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June 14, 2011

VIA HAND-DELIVERY

Mr. Anthony Hood, Chairman
Zoning Commission for the
District of Columbia
441 4th Street, N.W., Suite 210S
Washington, D.C. 20001

Re: Zoning Commission Case No. 05-28B
Second Stage PUD and Related Map Amendment
**Applicant's Response to Comments to the Procedural
Order Submission**

Dear Chairman Hood and Members of the Commission:

On behalf of the Applicant in the above-referenced case, enclosed please find the original and twenty copies of the Response to Comments to the Procedural Order Submission required to be filed by the Procedural Order dated May 23, 2011. Specifically, the Applicant has attached a revised excerpt of the Draft Order with incorporates the requested changes to the Public Benefits and Amenities and the corresponding conditions to be included in the Commission's Final Order.

As required in the Procedural Order, a copy of this Response to Comments to the Procedural Order Submission is being served on the Office of Planning, Office of Attorney General, DDOT, Advisory Neighborhood Commission 7D, and Eastland Gardens Civic Association as set forth herein.

Should the Commission have any questions or need additional information, please do not hesitate to have Office of Zoning staff contact us.

Sincerely,

GREENSTEIN DELORME & LUCHS, P.C.

By: 
John Patrick Brown, Jr.

ZONING COMMISSION
District of Columbia

CASE NO. 05-28B
ZONING COMMISSION
EXHIBIT NO. 66
CASE NO. 05-28B
EXHIBIT NO. 66



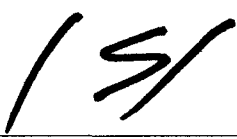
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Mr. Anthony Hood, Chairman

June 14, 2011

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By: 

Kate M. Olson

JPB/prm

Enclosure

By Electronic Mail and First Class Mail

cc: Ms. Jennifer Steingasser, Office of Planning
Mr. Joel Lawson, Office of Planning
Mr. Stephen Mordfin, Office of Planning
Alan Bergstein, Esq., Office of Attorney General
Jacob D. Ritting, Esq., Office of Attorney General
Mr. Jeffrey Jennings, DDOT
Advisory Neighborhood Commission 7D
Eastland Garden Civic Association

[SUMMARY FOR APPLICANT’S PROCEDURAL ORDER SUBMISSION]

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 05-28B**

Z.C. Case No. 05-28B

**(Second-Stage Planned Unit Development (“PUD”)
and Zoning Map Amendment for District of Columbia Primary Care Association
(“DCPCA”) – Square 5055, Lots 25 and 801 and portions of 24 and 802)**

[Date of Final Action]

Pursuant to notice, the Zoning Commission for the District of Columbia (the “Commission”) held public hearings on April 18, 2011 and May 5, 2011, to consider an application of the District of Columbia Primary Care Association (“DCPCA”) (“Applicant”) for the review and final approval of a Second-Stage Planned Unit Development and Zoning Map Amendment. The Commission considered the application pursuant to Chapters 24 and 30 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations (“DCMR”). The public hearings were conducted in accordance with the provisions of 11 DCMR § 3022. The Commission approves the application, subject to the conditions below.

* * *

Project Amenities and Public Benefits

1. Special Value for Neighborhood: The Project will provide much needed high quality primary health care for District residents, namely those east of the Anacostia River in Wards 7 and 8, regardless of ability to pay. (Exhibit 4, pp. 6, 8, 30)
2. Urban Design and Architecture: A complementary design approach to the existing neighborhood buildings has been undertaken. The Health Center respects the street edge, forming a strong corner at Kenilworth Terrace and Hayes Street that acts as a carefully planned complement of materials and scale between the existing neighborhood buildings and the proposed future building development at the shared west property line. Both its size and height are compatible with the existing neighborhood buildings, as evidenced by the photos of the surrounding neighborhood buildings. DCPCA has had several meeting with ANC 7D and set up a neighborhood design committee to solicit feedback on the Project throughout the design process. (Exhibit 23, pp. 23-26, tab D)
3. Site Planning: The proposed density of the Project is appropriate for the Property. The FAR (2.13) and a lot occupancy of 85% are well within the matter-of-right standards for the C-3-A District. The Project makes efficient use of the site by incorporating the

existing pedestrian bridge that is to remain into the transit-oriented design maintaining the pedestrian access from the Minnesota Metro Station to Health Center and the surrounding community. Where permissible, the building footprint has been held back away from the property line adjacent to the existing pedestrian bridge to allow for an extra wide public sidewalk access to increase accessibility and safety as an alternative to the existing no sidewalk between the pedestrian bridge and Hayes Street traffic. The PUD serves the broader community by constructing a much needed health center on currently vacant land in the midst of its target population.

