Government of the District of Columbia
OFFICE OF ZONING

Z.C. CASE NO.: 04-35

As Director of the Office of Zoning, I herby certify that on FEB - 6 2006 copies of this Z.C. Order No. 04-35 were mailed first class, postage prepaid or sent by inter-office government mail to the following:

1. *D.C. Register*

2. Phil Feola, Esq.
Garland Stillwell, Esq.
ShawPittman LLP
2300 N Street, N.W.
Washington, D.C. 20037

3. Anthony Muhammad, Chair
ANC 8A
2140 MLK Jr. Avenue, S.E.
Washington, D.C. 20020

4. Commissioner T'Chaka M. Sapp
ANC/SMD 8A03
1357 Maple View Place, SE
Washington, DC 20020

5. Gottlieb Simon
ANC
1350 Pennsylvania Ave., N.W.
Washington, D.C. 20004

6. Councilmember Marion Barry

7. Office of Planning (Ellen McCarthy)

8. Ken Laden, DDOT

9. Zoning Administrator

10. Julie Lee
General Counsel
941 North Capitol Street, N.E.
Suite 9400
Washington, D.C. 20002

11. Office of the Attorney General
(Alan Bergstein)

ATTESTED BY: Sharon S. Schellin
Sharon S. Schellin
Acting Secretary to the Zoning Commission
Office of Zoning

ZONING COMMISSION
District of Columbia
Case 04-35
Exhibit 34

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 04-35
Z.C. Case No. 04-35
(The Salvation Army - Consolidated Planned Unit Development)
January 9, 2006

Pursuant to notice, the Zoning Commission for the District of Columbia held a public hearing on July 7, 2005, to consider an application from The Salvation Army ("Applicant") for the consolidated review and approval of a planned unit development for Lots 222, 223, 224, 225, 226, and a portion of Lot 227 in Square 5805, located at 2302 – 2320 Martin Luther King, Jr. Avenue, S.E., 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 11 DCMR §3022.

FINDINGS OF FACT

1. The project site is located in the Near Southeast neighborhood of Ward 8 at the intersection of Martin Luther King, Jr. Avenue and Morris Road, S.E. The site consists of Lots 222, 223, 224, 225, 226, and a portion of Lot 227 in Square 5805 and has an address of 2302 – 2320 Martin Luther King, Jr. Avenue, S.E. (the "Property"). The Property comprises approximately 19,280 square feet of land area and is located in the C-2-A Zone District. The Applicant plans to develop a multi-use, community-serving center on the Property. Community centers are permitted as a matter of right in the C-2-A zone.

2. On December 3, 2004, The Salvation Army filed an application with the Zoning Commission ("Commission") for review and approval of a planned unit development ("PUD"). The Applicant sought relief from the non-residential floor area ratio ("FAR") and roof structure requirements. The Applicant proposed to construct a new community center that will become a centerpiece for a wide variety of community programs that are needed in Anacostia (the "Project"). The Project will comprise approximately 46,988 square feet of gross floor area, including approximately 4,100 square feet of retail space and other uses such as community program space, office space for The Salvation Army, a childcare center and family development center, worship space, job training, a health and wellness center, and underground parking.

3. At a Special Public Meeting on March 14, 2005, the Commission unanimously voted to set down the application for a public hearing. The Zoning Commission held a public hearing on the application on July 7, 2005. By proposed action taken October 17, 2005, the

Commission voted to approve the application by a vote of 4-1-0. Final action to approve the application was taken January 9, 2006, by a vote of 4-1-0.

4. Parties in this proceeding are the Applicant and Advisory Neighborhood Commission ("ANC") 8A. There were no additional requests for party status. The Commission voted to waive the requirement of §3012.5 to accept the report of ANC 8A, which was filed July 7, 2005.

