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MARY CAROLYN BROWN
202 862-5990
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September 1, 2004

Mr. Alberto Bastida
Office of Zoning for the
District of Columbia
441 4th Street, N.W., Suite 210S
Washington, D.C. 20001

RE: Zoning Commission Case No. 03-11
Recorded PUD Covenant

Dear Mr. Bastida:

Enclosed for your records please find a copy of the PUD covenant for the former Columbia Hospital site recorded among the Land Records for the District of Columbia. Should you have any questions, please do not hesitate to call me at (202) 862-5990.

Very truly yours,

Mary Carolyn Brown

Enclosure

2224328_v1

ZONING COMMISSION
District of Columbia
CASE NO. 03-11
EXHIBIT NO. 44

ZONING COMMISSION
District of Columbia
CASE NO.03-11
EXHIBIT NO.44

Doc# 2004047465

PUD COVENANT

THIS COVENANT, made as of this 10th day of November, 2003, by and between HIGH STREET COLUMBIA, LLC, a Delaware limited liability company (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 Lot 806 in Square 25, as recorded in the Office of the Surveyor in the Assessment and Taxation Book at Page 3719M (collectively referred to hereinafter 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. 03-11 effective November 7, 2003; 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. 03-11 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 under Order No. 03-11 effective November 7, 2003, in Zoning Case No. 03-11 (as the same may be amended and/or modified from

After Recording Return To:
Holland & Knight LLP
2099 Pennsylvania Avenue, N.W.
Washington, DC 20006
Attn: M. Carolyn Brown, Esq.

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 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, HIGH STREET COLUMBIA, LLC, a Delaware limited liability company, has, as of the day and year first above written, caused this Covenant to be signed by Jeffrey Sherman, Executive Vice President of High Street Columbia, Inc., the manager member of the limited liability company, and does hereby appoint the said Jeffrey Sherman to be its attorney-in-fact, for it and in its name to acknowledge and deliver this Covenant according to law.

HIGH STREET COLUMBIA, LLC,
a Delaware limited liability company

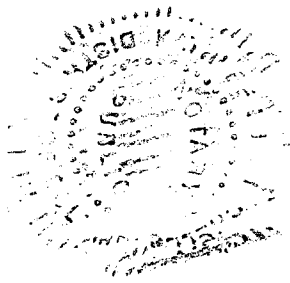
By: High Street Columbia, Inc., a Delaware corporation, managing member

By: _____
Jeffrey Sherman
Executive Vice President

DISTRICT of COLUMBIA, ss:

I, Kathleen J. Mitchell, a Notary Public in and for the District of Columbia, do hereby certify that Jeffrey Sherman, who is 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 and that he delivered the same as such.

GIVEN under my hand and seal this 16th day of November, 2003.



_____
Notary Public

KATHLEEN J. MITCHELL
Notary Public District of Columbia
My Commission Expires:
December 14, 2006

My commission expires: _____

[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, _____, a Notary Public in and for the District of Columbia, do hereby certify that _____, 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 3 day of March, 2002 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 3 day of March, 2002 2004.

_____
Notary Public, D.C.

My commission expires: _____.

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

APPROVED:

11/20/03

Zoning Division, Department of
Consumer and Regulatory Affairs

APPROVED AS TO LEGAL SUFFICIENCY:

Assistant Corporation Counsel, D.C.

1346925_v1

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION ORDER NO. 03-11
Z.C. Case No. 03-11
Consolidated Planned Unit Development and Map Amendment for the Property Located at 2425 L Street, N.W.
(Site of the Former Columbia Hospital for Women)
Square 25, Lot 806
September 8, 2003

Pursuant to notice, the Zoning Commission for the District of Columbia held a public hearing on July 10, 2003, to consider an application from High Street Columbia, LLC ("Applicant"), for consolidated review and approval of a planned unit development and related zoning map amendment from the R-5-D to the C-2-C District. The Commission considered the application pursuant to Chapters 24 and 30 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 Zoning Commission hereby approves the application.

