GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission

Z.C. CASE NO.: 06-13

As Secretary to the Commission, I herby certify that on JUN 26 2007 copies of this Z.C. Order No. 06-13 were mailed first class, postage prepaid or sent by inter-office government mail to the following:

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ZONING COMMISSION
District of Columbia
CASE NO. 06-13
EXHIBIT NO. 43

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ZONING COMMISSION
District of Columbia
CASE NO.06-13
EXHIBIT NO.43

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 06-13
Z.C. Case No. 06-13
Consolidated Planned Unit Development – 1000 Connecticut Avenue, N.W. – 1000 Connecticut Avenue Associates and PNC Bank, Trustee
February 12, 2007

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held a public hearing on October 23, 2006 to consider an application from 1000 Connecticut Avenue Associates and PNC Bank, Trustee (collectively referred to herein as the "Applicant"), for consolidated review and approval of a planned unit development ("PUD"). 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. For the reasons stated below, the Zoning Commission hereby approves the application.

FINDINGS OF FACT

The Application, Parties, and Hearings

1. On February 21, 2006, the Applicant filed an application for consolidated review and approval of a planned unit development ("PUD") for property located at 1725 K Street and 1000 Connecticut Avenue, N.W., consisting of Lots 803, 804, 805, 806, and 847 in Square 163, as well as a small portion of an adjacent public alley to be closed (the "Subject Property"). The Subject Property is located in the C-4 District at the northwest corner of Connecticut Avenue and K Street, N.W.

2. At its public meeting held on June 12, 2006, the Commission voted to schedule a public hearing on the application.

3. On July 14, 2006, the Applicant submitted a Pre-Hearing Statement, marked as Exhibit 16 of the record in this case. The Pre-Hearing Statement addressed a number of concerns raised by the Office of Planning and the Zoning Commission at the public meeting on June 12, 2006.

4. Advisory Neighborhood Commission ("ANC") 2B unanimously voted to support the application at its August 9, 2006 meeting.

5. On October 3, 2006, the Applicant submitted supplemental information on the proposed project and the architect's statement of design intent, marked as Exhibits 22 and 23 of the record in this case, further refining the original plans.

6. After proper notice, the Zoning Commission held a public hearing on the application on October 23, 2006. The parties to the case were the Applicant and ANC 2B, the ANC within which the property is located.

7. The Applicant presented four witnesses at the Commission's hearing of October 23, 2006, including Michael Gewirz with 1000 Connecticut Avenue Associates; Roy Barris with Pei Cobb Freed & Partners, an expert in architecture; Lou Slade with Gorove Slade Associates, an expert in transportation planning and management; and Steven E. Sher, Director of Zoning and Land Use Services, with Holland & Knight LLP, an expert in zoning and land planning. Based upon their professional experience, as evidenced by the resumes submitted for the record and prior appearances before the Commission, Messrs. Barris, Slade, and Sher were qualified by the Commission as experts in their respective fields.

8. On November 20, 2006, the Applicant submitted revised architectural plans that addressed the issues raised by the Commission at its public hearing on October 23, 2006. These plans are marked as Exhibit 33 of the record in this case.

9. At its public meeting held on December 11, 2006, the Commission took proposed action to approve the application by a vote of 4-0-1.

10. The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") under the terms of the District of Columbia Home Rule Act. NCPC, by action dated January 4, 2007, advised, "that the feature at the edge of the roof may exceed the allowable height as mandated by § 7 of the Height of Buildings Act, which states that 'no parapet walls shall extend above the limit of height'" and recommended, "that the National Capital Planning Commission and the Office of Planning staff work together to define architectural elements that constitute a parapet wall, cornice and other elements that are used to embellish buildings."

11. On February 2, 2007, the Applicant submitted additional architectural drawings that clarified that the architectural embellishment at the edge of the roof is not a parapet. The Applicant's submission also submitted excerpts from the transcript of NCPC's deliberations on the PUD project.

12. The Commission took final action to approve the application on February 12, 2007 by a vote of 4-0-1.

The PUD Project

13. The Subject Property is currently improved with a thirteen-story office building at 1725 K Street and a thirteen-story office building at 1000 Connecticut Avenue. The Applicant intends to demolish the existing buildings in order to construct a new twelve-story commercial office building with retail uses on the ground floor. The new building will contain approximately 369,725 square feet of gross floor area, including 14,018 square feet devoted to retail uses. The collective floor-area ratio ("FAR") for the existing buildings—one of which was built prior to the 1958 Zoning Regulations—is 10.70. The new building will have a density of 11.12 FAR and will rise to a maximum height of 130 feet.

