GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission

Z.C. CASE NO.: 88-34A

As Secretary to the Zoning Commission, I herby certify that on DEC 22 2006 copies of this Z.C. Order No. 619A 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. 88-34A
EXHIBIT NO. 36

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GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 619-A
Z.C. Case No. 88-34A
(Modification to a Planned Unit Development for the Children's National Medical Center)
October 16, 2006

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held a public hearing on September 7, 2006 to consider an application from Children's National Medical Center ("Children's Hospital") for a modification (the "PUD Modification") to an approved planned unit development ("PUD") for the development of Children's Hospital. The Zoning Commission considered the Applications 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 hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Zoning Commission hereby approves the PUD Modification.

FINDINGS OF FACT

Application, Hearing, and Parties

1. Children's Hospital filed an application for the PUD Modification on May 23, 2006. The Zoning Commission considered and approved this case for set down at its regularly-scheduled public meeting on June 12, 2006.

2. The Zoning Commission held a public hearing to consider the PUD Modification on September 7, 2006. All notice was found to have been given in accordance with the Zoning Regulations.

3. The parties to the case were Children's Hospital and Advisory Neighborhood Commission ("ANC") 5C, the ANC within which the PUD site is located. ANC 5C did not appear at the hearing but did file a letter in support of the PUD Modification.

4. At the end of the public hearing, the Zoning Commission took proposed action by a vote of 5-0-0 to approve with conditions the PUD Modification and plans presented at the public hearing.

5. The proposed action of the Zoning Commission was officially referred to the National Capital Planning Commission ("NCPC") under the terms of the District of Columbia

Self-Government and Governmental Reorganization Act. NCPC, by official action dated September 28, 2006, found that the proposed modification would not affect the federal interests in the National Capital, and would not be inconsistent with the Comprehensive Plan for the National Capital.

6. The Zoning Commission took final action by a vote of 5-0-0 to approve the PUD Modification at its public meeting held on October 16, 2006.

The Site and the Area

7. The subject property is known as Assessment and Taxation Lot 801, being a portion of Record Lot 2 in Square 3129 (the "Site"). Lot 801 is located generally within the southwest portion of Record Lot 2, which is bounded by Michigan Avenue, Irving Street and 1st Street, N.W. The Site is improved with facilities serving as Children's Hospital and is part of the larger medical complex in Square 3129.

8. The Site is directly across Michigan Avenue from the McMillan Reservoir. The US Soldiers' Home is located to the north of the Site. The area surrounding the Site is generally characterized by institutional uses, including the Veteran's Administration ("VA") Hospital generally to the northeast of the Site. Further to the east and west are residential uses, but there are no abutting residential properties. Howard University and Catholic University are located nearby.

9. The Site is zoned SP-2.

10. The Generalized Land Use Map designates the Site in the Institutional land use category. The Comprehensive Plan designates the area generally surrounding the Site for Institutional uses (including the Washington Hospital Center, the VA Hospital and Howard University) and for Federal uses (US Soldier's Home).

Previous Approvals

11. In Zoning Commission Case No. 70-3, the Zoning Commission approved a PUD for the development of Children's Hospital and granted a change of zoning from R-5-A to SP for a portion of the Site, which was then known as Lot 1 in Square 3129.

12. In Order No. 14 for Case No. 70-3, the Zoning Commission approved the development of Children's Hospital in two phases. Phase I approved the construction of a four-story building with a height of 91.5 feet and a density of 1.307 FAR. The allowable lot occupancy was 40.8%. The Phase I approval was confirmed by the Board of Zoning Adjustment by Order No. 10369. Phase II of the development was to increase the size of the structure to six stories with a height of 127.5 feet and a density of 2.45 FAR. The allowable lot occupancy was increased to 59.4%. The Commission also approved an

underground parking facility for up to 1,000 vehicles, of which 886 parking spaces were constructed.

13. In 1989 by Order No. 619 (the "1989 Approval"), the Zoning Commission approved the development of additional facilities for Children's Hospital, which included an expansion to the hospital building, a helipad, and a parking facility for an additional 654 spaces. The height of the building was maintained at 127.5 feet, with an overall density not to exceed 2.45 FAR. The maximum lot occupancy sought and approved was 59.4%.