FINDINGS OF FACT

The Applications, Parties, and Hearing

1. On February 28, 2003, the Applicant filed an application with the Zoning Commission to amend the Zoning Map from the R-5-D to C-2-C District for the property located at Lot 806 in Square 25, with a street address of 2425 L Street, N.W., Washington, D.C. Upon the recommendation of the Office of Planning ("OP"), the Applicant agreed to proceed with its project as a planned unit development ("PUD") under Chapter 24 of the Zoning Regulations. Accordingly, at its public meeting held April 24, 2003, the Zoning Commission voted to schedule a public hearing on the application as a PUD and map amendment.

2. After proper notice, the Zoning Commission held a hearing on the application on July 10, 2003. The parties to the case were the Applicants, Advisory Neighborhood Commission ("ANC") 2A, the ANC within which the property is located, and 1116 25th Street Condominium Association, which was represented by Ms. Nicole Glineur.

3. At the July 10, 2003, hearing, the Zoning Commission took proposed action by a vote of 3-0-2 to approve with conditions the application and plans that were submitted to the record and presented at the July 10 hearing.

4. The proposed action of the Zoning Commission was referred to the National Capital Planning Commission ("NCPC") under the terms of the District of Columbia Self-Government and Governmental Reorganization Act. NCPC, by action dated August 6, 2003, found the proposed PUD would not affect the federal establishment or other federal interests in the National Capital, nor be inconsistent with the Comprehensive Plan for the National Capital.

5. The Zoning Commission took final action to approve the modified application on September 8, 2003.

The PUD Project

6. The Subject Property is Lot 806 in Square 25, which is the city block bounded by L Street on the south, 24th Street on the east, 25th Street on the west, and M Street on the north, in the northwest quadrant of the city. The site fronts on L Street and spans the width of the block between 24th and 25th Streets. A private alley abuts the property to the rear. The site is rectangular in shape and contains approximately 100,052 square feet of land area, and thus exceeds the minimum area requirement of 15,000 square feet for a PUD within the C-2-C District.

7. Currently zoned R-5-D, the property is presently improved with the former Columbia Hospital for Women, which had been located on the site since 1873. In June 2002, the hospital closed and, in September of that year, High Street Columbia, LLC purchased the property for redevelopment as a condominium apartment building with ground floor retail and service uses.

8. In December 2002, the District of Columbia Historic Preservation Review Board ("HPRB") designated the former hospital and its site as an historic landmark, which designation now affords the property the protections of the D.C. Historic Landmark and Historic District Protection Act. Any proposed redevelopment affecting the exterior of the site must be reviewed and approved by the HPRB.

9. The site shares interior lot line boundaries with two lots to the north. The site slopes down from a central high point to the surrounding streets with a low point along 25th Street to the west. The change in elevation is roughly equal to a story and a half or approximately fifteen feet. The main entrance to the building is more than fifteen feet higher than L Street, but the site elevations along 24th and 25th Streets are relatively flat.

10. The property is situated in the Foggy Bottom/West End area, approximately 1,200 feet (four blocks) from the entrance to the Foggy Bottom Metrorail Station. The Generalized Land Use Map of the Comprehensive Plan designates the general area of the site in the mixed-use category of high-density residential and medium-density commercial. The site

itself is in the institutional land use category, in recognition of the previous long-standing hospital use.

11. The Foggy Bottom/West End area is characterized by a mixture of land uses, including predominantly high-rise office buildings, hotels, and apartment houses and a broad range of institutional uses. Retail uses are generally contained within the first floor of high-rise buildings devoted to other uses.

12. Within Square 25 immediately north of the PUD site are two parcels, one of which is currently improved with a nine-story medical office building at the southeast corner of the intersection of 25th and M Streets, having the address 2440 M Street. A nine-story addition consisting of 141 residential units and ground floor retail is being developed at the rear of this building. The second parcel, at the southwest corner of the intersection of 24th and M Streets, known as 2400 M Street and currently used as a parking lot, is being developed with a 334-unit apartment house with ground floor retail, which will be constructed to a height of ninety (90) feet. Both parcels are located in the C-2-C District.

13. Immediately south of the PUD site across L Street, also in the C-2-C District, is a mixed-use development, ninety-two (92) feet in height, consisting of office, retail, and residential uses, known as 2401 Pennsylvania Avenue. The balance of the block to the south is improved with a four-story office building at 2421 Pennsylvania Avenue. To the southwest, the area along Pennsylvania Avenue is devoted to a mix of hotel, residential, office, and retail uses. The northwest corner of 25th Street and Pennsylvania Avenue is currently improved with a vacant apartment building slated for redevelopment. West of the subject site, the property along the west side of 25th Street is improved with occupied rowhouses and low-rise apartment buildings.

