

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ZONING COMMISSION

July 17, 1962

File 62-19

Mr. Joseph Luria
Lichtenberg and Luria
1730 K Street, N.W.
Washington 6, D. C.

Dear Mr. Luria:

The Zoning Commission in executive session on July 17th, 1962, conditionally approved the "Watergate" project involving the planned use of land under Article 75 of the Zoning Regulations. This project embraces all property in squares 2, 3, 7, 8, 9 and 18, Reservation 133 and all streets therein closed by order of the Commissioners, D. C. as recorded in Book 142, Page 60, Records of the Surveyor, D. C.

The plan conditionally approved by the Commission is on file under Z.C. 62-19 with pertinent exhibits stamped "Office of the Zoning Commission, D. C.", initialed R.O.C. on each of the 16 plan and elevation sheets and the one official computation sheet of the area. Four typewritten sheets listing the type of possible commercial uses and commercial adjuncts are also thus identified.

Conditions are:

(a) All office usage requested shall be limited to those uses allowable in the SF District. The Board of Zoning Adjustment may in its discretion permit all or part of these uses to be determined by the Zoning Administrator.

(b) The maximum height of 130 feet shall be limited to 25% of the building complex.

(c) The total gross floor area of the high rise buildings shall not exceed the total permitted under existing 2-5-D regulations on the area owned by Island Vista, Inc. on July 15th, 1962. In computing such area, the area of open balconies and the area of open colonnades on ground level will be specifically excluded.

(d) The height of the section or building designated as No. 1 shall be subject to a possible adjustment, the extent and location of which shall be discretionary with the Board of Zoning Adjustment. The Board, however, before authorizing such adjustment shall ascertain the views and opinions of the National Capital Planning Commission, the Commission of Fine Arts, the Commissioners, D. C. and the Director of the National Park Service, following which it (the Board) shall make these views and opinions known to the Zoning Commission.

(e) The Board of Zoning Adjustment shall have complete latitude to determine within the limits designated on approved sheets the number and nature of commercial uses and commercial adjuncts; provided, however, that the estimated total gross floor area for such uses shall not be increased.

EXHIBIT A

R. O. CLOUSER
ZONING COMMISSION
District of Columbia
CASE NO. 62-19B
EXHIBIT NO. 1B

ZONING COMMISSION OF THE DISTRICT OF COLUMBIA


July 17, 1962

ORDERED:

That after public notice and hearing as prescribed by law, the following districts heretofore established by the Zoning Commission of the District of Columbia, as shown in the official Zoning Map and atlases, are hereby modified and amended as follows:

All lots zoned R-5-D and C-2 in squares-2, 3, 7, 8, 9 and 18, bounded by the Rock Creek and Potomac Parkway, 27th Street, F Street, New Hampshire Avenue and Virginia Avenue, N.W., are changed to SP (61-44).

Parts of H Street, 26th Street, 27th Street and G Street located within the area bounded by Virginia Avenue and New Hampshire Avenue, F Street and the Rock Creek and Potomac Parkway, N.W., which were closed by order of the Commissioners, D. C., as shown on plat recorded in the Office of the Surveyor, D. C., in Book 142, Page 60, are included in the SP District (62-18).



F. J. CLARKE

CONRAD L. WIRTH

J. GEORGE STEWART



WALTER TOEBLER



JOHN B. DUNCAN

ATTEST:



W. E. CHASE
EXECUTIVE OFFICER

Before the Board of Zoning Adjustment, D. C.

PUBLIC HEARING--April 18, 1963

Appeal #7234 Watergate Realty, Inc., appellant.

The Zoning Administrator District of Columbia, appellee.

On motion duly made, seconded and unanimously carried the following Order was entered on May 3, 1963:-

ORDERED:

The appeal for further processing under provisions of Section 7501 of part of a large-scale development plan known as Watergate within an area bounded by Virginia Avenue, New Hampshire Avenue, F Street and Rock Creek and Potomac Parkway, N.W., squares 3, 7, 8, 9, and 18, entire and lots 813, 814 in square 2, is approved for the following reasons and subject to the conditions hereinafter set forth:

(1) From the records and the evidence adduced at the hearing, the Board finds that the changes as submitted in the plans before the Board are minor. The Board finds from these plans submitted that the intent and purpose as envisioned by the Zoning Commission will be carried to completion (by progression).

(2) The Board further finds that the provisions of paragraph 7501.41 and 7501.42 referred to by paragraph 7501.77 are met by the evidence and by plans under review herein.

(3) It is proposed to construct the building in four stages, timed so that maximum interims will be:

	<u>STAGE 1</u>	<u>STAGE 2</u>	<u>STAGE 3</u>	<u>STAGE 4</u>
<u>Filing for BZA Approval</u>	March 29, 1963	Six months from completion of construction of Stage 1	Six months from completion of construction of Stage 2	Six months from completion of construction of Stage 3
<u>Filing of Building permit</u>	11 months after BZA approval	11 months after BZA approval	11 months after BZA approval	11 months after BZA approval
<u>Commencement of Construction</u>	6 months after issuance of Building Permit	6 months after issuance of Building Permit	6 months after issuance of Building Permit	6 months after issuance of Building Permit
<u>Completion of Construction</u>	Two years from commencement	Two years from commencement	Two years from commencement	Two years from commencement

This timetable, subject to possible review from time to time, is acceptable.

(4) Stage one, the processing of which is now before the Board shows:-

(a) Complete floor plans and architectural elevation of the portion of the building included in Stage 1, and designated on drawings as Building 2.

(b) Grading and drainage plan for the area to be developed in Stage 1.

(c) The planting and landscape plans for the land to be developed under Stage 1.

(d) The finished site plan with pertinent areas and dimensions showing thereon the portion of the building encompassed in Stage 1, and noting precisely any difference in its approved location or size, the location and details of all other structures not classed as buildings, and the location, details and grades of all driveways requiring curb cuts.

(e) Detailed parking plan, and the circulation relation for the area and garage facilities and street access.

(5) The Board has meticulously reviewed all details of the plan of Stage one submitted and finds that sufficient information has been afforded so that an affirmative finding of compliance with the Zoning Commission directive of July 17, 1962 is met. We further find that other information and plans with relation to the construction proposed under Stages 2, 3, and 4 are a part of this record and these are acceptable to the extent approval here is necessary as a basis for further processing.

We note that final details of Stage one will require further Board review and further, that difficulties not now envisioned may arise. Accordingly, jurisdiction hereunder (Stage one only) is hereby retained (for either purpose) without further public notice and public hearing, to the end that interpretation, plan correction, minor modification of such plans or clarification of the approved plan may be reviewed. (Paragraph 7501.79)

A further condition of this order is that all SP uses except those for professional persons shall require Board of Zoning Adjustment review. The Zoning Administrator is hereby authorized, within the terms and conditions of the plan approved by the Zoning Commission, to approve professional office use only.

PUBLIC HEARING—Sept. 30, 1964

Appeal #7903 Watergate Realty, Inc. appellant.

The Zoning Administrator District of Columbia, appellee.

On notice duly made, seconded and unanimously carried the following Order was entered on October 7, 1964:

ORDERED:

That the appeal for further processing (Stage 2) under provisions of Section 7501 of part of large-scale development plan known as Watergate, within area bounded by Virginia Avenue, New Hampshire Avenue, F Street and Rock Creek Potomac Parkway, N.W., entire squares 3, 7, 8, 9 and 18 and lots 813 and 814, square 2, be granted for the following reasons and subject to the conditions hereinafter set forth:

(1) From the records and the evidence adduced at the hearing, the Board finds from the plans submitted to and examined by the Board that the intent and purpose as envisioned by the Zoning Commission's Order will be carried to completion (by continued progression).

(2) The Board finds that Stage 1 of the development plan is under construction in accordance with its approval in appeal #7234.

(3) The Board finds that the plans as submitted are for the erection of the office and hotel facilities as authorized by the Zoning Commission Order.

(4) The Board finds that the provisions of paragraphs 7501.41 and 7501.42, referred to by paragraph 7501.77 are met by the evidence presented and by the plans under review herein.