14. The project site is located in Ward 2 and consists of Lots 803, 804, 805, 806, and 847 in Square 163, as well as a 244-square-foot portion of an adjacent public alley that will be closed to allow the construction of the proposed building. The total area of the Subject Property is approximately 33,231 square feet. The Subject Property forms an acute angle at the intersection of Connecticut Avenue and K Street, N.W. and is located diagonally across the intersection from Farragut Square. The site occupies approximately 316 linear feet of frontage along K Street, N.W. and 142 feet along Connecticut Avenue, N.W. The Subject Property is located in the Connecticut and K Street area of the Central Employment Area under the Comprehensive Plan, which is characterized by high-density commercial structures.

15. Large office buildings with a predominant height of 130 feet are located to the east, west, north, and south of the site. The building adjacent to the site at 1775 K Street consists of twelve stories and is 130 feet in height. Washington Square, located directly across the public alley to the north, is also built to a uniform height of 130 feet. Across K Street to the south is the commercial office building at 1700 K Street, N.W., which consists of twelve stories and is constructed to a maximum height of 130 feet.

16. The C-4 District is designed for the downtown core that comprises the retail and office centers of the District of Columbia. The C-4 District permits a maximum height of 130 feet if the property abuts a street which is at least 110 feet wide, such as K Street. In addition, the C-4 District permits a maximum density of 10.0 FAR if a building can be built to a height of at least 110 feet. Under the PUD guidelines for the C-4 District, the density may be increased to 11.0 FAR. Also, a five percent increase beyond the maximum height or density permitted under the guidelines is allowed under § 2405.3 of the Zoning Regulations, provided that the increase is essential to the successful functioning of the project and is consistent with the purpose and evaluation standards of the PUD regulations.

17. The Applicant seeks a 1.1% increase beyond the maximum permitted 11.0 FAR under the PUD guidelines, in order to provide for the successful functioning of the PUD. The small increase of 4,195 square feet of gross floor area will allow the owners to leverage the replacement of the existing older buildings on the site, which have outmoded floor plates, outdated systems and no parking, with a modern office building. In conjunction with the

alley closing, the new proposed floor plan allows the Applicant to provide regular floor plates at the upper floors and provides for sufficient space for both the corridor and offices on the north side of the elevator core, which is in the center of the building. The expanded lobby on the ground floor, which is two stories in height, also accounts for the majority of the density increase. Typically, an entrance to an office building would not be nearly that large, but in order to achieve the level of design excellence envisioned for the building, the Applicant has provided a grand entrance. Finally, in order to provide a monumental façade treatment at the corner of the building, the slight increase in density is also necessary. The modest increase of 1.1% has minimal impacts on the perceived bulk of the building in comparison to what presently exists on the site.

18. The proposed building reflects a design of superior architecture encouraged by the PUD regulations. The building has been designed to complement the recently completed PUD at 1700 K Street across the street to the south and the surrounding large-scale commercial buildings. Unlike the sister building designed by Pei Cobb Freed to the south, whose façades follow the right-angle grid of 17th and K Streets, the dominant feature of the proposed PUD site is its acute corner angle formed by the diagonal lines of Connecticut Avenue and K Street. This unique feature led the design to address the continuation of the diagonal line of Connecticut Avenue across Farragut Square to the south and to create a visual gateway to the north and west.

19. The architects have set back the corner façade to create a destination forecourt for a prime retail entrance and to ease the flow of pedestrian traffic around the corner, which is one of the most heavily-traveled intersections in the District as a result of the Metro entrance just to the east. The corner turns in an unanticipated fashion, and in doing so increases the number of corner tenant opportunities while still offering flexible, subdivisible building frontage to respond to individual tenant space needs. The resulting design articulates both the Connecticut Avenue and K Street façades into distinct but interrelated "pavilions."

20. Due to its exceptional length, the K Street frontage has been composed of three granite-faced pavilions. The pilasters of the pavilions extend above the roofline, providing important depth and mass to the granite frame, and composing a cornice above the top floor. Measured in height, the K Street façade extends above the roof level only two feet higher than the extension of the stone "screen" of the sister building at 1700 K Street. Although the K Street façade of 1700 K Street was subdivided only once, the exceptional length of the K Street façade of the proposed PUD—which extends 50 feet further than its sister building—and its southern exposure required a different treatment. The percentage of glass has been reduced in comparison, and the spandrel and columns are clad in stone. Additionally, while the glass and stainless-clad K Street façade of 1700 K Street is figuratively "suspended" above ground floor level, the pavilions of the proposed PUD are, as stone, figuratively anchored firmly to the ground.