PUD APPLICATION AND PROJECT

5. The Property is located on the southwest corner of Martin Luther King, Jr. Avenue and Morris Road, S.E. It is bounded to the east by a 15-foot-wide public alley. To the west, the Property abuts an auto body shop and asphalt parking lot. A liquor store is located across Martin Luther King, Jr. Avenue from the site. The Property has an elevation change of approximately 15 feet from its low point along Martin Luther King, Jr. Avenue to its rear property line. (Exhibit 16, Applicant's Prehearing Statement dated April 27, 2005 at pp. 5-6.)

6. The Property is located in an underserved urban neighborhood that has a need for community-based programs and resources. The commercial strip along this portion of Martin Luther King, Jr. Avenue is in need of revitalization, but the surrounding area generally is characterized by stable residential neighborhoods. The predominant use in the area is single-family homes, with some walk-up and garden apartments. The area is characterized by high pedestrian and automobile traffic and other urban activities. (Prehearing Statement at p. 5.)

7. Several other developments are planned for the neighborhood. The District of Columbia Department of Transportation ("DDOT") has allocated funds for streetscape improvements to Martin Luther King, Jr. Avenue. The construction of a 300,000-square-foot office center for DDOT is planned for the intersection of Martin Luther King, Jr. Avenue and Good Hope Road. The Anacostia Economic Development Center, a 26,000-square-foot office development, also is planned for that area. (Prehearing Statement at pp. 5-6.)

8. The Property is convenient to public transportation. Three bus stops are nearby, at the southeast corner of Martin Luther King, Jr. Avenue and Morris Road, the northwest corner of Martin Luther King, Jr. Avenue and Chicago Street, and at the northeast corner of Morris Road and Mount View Place. The Property is well served by Metrorail, being located four blocks from the Anacostia Metro Station. (Prehearing Statement at p. 6.)

9. The Property is located in the moderate-density residential land use category as shown on the District of Columbia Generalized Land Use Map. Moderate-density residential is defined to include rowhouses and garden apartments as the predominant uses. (Prehearing Statement at pp. 22-23).

10. The Project will create an inviting community building comprising approximately 46,988 square feet of gross floor area for an FAR of 2.45. The building will have four and one-half stories with a height of 50 feet. The lot occupancy will be 61 percent. The building will

contain community program space, office space for The Salvation Army, a childcare and family development center, worship space, a job training center, an approximately 7,300-square-foot health and wellness center, underground parking, and approximately 4,100 square feet of retail space. (Prehearing Statement at p. 6).

11. The architectural concept for the Project intends to make a statement with a fresh, innovative, forward-looking design. The sanctuary roof has been designed to articulate a feeling of transcendence and features a full-height abstract cross element of light and metal. The building cladding will be a mixture of warm-toned brick, zinc metal panel, and multi-colored glass with an accent of ceramic tile. The choice of brick as a material is consistent with the dominant material in the existing neighborhood and the introduction of the floating metal panels provides a unique element to the design. (Prehearing Statement at pp. 5-6; Testimony of Colden Florance, Transcript at p. 19.)

12. The formal pedestrian entry to the building will be at the ground level and accessed from Martin Luther King, Jr. Avenue. The retail element of the Project will have the prominent corner location at this level. Family assistance facilities and offices also will be located on the ground floor. The ground level features the day care drop-off and the entrance to the parking garage, which will be accessed from Morris Road. The driveway to the parking garage will accommodate one inbound lane and one outbound lane of traffic and will provide access to the loading dock. The licensed childcare facility will be located on the second floor. The Applicant anticipates that the childcare facility will serve approximately 50 children. A sanctuary seating approximately 170 persons will be located on the third floor, which will be the center of church activities. The sanctuary will have audiovisual facilities and will be available for community meetings during the week. The third floor also will provide space for the after-school program. The workforce development program will be located on the fourth floor. The fifth floor will provide space for Spiritual Partnership in Realizing Individual Transformation ("S.P.I.R.I.T."), a coalition of 22 churches. S.P.I.R.I.T. will operate the 7,300-square-foot wellness center on the fifth floor. The roof will feature a walking track. (Prehearing Statement at pp. 7-8; Florance, Transcript at p. 18; Testimony of Todd Smith, Transcript at pp. 12-16.)

