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August 8, 2005

VIA HAND DELIVERY

Mr. Richard S Nero
Mr Clifford Moy
Office of Zoning for the District of Columbia
441 4th Street, N W., Suite 210S
Washington, D C 20001

Re Affordable Housing Component of Consolidated Planned Unit Development
Logan Phase II, LLC (the "Applicant")
1200-1224 R Street, N W - Zoning Commission Order No. 04-13

Dear Messrs Nero and Moy·

On behalf of Logan Phase II, LLC, the applicant ("Applicant") in the above-referenced Planned Unit Development ("PUD"), we write to inform you of the Applicant's proposal for compliance with the affordable housing component of the PUD order, a copy of which is attached

Pursuant to Condition No 3 of the PUD order, the Applicant is required to provide five affordable housing units within its proposed condominium building for sale to persons "with maximum annual incomes of 80 percent of the adjusted median income, pursuant to eligibility requirements and enforcement mechanism to be developed in accordance with D C. Department of Housing and Community Development ['DHCD'] recommendations " Z C Order No. 04-13, May 13, 2005, at 13-14

The Applicant developed eligibility requirements and enforcement mechanisms and sought the recommendations of DHCD on its proposal. On June 28, 2005, DHCD informed the Applicant that it would be unable to provide any recommendations for this PUD Thus, the Applicant is proceeding with the eligibility requirements and enforcement mechanisms as proposed and submits the attached information to the Office of Zoning for inclusion in the record Provided the Applicant sells the affordable housing units in accordance with this plan, the Applicant will be in compliance with Condition No 3 of the Order

[redacted]
District of Columbia
CASE NO. 04-13
EXHIBIT NO. 41

ZONING COMMISSION
District of Columbia
CASE NO.04-13
EXHIBIT NO.41

Very truly yours,

HOLLAND & KNIGHT LLP

Carolyn Brown for

Norman M. Glasgow, Jr.

Attachments

cc: Matt Scorzafava, Bogdan Builders, Inc. (w/attach via email)

**ZONING COMMISSION ORDER NO. 04-13**
**CONSOLIDATED PLANNED UNIT DEVELOPMENT**
**AND MAP AMENDMENT**
**1200 R STREET, N.W.**

**AFFORDABLE HOUSING COMPONENT**
**ELIGIBILITY REQUIREMENTS AND ENFORCEMENT MECHANISM**

In accordance with the provisions of Condition No 3 of Zoning Commission Order No 04-13, issued May 13, 2005, the Applicant shall institute the following eligibility requirements and enforcement mechanisms for the affordable housing component of the Planned Unit Development at 1200 R Street, N W , Washington, D C (the "PUD")

1. **Number of Units**. The Applicant shall provide five (5) units within the PUD for sale as affordable housing

2. **Unit Configuration** The size and configuration of the units shall be as follows

| LOCATION | LAYOUT | SIZE |
|---|---|---|
| Unit 3, lower level | 2 BR, 2 BA | 1,169 square feet |
| Unit 14, lower level | 1 BR + den, 1 BA | 811 square feet |
| Unit 10, first level | 2 BR, 2 BA | 1,136 square feet |
| Unit 11, first level | 2 BR, 2 BA | 1,136 square feet |
| Unit 1, second level | 2 BR, 2 BA | 1,041 square feet |

3. **Initial Unit Price** The initial unit price shall be affordable to persons with maximum annual incomes of eighty percent (80%) of the adjusted median income ("AMI"), as determined by the U S Department of Housing and Urban Development, and consistent with the formulas set forth in Attachment A Based on FY2005 information, contract sale prices for an affordable unit will range between $254,600 00 to $287,272.00, depending on the unit and household size, with the final unit sale price to be determined by the Applicant

4. **Certification of Eligibility**: Eligible buyers – for both initial purchases and for resale - are defined as those households that meet the following criteria:

   - Having household income not exceeding eighty percent (80%) of the adjusted median income as determined by the U S Department of Housing and Urban Development,
   - Purchasing their primary residence, and
   - Purchasers must also qualify for the necessary home mortgage and fund the required down payment

   Potential homebuyers can be certified for income-eligibility by making application to the home purchase assistance programs of the Department of Housing and Community Development (DHCD) or by a representative of the Applicant Certification shall make households eligible for purchase of a residential unit.

5. **Selection of Buyers** Applicant shall provide notice of the availability of affordable housing units for sale to the general public through advertisements in local newspapers and other vehicles reasonable to ensure broad exposure to potentially eligible purchasers. The Initial Unit Purchasers and the Initial Unit Price shall be determined by the Applicant consistent with the Paragraph 3 above

6. **Restriction on Sale**: The Affordable Units will be restricted through a deed restriction, covenant and/or other legal means in their resale for a period of 10 years to. (1) income-eligible homebuyers, and (2) a maximum Purchase Price equal to the Initial Unit Price plus the cumulative change in the consumer price index and the cost of permanent improvements to the Unit

7. **Sale After Restriction Period**: Upon the expiration of the 10-year restricted selling period, the then current owner of the Unit may sell the Unit without restriction

8. **Monitoring and Enforcement** Restrictive covenants shall be active until the end of the 10-year restriction period The District government shall retain all rights to enforce the provisions of the affordability covenants, according to the provisions of this document or such enforcement mechanisms as the District government may deem appropriate. The District government shall have the right to recapture any enforcement costs.