(5) The Board finds that the filing of this appeal was within the time authorized by its Order in appeal #7234.

(6) The Board finds that the evidence and plans presented for Stage 2 the processing of which is now before the Board, shows:

- (a) Complete floor plans and architectural elevation of the portion of the building included in Stage 2, and designated on drawings as Buildings 3 and 4;
- (b) Grading and drainage plan for the area to be developed in Stage 2;
- (c) The planning and landscape plans for the land to be developed under Stage 2;
- (d) The finished site plan with pertinent areas and dimensions showing thereon the portion of the building encompassed in Stage 2, and noting precisely any difference in its approved location or size, the location and details of all other structures not classed as buildings and the location, details and grades of all driveways requiring curb cuts;
- (e) Detailed parking plan, and the circulation relation for the area and garage facilities and street access.

(7) The Board has meticulously reviewed all details of the plan of Stage 2 submitted and finds that sufficient information has been afforded so that an affirmative finding of compliance with the Zoning Commission directive of July 17, 1962 is made.

The Board further finds that other information and plans with relation to the construction of Stages 1, 3 and 4 are a part of this record and these are acceptable to the extent approval here is necessary as a basis for further processing.

(8) The Board finds from the area plat submitted that there have been slight revisions in the land allocations to each of the four stages; that this has been occasioned by the proposed dedication to the District of Columbia for highway purposes of a portion of the land at the intersection of Virginia and New Hampshire Avenues; and that there have been minor changes in the division lines between each of the stages occasioned as the plans and construction details were developed.

This new area plat is approved.

We note that final details of Stage 2 will require further Board review and further, that difficulties not now envisioned may arise. Accordingly, jurisdiction hereunder for Stage 2 is hereby retained (for either purpose), without further public notice and public hearing, to the end that interpretation, plan correction, minor modification of such plans, or clarification of the approved plans may be reviewed. (Paragraph 7501.79).

A further condition of this Order is that all SP office uses except those for professional persons shall require Board of Zoning Adjustment review. The Zoning Administrator is hereby authorized, within the terms and conditions of the plan approved by the Zoning Commission, to approve professional office use only.

PUBLIC HEARING—March 17, 1965

Appeal #8117 John Hancock Mutual Life Insurance Co., owner, on behalf of
Watergate Improvement Associates, lessee and developer, appellant.

The Zoning Administrator District of Columbia, appellee.

On motion duly made, seconded and unanimously carried the following Order was entered on May 17, 1965 (Official order entered July 20, 1965).

ORDERED:

That the appeal for further processing (Stage 3) under provisions of Section 7501 of part of a large-scale development known as Watergate, within area bounded by Virginia Avenue, New Hampshire Avenue, F St. and Rock Creek Potomac Parkway, N.W., entire squares 3, 7, 8, 9 and 18 and lots 813 and 814, square 2, be granted for the following reasons and subject to the conditions hereinafter set forth:

(1) The Board finds from the records and the evidence adduced at the hearing and from the plans submitted to and examined by the Board that the intent and purpose as envisioned by the Zoning Commission's order will be carried to completion (by continued progression).

(2) The Board finds that Stages 1 and 2 of the development plan is under construction in accordance with its approval in Appeals #7234 and #7903.

(3) The Board finds that the plans as submitted are for the erection of apartment facilities as authorized by the Zoning Commission Order.

(4) The Board finds that the provisions of paragraphs 7501.41 and 7501.42 referred to by paragraph 7501.77 are met by the evidence presented and by the plans under review herein.

(5) The Board finds that the filing of this appeal was within the time authorized by its Order in appeal #7234.

(6) The Board finds that the evidence and plans presented for Stage 3, the processing of which is now before the Board, shows:

- (a) Complete floor plans and architectural elevation of the portion of the building included in Stage 3, and designated on drawings as Building 5;
- (b) Grading and drainage plan for the area to be developed in Stage 3;
- (c) The planning and landscape plans for the land to be developed under Stage 3;
- (d) The finished site plan with pertinent areas and dimensions showing thereon the portion of the building encompassed in Stage 3, and noting precisely any difference in its approved location or size, the location and details of all other structures not classed as buildings, and the location, details and grades of all driveways requiring curb cuts;
- (e) Detailed parking plan, and the circulation relation for the area and garage facilities and street access.

(7) The Board has reviewed all details of the plan of Stage 3 submitted and finds that sufficient information has been afforded so that an affirmative finding of compliance with the Zoning Commission directive of July 17, 1962 is made.

We note that final details of Stage 3 may require further Board review and further, that difficulties now now envisioned may arise. Accordingly, jurisdiction hereunder for Stage 3 is hereby retained (for either purpose), without further public notice and public hearing, to the end that interpretation, plan correction, minor modification of such plans, or clarification of the approved plans may be reviewed (Paragraph 7501.79).

(5) The plans submitted to the Board for consideration on February 14, 1968 incorporated the villas within the lower level of the high rise structure. The plans approved by the Zoning Commission on July 17, 1962 provide for 64,000 square feet of gross floor area above the ground in "one and two story structures" (Villas). In order to comply with the wishes of the Fine Arts Commission, the Watergate developers have removed the Villas. To compensate for the loss of floor area, the developers have shifted the aforementioned floor area into the lower level of the high rise structure and, at the same time, reduced the floor area involved to 54,605 square feet. The appellants contend that this modification can be approved by the Board as follows:

- (a) The Board could approve this modification in accordance with the provisions of subsection 7501.73, Paragraph(a):

"The shifting of any approved building within its lot lines as originally submitted to the Zoning Commission in order to retain the flexibility of design desirable hereunder."

- (b) The Board could also approve the modification under the provisions of subsection 7501.72, Paragraph(b), which permits five percent modification of the gross floor area. The gross floor area of all high rise structures approved by the Zoning Commission is 1,728,000 square feet. If the space finally provided as a substitute for the villas is added to that approved for the high rise structures, the final gross floor area for the high rise structure would be 1,782,605 square feet. This would amount to a 3.1% increase in floor area in high rise structure which is well within the five percent latitude provided in subsection 7501.72.

(6) Final architectural plans have resulted in other modifications as follows:

- (a) Maximum height 130 feet, reduced to 111 feet and 6 inches.
- (b) Lot occupancy of 143,650 square feet or 34.2%, increased to 146,486 square feet or 34.2%.
- (c) FAR including the area originally in public streets of 4.5, reduced to 4.38.

- (d) Parking spaces 1,250, reduced to 1,245.
- (e) Eleven loading berths, reduced to 10.
- (f) Office area 183,000 square feet, increased to 189,400 square feet.
- (g) Thirteen hundred apartments, reduced to 1238.
- (h) Three hundred hotel rooms, increased to 303.

The foregoing plan changes are the result of technical and architectural refinement of the plans are all well within the 5% latitude provided in subsection 7501.72 except for the reduction in the number of loading berths.

(7) Architects for the appellant testified that the additional loading berth can be provided.

(8) The proposed development was opposed at the hearing by Mr. Ralph E. Becker, Attorney for the Kennedy Center. Mr. Becker continued to oppose this appeal on the same six grounds submitted at the public hearing on October 18, 1967. Objection was also based on several technical grounds incorporated in the record, the condition that the appellants had not sustained the burden of proof, and that the Board's Order of January 16, 1968 is contrary to the evidence.

OPINION:

In the opinion of the Board, the proceedings in this case were in accordance with the Zoning Regulations and the intent and purpose of Section 7501 for large scale planned development projects. Therefore, the Board reaffirms its opinion of January 16, 1968 and denies the motions of the attorney for the opposition.

The Board is further of the opinion that the plans and testimony of the applicants sustained the burden of proof. In our opinion the record of this and previous hearings related to this project justify the changes that the developers final plans represent, except for the reduction in the number of loading berths.

The increase in the gross floor area of the high rise structure is offset by the deletion of the one and two story structures and does not result in any significant change in the overall bulk of the project. The resultant increase in gross floor area of the high rise structures is well within the 5% latitude the Board may grant and is justified by the removal of the one and two story structures and the improvement in the overall design of the project.

