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April 29, 2004

By Hand Delivery

Ms. Carol J. Mitten, Chairperson
Zoning Commission for the District of Columbia
441 Fourth Street, N.W.
Suite 210
Washington, DC 20001

Re: Watergate West's Opposition to Zoning Case No. 03-16: Application for Modification for an approved PUD to allow conversion of the Watergate Hotel to an Apartment House (Cooperative)

Dear Chairman Mitten and Fellow Commission Members:

As instructed by the Commission at the March 4, 2004 hearing in this case, enclosed please find:

1. Watergate West, Inc.'s response in opposition to the "Rebuttal, Closing Remarks and Post-Hearing Submission of the Applicant, Monumental Residential, LLC, on behalf of BRE/Watergate, LLC"), filed on April 1, 2004.

2. Watergate West, Inc.'s proposed findings of fact, conclusions of law and decision.

Sincerely,

Richard L. Aguglia

Richard L. Aguglia

cc: By Regular Mail

Norman M. Glasgow, Esq.
Counsel to the Applicant

ZONING COMMISSION
District of Columbia
CASE NO. 03-16
EXHIBIT NO. 155

ZONING COMMISSION
District of Columbia
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ZONING COMMISSION CASE NO. 03-16
(Watergate Hotel Conversion)

RESPONSE OF WATERGATE WEST, INC. to "Rebuttal, Closing Remarks and Post-Hearing Submission of the Applicant, Monument Residential, LLC, on behalf of BRE/Watergate, LLC" ("Rebuttal")

INTRODUCTION

The Watergate Planned Unit Development consists of the Watergate Hotel, three cooperative apartment houses (Watergate West, East, and South), two office buildings, and a shopping area. The Applicant seeks approval to eliminate the 250-room Watergate Hotel from the PUD and convert it into an apartment house having 133 luxury apartments. Watergate West is a Party in opposition to the application.

STATEMENT OF THE CASE

The Applicant requests a fundamental change to the long-established Watergate Planned Unit Development. The change removes the Watergate Hotel from this highly successful mixed-use Development. This change is contrary to the premises and policy of the Planned Unit, indeed it undermines the special character of the Watergate complex -- a complex that has been superbly effective in achieving the purposes of the Planned Unit Development as a tool of District land use policy.

The acclaimed Watergate Planned Unit has proven its excellence and has appreciated in value. Indeed, this acclaim is the reason for the Applicant's interest, as succinctly stated by the Applicant's principal, Michael Darby, at the March 1, 2004 hearing: "After all, when you think of quality mixed-use projects in the U.S., you always think of Watergate." March 1 TR at 24. The question before this Commission is whether the Watergate mixed-use Plan should now be dismantled.

The requested change raises several important issues, primarily (1) the issue of significantly changing a completely executed and highly successful Planned Unit, over

the objection of property owners within the Unit who relied on it, and (2) the issue of elimination of the Hotel from the Watergate Planned Unit, when no compelling need for this change has been shown. As witnesses observed, the Watergate Hotel also serves an important and growing community within Foggy Bottom. And its historical significance cannot be ignored, as explained by Emily Eig, architectural historian, who testified that "The one thing that this hotel does that is above and beyond the other uses is that it invites the public into the Watergate." March 4 TR at 24.

The Applicant's Rebuttal ignores all of these issues, although they were the subject of testimony at the hearing. They derive from decades of striving for a national capital "Worthy of the Nation." A heavy burden must be met to warrant dismantling this unique Planned Unit Development. This burden is not met by the Applicant, who relies primarily on an assertion of increase in District taxes from "high income" new residents, as compared with tax revenue from a hotel, and the proposition that the Comprehensive Plan favors residences over hotels in Ward 2. These arguments are seriously flawed, as we shall discuss.

SUMMARY OF THE OPPOSITION'S RESPONSE

The response follows the order of presentation in the Applicant's Rebuttal:

1. Contrary to the Applicant's argument that the Watergate PUD has already experienced major change and therefore is of diminished force, there were no significant changes to the Watergate PUD after the final stage of planning and construction in 1968-71. All subsequent changes have been minor, and all have been faithful to the original Plan.

2. Contrary to the Applicant's argument that luxury housing is favored by the District's Comprehensive Plan, this Plan does not support the addition of luxury housing at the cost of closing down the successfully operating Watergate Hotel.

3. Contrary to the Applicant's argument that "amenities" are irrelevant to this Planned Unit Development, the regulations under which the Watergate PUD was approved call for a balanced mix of uses, producing enhanced amenities.

4. The Applicant's next argument is its principal one: that a luxury apartment house will generate more tax revenues than would a hotel. In its Rebuttal the Applicant admitted to an error in the economic analysis that it had presented to the Commission. When other errors in the Applicant's analysis are also corrected, the announced economic advantage disappears.

5. The Applicant next postulates that the 187 hotel employees who will lose their jobs will find comparable jobs in other D.C. hotels, without displacing other D.C. workers. The speculative nature of this theory was shown by testimony that has not been rebutted.

6. As for the traffic impact, we agree that the impact of changes in traffic is not material to this case.

7. Finally, although the Applicant has now responded to the Commission's concern for affordable housing by making an offer of $250,000, this amount is woefully inadequate to meet the standards set by the Commission, in view of the Applicant's projected sales of 133 apartments at prices ranging from $650,000 to $3,000,000.

RESPONSE OF THE OPPOSITION

When seeking to change an established PUD, the burden of proof is on the applicant. 11 DCMR §§ 2403.2. The Applicant has not met its burden, in either its initial filing or its Rebuttal filing.

A

The Planned Unit Development

Prior Modifications

The Applicant argues that the Watergate PUD has been substantially modified before, and therefore that it can readily be modified again. However, all significant modifications were made during the initial planning phases and before construction, none thereafter.

The Applicant proposes that there have been continuing changes in "use, height, density, and design." That is incorrect. The Watergate Development was built in successive phases, with the final (Fourth) phase starting in 1968. During the planning phases there were indeed concerns about height and design, due to the proximity of the Lincoln Memorial and the Kennedy Center. Thereafter the Watergate Planned Unit has been remarkably stable, with only minor modifications after its completion. Office use restrictions were lifted in 1968 and 1972 from SP (professional, international, lobby and nonprofit) to general office use. No change has affected the integrity of the PUD. Indeed, the Zoning Commission has continued to oversee compliance with the Plan, considering in 1989 whether a proposed expansion of the health club would upset the original amenities:

> The Commission finds that the expansion of the health club did not change the floor area ratio (FAR), gross floor area, height, lot occupancy,

> rear yard or side yard requirements, loading facilities, or amenities offered in any way from the original order; that is, Z.C. Case No. 62-19.

Case No. 89-6M/62-19, Order No. 631. See Opposition Exh. A. Thus it is misleading to state that the Watergate PUD has been "modified significantly and substantially many times since the original approval in 1962," Rebuttal at 2, for there have been no significant and substantial modifications since 1968. This stability has existed for almost forty years.

The "Town within a City"

The Watergate Planned Unit consists of three apartment buildings, two office buildings, one hotel, and shops, all interconnected, to form what was initially called Watergate Towne. It was the first privately financed PUD in the District. The Plan always included a hotel, as the Applicant now concedes. Opposition Exhibit B is the 1962 Official Notice of the initial hearing as published in the Washington Post, indicating a hotel in the mix of proposed uses. The Hotel was constructed in 1967, immediately after the first apartment building (Watergate East) and is joined at all floors to the first office building, on land partly owned by East and leased to the Hotel.

Watergate Towne was publicized as a self-contained "town within the city." The Watergate Hotel is at its center. Expert witness George H.F. Oberlander, who was on the staff of the National Capital Planning Commission from 1965 until his retirement in 1996, referred to the extensive interaction among the National Capital Planning Commission, the Commission on Fine Arts, and the Zoning Commission, in dealing with "the special nature, character, mixture, design and intent of this very early PUD." Oberlander Statement at 4. He "emphasize[d] the very careful planning then of the mixed uses within the overall design of the complex. This complex was designed to be

a complete town within the City north of the John F. Kennedy Center for the Performing Arts." Oberlander Statement at 4-5.

The success of the Planned Unit is well known. See Darby testimony, supra. Three distinguished District planners -- Mr. Oberlander, Mr. Fred Greene, and Mr. Alvin McNeal -- testified that the Watergate Hotel is fundamental to this success. These three experts presented different and complementary perspectives in their testimony, but all agreed that the focus must be on the integrity of the Development as a Unit, which they describe as a "self-contained zoning envelope."

The purpose of a Planned Unit Development is to enable a mixture and balance of uses that would not be available under conventional zoning. Mr. Fred Greene, who served as Director of the District's Office of Planning from 1984 to 1991, discussed the importance of balance within the Planned Unit. He concluded that "the elimination of the Watergate Hotel would be contrary to District policy and also land use policy as well." March 4 TR at 22. He explained that the District's Comprehensive Plan "states that hotels are key elements to economic development of Washington [and] are important activity generators [that] the District should encourage and I'd like to emphasize that. The plan said the District should encourage continued improvement of existing hotels, not the elimination of them." TR at 21-22. He urged the Commission "to take a macro look, not a micro look, at the true impact of the request." TR at 22.

Mr. Alvin McNeal, who served in the District Office of Planning from 1975 to 1989 including service as Manager of Strategic Land Use Planning, described the Watergate complex as "one of the most successful, high density, mixed use planned developments in the country." He stated that "the Watergate Hotel is an important branding element to the Watergate complex." March 4 TR at 9. "It has provided dining, entertainment,

recreation and other amenities that serve not only hotel guests but also office, residents, the Department of State and other nearby federal offices, foreign missions and organizations and the Kennedy Center's performers and patrons." TR at 9.

Mr. McNeal explained that in a mixed-use project "the uses are interdependent. Each reinforces another and resonates so that they enhance each other's power. Each contributes to the functionality of the other. Therefore, the elimination of the hotel from the mix of uses may have a long-term negative effect on the overall vitality and attractiveness of the Watergate complex." TR at 10. He observes that "The Watergate Hotel is also that special use within a mix of other interdependent and compatible uses that contributes to the synergism that makes it attractive and successful," TR at 11-12, and he urges the Commission to "embrace and celebrate this highly successful planned development." TR at 11.

Mr. Oberlander teaches that the "conversion of the existing operating 250 room hotel to an apartment house is directly contrary to Section 1331 and 1333 (Ward 2 Hotel Development) of the Comprehensive Plan for the National Capital." March 4 TR at 13. He quotes Section 1331 which states that Ward 2, "the hotel center of the city," will need additional hotels to fulfill increased demand. Oberlander Statement, p.1. He observes that "the conversion of the existing hotel to an apartment house [is] directly inconsistent with the Comprehensive Plan." Id. at 2.

Mr. Oberlander concludes that "to take government action and eliminate an operating luxury hotel would be inappropriate public planning and zoning implementation. Although the Commission is not technically a public planning agency, the zoning decisions of the Commission need to be based on established public

planning objectives and policies, not future ones but current ones. " March 4 TR at 18-19.

Citing the historical importance of the Watergate complex, Mr. Oberlander states that "eliminating the hotel from the mix of uses would alter its historic character and affect the balance originally intended and necessary to maintain the vibrancy, vitality and special nature and attractiveness of the PUD." Statement at 3. He cites the "Packaged Living" of the "self-contained" Watergate complex, "creat[ing] a new style of urban living in Washington." He points out that the Hotel was not an afterthought, but was and is at the heart of this unusual and creative mixed-use development. Mr. Oberlander concludes that "This PUD amendment would violate the requirement of Section 512.5 of the Regulations dealing with land use balance." March 4 TR at 16.

Current Vitality of the PUD

The Watergate Planned Unit is a widely admired story of successful planning. It is not obsolete, as the Applicant proposes; it is a modern idea, whose value has been recognized and has increased over these forty years. The Green-McNeal expert report states that "the variety of uses and their interrelationship produce the energy and the vitality needed to sustain a mixed use center, like the Watergate, as an attractive place to invest, live and entertain." Greene-McNeal Report at 2. As Mr. McNeal summed up: "It is a model of how a high density, mixed use development should look and feel." March 4 TR at 10.

The Watergate Planned Unit is not a collection of isolated and unrelated structures; it is an integrated mixture of connected structures and complementary uses, all contributing to the utility of the Unit. The Watergate Hotel has been part of the PUD since the initial proposal in 1962. The Applicant argues that it is not unusual to change the use of a building. Rebuttal at 2. But the present proposal is more than a changed use, it is the removal of a major component of the Planned Unit, a dismantling that affects the entire Development, not a single building. The proposed eradication of the Watergate Hotel would be a powerful change in this highly successful Planned Unit. The current position of the Watergate Hotel as a cultural symbol, an icon of the political climate of the modern era, takes this request into considerations of historicity and national symbolism.

Conclusion

The Applicant has not met its burden on the issue it raised concerning ease of modification of the Watergate PUD.

B

The Comprehensive Plan

Housing vs. Hotel

As its next argument, the Applicant states that conversion of the Watergate Hotel to luxury housing is "not inconsistent" with the Comprehensive Plan, the Applicant pointing to an asserted need for luxury housing. That is a misperception of the Comprehensive Plan. Whatever the state of luxury housing in Ward 2, the Comprehensive Plan does not support shutting down a fully operating hotel in order to convert it into luxury housing. The Applicant presented no evidence in support of its allegation of an unfilled

need for luxury housing, despite the Opposition's challenge and the current press reports that the "market for luxury residences has cooled in Washington." The Applicant's economic impact consultant conceded that he made no market study to support his housing forecast. March 1 TR at 89-90. See Opposition Exh. C (December 21, 2003 Washington Post report on the slow sales of new luxury condominiums in the District of Columbia). The Washington Post commented on this project as follows:

> The Watergate project comes as some real estate experts caution that the market for such high-rise residential units will slow. A glut of other projects is coming on line now and more are being planned. There are an estimated 8,300 condo units expected to be built in the next two years in the Washington metropolitan area, according to the Alexandria-based research firm Delta Associates. [Washington Post: January 26, 2004, page E2. Opposition Exh. C]

The Applicant bears the burden of supporting the positions on which it seeks reliance by the Commission. Although undoubtedly the Applicant expects to sell its Watergate luxury apartments, this is an expectation of consumer preference based on the Watergate reputation and location, not an unfilled housing need. The Applicant's economic consultant referred to such a preference. However, expectation of private gain is not grounds for modification of zoning conditions.

Hotels in Foggy Bottom

The Comprehensive Plan fosters the provision of hotel services adequate to serve the nation's capital as a tourist and cultural and government and business center. The Watergate Hotel is the only remaining hotel in this part of Foggy Bottom, the only high quality hotel in easy walking distance to Kennedy Center and its projected expansions, as well as to the State Department, the National Academy of Sciences, and other federal and international buildings. See Oberlander Report at 6; March 4 TR at

17. These are major cultural and government and public areas. The need in Foggy Bottom is real. The convenience of a nearby hotel is important. The needs of the entire community must be considered before taking an irreversible step to public detriment. A letter to the Commission from Michael Sonnenreich, the President of the Washington Opera, states the Opera's

> increased need for use of the Watergate Hotel's facilities because it has the status necessary to receive our national and international guests and opera stars, and there is absolutely nothing in this area that can offer the same level of suitable services and amenities.

Mr. Placido Domingo (also a resident in Watergate) wrote to the Zoning Commission:

> I am the General Director of The Washington Opera, a resident company at the Watergate complex, and am opposed to the conversion of the Watergate Hotel into cooperative apartments. The Watergate Hotel is an integral and vital part of the Watergate and surrounding community. . . . I respectfully request that the Commission oppose the conversion.

The District's plans are for enlarging, not depleting, existing hotel services. The new Kennedy Center buildings will further increase these needs, as this part of Foggy Bottom grows in vigor and tourist interest.

The critical question is not the Applicant's question of whether elimination of the Watergate Hotel is prohibited by the Comprehensive Plan; the question is whether elimination of the Watergate Hotel is in the best interest of the Watergate Planned Unit, of the District, and of the national capital. As all of the expert planners testified, none of these interests can be ignored, and all are better served by the retention of the Hotel.

Conclusion

The Applicant has not met its burden of showing that the Comprehensive Plan supports replacing the Watergate Hotel with an apartment building.

C

Zoning Regulations Applicable to PUDs

The Role of "Amenities"

The Applicant next argues that the Hotel is not an "amenity" because it was not so designated in the 1958 Regulations in effect in 1962. The Applicant states that the concept of "amenities" was not added to the PUD regulations until 1979, and that the balancing of amenities and benefits was not required until 1995. On this argument, the Applicant argues that the benefits of the Hotel to the overall PUD need not be considered by the Commission.

Research shows the first appearance of the word "amenity" in the Zoning Regulations in 1969, not 1979 as alleged by the Applicant. The term reflects the principle that the purpose of a Planned Unit is to provide superior "environment and amenities" as compared with routine zoning. See Opposition Exh. D. The evolution of detailed Regulations implementing the principles of Planned Unit Development does not mean that components of earlier PUDs can be eliminated or ignored.

The Regulations in effect in 1962 stated the District's intent to obtain a balanced mixture of uses in "creative and imaginative planning" and "diversification." See regulation § 7501.1, which starts with a statement of the purpose of a PUD:

> § 7501.1 (1962) . . . to encourage, in one or more Districts irrespective of use restrictions required by general zoning regulations, the design of well-planned, large-scale residential, institutional, or commercial developments, or a combination thereof which will offer a variety of building types or more attractive and efficient overall planning and design without sacrificing creative and imaginative planning.
>
> * * *

> The procedure and standards established herein are intended to permit, with Zoning Commission approval, diversification in the use, size, type and location of structures . . .

See Applicant's Rebuttal Exh. A.

The 1969 amendments to the 1958 Regulations state that increases in building height and density for a PUD project will not be granted when:

> § 7501.1 (1969) (c) . . . they do not provide future occupants of planned unit developments with a living and/or working environment and amenities superior to those which can be achieved by applying the general provisions of the Zoning Regulations.

The value of the PUD, as the concept grew in use within the District, is reflected in the increasing refinement of the Regulations. Thus another amendment in 1969 to the Regulations states that compliance with the plans of PUDs should be recorded as covenants:

> § 7501.21 (1969) The new zoning classification shall be adopted only upon completion of the Article 75 process and upon filing with the District of Columbia a covenant insuring compliance with submitted plans . . .

Opposition Exh. D. Although we have been unable to find a recorded Watergate covenant, the PUD approval binds its components, as Mr. Oberlander testified: "Back in 1962, the Zoning Commission established the building forms on this site as one structure. . . . [T]he obligation under the planned unit development which is given special compensation, special height increases, special coverage provisions, and a variety of other special conditions which were not in the existing original residential zoning that was on this land before and that's all part, as the Commission knows, of the PUD process . . . ." March 4 TR at 56-57. PUD restrictions must be respected.[1] A

[1] We take note that the Applicant's proposed outdoor carports are in violation of the existing PUD, which requires all parking to be underground. We also state concern

precedential example is seen in the Rafferty PUD Modification request, Case No. 88-24M/77-16F. Rafferty wanted to construct a two-story addition to her row house, which was one of thirty-five single family, detached, semi-detached and row dwellings in a PUD approved ten years earlier. In denying the modification the Commission stated: "Approval of the modification would be inconsistent with the spirit and intent of Zoning Commission Order No. 195." See Opposition Exh. E at page 5, paragraph 4.

Reliance on the Hotel

The presence of the Watergate Hotel in the Planned Unit was stressed in property sales. The 1968 sales brochure for Watergate West states: "The adjoining hotel (The Watergate), where you'll find the restaurant and the health club, is available for your out-of-town guests." Opposition Exh. F. Indeed, it continues to be stressed. A real estate web-page states: "Watergate is comprised of three luxury residential buildings . . . a first class luxury hotel . . . ," describing the Watergate Complex as "a ten-acre city within one of the world's greatest cities -- was designed to be a complete environment . . . ." Opposition Exh. F.

There was extensive written and oral testimony from property owners who relied on the presence of the Hotel in deciding to make the Watergate complex their home. They refer to various amenities, the attractiveness of the hotel for functions and housing, the vitality, the openness. Over seventy owners wrote in opposition to the conversion, some by form letter, some writing detailed individual letters, all of which are in the record. For example:

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that the new roof staircases and other outer structures contravene the architectural integrity of the design.

Barbara Fritzler wrote that the proposed change "detrimentally changes the entire concept of the Watergate image which was originally conceived as a self-sufficient entity . . . and, most importantly, anchored by a well-managed worldclass hotel, designed to fit into the elegant overall style of the Complex. . . . Its unique eminence should not be diminished or exploited by some short-term economic gain, sacrificing the entire neighborhood."