21. The shorter Connecticut Avenue frontage is composed of a single pavilion of faceted glass and stainless steel panel cladding, enclosed at its north (alley-facing) and south (park-facing) ends by near-symmetrical return façades folded perpendicular to the

Avenue. The resultant southeast park-facing façade's orientation addresses Admiral Farragut directly. The Connecticut Avenue façade is clad in materials that heighten the reflection of ambient light and shadow shifting over the course of the day. The present design, consisting of symmetrical folds of carefully proportioned vertical windows, endow the Connecticut Avenue façade with both modern lines and classical grace. The bay windows on the façade will create a visual staccato along the roofline through silhouette alone.

22. The existing buildings on the subject site do not provide on-site parking. The proposed building generates an off-street parking requirement of 148 spaces. The Applicant will exceed this requirement and provide a minimum of 236 spaces. The provision of 236 spaces will address not only the parking needs associated with the proposed building but will also help offset the demand associated with the surrounding buildings, many of which do not include parking.

23. There will be three loading berths and one service space at the rear of the proposed building with access from the public alley system in the square. These berths and the service dock are located on the west end of the building's north side.

24. The following benefits and amenities will be created as a result of the PUD project:

    a. *Urban Design and Architecture.* The proposed building has been sensitively designed to complement the surrounding large-scale commercial buildings and enhance the prominence of this key intersection of the city's business district. The dated appearance of the existing buildings and their obsolete mechanical and programmatic systems will be replaced with a modern, attractive design developed by the world-renowned architectural firm of Pei Cobb Freed & Partners. The innovative architectural treatment of the proposed building will enhance and restore the visual prominence of this corner in the downtown commercial corridor. The PUD will provide high quality, superior design features to reinforce the visual identity of the Central Employment Area.

    b. *Special Value to the Neighborhood.* The Applicant will make a $50,000 contribution to the Golden Triangle Business Improvement District ("BID"). The BID has earmarked the funds for the development of a geographic information system ("GIS"). This system will allow the BID to map out its hard assets, enhance data sharing with the DC Government, and ultimately provide a platform for putting business information on the web and supporting the BID's internal database. The Applicant will also make a contribution in the amount of $69,600 to the Dupont Circle Citizens Association ("DCCA") that will be used to fund improvements to the National Park Service triangular park at 20th and Q Streets, N.W. These contributions target a number of identified needs of special value to the neighborhood and constitute an important amenity of the project.

    c. *Affordable Housing.* The Applicant will contribute $841,700 to the Marshall Heights Community Development Organization ("MHCDO") in fulfillment of the

housing linkage requirement under § 2404 of the Zoning Regulations. These funds will be used to write down the costs of constructing 16,384 square feet of affordable housing in a Housing Opportunity Area. Because the contribution exceeds the linkage requirement under § 2404 by 3,349 square feet, the contribution also qualifies as a public benefit of the PUD project. The value of the additional contribution is $172,038.

d. *Sustainable Design Elements.* One of the most significant public benefits of the proposed project is the introduction of a privately funded "green roof" on a tall commercial office structure. Approximately 53% of the rooftop on the proposed building will be planted with low-growing succulent plants of various species. Additionally, the Applicant will design and construct the PUD utilizing the criteria of the Leadership in Energy and Environmental Design ("LEED") Green Building Rating System, a voluntary, consensus-based national standard for the development of high-performance sustainable buildings. Among other things, the building will incorporate such LEED-level elements as reduced water usage, energy performance systems and materials, ozone protection, use of recycled or salvaged construction materials, carbon dioxide monitoring, a high-efficiency ventilation system, and low-VOC finish materials. Such design and construction standards have been recognized by the Zoning Commission as an important public benefit and amenity of planned unit developments.

e. *Public Space Improvements.* Streetscape and landscaping elements have been incorporated into the design of the new building. The sidewalk along both street frontages shall be composed of borders and isolated fields of granite dimension pavers, with principal fields of special shaped brick unit pavers. This represents a upgrade from the existing brick or poured-in-place concrete paving. New brick paving shall continue approximately forty feet up the north side alley to enhance the visual appearance of what is normally the secondary, utilitarian side of the building. The number of trees located along both frontages will be increased threefold above existing quantities: six trees along K Street—where only two exist today—and three trees along Connecticut Avenue to replace the single existing tree. In order to space the trees evenly along K Street, the Applicant will remove, or relocate closer to the curb, one existing PEPCO vault. All tree planters will be recessed and covered with four-inch by four-inch granite cobbles. Finally, the Applicant will install sidewalk benches along the K Street frontage, where currently there are none. Approximately 70 linear feet of benches will be provided, which will feature a custom design consisting of a natural wood seating surface over a granite-faced base.

f. *Revenue for the District.* The PUD will generate additional tax revenues for the District. Real property taxes alone are projected to increase annual revenues by approximately $2.3 million. Taxes on off-street parking revenues, as well as employment and sales taxes, will also add to the District's income.

