Government of the District of Columbia
Office of Zoning

Z.C. CASE NO.: 02-45

As Secretary to the Zoning Commission, I herby certify that on NOV 19 2003 copies of this Z.C. Order No. 02-45 were mailed first class, postage prepaid or sent by inter-office government mail to the following:

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ATTESTED BY: Alberto P. Bastida

Alberto P. Bastida, AICP
Director, Office of Zoning

ZONING COMMISSION
District of Columbia
Case 02-45
Exhibit 39

ZONING COMMISSION
District of Columbia
CASE NO.02-45
EXHIBIT NO.39

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION ORDER NO. 02-45
Case No. 02-45
(First-Stage PUD – St Elizabeths)
May 1, 2003

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held a public hearing on March 6, 2003, to consider an application from the D.C. Department of Mental Health (the "Applicant"). The Application is for review and approval of the first-stage of a two-stage planned unit development ("PUD") and a related zoning map amendment, pursuant to Chapter 24 of the District of Columbia Municipal Regulations ("DCMR"), Title 11, Zoning. The proposed project involves the eventual demolition of the John Howard Forensic Pavilion and the construction of the new St. Elizabeths Hospital. The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Zoning Commission hereby approves the Application subject to the specified conditions.

FINDINGS OF FACT

The Application, Parties, and Hearing

1. On October 22, 2002 the Applicant submitted an application to the Zoning Commission for the first-stage of a two-stage PUD and a related zoning map amendment from unzoned property to SP-1 in order to construct a new one- and two-story mental health facility. On November 18, 2002, the Commission decided to schedule a public hearing on the application.

2. The subject property (the "PUD Site") is a large site of approximately 49.4 acres at located at 2700 Martin Luther King Jr. Avenue ("MLK"), S.E., comprising the southeastern portion of the St. Elizabeths East campus, legally identified as Parcel 234, Lot 38.

3. A description of the proposed development and the Notice of Public Hearing were published in the *D.C. Register* on December 20, 2002. The Notice of Public Hearing was mailed to all property owners within 200 feet of the subject property, as well as to Advisory Neighborhood Commissions ("ANC") 8A and 8C.

4. Under the PUD process of the Zoning Regulations, the Zoning Commission has the authority to consider this application as a PUD. The two-stage PUD process is appropriate in this case involving a large site with complex site planning,

transportation, and urban design issues. This first-stage order governs site planning, land use planning, traffic, general density, and similar broad issues. The second-stage PUD process will consist of reviews of more detailed plans and a determination of consistency with the intent and standards of this first-stage PUD order.

5. The parties in the case were the Applicant and Advisory Neighborhood Commission 8C.

6. The Zoning Commission held a public hearing on March 6, 2003.

The Site

7. The proposed PUD site is located on the southeastern part of the St. Elizabeths East Campus. It has access from MLK near Pecan Street and is also accessible from Alabama Avenue, S.E. The Property is irregular in shape and has substantial vacant and open areas together with the John Howard Forensic Pavilion and adjacent surface parking lot. This part of the St. Elizabeths campus was developed early in the twentieth century, so that much of the natural vegetation has been cleared over the years for the construction of buildings, streets, and roadways. The building site lies generally northeast of a deep ravine that bisects the East Campus of Saint Elizabeths Hospital. That ravine provides clear demarcation between the site and the remainder of the East Campus, and although it is included in the PUD area no development is proposed in the ravine itself. The ravine has heavy tree cover, and several additional trees are in scattered locations on the property. Lawn grass covers the open spaces between the existing buildings and the paved areas. Most of the site is vacant.

8. The only substantial existing building on the site is the John Howard Forensic Pavilion ("JHP"). JHP is an outdated and deteriorated brick, multi-story facility built in 1959. It currently houses St. Elizabeths' secure patient population. It occupies much of the northwest portion of the PUD Site and must remain in uninterrupted operation until completion of the new facility. This requirement effectively limits the site area available for new construction. JHP residents will be relocated to the new facility upon its completion and the JHP building will be demolished. An existing antenna tower in the triangular wooded area includes antennas that serve District of Columbia Police and Fire Departments as well as other District and Federal agencies.

9. The hospital anticipates continued use, at least in the short term, of three existing buildings (RMB, CT-7, and CT-8) while the overall facility census declines. All three buildings, and adjacent related parking areas, are outside the PUD area.