9. **Changes to Procedures After Initial Sale of Units**· The substance of any of the above paragraphs included in deed restriction terms may not be modified without the consent of both the unit owner(s) and the District government. Administrative, monitoring and enforcement mechanisms not included in deed restrictions may be modified at the sole discretion of the District government

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**
**Zoning Commission**



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**
**ZONING COMMISSION ORDER NO. 04-13**
**Case No. 04-13**
**Consolidated Planned Unit Development & Related Map Amendment for the Property Located at 1200-1224 R Street, N.W.**
**Lots 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 and 45 in Square 277**
**March 14, 2005**

Pursuant to notice, the Zoning Commission for the District of Columbia held a public hearing on December 2, 2004 to consider an application from Logan Phase II, LLC (the "Applicant"), for consolidated review and approval of a planned unit development ("PUD") and related map amendment to rezone the property from the R-4 District to the R-5-B District. The application was filed on behalf of and with the consent of Metropolitan Baptist Church, Elery Dunn, Marie B Carter, and Yvonne Rosenberg, the contract sellers of the PUD site At the time of the hearing, the church had sold its property to the Applicant The Commission considered the application pursuant to Chapters 24 and 30 of the D C. Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR") The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Zoning Commission hereby approves the application

## FINDINGS OF FACT

### The Application, Parties and Hearing

1 On May 20, 2004, the Applicant filed an application with the Zoning Commission for consolidated review and approval of a PUD for the property located at Lots 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 and 45 in Square 277, at 1200-1224 R Street, N W, Washington, D C The project site has a street frontage of approximately 253 feet on R Street and approximately 109 feet on Vermont Avenue The PUD site consists of approximately 23,251 square feet of land area and is located in the R-4 District The Applicant also requested a map amendment to rezone all of the property except Lot 45 from the R-4 District to the R-5-B District The application was later amended to include Lot 45 in the rezoning request

2 At its public meeting held July 12, 2004, the Zoning Commission requested additional information from the Applicant. At its public meeting held September 13, 2004, the Zoning Commission voted to schedule a public hearing on the application

3 After proper notice, the Zoning Commission held a hearing on the application on December 2, 2004. The parties to the case were the Applicant and Advisory Neighborhood Commission 2F, the ANC in which the property is located.

4. There were no parties in opposition. The record contains one letter in opposition from the resident at 1645 13th Street, N.W , who expressed concern about overbuilding in the Logan Circle neighborhood, construction of another "high-rise" building and parking shortages The resident did not appear at the hearing

5. By letters dated August 25, 2004, and November 28, 2004, Jack Evans, Councilmember for Ward Two, expressed his strong support for the project, noting that: a) the project is critical for continued residential development and stabilization of the Logan Circle area; b) the provision of housing, affordable housing, and parking for sale to the neighborhood are significant benefits of the PUD, c) the design is consistent with the adjacent historic district; and d) the overall benefits and amenities are exceptional to warrant a waiver of the minimum area requirements for a PUD in the R-5-B District.

6. ANC 2F submitted a report and testified as a party in strong support of the application at the hearing. The ANC noted that the benefits and amenities of the PUD are exceptional in quality to satisfy not only the PUD standards but a waiver from the minimum PUD area requirements as well.

7. At the close of the hearing, the Commission held the record open to receive the following additional items· (i) additional architectural drawings to correct inconsistencies between the elevations and plans, particularly with respect to the stairs; (ii) an architectural drawing showing the retaining wall and guard rail and the rear elevation; (iii) photographs of the building materials; (iv) a more detailed explanation of the church community programs as a public benefit and how the room is integrated with the condominium association; mechanisms for controlling any adverse impacts; the life expectancy of the church program and plans for the space if the church programs relocate. The Applicant submitted the requested materials on December 21, 2004

8 At its meeting held January 13, 2005, the Zoning Commission took proposed action by a vote of 5-0-0 to approve with conditions the application and plans that were submitted to the record.

9 The proposed action of the Zoning Commission was referred to the National Capital Planning Commission ("NCPC") pursuant to § 492 of the District Charter NCPC, by action dated January 28, 2005, found the proposed PUD and related map amendment would not affect the identified federal interests in the National Capital nor be inconsistent with the Comprehensive Plan for the National Capital.

10 The Zoning Commission took final action to approve the modified application on February 24, 2005

**Waiver of Minimum PUD Area Requirements**

11 The minimum area requirement for a PUD in the R-4 District is one acre (43,560 square feet). The PUD site, however, contains only 23,251 square feet of land area Thus, the Applicant requested a 47-percent waiver of the minimum area requirement. Pursuant to § 2402.2, the Zoning Commission may waive up to 50 percent of the area requirement if it finds that the development is of exceptional merit and in the best interest of the city and if 80 percent of the gross floor area of the project is devoted exclusively for dwelling units and accessory uses thereto when the project is located outside the Central Employment Area Here, the project is located outside the Central Employment Area and 100 percent of the building will be devoted exclusively to dwelling units and accessory uses thereto. Moreover, the project is one of exceptional merit in that it exceeds the Office of Planning policy guideline for affordable housing and will provide an environmentally friendly "green" roof, as described in greater detail below. Accordingly, the Zoning Commission finds that the Applicant meets the test for a reduction in the minimum area requirement

**The PUD Project**

Overview

12. The proposed PUD is a four-story condominium building that will consist of 62,996 square feet of gross floor area. The building will contain 63 units, five of which will be devoted to affordable housing The PUD will provide 89 parking spaces, 20 of which will be made available for sale to the community The project will also include a church community room consisting of 3,479 square feet of space. Six of the remaining 69 spaces will be allocated for use by the church community room.