g. *Local Business Opportunities*. The Applicant has executed a Memorandum of Understanding with the D.C. Department of Small and Local Business Development ("DSLBD") in order to achieve, at a minimum, the goal of 50% participation by small, local, and disadvantaged businesses in the contracted development costs in connection with the design, development, construction, maintenance, and security for the project. This memorandum contributes significantly to the District of Columbia goal of ensuring adequate opportunities for small and local businesses to participate in development projects throughout the city.

f. *First Source Employment Opportunities*. The Applicant has also executed a First Source Employment Agreement with the Department of Employment Services ("DOES") in order to achieve the goal of utilizing District residents for at least fifty-one percent of the jobs created by the PUD project. The Applicant will use DOES as its first source for recruitment, referral, and placement of new hires for employees whose jobs are created by the PUD.

25. The PUD is consistent with the following elements of the Comprehensive Plan:

a. *Housing Element*: The Applicant will provide $841,700 to the Marshall Heights Community Development Organization to write down the costs of constructing 16,384 square feet of low-income housing on vacant land at 4th and Mississippi Streets, S.E., which is located within the Wheeler Hills Estates Housing Opportunity Area. This contribution is $172,038 more than the applicant is required to provide by the housing linkage requirements of § 2404 of the Zoning Regulations.

b. *Transportation Element*: Development of the project at the present site, within close proximity to the Farragut North and Farragut West Metrorail Stations and numerous Metrobus routes, will promote and stimulate the use of existing mass transit service. Additionally, the creation of a minimum of 236 new parking spaces on a site that does not currently provide parking will also help to reduce parking shortages in the downtown area.

c. *Urban Design Element*: The proposed PUD will enhance the large-scale commercial quality of the Connecticut Avenue and K Street segment of the Central Employment Area through superior design elements that respect the special character of this prominent commercial corridor. Further, the proposed project will provide a distinguished design that provides a rich and vibrant texture to this prominent corner and enhances the vibrancy of the K Street and Connecticut Avenue retail frontages. The proposed design includes a sizeable forecourt at the corner façade, which will ease the flow of pedestrian traffic around the acute corner of this important intersection.

d. *Land Use Element*: The proposed project provides a high-density commercial office structure of superior design that will foster the continued growth of the

District's economy and employment base and serve as a focal point for commercial Downtown.

e. *Ward 2 Element*: The PUD is consistent with the Ward 2 Plan goal of encouraging construction of additional office space in the Connecticut Avenue and K Street segment and other areas of the Central Employment Area.

f. *Generalized Land Use Maps*: The PUD is consistent with the Generalized Land Use Maps, which depict the project site as located in a high-density commercial land use category.

26. The proposed PUD deviates from the normal matter-of-right requirements of the Zoning Regulations for penthouse setbacks. The penthouse of the proposed PUD, which is constructed to its maximum height of 18.5 feet, will not be set back from the rear building line a distance equal to its height as required by § 770.6 of the Zoning Regulations. It is necessary to locate the penthouse closer to the rear building line in order to provide the most efficient interior elevator core and layout of space, while respecting the building height and sight lines along K Street and Connecticut Avenue. By virtue of the public alley at the rear, however, there is a substantial setback of more than 20 feet from the adjacent property to the north. This setback satisfies the spirit and intent of the Zoning Regulations. Moreover, the penthouse will provide ample setbacks of more than 35 feet at K Street and more than 50 feet at Connecticut Avenue in deference to the building's public street frontages. This is approximately twice the required setback distance.

ANC Report

27. By letter dated October 2, 2006, ANC 2B noted its unanimous support for the PUD project.

Office of Planning Report

28. By report dated October 13, 2006, the Office of Planning ("OP") stated that it could not fully support the PUD application. OP found that the proposed PUD is consistent with the designation of the area as "high-density commercial" in the Comprehensive Plan's Generalized Land Use Map and further noted that the public space improvements, sustainable design features, community amenities package, increased tax revenues, and the agreements with DSLBD and DOES are public amenities that should be balanced against the requested flexibility from the Zoning Regulations. However, OP nevertheless was unable to fully support the application for three principal reasons: (1) OP did not believe that the architectural design of the proposed PUD was of a "superior" quality; (2) the Applicant had not yet provided signed agreements with DOES, DSLBD, and the beneficiaries of the community amenities package; and (3) OP did not believe that the proposed amenities package was sufficient to offset the requested flexibility from the Zoning Regulations.

DISCUSSION OF OP ISSUES

Superior Architecture

29. Section 2403 of the Zoning Regulations provides that in "deciding a PUD application, the Commission shall judge, balance, and reconcile the relative value of the project amenities and public benefits offered, the degree of development incentives requested, and any potential adverse effects according to the specific circumstances of the case." 11 DCMR § 2403.8. That section further requires PUD applicants to demonstrate that "the public benefits offered are superior in quality and quantity to typical development of the type proposed and the duration of the operational or grant programs." 11 DCMR § 2403.12. In determining whether the architectural design of a PUD may be viewed as a public benefit, the Commission must first find that the architecture of the proposed building is superior to what would have been provided if the property had been developed as a matter-of-right.