OPINION Cont'd

The Board does, therefore, approve the plans for Building No. I, Stage IV as being consistent with the intent of the Zoning Regulations and particularly the stated purpose of Section 7501 to encourage the design of well planned large scale developments which offer a variety of building types and more attractive and efficient overall plans and design without sacrificing creative and imaginative planning.

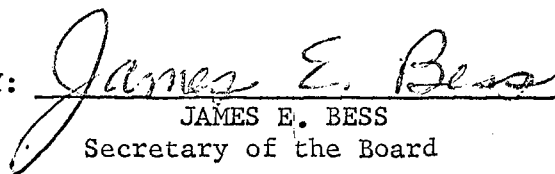
This Order shall be subject to the following conditions:

- (1) The developer shall provide a total of 11 loading berths.
- (2) The one and two story structures (Villas) shall be permanently deleted from the project.
- (3) The Board under the terms of this Order shall retain jurisdiction to modify this approval as provided by Paragraph 7501.79 of the Zoning Regulations.

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED:

BY:



JAMES E. BESS
Secretary of the Board

Government of the District of Columbia
ZONING COMMISSION



December 18, 1968

ORDERED:

That after public notice and hearing as prescribed by law, at the Zoning Commission meeting on December 16, 1968, the following application for a large scale planned development, submitted under Section 7501 of the Zoning Regulations, having been found to be in harmony with the spirit and intent of the Zoning Regulations is hereby approved:

68-58 An application to amend the Order of approval given July 17, 1962, under Z.C. 62-19 to Watergate, Inc., specifically to change the site plan so as to affect the shape and placement of Building No. 1 and providing for a combination of residential and office uses, and said uses to be separated vertically, (square 8, Parcel 19). This Order is subject to the following conditions:

1. The total office floor space to be provided in Building No. 1 (Stage IV) is not to exceed 260,600 square feet, and such office space to be restricted to those types of office uses permitted in the SP District.
2. The physical arrangement of improvements shall be in accordance with the following exhibits, duly certified copies of which are contained in the case file: ZC Exhibit No. 6 Comparative Data Schedule; ZC Exhibit No. 7 Overall Site Plan; ZC Exhibit No. 8 General Floor and Typical Floor Plan; ZC Exhibit No. 11 Small Scale Plan.

- 3. DEVELOPMENT DATA - FAR 4.5 (total project) and Within Building No. 1 Parking, 580 spaces; Dwelling Units 325; One Loading Berth; Office Space, 260,600 square feet; Commercial, 24,000 square feet.
- 4. All other development shall continue in accordance with the approval granted by the Zoning Commission July 17, 1962 (62-19).
- 5. This action of the Zoning Commission does not abridge the right of the developers to proceed with the development of building No. 1 (Stage IV) in accordance with the plans approved on July 17, 1962 (62-19).

Walter E. Washington

 Walter E. Washington

John W. Hechinger

 John W. Hechinger

Walter E. Fauntroy

 Walter E. Fauntroy

 J.E.N. Jensen

 J. George Stewart

Attest:

James E. Bess

 James E. Bess
 Administrative Officer

Before the Board of Zoning Adjustment, D.C.

PUBLIC HEARING - January 15, 1969

Appeal No. 9919 John Hancock Mutual Life Insurance Company,
owner, on behalf of Watergate Improvement
Associates, lessee and developers, appellant.

The Zoning Administrator of the District of Columbia, appellee.

On motion duly made, seconded and unanimously carried,
the following Order was entered at the meeting of the Board
on January 30, 1969.

EFFECTIVE DATE OF ORDER - February 3, 1969

ORDERED:

That the appeal for further processing (Stage 4) of the Order of the Zoning Commission, dated July 17, 1962, under Z.C. 62-19, as amended by the Order of December 18, 1968, under Z.C. 68-58, under provisions of Section 7501, said Stage 4 being part of a large-scale development known as Watergate, within the area bounded by Virginia Avenue, New Hampshire Avenue, F Street, and Rock Creek and Potomac Parkway, N.W., of the property now designated as Lot 19, in Square 8, be GRANTED for the following reasons and subject to the conditions hereinafter set forth:

FINDINGS OF FACT:

1. The Board finds from the records and the evidence adduced at the hearing that the intent and purpose envisioned by the Zoning Commission's Order in Z.C. 62-19, as amended by Z.C. 68-58, will be carried to completion by the plans submitted to the Board.
2. The Board finds that construction of Stages 1 and 2 of the development plan has been completed in accordance with its approvals in Appeals Numbered 7234 and 7903.
3. The Board finds that construction of Stage 3 of the development plan is substantially completed and in accordance with its approval in Appeal Number 8117.
4. The Board finds that subsequent to its original approval of construction of Stage 4 in Appeal No. 9303, the Zoning Commission amended its Order of July 17, 1962, by its Order of December 18, 1968, in Z.C. 68-58, and authorized modification of Stage 4 of the Watergate Project, by specifically approving a change in the site plan so as to affect the shape and placement of "Building No. 1" (Stage 4) and providing for a combination of residential and office uses, said uses to be separated vertically.

5. The Board finds that the Order in Z.C. 68-58 is subject to the following conditions:

a. The total office floor space to be provided in "Building No. 1" (Stage 4) be limited to 260,600 square feet and restricted to those types of office uses permitted in the SP District.

b. The physical arrangement of improvements to be in accordance with the exhibits in the case file (Z.C. 68-58) consisting of ZC Exhibit #6, being the comparative data schedule; ZC Exhibit #7, being the overall site plan; ZC Exhibit #8, being the general floor and typical floor plan; and ZC Exhibit #11, being a small scale plan.

c. The Order provided for "Development Data" as follows: FAR 4.5 for the total project; within "Building No. 1" (Stage 4) provision for parking, 580 spaces; dwelling units, 325; one loading berth; office space, 260,600 square feet; commercial space, 24,000 square feet.

6. The Board has examined the plans filed in this appeal and those on file in Z.C. 68-58 and finds that they conform with each other and that the physical arrangement of the planned improvements are in accordance with the Z.C. Exhibits Numbers 6, 7, 8, and 11 in the case file of Z.C. 68-58.

7. Appellant proposes to construct "Building No. 1" (Stage 4) in three substages designated as follows:

a. "4-A" to consist of the underground portion of the structure, as shown on the plans, including parking garage, and service and storage areas;

b. "4-B" to consist of above-ground office and commercial portion of the Stage 4 structure; and,

c. "4-C" to consist of the above-ground residential apartment portion of the Stage 4 structure.

The proposal suggests the following timetable:

a. For Filing of the Building Permits: "4-A" within six (6) months; "4-B" within twelve (12) months; and "4-C" within eighteen (18) months following approval of this application by the Board.

b. Commencement of Construction: Each substage within six (6) months after issuance of building permits therefor; and,

c. Completion of Each Substage: Within two (2) years after commencement of construction of such stage.

8. Appellant has requested leave to file final roof plans at a later date when pertinent working drawings therefor are completed. The Board approves this request and retains its jurisdiction over the roof structures pursuant to paragraph 7501.75.

9. The Board finds that the evidence and plans submitted for Stage 4, the processing of which is now before the Board, show:

a. Complete floor plans and architectural elevation of the portion of the building included in Stage 4.

b. Grading and drainage plan for the area to be developed in Stage 4.

c. The finished site plan with pertinent areas and dimensions showing thereon the portion of the building encompassed in Stage 4, and noting precisely any difference in its approved location or size, the location and details of all other structures and the location, details and grades of all driveways requiring curb cuts.

d. Detailed parking plan, the circulation relation for the area and garage facilities and the street access.

e. Development Schedule:

Area of Site	419,339 sq.ft. (total project)
FAR	4.5 (total project)
Within Stage 4	
Office Space	260,600 sq.ft.
Residential	415,735 sq.ft.
Commercial	24,250 sq.ft.
Dwelling Units	287 to 325
Parking Spaces	580
Loading Berth	1
Gross Floor Area Underground	285,000 sq.ft.