Development History

14. The four-story main hospital building and associated parking were constructed in the mid-1970's pursuant to Zoning Commission Order No. 14.

15. Children's Hospital was expanded in the early 1990's pursuant to the 1989 Approval to include the West Addition, the helipad relocation, and the below-grade parking facility of the East Addition.

16. Since the 1989 Approval, the following facilities have been constructed at Children's Hospital:

    a. Floors 5 and 6 on the main hospital for research facilities;

    b. Floors 2 through 4 on the East Addition;

    c. Decontamination Facility; and

    d. Chiller Plant.

17. All of these additions were constructed pursuant to building permits issued by the District of Columbia. The Zoning Administrator did not require these additions to be reviewed by the Zoning Commission.

Proposed Modification

18. In this PUD Modification, Children's Hospital proposes the construction of an additional 96,000 square feet of gross floor area (Floors 5 and 6) to the East Addition with a height of 117 feet, three inches. These floors will provide space for the Neonatal Intensive Care Unit ("NICU") and expansion space for in-patient bed capacity in the future.

19. Children's Hospital also proposes construction of approximately 72,000 square feet of gross floor area for the Post-Up at the north end of the hospital. This addition will provide expansion spaces for surgical facilities. The Post-Up is designed to be four levels (Levels 2, 3, 4, and 5). The Plans in the record, as defined below, show Levels 2, 3 and 4, with the Post-Up having a maximum height of 89 feet, 6 inches. Due to potential

difficulties in constructing Level 5, the Plans do not show that level, which would be similar to the floors below. The PUD Modification requests approval for all four levels, with a maximum height of 109 feet, 6 inches, in the event that the construction difficulties are resolved.

20. No modifications to parking, loading, or circulation are proposed as part of the PUD Modification.

Public Benefits and Project Amenities

21. The amenities provided by the PUD Modification include the following:

    a. Social services/facilities pursuant to 11 DCMR § 2403.9(g), including high quality pediatric health services, designated pediatric trauma center, children's primary care, and specialty care in outpatient centers.

    b. Uses of special value to the neighborhood or the District of Columbia pursuant to 11 DCMR § 2403.9(i) including providing health services to the local population and to District residents of all income levels, providing school nurses for the District's public school system, providing emergency medical communications services for all District hospitals, providing a decontamination facility and an emergency quarantine facility, and providing immunization programs for District children.

    c. Transportation management measures pursuant to 11 DCMR § 2403.9(c), including the continuation and institution of extensive transportation demand management programs.

    d. High quality, superior design pursuant to 11 DCMR § 2403.9(a), including a design that is reflective of the architectural character of the building previously approved and one that provides a visually strong identity for a building in a prominent location.

    e. Employment and training opportunities pursuant to 11 DCMR § 2403.9(e), including a First Source Employment Agreement with the D.C. Department of Employment Services and a Memorandum of Understanding for Local, Small and Disadvantaged Business Enterprises ("MOU for LSDBE").

Zoning Flexibility

22. The Applicant requests zoning flexibility from the roof structure requirements set forth in §§ 411 and 530.5(c) of the Zoning Regulations as follows:

    a. Increased roof structure height to approximately twenty-three feet for the roof structure above the elevators providing access from the helipad to the NICU;

b. Multiple roof structures; and

c. Walls of unequal height for the multiple roof structures.

23. The Zoning Commission finds that the requested zoning flexibility is necessary in order to provide the facilities needed to provide the unique care to infants and children, including the increased height for the roof structure to provide direct access from the helipad on the roof to the NICU.

Compliance with PUD Standards

24. The PUD Modification complies with the standards for a PUD set forth in Chapter 24 of the Zoning Regulations.

25. The Zoning Commission finds that the project offers a high level of public benefits and project amenities, as described in Finding No. 21, and the PUD Modification requests a relatively small amount of development incentives and flexibility.

26. The Site contains 7.3 acres (or 317,995 square feet) of land, which exceeds the minimum area requirements set forth in § 2401.1(c) of the Zoning Regulations.