Rhonda Crane wrote: "Key to the success of the community is the concept of the Watergate Hotel. It is the bedrock of the rest of the complex, the most important benefit to life here. . . . Please don't destroy the special community that has developed around the Hotel, which is uniquely characteristic of Watergate. . . . Please let the Zoning Commission address the needs of the community, our Watergate community, our HOME . . . ."

John G. Good, III, wrote: "To exchange such a unique community, business, and tourist resource for more residential units which can and are currently being built elsewhere in the Foggy Bottom area does not make sense to me. . . . A few people may profit by converting the Watergate Hotel to residential units. They will do so at the expense of the residents of Foggy Bottom. I respectfully request that the Zoning Commission of Washington deny any change to the hotel status of the Watergate Hotel property."

Fay Trubow wrote that conversion of the hotel "would create a severe hardship for me for two reasons -- because I depend on the hotel for reservations for visiting family and because of my health. I work next door in the office building at 2600 Virginia Avenue and use the hotel's dining room for lunches and evening meals . . . ."

Mary Ann Bradley wrote: "Please help us maintain the charm and beauty of this area in D.C. This area is one of the major attractions of D.C., and it should remain whole as it is. Thank you."

Mary Chiavarini wrote: "I am a retired employee of the State Department. I have devoted my entire career to federal employment, and I committed substantial resources to ownership at Watergate West. . . . The hotel was a factor in my coming here and is part of the pleasure of living here. . . . I built my life and retirement around certain expectations. One of them was that the Watergate community would be around a long time, and that I could count on it maintaining its value. With the current proposal, lives like mine get trampled . . . Please do not let this happen. "

Katie Burney, a landscape architect and urban designer, wrote: "The Watergate Complex is a neighborhood. . . . We believe the hotel is an integral part of the Complex and should continue to exist as a hotel. . . . there is a paucity of hotels in the Foggy Bottom area. On the other hand there are several condo developments, both new and under construction. . . . We live here because the Watergate is a 'Complex.' Loss of the hotel would have a negative impact on residents as individuals and on the Watergate neighborhood as a whole."

Robert M. Phillips wrote: "My wife and I chose to become residents of Watergate West in 1996, attracted by its proximity to shopping and the amenities offered by the hotel. . . . We both think the complex would be physically and environmentally compromised, and lose a great deal, if the Watergate Hotel became another residence. Thank you Ms. Mitten for taking into consideration residents' perspective on this matter."

Clarence Booker, the resident manager of Watergate West, testified that: "Over the years, I have relied on the Watergate Hotel to house and dine with my family of 10 siblings and their children and other relatives and friends from Texas and other parts of the country that could not live in my apartment because it is too small . . . the hotel is very important to [our residents] and it's very important to the Watergate community." March 4 TR at 74-75.

The only contrary testimony was by persons at Watergate East who had committed to assist the Applicant when accepting its offer of $4,250,000 for title to East's land under part of the hotel.

The Applicant alleges that it "has responded to and addressed those issues raised at the hearing and in the record." (Rebuttal at 27) But the Rebuttal does not attempt to respond to these concerns, or acknowledge their magnitude. These are not isolated issues -- they are the repeated concerns of a large number of owners within the Planned Unit, seeking to preserve that which has existed for forty years. This testimony, and the equitable principles that it invokes, cannot be ignored.

Conclusion

The Applicant has not met its burden of proof on its argument that the Regulations do not support the Hotel as a cognizable "amenity" of this Planned Unit Development.

D

Economic Aspects

The Applicant's next argument is that an apartment house instead of a hotel will bring significantly larger economic benefits to the District of Columbia. This argument does not survive scrutiny.

The Critical Assumptions

The Applicant's Rebuttal fails to sustain the three crucial assumptions in the Applicant's "Economic and Fiscal Impact Analysis" (the Prost Report) that this Commission must accept in order to find a substantial and reliable economic advantage to the District by the proposed change. See March 1 TR at 87-88. The assumptions are as follows:

1. The Applicant first assumes that all 133 new owners will come from outside the District, bringing new expenditures and new revenue to the District. This assumption is seriously askew from the experience of Watergate West, whose data for the two years between March 25, 2002 and March 29, 2004 (Watergate West's annual meeting dates) are that of the total of thirteen sales during that period, six were to persons already resident in the District. Opposition Exh. G. This reduces by almost one half the Prost Report's projection of new District expenditures and revenue.

2. The Applicant next assumes that all 133 new owners will spend an average of $100,000 per year in new retail expenditures in the District. This figure for retail expenditures is not supportable. The 2002 Bureau of Labor Statistics states, for all incomes over $70,000, average annual expenditures of $76,627. See Opposition Exh. H. Attribution of all $100,000 to retail expenditures in the District is unrealistically high

when major expenditures such as mortgage payments, vehicle costs, education, and healthcare are recognized; see Opposition Exh. H.

3. From the above two postulates, the Applicant calculates that each of the 133 new owners will produce three full-time retail jobs within the District, or a total of 402 new full-time jobs in the District. Although the Report did not provide details of the multiplier it used, the premises were successfully criticized by Dr. Shalit in his report.[2] But even on the Prost Report's premises, its number of new indirect jobs must be reduced significantly, if not by half, to compensate for the new owners who already live in the District, as evidenced by the Watergate West actual experience.

The manifest flaws in its assumptions do not warrant reliance on the Report's conclusions.

Other Inapt Assumptions

As a further example of strained assumptions, the Prost Report postulates a "net new" impact of the entirety of an estimated $37,935,555 "Residents Earnings," and

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[2] The Rebuttal now concedes that the RIMS II output multiplier used by Prost in the initial analysis was a Regional multiplier and not one acclimated solely to the District. Accordingly, the initial proposition that conversion would result in 402 total indirect jobs solely in the District of Columbia has been reduced to 402 indirect jobs regionally with 306 being in the District of Columbia, plus 1 direct job in the District of Columbia. This revised analysis is in response to an error pointed out by Dr. Sol Shalit. Dr. Shalit's report was accepted by the Commission and is attached hereto as Opposition Exh. I. Under the original incorrect Prost report, the estimated increment of new jobs from conversion was 103 (hotel 350 v. condo at 453) and the transfer demand was 200, resulting in a new net demand of 303 jobs. Under the corrected version in the Rebuttal, using the correct RIMS II output multiplier for District impact v. Regional impact, the estimated increment is only 26 new jobs (hotel 341 v. condo 367); yet the transfer demand was somehow revised from 200 to 281 with a net new demand of 307. This so-called correction, where an increment of 103 jobs transfers a demand for 200 new jobs is "corrected" to reflect an increment of 26 jobs yet transferring a demand of 280 jobs, demonstrates the unreliability of the Prost Report. When properly corrected, the estimated increment in new jobs from conversion is 26, not 103.

almost all of the estimated $31,710,102 in consumer expenditures and the taxes paid thereon, Report at 13, apparently on the assumption that 100% of the new owners will be "new" to the District. The Report also postulates that none of the lost Hotel guests' expenditures need be recognized and set off against any of the postulated new expenditures of apartment residents.

The Prost Report estimates "an estimated $26 million increase in consumer expenditures" and states that this "represents more than a 490 percent increase in consumer expenditures." The Report appears to be comparing the $31.7 million estimated consumer expenditures for 133 new apartment residents plus 41 new employees, with the $5.37 million in consumer expenditures by the present 228 hotel employees. There is no credit for the consumer expenditures of the tourists/visitors occupying the 250 hotel rooms, even at the reduced occupancy experienced in 2002. The Report does, however, present a comparison of District income taxes estimated to be paid by the new residents, with District income taxes estimated to be paid by hotel guests. Of course, hotel guests are unlikely to be District residents and unlikely to pay District income taxes, leading to the meaningless projection of a 790% difference. In addition, while the Prost Report counts a decrease in sales tax due to "loss of hotel room revenue," the Report omits the balancing increase in sales tax on the rooms in other hotels to which Prost assumes the displaced guests will turn. Prost also entirely omits sales taxes on consumer expenditures by the hotel guests.

On these flawed premises, the Report estimates that 155 new residents and 41 new employees[3] will bring $4.1 million in new tax revenue into the District ("income tax

[3] These 41 "new employees" appear to be the restaurant and health employees

sales tax, real property tax, personal property tax, and franchise tax") (Prost Report at 9). This is compared with the acknowledged $3.2 million in tax revenues from the Hotel operations and Hotel employees ("income, franchise, real property, direct and indirect sales, and personal property") (Prost Report at 6), omitting sales tax on expenditures by hotel guests. A fair comparison would include the entire tax revenues from both sources, and exclude taxes paid by persons who were already District residents.

Conclusion

The burden of proof of the asserted economic benefits is on the Applicant, whose speculative premises and projections are not a reliable indicator of substantial economic enhancement to the District.

E

Loss of Hotel Jobs

Displaced Hotel Workers

The Applicant's projections require the assumption that all of the displaced hotel worker will find employment in the District, preserving their status as DC taxpayers. The testimony of the Union was that there is 8% unemployment among hotel workers, and that the displaced employees will either take hotel jobs that would go to others, or leave District employment. See testimony of John Bordman, Executive Secretary of the Hotel and Restaurant Employees Union Local 25.

Mr. Oberlander directed attention to Section 1301 of the Comprehensive Plan and its requirement that "the DC Government should not take actions that would reduce the number of jobs in existence in Ward 2." Report at 2.

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to be retained after conversion, for these employees are not otherwise accounted for. If so, they are not "new."

We take notice that travel and tourism diminished after the events of 9/11, but there is no evidence that the diminution was greater at the Watergate Hotel. Meanwhile, it has been reported that hotel occupancy is up in the District of Columbia. The Washington Post of April 12, 2004 quoted the head of the Washington visitors' bureau as saying "we could perhaps have the best tourism season in the history of the capital." The article, attached as Opposition Exh. J, states that D.C. hotels, although now experiencing recovery of travel and tourism after the decline due to the events of 9/11, have not added to their staff. The article states that the hotel employment rate is unchanged, as the hotels are asking existing employees to do more rather than hire new employees.

Viability of the Watergate Hotel

The Rebuttal suggests that there are too many hotels, and that the Watergate Hotel cannot survive. Rebuttal at 13 ("hotel has lost its competitive position in the hotel market to newer, better located hotels"). There is no evidence to substantiate this claim. Indeed, there is no hotel better located to the Kennedy Center, the State Department, the National Academy of Sciences, and many other federal and international and tourist sites. Mr. Oberlander referred to the elimination of 400 nearby hotel rooms, stating that "There are no other hotels other than the Watergate, west of the Potomac River Freeway or the so-called west leg of the original inter-loop and near the Potomac River. There are six hotels within a quarter mile radius of Watergate Hotel, yes. That distance is far greater than the existing easy walking distance, approximately 264 yards or 792 feet between the Kennedy Center and the Watergate Hotel." March 4 TR at 17.

In its rebuttal testimony the Applicant attempted to correct the testimony of Mr. Stein, manager of Blackstone's hotel properties, who had testified that no potential purchaser had inquired of the Hotel concerning buying it for operation as a hotel. However, the Applicant continued to refuse the Opposition's request for financial data, so that the Applicant's statements that the Hotel was failing and might "go dark" could be explored at the hearing.[4] The Applicant did not fulfill its obligation to be forthcoming with the Commission.

Conclusion

These aspects weigh further against the Applicant's burden of proof.

F

Traffic Impact

Although we agree that traffic impact is not controlling, the Applicant's criticism of the Opposition's traffic consultant is unwarranted. Mr. Mehra is a well-recognized traffic expert[5] who followed standard conventions when he made an actual traffic count at the hotel. Indeed, the Applicant's own traffic expert recently submitted, in a PUD modification case for 4800 Wisconsin Avenue, N.W. (Case No. 03-18), the exact technique it now criticizes. See Opposition Exh. L. We also point out that Mr. Mehra correctly used a 21.7% transit mode split based on the 2000 Census Tract for

[4] However, a distribution in Watergate East after the hearing, entitled "The Watergate East Underground Premises Sale: An Index of Issues," states that for the Watergate Hotel rooms there was in 2003 a net operating income of 30.5%, and that despite losses from restaurant and bar the total net operating income for the Watergate Hotel was 11.5%. Opposition Exh. K.

[5] Mr. Mehra wrote the first recognized handbook on conducting a traffic impact study for the U.S. Department of Transportation in 1985.

transportation by public means (subway/bus and excluding taxis). The higher 83.5% split (originally 39%) used by the Applicant assumes that 83.5% of the occupants of the proposed luxury units will commute to work by bicycle, bus, or metrorail, or walk. Mr. Mehra's analysis is more realistic. However, we accept that the traffic distinctions are not material to the decision in this case.

G. & H. Authority of the Developer

We note that the Applicant has now registered to do business in the District of Columbia.

I

Affordable Housing

In reaction to concerns raised by the Commission, the Applicant has belatedly offered a low income housing contribution. The $250,000 offered is a fraction of the price of one of the lowest-priced of the 133 new luxury apartments. This offer also pales in comparison to the $4,250,000 offered to Watergate East for title to underground land that the Applicant says it does not need to own.

CONCLUSION

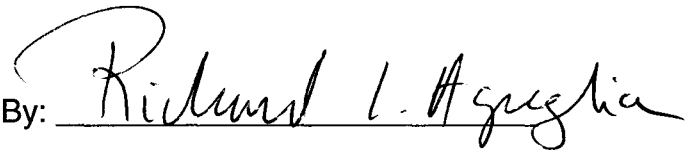
The Watergate Complex is a renowned example of successful urban planning. It has become one of the most desirable sites in the District. The Watergate Hotel, the centerpiece of this Planned Unit, serves residents and businesses, cultural centers, government, and tourists. It has not been shown that the Watergate PUD is no longer viable. There is no issue here of overriding public purpose that might be relied on to negate the promises made and the obligations incurred when the Watergate PUD was

implemented. The Commission should preserve this established and historically significant community.

The Applicant's burden is very heavy when seeking departure from a long-standing zoning Planned Unit Development. It has not provided sufficient, weighted evidence for such change. The proposed modification to the PUD should be denied.

Respectfully submitted,

HUNTON & WILLIAMS

By: 

Richard L. Aguglia

LIST OF EXHIBITS

Exhibit A ..... ZC Case No. 89-6M/62-19
(Watergate Hotel Health Club)

Exhibit B ..... 1962 Official Notice
of Hearing published
3/14/62 in the
Washington Post

Exhibit C ..... December 21, 2003
Washington Post Report
on Condo Sales in D.C.
and January 26, 2004
Washington Post Report
on market glut

Exhibit D ..... 1958 Zoning Regulations
as amended through
1969 (1973 reprint)

Exhibit E ..... Rafferty PUD Modification
Request ZC Case No. 88-
24M/77-16F

Exhibit F ..... 1968 Sales Brochure
for Watergate West
and Real Estate Website
regarding hotel amenity

Exhibit G ..... Affidavit of Lewey Gilstrap

Exhibit H ..... Bureau of Labor Statistics,
Consumer Expenditure
Survey, 2002

Exhibit I ..... Dr. Sol. Shalit's analysis of the Prost report

Exhibit J ..... April 12, 2004 Washington Post Article on Hotel Occupancy and Employment

Exhibit K ..... Watergate East Underground Premises Sale

Exhibit L ..... Wells & Associates Traffic Study Submitted in ZC Case No. 03-18

Government of the District of Columbia

ZONING COMMISSION

ZONING COMMISSION ORDER NO. 631
Case No. 89-6M/62-19
(PUD Modification - Watergate)
September 11, 1989

Pursuant to notice, a public hearing of the Zoning Commission for the District of Columbia was held on June 8, 1989. At that hearing session the Zoning Commission considered an application from the Watergate Improvement Associates, pursuant to Section 2407.9 of the District of Columbia Municipal Regulations (DCMR), Title 11, Zoning.

FINDINGS OF FACT

1. The application, which was filed on January 25, 1989, requested modification to the Zoning Commission Order in Case No. 62-19 (as amended), dated July 17, 1962. The Order in Z.C. Case No. 62-19 approved a Planned Unit Development to construct a mixed-use project known as the Watergate Complex.

2. The requested modification to the PUD would approve a 2,000 square foot expansion of the health club in the Watergate Hotel, a part of the Watergate Complex. The applicant improvidently began and completed construction of the expansion when application for the required building permit was pending. Thereafter, the application for a buildiing permit was denied because the Zoning Administrator determined that the permit could not be approved without a modification of the approved PUD.

3. The Watergate Complex was constructed on approximately 9.5 acres (412,000 square feet) of land in the SP-2 District. The approved complex, which has building heights up to 130 feet, contains over 500,000 square feet of office space, a 237-room hotel, 644 apartment units, underground parking, the health club, and a significant amount of retail space. There are 1,240 parking spaces located in a 3-level common garage which serves the entire complex.

4. The Watergate Hotel, the portion of the original PUD within which the health club is located, consists of a

13-story structure containing 237 quest rooms, 2 restaurants, 2 bars and a lounge area, and 3 basement levels below grade with the health club on the third level.

5. The expansion increased the square footage of the health club from 11,500 square feet to 13,500 square feet, and thereby provided a health club facility that responds to demands of the 1989 consumer, in that it provides a full spectrum of cardiovascular and weight training programs and certain types of exercise equipment.

6. The membership of the club currently consists of 512 members, many of which live or work within the Watergate Complex or in the immediate area, and is less than the highest membership count, approximately 600, in the early 1980s.

7. Although the expansion of the health club removed six parking spaces from the B-3 level, the parking area near the club expansion has been restriped to provide a net gain of one space.

8. By memorandum dated May 30, 1989, the District of Columbia Office of Planning recommended approval of the application. OP testified that the expansion is appropriate for, and responsive to, the increasing spatial requirements of the health club facility of the Watergate Hotel. OP further testified that the removal of the six parking spaces did not adversely affect the parking supply of the Watergate Hotel or the Watergate Complex as a whole. OP concluded by noting that the application does not impair the intent, purpose, and integrity of the Zoning Regulations and is consistent with the Comprehensive Plan of the District of Columbia.

9. By memorandum dated May 19, 1988, the Department of Public Works (DPW) indicated that it had no objection to the proposed modification. DPW indicated that approval of the expansion will have no significant impact on the transportation element of the plan or on the surrounding street system.

10. By letter dated May 25, 1989, Advisory Neighborhood Commission (ANC) 2A indicated that it had no objection to the subject application. ANC 2A indicated that representatives of the ANC toured the health club facility and examined the adjacent parking facility. ANC 2A concluded that the expansion did not have any adverse impact on the parking situation within the Watergate Complex.

11. A resident of Watergate West and member of the health club testified in support of the application. She stated that she was unaware of any objection to the application by residents of Watergate West, and testified that because of the expansion, an entrance is now available on level B-3, which is very convenient for residents of Watergate West. The resident further testified that she parks her car on level B-3, unlike most Watergate West residents, who park on level B-2. She indicated that she has not had a problem finding a parking space on that level.

12. Watergate West, Inc., was admitted as a party in opposition to the application. No testimony was offered by Watergate West, since no representative from the organization was present at the public hearing. Counsel for Watergate West complained that while his client supported the health club expansion, it was concerned that a reduced garage would make parking spaces more difficult for his client's members to find and rent.

13. At the conclusion of the hearing the Commission determined that if further modifications are proposed in the PUD, the applicant shall be required to complete the permit process before making modifications.

14. The Commission concurs with the position of OP and others. The Commission also concurs with ANC 2A that approval of modification will not adversely affect the parking situation within the Watergate Complex.

15. The Commission finds that the expansion of the health club did not change the floor area ratio (FAR), gross floor area, height, lot occupancy, rear yard or side yard requirements, loading facilities, or amenities offered in any way from the original order; that is, Z.C. Case No. 62-19.

16. The Commission also finds that if further modifications are to take place, Watergate Improvement Associates must have a complete parking plan that shall include, but not be limited to, complete identification of all parking that is provided throughout the complex, how it is assigned, who will manage it and how it would change under a new proposal.

17. The proposed action of the Zoning Commission to approve the application, with conditions, 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 report dated September 11, 1989, found that the proposed action of the Zoning Commission would not adversely affect the

Federal Establishment or other Federal interests in the National Capital nor be inconsistent with the Comprehensive Plan for the National Capital.

CONCLUSIONS OF LAW

1. The Planned Unit Development process is an appropriate means of controlling development of the subject site because control of the use and site plan is essential to ensure compatibility with the neighborhood.

2. The development of this PUD carries out the purpose of Section 2400, which is to encourage the development of well-planned residential, institutional and mixed-use 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.