10. The appellant has requested leave to submit final planning and landscape production plans. The Board approves this request and retains jurisdiction over planning and landscape plans pursuant to paragraphs 7501.74 and 7501.79.

OPINION:

The Board has reviewed all details of the plans of Stage 4 and the substages thereunder submitted, and finds that sufficient information has been afforded so that an affirmative finding of compliance with the Zoning Commission Orders of July 17, 1962, and December 18, 1968, is made.

CONDITIONS:

1. A condition of this Order is that the Zoning Administrator is hereby authorized, within the terms and conditions of the plan approved by the Zoning Commission, to approve the issuance of Certificates of Occupancy for all SP uses in the office building structure (substage 4-B) as are specifically authorized by subparagraph 4101.42, but shall not construe "similar professional persons."

2. The Zoning Administrator is authorized to approve the issuance of Certificates of Occupancy for commercial tenants for the 24,000 square feet of commercial space approved in substage 4-B by the Z.C. 68-58 Order; such approvals shall be within the limits of the nature of commercial uses as designated under the Zoning Commission's Order of July 17, 1962, which are herein incorporated and made part of this Order. The following list of stores is comprehensive and includes all types of establishments which the Board holds may be permitted in the Watergate Development:

<u>STORES</u>	<u>AREA (Sq.ft.)</u>
Dining Pavillion	10,000
Cafeteria-Coffee Shop	10,000
Outdoor Cafe	7,000
Coffee Shop	1,500
Candy Store	1,500
Bakery	1,600
Drug Store	10,000
Supermarket	15,000
Coffee-Spice	1,000
Liquor Store	1,000
Mens' Wear	1,500
Ladies Wear	1,500

<u>STORES</u>	<u>AREA (Sq.Ft.)</u>
Children's Wear	1,600
Hat Store & Bags	1,600
Shoe Shop	1,600
Tailor	1,500
Fabric Store	1,500
Upholsterer	2,500
Beauty Salon	1,000
Florist	1,600
Bank	7,500
Book Store	1,500
Stationery Store	1,500
Record Store	2,000
Eye Glasses	800
Jewelry	800
Gift Shop	2,000
Antiques	1,600
Interior Decorating	1,500
Art Gallery-Frames, etc.	2,000
Hardware Store	1,500
T.V. Repair	800
Garden Shop	1,500
Engraver (Letterheads, etc.)	2,000
Duplicating Service	1,000
Photographic Studio	1,000
Hotel - Top Floor	5,000

The exact size of each store may be varied by the Board after giving consideration to the best use and most efficient service to the entire development.

3. Applicant has requested a reduction in the number of apartment units to be constructed, thereby reducing the number of apartment units approved by the Zoning Commission from 769 to a number no more than 5 percent less. The Board has authority to approve such a reduction pursuant to subparagraph 7501.72. The market indicates that larger apartments are more suitable for the area and the Board therefore approves this modification and reduction and authorizes applicant to reduce the number of apartment units to be constructed in substage 4-C from 325 to no less than 287, without further approval of the Board.

4. We note that final details of Stage 4 and its sub-stages may require further Board review and, further, that difficulties not now envisioned may arise. Accordingly, jurisdiction hereunder for all of Stage 4 is hereby retained (for either purpose) without further public notice and public hearing to the end that interpretation, plan correction, minor modification of such plans or clarification of the approved plan may be reviewed (subparagraph 7501.79).

5. The planned development of Stage 4 and its substages must be constructed in accordance with the production schedule submitted as approved by the Board; TO WIT:

a. For Filing of the Building Permits: "4-A" within six (6) months, "4-B" within twelve (12) months, and "4-C" within eighteen (18) months following approval of this application by the Board.


b. Commencement of Construction: Each substage within six (6) months after issuance of building permits therefor; and,

c. Completion of Each Substage: Within two (2) years after commencement of construction of such stage.

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT:

ATTESTED:

By:


CHARLES E. MORGAN
Secretary of the Board

Before the Board of Zoning Adjustment, D.C.

PUBLIC HEARING - March 18, 1970

Appeal No. 9919 John Hancock Mutual Life Insurance Company,
owner, on behalf of Watergate Improvement
Associates, lessee and developers, appellant.

THE ZONING ADMINISTRATOR OF THE DISTRICT OF COLUMBIA, appellee.

On motion duly made, seconded and unanimously carried,
the following AMENDMENT in the Order of the Board was entered at
the meeting of March 24, 1970.

EFFECTIVE DATE OF AMENDMENT - May 11, 1970

ORDERED:

That the appeal for further processing under Article 75
of the Zoning Regulations for Stage 4 of "Watergate" located
at New Hampshire Avenue and F Street, NW., Lot 19, Square 8,
be granted.

FINDINGS OF FACT:

1. The Board of Zoning Adjustment January 30, 1969, after
public hearing January 15, 1970 approved for further processing
(Stage 4) of the Order of the Zoning Commission, dated July 17,
1962, under Z.C. 62-19, as amended by the Order of December 18,
1968, under Z.C. 68-58, under provisions of Section 7501, said
Stage 4 being part of a large-scale development known as
Watergate within the area bounded by Virginia and New Hampshire
Avenues, F Street, and Rock Creek and Potomac Parkway, NW.,
of the property now designated as Lot 19, in Square 8.

2. Comes now appellant requesting amendment to the Order
of the Board, effective February 3, 1969, to authorize a
reduction in the number of apartment units to be constructed
in the Watergate Project, Stage 4, from a minimum of 287 to 260,
and a reduction of the number of parking spaces from 580 to 551.

3. The proposed reduction is to be accomplished by conso-
lidation of a number of units reducing the total number of 260.

Appeal No. 9919
May 11, 1970
PAGE 2

4. It is proposed to reduce the parking by 29 spaces in order to provide the service area required for mechanical equipment and tenant storage.

5. The amendments are requested pursuant to Section 7501.43(c) and (d) of the Zoning Regulations.

OPINION:

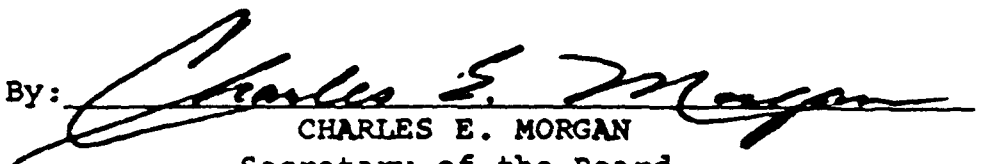
The Board is of the opinion that the facts remain substantially the same as they existed at the time of approval of the original further processing of Stage 4 of the Watergate Project. The requested amendments are hereby granted.

This Order shall not affect or change any other provision or conditions of the Board Order issued and effective February 3, 1969.

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED:

By:


CHARLES E. MORGAN
Secretary of the Board

THAT THE AMENDMENT IN THE ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS ONLY UNLESS APPLICATION FOR A BUILDING AND/OR OCCUPANCY PERMIT IS FILED WITH THE DIRECTOR OF INSPECTIONS WITHIN A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS AMENDMENT.

Government of the District of Columbia
ZONING COMMISSION



Zoning Commission Order No. 100
Case No. 72-23
November 15, 1974

Pursuant to notice, a public hearing of the Zoning Commission was held on August 28, 1974, to consider a proposed amendment of the Commission's Order granting final approval of a planned unit development, filed by Watergate Improvement Associates.

FINDINGS OF FACT

1. The site of the building constructed pursuant to this Commission's approval of the final application for a planned unit development, to which this amendment relates, is located at 600 New Hampshire Avenue, N.W., and is known as Building One, Stage Four, of the total project.

2. Commission Order dated December 18, 1968, in Case No. 68-58, approved office space not to exceed 260,000 square feet in the subject building. Said office space was "restricted to those types of office uses permitted in the SP District."