14. To the east across 24th Street, Square 37 includes apartment houses, an office building, the Westin Hotel, the West End Branch of the D.C. Public Library, the Metropolitan Police Department Special Operations Division, and a parking lot. This square is zoned R-5-B on the southern half and C-2-C on the northern half. Further to the east are the recently developed Ritz Carlton Hotel and Residences, Sports Club/LA, as well as the Carriage House apartments.

15. The Subject Property and the surrounding area have been rezoned several times over the years in response to the changing character and needs of the Foggy Bottom/West End community. From 1958 to 1987, the Columbia Hospital site and the northwest portion of Square 25 were zoned R-5-B. In 1974, major portions of the surrounding area were rezoned to the C-2-B District, including the northwest portion of Square 25, the property immediately west of the Subject Property fronting on Pennsylvania Avenue in Square 14, all of Square 26 located immediately south of the Subject Property across L Street, and other properties along the M Street corridor between 21st and 24th Streets.

16. By Zoning Commission Order No. 540 dated August 3, 1987, the Subject Property was rezoned to the R-5-C District. The community supported the rezoning in conjunction with a restrictive covenant that was placed on the property at that time. Thereafter, by virtue of the creation of a new R-5-C category under Zoning Commission Order No. 721 dated October 19, 1992, then-existing R-5-C properties, including the Subject Property, were reclassified as R-5-D.

17. The proposed C-2-C District is consistent with the C-2-C designation of the surrounding properties to the north, south, and west. However, by virtue of this being a PUD-related map amendment, which is subject to a separate covenant with the District that limits the height and density of the project to that approved in this order, the proposed rezoning will have no effect on the height or density on the property. The C-2-C District permits a maximum density of 6.0 FAR, or approximately 600,000 square feet of gross floor area. Approximately 150,000 square feet of the total development could be devoted to commercial uses. Here, however, the proposed development will not exceed 3.5 FAR, of which no more than 28,000 square feet of space will be devoted to limited commercial uses. Thus, the PUD-related rezoning will have only a limited effect on the property.

18. The proposed PUD contemplates the rehabilitation of the historic central portion of the former hospital and the construction of a new wing on each side to create a new condominium apartment house. The new building will contain up to 235 residential units and will consist of approximately 330,000 square feet of gross floor area, including 28,000 square feet of space devoted to retail uses on the ground floor fronting on and accessed from 24th and 25th Streets. Approximately 325 parking spaces will be provided in a two-level, below-grade garage. A minimum of one parking space will be provided for each dwelling unit, and a minimum of 31 spaces will be allotted for the retail uses. Any excess parking spaces will be allocated to the residential or retail portions of the project based on demand. Access to the parking garage and the loading docks will be from both 24th and 25th Streets.

19. The project will be constructed to a height of ninety (90) feet and arranged in a U-shaped configuration around the original hospital building. The original building consists of a central rectangular block with two identical Y-shaped extensions facing south. The new wings form the legs of the "U" and frame a series of open courtyards that face to the south toward L Street and Pennsylvania Avenue beyond. The massing concept, which evolved through a series of meetings with neighborhood representatives and District agencies, orients a majority of the project's density away from the historic hospital and toward the northeast and northwest corners of the site. The tallest massing elements, the ninety-foot (90-foot) wings, flank the historic building and front on 24th and 25th Streets. A lower massing element, approximately thirty-three (33) feet high, at the end of each wing (at the southeast and southwest corners of the site), allows views of the historic landmark building from those street intersections and from Pennsylvania Avenue. The height of these lower pavilions is comparable to several existing structures at opposite sides of the street intersections.

20. The former hospital building is faced with a yellow/ochre tapestry brick and serves as the inspiration for the primary exterior facing material for the new portions of the project. The new facing material will be a tan/ochre brick that complements and distinguishes the new construction from the historic building. Several different shades of brick will be blended to highlight the project's distinctive massing elements. Painted aluminum window systems will be incorporated throughout. Cast stone or concrete copings, window openings, and horizontal trim will articulate certain floor levels, and painted trellis-work will add detailing to the facades.

