

**BEFORE THE ZONING COMMISSION
OF THE DISTRICT OF COLUMBIA**

Statement of Monte Edwards

Representing the

STANTON PARK NEIGHBORHOOD ASSOCIATION

Case No 05-34

March 21, 2006

My name is Monte Edwards. I serve as Co-Chair of the Land Use Committee of the Stanton Park Neighborhood Association (SPNA). SPNA is a civic association that works for improvement of the Stanton Park neighborhood by representing the interests of the north Capitol Hill community in the area bounded by East Capitol Street, 10th Street NE, H Street NE, and 2nd Street NE. My testimony today is in support of ANC 6C's Map Amendment Petition. The current R-5D zoning of the MedLINK property is inconsistent with the surrounding neighborhood and should be brought into compliance with the Comprehensive Plan by being rezoned as Moderate Density Residential (R-4, R-5A or R-5B).

Since 1999, SPNA and the other parties to this proceeding have attempted to work with the property owner to achieve a development or reuse of the southern part of the property that has been vacant for so long. Throughout that process, SPNA has advocated two basic points:

Height Limitation St. James, the primary contributing historic structure on this square, and the historically contributing 1928 hospital building are the reference points for the height limitation and other design parameters for any new or replacement structures on this property. Therefore, SPNA supports a zoning classification that would limit structures to a height of 60 feet (e.g., R-5A PUD or R-5B PUD).

Adequate Parking The 14 years of ongoing parking violations on the part of MedLINK's Hospital and Intensive Care Nursing facility have imposed an inordinate burden on the surrounding community, both the surrounding commercial establishments as well as the residents of the area. Further, MedLINK's transfer of its CoN to a new entity (Specialty Hospitals of America) with a 10 year lease of the tower structure and an option to renew for an additional 5 years means that parking by more than 300 employees of the hospital/nursing facilities is likely to continue to be a concern for the next 10 to 15 years. For this reason and also because the developers have indicated that market forces require a high ratio of off-street parking, SPNA supports a zoning classification that would provide a parking ratio of one parking space per residential unit for any new or replacement development on this property (e.g., R-5A or R-5A PUD).

To achieve consistency with the Comprehensive Plan and to address these two basic concerns requires a zoning reclassification that will limit building height to 60 feet and require one parking space for each residential unit. In fact, the structures proposed under the Holladay development would be within the 60-foot height limitation. As to whether the new structures proposed under the Shalom Baranes development would so qualify is not known because it is

**ZONING COMMISSION
District of Columbia**

CASE NO.

EXHIBIT NO.

05-34
10
ZONING COMMISSION
District of Columbia
CASE NO. 05-34
EXHIBIT NO. 10

unclear whether the penthouse structures are residential or mechanical. On the other hand, absent rezoning, the owner might attempt to redevelop the property at a height of 90 feet, which would completely overshadow St. James and the 1928 structure and create a massing and density incompatible with the surrounding R-4, C-2 neighborhood. Further, any zoning classification that allows less than one parking place per residential unit (and one parking place per hospital bed) imposes an unreasonable burden on the surrounding community.

What the Commission has heard today is a continuation of a process that began 35 years ago, when Rogers Memorial Hospital (previously known as Casualty Hospital and later referred to as the Capital Hill Hospital), wanted to expand and modernize its operations as a community hospital. And while there was broad support in 1972 for a hospital that would serve the community, there was also clear recognition that the zoning change to accommodate the expansion was an “extraordinary exception” to the residential, low-rise character of the community.

The hospital recognized the responsibilities that accompanied that extraordinary exception, and in 1992, when the hospital was “no longer able to provide such services to the community” it prepared a Declaration of Restrictions that is recorded in the land records for the protection of the community, because of the concern expressed in that Declaration “that any future use of the Premises be compatible with the residential character of the surrounding Capital Hill Community.” The Declaration of Restrictions specifically barred 12 uses that might otherwise operate under the zoning classification for this property (but did not prohibit the operation of a hospital, nursing care or private medical facility). It specifically granted to three of the parties that are before you today --the ANC, the Capital Hill Restoration Society, and SPNA-- the right to enforce those restrictions. It even provided for entities that did not exist at that time, but are here today – the Capital Hill Coalition for Smart Development, the Union Square Townhome Homeowners, and the individual residents – by extending enforcement of the restrictions to any property owner living within 800 feet of the facility.

SPNA respectfully asks the Commission to give effect to the clear intent, expressed when this property was first rezoned to its present high density classification, as an “extraordinary exception” to accommodate a community hospital, and the reaffirmation of that intent, expressed when the community hospital could no longer operate, “to insure that any future reuse of the property be compatible with the residential character of the surrounding Capital Hill Community.” To “insure” that result, rezoning to Moderate Density Residential is necessary. SPNA has explained the need for a height limitation of 60 feet and a one-to-one parking ratio as threshold requirements that would accomplish that compatibility, which can be accomplished by rezoning the property to R-5A (recognizing it would require a PUD for the 60 foot height). SPNA has described the community’s concerns and interests and now defers the Commission to decide how to best rezone this property to address those concerns and interests.