27. The PUD Modification has been evaluated under the PUD guidelines for the SP-2 District. Under the current Zoning Regulations, a PUD in the SP-2 District is permitted to have a maximum density of 4.5 FAR and a maximum height of 90 feet. Under the Zoning Regulations in effect at the time the PUD was originally approved, a PUD in the SP District was permitted to have a maximum density of 6.0 FAR and a maximum height of 130 feet. The Zoning Commission has previously approved a density of 2.45 FAR and a maximum height of 127.5 for the Site. The PUD Modification will increase the total density for the Site to 3.55 FAR, which is well within that permitted under the former and current Zoning Regulations for a PUD in the SP/now-SP-2 district. The roof plan marked in the record as Exhibit 27 shows that the actual height of the building constructed over the measuring point is 129 feet, 2 3/4 inches. The maximum height of the new construction proposed in this PUD Modification will be less than the maximum overall height for Children's Hospital.

28. The PUD Modification will have no adverse impact on the surrounding area, with the primary goal of the project being to improve the overall delivery of critical health services to the public. The proposed use, scale, and design of the PUD Modification are in keeping with the previously approved PUD and with the immediate environs.

29. The PUD Modification will have no adverse impacts on the area, as is indicated in the Traffic Impact Study, attached as Exhibit B to the Supplemental Prehearing Submission, in the record at Exhibit 22, and the report from the District Department of Transportation

("DDOT"), in the record at Exhibit 31. Parking and loading will remain unchanged for the Site.

30. The PUD Modification will have no adverse impact of the District's existing water and sewer services, which are adequate to serve this facility.

Consistency with the Comprehensive Plan

31. The PUD Modification is consistent with the Generalized Land Use Map of the Comprehensive Plan, which depicts the Site in the Institutional land use category.

32. The PUD Modification advances the purposes of the Comprehensive Plan by promoting the well-being of District children through the provision of quality hospital care. The PUD Modification will continue to enhance the permanent character and stability of the neighborhood by further improving the Site. Furthermore, construction of the PUD Modification will promote economic growth and jobs for District residents through the First Source Employment Agreement and MOU for LSDBE.

33. The project is consistent with many of the Comprehensive Plan's major themes, including strengthening the District's importance in the metropolitan area by Children's Hospital being located in the District, furthering the theme of respecting and improving the physical character of the District, and ensuring community input.

34. The PUD Modification is consistent with the Human Services Element, which declares that the availability of health and social services is critical to the District community. A wide range of services that are indispensable must be delivered not only to the most desperate and destitute but to anyone in need of human services. These services include, among other, the prevention and control of disease and the provision of medical and health care.

35. The Human Services Element also establishes policies in support of the human services delivery system objective of ensuring a broad range of community-based human services for those in need as follows: maintain and improve services for all children and adults in twenty-four hour care facilities and place clients of the health care system in settings most appropriate to their needs. Furthermore, the element stresses improving the efficiency of health services, initiating all appropriate actions to contain the cost of health care to provide quality service at the lowest possible cost, establishing an all-embracing health information system for effective health planning, and improving strong health care planning processes, which further the goals of quality and cost containment in health care.

36. The PUD Modification is fully consistent with and follows the goals of the Human Services Element of the Comprehensive Plan, because the PUD Modification will allow Children's Hospital to deliver additional and better health care services to the residents of

the District. Furthermore, the PUD Modification will enhance the reputation of the District as the home of a leading research center for pediatric care. More specifically, the PUD Modification will promote the continuing development of highly specialized services that represent the hub of pediatric health care in the Washington metropolitan area.

37. The PUD Modification also furthers the Environmental Protection Element of the Comprehensive Plan, which include protecting the environment of the District, resisting threats to its overall quality. The PUD Modification will limit soil erosion and sedimentation during and after construction and will include storm water management controls. Furthermore, Children's Hospital will comply with all District and Federal environmental regulations as necessary through the permit process.

38. The basic philosophy of the District's Transportation Element is that by providing for the efficient movement of people and goods within the District and its metropolitan area, the District's transportation network can play a key role in the District's effort to maintain and enhance its function as the economic and cultural hub of the Washington metropolitan area. The Site is well-served by mass transit and is designed to encourage use of these services. Children's Hospital also provides parking in excess of that required by the Zoning Regulations and provides parking to meet the needs of its users. Additionally, the PUD Modification includes the institution of a transportation management program.

