GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

MEMORANDUM

TO: D. C. Zoning Commission

FROM: Andrew Altman
Director

DATE: April 4, 2003

ZONING COMMISSION
District of Columbia
Case 03-11
Exhibit 13

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SUBJECT: Preliminary Report on Zoning Commission Case Number 03-25, a Proposed Zoning Map Amendment Rezoning a portion of Square 25 from R-5-D to C-3-C

BACKGROUND

Square 25 is subdivided into three lots. Lot 806 at 2425 L Street, N.W., the subject property, encompasses the southern half of the square. It is approximately 2.30 acres in size and developed with a five-story masonry building constructed in 1916 and formerly occupied by The Columbia Hospital for Women. Over time this building was expanded to a gross floor area of nearly 103,800 square feet. A semi-circular driveway provides access to a 24-space parking lot in front of the building, and access to the loading dock is from 25th Street, N.W. This property is zoned R-5-D. The D.C. Historic Preservation Review Board also designated the hospital and its site a historic landmark in December 2002.

The half of the square north of the existing alley is subdivided into lots 807 and 808 (2440 and 2400 M Street, N.W., respectively). Lot 807 is developed with a nine-story masonry office building constructed in 1986 with approximately 277,400 square feet of gross floor. A nine-story addition with 141 residential units and first floor retail is being constructed in the rear of this building. The lot 808, currently used as commercial parking lot, is planned for a 334-unit apartment building also with first floor retail. Both lots are zoned C-2-C.

Surrounding development consists of: a high-rise office building and the Monarch Hotel to the north across M Street, both with first-floor retail uses; medium- and high-rise office and residential buildings with first floor retail uses to the south across L Street; low-, mid-, and high-rise residential, and public (District library and public safety) uses, and the Westin Grand Hotel to the east across 23rd Street; and four-five story residential buildings to the west across 25th Street, N.W.

APPLICANT'S PROPOSAL

In September 2002, High Street Columbia, LLC, the applicant, acquired the subject property with plans to adaptively reuse and expand of the main hospital building for residential

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condominiums with ground floor retail and service uses. New building wings would be under 90 feet in height, increase the total gross building area to 350,000 gross square feet equaling a floor area ratio (FAR) of 3.5, and reserve 28,000 square feet on the ground floor for commercial (neighborhood-serving retail and service) uses. This rezoning request was submitted because current zoning does not allow desired non-residential uses as a matter of right or with special exception approval.

ANALYSIS

The R-5-D zoning district allows a maximum 3.5 FAR for residential uses as a matter-of-right and maximum height of 90 feet; however retail and service uses are not allowed as principal uses. The C-2-C zoning district allows a maximum 6.0 FAR of residential development, including up to 2.0 FAR of commercial uses. So while the height and bulk of the applicant's proposal fit within the limits of R-5-D zoning, this zoning would not permit the desired land use mix. C-2-C zoning would allow the desired land use mix, but would permit a higher density and a greater amount and variety of commercial uses than is consistent with either the desires of the neighborhood or the principally-residential character of the area.

This proposal reflects an agreement reached with the community about the extent of development on the hospital grounds. In 1987, The Columbia Hospital for Women entered into a restrictive covenant with the Advisory Neighborhood Commission (ANC) 2A and the Foggy Bottom Association to limit adverse impacts of any future rezoning on the surrounding community. This covenant limited the height of development to 90 feet, and the maximum floor area to 230,000 square feet equal to a 2.3 FAR (less than the 3.5 FAR allowed as a matter of right). In December 2002, current owner High Street Columbia, LLC entered into an amended covenant with the same organizations to allow an additional 120,000 square feet of residential floor area including 28, 000 square feet "... devoted to service or retail uses listed in Sections 701 and 721 of the Zoning Regulations[1]." Note that retail and service uses listed under the referenced zoning provisions are generally considered to be neighborhood-serving in nature.