AFTER RECORDING, 2-28-92 000044
Stanley M. Barg, Esq.
Shaw, Pittman, Potts & Trowbridge
2300 N Street, N.W.
Washington, D.C. 20037

DECLARATION OF RESTRICTIONS

THIS DECLARATION OF RESTRICTIONS, made this 24th
day of February, 1992, by Capitol Hill Hospital,
a non-profit corporation incorporated under the provisions of the
District of Columbia Non-Profit Corporation Act ("Declarant"),

WITNESSETH:

WHEREAS, Declarant is the fee simple owner of certain
parcels of land located in the District of Columbia as more
particularly described and identified in Schedule A attached
hereto and made a part hereof, which said parcels, together with
the buildings and other improvements now or hereafter erected
thereon, and all appurtenances thereto, are hereinafter referred
to collectively as the "Premises"; and

WHEREAS, since 1905 the Declarant has owned and
operated an acute care hospital on the parcel known as Lot 76 in
Square 895 for the benefit of the Capitol Hill community; and

WHEREAS, the Declarant is no longer able to provide
such services to the community and has ceased operating said
hospital; and

WHEREAS, the Board of Directors of the Declarant is
concerned that any future use of the Premises will be compatible
with the residential character of the surrounding Capitol Hill
community; and

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WHEREAS, in order to insure the foregoing, the Declarant desires to impose certain restrictions upon the future use of the Premises,

NOW, THEREFORE, Declarant does hereby impose and charge upon the Premises the following restrictions:

1. Use of Premises.

(a) The Premises shall not be used as a jail, detention center, correctional facility, half-way house or penal institution of any type or nature, nor as an institution for the criminally insane, whether operated by or under contract with the government of the District of Columbia or by any private person or party.

(b) The Premises shall not be used for the operation of a shelter or residential facility for homeless persons, whether operated by or under contract with the government of the District of Columbia or by any private person or party.

(c) The Premises shall not be used for the operation of a residential facility for substance abusers nor as an outpatient facility for the treatment of substance abusers; provided, however, that nothing contained herein shall prohibit a hospital, nursing care facility or private medical clinic from operating inpatient or outpatient substance abuse services on the Premises.

(d) The Premises shall not be used as a youth rehabilitation home, as a youth residential care home, nor as any other "corrections-related" facility, whether operated by or

under contract with the government of the District of Columbia or by any private person or party, unless such use is approved by a two-thirds (2/3) majority of the following community organizations, or any successor to them ("Community Organizations"), namely, The Stanton Park Neighborhood Association, Advisory Neighborhood Commission 6A, The Capitol Hill Restoration Society, Advisory Neighborhood Commission 6B, and The Capitol Hill Association of Merchants and Professionals.

2. Application. The restrictions herein set forth are for the benefit of the Capitol Hill community and shall not be removed, modified or waived, in whole or in part, by any person or party, including Declarant and any party taking through or under Declarant, without the consent of two-thirds (2/3) of the Community Organizations. The Premises, and any portion thereof, shall be held, sold and conveyed subject to the foregoing restrictions, all of which shall run with the land and shall be binding upon all grantees of the Premises, or any portion thereof, who acquire any right, title or interest in the Premises, and said restrictions and covenants shall be binding upon the heirs, successors and assigns of the Declarant and all grantees taking thereunder.

3. Enforcement. The restrictions contained herein may be enforced by any of the Community Organizations and by any property owner living within eight hundred (800) feet of any part or portion of the Premises. The failure to enforce any restriction herein on any occasion shall not be deemed a waiver

of the right of any said property owner or any of the Community Organizations to do so in the future. In the event of a breach or threatened breach of any of the restrictions herein contained, the party or parties seeking to enforce these restrictions shall be entitled to injunctive relief as well as any other legal and equitable remedies available in the circumstances, and they shall be entitled to recover their reasonable attorney's fees and costs.

4. Severability. The invalidation of any one of the restrictions herein by judgment or court order shall not invalidate any other restriction herein set forth, and the remaining restrictions shall continue in full force and effect.

IN WITNESS WHEREOF, Capitol Hill Hospital has caused these presents to be signed by William Meyer, its President, attested by Gregory Murad, its Secretary, and its corporate seal to be affixed on the date first hereinabove written, and does hereby appoint William Meyer, its true and lawful attorney-in-fact to acknowledge and deliver these presents as its act and deed, effective as of the date first hereinabove written.

Attest:

Gregory Murad
Secretary

CAPITOL HILL HOSPITAL

By: William Meyer
President

[Corporate Seal]

District of Columbia) ss:

I, Henrietta E. Young, a notary public in and for the District of Columbia, do hereby certify that William Meyer who is named as attorney-in-fact for Capitol Hill Hospital, the corporate declarant in the foregoing and attached instrument bearing the date of February 24, 1992, personally appeared before me in the District of Columbia and, being personally well known to me as the person named as attorney-in-fact in said instrument, acknowledged that the foregoing instrument is the act and deed of said corporation, and that he delivered the same as such.

Given under my hand and seal is 24th day of February, 1992.

(Notarial Seal)

Henrietta E. Young
Notary Public

My Commission Expires: 6-14-95

Schedule A

Lot 76, Square 895

Lot numbered seventy-six (76) in a subdivision of Lots and Public Alleys closed made by Rogers Memorial Hospital in Square numbered Eight Hundred Ninety-Five (895) as per plat recorded in Liber 159 at Folio 183 in the Office of the Surveyor for the District of Columbia.

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Handwritten signature

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ENDORSEMENT GUARANTEED
BY RECORDER OF DEEDS
BY U.C. TREASURER

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