39. The PUD Modification furthers many of the objectives and policies of the Ward 4 Element, which is the ward within which the Site was located at the time the Comprehensive Plan was adopted. Specifically, an objective of the Ward 4 Element is to encourage, with high-density rezoning as necessary, and with appropriate measure to mitigate potential adverse impacts on surrounding areas, the development of hospitals and related health care services in Square 3129. A recommended action related to this objective is to ensure the continued use of Square 3129, with expansion as necessary, for hospital and related health care services and uses. These policies specifically apply to the expansion of Children's Hospital to support the important services it provides.

Office of Planning

40. The Office of Planning ("OP") submitted its Final Report dated August 28, 2006 (the "Final OP Report"). By the Final OP Report and through testimony presented at the public hearing, OP recommended approval of the PUD Modification subject to the following requirements:

    a. Financial contribution to signalization improvements at Michigan Avenue and Hospital Center Drive, as stipulated by DDOT; and

b. Transportation demand strategies outlined in the applicant's traffic study and supported by DDOT.

41. The Final OP Report states that the PUD Modification is not inconsistent with the Comprehensive Plan and that the PUD Modification would further the policies of the Comprehensive Plan, resulting in the availability of optimum care for the District's children.

42. The Final OP Report also states that the benefits to the community from the PUD Modification compensate for the increase in the requested density beyond the previously approved.

43. The Final OP Report states, and OP testified at the hearing, that OP believes that all additions subsequent to the 1989 Approval should be brought into conformance as a modification of the original plan through this PUD Modification.

District Department of Transportation

44. In its report dated September 1, 2006 ("DDOT Report"), DDOT supported the PUD Modification. The DDOT Report concluded that it concurred with the Traffic Impact Study, attached as Exhibit B to the Supplemental Prehearing Submission, in the record at Exhibit 22.

45. The DDOT Report found no significant impact, as long as a new signal is installed at the intersection of Michigan Avenue and Hospital Center Drive South. In the DDOT Report, DDOT requested that Children's Hospital pay one-third of the cost of the signal, which it estimates to be between $200,000 and $250,000. Thus, Children's Hospital's estimated cost of participation is $70,000. DDOT requested that Children's Hospital enter into a Memorandum of Understanding to document the contribution.

ANC 5C Report

46. By letter dated June 28, 2006, ANC 5C indicated that it voted at its regularly scheduled public meeting on June 20, 2006 to support the PUD Modification.

Letters in Support and Opposition

47. Washington Hospital Center, the immediately adjacent land user, filed a letter in support of the case dated August 8, 2006.

48. No letters in opposition were filed in the record.

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 considers a modification to an approved PUD as if it were a second-stage PUD application. The Commission may impose development conditions, guidelines, and standards that may exceed or be less than the matter-of-right standards identified for height, density, lot occupancy, parking, loading, 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 project advances the purposes of Chapter 24 of the Zoning Regulations to encourage the development of well-planned developments that will offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter-of-right development.

4. The proposed PUD Modification meets the minimum area requirements of § 2401.1 of the Zoning Regulations.

5. The PUD Modification is within the applicable height and bulk standards of the Zoning Regulations and the previously approved PUDs. The height and density will not cause a significant adverse effect on any nearby properties. The impact of the project on the surrounding area is not unacceptable. Accordingly, the PUD Modification can be approved.

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

7. Pursuant to 11 DCMR § 2405.7, the PUD Modification seeks flexibility from the roof structure requirements regarding height (11 DCMR § 530.5(c)), number of enclosures (11 DCMR § 411.3), and walls of equal height (11 DCMR § 411.5). The project benefits and amenities, identified in Finding No. 21, are sufficient trade-off for the flexibility and development incentives requested.

8. Approval of the PUD Modification is appropriate, because it is consistent with the character of the area.

9. Approval of this PUD Modification is not inconsistent with the Comprehensive Plan.

10. The Commission is required under D.C. Code 2001 Ed. § 1-309.10(d) to give great weight to the affected ANC's recommendations. The Commission has carefully considered ANC 5C's report and concurs with its recommendation the application should be granted.

11. The approval of the PUD Modification 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 Zoning Map of the District of Columbia.