13 The site is presently improved with a non-conforming commercial use at the corner, two- and three-story apartment houses, church offices, row dwellings and a vacant lot. The buildings on Lots 14-23 will be demolished to allow for the new construction. The rowhouse on Lot 45 will be renovated as a separate three-unit building within the PUD

14 The area surrounding the PUD site is characterized by moderate-density residential uses, with row houses and garden apartments as the predominant uses Churches are located across R Street to the north and along Vermont Avenue, N W. The site also abuts some of the small commercial businesses that are located along 12th and 13th Streets

Project Design and Components

15 The PUD project has been designed to achieve a high-quality composition of residential uses in a cohesive urban setting The design breaks down the R Street elevation to mimic the rowhouse character of the surrounding area Projecting bays modulate the appearance of the length of the building along R Street, while various materials differentiate between the partially exposed cellar and the main floors of the structure. The building will be

constructed to a height of 50.5 feet with an overall floor area ratio ("FAR") of 2 68, whereas 3 0 FAR permitted under the PUD guidelines for the R-5-B District

16. The main entrance to the building will be located in the center of the R Street elevation. Several of the first floor units along R Street will have separate entrances accessed by individual exterior stairs, which mirror the typical District of Columbia square bay rowhouse. A secondary entrance will be located on Vermont Avenue. A separate door at the western end of the R Street elevation will provide access to the garage only, for those area residents leasing parking spaces in the building. Controlled key access to the garage will ensure the safety of those parking in the building and residents of the new development

17 The garage entrance will be located at the rear of the building off a 10-foot alley accessed from Vermont Avenue. The service and delivery area for the building will also be located off the alley Extensive landscaping will surround the building in an undulating pattern as a contrast to the square-bay front of the building A three-foot decorative iron fence, reminiscent of the type found in the surrounding late-nineteenth century neighborhoods, will enclose the lawn of the property

18 As condition of sale of its property to Logan Phase II, LLC, Metropolitan Baptist Church required the Applicant to provide the church approximately 3,600 square feet of space for use as a community room The space as configured will contain 3,479 square feet and will be sold to the church as a condominium unit, governed by the same condominium regime created for the residential units. Metropolitan Baptist Church will be the owner of this space and will have control and use of the room However, the community room will be made available for use by residents of the building and community organizations at least two days per month Additional times may be arranged through the Church as the room is available

19. Metropolitan Baptist Church will use the community room to maintain some of its urban ministries in the Shaw community. The space will include a multi-function room for approximately 80 people to be used as a chapel for small weddings, funerals and other religious services and events, a museum showcasing Metropolitan Baptist Church's history in the District of Columbia; and approximately three small ministry offices (or such office space as may be required for the church to conduct its affairs) for counseling and therapy programs for individuals and small groups The offices and multi-purpose space will also host literacy programs for citizens of the Shaw community and the District of Columbia at large, community development programs such as housing counseling and financial literacy programs for small groups, and other such programs and initiatives that are consistent with the church's historic contribution to community welfare and growth. The space will also include a reception area, a closet, a small kitchenette and restrooms. The multi-purpose room will be able to seat approximately 80 people, an additional five people at the stage area, and another one or two persons per office for a maximum total capacity of approximately 91 persons.

**Matter of Right Development Under Existing Zoning**

20. The subject site is located in the R-4 District. The R-4 District is a moderate height and density area that permits row dwellings and similar residential uses. The maximum height permitted in the R-4 District is 40 feet with a limitation of three stories There is no prescribed maximum FAR for residential development in the R-4 District.

**Matter of Right Development Under Proposed Zoning**

21 The Applicant seeks to rezone the PUD site from R-4 to R-5-B The R-5-B District is a moderate height and density area that permits all types of urban residential development, including single-family dwellings, semi-detached houses, row dwellings and apartments The maximum height in the R-5-B District is 50 feet with no limitation on the number of stories. The density for all buildings and structures on a lot may not exceed 1 8 FAR The PUD standards for the R-5-B District allow a height increase to a maximum of 60 feet and a maximum density of 3.0 FAR

**Development Flexibility and Incentives**

22 The Applicant requested the following areas of flexibility from the Zoning Regulations.

a Lot Occupancy and Side Yard Requirements The Applicant proposes a lot occupancy of 72 percent where a maximum of 60 percent is permitted. Similarly, the project provides a side yard of 7 feet, 3 inches instead of the required minimum of 12 feet, 7 inches, based on a calculation of three inches for every foot of building height (see 11 DCMR § 405 6). The deviation from these standards is dictated by constraints of the site and the desire to conform to urban streetscape patterns of the neighborhood, as requested by the community. The site fronts on three streets 12th Street, Vermont Avenue and R Street, N W A 10-foot alley abuts the site to the south For zoning purposes, the front of the building is located on R Street and the rear of the building is along Vermont Avenue (see 11 DCMR § 404.2). The building setback along the alley elevation creates a side yard under the zoning regulations The Applicant originally designed the building to provide a conforming side yard; however, it left a gap along the Vermont Avenue streetscape The community expressed its concern that this gap severely detracted from the urban fabric of the Logan Circle neighborhood and specifically requested that the building be redesigned to extend the Vermont Avenue elevation further south This change in design also increased the portion of the site occupied by the project. Under the PUD guidelines, the Applicant could have designed the project to reach a height of 60 feet, without an increase in density, to comply with the lot occupancy and side yard provisions. Again, however, in order to conform to the character of the surrounding neighborhood and the express wishes of the community, the Applicant reduced the height to 50.5 feet without reducing the number of new residential units As a result of this redesign, however, the project does not meet the minimum requirements for side yard and lot occupancy Because of the