4. Effective and Safe Vehicular and Pedestrian Access, Transportation Management measures connections to public transit services, and other measures to mitigate adverse traffic impacts:

The Applicant shall implement and maintain the following Transportation Demand Management Measures ("TMP"):

- a. The Applicant shall take advantage of the site's immediate proximity to the existing Minnesota Avenue Metrorail station accessible across DC-295 via the existing pedestrian bridge;
- b. The Applicant shall designate a staff member(s) of building management of the Health Center as Transportation Coordinator to be a primary point of contact responsible for coordinating the implementation of the TMP;
- c. The Applicant shall provide employees with flexible benefits for transit, resulting in pre-tax salary deduction for Metro rail/bus expenses;
- d. The Applicant shall provide information regarding ridesharing opportunities via website links to www.commuterconnections.com;
- e. The Applicant shall provide 69 parking spaces on 2 underground levels. Employees will be charged a market rate for parking, but parking will be free for patients;
- f. The Applicant shall provide a minimum of 10 visitor parking spaces within the garage;
- g. The Applicant shall provide a total of 12 bicycle parking spaces, including 8 within the Health Center garage and 4 bicycle parking spaces outside the building along Kenilworth Terrace. Additional bicycle parking review one (1) year after the Certificate of Occupancy has been issued to the Applicant. The Applicant should meet with DDOT Bicycle Program staff members on site to review the inventory and location of bicycle parking;

- h. The Applicant shall designate the existing private space on Hayes Street in front of the Health Center as sidewalk to effectively widen the existing sidewalk on the west side of Hayes Street providing a better and safer pedestrian experience from the pedestrian bridge to the front door of the Health Center;
- i. The Applicant shall designate an accessible paratransit, taxi and passenger vehicle loading area on Hayes Street near the main entrance to the Health Center identified by appropriate signage;
- j. The Applicant shall provide effective directional signage (parking, deliveries, taxi stand, etc.) to direct visitors and service vehicles to Kenilworth Terrace where deliveries will be managed and where the entrance to the parking garage is located. Additional signage will be installed to direct patients to the passenger loading area on Hayes Street;
- k. The Applicant shall provide shower and locker facility for employee bikers;
- l. The Applicant shall provide incentives for DCPCA Health Care Center professionals to participate in a carpool. The carpool program should offer a parking subsidy; and
- m. The Applicant shall provide a community bulletin board or kiosk located in the lobby of the building providing information related to local transportation alternatives and resources.

Loading Management Plan

- n. The Applicant shall provide on-street parking on Hayes Street shifted from north side to south side to create a pedestrian buffer;
- o. The Applicant shall designate a Transportation Coordinator to manage curbside space;
- p. The Applicant shall provide on-street loading for deliveries and trash on Kenilworth Terrace;
- q. The Applicant shall meet with ANC 7D annually to review loading practices (Exhibits 28, tab D and Exhibit 55).

5. First Source Employment Program: According to Section 2403.9(e), “employment and training opportunities” are representative public benefits and project amenities. To further this goal, the Applicant will enter into an agreement to participate in the Department of Employment Services (“DOES”) First Source Employment Program to promote and encourage the hiring of District of Columbia residents. (Exhibit 23, p. 30)
6. Environmental Benefits: As a sustainable green feature, the 4,452 square foot sustainable green roof feature situated above the ground floor at the south part of the Project at Kenilworth Avenue is at approximately the same vertical elevation and visible to the public coming to the site and neighborhood from across I-295 via the Minnesota Avenue Metro Station pedestrian bridge and ramp. From the interior of the Health Center, the south end of the patient public waiting areas fronts the green roof on the upper levels providing a direct visual access to the green roof feature. The green roof amenity which will collect rainwater from the upper floors of the building also serves to assist in minimizing the water run-off at the site. At the street level, additional landscaped zones are provided on the three street frontages of the Health Center. (Exhibit 23, p. 30)

* * *

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia hereby orders **APPROVAL** of the application for a Second-Stage PUD and Zoning Map Amendment for the Property from the C-2-B to the C-3-A Zone District for Lots 25 and 801 and portions of 24 and 802 in Square 5055. This approval of this Second-Stage PUD and Zoning Map Amendment is subject to the following guidelines, conditions, and standards:

1. The Second-Stage PUD is approved in accordance with the architectural plans and elevation prepared by the architect and submitted by the Applicant marked as Exhibits 4, 13, 23, 27, 40, 53 and 55 of the record, as modified by the guidelines, conditions, and standards of this Order. The Project will include a community health center, or “clinic” that will provide health care to District residents, especially those east of the Anacostia River in Wards 7 and 8, and all other qualified patients regardless of ability to pay.

2. In accordance with the plans and materials noted above, the approved PUD shall consist of approximately 42,644 gross square feet of development with a height of approximately 42 feet/three stories and a lot occupancy of 17,024 square feet (85%).

3. The Applicant shall have flexibility from the number of off-street parking spaces, side yard requirements, and the loading platform and loading berth requirements, consistent with the approved Plans and as discussed in the Development Incentives and Flexibility section of the Order.

4. The Applicant shall provide a total of 69 parking spaces within a two-level below-grade garage, including at least 10 parking spaces for visitors. The charge for parking for employees will be at market-rate while the visitor parking will be free. The Applicant will, through signage and limited access, ensure that parking in the garage will only be used for the Health Center.

5. The Applicant will also provide 12 bicycle spaces with additional bicycle parking subject to review by DDOT one (1) year after the Certificate of Occupancy has been issued to the Applicant.