13. The site plan provides approximately 9,000 square feet of community recreation space. The Applicant plans to widen the existing sidewalk along Martin Luther King, Jr. Avenue from 10 feet to 13 feet. The Project also includes the construction of a new sidewalk along Morris Road. The building will include two terraces, one balcony, and a roof terrace with a walking track. The Project will provide an outdoor play yard with trees for children attending the licensed childcare center. The Applicant will plant four new trees along the sidewalks to enhance the streetscape. (Prehearing Statement at Exhibit E; Exhibit 28, Applicant's Post-hearing Submission dated August 18, 2005, at Exhibit E.)

14. The original design of the Project included 34 parking spaces in an underground parking garage and a traffic circle for the drop-off of children attending the day care center. In response to concerns voiced by the Commissioners during the public hearing, the Applicant modified the drop-off area by eliminating the traffic circle and providing four additional parking spaces. As a result, the Project will have a total of 38 parking spaces, four of which will be

designated for use by parents dropping off children at the childcare center. (Post-hearing Submission at Exhibit B.)

15. The Salvation Army has entered into a written agreement with Union Temple Baptist Church to provide overflow parking for the Project. The church has agreed to allow the use of its parking lot for The Salvation Army when those spaces are not in use for church services and activities. The church parking lot provides a total of 145 spaces and is less than a four-minute walk from the Property. (Prehearing Statement at Exhibit G.)

16. The Applicant submitted a traffic analysis by Nicole White of Symmetra Design and Lou Slade and Dan VanPelt of Gorove/Slade Associates. The report states that the Property is convenient to multiple modes of public transportation. The traffic expert found that the affected intersections currently operate at an overall acceptable level of service during the morning and evening peak periods. The report concludes that both of the study intersections are projected to continue operating at acceptable levels of service with the addition of the Project and other projects planned for the area. The report also concludes that the signal timings at the intersection of Martin Luther King, Jr. Avenue and Morris Road should be adjusted during the evening peak hour to give more green light time to Morris Road. At the public hearing, Ms. White testified that the community is characterized by high usage of public transportation. She also testified that the study projects that the traffic caused by the Project will be approximately two percent of the traffic on Martin Luther King, Jr. Avenue and a little less than 10 percent of the traffic on Morris Road. She further noted that The Salvation Army currently provides Metrocheks for employees at its other locations and plans to provide them to its employees at the Project. (Prehearing Statement at Exhibit E; Testimony of Nicole White, Transcript at pp. 26-27.)

17. The Applicant plans to incorporate sustainable practices into many aspects of the Project, including community and cultural sensitivity, environmental responsiveness, and resource efficiency. The Project will enhance the local community with workforce and economic development, child care, and family assistance. The retail space will foster local enterprise. New community recreation space will be of substantial benefit to the neighborhood. The sidewalk along Morris Road will facilitate neighborhood traffic. The existing condition of the Property is characterized by broken asphalt and concrete and two dilapidated, abandoned structures, all of which constitute a hazard to the community. The Project will revitalize this prominent corner with an efficient and attractive new building that houses uses that are responsive to neighborhood activities and needs. The Property is convenient to public mass transportation. It is within walking distance to the Anacostia Metrorail Station, and there is a bus stop in front of the site. The landscape plan will incorporate local planting species. The Project has been designed to use resources efficiently. The windows have been strategically placed to optimize natural light during the day. The windows also will be insulated and will feature color glazing to reflect heat from the sun, while avoiding glare. They also will be operable, which will provide superior indoor air quality. The structure of the building will be of concrete, and the Applicant will specify the use of fly ash. The materials also will include steel for the metal panels and exposed steel lintels and columns. Steel typically has 25 percent recycled content. The brick for the Project will be locally manufactured and made from local resources. To the

extent possible, the interior will feature recycled, sustainable materials. The parking garage will provide bicycle racks to discourage use of vehicles for transportation. (Prehearing Statement at Exhibit E.)

