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December 6, 2004

Mr. Alberto Bastida
Office of Zoning for the
District of Columbia
441 4th Street, N.W.
Suite 2105
Washington, DC 20001

Re: Zoning Commission Order No. 03-04 (Case No. 03-04) PUD Covenant for Square 2661, Lots 54,215,216 and 860, 1451 Belmont Street.

Dear Mr. Bastida:

In accordance with condition number 15 of Zoning Commission Order No. 03-04, enclosed please find a copy of the planned unit development covenant recorded among Land Records of the District of Columbia for the project at 1451 Belmont Street, N.W.

Should you have any questions, please do not hesitate to contact me at (202)530-7153.

Very truly yours,

GRIFFIN, FARMER & MURPHY, LLP

By: _____
Jonathan L. Farmer

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Enclosure

ZONING COMMISSION
District of Columbia
CASE NO. 03-04
EXHIBIT NO. 49

ZONING COMMISSION
District of Columbia
CASE NO.03-04
EXHIBIT NO.49

LT1-5-2004158287-1

LT2-0-0-2

PUD COVENANT

THIS COVENANT (hereinafter referred to as the "Covenant"), made this 12th day of August, 2004 by and between BELMONT PARTNERS, LLC, a Maryland Limited Liability Company (hereinafter referred to as "Developer") and the DISTRICT OF COLUMBIA, a municipal corporation (hereinafter referred to as the "District").

WITNESSETH

RECEIVED D.C. OFFICE OF ZONING 2004 AUG 6 P 12:39

WHEREAS, Developer is the record owner in fee simple of certain real property situated in the District of Columbia known as Lots 54, 215, 216 and 860 in Square 2661, as more fully described in Exhibit A, attached hereto (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 "PUD") under Chapter 24 of the Zoning Regulations of the District of Columbia in accordance with Zoning Commission Order No. 03-04 effective June 18, 2004, in Zoning Case No. 03-04; 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 for the District of Columbia (hereinafter referred to as the "Zoning Commission") in Order No. 03-04 and all modifications, alterations or amendments thereto.

NOW THEREFORE, in consideration of the foregoing recitals, which are a material part hereof, and for other good and valuable consideration, the mutual receipt and sufficiency of which is hereby acknowledged, it is agreed among the parties hereto as follows:

1. Approved Plans. The terms and conditions of the Zoning Commission's approval of the PUD set forth in Order No. 03-04 effective June 18, 2004, in Zoning Case No. 03-04 (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 B 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 as contained in said Order, subject to such changes thereto as the Zoning Commission and/or the Zoning Administrator of the District of Columbia, may authorize, pursuant to 11 DCMR §§ 2409.6 and 2409.9, respectively. 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 PUD 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 PUD 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 11 DCMR 2408.14.

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, it 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 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, BELMONT PARTNERS, LLC, a Maryland Limited Liability Company, has, as of the day and year first above written, caused this Covenant to be signed by John B. Slidell, Executive Vice President of Bozzuto Holdings, LLC, the manager member of Belmont Partners, LLC, and does hereby appoint the said John B. Slidell to be Belmont Partners, LLC's true and lawful attorney-in-fact, for it and in its name to acknowledge and deliver this Covenant according to law.

BELMONT PARTNERS, LLC,

By: Bozzuto Holdings, LLC
Managing Member

By: _____
John B. Slidell,
Executive Vice President,

DISTRICT of COLUMBIA, ss:

I, Ann S. Hobson, a Notary Public in and for ~~the District of Columbia,~~ Anne Arundel County do hereby certify that John B. Slidell, Executive Vice President of Bozzuto Holdings, LLC, the managing member of Belmont Partners, LLC, a Maryland limited liability company, party to the foregoing Covenant bearing the date of the 12 day of August, 2004, the said Executive Vice President being named as attorney-in-fact for said limited liability company 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 liability company that he delivered the same as such.

GIVEN under my hand and seal this 12 day of August, 2004.