unusual characteristics of the site – the PUD is bounded on four of its five sides by public right-of-ways – the light and air of the residents will not be unduly affected Based on the above, the Commission finds that the proposed deviation from the side yard and lot occupancy requirements is appropriate

b. Loading Requirements The zoning regulations require apartment buildings with more than 50 units to provide a truck loading berth with a depth of 55 feet. Instead, the PUD proposes a loading berth of 30 feet The Zoning Commission has previously found in other PUDs that, based on reports of traffic engineers, a 55-foot loading berth has proved unnecessary for a residential building of this size (*See, for example,* Z.C. Order No 03-26, 14th & V PUD, August 5, 2004.) The units in the proposed PUD will be modest in size, averaging approximately 880 to 1,050 square feet each, and will be marketed primarily to first-time home buyers with one or two persons per household. Based on statistics submitted for much larger PUDs, such households will generate a need only for smaller trucks or transport vehicles. Surveys of condominium projects ranging from 58 to 300 units indicate that the arrival of a large tractor-trailer is a rare occurrence and that the absence of a 55-foot loading berth for residential use does not create any adverse impacts. Further, truck rental facilities have confirmed that a 14- or 15-foot van or small truck is most frequently used for moving purposes. Consequently, the Commission finds that a smaller loading berth will not adversely affect traffic circulation patterns or loading issues in the immediate vicinity of the proposed PUD

c Church Community Room. The PUD proposes to include a community room used for various church programs Section 216 of the Zoning Regulations allows church programs in residentially-zoned districts through special exception relief provided certain criteria are met. The Applicant is requesting flexibility from § 216.7, which limits approval to a three-year period To ensure privacy, all access to the community room will be from either the Vermont Avenue entrance or the stairwell leading up from the garage, with no access to the residential portion of the building This and other conditions set forth in this Order will be included in the condominium documents for the property to ensure the greatest protection from any adverse impacts on the residents and adjacent properties.

**Public Benefits and Amenities**

23 The following benefits and amenities will be created as a result of the PUD Project:

a Housing The single greatest benefit to the area, and the city as a whole, is the creation of new housing and home-ownership opportunities consistent with the goals of the Zoning Regulations, the Comprehensive Plan and the Mayor's housing initiative The project will provide 63 condominium units, or 62,996 square feet of gross floor area devoted to housing and affordable housing under the proposed R-5-B District, which is approximately 21,144 square feet more than

would be permitted as a matter of right in the R-4 District if the site were vacant. Under the proposed R-5-B zoning, the Applicant will also be able to house significantly more residents in the 63 condominiums, or approximately 60 percent more units than the site presently accommodates. Currently, the site has 39 residential units, at least 15 of which are apartment units, a housing type not permitted under the existing R-4 District. If the entire site were vacant, the Applicant could build only 22 units (11 flats) under the existing zoning.

b. Affordable Housing. Five of the proposed 63 units in the PUD project, consisting of 5,833 square feet of gross floor area including a core factor (approximately 5,293 net square feet), will be available for sale as affordable housing to residents with a maximum annual income of 80 percent of the adjusted median income. This represents 25 percent of the additional square footage achieved through the rezoning of the property, which is in excess of the 15 percent policy guideline recommended by the Office of Planning. Significantly, four of the five units are two-bedroom, two-bathroom units, which will more readily accommodate families with children. The Commission finds this level of affordable housing to be an exceptional benefit of the PUD.

c. Urban Design, Architecture and Landscaping. The proposed new building has been sensitively designed to complement and respect the surrounding neighborhood. The overall composition reinforces the broad and lively elements of the Logan Circle neighborhood, and respects the scale, massing, architectural design and context of the neighboring 14th Street Historic District. The exceptional quality of the building's design is derived not only from its architectural detailing, but also from its features of urban design and land planning. With respect to land planning, the project transforms a dilapidated block of obsolete buildings and several non-conforming uses into a cohesive new residential development that increases the number of housing units in direct response to the Mayor's goals for additional housing. The project responds to its trapezoidal, corner lot by conforming the massing of the building to the street angles, creating distinct but complementary facades along Vermont Avenue and R Street.

d. Environmental "Green Roof" Technology. One of the most significant elements of the project is the introduction of a high-elevation "green roof." Part of an innovative low-impact environmental technology, a green roof is a rooftop planted with pollution-reducing vegetation that also enhances the energy efficiency of a building. It is the third high-elevation green roof in the city, and among the first residential buildings to adopt this technology based on statistics maintained by D.C. Greenworks. Approximately 50 percent of the rooftop will be planted with low-growing succulent plants of various species Preliminary reports on green roofs in other American and European cities suggest that storm water runoff and rooftop temperatures will be reduced significantly at the PUD site, which will help improve water quality in area rivers and the Chesapeake Bay.

