master Plan 2000. The land area proposed for rezoning to the SP-1 district contains 623,866 square feet. The existing floor area amounts to 537,657 square feet. Rezoning this parcel to SP-1, which has a maximum density of 1.9 FAR, will result in a maximum building floor area of 1,185,345 square feet to a maximum permitted height of sixty-five (65) feet.

12. The land area proposed for the SP-2 district contains 836,985 square feet. The existing floor area on that parcel is 902,972 square feet. Thus, the maximum 3.4 FAR permitted in the SP-2 district under Zoning Strategy B would permit additional floor area of 1,942,792 square feet to a maximum height of ninety (90) feet. Thus, the approval of Zoning Strategy B will result in a maximum total building floor area of 2,845,749 square feet of building space to be used primarily for the medical services and related uses described in Master Plan 2000.

13. On January 25, 2001, MedStar formally adopted Master Plan 2000 as its development guide for the period 2001 to 2020.

14. During the first-stage process, the Applicant submitted a transportation impact analysis, which discusses peak hour traffic counts, roadway capacities under the existing zoning, trip generation rates under the existing zoning and roadway configuration, and trip generation capacities under the proposed rezoning. This study concluded that three (3) of the nine (9) intersections within the immediate vicinity of the Site operated at less than acceptable levels of service, and the existing parking supply is "somewhat inadequate." However, the report goes on to recommend improvements to those three (3) intersections and concludes that

the increased parking supply proposed in the Master Plan 2000 will increase the parking supply to an adequate level.

15. The Applicant testified that it was in discussions with the District Department of Transportation ("D-DOT") to formalize an Agreement to improve nearby roadway capacities and efficiencies. By this proposed agreement, MedStar would provide partial funding for certain roadway improvements that are deemed appropriate and necessary to resolve the intersection and parking supply deficiencies associated with the proposed development plan.

16. Christine Swearingen, MedStar's Senior Vice-President, testified that MedStar is the largest health care system in the Baltimore-Washington region. It consists of seven (7) hospitals, more than 3,000 licensed beds, 22,000 employees, and 4,000 affiliated positions. In Washington, D.C., MedStar operates the Washington Hospital Center, The National Rehabilitation Hospital, Georgetown University Hospital, the Visiting Nurses Association, and MedStar Manor at Lamond Riggs. The Washington Hospital Center was founded in 1958 at its current location as a result of the merger of the old Garfield Memorial Hospital; the Episcopal Eye, Ear, and Throat Hospital; and the Central Dispensary and Emergency Hospital. The Washington Hospital Center is now the District of Columbia's largest health care facility providing the largest number of inpatient/outpatient and emergency services for the residents of the District of Columbia, especially for residents who live east of Rock Creek Park.

17. Ms. Swearingen testified that the developments proposed under Master Plan 2000 were critical to alleviate crowded and cramped facilities, to renovate substandard facilities to modern standards, to replace obsolete facilities, and to improve access to facilities and service areas within the Washington Hospital Center campus. She stated that the density limitations of the existing residential zoning (0.9 FAR) accord the Washington Hospital Center no further latitude to expand facilities. The hospital campus is built to the capacity of the existing R-5-A zoning envelope. She testified further that it is extremely unlikely that the Site would ever be used for the residential purposes for which it is zoned.

18. Clarence Brewton, Jr., MedStar's Vice-President of Regulatory Compliance and Community Development, testified that MedStar held meetings with neighboring residents, its patients, its institutional neighbors, Advisory Neighborhood Commissions, civic and citizens associations, community leaders, elected officials, and oversight agencies to create and comment upon Master Plan 2000. MedStar also surveyed 21,000 households and incorporated those summary views into its Master Plan 2000.