18. The Applicant is seeking flexibility from the roof structure setback requirements of §§ 411 and 770.6 of the Zoning Regulations. Roof structures are required to be set back from all exterior walls at a 1:1 ratio and that the enclosures be of equal heights. The mechanical equipment, elevator override, and the stair enclosures on the southern side of the Project do not meet these requirements. The enclosures for the mechanical equipment will be six feet high, whereas the elevator override and the stair enclosure will be 16 feet high. A second stair access and mechanical equipment room will have separate six-foot high enclosures. The Applicant indicated that the Project cannot meet the setback requirements because of the need to have separate access to the retail portion of the ground floor and the need to provide recreational uses on the roof. Furthermore, the unequal heights of the enclosures will reduce the massing of the structures.

19. The Applicant also requested relief from the 60 percent maximum lot occupancy requirement of § 772 of the Zoning Regulations. During the public hearing, the Commission determined that relief from § 772 was not necessary because the lot occupancy limitation applies only to residential uses. (Transcript at p. 8.)

20. During the public hearing, the Commission determined that the Project required relief from the parking requirements of Chapter 21 of the Zoning Regulations. According to the calculations of the Office of Planning, the Project requires 282 parking spaces. The Project provides only 38 parking spaces.

21. The Project is consistent with, and furthers the goals and policies stated in, the elements of the Comprehensive Plan of the National Capital. The Project is consistent with the following major themes of the Comprehensive Plan:

- Stabilizing the District's neighborhoods;
- Increasing the Quantity and Quality of Employment Opportunities;
- Respecting and Improving the Physical Character of the District; and
- Preserving and Ensuring Community Input.

The Project also is consistent with many Major Elements of the Comprehensive Plan, including the Land Use, Urban Design, and Human Services Elements, and fulfills the goals and policies of the Ward 8 Plan. (Prehearing Statement at pp. 22-25; Exhibit 22, Office of Planning Report, dated June 27, 2005, at pp. 7-9.)

22. The Project satisfies numerous aspects of the Comprehensive Plan. The Generalized Land Use Map designates the Property for moderate density residential development, and the Property is zoned for mixed-use (i.e., commercial and residential). The uses proposed will complement the residential development in the area, and the proposed retail

space is consistent with the mixed-use zoning. The Comprehensive Plan states that cultural and educational facilities are necessary ingredients of neighborhood vitality. The Project will provide services that complement one another and provide a "one-stop" service center for the community. The Project will further the economic development of the neighborhood by providing much-needed job training programs and other opportunities for employment. This building will have a strong physical identity and will set a standard for the redevelopment of other properties along Martin Luther King, Jr. Avenue. The Project is consistent with the Ward 8 Plan, because it will increase labor force job skills and employment opportunities, maintain and improve the physical character of the neighborhood, encourage development on vacant and underused land, improve the availability of child care, and establish a use consistent with both existing residential and existing and proposed commercial uses. (OP report at pp. 7-9.)

23. Both the proposed design of the building and the uses featured in the Project were the result of extensive discussions with the community. The Salvation Army has established a partnership with the Community Equity Empowerment Partnership ("CEEP"), a non-profit organization located in Southeast, to help the Applicant establish a model leadership/training program in the Project that will offer life skills training to prepare participants for employment. The Salvation Army also has partnered with S.P.I.R.I.T., a non-profit organization based in Southeast created by a coalition of approximately 20 local churches, to operate the wellness center. The Applicant participated in numerous informal community meetings and formal meetings involving ANC Commissioners, Councilmembers, business and civic association leaders, District government agencies, churches and other non-profit organizations, and citizen forums. The Salvation Army has participated in, and provided regular reports to, the Anacostia Main Street board. (Prehearing Statement at p. 3; Testimony of Bob Boulter, Transcript at pp. 30-32; Testimony of Vernon Hawkins, Transcript at pp. 88-89.)