_____
Notary Public

ANN S. HOBSON NOTARY PUBLIC ANNE ARUNDEL CO., MD

My commission expires: 10/01/07

[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 the 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 the date of the 16th day of November, 2004, 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 16th day of November, 2004.

_____
Notary Public

My commission expires: 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 Attorney General for the District of Columbia

EXHIBIT A

LEGAL DESCRIPTION OF SUBJECT SITE

Lot 860 in Square 2661.

and

Lot 216 in Square 2661 in the subdivision made by C.T. England and M.E. England, as per plat recorded in the Office of the Surveyor for the District of Columbia in Liber 85 at folio 3.

and

Lot 54 in Square 2661 in the subdivision of the "South Grounds of Columbia College" as per plat recorded in the Office of the Surveyor for the District of Columbia in Liber District 1, folio 76.

and

Lot 215 in Square 2661 in the subdivision made by C.T. England and M.E. England, as per plat recorded in the Office of the Surveyor for the District of Columbia in Liber 85 at folio 3.

EXHIBIT B

ZONING COMMISSION ORDER NO. 03-04

ZONING COMMISSION ORDER NO. 03-04
Z.C. Case No. 03-04
Consolidated Planned Unit Development
for 1437-1451 Belmont Street, N.W.
January 12, 2004

Pursuant to notice, the Zoning Commission for the District of Columbia held a public hearing on October 9, 2003, to consider an application from Belmont Partners, LLC for consolidated review and approval of a Planned Unit Development ("PUD") (the "Application"). The Commission considered the Application pursuant to Chapters 24 and 30 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR"). The Public Hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Zoning Commission hereby approves the Application subject to conditions.

FINDINGS OF FACT

The Application, Parties, and Hearing

1. On January 17, 2003, Belmont Partners, LLC, on behalf of Bozzuto Holdings, LLC and George H. Purcell (collectively, the "Applicant") submitted an application to the Zoning Commission for the consolidated review and one-step approval of a PUD for the subject property located at the north side of Belmont Street, N.W. between 14th Street, N.W. and 15th Street, N.W. and consisting of Lots 54, 215, 216, and 860 in Square 2661. On April 14, 2003, the Zoning Commission decided to set down the Application for public hearing.

2. A description of the proposed development, including a description of the subject property, and Notice of Public Hearing were published in the *D.C. Register* on August 22, 2003, and were mailed to all property owners within 200 feet of the property as well as Advisory Neighborhood Commission ("ANC") 1B.

3. The parties in the case were the Applicant and ANC 1B. The Zoning Commission opened the public hearing on October 9, 2003. At the public hearing, the Commission heard testimony and received evidence from the Applicant and the Office of Planning. ANC 1B submitted a letter in support of the proposed PUD dated August 22, 2003. Members from Association of Community Organizations for Reform Now ("ACORN"), who expressed concern that the project did not provide enough affordable housing units and that it would raise property taxes in the area, testified in opposition to the PUD.

4. At the conclusion of the hearing on the PUD application on October 9, 2003, the Commission requested the submission of certain additional materials and information by the Applicant. The additional materials requested by the Commission at the hearing include the following:

   a. Revised architectural drawings including a landscape plan with a detailed list of plants, colored renderings, roof plan showing recreational space, alley traffic plan, and bicycle parking in the garage area;

   b. More specific information about the value of services rendered in lieu of monetary donations to the Garnet-Patterson Middle School and the Metropolitan Police Boys and Girls Club;

   c. Additional details on the sale of parking spaces to project residents and surrounding neighbors;

   d. Additional details regarding the assurance that the majority of units will be owner-occupied; and

   e. Samples of materials to be used in the project.

5. The Applicant submitted the requested materials and information in its Post-Hearing Submission dated October 30, 2003.

Office of Planning Report

6. By report dated September 29, 2003, and by testimony at the public hearing, the Office of Planning ("OP") recommended approval of the Application, subject to certain conditions.