19. Albert G. Dobbins, III, of A.G. Dobbins & Associates, a planning consultant who was recognized as an expert in planning and zoning by the Commission, testified that the proposed rezoning from R-5-A to SP-1 and SP-2 is not inconsistent with the comprehensive plan, supports the theme of the National Capital Planning

Commission's ("NCPC") Extending the Legacy Plan, is in harmony with the surrounding uses and zoning, and is consistent with the past and present uses of the Site and the zoning regulations.

20. Gerald Oudens, of Oudens & Knoop Architects, recognized by the Commission as a expert in planning and zoning, testified to the site development history, the planning methodology of Master Plan 2000, the existing conditions on the Site, functional issues, vehicular access issues, landscaping, the major space needs of the hospital, the gross floor area needs, the development plan objectives, the proposed development plan, and the proposed zoning and phased construction schedule. The specifics of his testimony are included in Master Plan 2000 and in slides submitted into the record by the Applicant on March 15, 2001. (Exhibit Number 20C)

21. Osborne George, of O.R. George & Associates, who was recognized by the Commission as an expert on traffic and parking, testified to MedStar's current site access needs and their impacts on the transportation and parking infrastructure with respect to the proposed development outlined in Master Plan 2000. He also discussed the roadway and parking usage under both the current and the proposed development and the improvements needed at critical intersections to reasonably accommodate MedStar's development plan. The recommended improvements included intersection improvements at Irving and First Streets, N.W., First Street and Michigan Avenue, N.W., and at Michigan Avenue east and west of the Children's Hospital Building. With these improvements, Mr. George concluded that the rezoning and development of the Washington Hospital Center campus site could be undertaken as proposed, without an adverse impact to area roadways.

22. The D.C. Office of Planning ("OP") submitted a report in support of the first-stage application conditioned upon the approval of a letter agreement regarding roadway improvements between MedStar and the D.C. Department of Public Works.

23. Representatives of The Children's Hospital National Medical Center, the Department of Veterans Affairs, Providence Hospital, Catholic University, the D.C. Chamber of Commerce, and the American Heart Association submitted letters to the record in support of the first-stage application.

24. Various citizens, including a Commissioner from Advisory Neighborhood Commission ("ANC") 5C, submitted statements to the record in support of the first-stage application.

25. By letter dated August 16, 2000, ANC 4D recommended that the first-stage application be approved. The letter did not address any particular issue or concern, but noted that the plan did not address the issue of offering some free parking for patients and visitors.

26. By letter dated December 1, 2000, ANC 5C expressed its support for the first-stage application. ANC 5C indicated that approval of the first-stage application "will have negligible adverse impact upon the surrounding residential community." ANC 5C based its conclusion upon traffic control measures already taken by the Applicant as well as the District government and the Applicant's commitment to work with ANC 5C to resolve any traffic or parking issues that might arise. Like ANC 4D, ANC 5C expressed the concern of some of its members, "about the affordability of public parking for visitors and patients of the hospital." ANC 5C therefore recommended that MedStar should either provide a certain amount of free parking or implement a system of discounted parking. These issues were *discussed* and decided by the Commission in its First-Stage Order No. 969.

27. Ms. Cleopatra Jones, President of the Bloomingdale Civic Association, appeared at the first-stage hearing to express that organization's support for the first-stage application.

28. Several area residents, including a Commissioner from ANC 4D, testified in support of the first-stage application.

29. There were no letters in opposition to the application submitted for the record, and no persons in opposition to the proposal testified at the first-stage public hearing.

30. Pursuant to Chapter 24 of the Zoning Regulations, the Zoning Commission has the authority to consider this application as the second-stage of a two-stage PUD proceeding.

31. On November 4, 2002, the Zoning Commission set this application down for public hearing having found that the conditions specified in the First-Stage Order for consideration of an application for second-stage approval of the PUD had been satisfied.

32. In a pre-hearing submission dated November 8, 2002 (the "Pre-hearing Submission"), MedStar submitted a Statement of Uses, a detailed site plan, landscape and grading plans, floor plans and elevations, vehicular and pedestrian circulation plans, and a statement of compliance with the Zoning Regulations and the First-Stage Order.