24. Testimony and evidence on behalf of the Applicant was provided by Major Todd Smith on behalf of The Salvation Army; Colden Florance of Smithgroup Architects (who testified as an expert in the field of architecture); Nicole White of Symmetra Design (who testified as an expert in the field of transportation planning); Bob Boulter of FaithWorks; and Vernon Hawkins, Chief Operating Officer of the Union Temple Baptist Church.

25. Major Smith testified about the history and mission of The Salvation Army and the goals of the Project. He also testified about The Salvation Army's meetings with the community and its partnership with local non-profit organizations. He stated that The Salvation Army's objective is for the Project to be a clear demonstration of its commitment to serve and to participate as a member of the Anacostia community. (Testimony of Todd Smith, Transcript at pp. 10-17.)

26. As addressed in the Applicant's Prehearing Statement and through the testimony of Mr. Smith and Mr. Florance, the following public benefits and project amenities will be created as a result of the Project:

- Urban Design and Architecture – The PUD Project will have a distinctive architecture and design through the materials used. The brick on the façade will identify with the materials used on most buildings in the neighborhood, and the glass and metal will introduce a forward-looking aspect for the community. The stair tower will give a distinctive identity to the building's entrance, and the separate entrances into the retail area will help integrate the building into the community. The cross element will be subtly integrated into the building façade to represent the mission of the Salvation Army and will give the intersection a strong identity. The different materials and colors will delineate parts of the building and give a feeling of openness. The Project is sensitively designed to enhance the sense of place and visual identity of the community. The Project's focus on and treatment of Martin Luther King, Jr. Avenue is an important design element. The intent of the design is to make a memorable building that lifts the spirit and invites the observer in and to provide a vibrant, lively image for the revitalization of the Anacostia neighborhood. At the rear of the building, the play area is landscaped to separate it from the sidewalk area and also provide a buffer and security to this area. (Prehearing Statement at p. 13; OP report at p. 5.)

- Site Planning – The Project will make effective use of an underutilized parcel of land by reinforcing the corner of an important intersection and filling a gap in the urban streetscape. The Project will take advantage of the grade change, which will minimize the building's height and provide for 38 underground parking spaces without the need for a curb cut on Martin Luther King, Jr. Avenue. Vehicular access to the garage and the childcare drop-off area will be provided via an unsignalized driveway off of Morris Road. The Project also includes designated parking spaces for child pick-up and drop-off. The site will be efficiently used to accommodate a building that will maximize the services that could be provided. In addition to the many activities that will occur in the building, a significant amount of space has been allocated to terrace and balcony space that can be used for passive recreation. (Prehearing Statement at p. 14; OP report at p. 5.)

- Effective and Safe Vehicular and Pedestrian Access – Transportation measures that mitigate adverse traffic impacts are considered pubic benefits and amenities of a PUD. As detailed in the transportation analysis submitted by the Applicant, users of the Project primarily are expected to use public transportation. The Applicant estimates that between 65 and 70 percent of the users of the Project will use public transportation. The building has been designed to mitigate adverse traffic impacts. The Project will provide vehicles a single point of entry and exit to the parking garage. The Applicant will provide a lay-by along Morris Road to enter the parking garage and drop-off are for the childcare center. Vehicles entering the building on Morris Road will either allow the drop-off of children using the designated parking spaces at the ground level of the building or may proceed to the underground parking garage. The Project also will provide a separate pedestrian entrance on Martin Luther King, Jr. Avenue and the construction of a sidewalk on Morris Road adjacent to the site. The widened sidewalk on Martin Luther King, Jr. Avenue will provide safer walking conditions for pedestrians who use the Salvation Army facilities and who currently cut through the site to access the bus stop on that street. The separate entrances and exits will mitigate any potential pedestrian and vehicular conflicts. (Prehearing Statement at pp. 14-15; OP report at p. 6.)