7. OP identified several key public benefits and project amenities of the PUD, including urban design, architecture, landscaping, and creation/preservation of open spaces; site planning and efficient and economical land utilization; effective and safe vehicular and pedestrian access, transportation management measures, connections to public transit service, and other measures to mitigate adverse traffic impacts; employment and training opportunities; housing and affordable housing; social services and facilities; environmental benefits, such as stormwater runoff controls and preservation of open spaces or trees; uses of special value to the neighborhood or District of Columbia as a whole; and other public benefits and project amenities by which the proposed PUD substantially advances the major themes and other policies and objectives of any of the elements of the Comprehensive Plan. OP further stated that the PUD is "not inconsistent" with the Comprehensive Plan, noting compliance with the Generalized Land Use Map of the Land Use Element and various policies in major elements of the Plan as well as consistency with several major themes of the Plan.

8. OP's recommendation for approval was conditioned by provisions, some of which were complied with by the time of the Zoning Commission hearing on October 9, 2003, including the provision of a signed DOES Agreement, the provision of signed agreements with the Metropolitan Police Boys and Girls Club and the Garnet-Patterson Middle School, and the provision of a signed construction management plan. The other conditions that OP sought will be complied with at the time the condition arises, including providing a service contract for the computers to be donated to the Garnet-Patterson Middle School (in lieu of a warranty on the computers), providing the proposed donations to the Metropolitan Police Boys and Girls Club and the Garnet-Patterson Middle School prior to the granting of the first Certificate of Occupancy, and installing the off-site landscaping prior to the issuance of the last Certificate of Occupancy. The Applicant will provide covenant provisions to ensure compliance with the expressed conditions.

Reports of Other Agencies

9. The District Department of Transportation ("DDOT") submitted a report to OP dated September 29, 2003. The report stated that the proposed PUD will generate far less traffic than the Applicant calculated, and DDOT does not expect that the PUD will significantly impact the current level of service on the surrounding intersections. DDOT also noted that the number of parking spaces for the PUD more than adequately accommodates the parking needs of the development and minimizes the parking spillover to the adjacent neighborhood parking, which DDOT noted as having a "chronic deficit of off-street parking facilities." DDOT recommended that the Applicant provide at least ten (10) bicycle parking spaces and revise the plan for the loading berth and secondary access to the rear entrance to the parking garage.

The Site and Surrounding Area

10. The subject property consists of Lots 54, 215, 216, and 860 in Square 2661. The subject property is situated in Ward 1 on the north side of Belmont Street, N.W. between 14th Street, N.W. to the east, and 15th Street, N.W. to the west, and has a land area of approximately 42,750 square feet. Its rectangular configuration extends along Belmont Street for 280 feet and along the alley 150 feet north of Belmont Street. The topography of the site is highest at the northwest corner and slopes down approximately fifteen (15) feet to the southeast.

11. The subject property is currently improved with a vacant and dilapidated structure, formerly known as the Pitts Motel, on Lots 860 and 54. Lots 215 and 216 are each occupied by a vacant three-story brick row house.

12. The site is located in the Columbia Heights neighborhood and is one-half block east of Meridian Hill Park. The immediately surrounding neighborhood contains a mix of single-family and multi-family residential structures. There is a six-story apartment building, Garden Tower Apartments, immediately west of the site. The site is within one block of 14th Street, N.W. and one and one-half blocks of 16th Street, N.W., where there is a mix of residential and commercial uses. The site is six (6) blocks from the Columbia Heights and U Street Metrorail Stations and is one block from Metrobus lines on 14th Street and 15th Streets.

13. The site is neither a designated historic landmark nor is it within a historic district.

14. The site is zoned R-5-B, as are the majority of the lots to the north and south of the site between 14th Street and 15th Street. Both the immediate east and west sides of 14th Street are zoned C-2-B between Florida Avenue and Columbia Road. Land to the immediate east of 15th Street and proceeding north from Chapin Street is located in the R-5-B District. Meridian Hill Park, to the west of the intersection of 15th Street and Belmont Street is federal government property and is under the jurisdiction of the National Park Service.