33. The Zoning Commission held a public hearing on the second-stage application on January 9, 2003.

34. The record in Zoning Commission Case No. 00-02, from which the First-Stage Order arose, was incorporated by reference into the Second-Stage Case.

35. There were no requests for party status made at the January 9, 2003, hearing or filed with the Zoning Commission.

36. At the hearing on January 9, 2003, MedStar submitted written testimony supplementing the application and the Pre-hearing Submission and provided evidence that it had satisfied each of the guidelines, conditions, and standards set forth in the First-Stage Order and the applicable Zoning Regulations, and required for second-stage approval of the application.

37. By report dated December 30, 2002, and by testimony at the public hearing on January 9, 2003, the Office of Planning determined that the Application was in compliance with the conditions set forth by the Commission in the First-Stage Order and recommended approval of the application provided that D-DOT did not object to the Applicant's plans to implement the transportation improvements and transportation management plan required by Condition 13 of the First-Stage Order.

38. D-DOT determined that it has no objection to the information provided by the Applicant concerning the implementation of the transportation improvements and the transportation management plan required by Condition 13 of the First-Stage Approval Order.

39. ANC 4D submitted a letter in support of the second-stage application.

40. ANC 5C did not appear at the January 9, 2003, public hearing and made no submission into the record of the second-stage application.

41. The Commission finds that the second-stage elements of the PUD project and the related map amendment are in conformance with the comprehensive plan, which designates the site for institutional uses.

42. The Commission finds that the approval of this second-stage application will result in the efficient, economic utilization of the land; will provide improved building design; will create the opportunity for an increase in health care facilities; and will adequately address the protection of the public health, safety, welfare, and convenience.

43. The Commission finds that the Applicant has met the requirements of 11 DCMR, Chapter 24, with respect to second-stage PUDs and has fulfilled the intent and purposes thereof.

44. At the conclusion of the public hearing held on January 9, 2003, the Zoning Commission took proposed action by a vote of 3-0-2 to approve with conditions the Applications and plans presented at the public hearing.

45. The proposed action of the Zoning Commission to approve the application as a second-stage PUD with conditions was referred to NCPC pursuant to the terms of the District of Columbia Home Rule Act. NCPC did not file a report.

46. The Zoning Commission took final action to approve the Applications with conditions at its public meeting on February 24, 2003.

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. The development of this PUD carries out the purposes of Chapter 24 of the Zoning Regulations to encourage the development of all well-planned institutional, commercial, and mixed-use developments that will offer a variety of building types with more attractive and efficient overall planning and design than might otherwise be achieved under matter-of-right development.

3. The development of this PUD is compatible with District-wide and neighborhood goals, plans, and programs and is sensitive to environmental protection and energy conservation.

4. The approval of this application is not inconsistent with the comprehensive plan for the National Capital Area, because it will stabilize the delivery of healthcare services, strengthen the distinguishing characteristics of the area, and increase employment opportunities.

5. The approval of this application is consistent with the purposes of the Zoning Act and the Zoning Regulations of the District of Columbia which include stabilizing land values and improving mixed-use areas.

6. The second-stage application can be approved with conditions, which ensures that the development will not have an adverse effect on the surrounding community or the District.

7. The proposed PUD meets the minimum area requirements of § 2401.1 of the Zoning Regulations.

8. The approval of this second-stage application will promote orderly development in conformity with the entirety of the District of Columbia Zone Plan as embodied in the Zoning Regulations and Map of the District of Columbia.

9. This application is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977, as amended.

10. The Zoning Commission has accorded the recommendations and opinions of ANC 4D the "great weight" to which they are entitled. The Commission is required under D.C. Code §1-309.10(d) (2001) to give great weight to the issues and concerns raised in the recommendations of the affected ANCs. ANC 4D did not indicate any issues or concerns, other than to indicate its position in favor of approval.