- Employment and Training Opportunities – The Project will provide a model leadership/employment training program, in partnership with CEEP, that will offer job and life skills training to prepare participants for jobs that pay a living wage. This program will serve men and women of all ages but will have a special focus on young men and women between the ages of 14 and 24. This training will include connections to specific employment opportunities and will try to provide childcare for participating parents who need affordable childcare during their training. In addition, the Applicant plans to participate in a First Source Agreement with the District of Columbia Department of Employment Services and a Memorandum of Understanding with the Minority Business Opportunity Commission for construction jobs. (Prehearing Statement at p. 17; OP report at p. 6.)

- Social Services / Facilities – In addition to employment and life skills training, the Project will provide the social services typically offered at other Salvation Army facilities, including family assistance, a health and wellness center, a childcare center, and worship space. (Prehearing Statement at p. 17.)

- Environmental Benefits – The Applicant plans to incorporate sustainable practices into the development of the Project. (Prehearing Statement at Exhibit E.)

- Uses of Special Value to the Neighborhood – The community center and the proposed services will provide many benefits to the Anacostia area and in effect to the District as a whole. The wellness center and social services will attend to their clients' physical and mental well-being and job training will provide more opportunities for clients and contribute to the well-being of the neighborhood. The building will bring activity to the site and contribute to the revitalization of Martin Luther King, Jr. Avenue. (OP report at p. 6.)

27. In response to issues raised by Commissioners during the July 7, 2005 public hearing, the record of the case was left open for the Applicant to provide the following materials and information:

- A revised design for The Salvation Army Sign;
- A revised plan for the childcare drop-off;
- Further information about the sizes of the parking spaces provided;
- Additional details about the roof deck, roof terrace perimeter fence, and the screening of the equipment room;
- A more detailed plan for the streetscape; and
- A discussion of the design philosophy behind the Project and its impact on the future development of Martin Luther King, Jr. Avenue.

The Applicant submitted the required materials on August 18, 2005. The Applicant revised the design of The Salvation Army sign by lowering it, removing the illumination, and providing less conspicuous materials for its construction. The revised sign will be constructed of pre-cast concrete masonry material that will blend into the pre-cast masonry material of the building. The

childcare drop-off was revised to eliminate the traffic circle and instead provide four additional, designated parking spaces for parents dropping off children. The Applicant submitted a parking analysis explaining that the parking level will feature a total of 38 spaces, 10 on the first floor and 28 on parking level P1. Eighteen spaces will be full-size spaces, and 20 will be compact spaces. The Applicant provided an exhibit depicting the roofscape for the building as well as the details of the proposed perimeter fencing and the visual screening of the mechanical enclosure. The Applicant also provided a site plan depicting in more detail a comfortable and inviting streetscape showing the expanded sidewalk along Martin Luther King, Jr. Avenue and the new sidewalk along Morris Road. The site plan also shows the location of the four new trees to be planted in the streetscape area. Finally, the Applicant submitted the statement of Mr. Florance describing his architectural vision for the site and its role as a catalyst and model for future development. (Exhibit F, Applicant's Post-hearing submission, dated August 18, 2005.)

GOVERNMENT REPORTS

28. The Office of Planning ("OP"), in its report dated June 27, 2005 and through its testimony at the public hearing, recommended approval of the Project. OP stated that it strongly supports The Salvation Army's vision for the proposed community center whose programs are geared towards low- to moderate-income residents of the Anacostia area. The report noted that OP believes the Project will benefit the community by providing programs that will address clients' physical, mental, and economic needs. The report further found that the building will facilitate revitalization along Anacostia's main street. OP concluded that the proposed PUD is not inconsistent with the objectives and policies of the Comprehensive Plan and in fact specifically addresses many of them. (Exhibit 22.)