21. A series of landscaped, south-facing courtyards open onto L Street and are elevated from the sidewalk approximating the natural topography of the site. An existing metal picket fence with brick masonry piers along L Street demarcates public and private space. Existing landscaped berms at L Street and along portions of 24th and 25th Streets will be maintained as will an existing stone masonry wall along 25th Street. These berms frame the series of courtyards creating continuity of the open, landscaped areas. Trees, shrubs, and groundcover soften and cool the spaces, while areas of lawn and groupings of plantings provide a series of informal opportunities for residents to use the space.

22. Parking and loading access is at the northeast and northwest corners of the Project along 24th and 25th Streets, respectively. Ingress and egress points to the loading docks and to the below-grade parking are approximately 175 feet from the signalized intersections of L Street with 24th and 25th Streets. A private alley along the north side of the site, which varies in width from approximately fifteen (15) to twenty (20) feet, will be maintained in accordance with an existing easement.

23. The residential lobby will have three points of access. The historic building entrance at the center of the site will be maintained along with the semicircular vehicular drive with drop-off and sidewalk from L Street. A second entrance from 24th Street and a third entrance from 25th Street will connect by corridors to the central lobby. Access to retail will be located at the base of the building along 24th and 25th Streets. The extent of these additional entrances will be determined once retail tenants are identified.

24. Pedestrian access around the site is accommodated via public sidewalks along L, 24th, and 25th Streets.

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

    a. *Housing.* The project constitutes a new residential development in an area generally designated for mixed use, including high-density residential, by the Land Use Element of the Comprehensive Plan. The site is ideally suited for a housing development. The West End area contains a broad mix of uses, including office, hotel, residential, retail, and public uses. New residential development is

proposed and has been approved for construction on the two abutting lots to the north. Additional housing will enhance the residential component of the overall mixed-use character of the area. The project will be a key part of the total urban living system in this portion of Ward 2, with its proximity to transportation, shopping, and recreation.

b. *Special Value to the Neighborhood.* The PUD project will include as much as 28,000 square feet of retail uses, as permitted in the C-1 and C-2 Districts. These uses will be located on the ground floor at sidewalk level along 24th and 25th Streets. The Applicant was strongly encouraged by members of the ANC and other community representatives to add a neighborhood-serving retail component to the building.

c. *Historic Preservation.* The PUD incorporates significant historic preservation benefits. The project includes the retention of the original 1916 hospital building and the historic stone wall, recreation of the original belvedere, and replacement of critical missing features. Significant repairs to the original historic fabric will be made, including the repair of damaged terra cotta tile roofs, and the repair, cleaning, and repointing of brick masonry. Compatibly designed new wings will replace portions of the building determined to be "non-contributing" to the significance of the landmark. This includes the removal of unsympathetic porch alterations at the ends of the Y-shaped wings, inappropriate windows, and other incompatible design treatments. Inappropriate uses, including the hospital's service yard, loading dock, power plant, and incinerator will be removed from the site. The open space at the front of the building, leading to the main entrance, will be re-established. This space will be landscaped in a manner befitting the original character of the building and will include a paved approach from L Street for vehicular drop-offs. The project will also allow for archaeological investigations at the site. The HPRB approved the design concept and massing for the project on April 24, 2003, as compatible with the historic character of the former hospital building. The Applicant will return to the HPRB for further design refinements and final approval.

d. *Urban Design, Architecture, Landscaping, and Open Space.* The project exhibits an exceptional and appropriate architectural design. The height and scale of the addition relate to the original portions of the landmark that will be retained and incorporated into the PUD. The color and materials of the exterior façade have been carefully selected to complement the existing building. Overall, the project provides significantly more open space than is required under the C-2-C District. The permitted lot occupancy is seventy-five percent (75%), and the project as proposed occupies only fifty-seven percent (57%) of the Site. The proposed development also includes significant enhancements to the existing streetscape by removal of the surface parking lot and replacement with a carefully designed and refined landscape treatment.

e. *Parking.* The PUD will provide approximately 325 parking spaces, with a minimum of one space for each residential unit and a minimum of 31 spaces devoted to the retail uses. Any parking spaces provided in excess of the minimum amount will be allocated to residential or retail uses according to need. The Project's provision of parking is substantially more than that required by the Zoning Regulations, and will accommodate the market parking demands.

f. *First Source Employment Opportunities.* The Applicant will enter into a First Source Employment Agreement with the Department of Employment Services ("DOES") in order to achieve the goal of utilizing District residents for at least fifty-one percent of the jobs created by the PUD project. The Applicant will use DOES as its first source for recruitment, referral, and placement of new hires for employees whose jobs are created by the PUD.