The applicant's rezoning would allow mixed residential and commercial development to proceed as a matter of right. The Statement (of) High Street Columbia, LLC in Support of Its Application, dated February 28, 2003, claims that existence of the referenced covenant is sufficient to ensure that the prescribed development continues over the long term. While granting that the current proposal is consistent with the revised covenant, Planning staff is concerned that a private covenant may not be sufficient to control future site development for several reasons:

- In the instant case, the covenant has been already been amended once, increasing the maximum allowable floor area, and the variety of potential land uses on the property.
- Since the District of Columbia is not party, a decision among the "private" parties could again change the terms and conditions of this covenant without being subject to a "public" review process.

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[1] "Amendment to the Declaration of Covenants" dated December 30, 2002

- The standing of the Zoning Commission or other public agency to try to enforce the conditions of a private covenant is also not clear.

The community has consistently expressed the need for more local retail and service outlets, but the proposed C-2-C zoning district, while allowing the planned uses as a matter of right, would also permit a range of commercial uses that are inconsistent with the stated neighborhood goals. For these reasons, the Office of Planning is not comfortable with the current application to rezone the subject property to C-2-C, unless the enforceability of the covenant is enhanced. The covenant would need to be amended to include a provision that would require the consent of the Zoning Commission in order to be modified. In addition, the District of Columbia would need to be added as a beneficiary of the covenant. The order granting the map amendment must note that the zoning is being changed in consideration of the covenant. The Office of Planning has conferred with the Office of the Corporation Counsel (OCC) regarding this matter. OCC feels that it is possible to structure the language of the covenant and the order to achieve the goal of enforceability.

OP notes that the proposed zoning overlay, the High Density Residential/Retail Overlay (HDRRO), would achieve the goal shared by the applicant, the community and the Office of Planning to permit high-density residential development with neighborhood-serving ground floor retail. The Zoning Commission specifically requested that the HDRRO be considered from the southern half of Square 37 and the subject property in order to achieve a critical mass of retail. However, the applicant wishes to pursue this alternative zoning because of two concerns: one, that adoption of the HDRRO may be delayed and two, that the Overlay, as currently constituted, requires 0.5 FAR of retail. Because of historic preservation constraints on the building, it does not appear that there will be sufficient ground floor space to meet this requirement. If not, the applicant would be forced to seek zoning relief from the Board of Zoning Adjustment.

With regard to the second issue, OP recognizes that, given the fact that the HDRRO is being considered for certain road corridors with existing apartment buildings, some designated as historic, this issue may arise in other locations as well. OP will propose that the HDRRO be modified to contain a provision that would permit some flexibility from the 0.5 FAR retail requirement for existing, or at least historic, structures.

With respect to the applicant's concerns about the speed of the enactment of the HDRRO, OP is mindful of the possibility of delay, given the complexity of the proposed Overlay, and of the need to be able to deliver the condominiums quickly to take advantage of current low interest rates. Speed is also an issue for the community, which does not wish to see this structure remain vacant for a lengthy period or time, and for the current City administration, which has indicated an important public policy goal of increasing the population of the city by an additional 100,000 residents. The goal of increasing the residential base is particularly relevant here in the West End, given the erosion of that base in the past decades by the expansion of George Washington University.

With these considerations in mind, OP recommended to the applicant, in the alternative, that they request a planned unit development (PUD) *including* a map amendment rezoning the property to C-2-C. The advantage is that any standards or requirements attached to the PUD (such as the

covenant conditions) would become part of the zoning order and be recorded in the PUD covenant; thus changes would be subject to Commission review and a public hearing.

With regard to the standards for Zoning Commission approval of a PUD, staff's preliminary review indicates that benefits and amenities provided by the overall project (such preservation of an historic property, provision of neighborhood serving retail and service uses, provision of additional home ownership opportunities, etc.) are significantly greater than the relief being requested (authorization to provide neighborhood retail and services uses). Thus, this proposal appears to meet the minimum requirements for approval. Based on this information, the applicant agreed to modify the original request to an application for consolidated PUD approval.