15. The Applicant is not requesting a zoning map amendment in conjunction with this PUD.

16. The R-5 Districts are designed to permit all types of urban residential development that conforms to applicable height, density, and area requirements. The R-5-B District is a moderate height and density residential zone that allows multi-family dwellings on the site. With a PUD, the maximum permitted building height is 60 feet and the maximum permitted density is 3.0 floor area ratio ("FAR").

The PUD Project

17. The proposed PUD, known as the Meridian Hill Condominiums, consists of a U-shaped building oriented along Belmont Street. The development borders an open courtyard facing north and contains garden space along both the east and west side yards of the site. The site will be further landscaped with trees along the Belmont Street facade of the building. The Applicant also proposes to landscape the opposite side of Belmont Street for the length of the proposed project.

18. The proposed PUD contains 103 residential units, comprised of forty-one (41) one-bedroom, fourteen (14) one-bedroom plus den, thirty-two (32) two-bedroom, and sixteen (16) two-bedroom plus den units. The unit sizes range from 705 square feet to 1559 square feet.

19. The proposed PUD also contains a two-level below-ground parking garage, which will accommodate 136 automobile parking spaces and twelve (12) bicycle parking spaces, and

above-ground parking at the rear of the building that will accommodate 18 automobile parking spaces for visitors. Parking spaces in the garage will be offered for sale to unit owners and residential neighbors within one block of the development. Each unit owner may purchase no more than two spaces. Neighbors may purchase no more than one space.

20. The Applicant proposes to raze the Pitts Motel and the two vacant row houses and replace them with the proposed development.

21. The proposed PUD is designed to incorporate the architecture of the surrounding neighborhood. The Belmont Street facade is designed to make a transition from the higher scale of the Garden Tower Apartments to the west, to the townhouse scale of the eastern end of the site and on the south side of Belmont Street. Thus, the western portion of the Belmont Street facade will read as a unified building located along the property line, while the eastern portion of the Belmont Street facade reflects the neighboring townhouses by being set back an extra six (6) feet from the property line and utilizing private entrances for the first floor units, mansard roofing, and bay windows.

22. In its Post-Hearing Submission, the Applicant provided a detailed policy to ensure that the project will continue to be an owner-occupied building. The Applicant intends to limit purchase of units for investment purposes to no more than fifteen percent (15%) and encourage sales to those persons who will reside in the condominiums. This policy will be included in all purchase agreements, deeds, and condominium registration documents generated by the Applicant.

23. The Applicant's plans include a rooftop recreational space so that the residents of the development can take advantage of views of the Washington, DC skyline. The roof plan is shown in Exhibit 38, and it incorporates a roof deck for residents surrounded by planters. There are two means of egress from the roof deck. A 17-foot tall structure in the middle of the roof houses the elevators and stairwell to the roof, a second 10-foot tall structure on the northwest part of the roof houses a second stairwell. Additional HVAC platforms that are four feet in height are also located in groups on the roof.

24. Automobiles will gain ingress to and egress from the development through a garage door at the middle of the Belmont Street facade. Service trucks, including garbage trucks, will have access to the development through the entrance at the rear off of the 20-foot alley behind the site. Trucks that cannot maneuver through the 20-foot alley in the back will be able to make deliveries or otherwise provide services through the front of the development.