12. Notice was provided in accordance with the Zoning Regulations and applicable case law.

13. The PUD Modification 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 PUD Modification. This approval is subject to the following guidelines, conditions, and standards:

1. The PUD Modification shall be developed substantially in accordance with the plans prepared by Wilmot Sanz and dated May 23, 2006, in the record at Exhibit 4, as supplemented by the revised Page 7 of the plans submitted with the Supplemental Prehearing Submission on August 18, 2006, in the record at Exhibit 22, and the revised roof plan shown on Page 26 (Revised) submitted at the public hearing, in the record at Exhibit 27 (collectively, the "Plans"), as modified by the guidelines, conditions, and standards herein.

2. The PUD Modification shall permit the construction of Floors 5 and 6 of the East Addition, including approximately 96,000 square feet of gross floor area with a maximum height of 117 feet, 3 inches. The PUD Modification shall also permit the construction of a four-story Post-Up, including up to 72,000 square feet of gross floor area and having a maximum height of 109 feet, 6 inches if all four floors are constructed. The total project shall have a maximum density of 3.55 FAR.

3. The approval of the PUD Modification includes approval of all construction authorized by building permits since the 1989 Approval.

4. Children's Hospital shall contribute one-third of the cost towards the design and construction of a new traffic signal at the intersection of Michigan Avenue, N.W., and the Hospital Center Drive. The requirement for the Applicant to provide such a financial contribution shall be triggered by DDOT's submission of a letter to the Applicant and the

Zoning Commission indicating DDOT's formal decision to construct the traffic signal and the time period in which design and construction is to be completed. The Applicant shall provide such payment within 30 days after receipt of DDOT's letter, but not earlier than the issuance of the first building permit for construction authorized by condition 2.

5. Children's Hospital shall implement a transportation management plan, as set forth in its Traffic Impact Study dated August 2, 2006, attached as Exhibit B to the Supplemental Prehearing Submission filed with the Zoning Commission on August 18, 2006 and found in the record at Exhibit 22.

6. Children's Hospital shall abide by the terms of the executed Memorandum of Understanding with the D.C. Local Business Opportunity Commission.

7. Children's Hospital shall abide by the terms of the executed First Source Employment Agreement with the Department of Employment Services.

8. Children's Hospital shall have flexibility with the design of the PUD Modification in the following areas:

   a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, interstitial areas, elevators, escalators, and toilet rooms, provided that the variations do not materially change the exterior configuration of the building; and

   b. 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 changes to comply with the District of Columbia Building Code or that are otherwise necessary to obtain a final building permit or any other applicable approvals.

9. No building permit shall be issued for this PUD Modification until Children's Hospital has recorded a Notice of Modification in the land records of the District of Columbia.

10. The Office of Zoning shall not release the record of this case to the Zoning Division of Department of Consumer and Regulatory Affairs ("DCRA") until Children's Hospital has filed a copy of the Notice of Modification with the records of the Zoning Commission.

11. The PUD Modification approved by the Zoning Commission shall be valid for a period of two years from the effective date of this Order. Within such time, an application must be filed for a building permit as specified in 11 DCMR § 2409.1. Construction shall begin within three years of the effective date of this Order.

12. Pursuant to the Human Rights Act of 1977, D.C. Code § 1-2531 (1991), Children's Hospital is required to comply fully with the provisions of the Act, and this Order is

conditioned upon full compliance with those provisions. Nothing in this Order shall be understood to require the Zoning Division of DCRA to approve permits if Children's Hospital fails to comply with any provision of the Human Rights Act.

The Zoning Commission at its public meeting held on September 7, 2006, **APPROVED** the application by a vote of **5-0-0** (Anthony J. Hood, Michael G. Turnbull, Carol J. Mitten, John G. Parsons, and Gregory N. Jeffries to approve).

This Order was **ADOPTED** by the Zoning Commission at its public meeting on October 16, 2006, by a vote of **5-0-0** (Carol J. Mitten, Michael G. Turnbull, Anthony J. Hood, John G. Parsons, and Gregory N. Jeffries to approve).

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 DEC 29 2006.

CAROL J. MITTEN
CHAIRMAN
ZONING COMMISSION

JERRILY R. KRESS, FAIA
DIRECTOR
OFFICE OF ZONING