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

4. Approval of this PUD modification is not inconsistent with the Comprehensive Plan for the National Capital.

5. Approval of this PUD modification is consistent with the purposes of the Zoning Act.

6. The PUD modification can be approved with conditions that ensure that the development will not have an adverse affect on the surrounding community, but will enhance the neighborhood and ensure neighborhood stability.

7. Approval of this PUD modification will promote development in conformity with the entirety of the District of Columbia Zone Plan as embodied in the Zoning Regulations and Map of the District of Columbia.

8. By this approval, the Zoning Commission does not condone the applicant's premature construction of the expansion.

9. The Zoning Commission has accorded to the Advisory Neighborhood Commission (ANC) 2A the "great weight" consideration to which it is entitled.

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

DECISION

In consideration of the Findings of Fact and Conclusions of

Law, the Zoning Commission for the District of Columbia hereby orders APPROVAL of a modification to a previously approved PUD for Lot 809 in Square 8 at the Watergate Complex located at 2600 Virginia Avenue, N.W., subject to the following guidelines, conditions and standards:

1. The planned unit development modifications approved herein shall be in accordance with the plans prepared by Luigi, Moretti, Corning, Elmore & Fischer Architects marked as Exhibit No. 4 of the record.

2. The requested modification, which approves a completed expansion of the existing health club in the Watergate Hotel, a part of the Watergate PUD, shall increase the approved square footage of the health club from 11,500 square feet to 13,500 square feet.

3. The expansion of the health club shall not change the floor area ratio (FAR), gross floor area, height, lot occupancy, rear yard or side yard requirement, loading facilities, or amenities offered in any way from the original order; that is Z.C. Case No. 62-19.

4. There shall be no less than 1,240 parking spaces located in a three (3) level common garage that serves the entire complex, at all times.

5. This modification to the PUD approved by the Commission shall be valid for a period of two years from the effective date of this order. Within that time, application must be filed for the building permit, as specified in 11 DCMR 2407.2 and 2407.3.

6. Pursuant to D.C. Code sec. 1-2531 (1987), section 267 of the D.C. Law 2-38, the Human Rights Act of 1977, the applicant is required to comply fully with the provisions of D.C. Law 2-38, as amended, codified as D.C. Code, Title 1, Chapter 25 (1987), and this Order is conditioned upon full compliance with those provisions. Nothing in this order shall be understood to require the Zoning Regulations Division/DCRA to approve permits, if the applicant fails to comply with any provision of D.C. Law 2-39, as amended.

Vote of the Zoning Commission taken at the public meeting on July 10, 1989: 5-0 (John G. Parsons, Maybelle Taylor Bennett, William L. Ensign, Lloyd D. Smith, and Lindsley Williams to approve with conditions).

The guidelines, conditions, and standards were approved at the public meeting on August 7, 1989 by a vote of 3-0 (John G. Parsons, Lloyd D. Smith and Maybelle Taylor Bennett to approve; William L. Ensign, not voting, not present; and Tersh Boasberg, not voting, not having participated in the case).

This order was adopted by the Zoning Commission at the public meeting on September 11, 1989 by a vote of 4-0 (John G. Parsons, Lloyd D. Smith, Maybelle Taylor Bennett and William Ensign to adopt; Tersh Boasberg, not voting, not having participated in the case).

In accordance with 11 DCMR 3028, this order is final effective upon publication in the District of Columbia Register; that is, on NOV 03 1989

MAYBELLE TAYLOR BENNETT
Chairperson
Zoning Commission

EDWARD L. CURRY
Executive Director
Zoning Secretariat

zco631/KATE42

OFFICIAL NOTICES 2

ZONING COMMISSION, WASHINGton, March 14, 1962. Notice is hereby given that a public hearing will be held by the Zoning Commission in Room 500, District Building, beginning at 10:00 a. m., Friday, April 13, 1962, for the purpose of considering amendments to the Zoning Map and an application under Article 75 of the zoning regulations as provided by the Zoning Act (Public No. 684, 75th Congress); the general summary of which reads as follows: Application of Island Vista, Inc., for consideration under provisions of Article 75, a large-scale planning development known as "Water Gate," said proposal within area bounded by New Hampshire and Virginia Avenues, F Street and Rock Creek and Potomac Parkway, N.W., squares 2, 3, 7, 8, 9, 18, and reservation 133. Included are all public streets within area so bounded which are proposed to be closed and conveyed to applicant. The project area is about 10 acres in extent. The project will be designated as one structure under applicable law, since all parts of building will be connected at one or more floors. Parts of building will be 130 feet in height other parts as low as one story. Contained within structure will be apartment units, hotel rooms, "villa type" dwellings, offices, underground shopping center and number of hotel and apartment house adjuncts supplying commercial facilities to tenents. All parking facilities are underground. Preliminary plans for "Water Gate" project are on file in office of Zoning Commission and are available for public inspection, Monday through Friday, between hours of 8:45 a. m. and 4:45 p. m. PROPOSED AMENDMENTS TO THE ZONING MAP: 1. Extend C-2 District, on east side of Wisconsin Avenue, easterly to include all property presently zoned R-1-B bounded on north by Recreational Center, lot 974, square 1299, on south by north line of Whitehaven Street, proposed, and on east by line located 30 feet west of and equidistant from United States Naval Observatory property line. 2. Change from unzoned to SP part of H Street previously closed and 26th, 27th and G Streets, the closing of which is now pending before Commissioners, D. C., all of the streets and property aforesaid located within area bounded by Virginia Avenue and New Hampshire Avenue, F Street and Rock Creek and Potomac Parkway, N.W. F. J. CLARKE, CONRAD L. WIRTH, J. GEORGE STEWART, WALTER N. TOBRINER, JOHN B. DUNCAN, Zoning Commission of the District of Columbia.

WASHINGTON POST - 1
Wed. MARCH 14, 1962

The Washington Post

Reluctance for Ritz in Georgetown; Luxury Condos' Price, Design Yet to Catch On in D.C.:[FINAL Edition]

Daniela Deane. **The Washington Post**. Washington, D.C.: Dec 21, 2003. pg. A.01

Full Text (1760 words)

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Until a few weeks ago, drivers on the elevated Whitehurst Freeway glancing over at the condos behind the Ritz-Carlton hotel in Georgetown saw mostly bare, cavernous rooms through the floor-to- ceiling windows. Then the developers filled one of the condo terraces with potted plants and put lamps in a couple of units.

It's an old ploy in the real estate business, the sort of thing any home builder might use to make sales appear brisker. These, though, aren't any old homes: They're the most expensive condos in Washington, up to $9.2 million -- with fees of $6,000 a month -- for five bedrooms, his-and-her marble bathrooms, kitchens with $6,500 stainless-steel refrigerators and room service foie gras from the Ritz-Carlton. The cheapest unit is just under $2 million.

The Ritz-Carlton Hotel & Residences represents a big bet that Washington is becoming more like New York City, that wealthy Washingtonians will give up their big houses and yards for splashy condos the size of a basketball court.

Only two of the 28 units have sold since they went on the market in April, though, and only two more are under contract, one of them a swap that won't bring the developers any more cash. The big New York developer Millennium Partners had hoped to sell more than a dozen by now and the rest well before the end of next year, one of its partners says.

"Old-line Washingtonians just laugh at prices that high," said Jean Smith, an agent with Re/Max Allegiance in Georgetown. "There just isn't the money here."

Millennium says it can afford to wait for Washington to come around. Its hyper-wealthy investors put up $100 million to buy the land and build the condos, so Millennium had to borrow only $75 million to build the hotel and isn't at the mercy of bankers clamoring for quick repayment of their loans. The investors include billionaire liberal activist George Soros, investment banker Goldman Sachs and a group of German insurance companies.

Not only is Millennium's money patient, it's daring, because this is an unusual project. The developer bought a big garbage incinerator with a 17-story brick smokestack that had been a Georgetown landmark since the city built it in 1932, at the height of the Depression. After 1971, though, when it shut down, it became a dilapidated wreck just blocks from the neighborhood's mansions and quaint narrow streets. The 86-room Ritz-Carlton is the smallest in the world because it had to be squeezed into a space around the smokestack. Several developers had already tried to build there by the time Millennium took its gamble.

A 14-screen Loews movie theater and other retail space is part of the incinerator complex. The hotel is doing well, the developers say, although they won't disclose occupancy rates. And the theater is a big draw.

The condos also had to accommodate the peculiarities of the site. Because they look over the elevated freeway to the Potomac and the high-rises of Rosslyn across the river, the fabulously expensive view includes traffic whizzing past -- or inching along, depending on whether it's rush hour. Triple-paned windows reduce freeway noise but don't shut it out completely (though periodically there's talk of tearing the freeway down.)

On the plus side, the condos are huge for Washington apartments: up to 6,100 square feet. The foyers are lined with marble. The bathrooms have walk-in marble showers with multiple showerheads.

The kitchen appliances are sleek stainless steel. The cheapest are the coolers for storing wine, and those run about $3,000 apiece. Walk-in closets can be as large as a bedroom in a suburban rambler. Many windows are floor-to-ceiling; the floors are hardwood. There's a separate phone line that connects occupants with the hotel to order champagne or lobster tails from room service. Hotel staffers will tend to pets, pick up dry-cleaning or handle other personal chores -- the sort of luxuries you'd find in Manhattan.

Two New York real estate lawyers and a Harvard MBA founded Millennium in 1990 to build a hotel, condos and stores on three blocks next to Lincoln Center. Lincoln Square, as Millennium called it, flourished. It has grown to 1.7 million square feet with a Reebok Sports Club, a Loews movie theater, Barnes & Noble bookstore, Tower Records, more than 600 luxury condominiums and a plush hotel. Millennium went on to build in San Francisco, Miami and Boston, using the same mixed-use formula.

Millennium's investors pay some of the cost of building the condos and get a loan to build the hotels, typically managed by the Chevy Chase-based Ritz-Carlton Hotel Co. The luxury hotel chain started in the United States in 1927 with the Ritz-Carlton Hotel in Boston and now operates around the world. Millennium uses the funds it gets from selling the condos to pay off the hotel loan and winds up owning the hotel and retail space. Putting up more of the money and borrowing less means not as much nagging from cautious bankers, but more freedom also means it's easier to stumble over big risks.

And Millennium has made some mistakes. After 21/2 years, only half of the dozen units tucked between the 23rd and 29th floors of the Ritz-Carlton hotel on Central Park South -- each with stunning views of the park -- have sold for $12 million to $28 million. "The project isn't doing as well as expected," said Michael Shvo, the top luxury broker at Prudential Douglas Elliman, New York City's largest brokerage. For that kind of money, buyers can do better at other buildings, said the broker.

Millennium has had a tough time entering the Washington market. Its first project was a $300 million complex of 161 condos, a 300- room Ritz-Carlton and a Sports Club/L.A. After the condos went on the market in 1999 for up to $5.3 million, buyers began discovering mold growing under floors and behind walls. The mold, probably the result of leaky plumbing, caused baseboards to bow out, walls to grow splotchy and foul odors to seep. Angry owners sued; one would enter her apartment only after donning a white protective jumpsuit and a respirator.

The developers hired Jody Powell, press secretary for President Jimmy Carter and owner of a $1.5 million Ritz condo, to do damage control. One owner, former ABC News anchor Carole Simpson, was moved out while her apartment was repaired for six weeks, and the developers went so far as to photograph everything in the apartment so it could be put back exactly as it was. A third of the units are still for sale.

It cost the company millions of dollars, and probably hurt sales at the new project, too. And unlike in New York, with its jet- setting sheiks and movie stars looking for second homes, Millennium says it expects to sell most of its Washington condos to local people.

But before the units opened, the market for luxury residences had cooled in Washington, because of the collapse of the dot-com boom -- in a region heavily reliant on the technology business -- and the national economic slowdown, even though the market for less expensive housing, selling for under half a million dollars, still sizzles.

Beyond that, there is the fact that the market isn't quite ready to accept multimillion-dollar housing that comes without a yard and is attached to other units, as New Yorkers have done, local real estate brokers say.

Because space is tight, wealthy New Yorkers for decades have paid millions for sprawling apartments in pre-World War II buildings with a dozen high-ceilinged rooms, including the servants', or condos in towering new buildings 50 stories up with the sort of views available from an airplane.

These days, it takes a price of $10 million or more to impress New Yorkers, like the $45 million a London financier recently paid for a huge loft in the Midtown Manhattan center being built by Time Warner, combining an entire floor with part of another. It was the biggest residential real estate transaction in New York history.

"A lot of our population is well paid, but by New York standards they're middle-income," said John McIlwain,

senior fellow for housing at Washington's Urban Land Institute, which does research for the real estate industry. "Millennium jumped the gun."

And with little more than half a million residents, Washington is, after all, a city with 7.5 million fewer people than New York, a more suburban place where being rich more often means living in a huge house with an expansive yard. Selling very expensive condos here has always been tough: When it opened in the early 1980s, Washington Harbour, another mixed-use project on the banks of the Potomac in Georgetown, took more than four years to clear out its 38 condominiums. At the time the condos, more luxurious than the nearby Watergate units, were the most expensive in Washington at $250,000 to $2 million each.

Still, some smart people are betting that the smokestack project will sell considerably more quickly. Soros amassed his money running a hedge fund that made huge bets in the markets, including earning $1 billion in 1992 betting that the British pound would fall. He has gradually relinquished control of the business to become a philanthropist, and he is one of the biggest donors to liberal causes in the country. But his Quantum Fund continues to invest, including in real estate.

Millennium typically picks a savvy local developer to help on its projects, too. In this case it selected Anthony Lanier, an Austrian- born developer who runs a company called EastBanc Inc. and who has made his name bringing elite fashion and furnishing shops like Ligne Roset -- which sells trendy French furniture -- to Georgetown.

The New Yorkers can always move to another city, but Lanier, being local, has a lot riding on this project, which he insists will be successful.

"There are hundreds of people here to whom $5 million is not the end of the world," said Lanier. "I'm confident that, with time, the Ritz project will find people who will say, 'You know what, why not?' "

At these prices, though, local real estate people aren't quite so sure.

"They're going to have to be flexible on their prices to sell those units," said Gregory H. Leisch, chief executive of Delta Associates, a local real estate research firm.

After all, Washington is usually perceived as a little stodgier than New York. Even the urbane Lanier lives not in one of his glitzy condos but in a historic Georgetown rowhouse.

Researcher Richard S. Drezen contributed to this report.

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— James McDonald, new publisher of Journal Newspapers Inc., who is considering making his Maryland newspapers giveaways, as his Virginia papers already are.

steep drop in mortgage banking revenue and higher costs associated with its purchase of eight former First Virginia Bank branches. Culpeper-based Virginia Financial earned $3.1 million (43 cents a share) in the three months ended Dec. 31, equaling the earnings for the same period of 2002. For the year, net income was $13.5 million ($1.88), compared with $12.3 million ($1.69) in 2002. Total assets grew 24 percent during the year, to $1.39 billion on Dec. 31.

AOL settled a trademark dispute with Playboy Enterprises, Playboy said, after a San Francisco appeals court ruled in favor of the magazine over the use of its name.

Allied Defense Group of Vienna said its Belgian unit, Mecar SA, recently got more than $20 million in orders for ammunition.

consulting rights expiring that closed Jan. 6.

MARYLAND

Bechtel National, the unit of San Francisco's Bechtel Group that has won contracts to rebuild Iraqi infrastructure, is moving to Frederick by the end of 2006, the company said.

RegeneRx Biopharmaceut-

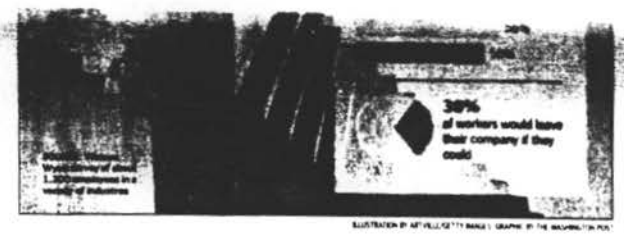


ILLUSTRATION BY ART WOLLASTON (LEFT) AND GRAPHIC BY THE WASHINGTON POST

DILBERT By Scott Adams



Ads, 44
Bechtel National, E3
Booz Allen Hamilton, E3
Cable & Wireless, E4
CompuDyne, E4
Comcast, E4
E-Trade Group, E1
Friedman, Billings, Ramsey, E3
Independence Federal Savings Bank, E1
In Stat/MDR, E1
LinkSpur Networks, E1
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Mecar, E2
MedImmune, E1, E2
MobileStar Network, E9
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From the Ground Up

Monument Revives Watergate Plan

Neighbors Oppose Conversion to Residential Units; Analysts Question Timing

By Dana Hedgpeth
Washington Post Staff Writer

Monument Realty said it is back in a deal to turn the well-known Watergate Hotel in Foggy Bottom into residential units, a move some developers and real estate experts say will put the units on the market just as the supply could outweigh demand. But some residents at the Watergate's neighboring co-op complex are using their rights over the small portion of the property they own to try to block the deal.

Monument wants to convert the 251-room hotel, which some hotel operators say has under-performed compared with other properties in the District in the past few years, into a 130-unit luxury co-op. Prices for the units would range from $700,000 for a one-bedroom unit with a den to $2.5 million for a 3,000-square-foot unit on the top floor with a roof-deck view of the Potomac River. Monument also plans to put in a restaurant and refurbish the fitness center at the complex.

Construction would start in September and the units would open early next year.

The Watergate project comes as some real estate experts caution that the market for such high-rise residential units will slow. A glut of other projects is coming on line now and more are being planned. There are an estimated 8,300 condo units expected to be built in the next two years in the Washington metropolitan area, according to Alexandria-based research firm Delta Associates.

"We're testing the depth of the market," said Gregory H. Leisch, chief executive of Delta. "We remain optimistic that so far the pipeline of product is still appropriate to the level of demand."

Michael Darby, a principal of Monument, also is optimistic. "In D.C. there haven't been many high-end residential units," he said.

The Watergate, with views overlooking the Potomac, is part of a complex that includes three residential cooperative apartment buildings, two office buildings and some upscale shops. The complex was built in the late 1960s and early 1970s and became part of history after the 1972 break-in at Democratic Party headquarters there led to President Richard M. Nixon's resignation.

Monument had looked at buying the Watergate from its owner, Blackstone Real Estate Advisors, a New York investment group, in May 2003. The deal fell apart barely a month later. "When we first looked at the deal, the economics didn't work because of the purchase price and the work we'd have to do because the building is 40 years old," said Michael Darby, a principal of D.C.-based Monument Realty. "The costs turned out to be more than we initially thought."

Darby said he started renegotiating with the seller again this year. He would not disclose the purchase price and Blackstone did not return repeated phone calls. As part of the new deal, Monument said it would buy the hotel if the D.C. Zoning Commission approved its plans. The commission is expected to hear the case Thursday.

Monument's plans have been met with opposition from some of the co-op owners who live in the three residential buildings of the Watergate complex. The residents have complained that they do not want more traffic in the area, and some worry that the condo units would be bought by parents of students at George Washington University. They pressured Darby into making the units co-op units instead of condo units.

The owner of a co-op owns shares in the corporation that owns the building, while a condo owner actually owns the unit.

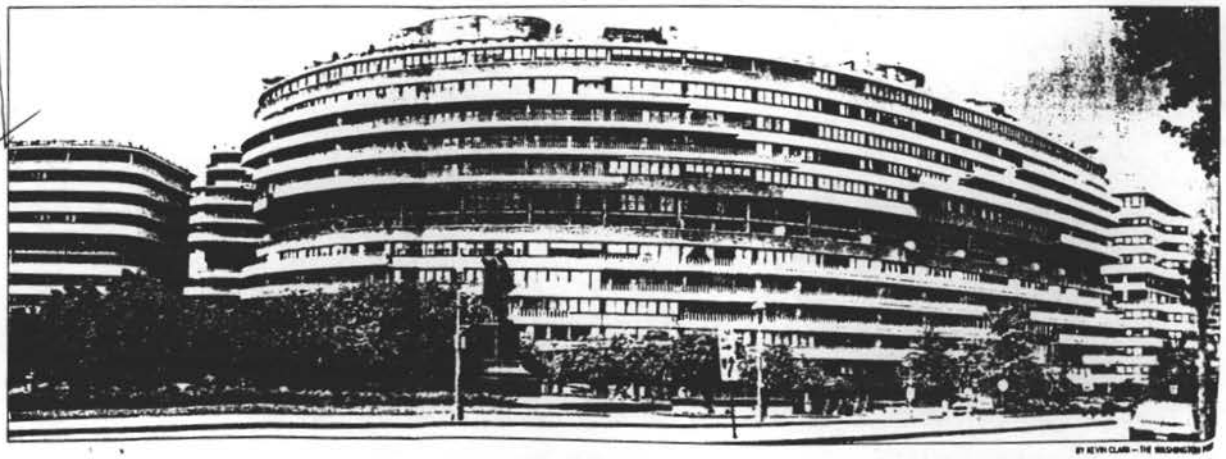
Delta's Leisch cautioned that co-op buildings are often tougher to sell than condos in the District. "It's just the way our market here works," he said.