6. The Applicant will follow the following Transportation Management Plan and Loading Plan:

- a. The Applicant shall take advantage of the site's immediate proximity to the existing Minnesota Avenue Metrorail station accessible across DC-295 via the existing pedestrian bridge;
- b. The Applicant shall designate a staff member(s) of building management of the Health Center as Transportation Coordinator to be a primary point of contact responsible for coordinating the implementation of the TMP;
- c. The Applicant shall provide employees with flexible benefits for transit, resulting in pre-tax salary deduction for Metro rail/bus expenses;
- d. The Applicant shall provide information regarding ridesharing opportunities via website links to www.commuterconnections.com;
- e. The Applicant shall provide 69 parking spaces on 2 underground levels. Employees will be charged a market rate for parking, but parking will be free for patients;
- f. The Applicant shall provide a minimum of 10 visitor parking spaces within the garage;
- g. The Applicant shall provide a total of 12 bicycle parking spaces, including 8 within the Health Center garage and 4 bicycle parking spaces outside the building along Kenilworth Terrace. Additional bicycle parking review one (1) year after the Certificate of Occupancy has been issued to the Applicant. The Applicant should meet with DDOT Bicycle Program staff members on site to review the inventory and location of bicycle parking;
- h. The Applicant shall designate the existing private space on Hayes Street in front of the Health Center as sidewalk to effectively widen the existing sidewalk on the west side of Hayes Street providing a better and safer

pedestrian experience from the pedestrian bridge to the front door of the Health Center;

- i. The Applicant shall designate an accessible paratransit, taxi and passenger vehicle loading area at the main entrance to the Health Center designated by appropriate signage;
- j. The Applicant shall provide effective directional signage (parking, deliveries, taxi stand, etc.) to direct visitors and service vehicles to Kenilworth Terrace where deliveries will be managed and where the entrance to the parking garage is located. Additional signage will be installed to direct patients to the passenger loading area on Hayes Street;
- k. The Applicant shall provide shower and locker facility for employee bikers;
- l. The Applicant shall provide incentives for DCPCA Health Care Center professionals to participate in a carpool. The carpool program should offer a parking subsidy; and
- m. The Applicant shall provide a community bulletin board or kiosk located in the lobby of the building providing information related to local transportation alternatives and resources.

Loading Management Plan

- n. The Applicant shall provide on-street parking on Hayes Street shifted from north side to south side to create a pedestrian buffer;
- o. The Applicant shall designate a Transportation Coordinator to manage curbside space;
- p. The Applicant shall provide on-street loading for deliveries and trash on Kenilworth Terrace;
- q. The Applicant shall meet with ANC 7D annually to review loading practices.

7. 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, elevators, toilet

rooms, stairways and mechanical rooms, provided that the variations do not materially change the exterior configuration of the building;

- b. to vary the final selection of the exterior materials similar in color and material to types as proposed, based on availability at the time of construction, without reducing the quality of the materials;
- c. to vary the number and location of visitor parking spaces in the two-story garage, the Applicant shall provide no fewer than 10 parking spaces;
- d. to make refinements to exterior materials, details, and dimensions, including belt courses, sills, bases, cornices, railings, roof, skylights, architectural embellishments and trim, or any other minor changes to comply with the D.C. Building Code or that are otherwise necessary to obtain a final building permit. Only those exterior changes initiated by the Building and Land Regulation Administration of DCRA will be permitted within the context of this design flexibility.
- e. to vary the final selection of landscaping materials to provide plant material similar in appearance and cost depending on market availability.

8. The Applicant shall enter into a First Source Employment Agreement with the Department of Employment Services prior to the issuance of a building permit for the PUD.

9. All other conditions of approval stated in Order No. 05-28 shall remain in effect unless modified by this Order.

10. No building permit shall be issued for the approved Second-Stage PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the owner of the subject property and the District of Columbia, that is satisfactory to the Office of the Attorney General and DCRA. Such covenant shall bind the owner and all successors in title to construct improvements upon and use this property only in accordance with this Order or amendment thereof by the Zoning Commission.

11. The change in zoning from the C-2-B Zone District to the C-3-A Zone District for the Subject property shall be effective upon the recordation of the covenant discussed in Condition No. 10, pursuant to 11 DCMR § 3028.9.

12. This Second-Stage PUD approved by the Zoning Commission shall be valid for a period of two (2) years from the effective date of this Order. Within such time, an application must be filed for a building permit as specified in § 2409.1 of the Zoning Regulations. Construction shall begin within three (3) years of the effective date of this Order.

13. 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, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination which is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

For the reasons stated above, the Commission concludes that the Applicant has met the burden, it is hereby **ORDERED** that the application be **GRANTED**.

The Zoning Commission at its public meeting held on _____, **APPROVED** the application by a vote of _____ ().

The Order was **ADOPTED** by the Zoning Commission at its public meeting on _____ by a vote of _____ ().

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

Anthony Hood
Chairman
Zoning Commission

Jamison Weinbaum
Director
Office of Zoning