DECISION

In consideration of the findings of fact and conclusions of law contained in this order ("Order"), the Zoning Commission of the District of Columbia orders APPROVAL of this application as a second-stage PUD for a portion of Lot 2 in Square 3129 and an amendment to the zoning map from R-5-A to SP-1 and SP-2 as set forth in Zoning Strategy B of Master Plan 2000 (Figure 6.6c). The approval is subject to the guidelines, conditions, and standards that were identified and approved in the First Stage Order, which are as follows:

1. The PUD shall be consistent with the Washington Hospital Center, MedStar Health Master Plan 2000, as revised and dated August 2000, and submitted to the Zoning Commission record on April 6, 2001. The following conditions shall also apply to the PUD approval and shall supercede, or be in addition to, any elements of the Master Plan in contradiction to, or silent on these conditions:

   a. The zoning that shall accompany the PUD shall be that shown in Zoning Strategy B, Master Plan 2000.

   b. The total gross floor area shall be limited to approximately 4.5 million square feet (3.1 million square feet of additional gross floor area ("gfa") added to the current 1.4 million square feet).

   c. The density for the 623,866 square foot SP-1 portion of the PUD shall be limited to a cumulative 1.9 FAR, for a total of 1,185,345 FAR-countable square feet.

   d. The density for the 836,985 square foot SP-2 portion of the PUD shall be limited to a cumulative 3.4 FAR, for a total of 2,845,749 FAR-countable square feet.

   e. Although included in the above totals, approval of the square footage for the Southeast Complex-Phase VI building, as indicated in Figure 7.7e of the Master Plan 2000, is withheld pending consideration of FAR for this phase in a later Stage II application for the Phase VI area.

   f. Buildings within the SP-1/PUD shall not exceed sixty-five (65) feet in height.

g. Buildings within the SP-2/PUD shall not exceed ninety (90) feet in height.

h. Sight lines from the United States Armed Forces' Home, as illustrated in the Applicant's submission of March 5, 2001, Tab C, shall be maintained.

i. No more than 2,500,000 square feet of new below-grade, non-FAR-countable space shall be constructed without an approved PUD modification. Permitted uses shall include all uses described in Chapter 4, pages 5-8 and Chapter 7, pages 11-14 of the Master Plan as submitted for the record on April 6, 2001.

j. All uses set forth in Master Plan 2000, including physicians' office space, guest accommodations, and parking garages, shall be permitted as a matter-of-right under the zoning associated with the PUD.

k. The Applicant shall adhere to the following transportation-related conditions. These conditions reflect an agreement reached between the applicant and D-DOT. Although the conditions also include commitments by D-DOT to take certain actions, the Commission has no authority to require D-DOT's compliance. These commitments have been included to assist the public in understanding the process by which these roadway improvements will occur:

(i) MedStar shall implement the transportation management plan outlined in the Master Plan dated August 2000;

(ii) MedStar shall reimburse the District of Columbia Government for 100% of the traffic engineering and construction costs of Roadway Improvements 1 through 4, up to MedStar's Reimbursement Amount, as outlined in the table below:

Roadway Improvements		Reimbursement Amount
1.	Irving Street and Hobart Place at-grade access.	$1.2 million
2.	Irving Street at-grade right turn in and right turn out access to Parking Pavilion I	$75,000
3.	Michigan Avenue at Hospital Center Drive (south) signalization and signage (including interconnection with adjacent signal).	$100,000
4.	Michigan Avenue and First Street signalization and geometric improvements.	$100,000

(iii) MedStar shall pay D-DOT the total Reimbursement Amount of $1,475,000 prior to the issuance of a building permit to construct any structure, that individually, or in combination with existing structures or with other structures not yet built but for which building permits have been applied, would cause the development on the PUD Site to be increased by 300,000 square feet of net building space (including underground or parking facilities) beyond what existed on the date of the final approval of this Order. MedStar shall notify D-DOT prior to filing each application for a building permit for a structure authorized by this final PUD approval, until such time as MedStar makes the full payment set forth above.