The Surrounding Area

10. The surrounding neighborhood includes the St. Elizabeths Hospital campus (both East and West Campuses), federal and highway property, and nearby residential

and commercial development in the Congress Heights, Douglass, and Shipley Terrace neighborhoods. The predominant surrounding land use context is the St. Elizabeths campus itself. The 336-acre campus is developed with institutional buildings, many of them historically designated, together with open spaces and trees. Martin Luther King Jr. Avenue, S.E., a major thoroughfare, bisects St. Elizabeths to form the approximately 173-acre East Campus and the approximately 163-acre West Campus.

11. The federal government deeded the East Campus to the District of Columbia government in 1987. The U.S. General Services Administration (GSA) is currently managing the disposition of the West Campus, which has been vacated by the U.S. Department of Health and Human Services. Metro's Green Line runs through the East Campus (underground). The Congress Heights Metro Station is located at the southeast perimeter of the property, and the Anacostia Metro Station is located north of the campus.

12. There are approximately 50 existing buildings situated on the East Campus. In addition to construction of the new hospital, a 10-acre site at the northern edge of the campus along MLK has been approved for construction of the District's Unified Communications Center ("UCC"). This project, sponsored by the D.C. Office of the Chief Technology Officer ("OCTO"), was recently zoned in conjunction with a Planned Unit Development ("PUD").

13. The site is bordered by an existing federal graveyard (located on St. Elizabeths property) to the northeast and by a group of Jewish cemeteries, including the Adas Israel Hebrew Congregational Cemetery, to the northwest. A wooded triangular area on the proposed site adjacent to the Jewish cemeteries contains several small, deteriorated buildings associated with an abandoned U.S. Navy radio facility. Farther east is Suitland Parkway, a four-lane expressway with federally-owned open space on either side. Alabama Avenue runs along the southern border of the PUD Site; it is zoned C-2-B and improved with commercial strip development. The adjacent residential neighborhood is developed with a mixed housing pattern, including garden and mid-rise apartments, as well as row, semi-detached, and detached dwellings. To the far north and northeast of the PUD Site is a moderate density residential area on either side of MLK. The residential areas described above are zoned R-5-A, a designation that allows the various types of residential development noted above. The proposed new hospital will continue to use the gated entrances to the campus from Alabama and MLK Avenues, and the existing driveway to approximately the point where the driveway reaches the PUD Site.

Existing and Proposed Zoning

14. The PUD site is unzoned property owned by the District of Columbia, described by zoning regulations as "not included in any zone district" but still subject to zoning requirements when "any change or expansion in the use of land or

buildings or any new construction" is contemplated. *See* 11 DCMR §§ 106.4, 106.5(a) and (b).

15. The Applicant requests SP-1 (Special Purpose – Medium-Density) zoning in conjunction with this PUD. This zone will readily accommodate the height and bulk of the proposed mental health hospital even under matter-of-right standards of 4.0 FAR and 65 feet. However, the Applicant has elected to pursue the planned unit development approach, which provides beneficial site planning and design flexibility, while allowing the Zoning Commission, the Office of Planning, and community groups to review the plans and affect the actual development that is built. In conjunction with a PUD, the SP-1 District allows a building height of up to 75 feet and a density of up to 4.5 FAR. 11 DCMR §§ 2405.1 and 2405.2.

16. The zoning classifications of areas surrounding the PUD site include R-5-A for the residential areas and C-2-B for areas improved for commercial use.

The PUD Project

17. The Applicant intends to construct a new hospital building on the subject property, to be known as the St. Elizabeths Hospital Building. The new 292-bed hospital will consist of a one- and two-story building that will provide mental health services for non-secure and secure mental health patients. The existing John Howard Forensic Pavilion will be demolished after construction and occupancy of the new building. Numerous features of JHP are obsolete and substandard in terms of care and rehabilitation of the mentally ill. The demolition will also create more open space, allow more light to reach the new building, and alleviate the increasing maintenance costs for the severely deteriorated John Howard building.