29. In testimony at the public hearing, the representative of OP noted that the Project is consistent with the designation of the Property on the Generalized Land Use Map as moderate-density residential. OP testified that the Comprehensive Plan states that access to cultural and educational facilities is necessary for neighborhood vitality. OP found that the Project will provide services that complement the residential use and will provide an efficient one-stop service center for the community. (Testimony of Maxine Brown-Roberts, Transcript at p. 86.)

30. The District Department of Transportation submitted a report dated, March 16, 2005, that supported the Project. The DDOT report concluded that the Project will not create dangerous or objectionable traffic conditions. (Exhibit 13.)

ADVISORY NEIGHBORHOOD COMMISSION REPORT

31. ANC 8A adopted a resolution expressing unanimous support of the Project at a regularly scheduled and publicly noticed meeting on February 1, 2005. The ANC, in its written resolution dated June 20, 2005, stated that the facility is critical to the well-being and growing of the east of the river neighborhoods and incorporates all of the best of community involvement and community planning in bringing to fruition a community project. (Exhibit 24.)

PERSONS IN SUPPORT

32. Vernon Hawkins, the Chief Operating Officer of Union Temple Baptist Church, testified in support of the Project. He explained that the Project is the result of extensive involvement with the community and that the church and S.P.I.R.I.T. fully support the Project. (Transcript at pp. 87-91.)

PARTIES AND PERSONS IN OPPOSITION

33. No parties or persons appeared in opposition to the Project.

NCPC ACTION

34. The proposed action of the Zoning Commission to approve the application with conditions was referred to the National Capital Planning Commission ("NCPC") pursuant to §492 of the District Charter. By letter dated November 8, 2005, the Executive Director of NCPC noted that pursuant to the Executive Director's Delegated Action authority, the Executive Director found that the proposed PUD project does not adversely affect the "federal interests".

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality developments that provide 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. The application is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

2. Under the PUD process, 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. In this application, the Commission finds that the requested flexibility from the requirements of §§ 411 and 770.6 of the Zoning Regulations regarding roof structures and the required relief from the parking requirements of Chapter 21 can be granted with no detriment to surrounding properties and without detriment to the zone plan or map.

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

4. The proposed PUD meets the minimum area requirements of 11 DCMR §2401.1.

5. The Commission agrees with the testimony of the project architect and the representative of the Applicant and believes that this Project does in fact provide superior features that benefit the surrounding neighborhood to a significantly greater extent than a matter-of-right development on the Property would provide. The Commission finds that social and employment services provided in the Project are significant and substantial project amenities of this PUD application.

6. In accordance with D.C. Official Code §1-309.10(d)(2001), the Commission must give great weight to the issues and concerns of the affected ANC. ANC 8A filed a resolution in support of the Project, and the Commission has accorded to the ANC's decision the "great weight" consideration to which it is entitled. The Commission takes note of ANC 8A's conclusion that an organization that will aid in community development while providing much-needed services to neighborhood residents is always welcomed. ANC 8A found that the Project will uplift the community and expressed particular enthusiasm for the childcare, conference/worship, retail facilities, social service, workforce development, and health/wellness programs that the Salvation Army plans to offer at this site.

7. The Commission notes the support the Project has received from numerous neighborhood organizations and the ANC and that there is no opposition to the application.

8. Approval of the PUD is not inconsistent with the Comprehensive Plan. Specifically, the Commission believes that the Project will act as a catalyst for future development along Martin Luther King, Jr. Avenue. It will help to create an exciting street life and a rewarding community experience.

9. The Commission notes that the flexibility requested is minor in comparison to the benefits and amenities provided by the Project. The Project will be developed under the existing C-2-A zoning, and the proposed community center use is permitted as a matter of right in that zone. The height and density of the Project comply with the standards of the C-2-A zone. Only two areas of flexibility are requested, flexibility from the roof structure requirements and the parking requirements. The design of the roof structures will permit use of the roof for community recreation. The Applicant has made arrangements with a local property owner to provide overflow parking in its parking lot, if necessary. Furthermore, the Property is well-served by Metrorail and bus service.