25. The Applicant requests that the Zoning Commission grant the following relief:

a. A waiver of the one acre minimum area required under § 2401.1 of the Zoning Regulations;

b. An increase in lot occupancy from the maximum permitted sixty percent (60%) to sixty-three percent (63%) as may be allowed under 11 DCMR § 2405.4;

c. A decrease in the side yard setback on the east and west from thirteen (13) feet, nine (9) inches, as required under 11 DCMR § 405.6, to twelve (12) feet, as may be allowed under 11 DCMR § 2405.5.

d. A smaller loading berth than required under 11 DCMR § 2201.1. 11 DCMR § 2405.5 allows the Zoning Commission to reduce the size of a loading berth based on the use and location of the project. The loading berth as planned is thirty-five (35) feet deep, twenty (20) feet less than required under the Zoning Regulations.

e. A special exception for varying heights of the roof structure and roof setback as allowed under 11 DCMR § 2405.7 to accommodate a roof structure that houses a second means of egress at the northwest corner of the roof that is ten (10) feet tall and is set back seven (7) feet and seven and one-half (7.5) inches from the northern roof edge. The roof penthouse that encompasses the main stairwell and the elevators is 17 feet tall.

Public Benefits from the PUD

27. The proposed PUD provides public benefits and project amenities in accordance with 11 DCMR § 2403.9. These include the following:

a. Housing and Affordable Housing. The proposed PUD offers new high-quality housing to replace a dilapidated and underutilized property. The Applicant proposes to provide four (4) affordable housing units in the PUD – two 2-bedroom units, one 1-bedroom plus den unit, and one 2-bedroom unit, in accordance with Exhibit 38.

b. Urban Design, Architecture, Landscaping or Creation or Preservation of Open Spaces. This proposed PUD was designed with the primary intent of creating a building that conforms with the architectural characteristics of the neighboring buildings. The proposed building transitions from the large-scale apartment style of the Garden Towers Apartments, to the west of the site, to the small-scale single-family townhouses, to the east and south of the site. Building elements– such as the brick facade, mansard roofs, bay windows, and private entrances for

first floor units–ensure that the proposal reflects the neighborhood's characteristics. The proposed PUD also contains landscaped street frontage and a landscaped courtyard, side yards, and rooftop deck.

c. Transportation Issues. The traffic impact study conducted by Gorove/Slade Associates, Inc. and DDOT's report show that there are no adverse traffic impacts to the surrounding area due to an increase in traffic to and from the site. The Applicant's proposal provides enough parking for its residents. The proposed project provides additional parking to mitigate existing parking shortages in the immediate area.

d. Employment and Training Opportunities. The Applicant seeks to employ local contractors to work of the construction on the proposed development. The Applicant has executed a memorandum of understanding with the Local Business Opportunity Commission and has executed a First Source Employment Agreement with the Department of Employment Services ("DOES") as shown in Exhibit 33.

e. Social Services/Facilities. In accordance with Exhibits 30 and 31, the Applicant has pledged donations of cash, services, and equipment to the Garnet-Patterson Middle School and the Metropolitan Police Boys and Girls Club.

f. Environmental Benefits, Such as Preservation of Open Space or Trees. The Applicant proposes to add open space to the site and enhance both sides of Belmont Street with landscaping as shown in Exhibit 38. Currently, Belmont Street is primarily residential but does not have street landscaping. The landscape plan proposed by the Applicant is a direct public benefit of the PUD.

28. The Applicant has proffered a Construction Management Plan, as shown in Exhibit 32, to ensure responsible construction on the site and to mitigate any adverse impacts from construction on the surrounding neighborhood.

29. The Commission credits the testimony of OP that this proposed PUD is "not inconsistent with the recommendation of the Generalized Land Use Plan" or "other sections of the Comprehensive Plan" including stabilizing and improving district neighborhoods, respecting and improving the physical character of the District, and preserving and ensuring community input. OP further notes that the proposed PUD is consistent with the following Ward 1 policies: housing, urban design, and land use.

30. ANC 1B has submitted a letter in support of the proposed PUD, as shown in Exhibit 19. The Applicant has consistently worked with the ANC and with the immediate neighbors of the site to come up with a responsible development that takes into account factors that are important to the surrounding community.

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 § 2400.01. 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 § 2400.02.