30. In its report of October 13, 2006, OP expressed the view that the proposed PUD's design did not rise to the level of "superior" architecture and thus should not qualify as a public benefit under the Zoning Regulations. Specifically, the report criticized the perceived lack of articulation between the K Street and Connecticut Avenue façades at the corner of the building and described the retail façade as "cold and monolithic." Based largely upon these aesthetic concerns, OP declined to fully support approval of the PUD.

31. The Applicant disagreed with this assessment and offered testimony on the superior quality of the design over what it would otherwise construct at this corner as a matter-of-right. Roy Barris of Pei Cobb Freed & Partners, an expert in architecture, described the design intent of James Ingo Freed for the project and how this intent is expressed on the building. Mr. Barris explained that the proposed angle of the retail façade creates an axis that runs directly through the center of Farragut Square. He noted that the proposed retail façade more directly confronts the important public space across the street than the chamfered corner of the existing building, which is perpendicular to the centerline of the acute corner upon which it sits.

32. At the Commission's public hearing on October 23, 2006, OP raised a number of additional design concerns. OP claimed that the office levels of the K Street façade were not sufficiently differentiated from the pedestrian-level retail space on the ground floor of the proposed building. According to OP, the focus of the building should be at the corner across from Farragut Square, and the prominent entrance at K Street detracts from the site's main asset. Finally, OP concluded that the overall design of the proposed building is not significantly superior to what would have been developed at this location as a matter-of-right. For these reasons, according to OP, the project did not fully qualify as an example of "superior architecture" that warranted flexibility under the PUD process.

33. Based on these comments, the Commission encouraged the Applicant to restudy the corner design in order to fortify the prominence of this pivotal intersection in the Central Employment Area.

34. In response, the Applicant made a number of substantial modifications to the PUD's original design. These refinements strengthened the corner façade through the introduction of a discrete "tower" projection. This projecting form has a pairing of large windows at its center and is framed from top to bottom by three layers of construction. The projection is bordered along each side by broad stainless steel framing elements and flanked by deeply recessed symmetrical glass sidelights, which in turn are flanked by beveled face piers of stone. At its top, the tower extends above the roofline—as established by the flanking sidelights—but only to a height in union with that of the adjacent K Street and Connecticut Avenue frontages. The base of this tower projection will be anchored by a monumental storefront entrance. A two-story presence is created by an imposing portal clad in polished granite. This "urban scale" portal will, in turn, surround a smaller-scale portal at street level faced with highly ornamental stainless steel doors. These doors will be sheltered above by a glass and stainless canopy more modest in size than—but of a similar character to—the canopy fronting the building lobby.

35. The Applicant's revised plans also reflect significant modifications to the K Street and Connecticut Avenue façades. The scale and distinction of the K Street storefront at the base of the stone pavilions have been enhanced through the introduction of new framing elements. New steel liners flanking the granite pilasters now extend alongside and across the head of the second-level windows. The liners are inversely beveled with respect to the projecting granite form of the pilasters. Additionally, the second-level windows now have discrete frames, capped with polished stainless steel to match the design and finish of the display windows on the ground floor. These modifications create a two-story presence for the store frontage, as distinguished through the additional shadow relief created by the shaped liners and the increased reflectivity of the additional framing elements. The definition of the storefront at Connecticut Avenue has been similarly enhanced. New beveled stainless steel liners flank the stainless steel pilasters and wrap across the head of the store frontage. The liners are beveled parallel with respect to the inverted form of the pilasters and are polished in finish, adding volume and reflectivity to the display window frames. The end result is a storefront more distinct from the surrounding textured stainless pilasters and spandrels.

36. The Commission finds that the most recent modifications to the proposed PUD significantly enhance the overall quality of the design and more than address many of the architectural concerns raised by OP in its report. The redesigned tower projection provides the kind of high-quality focal point that this important location deserves. The additional architectural embellishments reflected in the Applicant's most recent architectural plans, moreover, effectively distinguish the pedestrian-level retail portion of the building from the office levels above. While OP continued to express reservations about the final design, the Commission finds that these are nothing more than stylistic differences that do not affect the superior quality of the overall design.