26. The project is acceptable in all proffered categories of public benefits and project amenities, and is superior in many, including historic preservation, urban design, architecture, landscaping, preservation of open spaces, and provision of retail uses of special value to the neighborhood.

27. The impact of the project on the surrounding area and on the operation of city services and facilities is not unacceptable, but is instead favorable and acceptable given the quality of public benefits in the project.

28. The PUD is consistent with many of the Comprehensive Plan's major themes. It will respect and improve the physical character of the District by ensuring the development of an exceptional design in a well-developed and established community. It will also reaffirm and strengthen the District's role as an economic hub by making maximum use of the District's location at the center of the region's Metrorail and commuter rail systems. The project takes advantage of this asset by its proximity to several bus lines and the Foggy Bottom Metrorail Station.

29. The PUD is also consistent with many of the Comprehensive Plan's major elements, as follows:

a. *Economic Development Element.* The proposed development will provide high-quality residential development along with needed service and retail uses in an area served by the Foggy Bottom Metrorail Station. The proposed development will also serve to attract and retain residents, who will further increase the tax base and create revenue for the District of Columbia.

b. *Housing Element.* The subject property supports the housing goals of the Comprehensive Plan through its provision of multi-family residential units and on-site retail and service uses, and its proximity to the Foggy Bottom Metrorail

Station. The proposed development will further the total urban living system with its access to transportation and shopping centers.

c. *Transportation Element.* The location of the project in close proximity to the Foggy Bottom Metrorail Station and Metrobus routes provides for the efficient movement of people and goods and simplifies and economizes transportation services. The mixed-use nature of the development will generate fewer trips than the previous institutional use, which included the hospital's ambulatory care service, in-patient services, and daily visitors. The PUD also supports the District's goal of adequate parking through its provision of at least one parking space for each residential unit – a ratio that exceeds the requirements of the C-2-C District. Consistent with the Comprehensive Plan, the project incorporates finished sidewalks with carefully designed landscape treatment on all street frontages of the building. Retail has been included on the ground floor of both the 24th and 25th Streets frontages to activate the street. The circular driveway on the L Street side of the building has been retained to provide a formal front entrance for visitor and resident drop-off.

d. *Urban Design Element.* The project has been designed to enhance the physical character of the area and complement the materials, height, scale, and massing of the surrounding neighborhood. The project's massing and scale are sensitive to the established patterns of development in the area. The proposed development also retains and incorporates the landscaped open area on the south side of the building facing Pennsylvania Avenue and L Street.

e. *Land Use Element.* The designation of this site in the institutional land use category on the Generalized Land Use Map is a reflection of its former use as a hospital. The project, however, provides for the replacement of a non-residential building with residential uses, and accordingly, is not inconsistent with the Comprehensive Plan's designation of the site in the institutional land use category. The project is also consistent with the Land Use Element by virtue of its provision of housing near the Foggy Bottom Metrorail Station.

30. The Project also fulfills and furthers the specific objectives of the Comprehensive Plan for Ward 2, as follows:

a. *Ward 2 Economic Development.* The proposed development creates additional residential opportunities in the ward while increasing income and property tax revenues, thereby enhancing the image of the ward as a place to do business and reside.

b. *Ward 2 Housing Element.* The proposed development creates additional housing that will enhance the residential neighborhood and neighborhood-level retail and

service uses that will support the residents, consistent with the Ward 2 housing goals.

c. *Ward 2 Transportation Element.* The proposed development's provision of at least one parking space for each residential unit will help alleviate parking problems within the ward due to evening visitors, student parking, and the lack of parking provisions for many residential dwellings.

d. *Ward 2 Urban Design Element.* The proposed development has been designed to enhance the physical character of the area and complement the materials, height, scale, and massing of the surrounding neighborhood. The front yard of the building facing L Street will be retained as a formal open space, enhanced by the design of the surrounding addition. The building will occupy substantially less area (fifty-seven percent) than is permitted for either the existing R-5-D District or the proposed C-2-C District (seventy-five percent).

e. *Ward 2 Residential Land Use Element.* The Project supports the Residential Land Use Element by establishing a new residential use that will significantly enhance the character of the existing Foggy Bottom and West End residential neighborhood.

f. *Ward 2 Neighborhood Shopping Areas.* Consistent with the goal to provide adequate commercial and service establishments to neighborhoods, the proposed PUD will include neighborhood-serving retail uses at the ground floor level.