18. The existing, winding roadway from Alabama Avenue, S.E., will continue to provide vehicular access to the site. The site plan provides a setback and visual buffer to the new building from the arrival point where the access road crosses the ravine. Higher security functions and their access points are located farther from the site entry and are visually shielded by other functions and landscape. Parking areas are located to maximize green space in front of the building and to maintain views from the building across the ravine toward the remainder of the campus. The parking area and associated landscape are also used to buffer the existing secure yard (surrounded by a high wall) associated with the secure component.

19. The three wings of the building are oriented to maximize privacy for residential areas and to take advantage of views across open space to the ravine from public spaces, office areas, and treatment areas. Necessary exterior walkways adjacent to the building will be developed with hardscape elements and plantings to structure exterior space for use by staff, visitors, and where appropriate, residents.

20. Organization and massing for this building type are, by necessity, functionally driven. The requirements for ongoing respectful observation of residents, the size

and requirements of treatment and residential groups, and the security needs of the facility significantly impact the building form. The need to balance the seemingly competing needs for observation vs. privacy, for security vs. respect for residents as individuals, and for freedom vs. control present a unique challenge. The desire to provide readily-accessible, readily-observable, secure green space at each residential unit is central to addressing this challenge. This requires that the vast majority of units have direct, on-grade access to the outside.

21. In general, the building massing reflects the functional organization of the facility. A one-story wing at the rear of the site houses secure functions. A two-story wing at the portion of the PUD Site nearest the site entry point contains non-secure patient care and residential functions at the entry level, as well as residential units, staff education, and medical library functions above. These two wings are connected by a two-story building element that includes public functions on the entry level (lobby, auditorium, food service) and shared functions on the upper level. A partial lower level includes engineering and limited building support functions.

22. Separate pedestrian entries, vehicular drop-off points, and building lobbies are provided for the secure and non-secure sides of the complex. Shared functions will be accessed through the non-secure arrival point. Pedestrian and vehicular access through the secured perimeter associated with the secure functions is tightly controlled. Service and deliveries to the building will be accommodated at a service yard located between the secure wing and the shared services wing.

23. Parking is provided on grade. The majority of parking will be located approximately at the location of the existing John Howard Pavilion. This will require phased completion of the new parking after completion of the majority of the project and temporary use of other existing parking on the East Campus. The main parking area is oriented to allow pedestrian circulation along the aisles and ready supervision of the parking areas. A limited amount of dedicated parking may be provided closer to the building entrances.

Public Benefits of the PUD

24. The following public benefits and amenities will be created as a result of the PUD project:

    a. ***Major District of Columbia Initiative - High-Quality Mental Health Services.*** The new, state-of-the-art hospital building will represent a major advance in the care and treatment of mentally ill persons in the District of Columbia. This is a major District of Columbia and federal government policy initiative that will substantially alleviate and overcome problems in mental health service delivery that led to a period of years in which the District's mental health services were under court supervision. The new hospital is functionally designed to meet the special needs of

secure patients as well as non-secure patients and to provide an excellent environment for caregivers and visitors. The physical and social environment will be more conducive to patient recovery than the existing JHP facility, and for many will provide a better transitional environment for a return to a normal lifestyle in the community. The Department of Mental Health is committed to achieving a superior level of service that is consistent with the distinguished history of St. Elizabeths as the nation's first, and for many years foremost, mental health treatment facility. The funding has been secured to make this high-priority project a reality.

b. ***No Adverse Effect on Neighborhood or Public Facilities.*** The proposed redevelopment will prevent the numerous negative effects that could impair mental health service provision and neighborhood and campus development if the existing John Howard Forensic Pavilion were allowed to deteriorate further. The site is currently served by all major utilities, and the increased use of water and sanitary services will have a negligible effect on the District's delivery systems.

c. ***St. Elizabeths Framework Plan.*** For a number of years the District's mental health services were operating under Court supervision and orders. Recently, the Department of Mental Health has been able to make the improvements needed to return to independence from court orders. Although previous court rulings remain in effect, the Receivership has been vacated and the Department is now proceeding with orders for "Exit Criteria" that must be met before the original 1974 lawsuit can be fully dismissed. It is essential for the District to spend appropriated federal dollars expeditiously so as to remain in compliance with court-ordered requirements. Thus, the project must proceed before a framework plan for St. Elizabeths has been completed. However, the Department of Mental Health is committed to and actually financing the framework plan. The Office of Planning ("OP") is the lead agency on the plan, and DMH is continuing its close consultation with OP and its consultants as the process moves forward. This is a two-stage PUD, allowing several months of time for coordinating site planning and preliminary design matters with the planning team prior to submission of the specific architectural design to the Zoning Commission for approval of the second stage of the PUD application. The Applicant believes that this extended period of time will enable a high degree of planning coordination and compatibility with the framework plan to occur.