Reduced temperatures also result in less air pollution, particularly on Code Orange and Red days in the summer. The inclusion of a green roof on the residential PUD project will complement the environmental efforts of other pioneering projects, and is a significant and innovative public amenity of the project. It promises to encourage other residential developments to adopt these environmentally-friendly and energy-saving measures

e Transportation/Parking. Of significant value to the immediate neighbors of the PUD site is the provision of 20 parking spaces for sale to residents within a two-block radius of the project The Logan Circle and Shaw neighborhood suffer from a severe parking shortage The Applicant's sale of these 20 spaces will help alleviate this chronic problem of the community. A condominium lot will be created for each one of the parking spaces in order to allow for the sale of the spaces

f. Historic Preservation. In recognition of the neighboring Greater 14th Street Historic District, the Applicant has committed to fund 20 signs to identify the historic area. The signage will be instrumental in informing residents of the benefits and obligations of living in an historic district, including the need to obtain any necessary historic preservation review prior to making any exterior changes to their property

g. Uses of Special Value to the Neighborhood. The Applicant will contribute $20,000 to the D.C. Department of Transportation to facilitate the implementation of the 11th Street Streetscape Plan. The 11th Street Streetscape Plan will benefit not only the community, which will benefit directly from the improvements, but also those that travel on 11th Street as its improved appearance will be visible to all that use it The Applicant has coordinated with DDOT to ensure the funds are earmarked for those specific improvements

h. Community Room. The community room will be available for use by residents of the building and community organizations at least two days per month church or more as demand warrants At other times, the community room will be used to provide church programs for the benefit of community residents.

**Compliance with the Comprehensive Plan**

24 The project is not inconsistent with the Comprehensive Plan as follows

a. Generalized Land Use Map for the District of Columbia The proposed development is consistent with the Generalized Land Use Map, which designates Square 277 for moderate-density residential uses, characterized predominantly by row houses and garden apartments Consistent with these land use categories, the proposed PUD will consist of a 63-unit condominium building and community room. The overall density will be 2 68 FAR

b. Housing Element The proposed PUD significantly promotes the Housing Element set forth in the Comprehensive Plan. The new development is specifically designed to combine market-rate housing with affordable housing units and provide a venue for community programs. Not only will the PUD replace several smaller, obsolete housing units with modern dwellings and a community room, it will also provide an additional 20 parking spaces for use by community residents Additionally, the new residential project will be easily accessible to transportation and retail stores along the 14th Street corridor and employment opportunities in the immediate area and downtown Washington.

c. Urban Design Element. The proposed development enhances and supports the major urban design goals of the Comprehensive Plan. The architect's design creates a contemporary building that incorporates traditional elements of the District of Columbia rowhouse form. This sensitive composition respects the urban character of the neighborhood and contributes to the vitality of the urban streetscape.

d Land Use Element. The proposed PUD responds to the goals of the Land Use Element by addressing obsolete housing units by replacing them with a high-quality, efficient residential building The superior design of the proposed development will enhance and revitalize this segment of Ward 2, thereby stimulating economic and employment opportunities.

e Transportation Element The PUD fosters the policies of the Transportation Element and makes the proposed development attractive by not only providing sufficient parking spaces for each unit in excess of the Zoning Requirements, but by responding to the parking shortage in the area by offering an additional 20 spaces for area residents in direct response to community concerns

f Ward 2 Elements of the Comprehensive Plan.

(i) *Ward 2 Economic Development* The proposed PUD furthers the Ward 2 Economic Development Element by creating additional residential opportunities in the ward while increasing income and property tax revenues to the District

(ii) *Ward 2 Housing Element* The proposed development furthers the goals of the Ward 2 Housing Element through the development of high-quality housing in a mixed-use area that is in close proximity to public transportation

(iii) *Ward 2 Transportation Element* Parking within the ward is identified as a major problem due to evening visitors, student parking and the lack of parking provisions for many residential dwellings The proposed development will further the goal of providing sufficient parking by creating 89 new parking spaces for the site, 20 of which will be available

for sale to area residents to alleviate parking congestion in the immediate vicinity

(iv) *Ward 2 Urban Design Element*: The proposed development furthers the Ward 2 goals for urban design by enhancing the physical character of the area through an appropriate design and complementing the materials, height, scale and massing of the surrounding neighborhood.

(v) *Ward 2 Residential Land Use Element*: The project supports the Residential Land Use Element of the Comprehensive Plan by establishing a new residential use that will significantly enhance the character of the neighborhood. The proposed PUD substantially furthers the goals of this element through the provision of both market-rate and affordable housing units.

**Office of Planning Report**

25 By report dated November 18, 2004, the Office of Planning ("OP") recommended approval of the consolidated PUD application, finding that the benefits and amenities were not only commensurate with the relief requested, but were of exceptional merit to warrant a waiver of the minimum area requirements for the PUD. OP conditioned its approval on limiting signage for the community room to four square feet in size and limiting approval of the community room to a period of three years, consistent with the time limit on a special exception for church programs set forth in § 216 7, in order to assess any potential adverse impacts on the residential community. Based on questions raised by the Commission at the hearing, however, and in further consultation with the Applicant and post-hearing submissions submitted to the record, OP revised its three-year limitation recommendation. Instead, OP concurred that the church programs could be adequately monitored and controlled through provisions in the condominium documents to ensure that residents of the building and community were protected from any potential adverse effects. Further, should the community room outlive its useful life, OP concluded that the church should be permitted to convert and sell the space for use as one to three additional residential units OP viewed this as exchanging one benefit for another

26 In a Supplemental Report dated January 3, 2005, the Office of Planning recommended that approval of the use of the community room for church programs should be subject to the following conditions

a. The maximum number of people within the community room would be 91, broken down as follows:

- Multi-Purpose Room: 80 persons
- Stage 5 persons
- Offices 6 persons

b No commercial rentals of the community room would be permitted, and the room could not be used as a community food bank.

c. All programs must end by 10:30 p.m., with all clean-up related activities ending by 11:00 p m Only the offices may be occupied after 11:00 p m , but limited to employees only, with no counseling permitted

d An extra layer of drywall or other soundproofing material must be provided for the ceiling of the community room to soundproof the space from the dwellings located directly above.

e. All access to the community room must be from either the Vermont Avenue entrance or a stairwell leading up from the garage, with no access to the residential portion of the building.