"If it's well-priced and properly designed, I don't see why it wouldn't be a success," he said of the Watergate project. Monument's project is expected to attract empty nesters looking for an urban lifestyle.

Another issue in Monument's deal has been that the hotel's ballroom and underground parking garage were not part of the hotel purchase. They are owned separately by the owners of one of the residential buildings, Watergate East. Darby would likely need those areas to convert to parking spaces for his co-op buyers. But co-op members voted Thursday night to reject Darby's offer of $4.25 million, according to a letter Friday from the Watergate East Board of Directors.

Closings

Rockville-based Gingery Development Group and the Tower Companies of Bethesda plan to spend about $14 million to develop a speculative, 200,000-square-foot flex-warehouse complex at Route 301 just south of Route 50 in Upper Marlboro's Collington Center. "We typically build spec and it gets leased up," said Gingery owner Monte Gingery. Upper Marlboro has a 5.2 percent vacancy rate for its flex space, according to CoStar Group Inc. Construction is to begin in the spring and the building would be completed by the end of the year. . . . Blake Real Estate said it signed six leases for a total of about 50,000 square feet in its 12-story building at 1425 K St. NW. The new tenants include the government affairs offices of 3M Co. and Caterpillar Inc., and Kearns & West Inc., a public affairs firm. The building, which was completed in the summer of 2002, is now 85 percent leased, Blake executives said.



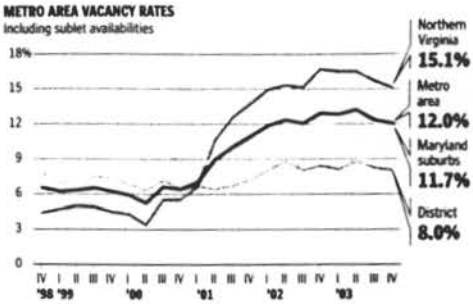
BY KEVIN CLARK—THE WASHINGTON POST

The Watergate is part of a complex that includes three residential co-op apartment buildings.

The CoStar Office Market Watch

A weekly look at a submarket of the local commercial real estate sector.

METRO AREA VACANCY RATES
Including sublet availabilities



OFFICE MARKET INDICATORS

As of Dec. 31	District	Northern Virginia	Maryland suburbs	Metro area
Direct space available immediately*	7.60	19.98	8.34	35.90
Sublet space available immediately*	1.61	4.33	1.76	7.69
Total existing rentable space*	115.03	161.43	86.05	362.51
Space under construction (in millions)	5.86	5.01	1.45	12.32
Average asking rents (full service) (Annual dollars per square foot; direct space only)	$39.85	$24.80	$24.43	$28.81
Total net absorption, 4th qtr. 2003	964,827	1,980,000	420,686	3,360,000
Total 2003 net absorption	1,593,370	4,042,925	789,937	6,426,232

* In millions of square feet. Does not include flexible space; space under construction does not include properties under renovation.
Net absorption statistics include sublet absorption

■ **The complete CoStar Office Market Watch will return next week**

SOURCE: CoStar Group Inc

THE WASHINGTON POST

ZONING REGULATIONS

of the

DISTRICT OF COLUMBIA

EFFECTIVE MAY 12, 1958

(1973 Reprint)

conditions; and,

7404.33 Any adverse effect the requested waiver or modification of standards may have on adjacent residential property.

7404.4 The Board may require such special treatment of the premises as it shall deem necessary to protect the value of adjacent property.

ARTICLE 75

MISCELLANEOUS PROVISIONS

Section 7501—Planned Unit Developments for Residential Complexes, Shopping Centers, Industrial Parks, Institutions, and Urban Renewal Projects

7501.1 PURPOSES OF PLANNED UNIT DEVELOPMENT—The purpose of this section is to encourage, in the various zoning *districts* in keeping with the intent and purpose of each district, the development of well-planned residential, institutional and commercial developments, industrial parks, urban renewal projects or a combination thereof, which will offer a variety of building types with more attractive and efficient overall planning and design without sacrificing creative and imaginative planning.

The procedures and standards established herein are intended to permit, with Zoning Commission approval, diversification in the use, size, type, and location of *buildings* and *structures*, and to improve circulation and site facilities while at the same time insuring adequate standards relating to public health, safety, welfare and convenience in the use and occupancy of *buildings*, *structures*, and other facilities, in planned *building* groups consistent with the spirit, intent and purpose of the Zoning Regulations.

While providing for flexibility in design, a *planned unit development* (including *sectional development plan*) should not be used to circumvent the intent and purpose of the general provisions of the Zoning Regulations. Increases in *building height* and density are permitted as an incentive to allow flexibility of development; however, such increases should not be granted when (a) a conflict with the development plans and policies of the District of Columbia; (b) they do not enhance the neighborhood; or (c) they do not provide future occupants of *planned unit developments* with a living and /or working environment and amenities superior to those which can be achieved by applying the general provisions of the Zoning Regulations.

7501.2 PROCEDURE FOR FILING APPLICATIONS AND MINIMUM STANDARDS FOR DEVELOPMENT—Each application for a *planned unit depelopment* shall be filed in the office of the Zoning Commission and shall meet the requirements of this subsection before it can be accepted. An application for a *planned unit development* or a *sectional development plan* may be filed in conjunction with a change in zoning for the property involved. The Zoning Commission in its initial approval under Section 7501.38 shall specify the zoning classification which properly should apply to the property. The new zoning classification shall be adopted only upon completion of the Article 75 process and upon filing with the District of Columbia a covenant insuring compliance with submitted plans; except as provided in paragraph 7501.394.

7501.21 Application for a *planned unit development* may include property of one or more owners, provided the owners of all land involved shall agree to follow the plan if approved. The owner or owners may be either public or private or both provided, however, a *sectional development plan* need not require the consent of all property owners.

7501.22 The names and addresses of all owners of property included in the area to be developed shall be designated and listed in the application filed.

7501.23 Each application shall certify that the minimum area of land included within the project is at least three acres except as modified in subparagraphs a and b of this paragraph.

a. In an R-5-D, SP, C-2-B, C-3-B, C-4, or C-M-3 District, or when not less than 75 percent of the project area is in one or more such *districts* the area required may be reduced to not less than one acre.
b. That, in any case where the area to be included is within an area for which a *sectional development plan* has been adopted such *lot* or *lots* may be developed on an individual basis, regardless of size, if the improvements conform to the provisions of the *sectional development plan* within such area as determined by the Zoning Commission in accordance with the requirements of subsection 7501.39.
c. When the Zoning Commission with the concurrence of the National Capital Planning Commission and after public hearing finds that a preliminary application for a *planned unit development* is of exceptional merit and in the best interest of the city or the country, then the Zoning Commission may approve said *planned unit developement* in accordance with the requirements and procedures of this section even though the application does not meet with the area requirements of this subsection.
d. The project may be situated in a single tract, or may be located in all or part of one or more contiguous *squares* including the area of any *street* or *alley* within the *planned unit development* or bounding the development which is proposed to be closed.

7501.24 The following subparagraphs contain standards for *planned unit developments*. These standards represent the maximum relaxation of the standards in the Zoning Regulations for the *district* in which a *planned unit development* is to be located. For any *planned unit development*, the Zoning Commission may, in its discretion, establish more stringent standards than those set forth herein. An application for a *planned unit development* shall not be approved if, in the judgment of the Zoning Commission, a primary purpose of the application is to circumvent the standards of the Zoning Regulations for the *districts* in which the *planned unit development* is to be located. (7-1-69)

Government of the District of Columbia

ZONING COMMISSION

ZONING COMMISSION ORDER NO. 601
Case No. 88-24M/77-16F
(PUD Modification - Rafferty)
January 9, 1989

Pursuant to notice, a public hearing of the Zoning Commission for the District of Columbia was held on November 3 and 17, 1988, to consider the application of Angene G. Rafferty for modification to the architectural plans of a previously approved Planned Unit Development (PUD), pursuant to Chapter 24 of the District of Columbia Municipal Regulations (DCMR), Title 11, Zoning. The public hearing was conducted in accordance with the provisions of Section 3022 of that title.

FINDINGS OF FACT

1. On September 2, 1988, the Zoning Commission for the District of Columbia received an application from Angene G. Rafferty to modify the architectural plans of a previously approved PUD at 48th Place and Fordham Road, N.W. near Massachusetts Avenue. The applicant lives at 4730 Massachusetts Avenue, N.W.

2. By Z.C. Order No. 195 dated December 8, 1977, the Zoning Commission granted final approval for a Planned Unit Development (PUD) and related map amendment from R-1-B to R-4. The PUD site contains 3.52 acres of land, and is located on the west side of Massachusetts Avenue, N.W. with frontage of 48th Place between Fordham Road and Van Ness Street, N.W; (Square 1530, Lots 800 and 801 and Square 1501, Lot 800). The PUD approval was for the construction of a maximum of 35 single-family detached, semi-detached or row dwellings.

3. The applicant lives in a row dwelling unit. She proposed to construct a two-story rear addition with a garage, bedroom and bath and a deck. The proposed addition would be two and one-half stories high and would cover some of the unpaved portion of the rear of her lot.

4. The applicant explained that her husband and she filed

for a building permit for the proposed addition in February 1988 and was subsequently issued a permit to build. On June 21, 1988, after the construction of footings and the foundation for the addition had begun, the District Government issued a stop work order. The stop work order was issued when District officials discovered that the permit had been erroneously issued because the Rafferty property was part of an approved PUD.

5. A PUD Covenant, also known as an Article 75 Covenant, was entered into between W.G. & A.N. Miller Development Company, the developer of the site, and the District of Columbia on June 23, 1976 and recorded among the land records of the District on or about September 5, 1978 as Instrument No. 30583 and as revised by Instrument No. 41102, recorded on or about November 20, 1978. Pursuant to the covenant, the property owners (and their successors and assigns) may use the subject property "only in accordance with the plan submitted and approved by the Zoning Commission and by the Board of Zoning Adjustment..." The covenant states, "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 benefits of the parties hereto, their successors and assigns." More specifically, the terms, conditions and agreements of the covenants as set forth in the applicable Zoning Commission and BZA Orders "shall continue as covenants running with the land and binding upon owner [sic], its successors and assigns..."

6. The applicant contends that her proposed addition does not significantly impact the light or air flowing to any adjacent property. However, to accommodate the concerns of the neighbors to the immediate south (the Sampertons), the applicant proposed to forego constructing the deck in an attempt to demonstrate good faith.

7. The applicant contends that, by eliminating the deck, the proposed addition will maintain the level of privacy enjoyed by adjacent residents.

8. The applicant contends that her $33,000 construction costs and the substantial amount in legal fees, coupled with the unique circumstances of her situation and the limited remaining floor area ratio (FAR) and lot coverage, distinguish this case from possible further development in or around the PUD.

9. The applicant contends that sufficient FAR and lot area coverage exist to support the proposed addition.

10. The District of Columbia Office of Planning (OP), by memorandum dated October 28, 1988 and by testimony presented at the public hearing, recommended that the application be denied. OP found that the proposed two-story rear addition would violate the spirit and intent of the approved PUD and would create adverse impacts on neighboring properties. OP stated that the addition would reduce the desirability of the use of neighboring rear yards for recreational purposes and would impact on the light and air of neighboring properties. OP further stated that the proposed addition would considerably reduce the level of privacy enjoyed by abutting property owners and would disrupt the continuity of the PUD site altering the feeling of open space shared among the residents of the 35 dwelling units.

11. Advisory Neighborhood Commission (ANC)-3D, by report dated October 20, 1988 and by testimony presented at the public hearing, recommended that the Zoning Commission deny the application to modify the PUD. The ANC indicated that the applicant's proposed rear addition would destroy the architectural integrity of the court configuration of the PUD, would invade the privacy and quiet enjoyment of adjacent neighbors, and would block sunlight from open space.

12. The District of Columbia Office on Aging, by memorandum dated September 1, 1988, recommended approval of the application based on medical problems experienced by Mr. and Mrs. Rafferty.

13. There were no parties in support of the application.

14. Two persons wrote in support of the application.

15. The applicant submitted letters from residents of 16 of the 46 units within 200 feet stating that they had reviewed the drawings, had no objection to the addition, and favored allowing the work to resume.

16. Kimberly and Kyle Samperton, owners and residents at 4728 Massachusetts Avenue, N.W. were admitted as party opponents in the case. The Sampertons live next door to the Raffertys. The Sampertons opposed the application for the following reasons:

    a. The Article 75 Covenant prohibits the proposed modifications;

    b. The Rafferty proposal violates the spirit and

intent of the PUD process which in this case required lengthy negotiations with the community at the time that the PUD was approved;

c. Approval of the application would set a negative precedent enabling others within the PUD to apply for modifications to the detriment of others in the PUD;

d. The proposed modification is inconsistent with the character of the area and would not encourage stability of the area or of land values;

e. The negative social impacts of the proposal, including reductions in privacy and open space;

f. The negative environmental impact resulting from obstructed air flow and reduced afternoon sunlight; and

g. Concern about the overall quality of life within the PUD.

17. Several persons who are homeowners in the PUD testified at the hearing in opposition stating their concerns regarding the negative residential value of the proposed modification, the unfair benefit that one property owner would receive to the detriment of others if the modification was approved, and concerns about open space, privacy, light, and air flow.

18. By memorandum dated November 28, 1988, OP stated that there are no easements encumbering the cluster (bounded by Fordham Road, Massachusetts Avenue, Van Ness and 48th Streets, N.W.) in which the applicant's home is located.

19. The Zoning Commission concurs with the views expressed by the Office of Planning, ANC-3D, the Sampertons and the persons in opposition to the proposed modification.

20. The Zoning Commission finds that approval of the applicant's proposed PUD modification would result in a significant reduction in the open space quality of the PUD site, would have a negative effect on privacy and would reduce the light and air of adjacent property owners.

21. The Zoning Commission finds that the concerns and testimony of the ANC, and the concerns of others with respect to the negative residential value of approving the proposed modification and the integrity of the PUD process are with merit.

CONCLUSIONS OF LAW

1. The subject application is being processed as a modification to a previously approved PUD.

2. The PUD process is an appropriate means of controlling development of the subject site, since control of the use and site plan is essential to insure compatibility with the neighborhood. Approval of this proposed modification would be inconsistent with the Article 75 Covenant recorded more than ten years ago in this case.

3. Approval of the application would not further the general public welfare nor serve to stabilize or improve the area. Approval of the proposed modification would have an adverse impact on the surrounding community and will not promote orderly development with the entirety of the District of Columbia Zone Plan as embodied in the Zoning Regulations and Map of the District of Columbia.

4. Approval of the modification would be inconsistent with the spirit and intent of Zoning Commission Order No. 195.

5. The proposed modification would not carry out the purposes of the PUD process, as set forth in the Zoning Regulations.

6. The Zoning Commission has accorded Advisory Neighborhood Commission-3D the "great weight" to which it is entitled.

DECISION

In consideration of the Findings of Fact and Conclusions of Law set forth herein, the Zoning Commission for the District of Columbia hereby orders DENIAL of the application in Case No. 88-24M/77-16F, which requested a modification to the Zoning Commission Order No. 195.

Vote of the Zoning Commission taken at the public meeting held on December 12, 1988: 3-0 (John G. Parsons, Lindsley Williams and Maybelle Taylor Bennett, to deny; Lloyd D. Smith and Elliott Carroll, not voting not having participated in the case).

This order was adopted by the Zoning Commission at the public meeting held on January 9, 1989, by a vote of 4-0 (Lindsley Williams and Maybelle Taylor Bennett, to adopt as amended and Elliott Carroll and John G. Parsons, to adopt by absentee vote - Lloyd D. Smith, not voting not having participated in the case).

In accordance with 11 DCMR, Section 3028, this order is final and effective upon publication in the D.C. Register; that is on 10 FEB 1989.

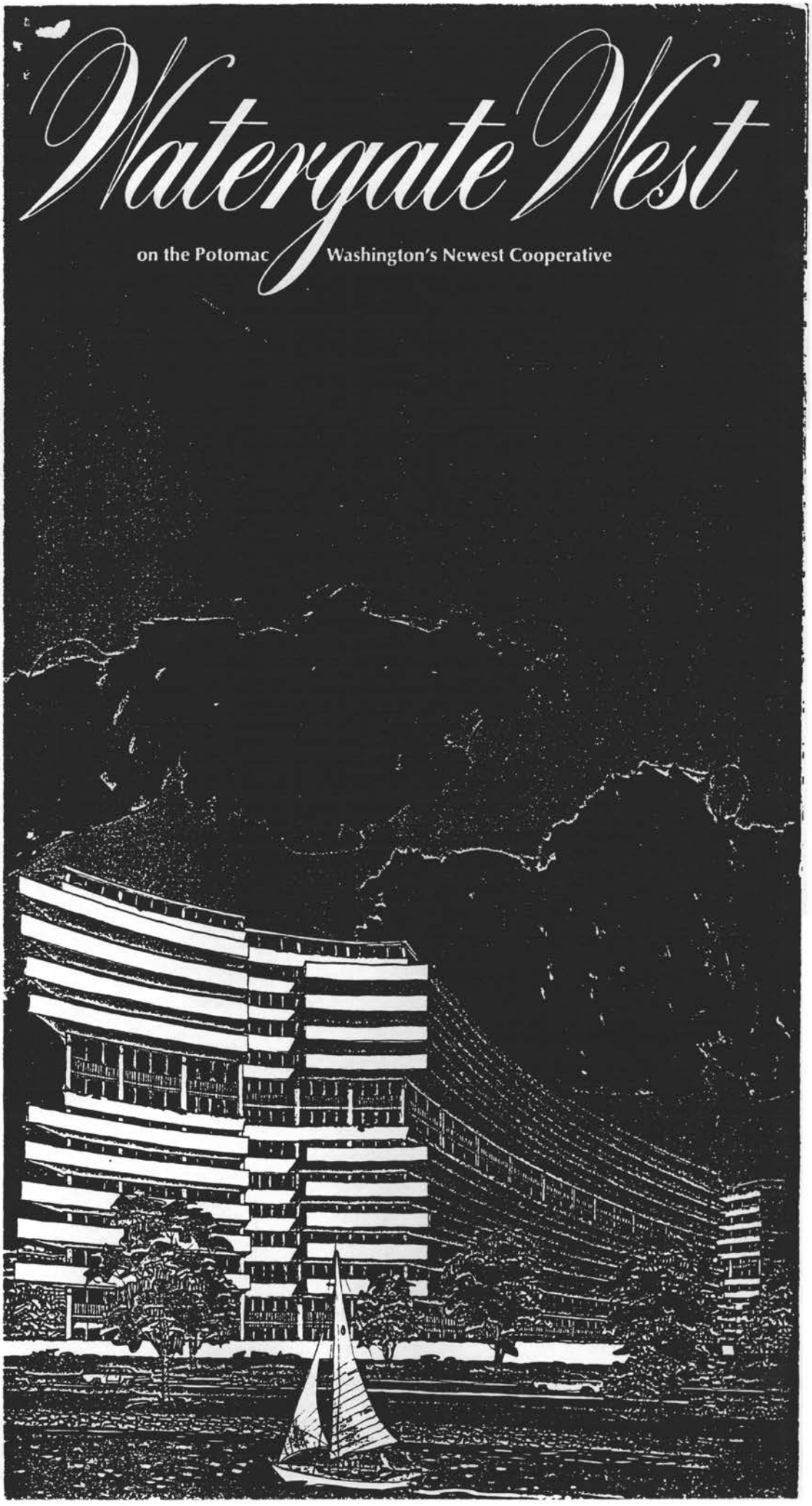
MAYBELLE TAYLOR BENNETT
Chairperson
Zoning Commission

EDWARD L. CURRY
Executive Director
Zoning Secretariat

zcorder601/EB42

Watergate West

on the Potomac Washington's Newest Cooperative



Since Watergate West caters to the individual, you have a large choice of living arrangements: 143 high-ceilinged apartments with 29 different floor plans. Sound barrier walls and floors between apartments, electric door chimes and an advanced year-round air-conditioning system which provides (in addition to individual room temperature control) a dehumidifying system for summer comfort and built-in humidifiers in all bedrooms for winter comfort. Every typical floor has a laundry room (except the townhouses and penthouses where each apartment has its own facilities); every resident has a private storage area.