37. The Commission appreciates OP's thoughtful design critique. In the end, however, the Commission must determine, based on the evidence of record, whether the design is superior in quality and quantity to typical development, and not whether it would have

designed the building differently. *See* 11 DCMR § 2403.8. Rather, the Commission must first establish what a developer would likely build here as a matter-of-right and then compare that to proposed PUD. The Commission's analysis is not limited to just the architectural treatment of the building, but the overall planning considerations and site enhancements that benefit the public as a whole, which the Applicants would only pursue through the PUD process.

38. The Applicant testified that it would not invest in the same quality of design, materials and project amenities if it were to build a matter-of-right project at this site. Michael Gewirz of 1000 Connecticut Avenue Associates testified that the ownership entity for this project has been responsible for the development of several million square feet of office, residential, mixed-use, and retail properties in the District over a period of 80 years. Based on this experience, Mr. Gewirz estimated that the amenities provided with the proposed PUD would represent a cost premium of $3.2 million above what would have been expended if the site had been developed as a matter-of-right.

39. Mr. Gewirz further testified that the Applicant's goal for this project is to incorporate superior architecture and design at a prominent location with unique limitations in a way that better reinforces an unusual acute corner, improves pedestrian circulation at the base, and creates a unified and appropriately scaled retail orientation from Connecticut Avenue, around the corner and down K Street. The project employs modern materials that suggest but do not imitate the sister building across the street, 1700 K. He noted that while the criteria for some projects is faster, better and cheaper, this project will not be cheaper in anyway. In fact, he testified that it will be built with quality materials that come at a significant premium to other materials that are currently available.

40. The architect provided detailed testimony on the complex palette of quality materials for the project. Two different finishes of granite – polished and unpolished – are used on the K Street façade, which is the same granite used on the Farragut Square elevation of the 1700 K Street building. Mr. Barris stated the granite is almost unique because it has a figuration, grain and sparkle, which are more evident with the contrasting finishes. Similarly, stainless steel columns and window frames have either a brushed, textured or polished finishes designed to respond to changes in sunlight during the course of the day. According to Mr. Barris, the complex palette will produce visual effects that cannot be adequately represented in an architectural rendering. Similarly, the combination of beveled granite pilasters and inversely beveled stainless steel liners at the pedestrian level of the K Street façade will use a combination of shadow relief and reflectivity to differentiate this retail space from the office levels above. Mr. Barris testified that many of these architectural features would be absent from a by-right building on the same site.

41. Mr. Barris concluded that the proposed PUD was far superior to what would be provided as a matter-of-right at this site. He testified that a matter-of-right project at this corner would invariably eliminate the costly design elements and finishes that have been incorporated into the proposed PUD. Among other things, Mr. Barris stated that the projecting bays on the Connecticut Avenue façade would most likely be eliminated due to their

extraordinary expense and replaced with a flush window wall. He also noted that many of the ornamental finishes, such as the beveled granite pilasters, or the broad caps stainless steel caps on the windows, on the proposed building would likely be replaced with more standard materials and finishes.

42. Mr. Barris testified that Clark Construction Company provided a cost comparison between the 1700 K Street building, an expensive building in its own right that would not have been built as a matter-of-right, and the proposed PUD. After adjustments for inflation, Mr. Barris testified that Clark estimated that the cost of the proposed PUD design was approximately $7.00 per square foot more than its sister building at 1700 K Street, or roughly an eight to nine percent increase above *another PUD,* not just another matter-of-right project. In fact, the record indicates that the high-quality finishes and public space improvements provided by the PUD cost approximately fifteen to twenty percent more than what is typically expended at other downtown office building sites.

43. The Commission finds it noteworthy that OP acknowledged the superior quality of the building's construction materials and described the proposed streetscape improvements as "a welcome addition to the public realm." While OP was not willing to go so far as finding the building one of "superior architecture," it did recognize that the building envelope was well-balanced throughout the PUD site.

44. Based on the testimony and evidence of record, and in particular, the Applicant's comparison of the superior nature of the proposed project with what would otherwise be achieved by right, the Commission finds the proposed PUD to be one of "superior design." Not only does the PUD offer high quality finishes and thoughtful design considerations, it features streetscape improvements, a green roof and other sustainable design elements, discussed below, that are rarely – if ever – incorporated into a matter-of-right building. The architectural design of the proposed PUD is thus a "public benefit" that is appropriately balanced against the requested flexibility from the FAR requirements.

Sustainable Design Features

45. Section 2403 of the Zoning Regulations define "public benefits" as "superior features of a proposed PUD that benefit the surrounding neighborhood or the public in general to a significantly greater extent than would likely result from development of the site under the matter-of-right provisions of this title." 11 DCMR § 2403.6. That section further provides that the "public benefits" of a PUD may include, *inter alia*, "[e]nvironmental benefits, such as stormwater runoff controls and preservation of open space or trees." 11 DCMR § 2403.9(h).