27 In response to OP's recommendations, the Commission finds as follows:

a. The proposed use of the community room for church programs need not be evaluated in the context of § 216, which allows church programs in residentially-zoned districts through special exception relief provided certain criteria are met. Under § 2405 7, the Zoning Commission may, as part of a PUD, approve any use that is permitted as a special exception and that would otherwise require the approval of the Board of Zoning Adjustment, and the Commission is not required to apply the special exception standards normally applied by the Board Nevertheless, the Zoning Commission agrees with the Office of Planning that its proposed conditions (b), (d) and (e) would be beneficial in mitigating any potential adverse impact of the proposed use of the community room for church programs. Those conditions, together with the conditions proffered by the Applicant, will be incorporated in and enforced by the condominium documents for the project The Commission therefore finds that is it unnecessary to impose a three-year limitation on the use Moreover, such a limitation would be inconsistent with the Commission's recognition of the church community room as a public benefit, which must remain available throughout the lifespan of the PUD.

b Because the church community room is being proffered as a public benefit of this PUD, it would be inappropriate and premature to either discuss its discontinuance or to indicate what might be substituted in its place. Not only would such a discussion intrude upon the future prerogatives of this Commission, but it would send the wrong signal to the present and future owners of the subject property with respect to their legal obligation to maintain a church community room for so long as this PUD is in place.

c The Commission further finds it appropriate to restrict signage at the property to one sign, no more than four square feet in size, to be located outside the Vermont Avenue entrance to the property

## CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality development that provides public benefits. 11 DCMR § 2400.1 The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project "offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience." 11 DCMR § 2400 2.

2. Under the PUD process of the Zoning Regulations, the Zoning Commission has the authority to consider this application as a consolidated PUD. The Commission may impose development conditions, guidelines and standards that may exceed or be less than the matter-of-right standards identified for height, FAR, lot occupancy, parking, loading, yards, or courts. The Zoning Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment.

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

4. The PUD project exhibits exceptional merit by virtue of its affordable housing, whereby 25 percent of the bonus density earned as a result of rezoning the site is dedicated to affordable housing and by virtue of its innovative green roof technology. Accordingly, the Applicant has met its burden of proof to warrant a 47 percent reduction in the minimum area requirement for a PUD in the R-5-B District.

5 The PUD as approved by the Commission, including its approval pursuant to § 2405.3, complies with the applicable height, bulk and density standards of the Zoning Regulations. The residential uses for this project are appropriate for this site, which is located in the Shaw residential neighborhood. Accordingly, the project should be approved. The impact of the project on the surrounding area is not unacceptable As set forth in the Findings of Fact, the proposed development has been appropriately designed to respect the residential character of the neighborhood and the adjoining 14th Street Historic District in terms of height and mass and is complementary to adjacent buildings.

6. The application, including the request to approve the church program use, can be approved with conditions to ensure that any potential adverse effects on the surrounding area from the development will be mitigated.

7. The number and quality of project benefits and amenities offered, particularly the provision of housing, affordable housing, the green roof, the community room and the church program use are commensurate with the degree of development flexibility granted on the site. The PUD responds to both the surrounding residential developments and the neighboring historic district

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

9. Approval of this PUD and change of zoning to the R-5-B District is not inconsistent with the Comprehensive Plan.

10 The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D C. Official Code § 6-623.04 (2001)), to give great weight to OP recommendations. The Commission carefully considered the OP reports and, as explained in this decision, finds its recommendation to grant the applications with certain conditions persuasive

11 Under § 3 of the Comprehensive Advisory Neighborhood Commissions Reform Act of 2000, effective June 27, 2000 (D C Law 13-135, D.C. Official Code § 1-309 10(d)(3)(a)), the Commission must give great weight to the issues and concerns raised in the written report of the affected Commission. The Commission has carefully considered the ANC's recommendation for approval and concurs in its recommendation.

12 The application for a PUD and related map amendment will promote the orderly development of the site in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia

13 The applications for a PUD and related map amendment are subject to compliance with D C Law 2-38, the Human Rights Act of 1977

## DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia orders **APPROVAL** of the application for consolidated review of a Planned Unit Development for the property located at Lots 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 and 45 in Square 277, at 1200-1224 R Street, N W., Washington, D C , and **APPROVAL** of the application for a map amendment to rezone that same property from the R-4 District to the R-5-B District This approval is subject to the following conditions.

1 The PUD shall be developed in accordance with the plans prepared by Eric Colbert and Associates dated April 27, 2004, August 21, 2004, October 5, 2004, and December 14, 2004, and marked as Exhibits 3, 14, 24, and 35 in the record, as modified by the guidelines, conditions and standards herein

2. The project shall be a residential development constructed to a maximum height of 50 5 feet and a density of 2.68 FAR. The PUD shall consist of approximately 62,996 square feet of gross floor area.