3. The proposed amendment of the Order would expand the permissible types of office use to include certain office uses not allowed in the SP zone district, as follows:

1. Advertising agencies
2. art and humanities programs
(both government and commercial
administrative offices

3. public relations firms
4. professionals not licensed
5. management consultants - all fields
6. registered lobbyists
7. insurance specialist agents
8. market consultants
9. bank and other holding firms

4. The Zoning Unit of the Office of Planning and Management concluded, and the Commission finds that; the proposed amendment would not result in any changes to the physical components of the Watergate Project (i.e., height, floor area ratio, lot occupancy, etc.), there would be no change in the ratio of retail to office to residential, there would be no change in the total amount of space devoted to office use. The only change that the amendment effectuate would be in the type of tenant who could occupy the office space (TR. 6).

5. The Zoning Unit of the Office of Planning and Management concluded, and the Commission finds, that the impact of various types of office uses is generally the same, depending on the scale and size of the operation. There is little difference in impact under the large SP type office use, such as the office building of the National Rifle Association, the National Education Association or the AFL-CIO, all on 16th Street would have, as opposed to any general commercial office-type uses (TR. 7-8).

6. The Office of Planning and Management recommended that the Commission amend the said Order to permit any kind of office uses in the Watergate 600 Office Building because the physical size and shape of the building would not be affected in any way, the commercial impact of general office use versus SP type office use is almost identical, allowing

general office uses without specifically establishing permitted types of uses would allow flexibility in obtaining tenants; and unrestricted tenancy would allow the applicant to rent all the space in the building, and would not require any future consideration by the Commission at a future date (TR. 8).

7. The Zoning Advisory Council recommended that the Order be amended to allow the addition of 18 specified general office uses, as contained in the public notice and endorsed by the National Capital Planning Commission at an earlier date in a Board of Zoning Adjustment case implementing Commission Order in Case 68-58 (TR. 12).

8. The applicant testified, and the Commission finds, that 32 months after the completion of said building, there are 11,000 square feet which have never been rented, and that in the next two years, the original leases will begin to run out resulting in approximately 120,000 square feet becoming available (TR. 18).

9. The applicant testified, and the Commission finds, that the types of tenants to be added to the building would cause no additional traffic problems and that the additional office uses would relieve the severe economic hardship, without affecting the neighborhood (TR. 20-21).

10. There was opposition to the proposed amendment from Harry J. King and Watergate East, Inc.

CONCLUSIONS OF LAW


1. The amendment of the final order of approval for the planned unit development is in accordance with the intent and purpose of the Commission's final order approving this planned unit development in Case No. 68-33, dated September 16, 1968.

2. The amendment of the final order is in harmony with the intent, purpose and integrity of the comprehensive zone plan of the District of Columbia as embodied in the Zoning Regulations and Map.

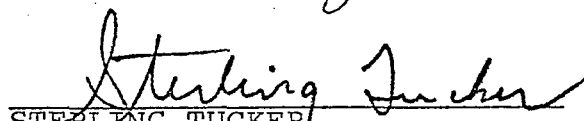
3. The amendment of the Order granting final approval of the planned unit development is in accordance with the Zoning Regulations of the District of Columbia, as amended, and the Zoning Act (Act of June 30, 1938, 52 Stat. 797), as amended.

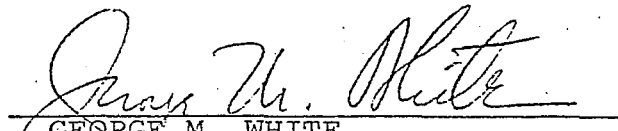
DECISION

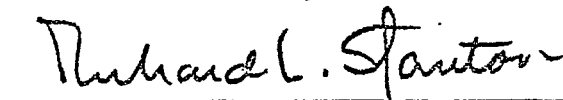
Upon consideration of the Findings of Fact and Conclusions of Law herein, the Commission hereby ORDERS AMENDMENT of the Order of December 18, 1968, in Case 68-58 to allow general office uses in the building known as the Watergate 600 Office Building (Building One, Stage Four, of the Watergate Planned Unit Development).



WALTER E. WASHINGTON


JOHN A. NEVIUS


STERLING TUCKER


GEORGE M. WHITE


RICHARD L. STANTON

ATTEST: 
Martin Klauber
Executive Secretary

Government of the District of Columbia

ZONING COMMISSION



February 12, 1976

ORDER NO. 125

CASE NO. 75-3

Pursuant to notice, a public hearing of the Commission was held on November 13, 1975, to consider a proposed amendment of the Commission's order granting final approval of a planned unit development, filed by Watergate Improvement Associates.

FINDINGS OF FACT

1. The site of the building constructed pursuant to this Commission's approval of the final application for a planned unit development is located at 2600 Virginia Avenue, N.W. The specific building of the planned unit development to which this building relates is known as the "Stage II Office Building", located in square 8, lot 19, and contains approximately 28,000 square feet.

2. This Commission's order dated July 17, 1962, in Case 62-19, approved the Watergate Project with a specific condition that "all office usage requested shall be limited to those uses allowable in the SP district". The applicant now seeks to amend this condition in order to utilize this building for general commercial office uses.

3. The Commission finds that approximately 16% of the office space in the subject building or approximately 30,000 square feet, is presently unrented, with another 29,000 square feet of space becoming vacant within the next year (TR. 22).

4. The Commission finds that this proposed amendment would not result in any change in the height, floor area ratio, lot occupancy, or any other characteristic of the building or project in which the building is located (TR. 22-23).

5. The Commission finds that the proposed amendment would not change the ratio of retail space to residential space or the total amount of space devoted to office use (TR. 23).

6. The Commission finds that the only change that would result from the granting of this proposed amendment would be in the type of tenant who could occupy presently existing office space (TR. 23).

7. The Commission finds that due to the characteristics of this building the impact of any kind of office use is likely to be the same as any other type of office use (TR. 24-25).

8. The Commission finds that the conditions of the area in which this building is located have changed considerably since the original planned unit development was granted. The Foggy Bottom area is now developed with a large number of newer buildings which include Columbia Plaza, the Kennedy Center for the Performing Arts, the Howard Johnson Motel, and the Plaza Condominium, and that these structures do not necessarily need the protection which would be derived from continuing to limit the type of office uses in the subject building to SP uses.

CONCLUSIONS OF LAW

1. This amendment of the final approval for the Watergate planned unit development is in accordance with the intent and purposes of the Commission's approval of this planned unit development in Case 62-19, dated July 17, 1962.

2. The amendment of the final order is in harmony with the intent, purpose, and integrity of the Comprehensive Zone Plan of the District of Columbia as embodied in the Zoning Regulations and Map.

3. The Commission in granting final approval of a planned unit development retains jurisdiction to change any condition contained therein when circumstances are established which necessitates such a change.

4. The amendment of the Order granting final approval of the planned unit development is in accordance with the Zoning Regulations of the District of Columbia, as amended, and the Zoning Act (Act of June 20, 1938, 52 Stat. 797) as amended.

Order No. 125
Case 75-3
Page 3

DECISION

Upon consideration of the Findings of Fact and Conclusions of Law herein, the Commission hereby ORDERS AMENDMENT of the Order of July 17, 1962, in Case 62-19, to allow general office uses in the building known as Stage II Office Building of the Watergate planned unit development located at 2600 Virginia Avenue, N.W., Square 8, Lot 19.

BY ORDER OF THE COMMISSION



ATTEST: Martin Klauber
Executive Secretary

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 631
Case No. 89-6M/62-19
(PUD Modification - Watergate)
September 11, 1989

Pursuant to notice, a public hearing of the Zoning Commission for the District of Columbia was held on June 8, 1989. At that hearing session the Zoning Commission considered an application from the Watergate Improvement Associates, pursuant to Section 2407.9 of the District of Columbia Municipal Regulations (DCMR), Title 11, Zoning.