PREVIOUS ZONING COMMISSION ACTION

In October 2002, the Zoning Commission "set down" Zoning Commission Application No. 02-36 to consider establishing HDRRO on the subject property. The intent of HDRRO (Zoning Commission Application No. 01-33) is to encourage new residential developments and major renovations in R-5-D and R-5-E districts to provide a minimum amount of neighborhood-serving retail and service uses on the ground-floor level. Final text of the HDRR amendment continues to be reviewed for final adoption by the Commission or further public hearings. However, the Commission's stated intent is to immediately proceed to consider rezoning both the referenced sites after the amendment is adopted.

Establishing the overlay on the subject property, thus allowing neighborhood serving retail and service use in the R-5-D district as a matter of right, would also allow the applicant's proposal to proceed. As a result, pending Zoning Commission Applications Nos. 00-27, 01-33 & 02-36 may provide another avenue for achieving the proposed development, rendering this application unnecessary.

HISTORIC PRESERVATION REVIEW

Historic Preservation Review Board (HPRB) reviews of this development proposal are continuing, so final building and site designs have not been determined. It is anticipated, however, that on-going negotiations about these plans will conclude prior to the Zoning Commission Public Hearing.

RECOMMENDATION

The Commission has several alternatives. It may simply proceed with its consideration of the HDRRO for this site. It may set down the applicant's proposed map change with some modifications to the covenant to preclude the project from changing the commercial uses which would be permitted in C-2-C from the neighborhood-serving retail called for in the covenant to office or non-neighborhood-serving retail. It may indicate that it is not comfortable with the map change as proposed, and encourage the applicant to submit a PUD application for the map change, and approach that the applicant is willing to pursue.

OP recommends that the Commission set down this application as a PUD rather than as a map amendment. The applicant has already indicated that this is acceptable. A map amendment to HDRRO, modified to provide some relief from the 0.5 FAR retail requirement for historic structures, should be set down in the alternative.

OP makes this recommendation for the following reasons.

- The proposal is not inconsistent with the Comprehensive Plan. Square 25 is currently designated in the Generalized Land Use Element of the District of Columbia Comprehensive Plan for Institutional uses, while surrounding squares to the north and east are designated for a mix High-Density Residential and Medium-Density Commercial uses, and squares to the south along the Pennsylvania Avenue corridor are designated High-Density Residential and Low-Density Commercial uses. The current designation appears to reflect anticipation that the hospital use, in existence for years before the Comprehensive Plan was adopted in 1984, and through more recent amendments, would continue indefinitely. Staff thinks it is appropriate to consider whether this R-5-D-zoned property is suitable for mixed-use development similar to the surrounding squares now that the hospital use no longer exists.

- Staff does not think the original proposal to rezone the property to C-2-C, in conjunction with the existing private covenant, provides sufficient assurance that the future land use mix on the subject property will continue to reflect the stated community land use objective. The outlined covenant modifications are a more involved and less tested method for ensuring future enforceability than establishing specific project benefits in a public proceeding, and incorporating the same into the PUD conditions.

- OP feels that the best solution would be the mapping of the High Density Residential/ Retail Overlay on this lot. However, it seems prudent to pursue the PUD and map change concurrently, so that, should any complications delay the establishment of the HDRRO, the proposed mixed-use project for this site could proceed.

- A preliminary review by OP staff indicates that, as a PUD, this proposal would meet the minimum requirements for Zoning Commission approval.