3 The project shall provide a minimum of 63 residential units, of which five will be available for sale as affordable housing to persons with maximum annual incomes of 80

percent of the adjusted median income pursuant to eligibility requirements and enforcement mechanism to be developed in accordance with D C Department of Housing and Community Development recommendations. The units to be reserved for affordable housing are as follows·

| | | |
|---|---|---|
| Unit #3, lower level | 2 BR, 2 BA | 1,169 sf |
| Unit #14, lower level | 1 BR + den, 1BA | 811 sf |
| Unit #10, first level | 2 BR, 2 BA | 1,136 sf |
| Unit #11, first level | 2 BR, 2 BA | 1,136 sf |
| Unit #1, second level | 2 BR, 2BA | 1,041 sf |
| TOTAL | | 5,293 sf (net) |

4. Approximately 3,479 square feet of space on the cellar level shall be used as a community room providing church programs, subject to the following conditions.

a The community room shall include a multi-purpose assembly room with a seating capacity of 85 people (including the stage area) and a small kitchenette;

b The community room may include a church museum, approximately three ministry offices or such other office space as may be necessary for a church to conduct its affairs, and a reception area;

c The community room may be used for small weddings, funerals or other religious services and events, literacy programs for citizens of the Shaw community and the District of Columbia at large; community development programs such as housing counseling and financial literacy programs, and other such programs and initiatives that are consistent with a church's mission, and all other uses allowed in the R-5-B District as a matter-of-right and as a church program. This space may be reconfigured to meet the program need identified above,

d The community room shall be made available at least two times a month or more as demand warrants, to residents of the building and community organizations Such additional times shall be arranged through the church occupying the space as the room is available,

e Any programs conducted in the community room shall end no later than 11 00 p m ;

f Subject to the requirement of 12A DCMR § 3107 (SIGNS), the church occupying the space may install one sign, four square feet in size, at the Vermont Avenue entrance of the project to identify its presence in the building,

g. No commercial rentals of the community room shall be permitted and the room shall not be used as a community food bank,

h An extra layer of drywall or other soundproofing material shall be provided for the ceiling of the community room to soundproof the space from the dwellings located directly above, and

i All access to the community room shall be from either the Vermont Avenue entrance or the stairwell leading up from the garage, with no access to the residential portion of the building.

5 The Applicant shall include the conditions of Paragraph 4 in the condominium documents created for the project. Such documents may include other conditions governing the community room use that are not inconsistent with these or any other conditions of this Order

6. Any proposed change of uses in the community room shall require approval by the Zoning Commission as a modification to the PUD

7. The PUD shall include a minimum of 89 parking spaces, six of which shall be dedicated for use by the community room. Twenty of the remaining 83 spaces shall be offered for sale to residents in the community. Each parking space shall be created as a separate unit within the condominium regime Sale of the 20 community spaces shall be restricted to residents within a two-block radius of the project The condominium documents shall include these requirements and provide enforcement mechanisms to ensure the 20 spaces are sold only to eligible persons.

8 The Applicant shall incorporate a Greenroof into its project to cover approximately 50 percent of the rooftop, as shown in the architectural plans and as described in the submissions to the record.

9 Prior to the issuance of a certificate of occupancy for the project, and in coordination with the D.C Historic Preservation Office, the Applicant shall contribute funds for the use of the D C Department of Transportation to install 20 signs to identify the Greater 14th Street Historic District

10 Prior to the issuance of a certificate of occupancy for the project, the Applicant shall contribute $20,000 for the use of the D.C. Department of Transportation to facilitate the implementation of the 11th Street Streetscape Plan

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

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

b. to vary the location and arrangement of parking spaces,

c. to vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction, without reducing the quality of the materials; and

d. to make minor refinements to exterior details and dimensions, including cornices, railings and trim, or any other changes to comply with the D.C. Building Code or that are otherwise necessary to obtain a final building permit.

12. No building permit shall be issued for this planned unit development and the related map amendment shall not become effective until the Applicant has recorded a covenant in the land records of the District of Columbia, between the owners and the District of Columbia, that is satisfactory to the Office of the Attorney General and the Zoning Division of the Department of Consumer and Regulatory Affairs (DCRA). Such covenant shall bind the owners and all successors in title to construct on and use this property in accordance with this Order or amendment thereof by the Zoning Commission.

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

14 The PUD approved by the Zoning Commission shall be valid for a period of two years from the effective date of this Order. Within such time, an application must be filed for a building permit as specified in 11 DCMR § 2409 1

15. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D C. Law 2-38, as amended, and this Order is conditioned upon full compliance with those provisions In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., (Act) the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, familial status, family responsibilities, matriculation, political affiliation, disability, source of income, or place of residence or business Sexual harassment is a form of sex discrimination that is also prohibited by the Act In addition, harassment based on any of the above-protected categories is also prohibited by the Act Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The failure or refusal of the Applicant to comply shall furnish grounds for the denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this Order

On January 13, 2005, the Zoning Commission approved the application by a vote of 5-0-0 (Carol J Mitten, John G. Parsons, Gregory N Jeffries, Anthony J. Hood, and Kevin L Hildebrand to approve)

The Order was adopted by the Zoning Commission at its public meeting on March 14, 2005, by a vote of 5-0-0 (Carol J Mitten, Anthony J. Hood, Kevin L Hildebrand, John G Parsons, and Gregory N. Jeffries to approve)

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 MAY 13 2005

**CAROL J. MITTEN**
**Chairman**
**Zoning Commission**

**JERRILY R. KRESS, FAIA**
**Director**
**Office of Zoning**

# DISTRICT OF COLUMBIA GOVERNMENT
## OFFICE OF THE SURVEYOR

Washington, D.C., December 15, 2003

Plat for Building Permit of SQUARE 277 LOT 45, 14 15, 16, 17, 18, 19, 20, 21, 22, 23
Scale: 1 Inch =30 feet Recorded In Book WF Page 99

Receipt No. 08561

Furnished to: CLARKS PERMIT

Surveyor, D.C.