Relationship to Comprehensive Plan

25. This first stage PUD approval will not be inconsistent with the Comprehensive Plan:

a. ***Comprehensive Plan: Compliance with Major Themes.*** The proposed new hospital complex exemplifies many of the 10 Major Themes set forth in the Comprehensive Plan in § 101.1[1], including:

- "Stabilizing and improving the District's neighborhoods;"
- "Preserving and promoting [cultural and] natural amenities;"
- "Respecting and improving the physical character of the District;"
- "Promoting enhanced public safety;" and
- "Providing for diversity and overall social responsibilities."

b. ***Comprehensive Plan: Public Facilities Element.*** The *Comprehensive Plan* lists improvement of public facilities as one of its major goals, including the provision of "adequate and energy-efficient public facilities in good condition to support the cost-effective delivery of municipal programs and services . . ." § 601. One of the main objectives underlying this goal is "the construction, rehabilitation, and maintenance of facilities essential for public service delivery." § 602.1

c. ***Comprehensive Plan: Land Use Element.*** The Generalized Land Use Map of the Land Use Element designated the East Campus of St. Elizabeths Hospital for "Local Public Facilities." This is defined as, "Land and facilities occupied by the District of Columbia government . . ." The proposed new St. Elizabeths Hospital Building is a District of Columbia government facility directly consistent with this land use policy and an efficient use of existing government-owned property.

d. ***Comprehensive Plan: Ward 8 Element.*** This project is true to the focus of the Ward 8 plan, which recommends that the District "[g]ive priority to upgrading existing public services and facilities." § 1901.1. The Ward plan specifically calls for the District to "[e]nsure that new development in the Saint Elizabeth Hospital Treatment Area is compatible, in terms of its use, design, scale, circulation and landscaping, with the mental health treatment activities housed at the hospital while contributing to the economic revitalization of Ward 8." § 1930.1(e).

Report of the Office of Planning

26. By report dated February 24, 2003 and by testimony at the public hearing, the Office of Planning ("OP") recommended approval of the application. The report

[1] Citations are from the codified version of the Comprehensive Plan in 10 DCMR (1999).

states, "[t]he application is consistent with the requirements of the Zoning Regulations and elements of the Comprehensive Plan." The report favorably noted the public benefits and amenities of the new hospital and its minimal impacts on the surrounding neighborhood. The new hospital's preservation of open space, urban design, and pedestrian accessibility were emphasized as important public benefits.

Report of Advisory Neighborhood Commission 8C

27. Mary Cuthbert of ANC 8C testified at the March 6th public hearing but stated that she had not been authorized to represent the ANC as a whole. She testified that the announcement of the public hearing initially was sent to ANC 8A and that internal problems at ANC 8C prevented the Applicant from presenting the plans at the March 5th ANC meeting. Ms. Cuthbert further stated that St. Elizabeths Hospital representatives met with other people in the community but did not contact ANC 8C. Ms. Cuthbert stated that the community as a whole is pleased with the hospital but has concerns about the structure and location of the proposed development.

28. Chair Mitten agreed to hold the record open until April 23rd to allow the Applicant to present its proposal at the April 3rd ANC 8C meeting, and for the ANC to submit a report. No report was filed by ANC 8C prior to the April 23rd closing of the record.

Testimony in Opposition

29. Several residents in the vicinity expressed opposition to the PUD based upon their belief that the Applicant planned residential housing for the site and that the proposed hospital would not be large enough for the patient population. All of the opponents stated that they supported the hospital and wanted to see it continue to provide mental health services to D.C. residents.

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality development that provides public benefits. 11 DCMR § 2400.1. The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project "offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience." 11 DCMR § 2400.2.

2. Under the PUD process of the Zoning Regulations, the Zoning Commission has the authority to consider this application as a two-stage 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 Zoning

Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment.

3. The development of this PUD project carries out the purposes of Chapter 24 of the Zoning Regulations to encourage well planned developments that will offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter-of-right development.