Some Watergate West apartments have wood-burning fireplaces, wet bars, private rooftop gardens, landscaped patios, intercom systems, servant quarters and a variety of luxury features. Most have balconies. Balcony apartments have floor-to-ceiling windows, with access to balcony from each room. TV antenna and telephone outlets are abundant and conveniently located, and apartments are pre-wired for telephone intercom. Foyers have marble floors and dining rooms have dimmer switches to complement the elegant atmosphere of your urban home.

KITCHENS: Frost-free refrigerator-freezers (16 to 22 cu. ft.) with automatic ice-makers. Oversize gas wall ovens, deluxe surface burners, dishwashers, waste disposers, furniture-finished wood cabinets. Vinyl covered walls and ceilings. Some kitchens have washer-dryer combinations.

BATHROOMS: Most apartments feature a spacious, marble floored compartmented master bath with bidet, tub and separate shower stall. All powder rooms have marble floors, elegant golden faucets and accessories, spacious vanity and medicine cabinets, and "silent" equipment. Marble vanity tops, full wall mirrors, and vinyl covered walls are standard in Watergate West.

Co-op Ownership

You enjoy the benefits of home ownership without the disadvantages of grass cutting, snow shoveling, exterior painting and other maintenance problems. You may earn significant tax deductions* and enjoy the capital gains benefits of appreciation in value.

A 10% deposit reserves your apartment. Another 30% (approximately) is due at the time of closing; the balance over 30 years at 6% interest. Monthly payments include principal, interest, land rent, taxes and insurance, operating costs, all utilities—everything except telephone and optional garage.

**Section 216 of the Internal Revenue Code allows certain income tax deductions to "tenant-stockholders" of cooperative apartment house corporations. The Cooperative has been advised that a tenant-stockholder entitled to occupancy should be entitled to deduct from his gross income for federal income tax purposes his proportionate share of the interest with respect to the mortgage indebtedness and of the real estate taxes on the building paid by the Cooperative, in each year in which 80% of the gross income of the Cooperative is derived from qualified tenant-stockholders. When the Cooperative has qualified as such for federal income tax purposes, approximately 45% of the monthly payments will initially represent taxes and interest paid by the Cooperative and are payments of the kind normally deductible by members for federal income tax purposes. The exact amount of the actual tax savings to each individual will depend upon the amount allowable by the Internal Revenue Service and will further depend upon the tenant-stockholder's own income tax bracket. The Cooperative, the Sponsor and the Sales Agent can make no warranties or representations that the Internal Revenue Service will allow the deductions, and shall not be liable if, for any reason, it is held that the Cooperative does not meet, or at any future date ceases to meet, the requirements of Section 216 or any amendments thereof.*

At Watergate, Everything's Easier

Shopping is easier. You can walk to your modern Watergate shopping mall, complete with supermarket, drugstore, barber and beauty shops, a wine and liquor store, valet, pastry shop book shop, gift and accessory shops, even a post office.

Keeping fit is easier. Walk through seven landscaped acres of trees, fountains, lawns. Swim in the magnificent outdoor pool. Tone up at the membership health club in the adjoining Watergate hotel. The health club has solariums both indoors and out, sauna, gymnasium and year-round pool. For your relaxation, Watergate West has a rooftop sundeck and a convenient party room.

Dining out—and dining well—is easiest of all; the hotel restaurant is definitely four-star. Plenty of underground parking for residents and their guests. The adjoining hotel (The Watergate), where you'll find the restaurant and the health club, is available for your out-of-town guests.



Close to Every Place That Matters

You're eight blocks from the White House, two blocks from the State Department, across the street from the Kennedy Center for the Performing Arts. You can walk to Georgetown. Cab downtown in 5 minutes. Watergate has taxi and R-6 bus service; a proposed subway station is within two blocks. Three major expressways are nearby. Washington National Airport is 10 minutes and one traffic light away.

Watergate Complex

A City Within a City

Watergate - a ten-acre city within one of the world's greatest cities - was designed to be a complete environment in which people could live, work and shop. It boasts its own hotel, health club and four swimming pools, and Watergate's proximity to the renowned Kennedy Center for the Performing Arts brings a myriad of cultural events to its doorstep.

Watergate is located within minutes of the White House, the Capitol, National Airport, and it is within two short blocks from the city's convenient metro system, which provides quick and easy reach to government, business and financial centers, and beyond.

Located on the banks of the Potomac River overlooking Roosevelt Island and Virginia beyond, ***Watergate's*** ten acres of graceful architecture and abundant landscaping are unique to any city. Its seven acres of gardens, tri-level park, fountains, promenades and open-air shopping mall incorporate Roman architect Luigi Moretti's concept of bringing the country to the city, creating a natural flow from its singular style to the expansive banks of the Potomac River. To complete the "city within a city," all of ***Watergate's***

buildings and amenities are easily accessible to each other by means of carefully planned walkways, both above ground and below ground on all parking levels.

Watergate is comprised of three luxury residential buildings with over 600 apartments, penthouses and townhouses; a first-class luxury hotel with 240 suites; a health club; and two exclusive office buildings, Watergate 600 and Watergate 2600. A convenient shopping mall provides necessities such as a post office, drug store, supermarket, as well as high-fashion designer boutiques. ***Watergate*** is also the setting for several renowned restaurants, including Dominiques and Jeffreys, offering a range of cuisines to tempt the most discerning palate.

Watergate offers first class conveniencees, amenities, and location

- 24-hour reception desk and answering services
- State-of-the-art security
- Garden and outdoor pool
- Hotel and Health Club with indoor pool
- Cable television
- Catering service to your apartment
- Post Office, Banks, Safeway and CVS Drugstore
- Watergate Pastry, florist, Watergate Salon and more!
- Laundry and valet services
- Retail shops and boutiques such as Valentino & Yves St. Laurent
- Underground access to any part of the complex, public parking available
- Just across the street from the Kennedy Center
- Close to Foggy Bottom metro station
- Easy stroll to Georgetown and Washington Harbour
- Fine restaurants, including Jeffreys, on the premises
- Medical and Dental offices
- Short drive to National Airport

AFFIDAVIT OF
LEWEY GILSTRAP

Being duly first sworn under oath, deponent deposes and says:

1. My name is Lewey Gilstrap and I am a citizen of the United States of America over 21 years of age of sound mind and body.

2. I am currently Secretary of Watergate West, Inc., a cooperative in the Watergate PUD Complex.

3. At the request of the V.P. of the Board, Pauline Newman, I reviewed the sales records of the cooperative from March 25, 2002 to March 29, 2004, which coincides with our fiscal year annual meetings, and found the following based on the application forms executed by new residents:

1. There were thirteen (13) sales of units in Watergate West;

2. Six (6) sales were sales to persons who were already D.C. residents.

Seven (7) sales were to persons who were not D.C. residents.

Further affiant sayeth not.

Lewey Gilstrap
Lewey Gilstrap

Washington
District of Columbia, ss:

Subscribed to and sworn before me this 27 day of April, 2004.

Joan M. Man
Notary Public, D.C.

My commission expires: April 30, 2004

Table 2. Income before taxes: Average annual expenditures and characteristics, Consumer Expenditure Survey, 2002

Item	Complete reporting of income [1]									
	Total complete reporting	Less than $5,000	$5,000 to $9,999	$10,000 to $14,999	$15,000 to $19,999	$20,000 to $29,999	$30,000 to $39,999	$40,000 to $49,999	$50,000 to $69,999	$70,000 and over
Number of consumer units (in thousands)	92,388	3,882	7,051	8,007	7,068	12,312	10,727	8,873	13,521	20,947
Consumer unit characteristics:										
Income before taxes [2]	$49,430	$1,613	$7,725	$12,426	$17,328	$24,495	$34,423	$44,443	$58,933	$115,629
Income after taxes [2]	46,934	1,616	7,722	12,429	17,282	24,020	33,591	42,509	56,349	107,827
Age of reference person	48.1	38.9	51.1	55.9	53.0	50.4	47.7	46.4	45.3	45.4
Average number in consumer unit:										
Persons	2.5	1.7	1.7	1.8	2.1	2.3	2.5	2.6	2.8	3.1
Children under 18	.7	.4	.4	.4	.5	.6	.6	.7	.8	.9
Persons 65 and over	.3	.2	.4	.5	.5	.5	.3	.2	.2	.1
Earners	1.4	.9	.6	.7	.9	1.0	1.3	1.5	1.8	2.0
Vehicles	2.0	1.0	.9	1.2	1.4	1.6	2.0	2.1	2.5	2.9
Percent distribution:										
Sex of reference person:										
Male	51	42	33	34	41	49	53	54	59	63
Female	49	58	67	66	59	51	47	46	41	37
Housing tenure:										
Homeowner	66	30	39	51	54	58	64	69	78	88
With mortgage	40	13	11	12	16	26	36	47	57	72
Without mortgage	25	18	28	39	38	32	27	23	20	16
Renter	34	70	61	49	46	42	36	31	22	12
Race of reference person:										
Black	11	14	19	16	16	13	11	11	9	6
White and other	89	86	81	84	84	87	89	89	91	94
Education of reference person:										
Elementary (1-8)	6	9	14	14	12	9	4	4	2	1
High school (9-12)	37	33	50	51	48	46	43	36	33	20
College	56	58	35	35	39	45	52	59	66	79
Never attended and other	[3]	[3]	[3]	[3]	1	[3]	[3]	[3]	[3]	[3]
At least one vehicle owned or leased	88	61	59	74	85	89	94	96	98	98
Average annual expenditures	$42,557	$19,699	$16,488	$20,918	$25,015	$28,836	$35,095	$41,787	$50,406	$76,627
Food	5,612	3,485	2,865	3,238	3,768	4,349	4,881	5,502	6,548	8,874
Food at home	3,217	2,206	1,838	2,317	2,483	2,768	3,006	3,241	3,555	4,524
Cereals and bakery products	471	321	272	347	383	403	431	454	519	666
Cereals and cereal products	161	133	102	120	135	140	147	156	174	219
Bakery products	310	189	170	226	247	264	284	298	345	447
Meats, poultry, fish, and eggs	815	612	478	640	615	729	782	807	896	1,099
Beef	238	171	135	175	175	213	251	220	263	325
Pork	172	139	119	138	146	165	164	168	191	210
Other meats	103	68	60	93	88	95	87	103	115	136
Poultry	146	113	72	112	105	130	137	155	163	200
Fish and seafood	121	92	68	91	72	89	108	126	127	188
Eggs	35	29	23	31	31	36	34	35	36	40
Dairy products	345	227	215	233	275	294	315	371	377	481
Fresh milk and cream	134	95	88	101	118	129	127	136	145	171
Other dairy products	210	132	127	133	157	164	189	235	232	309
Fruits and vegetables	568	386	311	418	447	502	527	559	612	807
Fresh fruits	181	126	100	129	139	161	168	176	184	264
Fresh vegetables	181	122	96	134	140	166	164	175	200	256
Processed fruits	119	84	63	90	93	104	112	114	131	170
Processed vegetables	87	53	52	65	76	72	84	93	97	117

See footnotes at end of table.

Table 2. Income before taxes: Average annual expenditures and characteristics, Consumer Expenditure Survey, 2002 — Continued

Item	Complete reporting of income [1]									
	Total complete reporting	Less than $5,000	$5,000 to $9,999	$10,000 to $14,999	$15,000 to $19,999	$20,000 to $29,999	$30,000 to $39,999	$40,000 to $49,999	$50,000 to $69,999	$70,000 and over
Other food at home	$1,018	$660	$562	$678	$762	$840	$951	$1,050	$1,151	$1,471
Sugar and other sweets	125	82	69	99	93	105	117	134	132	179
Fats and oils	88	67	54	70	71	83	82	84	100	113
Miscellaneous foods	495	292	271	309	373	403	456	522	571	719
Nonalcoholic beverages	266	199	153	179	210	220	254	269	302	373
Food prepared by consumer unit on out-of-town trips	44	20	15	21	15	30	42	41	45	87
Food away from home	2,395	1,278	1,027	922	1,286	1,581	1,875	2,261	2,994	4,350
Alcoholic beverages	415	197	174	155	192	275	346	433	453	780
Housing	13,481	6,776	6,073	7,100	8,540	9,595	11,240	13,159	15,276	23,695
Shelter	7,854	4,124	3,536	4,066	4,954	5,368	6,451	7,671	8,581	14,212
Owned dwellings	5,148	1,506	1,164	1,588	2,165	2,511	3,547	4,720	6,047	11,502
Mortgage interest and charges	2,947	817	433	513	724	1,167	1,841	2,728	3,641	7,125
Property taxes	1,209	422	393	589	728	690	846	1,030	1,335	2,515
Maintenance, repairs, insurance, other expenses	992	267	339	486	713	654	860	962	1,070	1,862
Rented dwellings	2,197	2,181	2,202	2,305	2,583	2,640	2,601	2,604	2,082	1,461
Other lodging	509	437	169	173	206	217	304	346	452	1,249
Utilities, fuels, and public services	2,683	1,451	1,558	1,889	2,068	2,316	2,526	2,749	3,126	3,782
Natural gas	323	158	164	221	237	279	319	340	342	485
Electricity	973	533	638	727	823	883	931	999	1,130	1,273
Fuel oil and other fuels	90	51	55	87	91	83	84	71	93	122
Telephone services	968	572	542	630	666	800	899	999	1,169	1,405
Water and other public services	329	137	160	225	252	271	293	339	392	497
Household operations	736	188	201	304	314	477	575	688	753	1,571
Personal services	352	69	44	126	104	228	306	340	359	775
Other household expenses	384	119	157	178	210	249	270	348	394	796
Housekeeping supplies	606	377	284	294	411	432	490	523	1,046	847
Laundry and cleaning supplies	140	105	92	87	124	129	127	134	165	186
Other household products	322	154	133	136	189	192	240	242	697	441
Postage and stationery	144	118	58	71	99	111	122	147	184	220
Household furnishings and equipment	1,602	636	494	547	792	1,001	1,198	1,529	1,770	3,283
Household textiles	144	60	51	43	102	130	115	144	135	268
Furniture	399	83	116	95	143	240	261	343	425	928
Floor coverings	42	20	5	16	37	23	25	16	35	107
Major appliances	199	65	66	112	96	112	147	204	241	383
Small appliances, miscellaneous housewares	108	60	35	45	61	81	102	122	105	194
Miscellaneous household equipment	708	350	222	237	353	415	547	699	829	1,403
Apparel and services	1,872	1,349	713	994	1,131	1,176	1,497	1,692	2,043	3,469
Men and boys	436	227	167	186	244	236	361	387	453	880
Men, 16 and over	342	159	138	119	159	182	288	312	349	709
Boys, 2 to 15	94	68	28	67	85	54	73	75	103	171
Women and girls	757	614	312	487	445	501	573	673	809	1,368
Women, 16 and over	628	580	278	419	343	414	473	529	660	1,141
Girls, 2 to 15	129	34	35	68	102	88	100	144	149	227
Children under 2	88	42	21	39	58	63	99	96	94	147
Footwear	338	353	111	175	241	199	296	304	426	562
Other apparel products and services	252	114	102	107	142	177	167	232	261	512
Transportation	7,984	2,975	2,591	3,951	4,752	5,275	7,041	8,651	10,555	13,487
Vehicle purchases (net outlay)	3,778	1,253	1,153	2,053	2,416	2,323	3,343	4,292	5,191	6,198
Cars and trucks, new	1,767	[4]422	347	687	1,141	762	1,446	2,054	2,264	3,433
Cars and trucks, used	1,939	831	806	1,342	1,275	1,525	1,860	2,174	2,811	2,601
Other vehicles	72	([5])	([3])	[4]23	([5])	[4]37	[4]37	[4]64	[4]116	164
Gasoline and motor oil	1,252	604	499	649	796	987	1,261	1,289	1,592	1,927

See footnotes at end of table.

Table 2. Income before taxes: Average annual expenditures and characteristics, Consumer Expenditure Survey, 2002 — Continued

Item	Complete reporting of income [1]									
	Total complete reporting	Less than $5,000	$5,000 to $9,999	$10,000 to $14,999	$15,000 to $19,999	$20,000 to $29,999	$30,000 to $39,999	$40,000 to $49,999	$50,000 to $69,999	$70,000 and over
Other vehicle expenses	$2,550	$934	$781	$1,085	$1,365	$1,734	$2,172	$2,688	$3,302	$4,527
Vehicle finance charges	403	87	89	125	159	226	372	452	593	734
Maintenance and repairs	732	334	277	337	440	571	614	759	918	1,228
Vehicle insurance	920	333	319	461	586	707	877	1,024	1,160	1,465
Vehicle rental, leases, licenses, other charges	494	180	96	162	180	229	310	453	631	1,099
Public transportation	404	183	158	165	176	231	264	382	471	834
Health care	2,410	1,060	1,139	1,854	2,118	2,289	2,379	2,598	2,672	3,230
Health insurance	1,185	493	612	927	1,122	1,109	1,180	1,276	1,313	1,550
Medical services	605	236	177	310	370	455	590	716	734	974
Drugs	508	267	301	500	544	629	506	495	502	549
Medical supplies	112	64	49	117	82	95	103	112	124	157
Entertainment	2,167	867	721	859	1,002	1,187	1,561	1,924	2,641	4,457
Fees and admissions	562	257	151	175	210	233	303	477	592	1,364
Television, radios, sound equipment	710	373	348	423	442	532	651	740	876	1,110
Pets, toys, and playground equipment	397	154	117	150	236	249	319	413	552	701
Other entertainment supplies, equipment, and services	498	84	105	111	114	173	289	294	620	1,282
Personal care products and services	562	300	252	351	386	432	464	551	655	915
Reading	145	61	58	86	83	106	109	140	170	262
Education	771	1,394	552	377	448	311	388	536	619	1,653
Tobacco products and smoking supplies	334	191	244	249	298	364	390	401	422	302
Miscellaneous	846	391	318	407	501	675	808	778	1,035	1,417
Cash contributions	1,366	350	437	507	800	981	1,093	1,182	1,560	2,704
Personal insurance and pensions	4,593	302	350	790	995	1,822	2,898	4,239	5,756	11,382
Life and other personal insurance	425	125	134	213	211	259	324	385	469	867
Pensions and Social Security	4,169	177	216	577	784	1,563	2,574	3,854	5,287	10,515
Sources of income and personal taxes: [2]										
Money income before taxes	49,430	1,613	7,725	12,426	17,328	24,495	34,423	44,443	58,933	115,629
Wages and salaries	39,864	1,467	2,306	4,203	8,314	14,998	25,496	35,788	50,586	100,680
Self-employment income	2,237	-1,053	122	263	421	569	900	1,527	1,805	7,171
Social Security, private and government retirement	5,234	609	3,492	6,342	6,881	7,281	6,398	5,462	4,923	4,003
Interest, dividends, rental income, other property income	924	-44	88	198	271	482	679	853	737	2,420
Unemployment and workers' compensation, veterans' benefits	233	[4]44	57	134	191	238	293	255	339	267
Public assistance, supplemental security income, food stamps	352	247	1,159	755	629	383	263	134	170	91
Regular contributions for support	412	179	301	358	354	368	285	341	275	744
Other income	173	163	199	173	265	176	108	82	98	252
Personal taxes	2,496	-3	3	-3	46	476	831	1,934	2,585	7,802
Federal income taxes	1,843	-48	-45	-34	-87	251	481	1,333	1,880	6,022
State and local income taxes	506	4	13	21	54	132	224	466	540	1,464
Other taxes	147	41	36	9	79	93	126	135	165	317
Income after taxes	46,934	1,616	7,722	12,429	17,282	24,020	33,591	42,509	56,349	107,827

See footnotes at end of table.