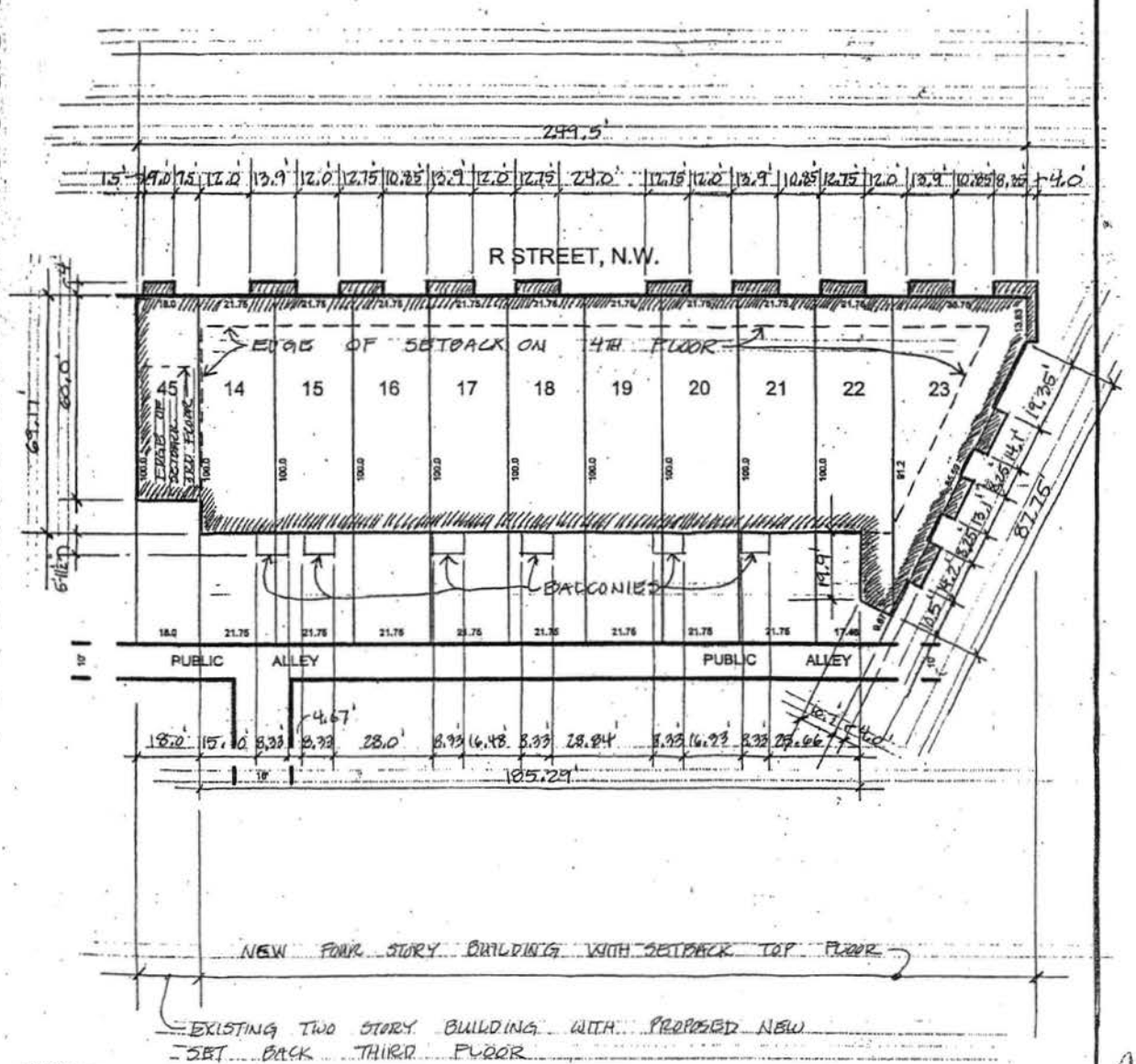
By: L.M.A.

I hereby certify that all existing improvements shown hereon, are completely dimensioned, and are correctly platted; that all proposed buildings or construction, or parts thereof, including covered porches, are correctly dimensioned and platted and agree with plans accompanying the application; that the foundation plans as shown hereon is drawn, and dimensioned accurately to the same scale as the property lines shown on this plat;and that by reason of the proposed improvements to be erected as shown hereon the size of any adjoining lot or premises is not decreased to an area less than is required by the Zoning Regulations for light and ventilation; and it is further certified and agreed that accessible parking area where required by the Zoning Regulations will be reserved in accordance with the Zoning Regulations, and that the area has been correctly drawn and dimensioned hereon. It is further agreed that the elevation of the accessible parking area with respect to the Highway Department approved curb and alley grade will not result in a rate of grade along centerline of driveway at any point on private property in excess of 20% for single-family dwellings or flats, or in excess of 12% at any point for other buildings. (The policy of the Highway Department permits a maximum driveway grade of 12% across the public parking and the private restricted property.)

Date: 4/30/04

(Signature of owner or his authorized agent)

NOTE: Data shown for Assessment and Taxation Lots or Parcels are in accordance with the records of the Department of Finance and Revenue, Assessment Administration, and do not necessarily agree with deed description.




SO-08561(2003)

Case 04-13