FINDINGS OF FACT

1. The application, which was filed on January 25, 1989, requested modification to the Zoning Commission Order in Case No. 62-19 (as amended), dated July 17, 1962. The Order in Z.C. Case No. 62-19 approved a Planned Unit Development to construct a mixed-use project known as the Watergate Complex.
2. The requested modification to the PUD would approve a 2,000 square foot expansion of the health club in the Watergate Hotel, a part of the Watergate Complex. The applicant improvidently began and completed construction of the expansion when application for the required building permit was pending. Thereafter, the application for a building permit was denied because the Zoning Administrator determined that the permit could not be approved without a modification of the approved PUD.
3. The Watergate Complex was constructed on approximately 9.5 acres (412,000 square feet) of land in the SP-2 District. The approved complex, which has building heights up to 130 feet, contains over 500,000 square feet of office space, a 237-room hotel, 644 apartment units, underground parking, the health club, and a significant amount of retail space. There are 1,240 parking spaces located in a 3-level common garage which serves the entire complex.
4. The Watergate Hotel, the portion of the original PUD within which the health club is located, consists of a

13-story structure containing 237 guest rooms, 2 restaurants, 2 bars and a lounge area, and 3 basement levels below grade with the health club on the third level.

5. The expansion increased the square footage of the health club from 11,500 square feet to 13,500 square feet, and thereby provided a health club facility that responds to demands of the 1989 consumer, in that it provides a full spectrum of cardiovascular and weight training programs and certain types of exercise equipment.
6. The membership of the club currently consists of 512 members, many of which live or work within the Watergate Complex or in the immediate area, and is less than the highest membership count, approximately 600, in the early 1980s.
7. Although the expansion of the health club removed six parking spaces from the B-3 level, the parking area near the club expansion has been restriped to provide a net gain of one space.
8. By memorandum dated May 30, 1989, the District of Columbia Office of Planning recommended approval of the application. OP testified that the expansion is appropriate for, and responsive to, the increasing spatial requirements of the health club facility of the Watergate Hotel. OP further testified that the removal of the six parking spaces did not adversely affect the parking supply of the Watergate Hotel or the Watergate Complex as a whole. OP concluded by noting that the application does not impair the intent, purpose, and integrity of the Zoning Regulations and is consistent with the Comprehensive Plan of the District of Columbia.
9. By memorandum dated May 19, 1988, the Department of Public Works (DPW) indicated that it had no objection to the proposed modification. DPW indicated that approval of the expansion will have no significant impact on the transportation element of the plan or on the surrounding street system.
10. By letter dated May 25, 1989, Advisory Neighborhood Commission (ANC) 2A indicated that it had no objection to the subject application. ANC 2A indicated that representatives of the ANC toured the health club facility and examined the adjacent parking facility. ANC 2A concluded that the expansion did not have any adverse impact on the parking situation within the Watergate Complex.

11. A resident of Watergate West and member of the health club testified in support of the application. She stated that she was unaware of any objection to the application by residents of Watergate West, and testified that because of the expansion, an entrance is now available on level B-3, which is very convenient for residents of Watergate West. The resident further testified that she parks her car on level B-3, unlike most Watergate West residents, who park on level B-2. She indicated that she has not had a problem finding a parking space on that level.
12. Watergate West, Inc., was admitted as a party in opposition to the application. No testimony was offered by Watergate West, since no representative from the organization was present at the public hearing. Counsel for Watergate West complained that while his client supported the health club expansion, it was concerned that a reduced garage would make parking spaces more difficult for his client's members to find and rent.
13. At the conclusion of the hearing the Commission determined that if further modifications are proposed in the PUD, the applicant shall be required to complete the permit process before making modifications.
14. The Commission concurs with the position of OP and others. The Commission also concurs with ANC 2A that approval of modification will not adversely affect the parking situation within the Watergate Complex.
15. The Commission finds that the expansion of the health club did not change the floor area ratio (FAR), gross floor area, height, lot occupancy, rear yard or side yard requirements, loading facilities, or amenities offered in any way from the original order; that is, Z.C. Case No. 62-19.
16. The Commission also finds that if further modifications are to take place, Watergate Improvement Associates must have a complete parking plan that shall include, but not be limited to, complete identification of all parking that is provided throughout the complex, how it is assigned, who will manage it and how it would change under a new proposal.
17. The proposed action of the Zoning Commission to approve the application, with conditions, was referred to the National Capital Planning Commission (NCPC) under the terms of the District of Columbia Self Government and Governmental Reorganization Act. NCPC, by report dated September 11, 1989, found that the proposed action of the Zoning Commission would not adversely affect the

Federal Establishment or other Federal interests in the National Capital nor be inconsistent with the Comprehensive Plan for the National Capital.

CONCLUSIONS OF LAW

1. The Planned Unit Development process is an appropriate means of controlling development of the subject site because control of the use and site plan is essential to ensure compatibility with the neighborhood.
2. The development of this PUD carries out the purpose of Section 2400, which is to encourage the development of well-planned residential, institutional and mixed-use 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.
3. The development of this PUD is compatible with city-wide goals, plans and programs, and is sensitive to environmental protection and energy conservation.
4. Approval of this PUD modification is not inconsistent with the Comprehensive Plan for the National Capital.
5. Approval of this PUD modification is consistent with the purposes of the Zoning Act.
6. The PUD modification can be approved with conditions that ensure that the development will not have an adverse affect on the surrounding community, but will enhance the neighborhood and ensure neighborhood stability.
7. Approval of this PUD modification will promote development 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.
8. By this approval, the Zoning Commission does not condone the applicant's premature construction of the expansion.
9. The Zoning Commission has accorded to the Advisory Neighborhood Commission (ANC) 2A the "great weight" consideration to which it is entitled.
10. This application 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, the Zoning Commission for the District of Columbia hereby orders APPROVAL of a modification to a previously approved PUD for Lot 809 in Square 8 at the Watergate Complex located at 2600 Virginia Avenue, N.W., subject to the following guidelines, conditions and standards:

1. The planned unit development modifications approved herein shall be in accordance with the plans prepared by Luigi, Moretti, Corning, Elmore & Fischer Architects marked as Exhibit No. 4 of the record.
2. The requested modification, which approves a completed expansion of the existing health club in the Watergate Hotel, a part of the Watergate PUD, shall increase the approved square footage of the health club from 11,500 square feet to 13,500 square feet.
3. The expansion of the health club shall not change the floor area ratio (FAR), gross floor area, height, lot occupancy, rear yard or side yard requirement, loading facilities, or amenities offered in any way from the original order; that is Z.C. Case No. 62-19.
4. There shall be no less than 1,240 parking spaces located in a three (3) level common garage that serves the entire complex, at all times.
5. This modification to the PUD approved by the Commission shall be valid for a period of two years from the effective date of this order. Within that time, application must be filed for the building permit, as specified in 11 DCMR 2407.2 and 2407.3.
6. Pursuant to D.C. Code sec. 1-2531 (1987), section 267 of the D.C. Law 2-38, the Human Rights Act of 1977, the applicant is required to comply fully with the provisions of D.C. Law 2-38, as amended, codified as D.C. Code, Title 1, Chapter 25 (1987), and this Order is conditioned upon full compliance with those provisions. Nothing in this order shall be understood to require the Zoning Regulations Division/DCRA to approve permits, if the applicant fails to comply with any provision of D.C. Law 2-39, as amended.

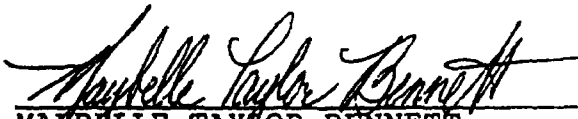
Vote of the Zoning Commission taken at the public meeting on July 10, 1989: 5-0 (John G. Parsons, Maybelle Taylor Bennett, William L. Ensign, Lloyd D. Smith, and Lindsley Williams to approve with conditions).

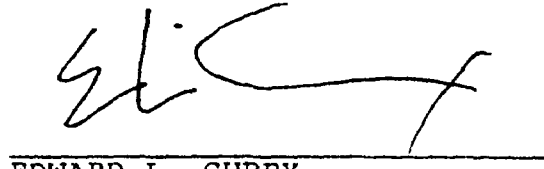
The guidelines, conditions, and standards were approved at the public meeting on August 7, 1989 by a vote of 3-0 (John G. Parsons, Lloyd D. Smith and Maybelle Taylor Bennett to approve; William L. Ensign, not voting, not present; and Tersh Boasberg, not voting, not having participated in the case).