Table 2. Income before taxes: Average annual expenditures and characteristics, Consumer Expenditure Survey, 2002 — Continued

Item	Complete reporting of income [1]									
	Total complete reporting	Less than $5,000	$5,000 to $9,999	$10,000 to $14,999	$15,000 to $19,999	$20,000 to $29,999	$30,000 to $39,999	$40,000 to $49,999	$50,000 to $69,999	$70,000 and over
Addenda:										
Net change in total assets and liabilities	- $6,630	- $1,570	$1,297	- $201	- $4,520	- $3,131	- $793	- $5,229	- $6,418	- $19,182
Net change in total assets	5,263	37	2,827	1,283	-1,388	2,171	6,882	4,809	4,863	12,257
Net change in total liabilities	11,893	1,606	1,531	1,484	3,132	5,302	7,675	10,038	11,281	31,440
Other financial information:										
Other money receipts	632	160	122	219	302	294	247	1,924	781	913
Mortgage principal paid on owned property	-1,390	-373	-291	-343	-376	-559	-856	-1,130	-1,568	-3,446
Estimated market value of owned home	104,331	43,868	41,185	56,924	61,212	62,976	75,536	87,132	112,516	210,518
Estimated monthly rental value of owned home	710	289	294	408	430	488	557	663	809	1,302
Gifts of goods and services	1,095	600	294	445	596	652	780	952	1,207	2,267
Food	87	64	8	35	31	36	67	44	92	210
Alcoholic beverages	14	10	[4]9	5	[4]3	16	5	6	22	25
Housing	275	203	87	102	146	197	212	285	313	509
Housekeeping supplies	48	33	16	16	37	40	36	44	71	75
Household textiles	17	[4]13	[4]7	4	10	13	17	22	23	23
Appliances and miscellaneous housewares	29	[4]16	[4]12	[4]9	12	23	25	43	20	53
Major appliances	10	([3])	[4]1	[4]1	[4]2	7	8	10	7	24
Small appliances and miscellaneous housewares	19	[4]15	[4]11	[4]8	10	17	17	33	13	29
Miscellaneous household equipment	71	69	13	23	27	44	47	83	88	133
Other housing	112	73	40	50	59	76	88	93	111	226
Apparel and services	258	170	101	106	170	204	186	220	278	481
Males, 2 and over	71	48	28	41	55	59	49	61	70	130
Females, 2 and over	88	72	39	26	49	75	46	52	88	186
Children under 2	43	25	16	22	23	27	45	48	45	75
Other apparel products and services	56	25	18	17	42	43	44	59	75	90
Jewelry and watches	25	15	7	10	9	15	10	53	30	40
All other apparel products and services	31	[4]10	[4]11	[4]7	[4]33	28	34	[4]6	45	50
Transportation	43	7	3	67	40	9	25	36	101	49
Health care	34	[4]4	[4]11	[4]25	[4]3	20	16	45	35	72
Entertainment	80	29	26	38	37	52	67	82	102	148
Toys, games, hobbies, and tricycles	31	12	8	19	15	26	29	32	45	49
Other entertainment	49	18	18	19	22	26	38	50	57	99
Personal care products and services	24	11	14	16	24	19	20	20	25	38
Reading	1	[4]1	1	1	1	2	1	1	2	2
Education	189	75	12	27	81	49	96	150	142	546
All other gifts	88	26	22	23	61	49	86	64	95	186

[1] See "Quintiles of income before taxes" table for expenditures and income of all consumer units and incomplete income reporters.
[2] Components of income and taxes are derived from "complete income reporters" only; see glossary.
[3] Value less than 0.5.
[4] Data are likely to have large sampling errors.
[5] No data reported.

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Evaluation

of

"Economic and Fiscal Impact Analysis for the *Watergate Hotel* and *Proposed Watergate Condominium Project*"

Prepared by: Basile Baumann Prost & Associates, Inc. Annapolis, MD 21401

For: Monument Residential, LLC

Dated: May 1, 2003

* * * *

Submitted to the DC Zoning Commission (ZC #0316)
in connection with Monument Residential, LLC's Application for a PUD Modification to Convert the Watergate Hotel from Commercial to residential use.

March 1, 2004

A. GENERAL

The report of Basile Baumann Prost (BBP) addresses issues of economic analysis (economic development, economic impact, fiscal analysis, etc.). Yet, not one of its principals or associates has a degree (undergraduate or graduate) in economics, the substance they presume to analyze. Experienced as they may be as "policy wonks" trained in the soft subjects of policy analysis, urban planning and the like, it is highly doubtful that this Commission would certify any one of them as qualified in the discipline of economic analysis. None of them would qualify as members of the American Economic Association. Economics, wisely, is not a licensed profession and anyone is free to speak economics and call himself an economist, but this does not make him one.

B. Economic Impact Analysis of the Condo

There are many issues one can contest in BBP's economic impact analysis, but I'd like to focus on just a few, where I found major errors in assumptions and methodology, errors that critically skew their results.

BBP's approach is to state the economic impact on the District of the Hotel, then of the proposed condominium (now proposed co-op), and conclude with a comparative analysis of the two. Their numerical conclusion (though not explicitly stated in words) is that the proposed condo wins over the existing hotel by a wide margin.

Although there are some issues with their estimates of the hotel's economic impact, let's gloss them over and quickly move to the most important table stating the economic impact of the new condo (co-op), featured on Page 10 and reproduced below:

(A) Watergate Condominium Project
Summary of Estimated Economic Impact to District of Columbia
Annual Operations (2003 Dollars)

Economic Impacts (1/)			
	Direct	Indirect	Total
Jobs (FTE)	41	412 (2/)	453
Payroll	$1,333,921	$10,246,110	$11,580,031
Residents earnings	$37,935,555		$37,935,555
Consumer Expenditure	$31,710,102		$31,710,102

Source Notes
1/ Total estimated jobs and payroll do not differentiate as to where employees live
2/ Includes jobs created from residential expenditures
Sources: Basile Baumann Prost & Associates

RIMS II: BBP use the parameters of RIMS II, a sophisticated, powerful, and complex econometric model developed by economists for input-output regional analysis. Under very careful and strict assumptions, this model can provide coefficients (called multipliers) which allow us to estimate the eventual impact (output) of an initial increase in factor input, say labor. The multiplier effect is basically rooted in the notion that one's income is partially spent and becomes someone else's income, which in turn is spend, etc., etc. You don't have to be an econometrician to use RIMS II multipliers; anyone can just look them up and do a simple multiplication, but what these numbers mean can make a world of difference. In the Appendix you'll find one page from an example of a correct economic application of RIMS II and what it takes.

How could 41 new direct jobs create 453 new (indirect) jobs, you may wonder? I wondered too. The answer is hidden in footnotes 1 and 2 of the table above. The practical meaning of Footnote 1 is that although BBP focus was the economic impact on the District of Columbia, they nevertheless chose to use RIMS II multipliers pertaining to the DC Metropolitan Area, which is a vastly larger area and 7.5 times larger in population alone. This means much larger multipliers and a far greater economic impact; it biased their results by making the condo look more favorable than it is. Although I have not calculated the magnitude of their bias, I have reasons to believe it is significant because the final impact is quite sensitive to small changes in the initial parameters.

But this bias does not fully account for how 41 initial jobs mushroomed into 453 new jobs. For this we have to uncover what's behind Footnote 2. It turns out that (BBP, page 9) the initial 41 jobs generated only 10 additional jobs and result in a total impact of 51 jobs altogether, a far cry from 453. Where did the other 402 new jobs come from? Footnote 2 and BBP, page 9 tell us: "402 of these 412 indirect jobs are a result of residential expenditures in the district." What they really mean to say is: "402 of these 412 indirect jobs are a result of expenditures in the district made by the new condo owners." There are some serious problems with that:

Assuming the new condo owners were previously living in the District, and moved into their new Watergate condo from other parts of town, would mean just a change in address with no economic impact whatsoever on the District, just a shift of expenditures within the District. To claim any economic impact by residents at all, one must rely on the condo owners being newcomers from out of town. Indeed, BBP's supposition is that the new condo owners are new to the District, and therefore they add a new influx of expenditures on goods and services in the District, with all the ensuing multiplier effects. They provide no basis for this crucial and rather strong supposition.

In fact, there is no basis for this supposition since it flies in the face of economic analysis and empirical reality. In order to claim any newcomer expenditure, standard economic methodology would start with net population growth in the city at large and then apportion the share estimated to go to a given specific location. BBP have not done that. Had they tried, they would have realized that, unfortunately, Washington is one of U.S. cities that have continuously declined in population for the past fifty years, while Washington's metro area continued to grow at a very robust rate. [Source: *Economic Review*, Federal Reserve Bank of Kansas City, Third Quarter 2003, pp. 28-39, based on U.S. Census Bureau data].

The supposition that the new Watergate condo, in and of itself, can somehow generate forces which would exempt it from the overall trend is, to be charitable, farfetched. Yet, this is precisely what BBP's hopeful supposition is based on:

> "The luxury condominium however represents an expansion of supply in the District of Columbia at a particularly unique location which will predominately represent "net new" demand for luxury housing units." [BBP, page 12].

The notion that "supply will create its own demand", especially "net new demand", violates one of most fundamental tenets of

economic theory. If it were true, there would never be office vacancies or corporate bankruptcies.

In short, that the new condo can be seriously offered as a panacea for the District's problems by helping it reverse a sad, long stretch of decline is an exercise in wishful thinking, but it makes the project look good, like "economic development". The reality, however, is that most -- if not all -- the new condo (co-op) buyers are likely to come from the District with no economic impact, beyond the temporary initial construction jobs connected with conversion itself.

Therefore, the corrected BBP's table should be:

(B) Watergate Condominium Project
Summary of Estimated Economic Impact to District of Columbia
Annual Operations (2003 Dollars)

Economic Impacts (1/)			
	Direct	Indirect	Total
Jobs (FTE)	41	10	51
Payroll	$1,333,921	$248,692	$1,582,613

Source Notes
1/ Total estimated jobs and payroll do not differentiate as to where employees live

As you can see by comparing this table (B) with BBP's original (A), the true economic impact of the condo (co-op) is only 51 jobs (instead of 453), or a total impact of $1,582,613 (instead of $11,580,031) -- quite a difference.

C. Economic Impact of the Hotel:

The economic impact of the hotel is (BBP, page 7):

(C) Watergate Hotel
Summary of Estimated Economic Impact to District of Columbia
Annual Operations (2003 Dollars)

Economic Impacts			
	Direct	Indirect	Total
Jobs (FTE)	228	122	350
Payroll	$6,650,628	$4,155,195	$10,805,823
Consumer expenditures	$5,370,382		$5,370,382

Note that consumer expenditures here are genuine and legitimate, precisely because they come from hotel lodgers who are out of towners.

BBP make light of the 228 jobs lost in the conversion by assuming they would mostly be absorbed by other hotels in the District, with not much of an impact on the District. They provide no basis for this supposition. The facts, however, point in a different direction. In order for these 228 jobs to be retained in the District, as BBP claim, there has to be some overall growth in this segment of the labor market to be absorbed into. It can't happen in a stagnant labor market. Here are some no-growth, sobering facts about this labor market:

1992-2002 District of Columbia (Annual Averages)

District of Columbia Wage and Salary Employment
By Industry and Place of Work Annual Averages - - - (In Thousands)

	SECTOR / INDUSTRY	
Year	**Leisure & Hospitality**	**Accommodation**
1992	43.7	15.4
1993	44.0	15.4
1994	44.6	15.3
1995	46.2	16.1
1996	45.3	15.3
1997	43.2	14.9
1998	42.2	13.3
1999	44.1	13.7
2000	47.9	14.9
2001	47.7	14.7
2002	47.8	14.0

SOURCE: Prepared by the DC Department of Employment Services Office of Labor Market Research. Data includes all full and part-time employees who worked or received pay for any part of pay period which includes the 12th of the month. Proprietors, self-employed, unpaid family workers, and private household workers are excluded.

Conclusion:

By comparing the totals of table B and table C you see that converting the Watergate Hotel into a condo (co-op) will result in a negative economic impact to the District: a reduction of about 300 jobs and a reduction in payroll of about $9 million.

D. Fiscal Impact on the District:

Although BBP's fiscal impact analysis suffers from some of the same problems as their economic impact analysis, I felt no need to analyze it in great detail. I would like to draw the Commission's attention to the following zoning case:

RE: Z.C. Case No. 01-17MM/93 5F/
91-18P (PUD AGC-1957 E Street, NW)
Zoning Commission's Hearing April 19, 2002

During the Zoning Commission Meeting on Friday, April 19, 2002, Alan Bergstein, Esq., the Zoning Commission's Attorney (DC Office of the Corporation Counsel) advised the Zoning Commission on the relevance to its deliberations of an Applicant's tax revenue consequences to the District. In this particular case the issue was whether the resulting reduction in District tax revenue was a relevant consideration, and the answer was no. By implication, the same answer applies a fortiori to an increase in District tax revenue.

Based on what the Corporation Counsel termed "research of the law", the Legal Opinion to the Zoning Commission was:

> " -- tax-exempt status of an Applicant for zoning relief is not something which should be relevant to a zoning authority. And for that reason it's been upheld that the zoning body should not consider the tax-exempt status of the entities, particularly if it involves the requirement of amenities."

APPENDIX (SCANNED)

Table F.-Estimation of the Impacts of Sports Facility Construction Based on Data on Changes in the Bill-of-Goods, Kansas City, MO-KS Economic Area

Industry	Regional purchases in producers' prices (thousands of dollars)	Final-demand multiplier			Impact		
		Output (dollars)	Earnings (dollars)	Employment Gobs)	Output (thousands of dollars) (col1 x col. 2)	Earnings (thousands of dollars) (col. 1 x col. 3)	Employment Gobs) (col 1 x col 4
	(1)	(2)	(3)	(4)	(5)	(6)	(7)
Paints and allied products	4,619	1.7722	0.3907	14.8	8, 186	1,805	
Miscellaneous plastics products	5,406	1.9872	.4842	21.5	10,743	2,618	
Ready-mixed concrete	8,370	2.1576	.5266	23.9	18,059	4,408	
Nonferrous wiredrawing and insulating	2,832	1.8598	.4000	17.0	5,267	1, 133	
Fabricated structural metal	6, 167	2.2295	.5818	23.1	13,749	3,588	
Pipe, valves, and pipe fittings	2,981	2.0844	.6050	25.2	6,214	1,804	
Wiring devices	3,355	2.0838	.5857	24.6	6,991	1,965	
Transportation	477	2.2263	.7393	31.5	1,062	353	
Wholesale trade	2,936	2.0538	.6704	28.0	6,030	1,968	
Engineering, architectural, and surveying services	18,732	2.6124	1.0134	43.1	48,935	18,983	
Earnings paid to households	34,345	1.4569	.4331	23.0	50,037	14,875	
Subtotal	90,220	.....	.....	.....	175,273	53,500	2
Plus: Initial change	.....	.....	.....	.....	111,545	34,345	1
Equals: Total	.....	.....	.....	.....	286,818	87,845	4

the For the $15.0 million in earnings paid to workers in the sports facility, only those earnings that are spent in economic area can be viewed as purchases in the economic area. The earnings spent by households are likely to be less than the earnings paid, because a substantial part of earnings goes to high-salaried professional athletes, who are likely to save a larger-than-average share

with associated earnings of$15.0 million. The impacts of the operation are estimated on the basis of bill-of-goods purchases.

The bill-of-goods purchases are converted into regional purchases, in producers' prices, which are then multiplied by the appropriate RIMS II multipliers to yield the impacts. In tabic (i, column 1 shows the purchases in purchasers' prices, column 2 shows which of these purchases occur in the economic area, and column 3 shows the purchases in producers' prices.

For example, suppose that all manufactured products are purchased from wholesalers, and suppose that the manufacturers from which the wholesalers purchase ice cream and frozen desserts and bread, cake, and related products are located outside the economic area. Then, for ice cream and frozen desserts and for bread, cake, and related products, the regional purchases in producers' prices are calculated for wholesale trade but not for manufacturing and transportation (column 3). For the other manufactured products, the regional purchases in producers' prices reflect the separation of the purchases into production costs, transportation costs, and wholesale margms.

For advertising, electric services, water supply and sewerage systems, insurance carriers, management and consulting services, and miscellaneous equipment rental and leasing, the regional purchases in purchasers' prices can be viewed as regional purchases in producers' prices because no margin adjustments are necessary.

Table G.-Purchases Associated With Sports Facility Operation, Kansas City, MO-KS Economic Area
[Thousands of dollars]

Industry	Total purchases (purchasers' prices)	Regional purchases (purchasers' prices)	Regional purchases (producers' prices)
	(1)	(2)	(3)
Manufacturing	2,200	1,681	1, 136
Ice cream and frozen desserts	265	80	0
Bread, cake, and related products	235	101	0
Malt beverages	650	450	291
Bottled and canned soft drinks	500	500	370
Other food	550	550	475
Transportation	.....	.....	23
Costs:			
Ice cream and frozen desserts	.....	.....	0
Bread, cake, and related products	.....	.....	0
Malt beverages	.....	.....	10
Bottled and canned soft drinks	.....	.....	2
Other food	.....	.....	11
Wholesale trade	.....	.....	388
Margins:			
Ice cream and frozen desserts	.....	.....	9
Bread, cake, and related products	.....	.....	38
Malt beverages	.....	.....	149
Bottled and canned soft drinks	.....	.....	128
Other food	.....	.....	64
Electric services (utilities)	980	900	900
Water supply and sewerage systems	280	280	280
Insurance carriers	320	320	320
Management and consulting services, testing and research labs	1.500	900	900
Miscellaneous equipment rental and leasing	1.300	801	801
Advertising	1,200	1,200	1,200
Earnings paid to households	15,000	8,250	8,250
Total	22,780	14,332	14, 198

Easy Crackdown

Thomas A. Scully didn't waste much time going into the influence game after he left the federal government. He resigned as administrator of the Medicare program in December. By February he had signed up to assist the American Association for Homecare. One of the association's top priorities: reversing a restriction on subsidies for wheelchairs that the Medicare agency issued while Scully was still in charge.



Thomas A. Scully served as Medicare administrator.

That's as complete a spin through the revolving door as you're likely to see!

While such a turnabout may be unseemly, it isn't illegal. Scully is careful not to knock on the doors at any of his former stomping grounds; federal law prohibits former officials from direct lobbying for a year after leaving government. Scully stays one step removed—offering guidance rather than personal intervention.

His method is a prime example of why it will be so hard to make lobbying laws tougher than they already are.

Sen. John F. Kerry (D-Mass.), the presumptive presidential nominee, loves to rail against lobbyists and "special interests." He also proposes to rein them in. He wants to extend from one year to five years the length of time that former federal officials

See BIRNBAUM, *E8, Col. 1*

WASHINGTON INVESTING

Jerry Knight

Betting on Riggs's Sale Has Never Been a Wise Move

In the midst of a federal investigation of dubious dealings with foreign embassies, the stock of Riggs National Corp. hit new highs last week.

Buyers are apparently betting that the government probe will force Riggs to be sold—yielding a quick buck for stockholders.

It's a bad bet.

Speculating on when or if Joe L. Allbritton will sell his controlling interest in Riggs has been a favorite gamble of some Washington investors for years.

It's always been a losing bet, but never more so than now.

This time the speculation seems to be based in part on the theory that when the Feds complete their investigation of Riggs, they will force out the Allbrittons, who own about 45 percent of Riggs's stock. Joe, 79, retired three years ago and turned the job of chairman and chief executive over to his son Robert, 33.

Regulators *do* have the power to kick out the management of a bank, even to oust its owners and demand that an institution be sold. But the Office of the Comptroller of the Currency is primarily interested in protecting the safety and soundness of financial institutions. Historically, it has used its power to oust bankers only when an institution was in financial trouble, its owners were

... INVESTING, *E10, Col. 3*

INSIDE

Orbimage Wins Contract
Orbimage Inc. of Dulles, until three months ago in bankruptcy protection, has won its first major contract, to provide a satellite E4

Conferences Live On
StreamCenter Inc. of College Park helps associations recycle conference content on the Web, charging members for access. E5

FEDERAL CONTRACTS E4
START-UP E5
NETWORKING E5
LOCAL STOCKS E6-7
INSIDER TRANSACTIONS

During its short, seven year existence, Blackboard Inc. has winked and nodded at speculation that it would attempt to become publicly traded company until last month, when the online learning software maker filed to raise up to $75 million in an initial stock offering.

The reception Blackboard receives could be a harbinger for start-up companies and their financial backers, who have waited four years for a chance to tap the public markets. If Blackboard stock can make a respectable showing at its IPO and in the months following, other local tech

"I think this matters greatly to the Washington area tech community," said Mark D. Ein, chief executive of Venturehouse Group, a District venture capital firm that does not own Blackboard stock. "I think every entrepreneurial community benefits greatly from its successes."

Blackboard's success is far from a sure thing. The company was profitable in the last two quarters of 2003 after losing money for five years. Some think Blackboard is not the right company to lead the IPO

See BLACKBOARD, *E8, Col. 1*

District-based Blackboard Inc. plans to raise up to $75 million in an initial public stock offering.

■ CUSTOMERS
More than 2,000, including 1,100 U.S. postsecondary schools, such as Princeton University, George Washington University, Temple University and Louisiana State University. K-12 clients include Fairfax County Public Schools.

SOURCE: company reports, Washington Post research

20
0
-20
-40
-60

Washington Sings a Song For the Masses

After Years in a Slump, Tourism Industry Enjoys a Noteworthy Boost in Numbers

By Neil Irwin
Washington Post Staff Writer

On a chilly, wet day last week, so many children in FBI sweatshirts and parents carrying Smithsonian gift shop bags were crowded into the lobby of Old Ebbitt Grill that they spilled out onto 15th Street NW. Regular customers wearing suits had to shuck and sidle just to get past the throng to the bar of the venerable D.C. restaurant.