Office of Planning Report

31. By report dated June 27, 2003, and through testimony presented at the public hearing, the Office of Planning ("OP") recommended conditional approval of the PUD application. OP found that the proposed PUD is not inconsistent with the Comprehensive Plan. OP further found that the proposal is consistent with the objectives and evaluations standards of a PUD. OP conditioned its approval on the Applicant's provision of 150-200 residential units; the provision of on-site parking equal to 285 spaces or at least one parking space per residential dwelling unit; designation of at least 28,000 square feet for ground floor commercial uses; that the commercial uses be limited to those retail and services uses listed in §§ 701 and 721 of the zoning regulations; and that the Applicant enter into a DOES First Source Employment Agreement. OP further stated that the flexibility to increase the number of units to 235 and refine the design in accordance with HPRB approvals was appropriate.

ANC and Community Reports

32. By resolution dated December 29, 2002, and through letter and testimony dated July 10, 2003, Advisory Neighborhood Commission ("ANC") 2A "wholeheartedly" and

unanimously supported the PUD project and rezoning from R-5-D to C-2-C. ANC 2A applauded the provision of much-needed neighborhood-serving retail and the provision of additional housing in a neighborhood that has lost permanent resident housing in recent years. The Commission affords the views of the ANC the "great weight" to which they are entitled.

33. By letter dated May 15, 2003, and through testimony presented at the hearing, the Foggy Bottom Association also unanimously endorsed the proposed project.

Contested Issues

34. The 1116 25th Street Condominium Association (the "Association") appeared as a party in opposition to the proposed PUD. The Association contended that the project should be denied because it (i) violated historic zoning provisions, changed the historic character of the adjacent block, and reduced the light and views of all residents due to its height; (ii) reduced property values; (iii) increased traffic in an already congested block; (iv) reduced parking along the street; (v) resulted in an overall loss in the quality of life; and (vi) would create objectionable noise and traffic conditions, particularly during the construction phase. No evidence was presented by the Association to support its concerns.

35. In considering these issues, the Commission finds that the proposed 90-foot height of the building does not exceed the height permitted in the R-5-D and C-2-C Districts. The Commission further finds that the Association's property is located in the C-2-C District, which also permits a maximum height of 90 feet. Because the height and location of the proposed are permitted as a matter-of-right, there is also no reduction of light and views on the Association's property. Accordingly, the Commission concludes that a 90-foot building could be built as a matter-of-right at this site without the PUD or map amendment process and that the height of the proposed PUD is thus appropriate. The Commission further finds that any concerns arising from the proposed height of the building, such as light and views, do not arise from the PUD and map amendment process and, therefore, are not issues that may be addressed by the Commission under these applications.

36. With respect to impact of the new building on the historic character of the neighborhood, the Commission finds that the HPRB, the District agency that possesses the expertise to evaluate such matters, has approved the height and massing of the building as compatible with the historic landmark. Because the HPRB has continuing jurisdiction over design refinements to the building, the Commission finds that historic preservation concerns are most appropriately addressed in that forum.

37. The Commission further finds that, based on the Traffic Impact Study prepared by Wells & Associates for the Applicant, the intersections surrounding the proposed development will operate at similar levels of service, with or without redevelopment of the project site.

Additionally, based on the testimony of Martin Wells, an expert in traffic engineering, the Commission finds that the project will not result in the loss of any on-street parking.

38. Finally, the Commission finds that there is no evidence to support the Association's contention that the proposed PUD will reduce property values or adversely affect the quality of life for surrounding residents. To the contrary, based on the testimony of ANC 2A and the Foggy Bottom Association, the Commission finds that the introduction of neighborhood-serving retail uses, including a possible grocery store, and the conversion of the former hospital to residential use, will greatly enhance the quality of life in this segment of the Foggy Bottom/West End community. The Commission likewise finds that any potential adverse noise and traffic generated during the construction phase will be temporary in nature and constitute construction code issues that are not within the jurisdiction of the Zoning Commission.

