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

ANC 6-C Zoning }
Map Amendment }
Square 895, Lot 76 }

Case No 05-34
July 31, 2006

COMMENTS OF THE UNION SQUARE TOWNHOME OWNERS

The Union Square Townhome Owners are substantially all of the owners of "Union Square," a set of 18 homes located on C Street NE, 7th Street NE and Massachusetts Avenue NE, on the blocks directly to the west of Square 895, Lot 76 (the "Lot"). As such, we are directly affected by current and proposed activities on the Lot. At all times, Union Square contains between approximately 80-90 residents, including renters of basement apartments.

Union Square supports the proposed rulemaking action to rezone Square 895, Lot 76 from R-5-D to R-5-B (the "Proposed Rule") for the reasons set forth below. Principally, we believe the Zoning Commission's proposed action will bring this site into compliance with the DC Comprehensive Plan and the Generalized Land Use Map, and is in the best interests of the Capitol Hill community and the city as a whole.

Although we prefer a zoning of R-4, we believe that R-5-B is an appropriate zoning for the Lot. R-5-D zoning permits structures so large and disproportionate that certain of the Lot's buildings cast, quite literally, a shadow over their neighbors. An action by the Commission to amend the zoning classification of the Lot will have the following immediate positive effects:

- The proposed rezoning to R-5-B will encourage residential use at a level more appropriate to the surrounding area than R-5-D. The current zoning level was granted in order to expand a hospital. Conversion to residential use at the R-5-D level would be in drastic contrast with the R-4 historic structures which almost entirely surround the site, and would be inconsistent with the D.C. Comprehensive Plan.
- The proposed rezoning to R-5-B, although not as ideal as an R-4 zoning, would respect the historic character and significant historic structures in the area, and support the Comprehensive Plan's historic preservation element.
- The proposed rezoning to R-5-B would mitigate traffic and safety problems.¹

¹In a letter to the Zoning Commission during the consideration of the Proposed Rule we documented and discussed the numerous negative impacts, particularly with regard to traffic and safety, that the operating hospital has on our community and how those effects would be exponentially exacerbated by current plans to develop under the R-5-D zoning classification. We have not repeated that discussion here, but nevertheless, incorporate that letter herein by reference.

**ZONING COMMISSION
District of Columbia**

As a general matter, we join a nearly unanimous community in supporting the Proposed Rule. In addition to the D C Office of Planning, ANC 6C, ANC 6A, The Capitol Hill Restoration Society, St. James Church, The Capitol Hill Coalition for Sensible Development and the Stanton Park Neighborhood Association all support the Proposed Rule. In that regard, we echo and fully support their comments on the Proposed Rule.

We would like to dispel any notion that the Proposed Rule will have counterintuitive effects, *e.g.*, create an incentive for the Lot's owner to maintain non-conforming structures. The Office of Planning ("OP") has discussed with us the consequence of the Proposed Rule specifically with regard to non-conforming structures. Most notably, we discussed the tower building on 7th Street, NE (the "Tower") that has been leased to Specialty Hospitals of America for as few as ten and as many as an indefinite number of years.

However, the Lot's owner has indicated explicitly to our ANC representatives that the Tower will remain indefinitely whether it is a hospital or fitted for residential use. Accordingly, whether the Proposed Rule is approved or not, we believe that the Lot's owner intends to keep the Tower at its current and maximum permitted use. We believe, then, that the Proposed Rule is necessary to limit the size of any potential uses on the *other* portions of the Lot. That is to say, we see two options: (i) if the Proposed Rule is approved, we live with the Tower, retrofitted apartments in the existing buildings on the southern, eastern and western sides of the Lot and potential R-4 development on the north side of the Lot; or (ii) if the Proposed Rule is not approved, we live with the Tower, larger residential buildings and more residences on the southern, eastern and western sides of the Lot, and potential R-5-D development on the north side of the Lot. In either case, and in the Lot owner's own words, the Tower stays. So, clearly, we prefer the former option, which simply limits the impact of the Lot on the neighborhood from severe to merely extreme.

We also would like to highlight to the Commission that not only have we considered the consequences and ramifications of the Proposed Rule as noted above, we have thought long and hard about creative ways to avoid this action. It was not considered lightly or frivolously by the community. In fact, the opposite is the case. We have waged an effort for years to find a reasonable solution to the sometimes incompatible desire by the Lot's owner to maximize profit against the community's desire to see any development of such a large property in a historical, principally R-4 district be limited to a reasonable size. We have been in favor of a negotiated solution with Dr. Peter Shin, the Lot's indirect owner, an effort that has heretofore yielded no meaningful response.² Dr. Shin, who is not

²The Commission should note that members of the community had found a negotiated settlement with Dr. Shin in a prior iteration of his plan to develop the Lot. Under the first development plan (also known as the "Holladay Plan," because Holladay Corporation was chosen as the developer), the Lot, which contains an operating hospital and several other used and unused buildings, would be completely developed. The hospital would have been shut and a condo development would have taken its place. Community members coalesced and negotiated with all parties. They attended numerous community organization meetings, ANC

a District resident, continues to insist on maintaining an operating hospital on the Lot, developing a large (R-5-D) residential project on the south, east and west sides of the Lot and also on reserving the right to later develop a large (R-5-D) residential project on the north side of the block

Lamentably, we have been left with little choice but to ask our ANC to petition the Commission and seek the Proposed Rule so that future development of the Lot is limited to some reasonable size. We believe that we will see the immediate benefits of that downzoning. And we believe that when the northern side of the Lot is developed and the Tower has eventually served its usefulness to the Lot's owner, our posterity will see the good results of our efforts to better the historic Capitol Hill District.

Thank you for your attention and for your consideration of our views.

Very truly yours,



Barry Pershkov

656 Massachusetts Avenue, NE

On behalf of The Union Square Townhome Owners of the Properties Listed Below

214 7th Street, NE

216 7th Street, NE

218 7th Street, NE

220 7th Street, NE

222 7th Street, NE

224 7th Street, NE

226 7th Street, NE

228 7th Street, NE

230 7th Street, NE

232 7th Street, NE

645 C Street, NE

647 C Street, NE

650 Massachusetts Avenue, NE

652 Massachusetts Avenue, NE

654 Massachusetts Avenue, NE

656 Massachusetts Avenue, NE

658 Massachusetts Avenue, NE

subcommittee hearings, ANC full hearings, Historical Preservation Review Board hearings, Bureau of Zoning Adjustment hearings all of which resulted in an agreeable solution

On February 21, 2002, Dr. Shin's controlled Capitol Hill Community d/b/a Medlink Hospital at Capitol Hill, Capitol Hill Group, BHS Management, Inc. and Capitol Hill Healthcare Group filed a voluntary petition for bankruptcy under Chapter 11. Holladay's contract to buy and develop the Lot was voided and all plans for the negotiated development were shelved.