"I've been here 10 years, and this is the biggest boom I've seen," said David Moran, general manager of the restaurant, where sales are up 20 percent this year.

Visitors shunned the District, and travel generally, in the two years following the 2001 terrorist attacks and recession. But this spring, enough buses have lined the Mall to transport a hundred Rolling Stones concert tours. Groups of schoolchildren in matching T-shirts clog downtown sidewalks and Metro escalators. Hotel lobbies bustle in a way they have not in nearly three years.

Washington tourism is back.

Local hotels were 82.4 percent full in the week ended April 3, higher than in any other major city, according to Smith Travel Research. For the four weeks ended April 3, they were 79 percent full, up from 67.5 percent

See TOURISM, *E10, Col. 1*

They're Back

An influx of tourists, after several down years, is boosting the Washington area lodging industry, but hotel employment has not recovered.

Area hotel occupancy in March*

2000	76.9%
2001	74.7
2002	67.9
2003	67.5
2004*	78.8

Hotel employment in February**



*2004 data cover four weeks ended April 3
**March 2004 data unavailable
SOURCES: Smith Travel Research, Bureau of Labor Statistics
THE WASHINGTON POST





From The G

Job G Drive Mark Subu

D.C. Vacan As Demand More Spac

By Dana Hedgpet
Washington Post Staff

In the District's Monument Realty Franklin Square No NW, a few months ty. At One Dulles T fice building in He snagged managem len Hamilton to lea Maryland, along th a few contractors d al Institutes of Healt space.

These are signs the D.C. region's s the January-to-Mar real estate brokers body expected a bi were surprised at t space in some area trict.

In the District,

See GROUND, *E3*

Kaiser Urgent For Se

By Bill Brubake
Washington Post Staff

Health insurer Washington operat ing rebuke last fall cations Inc.—a l er—told area empl money's worth fro

Verizon limited to employees who the regional subs Kaiser. And pledged to "consid dropping the pla altogether in 2005.

Kaiser "is meeting Verizon expectations in gard to cost vers value," the teleco munications fir wrote employees.

Verizon's conc sion illustrates of many challeng that Kaiser is fac in Washington's ance market.

While rivals suc BlueShield have t totals in recent y to sell its unique which largely co

Tourists Are Packing Into Washington

TOURISM. From E1

last March and 76.9 percent at their peak in March 2000.

Hotel rooms rented for an average of $122 per night in that four-week period, the same as at their peak, and up from $117 a year earlier.

In February, the most recent month for which data are available, 2.4 million passengers flew into and out of Reagan National and Dulles International airports, according to the Metropolitan Washington Airports Authority. That was up from 2 million in February 2003 and marginally less than the 2.5 million passenger peak in February 2000.

"We are experiencing just a blockbuster series of weeks," said William A. Hanbury, chief executive of the Washington Convention and Tourism Corp. "If it continues we could perhaps have the best tourism season in the history of the capital."

The WCTC anticipates 20 million visitors will come to Washington this year, on par with the peak year of 2000.

Veterans of the hotel industry and other tourist-oriented businesses attribute the boom to a range of coalescing factors.

The national economy now appears to be in a solid recovery. Security fears that followed Sept. 11, 2001, have faded, hotel executives say, and unlike this time last year, when the initial phase of the Iraq war was in progress and the nation was under a code-orange terrorism alert, the recent news has not been a damper on travel.

The new Washington Convention Center opened last April, drawing larger events than the old one. A weak dollar makes the town more affordable to foreigners. Weather has been good during the latter stages of the annual Cherry Blossom Festival. And election years are always good for the travel business in Washington, as they drive a stream of fundraisers, strategy meetings and even some tourist visits.

"It's a great time to be in Washington," Ken Traub of Princeton, N.J., said last week, as his daughters, Alicia and Melissa, ages 7 and 11, scurried around the Political Americana gift shop on Pennsylvania Avenue NW. "I felt like they are at a great age to learn a little about politics, with the election year and everything. It's very educational."

Ed Rudzinski, general manager of the Marriott Wardman Park, the largest hotel in town by number of rooms, said the hotel has rented 40 percent more rooms to tourists this year than last. "It's a perfect storm," he said.

It is not just tourists. Business travel, especially for large events, is up, partly because of the improved economy and partly to the new convention center. In 2002, the last full year of the old center, conventions generated 234,000 room nights of demand for hotel space. In 2003, that number was 315,000 and it is expected to top 400,000 this year, according to the WCTC.

"It's returned to normal," said William H. Edwards, vice president in charge of Hilton hotels in the region and general manager of the Hilton Washington & Towers. "If a group requests 1,000 rooms, it ends up needing 1,000 rooms. A year ago it would end up taking 700."



BY JASON REED—REUTERS

Sightseers take pictures of peaking cherry blossoms at the Tidal Basin in late March.

The impact spreads to businesses well beyond the hotel industry. Hye Ja Jun, who for 20 years has sold T-shirts and trinkets to tourists from a trailer near the Ellipse, said that after two bad years business has spiked in the past week, especially for baby outfits that say "Future President" on them.

At Landmark Services Tourmobile Inc., which operates the blue vehicles that carry visitors to tourist sites, the trams have been more full than in the past two years, said sales and marketing head Carla Bell—though business remains below pre-Sept. 11 levels.

And E. David Luria, who offers the Washington Photo Safari, in which he teaches visitors to take the best possible photos of the District's monuments for $59 to $99 each, gave 124 such tours in February, 140 in March—and 228 in the first eight days of April.

But while many businesses benefit from all the tourists in town, hotels have been reluctant to add staff after steep losses following the 2001 terrorist attacks, somewhat lessening the benefit to the region's economy. Local hotels had about the same occupancy levels in February as four years ago but employed 39,000 people, well below the 44,200 they employed in February 2001, according to Labor Department data.

"Hotels are trying to get by with fewer workers in an attempt to recoup some of the losses they experienced in the last couple of years," said John Boardman, executive secretary of the Hotel and Restaurant Employees Union Local 25. "That manifests itself in a heavier workload for our members."

At the J.W. Marriott, on 14th Street NW, occupancy has risen about 10 percentage points in the last year into the mid 90s, said marketing director Rand Goodman. Instead of doing further hiring, though, he said management has had the current staff handle the load.

"Our staff is accustomed to being busy," Goodman said. "We're not adding staff, but the current staff is spending a lot more time at the hotel."

There is reason to think that they will be putting in those long hours for at least a few more months. The new World War II Memorial on the Mall is to open in the coming weeks, with its formal dedication on Memorial Day weekend. Hanbury's group is marketing the city heavily to veterans, their families, and World War II buffs as a summer-long "America Celebrates the Greatest Generation" tribute. The group anticipates an extra 1 million visitors on top of the 5 million who normally come to Washington in the summer.

This fall, the Smithsonian's Museum of the American Indian opens, with a string of associated events. The presidential inauguration in January is almost always a huge driver of travel to the city.

"It's 100 percent different from 2002 and 2003," said Walid Harb, general manager of the Hotel Washington. "I hope it never stops."

WASHINGTON INVESTING

Don't Look to Allbrittons to Break Their Bank

INVESTING. From E1

blatantly violating banking rules or executives were accused of crimes.

Riggs has a lot of problems, but it easily meets all federal standards for financial health.

Nor at this point are there any hints that Riggs or any of the Allbrittons are targets of criminal investigations.

Bank regulation violations and bad management are another matter.

Along with the OCC, the FBI and the Treasury Department's Financial Crimes Enforcement Network are looking into transactions at Riggs that, according to various press accounts last week, sound like plot lines from a Brad Meltzer financial thriller:

- The chauffer from the Embassy of Saudi Arabia dropping by Riggs to pick up a million dollars in cash.
- More than a quarter-billion dollars flowing from Exxon Mobil Corp. into accounts of the tiny African country Equatorial Guinea, then dripping out again, to who knows where.
- A Riggs account for deposed dictator Augusto Pinochet, whose regime in Chile was implicated in Washington's most notorious political assassination—blowing up people with a bomb just a few blocks from Riggs's Dupont Circle branch.

Wherever this all leads, it has prompted Riggs to consider getting out of the business of banking for foreign embassies, a venture that long has been prestigious, if not particularly profitable.

Selling a line of business is one thing. Selling the bank is another. Banking experts consider it highly improbable that any other bank or investor will come along and buy Riggs in the midst of this high-profile federal probe, whose outcome is unpredictable. Banking laws require that any buyer assume responsibility for all past sins—a risk nearly impossible to assess, let along put a price on.

As banking analyst Gary Townsend of Friedman, Billings, Ramsey Group Inc. puts it, "A potential acquirer would have to be satisfied that they understand the dimension of Riggs' problems." Anyone looking to buy Riggs, he added, would have to ask, "Do you want to put yourself in the middle of a problem or do you prefer to wait until the problem is solved?"

Under the circumstances, Riggs would not bring top dollar. Cautious bidders would have to discount their offers to cover the potential costs of incalculable contingencies. Banks nearly always sell for a premium over their prevailing share price, but troubled institutions tend to go for fire-sale prices.

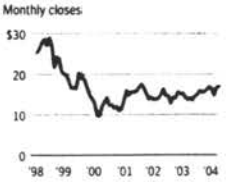
Riggs National stock, which closed Thursday at $17.16 a share, is selling for about 23 percent more than it was a year ago. Short-term traders might consider that an attractive price, but bank stocks tend to be held by long-term investors, who remember that back in 1998 Riggs stock topped $30 a share.

Short-Term Gains

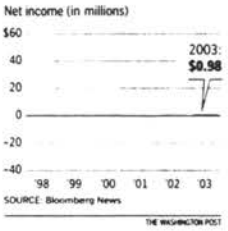
Riggs shares are up since last year...



...but the bank's stock still falls short of its 1998 price range...



...as does its profitability.



SOURCE: Bloomberg News

THE WASHINGTON POST

The Allbrittons certainly remember that. They weren't interested in selling Riggs then, when mergers were driving bank stocks to peak prices, and there is no reason to believe they'd be interested now. Neither Townsend nor Henry Coffey of Ferris, Baker Watts Inc., the other local analyst who keeps close tabs on Riggs, thinks the Allbrittons want to sell.

And, regulatory problems aside, who would want to buy Riggs? The reality is that what Joe Allbritton liked to call "the most important bank in the most important city" in America isn't very important to the growth strategies of the nation's really important banks.

Citibank. Chase Manhattan. Bank of America. None of them needs Riggs anymore. When you ask the analysts about potential acquirers, you get a different class of contenders—banks like Mercantile Bankshares of Baltimore.

It might have been a crown jewel acquisition once, but today with about $4.2 billion in assets Riggs is piddling potatoes. For about the same money Riggs would sell for, you could buy Sandy Spring Bank of Olney, which has just $2.3 billion in assets. Sandy Spring generated $32 million in profits last year. Riggs, paying for its problems, made only $1 million.

Since a sale of Riggs seems unlikely, what will be the outcome of the embassy banking mess?

One possibility is that Robert Allbritton will be forced to give up the job of chief executive, but will remain chairman of the board.

Uniformly praised as a talented executive who has developed a solid strategy for turning around Riggs's troubled operations, Robert Allbritton is still short of experience for someone running a multibillion-dollar bank with big regulator trouble.

Besides being chief executive of Riggs, he is also chief executive of Allbritton Communications Co., the family company that owns WJLA (channel 7), cable NewsChannel 8 and several other television stations. There's no one else in Washington who serves as chief executive of two totally different businesses this big.

Young Allbritton has been very active in managing WJLA, which, like Riggs, is an underachiever. (Full disclosure: I do the daily Washington Post business report for WRC (channel 4), a direct competitor of WJLA.)

For the February ratings sweeps in the local news competition, WJLA ranked dead last at noon and 11 p.m. and was tied for last place at 5 p.m. and 6 p.m. Despite bringing in former CNN anchor Leon Harris, WJLA's news ratings in February slipped a little from last year.

Ordinarily, Robert Allbritton's ability to run a big family company is his affair. But Riggs is a federal matter, as they say. As a heavily regulated bank, insured by the government and owned in part by public stockholders, Robert Allbritton must answer to more than just his minority shareholders. Riggs's shareholders couldn't be blamed for wanting a veteran professional banker working full time as chief executive. The Office of the Comptroller of the Currency has the power to appoint such an executive.

Riggs spokesman Mark Hendrix said the bank's policy is not to comment on speculation about matters such as Robert Allbritton giving up the chief executive's job, and he had no comment on the question of whether two chief-executive jobs is too much. As for selling, he said, the bank intends "to continue to execute our business strategy" which to me is a polite way of saying, "Not for sale."

Kaiser Reshaping the Mold It Created

KAISER. From E1

ed by Kaiser doctors at Kaiser facilities.

Over the past three years, Kaiser's enrollment has dropped by more than 40,000, to slightly more than 500,000, in the District, Maryland and Northern Virginia. And the health-maintenance organization has lost money for five consecutive years. Kaiser's national operation has 8.2 million members in nine states and the District.

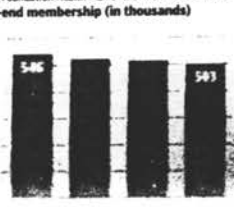
Kaiser has responded to its challenges by bringing in new executives, who have vowed to save money and improve patient services.

In recent months, Kaiser has reduced staffing at its medical centers, for example,

A Steady Decline

Kaiser Foundation Health Plan of the Mid-Atlantic States

Year-end membership (in thousands)



bers to Kaiser in the hope that they will eventually choose the HMO's traditional plan, over the other options, to "receive all of their care."

Kaiser executives confirmed this strategy in recent interviews. "We believe that if people try us, they'll like us," said Philip S. Carney Jr., who heads Kaiser's regional medical operations, based in Rockville.

These executives expect that under some circumstances Flexible Choice members will be seen by Kaiser doctors and come to prefer the traditional HMO plan.

In a confidential booklet distributed to its clinical staff last fall, Kaiser used some unflattering statistics to underscore the importance of Flexible Choice to the insurer's fu-



The Watergate East Underground Premises Sale:
An Index of Issues



MONUMENT
REALTY LLC

The Watergate Hotel
2003 Actual P&L by Outlet

	Rooms	Restaurant	Banquets	Room Service	Potomac Lounge	Mini Bar	Telephone	Other Revenue	Total
Revenues	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**
Salaries & Benefits	21.4%	66.8%	50.4%	114.3%	49.2%	71.6%	30.4%	0.0%	32.8%
Operating Expenses	9.4%	9.3%	6.6%	7.7%	5.3%	3.1%	8.3%	0.0%	8.6%
Cost of Sales Food	0.0%	23.8%	21.6%	25.3%	7.5%	10.2%	0.0%	0.0%	6.2%
Cost of Sales Beverage	0.0%	6.9%	2.2%	3.6%	17.3%	8.4%	0.0%	0.0%	1.6%
Cost of Sales Other	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	16.1%	0.0%	0.5%
General & Administrative	8.7%	8.7%	8.7%	8.7%	8.7%	8.7%	8.7%	8.7%	8.7%
Sales & Marketing	5.3%	5.3%	5.3%	5.3%	5.3%	5.3%	5.3%	5.3%	5.3%
Repairs & Maintenance	4.1%	4.1%	4.1%	4.1%	4.1%	4.1%	4.1%	4.1%	4.1%
Energy Costs	7.0%	7.0%	7.0%	7.0%	7.0%	7.0%	7.0%	7.0%	7.0%
Gross Operating Profit	**44.1%**	**-31.9%**	**-6.0%**	**-76.1%**	**-4.4%**	**-18.5%**	**20.1%**	**74.9%**	**25.2%**
Taxes	4.6%	4.6%	4.6%	4.6%	4.6%	4.6%	4.6%	4.6%	4.6%
Insurance	1.7%	1.7%	1.7%	1.7%	1.7%	1.7%	1.7%	1.7%	1.7%
Other Deductions	0.6%	0.6%	0.6%	0.6%	0.6%	0.6%	0.6%	0.6%	0.6%
Management Fees	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%
Reserve for FF&E	3.9%	3.9%	3.9%	3.9%	3.9%	3.9%	3.9%	3.9%	3.9%
Net Operating Income	**30.5%**	**-45.6%**	**-19.7%**	**-89.7%**	**-18.0%**	**-32.1%**	**6.4%**	**61.3%**	**11.5%**

4800 WISCONSIN AVENUE
TRAFFIC IMPACT STUDY
WASHINGTON, D.C.

Prepared for:
4800 Wisconsin Associates, LLC

Prepared by:
Wells & Associates, LLC

May 19, 2003

4800 WISCONSIN AVENUE
TRAFFIC IMPACT STUDY
WASHINGTON, D.C.

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traffic signal at Davenport Street, as shown on Figure 2. This circular driveway would serve passengers dropped off or picked up at the main building lobby. Two short-term parking spaces are provided for service/delivery vehicles.

The six (6) driveways on 42nd Street would be consolidated at three (3) driveways. The driveway that would be located opposite Davenport Street would serve a loading dock that could accommodate one (1) large truck and one (1) small truck. Thus, satisfying the off-street loading requirement. The middle driveway would serve a single level of parking. The southernmost driveway would serve two additional levels of underground parking. The majority of site-generated traffic would use this southernmost driveway.

Existing Traffic Counts

Off-Site Intersection Vehicular Traffic. Wells & Associates conducted vehicular and pedestrian traffic counts on Tuesday, December 10, 2002, from 7:00 to 10:00 AM, and from 4:00 to 7:00 PM, and Saturday, December 14, 2002, from 10:00 AM to 2:00 PM, at the following intersections:

1. Chesapeake Street/Wisconsin Avenue.
2. Davenport Street/Wisconsin Avenue.
3. Ellicott Street/Wisconsin Avenue.
4. Davenport Street/42nd Street.
5. Chesapeake Street/42nd Street.
6. River Road/Wisconsin Avenue.

The results are included in Appendix A and summarized on Figure 4. The traffic counts were balance between intersections to account for hourly and daily variations.

The AM peak hour generally occurred at 8:00 to 9:00 AM, and the PM peak hour generally occurred at 5:30 to 6:30 PM during the weekday. The Saturday mid-day peak generally occurred at 12:30 to 1:30 PM.

Figure 4 indicates that Wisconsin Avenue, south of Ellicott Street, presently carries 2,370 vehicles (with a 60 percent/40

percent southbound/northbound directional split) during the AM peak hour, and 2,314 vehicles (with a 43 percent/57 percent southbound/northbound directional split) during the PM peak hour. On Saturday, Wisconsin Avenue carries 2,095 vehicles (with a 44 percent/56 percent southbound/northbound directional split) during the peak hour.

42nd Street carries more modest traffic volumes, only 454 trips in the AM peak hour, 416 trips in the PM peak hour, and 418 trips in the Saturday peak hour, south of Davenport Street.

Driveway Vehicular Traffic. Wells & Associates conducted counts at the existing driveways on Wisconsin Avenue and 42nd Street. These driveways were used by a total of 34 trips during the weekday morning peak hour of 8:45 to 9:45 AM; 34 trips during the weekday afternoon peak hour of 5:45 to 6:45 PM; and 42 trips during the Saturday mid-day peak hour of 12:00 to 1:00 PM. These trips will be displaced by the proposed development.

Pedestrian Traffic. Wells & Associates conducted pedestrian counts at all study intersections on Tuesday, December 10, 2002, from 7:00 to 10:00 AM, and 4:00 to 7:00 PM. and Saturday, December 14, 2002, from 10:00 AM to 2:00 PM. These counts were incorporated in the intersection capacity analysis using the Synchro, Version 5.1.

Pipeline Projects

The traffic impacts of seven (7) projects that have received approvals (or are expected to receive approvals) but have not yet been developed were taken into explicit account in this study:

1. 4500 Wisconsin Avenue (Sears Building).
2. Georgetown Day School expansion.
3. 4501 Western Avenue (Washington Clinic).
4. WMATA Northwest Bus Garage.
5. Wisconsin Place (Hecht's).
6. Friendship Commomns (Geico).
7. Chevy Chase Center.

The existing Sears building at 4500 Wisconsin Avenue will be developed with 80,000 square feet (GSF) of retail space and 185 apartments. Georgetown Day School proposes to add 15 students and 14 full time faculty and staff. The existing Washington Clinic at 4501 Western Avenue will be developed with a day care center of 3,000 square feet (GSF) and 125 condominiums. The WMATA Northwest Bus Garage Redevelopment will include 90,000 square feet of retail uses and 540 apartment units. Wisconsin Place will include 123,812 square feet of retail, a 40,000 square foot grocery store, 450,000 square feet of office, and 275 apartment units. Friendship Commons will be developed with 295,243 square feet of office, 300 mutli-family residential units and 200 residential townhouses. The Chevy Chase Center is planned to be developed with 122,209 square feet of office and 191,639 square feet of retail.