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 consolidated PUD. The Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards identified for height, FAR, lot occupancy, parking and 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 the development of well planned developments which 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, bulk, and density standards of the Zoning Regulations. The project will, in fact, include less density on the site than is permitted as a matter of right either in the C-2-C or R-5-D District. The residential and neighborhood-

serving retail uses for this project are appropriate for this site, which is located between the Central Employment Area and Georgetown, and within immediate proximity to mass transit. As set forth in the Findings of Fact, the proposed development has been appropriately designed to respect the historic building in terms of height and mass and is complementary to adjacent buildings. Accordingly, the project should be approved.

6. The applications can be approved with conditions to ensure that any potential adverse effects on the surrounding area from the development will be mitigated.

7. The project benefits and amenities, particularly the provision of housing and neighborhood-serving retail, are reasonable for the development proposed on the site. The PUD responds to both the historic building and the surrounding residential and commercial developments.

8. Approval of this PUD is appropriate because the proposed development is consistent with the present character of the area.

9. Approval of this PUD and change of zoning is not inconsistent with the Comprehensive Plan.

10. The Commission is required under D.C. Code Ann. § 1-309.10(d)(3)(A) (2001) to give great weight to the affected ANC's recommendation. The Commission has carefully considered the ANC's recommendation for approval and concurs in its recommendation.

11. The applications for a PUD and map amendment 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 Map of the District of Columbia.

12. The applications for a PUD and map amendment are 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 and for a Zoning Map amendment from R-5-D to C-2-C for the property located at 2425 L Street, N.W., in Square 25, Lot 806. This approval is subject to the following conditions:

1. The PUD shall be developed in accordance with the plans prepared by Shalom Baranes & Associates, dated May 2, 2003, and marked as Exhibit A in the Applicant's Pre-hearing submission, as modified by the guidelines, conditions and standards herein.

2. The project shall be a residential and retail development consisting of approximately 330,000 square feet of gross floor area, of which a minimum of 10,000 square feet and a maximum of 28,000 square feet of floor area shall be devoted to the neighborhood-serving retail uses listed in §§ 701 and 721 of the Zoning Regulations. The PUD project shall be constructed to a maximum density of 3.5 FAR and to a height not to exceed 90 feet.

3. The project shall provide up to 235 residential units.

4. The PUD shall include approximately 325 parking spaces, provided that a minimum of one space shall be provided for each residential unit and a minimum of 31 spaces shall be devoted to the retail uses. Any parking spaces provided in excess of the minimum amount may be allocated to residential or retail uses according to need.

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

   a. To vary the exterior design and landscaping in accordance with final plans reviewed by the D.C. Historic Preservation Review Board and approved by the Mayor's Agent for Historic Preservation, as long as those changes are consistent with the requirements of the R-5-D District;

   b. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms; and

   c. To vary the location and arrangement of parking spaces.

6. The Applicant shall enter into a First Source Employment Agreement with the Department of Employment Services (DOES) and provide an executed copy of the Agreement to the Zoning Commission record prior to the issuance of a final order in this case.

7. No building permit shall be issued for this planned unit development until the Applicant has recorded a covenant in the land records of the District of Columbia, between the 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.

8. 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.

9. The PUD approved by the Zoning Commission shall be valid for a period of two 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 years of the effective date of this order.

10. 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.