(iv) All design plans for Roadway Improvements 1 through 4 are to be reviewed and approved by D-DOT prior to construction;

(v) Roadway Improvements 1 through 4 shall be constructed before any new Certificate of Occupancy is issued to any structure that causes the total development on the PUD Site to be increased by 300,000 square feet of net building space (including underground parking or parking facilities), provided that Roadway Improvements 1 and 4 are constructed by D-DOT in a reasonable time after D-DOT has been notified of MedStar's intention to apply for a building permit;

(vi) MedStar shall, at its own expense, prepare and submit to D-DOT the design plans for Roadway Improvements 5 and 6 consistent with the following table:

Roadway Improvements	Estimated Construction Cost	Due Date for Design Plans
5. Irving Street and First Street intersection signalization and geometric improvements	$700,000	To be determined by D-DOT
6. North Capitol Street and Irving Street interchange improvements	$800,000	To be determined by D-DOT

(vii) D-DOT shall be responsible for all construction engineering and construction costs related to Roadway Improvements 5 and 6. D-DOT shall seek eighty percent (80%) federal aid funding for the construction engineering and construction costs of these two

projects which will be provided by the District local transportation trust fund, subject to appropriations;

(viii) All design plans related to Roadway Improvements 5 and 6 shall be submitted to D-DOT for review and approval prior to construction.

(ix) D-DOT shall incorporate the design plans for Roadway Improvements 5 and 6 into a contract for the reconstruction of North Capitol Street near Irving Street, N.W.;

(x) Roadway Improvements 5 and 6 shall be constructed before any new Certificate of Occupancy is issued to any structure that individually, or in combination with existing structures or with other structures not yet built but for which building permits have been applied, would cause the development on the PUD Site to be increased by 300,000 square feet of net building space (including underground or parking facilities) beyond what existed on the date of this Order, provided that Roadway Improvements 5 and 6 are constructed by D-DOT in a reasonable time after D-DOT has been notified of MedStar's intention to apply for a building permit;

(xi) There shall be at least five (5) entrances to the Site: three (3) of those entrances shall be via First Street, N.W.; one (1) shall be via Michigan Avenue, west of the Children's Hospital National Medical Center; and one (1) shall be via Kenyon Street/Hobart Street from the west;

(xii) The entrances from the north shall be designed to accommodate approximately sixty-five percent (65%) of the anticipated vehicular traffic to the PUD Site. Of the two (2) entrances from the north, one (1) entrance shall be for direct access to the existing Parking Pavilion I from the vicinity of Kenyon Street; the other primary entrance shall be from Irving Street at First Street; and

(xiii) The entrance from the west side shall incorporate an entry into the Emergency Services Department.

2. This second-stage PUD approval by the Zoning Commission shall be valid for a period of two (2) years from the effective date of this Order. Within such time, the Applicant must file an application for a building permit as specified in 11 DCMR § 2408.8 to preserve the effectiveness of this Order unless the Zoning Commission otherwise acts to extend the validity of this Order. Construction shall start within three (3) years of the effective date of this Order to preserve the

effectiveness of this Order unless the Zoning Commission otherwise acts to extend the validity of this Order. In the event that the Applicant files an application for a building permit within the two- (2) year period stated in this paragraph, the PUD approved herein shall be valid for a period of ten (10) years from the effective date of this Order.

3. The Applicant shall execute a Memorandum of Understanding ("MOU") with the D.C. Office of Local Business Development prior to the issuance of the first building permit for the phased construction projects that are contemplated by the PUD. The MOU shall be updated prior to the issuance of each subsequent building permit. The Applicant shall abide by the terms of the executed MOU in order to achieve, at a minimum, the goal of thirty-five percent (35%) participation by local, small, and disadvantaged businesses in the contracted development costs in connection with the design, development, construction, maintenance, and security for the project to be created as a result of the PUD project. After the completion of construction of the PUD, the Applicant shall provide a written status report to the Zoning Commission and to the D.C. Local Business Opportunity Commission regarding compliance with the MOU.