2. Under the PUD process of the Zoning Regulations, the Zoning Commission has the authority to consider this Application as a consolidated PUD. The Commission may impose development conditions, guidelines, and standards that may exceed or be less than the matter-of-right standards identified for height, density, lot occupancy, parking, loading, yards, or 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 does not meet the minimum area requirements of § 2401.1 of the Zoning Regulations. The proposed PUD is 810 square feet less than the required one acre minimum area requirement. The Zoning Commission may waive not more than 50% of the minimum area requirement under certain circumstances with the requirements of § 2401.2, the Commission finds that the proposed PUD is of exceptional merit in that the project will provide new housing, including some affordable units on a dilapidated, underutilized site in a residential neighborhood, is in the best interest of the city, and will devote at least eighty percent (80%) of the gross floor area of the development exclusively for dwelling units and uses accessory thereto.

5. The PUD is within the applicable height and bulk standards of the Zoning Regulations. The height and density will not cause a significant adverse effect on any nearby properties. The proposed residential use is appropriate for this site, which is served by minor arterial streets, bus lines, and a nearby Metrorail station. As set forth in the Findings of Fact, the proposed PUD is appropriately designed to respect the surrounding areas, including the lower density residential areas to the east and south of the site and the higher density residential building to the west of the site.

6. The Applicant seeks an increase in lot occupancy as permitted by 11 DCMR § 2405.4. The project benefits and amenities, particularly the provision of housing and affordable housing, the landscaping plan, and the donations to the Metropolitan Police Boys and Girls Club and the Garnet-Patterson Middle School, are a reasonable trade-off for the requested development flexibility.

7. Approval of the Application is appropriate, because the proposed PUD is consistent with the present character of the area.

8. Approval of the PUD is not inconsistent with the Comprehensive Plan.

9. In accordance with D.C. Official Code § 1-309.10(d) (2001), the Zoning Commission must give great weight to the issues and concerns of the affected ANC. The Commission notes that ANC 1B submitted written recommendations in this proceeding in support of the Application.

10. Approval of the 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.

11. Notice of the public hearing was provided in accordance with the Zoning Regulations.

12. The Applicant is subject to compliance with D.C. Law 2-38, The Human Rights Act of 1977.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia orders **APPROVAL** of the Application for consolidated review of a Planned Unit Development for Square 2661, Lots 54, 215, 216, and 860. This approval is subject to the following guidelines, conditions, and standards:

1. The PUD shall be developed in accordance with the plans prepared by SK&I Architectural Design Group, LLC dated October 30, 2003, marked as Exhibit 38 in the record (the "Plans") as modified by the guidelines, conditions, and standards herein.

2. The PUD shall be a residential building consisting of approximately 115,260 square feet of gross floor area, with no more than 103 dwelling units. The Project shall not exceed a density of 2.7 FAR. The building shall not exceed a height of 55 feet, as measured in accordance with the Zoning Regulations. The project may include a roof structure with a height not to exceed 17 feet as indicated in the Plans and in accordance with the Zoning Regulations.

3. The Applicant shall provide affordable housing as described in Exhibit 38. To the extent that minor modifications are needed in the execution of the program to conform to District or Federal housing programs, the Applicant shall work with the Department of Housing and Community Development to make such changes to comply with the same.

4. The proposed PUD shall include a minimum number of parking spaces in the amount of 1.5 parking spaces per dwelling unit. The proposed PUD shall include 136 parking spaces in the below-ground garage and 18 parking spaces behind the building in an above-ground surface lot. At least twelve (12) bicycle parking spaces shall be provided in the garage. All of the parking spaces behind the building shall be devoted to visitor parking and shall be free of charge to visitors. Parking spaces shall be offered for sale to owners of dwelling units in the proposed PUD and to residents within a one block radius of the proposed project. There is no requirement for any dwelling unit owner to purchase a parking space. Ownership of the parking spaces in the below-ground garage shall be limited to two per person.

5. The proposed PUD shall include one 15-foot by 35-foot loading berth, with a 200-square-foot loading platform as shown on the Plans.