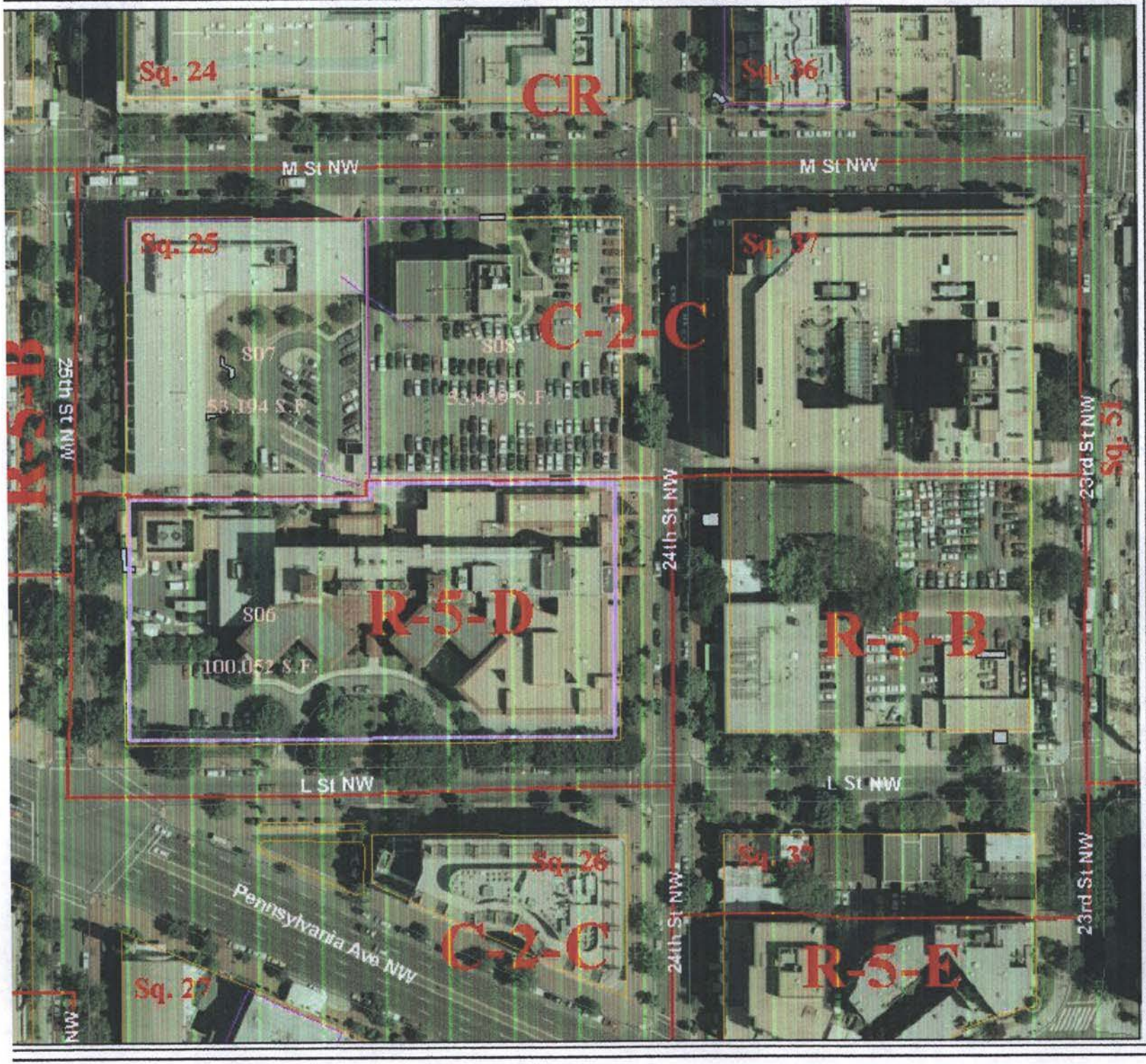
The following issues need to be addressed in greater detail by the applicant:

- Historic preservation: The applicant must complete work with the Historic Preservation Review Board (HPRB), other agencies and interested parties, to ensure that development plans are consistent with the former Hospital building's landmark status.

- Final plans: Once a final decision is made by the HPRB (and possibly the Mayor's Agent for Historic Preservation), the applicant will submit more detailed plans with their Pre-Hearing Statement prior to the Zoning Commission Public Hearing.

AA/afj

Attachment: Exhibit 1 Aerial Map with Zoning



Zoning and Existing Development on Squares 25 & 37

DC Office of Planning
September 19, 2002

Scale 1:1414

50 0 50 Feet

Exhibit 1