46. The Applicant has incorporated a number of sustainable design features into the proposed PUD. The proposed green roof, for example, will significantly reduce the average temperature of the building's roof and the "heat island" effect on surrounding properties, and will mitigate stormwater runoff on the Subject Property. The Applicant also intends to equip the building with high-efficiency plumbing fixtures and occupancy sensors to

reduce municipal water supply and wastewater system usage. The number of trees along the K Street and Connecticut Avenue frontages of the property will be increased threefold, and light-colored paving materials will reduce a "heat island" effect in the public space adjacent to the building. The base building heating, ventilation, and air conditioning ("HVAC") and fire suppression systems will not contain hydrochlorofluorocarbons ("HCFC") or halons and will thus not contribute to the depletion of atmospheric ozone. The new building will also incorporate energy-efficient fixtures and light controls and will employ a high-efficiency tankless water heating system. Finally, the building will be designed to maintain indoor air quality through carbon monoxide monitoring, efficient HVAC systems, and the use of low VOC finishes throughout the building.

Adequacy of the Public Amenities Package

47. In addition to the specific benefits and amenities listed under § 2403 of the Zoning Regulations, the term "public benefits" also includes any "[u]ses of special value to the neighborhood or the District of Columbia as a whole." 11 DCMR § 2403.9(i).

48. After reviewing the community amenities, the Commission finds that the Applicant's proposed amenities package is commensurate with the additional density provided through the PUD process. The Applicant has requested an additional 4,184 square feet of gross floor area over what is allowed as a matter-of-right under the PUD standards for the C-4 District. The Applicant's package more than offsets the relatively small increase in density for the project. The Commission further finds that the Applicant has provided sufficient documentation of the amenities package.

NCPC Report

49. The proposed action was submitted to the National Capital Planning Commission for its review pursuant to § 492 of the District Charter.

50. NCPC, by action dated January 4, 2007, found that an architectural element *might* violate § 7 of the Height Act, which provides in relevant part that "no parapet walls shall extend above the limit of height," and suggested that the National Capital Planning Commission and the Office of Planning staff work together to define architectural elements that are currently used to embellish buildings.

51. The Commission finds that the architectural element in question is not a parapet, but is a different type of architectural embellishment. The Commission is nonetheless concerned that the horizontal nature of this embellishment is of a different nature than the vertical elements traditionally permitted as exceptions to the Height Act. In the 97 years since the Height Act was enacted, the shape of architectural embellishments evolved, and the number of different forms has increased, making it difficult to apply to its provisions to present day structures. The Commission therefore supports NCPC's suggestion that it work with the Office of Planning to define architectural elements that constitute a parapet wall, cornice and other elements that are used to embellish buildings.

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 which may exceed or be less than the matter-of-right standards identified for height, FAR, lot occupancy, off-street parking and loading, or for yards and courts. The Zoning Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the BZA.

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 which 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 site meets the minimum area requirements of § 2401.1 of the Zoning Regulations.

5. The PUD is within the applicable height and bulk standards of the Zoning Regulations, and the increased density will not cause a significant adverse effect on any nearby properties. The project is a continuation of an appropriate use at an appropriate location in the heart of the Central Employment Area and is immediately proximate to mass transit. Accordingly, the project should be approved. The impact of the project on the surrounding area is not unacceptable. The impact on housing is favorable because of the Applicant's proposed housing linkage measures.

6. The proposed application can be approved with conditions to ensure that the potential adverse effects on the surrounding area from the development will be mitigated.

7. The project benefits and amenities—particularly the community amenities package, affordable housing funds, and sustainable design elements—are a reasonable trade-off for the density provided in the application, particularly given the high-density commercial nature of property in the immediate area. The subject development is both a K Street building and a Connecticut Avenue building, and the use, height, bulk, and design are appropriate for both sides and both contexts of the building.

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 is not inconsistent with the Comprehensive Plan.

10. The Commission is required under D.C. Official Code §1-309.10(d)(2001 ed.)to give great weight to the affected ANC's recommendation. The Commission has carefully considered the ANC's recommendation for approval and concurs in its recommendation.

11. 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 ed.)) to give great weight to OP recommendations (as reflected in ¶ 27). For the reasons stated above, the Commission does not agree with OP's contention that the architecture is not superior, and that the proposed amenities package is not sufficient to offset the requested flexibility from the Zoning Regulations. With respect to OP's contention that the Applicant has not provided signed agreements with DOES, DSLBD, the Commission has conditioned the issuance of a building permit for the proposed PUD project on the submission of proof that these signed agreements. With respect to OP's contention that the Applicant has not provided a signed agreement with the beneficiaries of the community amenities package, the Commission has conditioned the issuance of the certificate of occupancy on the issuance of a certificate of occupancy for the requisite housing outlined in the agreement the Applicant entered into with the Marshall Heights Community Development Organization for the construction of housing in the Wheeler Hills Estate Housing Opportunity Area.