6. The proposed PUD shall include open, green space that is accessible to residents of the building and has gating as depicted in the Plans. Landscaping improvements shall be in accordance with the Plans. The Applicant or its successors shall maintain all landscaping improvements in good condition.

7. The Applicant shall include landscaping improvements as indicated on the Plans along both sides of Belmont Street for the length of the building. The off-site landscaping shall be installed prior to the issuance of the last Certificate of Occupancy for the PUD. The Applicant or its successors shall maintain all landscaping improvements in good condition.

8. The Applicant shall create a recreational roof structure in accordance with the Plans.

9. The Applicant shall have flexibility with the design of the proposed PUD in the following areas:

   a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, elevators, kitchens and toilet rooms, provided that the variations do not change the exterior configuration of the building;

   b. To vary the final selection of the exterior materials within the color ranges and material types as proposed, but with no reduction in quality, based on availability at the time of construction; and

c. To make minor refinements to exterior details and dimensions, including balcony enclosures, belt courses, sills, bases, cornices, railings, and trim, or any other changes to comply with the Construction Codes or that are otherwise necessary to obtain a final building permit.

10. The Applicant shall abide by the terms of the executed Memorandum of Understanding with the D.C. Office of Local Business Development in order to achieve, at a minimum, a 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 project, the Applicant shall provide a written status report to the Zoning Commission and the D.C. Local Business Opportunity Commission regarding compliance with this agreement.

11. The Applicant shall abide by the terms of the executed First Source Employment Agreement with the Department of Employment Services (DOES) 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 completion of construction of this project, the Applicant shall provide a written status report to the Zoning Commission and the DOES regarding compliance with this agreement.

12. The Applicant shall abide by the terms of the executed Construction Management Plan in order to achieve the goal of constructing the PUD in a reasonable manner and to minimize any adverse effect the construction of the PUD may have on the immediate surrounding neighborhood.

13. The Applicant shall abide by the executed Contribution Agreements entered into with the Metropolitan Boys and Girls Club and the Garnet-Patterson Middle School and shall provide these donations prior to the granting of the first Certificate of Occupancy for the PUD.

14. No building permit shall be issued for this PUD until the Applicant has recorded a covenant in the Land Records of the District of Columbia, between owners and the District of Columbia, that is satisfactory to the Office of the Corporation Counsel and the Zoning Division of the Department of Consumer and Regulatory Affairs ("DCRA"). Such covenant shall bind the Applicant and all successors in title to construct on and use this property in accordance with this order or amendment thereof by the Zoning Commission.

15. The Office of Zoning shall not release the record of this case to the Zoning Division of DCRA until the Applicant has filed a copy of the covenant with the records of the Zoning Commission.

16. The PUD approved by the Zoning Commission shall be valid for a period of two (2) years from the effective date of this order. Within such time, an application must be filed for a building permit as specified in 11 DCMR § 2409.1. Construction shall begin within three (3) years of the effective date of this order.

17. Pursuant to the Human Rights Act of 1977, D.C. Law 2-38, as amended, codified at D.C. Official Code § 2-1402.67 (2001), the Applicant is required to comply fully with the provisions of the Act, and this order is conditioned upon full compliance with those provisions. 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 Human Rights Act.

On December 18, 2003, the Zoning Commission approved the Application by a vote of 4-0-1 (Carol J. Mitten, Anthony J. Hood, John G. Parsons, and Peter G. May to approve; James H. Hannaham, not present, not voting).

The Order was adopted by the Zoning Commission at its public meeting on January 12, 2004, by a vote of 4-0-1 (Carol J. Mitten, Anthony J. Hood, John G. Parsons, and Peter G. May to approve; James H. Hannaham, not present, not voting).

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_____.

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Filed & Recorded in Official Records of
WASH DC RECORDER OF DEEDS LARRY TODD

RECORDING $ 145.00
SURCHARGE $ 6.50