4. The Applicant shall be required to execute a First Source Employment Agreement (the "Employment Agreement") with the Department of Employment Services ("DOES") prior to the issuance of the first building permit for the phased construction projects that are contemplated by the PUD. The Employment Agreement shall be updated prior to the issuance of each subsequent building permit. The Applicant shall abide by the terms of the executed Employment Agreement in order to achieve the goal of utilizing District of Columbia residents for at least fifty-one percent (51%) of the jobs created by the PUD project. After the completion of construction of the PUD, the Applicant shall provide a written status report to the Zoning Commission and to the DOES regarding compliance with the Employment Agreement.

5. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, 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., (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, familiar 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. Nothing in this Order shall be understood to require the Zoning Division of DCRA to approve permits if the Applicant fails to comply with any provision of the Act.

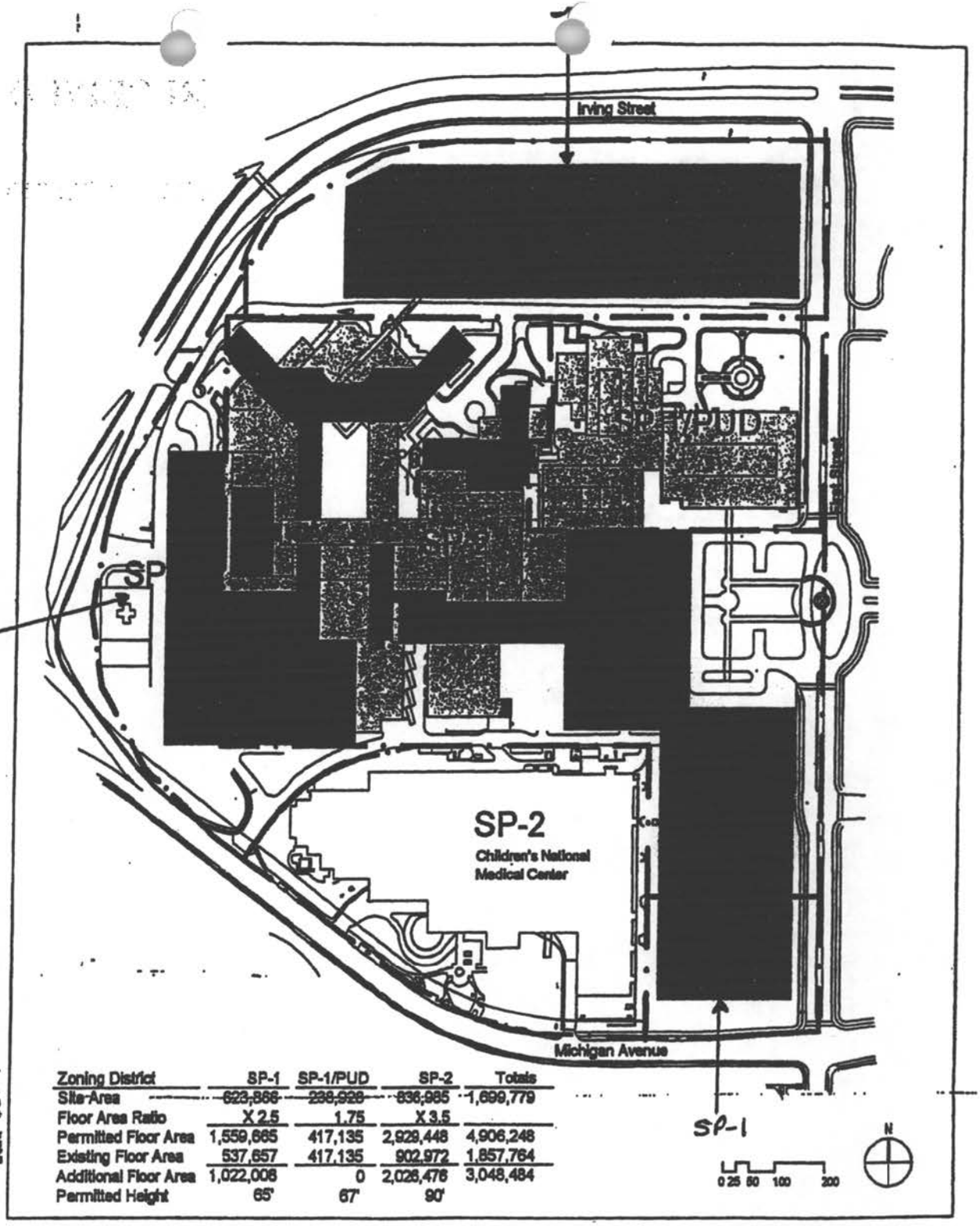
6. The zoning designation approved herein shall not become effective until the covenant required at 11 DCMR § 2409.3 has been recorded.