11. The application for a PUD 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.

17. The application for a PUD 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 a PUD for the property located at 1000 Connecticut Avenue, N.W. (Lots 803, 804, 805, 806, and 847 in Square 163). This approval is subject to the following conditions:

1. The PUD shall be developed in accordance with the plans prepared by Pei Cobb Freed & Partners, dated October 2005, and as amended or supplemented by drawings dated December 2005, October 2006, and November 2006, marked as Exhibits 5, 6, 23, and 33, respectively, in the record, and as further modified by the guidelines, conditions, and standards herein.

2. The project shall be a commercial office development consisting of approximately 369,725 square feet of gross floor area. The PUD project shall not exceed an overall

density of 11.13 FAR, nor shall it exceed a height of 130 feet, with setbacks as shown on the plans.

3. Landscaping and improvements to public space along the street elevations of the building shall be in accordance with the plans submitted to the record and subject to approval by the Public Space Committee.

4. The Applicant shall enter into a Contract Construction Agreement with the Marshall Heights Community Development Organization to write down the costs of construction for a minimum of 16,384 square feet of affordable housing on vacant land at 4th Street and Mississippi Avenue, S.E., which is located within the Wheeler Hills Estates Housing Opportunity Area. The housing will target households earning 80% of AMI or less. No certificate of occupancy shall be issued for the PUD until a certificate of occupancy has been issued for the requisite housing outlined in the Contract Construction Agreement. The Applicant shall pay $841,700.00 to the Marshall Heights Community Development Organization to fulfill the housing linkage requirement. If, after the further consideration of the PUD housing linkage policy by the Zoning Commission, it determines that (i) a lesser dollar amount is in keeping with the PUD housing linkage policy; and (ii) a lesser dollar amount will allow for the construction of the required amount of housing linked to the subject PUD, this order shall be modified accordingly, without a public hearing, at the Applicant's request. Any difference between the amount paid by the Applicant and any reduced amount determined under the housing linkage policy may be refunded to the Applicant. The dollar amount shall not be increased.

5. Prior to the issuance of the building permit for the PUD, the Applicant shall contribute $50,000.00 to the Golden Triangle BID to fund the development of a geographic information system ("GIS").

6. Prior to the issuance of a building permit for the PUD, the Applicant shall enter into a Memorandum of Understanding with the D.C. Department of Small and Local Business Development in order to achieve, at a minimum, the goal of thirty-five percent participation by local, small, and disadvantaged businesses in the contracted development costs in connection with the design, development, construction, maintenance and security for the project to be created as a result of the PUD project.

7. Prior to the issuance of the building permit for the PUD, the Applicant shall enter into a First Source Employment Agreement with the Department of Employment Services (DOES) in order to achieve the goal of utilizing District of Columbia residents for at least fifty-one percent of the jobs created by the PUD project.

8. The Applicant shall retain a service to monitor compliance with the D.C. Department of Small and Local Business Development Memorandum of Understanding and the First Source Employment Agreement and shall report semi-annually to the Office of Zoning on its efforts to comply with the employment goals of these agreements upon project completion.

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

   b. to vary the location and minor details of the retail doors along Connecticut Avenue and K Street;

   c. to vary the number and location of parking spaces, not to decrease below the minimum of 236 spaces;

   d. 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; and

   e. 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 the D.C. Building Code or that are otherwise necessary to obtain a final building permit. Only those exterior changes initiated by BLRA will be permitted within the context of this element of design flexibility.

11. No building permit shall be issued for this planned unit development until the Applicant has recorded a covenant in the land records of the District of Columbia, between the owners and the District of Columbia, which is satisfactory to the Office of the Corporation Counsel 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 on and use this property in accordance with this order or amendment thereof by the Zoning Commission.

12. 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.

13. The 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 11 DCMR § 2409.1. Construction shall begin within three (3) years of the effective date of this Order.

14. 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 (2001 ed.) 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 will 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.

At is public meeting on December 11, 2006, the Zoning Commission **APPROVED** the application by a vote of 4-0-1 (Anthony J. Hood, Gregory N. Jeffries, John G. Parsons, Michael G. Turnbull to approve; Carol J. Mitten, not voting having not participated).

The Order was **ADOPTED** by the Zoning Commission at its public meeting on February 12, 2007, by a vote of 4-0-1 (Anthony J. Hood, Gregory N. Jeffries, John G. Parsons, Michael G. Turnbull to approve; Carol J. Mitten, not voting having not participated).

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 JUN 29 2007.

ANTHONY J. HOOD
Vice Chairman
Zoning Commission

JERRILY R. KRESS, FAIA
Director
Office of Zoning