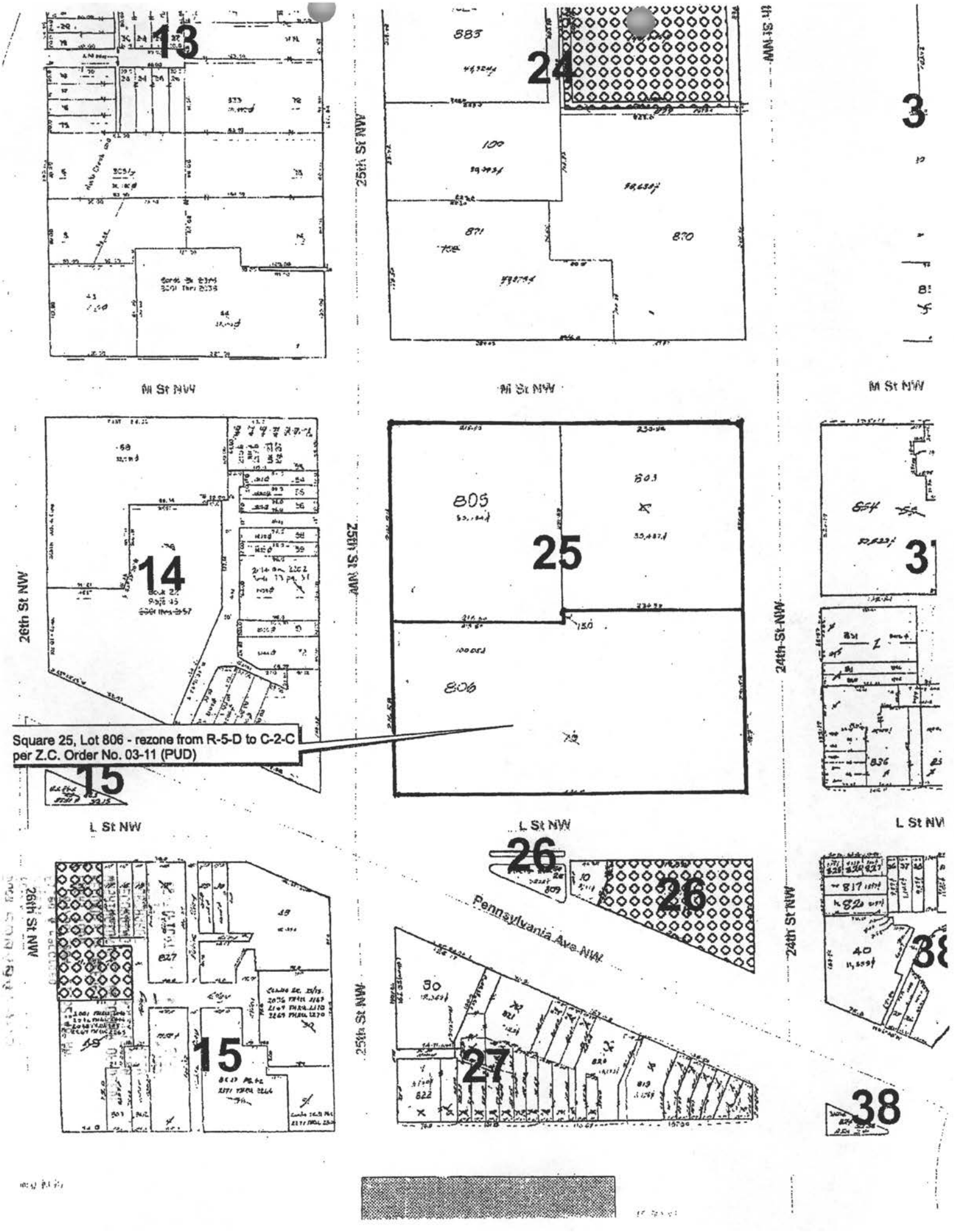
On July 10, 2003, the Zoning Commission approved the applications by a vote of 3-0-2 (Carol J. Mitten, Anthony J. Hood, and Peter G. May to approve; James Hannaham and John Parsons not present, not voting).

The order was adopted by the Zoning Commission at its public meeting on September 8, 2003, by a vote of 4-0-1 (Carol J. Mitten, Peter G. May, Anthony J. Hood, and James Hannaham to adopt; John Parsons having not participated, 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 NOV - 7 2003.

Carol J. Mitten
CAROL J. MITTEN
Chairman
Zoning Commission

Jerrily R. Kress
JERRILY R. KRESS, FAIA
Director
Office of Zoning


13
24
3
M St NW
M St NW
M St NW
25th St NW
14
25
31
26th St NW
25th St NW
24th St NW
Square 25, Lot 806 - rezone from R-5-D to C-2-C
per Z.C. Order No. 03-11 (PUD)
15
L St NW
L St NW
L St NW
26
26
Pennsylvania Ave NW
26th St NW
25th St NW
24th St NW
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27
38

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LARRY TODD
RECORDER OF DEEDS
WASHINGTON D.C. RECORDER OF DEEDS

RECORDING	$	153.00
SURCHARGE	$	6.50
COPIES	$	47.25
CERTIFICATION	$	2.25