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

5. The PUD is within the applicable height and bulk standards of the Zoning Regulations. The height and density will not cause an adverse effect on nearby properties and will, in fact, include less density on the PUD Site than is permitted as a matter of right. The proposed mixed-use development is appropriate on this site, which is well served by a major arterial street, bus lines, and an on-site Metrorail station.

6. First-stage approval of this PUD and the proposed SP-1 zoning is not inconsistent with the Comprehensive Plan including the designation of the site for Local Public Facilities development in the Generalized Land Use Map of the Land Use Element.

7. The Commission is required under D.C. Code 2001 Ed. § 1-309.10(d) to give great weight to the affected ANC's recommendation. The Commission acknowledges and responds to ANC 8C as follows:

   a. The Commission finds that the Applicant gave a presentation at the April 3rd ANC 8C meeting and responded to questions and concerns expressed by the ANC.

   b. The Commission finds that ANC 8C has not submitted a formal report as of the April 23rd closing of the record.

8. First-stage approval of the PUD Application will promote the orderly development of the site in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Zoning Map of the District of Columbia.

9. The Application 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 herein, the Zoning Commission orders **APPROVAL** of the Applications for first-stage review of a Planned Unit Development and for a Zoning Map amendment from unzoned to SP-1 for indicated

parts of the property located at 2700 Martin Luther King Avenue ("MLK") S.E., comprising the southeastern portion of the St. Elizabeths East Campus, legally identified as Parcel 234, Lot 38. This approval is subject to the following guidelines, conditions and standards:

1. The final design of PUD shall be developed in accordance with the site plan and preliminary architectural and landscape plans submitted as Exhibit 30 in the record of this case, and as modified by the guidelines, conditions, and standards of this Order.

2. The project shall include the demolition of the existing, John Howard Pavilion hospital and construction of a new facility, together with public spaces, generally as depicted in the preliminary plans submitted in this first-stage application.

3. The Applicant shall submit with the second-stage application detailed plans and elevations indicating the design treatment of the proposed PUD project, including but not limited to building and landscape materials, color, architectural and landscape details, and zoning data as required for a second-stage PUD application.

4. The PUD Site shall be zoned SP-1, encompassing a land area of 2,151,864 square feet (49.4 acres) as depicted in Exhibit 30 of the record.

5. The Applicant shall execute the following agreements prior to the adoption of the final Zoning Commission order of the initial second-stage PUD in this case:

   (a) A First-Source Employment Agreement with the Department of Employment Services; and

   (b) A Memorandum of Understanding with the District of Columbia Office of Local Business Development ("LSDBE") to ensure minority vendor participation.

6. This first-stage PUD approval by the Zoning Commission shall be valid for a period of one (1) year from the effective date of this order. Within such time, the Applicant shall file the second-stage PUD application in order for this first-stage application to remain in effect.

7. 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.

8. The second-stage PUD application shall include an interim parking plan describing the phased completion of the new parking and temporary use of existing parking on the East Campus during construction.

9. The second-stage PUD application will include a proposed pedestrian route from the new hospital to the Congress Heights Metrorail station. The Applicant will also provide a status report on when the gate between the station area and the St. Elizabeths campus will be opened.

At its public meeting of May 12, 2003, the Zoning Commission took proposed action to approve the application by a vote of 5-0-0 (Anthony J. Hood, Carol J. Mitten, John G. Parsons, Peter G. May, and James H. Hannaham approved).