Z.C. ORDER NO. 31
Case No. 89-6M/1-19
PAGE 6

This order was adopted by the Zoning Commission at the public meeting on September 11, 1989 by a vote of 4-0 (John G. Parsons, Lloyd D. Smith, Maybelle Taylor Bennett and William Ensign to adopt; Tersh Boasberg, not voting, not having participated in the case).

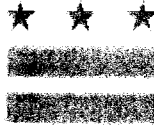
In accordance with 11 DCMR 3028, this order is final effective upon publication in the District of Columbia Register; that is, on NOV 3 1989


MAYBELLE TAYLOR BENNETT
Chairperson
Zoning Commission


EDWARD L. CURRY
Executive Director
Zoning Secretariat

zco631/KATE42

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission**



**BEFORE THE DISTRICT OF COLUMBIA
ZONING COMMISSION
Z.C. Order No. 03-16
Z.C. Case No. 03-16
(Modification to the Approved Planned Unit Development
for the Watergate Hotel)
June 14, 2004**

Pursuant to notice, the Zoning Commission for the District of Columbia held public hearings on March 1 and March 4, 2004, to consider an application from Monument Residential LLC, on behalf of BRE/Watergate LLC, for review and approval of a modification to a previously approved Planned Unit Development (the "Application"). The requested modification would allow the option to convert an existing 250-room hotel, currently operating as the Watergate Hotel, to an apartment house of 133 dwelling units. The Zoning 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 Applications, Parties, and Hearing

1. On May 7, 2003, Monument Residential LLC ("Monument"), the contract purchaser, on behalf of BRE/Watergate LLC ("BRE"), the owner (together collectively referred to as the "Applicant"), filed an Application for review and approval of a modification to an approved Planned Unit Development ("PUD") for property located at 2650 Virginia Avenue, N.W. (the "Site"). The Site consists of Lot 807 in Square 8 and is currently zoned SP-2. The Application does not request any change in zoning for the Site. At its June 9, 2003, meeting, the Zoning Commission set this case for hearing.
2. Notice was originally given for a public hearing to be held on November 24, 2003. By letter dated November 3, 2003, the Applicant requested that the hearing be postponed until January 29, 2004. The Commission granted that request and proper notice was given again.

3. At the beginning of the hearing on January 29, 2004, Watergate East, Inc. ("East"), the owner of property abutting the Site and lessor to BRE of certain underground space, described and discussed further herein, requested that the Commission postpone the hearing. East, which is a residential cooperative, advised that its members had participated in a vote to determine East's position regarding the Application and the sale of certain property, that the outcome of the vote was disputed, and that litigation had been filed in the Chancery Court of Delaware to seek the Court's ruling on how the outcome of the vote should be construed. The representatives of East indicated that East could not take a position until the litigation was resolved. The Commission determined to postpone the hearing until March 1, 2004, to await the outcome of the Court's ruling on the matter.
4. The Zoning Commission thereafter held public hearings on March 1 and March 4, 2004.
5. The parties to the case were the Applicant; Advisory Neighborhood Commission ("ANC") 2A, the ANC within which the Site is located; Watergate West, Inc. ("West"), the owner of the adjoining apartment building to the west, which opposed the Application; the Committee of Concerned Owners of Watergate East ("COCO"), which was represented by William B. Wolf, Jr. and which supported the Application; and the Watergate East Committee Against Hotel Conversion to Co-op Apartments, ("Committee Against"), which was represented by Jack H. Olender and which opposed the Application.
6. East applied for party status, but when the hearing commenced on March 1, 2004, East was unable to declare whether it was in support of or opposed to the Application. The Chancellor of the Delaware Court ruled on February 25, 2004, that East was required to conduct a new vote of its members to determine its position regarding the Application. That vote had not occurred by the time of the hearing. Noting that both supporting and opposing positions were represented by COCO and the Committee Against, respectively -- the committees of residents which had been admitted as parties -- the Commission denied East's request for party status.
7. The Commission also received requests for party status from Audrey and William B. Wolf, Jr., and Jill and Frederic W. Schwartz, Jr., both in support of the Application. Mr. and Mrs. Wolf are residents of East and Mr. and Mrs. Schwartz are residents of West. Both requested to be admitted as individual parties, separate from any of the entities that had applied for party status. The Commission found that neither couple demonstrated that their interests were likely to be more significantly, distinctively, or uniquely affected than those of other persons in the general public, especially as compared to other unit owners in the apartment buildings in the Watergate project. The Commission also noted that COCO, as a party in support, would essentially present the positions espoused by the two couples.

8. At its May 10, 2004, meeting, the Zoning Commission took proposed action by a vote of 3-1-1 to approve with conditions the Application and plans presented at the public hearings.
9. The proposed action of the Zoning Commission was referred to the National Capital Planning Commission ("NCPC") under the terms of the District of Columbia Self-Government and Governmental Reorganization Act. NCPC, by action dated June 3, 2004, found that the proposed PUD would not adversely affect the identified federal interests and is not inconsistent with the Comprehensive Plan for the National Capital.
10. The Zoning Commission took final action to approve the Application on June 14, 2004.

The Site and the Area

11. The Site is situated in Ward 2 at 2650 Virginia Avenue, N.W. and consists of Lot 807 in Square 8. The Site is located southwest of the 2600 Virginia Avenue office building. The Property has no street frontage on Virginia Avenue but has access from Virginia Avenue by means of a driveway that runs between the 2600 office building and the Watergate West apartment building at 2700 Virginia Avenue. The Site faces the Rock Creek and Potomac Parkway but has no access from the Parkway. The site contains approximately 37,897 square feet of land area and is developed with a 250-room hotel consisting of three below-grade levels and fourteen stories above grade.
12. The Site is part of the Watergate complex, one of the first PUDs approved after the adoption of the PUD regulations in 1958. The Watergate complex is bounded by Virginia Avenue on the northeast, the Rock Creek and Potomac Parkway on the west, New Hampshire Avenue on the southeast, and F Street on the south. The overall Watergate complex includes three apartment buildings, two office buildings, a hotel, and interior retail spaces.
13. The Watergate complex is situated in the Foggy Bottom neighborhood, in the northwest quadrant of the city. The area is characterized by a mixture of land uses, predominantly in high-rise buildings, including apartment houses, a dormitory for the George Washington University, office buildings, two gasoline service stations, and the Kennedy Center.
14. The buildings that surround the Site are all part of the Watergate complex. To the northwest, east, and southeast are the three existing apartment buildings. To the northeast is one of the two office buildings. To the west and south are the Rock Creek Parkway and the Potomac River.
15. The remainder of the subject square includes only one small parcel, occupied by a gasoline service station at the corner of Virginia Avenue and Rock Creek Parkway. Immediately across Virginia Avenue to the northeast is a high-rise dormitory occupied by

students of the George Washington University (“GW”) and another gasoline service station at the corner of Virginia Avenue and 27th Street. To the southwest, across F Street, is the Kennedy Center for the Performing Arts. To the southeast across New Hampshire Avenue, is the chancery of the Kingdom of Saudi Arabia. Behind the GW dormitory and the chancery are the ramps of the freeway connecting the Whitehurst Freeway and Interstate 66 (“I-66”). Further to the southwest across the freeway is Columbia Plaza, another high-rise mixed-use complex of apartments and offices.

16. The Generalized Land Use Map of the Comprehensive Plan designates the Site in the mixed-use high-density residential, medium-density commercial land use category.
17. The Site is not presently a designated historic landmark nor is it within a historic district. During the course of the proceedings on this case, The Committee to Preserve the Watergate Heritage, Inc., filed an application with the Historic Preservation Review Board to have the entire Watergate complex designated as a historic landmark. No action had been taken on that request by the time the Application was decided by the Zoning Commission.