10. The Applicant has addressed the Commission's concerns about the illuminated sign, childcare drop-off, size and number of parking spaces, design of the roof structures, streetscape design, and architectural vision. The Commission believes that the Project, as revised, will not cause adverse visual or traffic impacts in the neighborhood.

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

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

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the application for consolidated review of a Planned Unit Development Lots 222, 223, 224, 225, 226, and a portion of Lot 227 in Square 5805. The approval of this PUD is subject to the following guidelines, conditions, and standards:

1. The PUD shall be developed in accordance with the plans and materials submitted by the Applicant marked as Exhibits 16, 28 and 30 of the record, as modified by the guidelines, conditions, and standards of this Order.

2. In accordance with the plans and materials noted above, the approved PUD shall consist of a community center with approximately 38 parking spaces. The Project will include approximately 46,988 square feet of gross floor area resulting in a FAR of approximately 2.45. The height of the Project will be 50 feet and the lot occupancy will be approximately 61 percent.

3. The Applicant shall adhere to the sustainable practices set forth in Exhibit E to its Prehearing Statement, marked as Exhibit 16 in the record.

4. The Applicant shall be party to a written agreement with the Union Temple Baptist Church for use of the church's 145 parking spaces by clients of the community center.

5. The Applicant, prior to the issuance of a building permit, shall enter into a Memorandum of Understanding with the Office of Local Business Development in substantial conformance with the Memorandum of Understanding submitted as part of the Applicant's Prehearing Statement, Exhibit 16 of the record.

6. The Applicant, prior to the issuance of a building permit, shall enter into a First Source Employment Agreement with the Department of Employment Services in substantial conformance with the First Source Agreement submitted as part of the Applicant's Prehearing Statement, Exhibit 16 of the record.

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

- 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 that the variations do not change the exterior appearance of the building;
- To vary the final selection of the exterior materials within the color ranges and material types as proposed, but with no reduction in quality, based on availability at the time of construction;
- To make minor refinements to exterior details and dimensions, including belt courses, sills, bases, cornices, railings and trim, or any other changes to comply

with Construction Codes or that are otherwise necessary to obtain a final building permit; and

- To upgrade and continue to improve the facades of the building utilizing architectural embellishments and materials superior to those shown on the plans in Exhibits 16, 28 and 30 with specific intention of enlivening the ground floor and streetscape of the Martin Luther King, Jr. Avenue and Morris Road facades. By way of example, the Commission encourages the use of natural stone or pre-cast concrete in lieu of split block and brick elements on the façade and to provide additional detail with use of signage, mullions and architectural embellishments at the ground level.

8. The Office of Zoning shall not release the record of this case to the Zoning Regulations Division of DCRA and no building permit shall be issued for the PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the Applicant 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 Applicant and all successors in title to construct and use the Property in accordance with this Order, or amendment thereof by the Zoning Commission. The Applicant shall file a certified copy of the covenant with the records of the Office of Zoning.

9. The consolidated 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 and construction of the project must start within three years of the date of the effective date of this Order pursuant to 11 DCMR §§ 2408.8 and 2408.9.

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

On October 17, 2005, the Zoning Commission **APPROVED** the application by a vote of **4-1-0** (Carol J. Mitten, John G. Parsons, Anthony J. Hood, and Michael G. Turnbull to approve; Gregory N. Jeffries opposed).

This Order was **ADOPTED** by the Zoning Commission at its public meeting on January 9, 2006, by a vote of **4-1-0** (Carol J. Mitten, Anthony J. Hood, John G. Parsons, and Kevin L. Hildebrand [by absentee ballot] to adopt; Gregory N. Jeffries opposed).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the D.C. Register on FEB 10 2006

CAROL MITTEN
Chairman
Zoning Commission

JERRILY R. KRESS, FAIA
Director
Office of Zoning