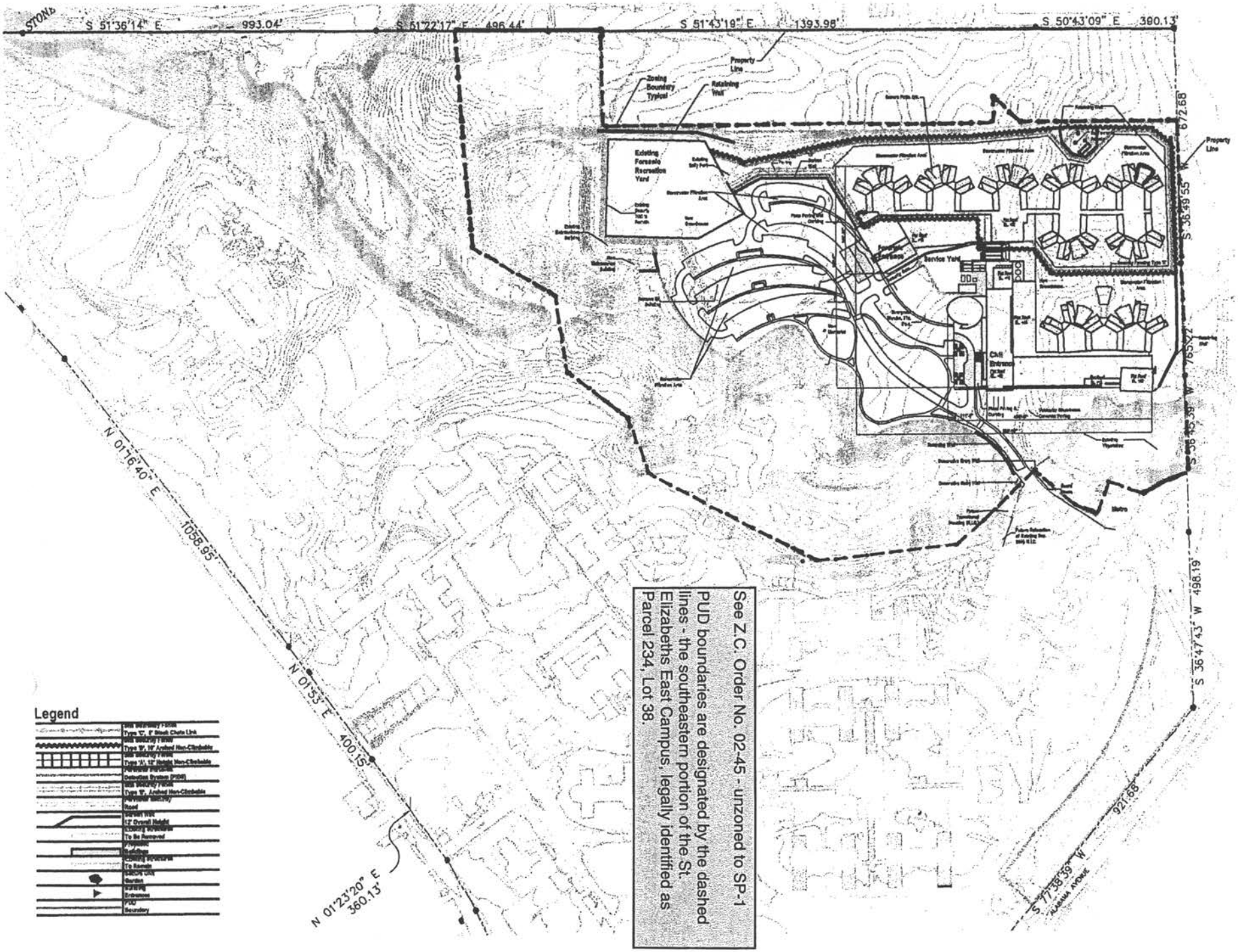
The Zoning Commission took final action to approve the application on June 9, 2003, by a vote of 5-0-0 (Anthony J. Hood, John G. Parsons, Carol J. Mitten, Peter G. May, and James H. Hannaham approved).

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 NOV 2 8 2003.

Carol J. Mitten

CAROL J. MITTEN
Chairman
Zoning Commission

JERRILY R. KRESS, FAIA
Director
Office of Zoning


S 51°36'14" E 993.04'
S 51°22'17" E 496.44'
S 51°43'19" E 1393.98'
S 50°43'09" E 380.13'
Property Line
Zoning Boundary Typical
Retaining Wall
Existing Forensic Recreation Yard
Service Yard
Property Line
S 38°49'55" W 672.68'
S 36°45'39" W 765.27'
S 36°47'43" W 498.19'
S 77°38'59" W 921.68'
ALABAMA AVENUE
N 01°16'40" E 1058.95'
N 01°53' E 400.15'
N 01°23'20" E 360.13'
See Z.C. Order No. 02-45 - unzoned to SP-1
PUD boundaries are designated by the dashed lines - the southeastern portion of the St. Elizabeths East Campus, legally identified as Parcel 234, Lot 38.
Legend