Background Traffic Growth

Background traffic growth was estimated at one (1) percent per year compounded for three (3) years between 2002 and 2005. This growth rate was applied to the through movements on all studied intersections. Background traffic growth takes into account traffic that may be generated by other projects approved but not yet constructed in the District of Columbia and Montgomery County, Maryland, and general regional traffic growth.

ZONING COMMISSION ORDER NO. 03-16
Case No. 03-16
(Modification to an approved PUD for the
Watergate Hotel at 2650 Virginia Avenue, N.W.)

_____, 2004

Pursuant to notice, the Zoning Commission for the District of Columbia held public hearings on January 29, 2004; March 1, 2004; and March 4, 2004, to consider an application from Monument Residential, LLC, on behalf of BRE/Watergate LLC for approval of a proposed modification to an existing planned unit development ("PUD") for property (the Watergate Hotel) located at 2650 Virginia Avenue, N.W. (the "Application"). The Commission considered the Application pursuant to Chapter 24 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR"). The public hearings were conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby **DENIES** the Application.

FINDINGS OF FACT

The Application, Parties, and Hearings

1. On May 7, 2003, Monument Residential, LLC, on behalf of BRE/Watergate, LLC, the owner of the subject property (collectively, the "Applicant") filed the Application for modification to an approved Planned Unit Development for the Watergate complex in the Foggy Bottom area of the District. The Applicant seeks to change the PUD to eliminate the presence of a hotel, one of six buildings in the Watergate PUD, and convert it to a cooperative apartment residence of 133 residential dwelling units. The subject property is part of the PUD complex bordered by Virginia Avenue, N.W., New Hampshire Avenue, N.W., F Street, N.W., the Potomac River and Rock Creek Parkway and consists of Lot 807 in Square 8, improved by the

Watergate Hotel, three cooperative residences (West, South and East), two office buildings and retail shops (the "Watergate PUD Complex").

2. At its June 9, 2003 public meeting, the Zoning Commission (the "Commission") determined to set the Application for public hearing in November. The November 2003 hearing was continued until January 29, 2004 for further community discussions.

3. The Zoning Commission held public hearings for the Application on January 29, March 1, and March 4, 2004. At the end of the public hearings, the Applicant requested that it be allowed to submit certain additional information regarding the Application, which information (the "Rebuttal") was submitted to the Commission on April 1, 2004. The parties in opposition (described post), were allowed to file a response in opposition to the Applicant's Rebuttal, which was submitted on April 29, 2004. All parties were required to file proposed findings of fact and conclusions of law by April 29, 2004, which were submitted.

4. The parties to the case were the Applicant, Advisory Neighborhood Commission ("ANC") 2A, the ANC within which the Subject Property is located, Watergate West, Inc. (in opposition), Committee of Concerned Owners in Watergate East for conversion and Committee of Concerned Owners in Watergate East against conversion. Because of pending litigation over the position of Watergate East, Inc., Watergate East, Inc. was denied party status on the presumption that its views would be adequately conveyed to the Commission by the Committees for and against conversion who were admitted as parties.

5. At its May ____ 2004 meeting, the Commission took final action by a vote of _____ to deny the Application.

THE SUBJECT PROPERTY AND SURROUNDING AREA

6. The Subject Property is located at 2650 Virginia Avenue, N.W. (Lot 807 in Square 8) as part of the Watergate PUD Complex, within the city block bounded by F Street, N.W. on the south, the Potomac River and Rock Creek Parkway on the west, New Hampshire Avenue, N.W. on the east and Virginia Avenue, N.W. on the north and east.

7. The buildings forming the Watergate PUD are:

- The Watergate Hotel at 2650 Virginia Avenue, N.W.
- Watergate West at 2700 Virginia Ave., N.W.
- Watergate East at 2500 Virginia Ave., N.W.
- Watergate South at 700 New Hampshire Ave., N.W.
- An office building at 600 New Hampshire Ave., N.W.
- An office building at 2600 West Virginia Ave., N.W.

The buildings are interconnected underground and above ground.

8. The Subject Property is located in Ward 2, within the Foggy Bottom neighborhood. A former Howard Johnson hotel directly across the street on Virginia Avenue is now a dormitory for students attending George Washington University. The Kennedy Center, slated for major expansion, is next to Watergate South. The Pan American Health Organization, the Department of State and several foreign government chanceries are nearby.

While there are numerous hotels in Ward 2, the Watergate Hotel is closest to the Kennedy Center; there are no luxury hotels within a quarter mile, deemed walking distance of the Kennedy Center, other than the Watergate Hotel.

Existing Zoning

9. The Subject Property is part of a PUD approved in 1962, with subsequent minor modifications. The surrounding zoning is SP-2.

The PUD Modification Request

10. The Applicant's most significant modification request is conversion of the existing Watergate Hotel, one of six buildings in the Watergate PUD, to a cooperative apartment house containing 133 units. In addition, the Applicant seeks to:

1) Add exterior carports;

2) Replace the windows;

3) Build exterior stairways from some units to the roof of the hotel;

4) Rearrange below grade space at the hotel;

5) Include a total of 140 parking spaces on three below grade levels with six surface spaces;

6) Continue to provide space for a health club and a restaurant in a less attractive location.

Proposed Public Benefits and Project Amenities

11. The Applicant alleges that the proposed modification/conversion is consistent with the underlying SP zoning and, if granted, will result in the following public benefits and project amenities:

A. Increased economic benefit and taxes to the District of Columbia;

B. Continued use of the restaurant and health club;

C. Less traffic congestion;

D. A $250,000 contribution for an affordable housing component.

12. The Opposition alleges that the asserted benefits do not support eliminating the Hotel from the PUD:

A. On proper assumptions, there is no reliably established increased economic or tax benefit.

B. The restaurant and health club already exist.

C. Traffic impact is not significant, even at its worst estimate.

D. The contribution for affordable housing does not meet guidelines for property of this magnitude.

Parties in Support

13. The Committee for Concerned Owners in Watergate East for Conversion testified in support of the Application. This support was a condition of the Applicant's agreement to pay $4,250,000 for fee simple interest in the underground land owned by East that is currently rented to the hotel for $1 a month.

Parties In Opposition

14. Watergate West, Inc., and the Committee for Concerned Owners in Watergate East against Conversion, opposed the modification on the grounds that the proposal negated the integrity of the existing mixed use PUD and that the Applicant had failed to meet its burden of proof that the modification sought was justified under the PUD zoning regulation standards.

CONTESTED ISSUES

RELIANCE ON THE COMPOSITION OF THE PLANNED UNIT

15. Members of both Watergate West and Watergate East as parties in opposition testified that they relied on the structure of the Watergate PUD including the Hotel, in acquiring their property and moving to the Watergate. They stated that the Watergate Hotel is an important amenity of this ownership. Other members of Watergate East, testifying in support of the Applicant, stated that the Hotel was of little value to them. The Commission takes note that Watergate East has been offered $4,250,000 by the Applicant for certain underlying land, conditioned on support for the Applicant's request. In view of this monetary factor, the Commission does not give weight to the testimony of supporting members of East.

The Commission also credits the testimony and many letters stating that the presence of the Hotel is a significant factor in the ownership of residences in the Watergate complex, as well as the letters on behalf of the Washington Opera.

ECONOMIC ASPECTS AND TAX REVENUES

16. The Commission finds that the four (4) crucial assumptions in the Applicant's "Economic and Fiscal Impact Analysis" (the Prost Report) that this Commission must accept in order to find a substantial and reliable economic advantage to the District by the proposed change are not reliable and are too flawed to support that change. The assumptions on which the Applicant depends are outlined as follows:

A. The Applicant first assumes that all 133 new owners will come from outside the District, bringing new expenditures and revenue to the District.

The Commission finds that this assumption is seriously askew from the experience set forth by Watergate West, whose sworn data, for the two years between March 25, 2002 and

March 29, 2004 (Watergate West's annual meeting dates), are that of a total of thirteen sales during that period, six were to persons already residents in the District. This reduces by almost one half the Prost Report's asserted new expenditures and revenue.

B. The Applicant next assumes that these 133 owners will spend an average of $100,000 per year in new retail expenditures in the District, a figure not supported by the 2002 Bureau of Labor Statistics which indicates an average of $76,627 for all wage earners over $70,000. This is unrealistically high when mortgage payments, vehicle costs, education, and healthcare are factored into the equation.

C. From the above premises, the Applicant calculates that each of the 133 new owners will produce three full-time retail jobs within the District, or a total of 402 new full-time jobs in the District. But even relying on the Prost Report's premises, the Commission finds that the number must be significantly reduced to compensate for the potential owners who already live in the District as evidenced by the Watergate West survey.

The Applicant now concedes that the RIMS II output multiplier used by Prost in the initial analysis was a Regional multiplier and not one applying solely to the District. Accordingly, the initial proposition that conversion would result in 402 total indirect jobs solely in the District of Columbia has been reduced to 402 indirect jobs regionally with 306 being in the District of Columbia, plus 1 direct job in the District of Columbia. This revised analysis is in response to an error pointed out by Dr. Sol Shalit in the original Prost report. Dr. Shalit's report was accepted by the Commission at its March 1, 2004 hearing. Under the original but incorrect report, the estimated increment of new jobs was 103 (hotel 350 v. condo at 453) and the transfer demand was 200, resulting in a new net demand of 303 jobs. Under the corrected version in the Rebuttal, using the correct RIMS II output multiplier for District impact v. regional impact, the

estimated increase of new jobs is only 26. The report then revises other estimates to fill the gap, revising the transfer demand from 200 to 281, thereby yielding a net new demand of 307. No support for this revision was provided.

The Commission does not find the Applicant's premise on this point to be reliable, and credits Dr. Shalit's criticism that the Applicant's economic consultant used the wrong multiplier, and that the correct multiplier shows only a 26 jobs difference between the hotel and proposed conversion.

The Prost Report also sets forth a comparison of District income taxes estimated to be paid by the new residents, with District income taxes estimated to be paid by hotel guests. The Commission finds it unlikely that hotel guests would be District residents and that the comparison of income taxes is meaningless, whereas consumer expenditure sales taxes should be included for hotel guests. While the Prost Report estimates a decrease in sales tax due to "loss of hotel room revenue," the Report omits the sales tax on the hotel rooms to which Prost assumes the displaced guests will turn, as well as omitting sales taxes on consumer expenditures by the hotel guests. On this premise the Applicant's Report concludes that 155 new residential units (now 133, although uncorrected) and 41 employees (essentially the existing restaurant and health club employees) will bring $4.1 million in tax revenue into the District ("income tax, sales tax, property tax, personal property tax, and franchise tax") (Prost Report at 9), compared with $3.2 million in tax revenues from the Hotel operations and Hotel employees ("income, franchise, real property, direct and indirect sales, and personal property") (Prost Report at 6). The Commission finds that there is no inclusion of sales tax on expenditures by hotel guests. A fair comparison would include the entire revenue contributions from both sources.

As a further example, the Prost Report postulates a "net new" impact of the entirety of the estimated $37,935,555 "Residents Earnings," and almost all of the estimated $31,710,102 in "consumer expenditures," Report at 13, apparently based on the premise that 100% of the new owners will newly enter the District. The Report also postulates that none of the Hotel guests' consumer expenditures are recognized, in postulating the "annuity" value of the apartment owners.

Instead, the Prost Report estimates "an estimated $26 million increase in consumer expenditures," that "represents more than a 490 percent increase in consumer expenditures." The Report appears to be comparing the $31.7 million estimated consumer expenditures for 133 new apartment residents plus 41 "new" employees, with the $5.37 million in consumer expenditures by the 228 present hotel employees. The Commission finds that there is no figure in the Report for the consumer expenditures of the tourists/visitors occupying the 250 hotel rooms, even at the reduced occupancy experienced in 2002.

Although Prost accepts the assumption that only 67% of the new owners will be D.C. residents for District income tax purposes, the effect on the indirect job multiplier is not shown, nor do other factors adequately show adjustment for the absences that normally accompany non resident status. Nor do the Applicant's economic assumptions reflect the fact, mentioned above, that a high proportion of the new owners (close to half at Watergate West) will simply transfer from within the District and thus produce no change in contribution to the District economy.

These manifest flaws do not warrant reliance on the Report's conclusions.

D. The Applicant's projections require the assumption that each displaced hotel worker will find employment in the District, preserving their status as D.C. taxpayers. However,

the Commission credits the testimony of Union Local 25 that there is 8% unemployment among hotel workers, and that the displaced employees will either take hotel jobs that would go to others, or leave District employment. The Commission further finds that the potential loss of these workers is inconsistent with Section 1301 of the Comprehensive Plan and its requirement that "the D.C. Government should not take actions that would reduce the number of jobs in existence in Ward 2."

The Applicant suggested that there are too many hotels, and that the Watergate Hotel has lost its competitive position and cannot survive. The Commission finds that the Applicant presented no evidence to substantiate this claim, and that it has been reported that while hotel occupancy is now up in the District of Columbia, after the decline due to the events of 9/11, hotels have not added to their staff. The Commission notes that the Applicant refused to provide financial data concerning the Hotel, despite its innuendo that the hotel may "go dark."

The Commission credits a report prepared by the Applicant and placed in the record by Watergate West, entitled "The Watergate East Underground Premises Sale: An Index of Issues," which states that for the hotel rooms at the Watergate there was in 2003 a net operating income of 30.5%, and that despite losses from restaurant and bar the total net operating income for the Watergate Hotel was 11.5%. The Commission notes that the burden of proof of this asserted economic burden is on the Applicant, and finds that its speculative premises and projections present no reliable promise of substantial economic enhancement to the District.

THE RESTAURANT AND HEALTH CLUB

17. The Applicant has agreed to provide alternative restaurant space at a different site in the hotel, at no rent. In addition, the Applicant has agreed to update the health club, although

the allotted square footage will be decreased by 23% and the memberships available decreased by 46%.

The Opposition counters that at best this is simply continuing the existing amenity package. Even if it were not diminished in attractiveness or convenience, it is not a supply of additional amenities.

The Commission credits the Opposition's position on this issue and finds that continuing existing amenities is not sufficient grounds for amending a PUD.

TRAFFIC

18. The Commission recognizes that the parties dispute whose methodology is more accurate, in determining the vehicular traffic and its impact. Neither side's expert identified the subject property as one that was congested and in need of traffic mitigation measures. The Commission finds that on either model, the difference in traffic impact is negligible, and not a factor in its decision.

HOUSING CONTRIBUTION

19. At the conclusion of its case on March 4, 2004, the Applicant offered an "amenity" not incorporated into its previous filing and testimony, that is, a $250,000 contribution to a non-profit low income housing project. The Opposition argues that this offer does not meet any of the standards required for the granting of a PUD modification; and that the amount is insignificant in light of the profits to be generated by the conversion.

The Commission is unable to determine the merits of this proposed amenity without further information from the Applicant in the context of expected profits, which were not disclosed, and noting that the proposed contribution is about one-third of the sales price of the least expensive unit in the proposed luxury housing conversion.

Accordingly, the Applicant has failed to meet its burden of proof that this contribution amenity is sufficient for the modification requested.

HISTORIC ASPECTS

20. Opposition planning witnesses George Oberlander, Fred Greene, and Alvin McNeal testified that the Watergate PUD has been extremely successful in providing an urban balance of complementary functions and amenities. Their opinion was that the interests must be considered of present owners, the larger community, and the fact that "watergate" has become a household word and the Watergate Complex a tourist attraction. The Commission also credits the expert testimony of Emily Eig, an architectural historian, and finds that the proposed change will violate the historical integrity of the District's earliest and best known mixed use PUD.

CONSISTENCY WITH THE COMPREHENSIVE PLAN AND WARD PLAN

21. The Applicant's expert land use planner, Mr. Sher, stated that the central theme of the Comprehensive Plan is housing, that the underlying zoning SP permits housing as a matter of right, and therefore that the proposed conversion is not inconsistent with the Comprehensive Plan. On cross examination, Mr. Sher stated that he was not familiar with the interrelated concepts of the original Watergate PUD as a town within a city.

The Opposition presented three expert land use planners. Mr. McNeal testified that the Watergate Hotel contributed an important qualitative benefit to the Watergate complex, and described it as one of the most successful, high density, mixed use planned developments in the country. He testified that the Watergate Hotel brought 24 hour vitality to the complex, attracting patrons and groups throughout the day and evening. He believed that disruption of the interdependent uses would have a negative long term effect. He emphasized that the Commission's predecessors had created a "special place" that could not have been developed

under traditional matter of right zoning and that the Commission was aware of the importance of a hotel in approving recent PUD modifications to include a hotel for synergism and amenities.

Mr. Oberlander testified that conversion was indeed inconsistent with specific policies of the Comprehensive Plan, inconsistent with the intent of the original 1962 PUD, and inconsistent with the need for hotel accommodations at this site.

Mr. Oberlander pointed to Section 1332 of the Ward 2 hotel plan which encouraged continued improvement of existing hotels. He concluded that the proposed conversion was directly inconsistent with the Comprehensive Plan. This was especially true in light of the $400 million approved expenditure for a construction of two new large buildings as part of the nearby Kennedy Center complex. He also noted that the Watergate PUD was not in a housing opportunity area (HOA), thus there was no specific indication for housing at this site.

Mr. Oberlander stated further that BZA approval of hotel use in an SP district in 1964 incorporated the zoning regulations provisions of Section 512 to result in a balance of residential, office, hotel or inn uses in the SP district.

Mr. Greene testified that the Applicant's planning approach was too simplistic and if extended to its illogical conclusion, would allow commercial office space to supplement the hotel, because that too is a matter of right in the SP zone. Mr. Greene emphasized the need for balance and that elimination of the hotel was contrary to District and land use policy.

The Commission credits the testimony of the Opposition's experts, and finds that the Applicant has failed to meet its burden of proof with respect to the need for luxury housing at this site, the effect of the loss of the hotel on the interrelationship of the existing mixed uses and the integrity of the Watergate PUD, and the potential loss of a hotel to serve the surrounding government offices, chanceries and the Kennedy Center complex.

OP REPORT

22. The Office of Planning, Joel Lawson, testified that from a land use perspective, which is the focus of the OP analysis, the proposed use is permitted and would generally conform to the Comprehensive Plan. The written report of the Office of Planning stated that a final approval was not available because all of the neighboring co-ops had not yet endorsed the change.

ANC DECISION

23. Dorothy Miller, Chair of ANC 2A, advised the Commission that the ANC had voted 2 to 1 to support the conversion, with one abstention based on an alleged conflict for the ANC member who lived in Watergate East. Ms. Miller testified on cross examination that the primary reason for support was to prevent George Washington University from buying the hotel for student housing.

CONCLUSIONS OF LAW

1. Based on its findings, the Commission concludes that the Applicant has failed to meet its burden of proof under Section 2403.2 of the Zoning Regulations that a modification to the Watergate PUD as proposed is justified.

2. The Commission concludes that the proposed modification would negate the integrity and interrelationship of the existing mixed uses of the District's oldest and most successful PUD of its type.

3. The Commission concludes that the Comprehensive Plan and Ward Two Plan do not identify the subject PUD as a housing opportunity area and cannot be read to support the conversion with a resulting loss of an important hotel serving the Watergate PUD, the

Kennedy Center, the State Department and other governmental offices, and the Foggy Bottom neighborhood.

4. The Commission concludes that the proposed economic and tax benefits to the District of Columbia are based on speculative and unfounded assumptions with insufficient evidentiary background. Further, the Commission finds that the contribution of $250,000 for low income housing is insufficient to constitute a substantial amenity in light of the conversion sought which is for luxury apartments to be sold at not less than $450 p.s.f.

5. The Commission concludes that inclusion of a restaurant and health club in the modification is simply continuation of existing amenities.

6. The Commission concludes that traffic mitigation is not a relevant issue in this case.

7. The Commission, pursuant to D.C. Official Code § 1-309.10(d)(201), must give great weight to the decision of the ANC to support the conversion, but concludes that the decision was driven by a fear that George Washington University would purchase the hotel for dormitory use if the conversion was defeated. The Commission does not consider this speculative reason as grounds for granting the modification request.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this order, the Commission orders DENIAL of the Application.

Vote of the Zoning Commission taken at public meeting on May 10, 2004: _____

_____.

The order was adopted by the Zoning Commission at its public meeting on _____, 2004 by a vote of _____.

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 _____