Vote of the Zoning Commission taken at the conclusion of the public hearing on the second-stage application January 9, 2003: **3-0-2** to **GRANT** second-stage approval (Carol J. Mitten, Anthony J. Hood, and Peter J. May to approve; John G. Parsons and James H. Hannaham, not present, not voting).

This Order was **ADOPTED** by the Zoning Commission at its public meeting held on February 24, 2003, by a vote of **5-0-0** (Carol J. Mitten, Anthony J. Hood, James H. Hannaham, John G. Parsons, and Peter G. May to adopt). 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 JUL 18 2003.

CAROL J. MITTEN
Chairman
Zoning Commission

JERRILY R. KRESS, FAIA
Director
Office of Zoning



Zoning District	SP-1	SP-1/PUD	SP-2	Totals
Site Area	623,866	238,928	836,985	1,699,779
Floor Area Ratio	X 2.5	1.75	X 3.5	
Permitted Floor Area	1,559,665	417,135	2,929,448	4,906,248
Existing Floor Area	537,657	417,135	902,972	1,857,764
Additional Floor Area	1,022,008	0	2,026,476	3,048,484
Permitted Height	65'	67'	90'	

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SP-1

Zoning Strategy B

- Zoning Boundaries
- Existing Buildings
- New Construction Opportunities

Washington Hospital Center
Master Plan 2000
WHC Design & Construction Management
Oudens + Knoop Architects, PC

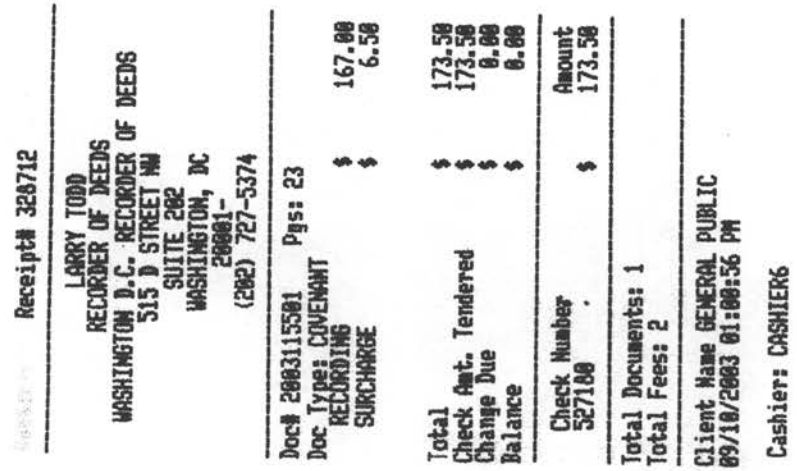
Chapter 6 - Figure 6.6c

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