Zoning and Zoning History

18. The Site is currently zoned SP-2. The SP-2 District permits an apartment house as a matter-of-right; offices and hotels now normally require approval of the Board of Zoning Adjustment as a special exception. The SP-2 District permits a maximum height of ninety (90) feet, with no limit on the number of stories, and a maximum density of 6.0 FAR, no more than 3.5 FAR of which may be used for other than residential purposes. Under the PUD guidelines for the SP-2 District, the maximum height of the project may be ninety (90) feet with a maximum density of 6.5 FAR, no more than 4.5 FAR of which may be devoted to other than residential purposes. Parking for apartments is required at a rate of one space for each four dwelling units.
19. There is no change in zoning requested for the Site.
20. The area southwest of Virginia Avenue is zoned SP-2. The area on the northeast side of Virginia Avenue is zoned R-5-E, with the area northeast of the freeway ramps zoned FB/R-3. The Kennedy Center and the Rock Creek Parkway are Federal property and are not zoned.
21. The original PUD for the Watergate complex was first approved in 1962. The original plan contained a mix of uses and an overall site plan featuring the curvilinear design that is emblematic of the Watergate. The project was divided into four Stages:
 - Stage I was the apartment house now known as Watergate East at 2500 Virginia Avenue, containing 301 apartment units and also including approximately 50,000 square feet of retail and service commercial uses above and below ground;

- Stage II was the office building and the subject hotel, at 2600 and 2650 Virginia Avenue, respectively, to also include approximately 25,000 square feet of additional retail and service commercial uses;
 - Stage III was the apartment house now known as Watergate West at 2700 Virginia Avenue, containing 143 apartment units; and
 - Stage IV was to be an apartment house located along the New Hampshire Avenue and F Street side of the property and was to contain approximately 850 apartments.
22. The total development was to contain approximately 1,600 dwelling units including 1,300 apartments and 300 hotel rooms, 185,000 square feet of office space, 80,000 square feet of retail and service uses, and 1,250 parking spaces. The total density for the entire site was limited to 4.5 FAR, or approximately 1,887,000 square feet of gross floor area.
 23. The BZA approved the construction of the project in a series of cases for further processing.
 24. The PUD was amended by the Commission in 1968 to change the site plan and uses proposed for Building 1 (Stage IV), to allow up to 260,600 square feet of SP office uses with 325 dwelling units and 24,000 square feet of retail and service commercial uses (Case No. 68-58, order dated December 19, 1968).
 25. The PUD was amended again in 1974 to allow general office use in Building 1 (Stage IV) at 600 New Hampshire Avenue (Order No. 100, Case No. 72-23, November 15, 1974) and in 1976 to allow general office use in the Stage II office building at 2600 Virginia Avenue (Order No. 125, Case No. 75-3, February 12, 1976).
 26. The PUD was amended again in 1989 to allow for a 2,000-square-foot expansion of the health club in the Watergate Hotel on the B-3 level (Order No. 631, Case No. 89-6M, September 11, 1989). In that approval, the Commission summarized the totality of the project as then consisting of "over 500,000 square feet of office space, a 237-room hotel, 644 apartment units, underground parking, the health club, and a significant amount of retail space. There are 1,240 parking spaces located in a 3-level common garage which serves the entire complex."

The PUD Modification

27. The proposed modification to the PUD is to allow the option to convert the existing 250-room hotel, currently operating as the Watergate Hotel, to an apartment house of 133 dwelling units. The proposed new apartment building would be a cooperative, the same form of ownership as the three existing apartment buildings in the Watergate complex.

The building would continue to contain a restaurant and a health club. All other uses and buildings in the complex would remain as approved and existing.

28. There are currently ninety-five (95) parking spaces available to the existing hotel. The existing eighty-five (85) below-grade spaces would continue to be available to the apartment house. In addition, the Applicant proposes to increase the number of parking spaces for the apartment house to 146. Eleven (11) spaces would be added on the B-3 level in space that is now part of the health club. Thirty-seven (37) spaces would be added on the B-2 level in space now part of the hotel support area. Seven (7) spaces would be added on the B-1 level in space now part of the hotel bar and storage. Six (6) spaces would be added on the surface in carports.
29. The new restaurant would contain a maximum of 3,000 square feet, with approximately 120 seats. The restaurant would be located on the B-1 level of the building and would have no street frontage. The nature and type of service of the restaurant use will be determined in consultation with the residents of the Watergate complex. The restaurant is intended to serve the residents of the project. To the extent that there would be persons who drive to the site, valet parking will be provided for patrons of the restaurant.
30. The proposed modification would not change the exterior components of the existing building in any significant way. The changes necessary to affect the conversion will be mostly internal to the building, resulting in the removal of certain hotel related uses on lower levels and the conversion of the guest rooms on the upper levels to apartments. Exterior changes will include the replacement of existing windows, the removal of induction units in the façade at the balconies and replacement with consistent façade materials, the construction of carports on the surface adjacent to the pool at the rear, the conversion of an existing outdoor asphalt paved area to private terraces for the units on the B-1 level immediately adjacent to that space, and the construction of additional stairways for access from the top floor units to the roof deck.
31. The exterior changes to the building have been approved in concept by the Commission of Fine Arts.
32. The changes to the exterior of the building are minor, limited to the addition of carports adjacent to the pool and certain minor additions to the roof to provide for additional roof access. The area where the parking is to be added is already paved and used for parking. The carports are located below the level of the main floor (which for the subject building is one story above the surface at the rear) and the carports are thus not included in lot occupancy. The carports total approximately 1,026 square feet in gross floor area, which increases the overall density of the entire project by 0.0003 FAR and which increases the density in Stage II by 0.02 FAR.
33. There are already multiple enclosures on the roof for mechanical equipment and building service functions. The Applicant proposes to add stairs to the roof to provide access to

private roof decks from six units on the top floor of the building. Those stairs will be integrated into and alongside of the existing roof structures; there will be no increase in the total number of roof structures. There will also be stucco screen walls attached to the existing roof structures to provide some privacy for the individual roof terraces. All the stair enclosures and screen walls meet the setback requirements of the Zoning Regulations.

34. The height of the existing roof structures varies, with a maximum for the main elevator penthouse at eighteen feet, four inches above the roof. The height of the new stair enclosures is a maximum of eight feet and the maximum height of the screen walls is six feet, four inches. This would create roof structures having walls of unequal height. The new construction on the roof has been held to the lowest possible height, so as to minimize the mass and visual appearance of the new construction. Raising the height of the new penthouses and screen walls to the same height as the existing penthouses would increase the visibility of those structures.

Development Flexibility

35. Except for the roof structures described above, the proposed modification to the PUD will not result in the need for zoning flexibility. Because of the additional stair enclosures on the roof, the Applicant requires zoning relief from the requirements of § 411 of the Zoning Regulations relating to the number of rooftop enclosures and varying heights of the enclosures.
36. Whereas the proposed modification results in additional parking spaces, those zoning requirements will be satisfied without the need for zoning relief. An apartment house in an SP-2 District requires a minimum of one parking space for each four (4) dwelling units; the proposed 146 spaces for 133 units exceeds that requirement. The carports proposed by the Applicant do not require zoning relief. As accessory structures, they are permitted as a matter of right; although the proposed carports will result in an increase in density, the increase is within the range permitted.

Public Benefits and Project Amenities

37. The following superior benefits and amenities will be created as a result of the modification to the PUD:
 - a. Residential development, in an area of the city that needs additional long-term residents, provides significant benefit to the neighborhood and the District as a whole and satisfies the requirements of Chapter 24;
 - b. The exterior configuration of the existing building will be retained, and the project will continue to conform to the overall landscaping and design scheme of

the Watergate complex. The curvilinear nature of the design remains a distinctive feature, not often duplicated in Washington architecture;

- c. The building will continue to include the health club and a restaurant on the lower levels. These are uses of special value to the existing residents of the Watergate complex; and
- d. By letter dated March 4, 2004, as supplemented by material in the Applicant's post-hearing submission, in consultation with the Office of Planning, the Applicant agreed to provide 3,000 square feet of affordable housing in the District of Columbia, by contributing \$250,000 to an affordable housing provider to renovate existing space not now occupied.

Office of Planning Report

- 38. By report dated January 19, 2004, and by testimony at the public hearing held on March 1, 2004, the Office of Planning ("OP") provided its comments to the Commission on the proposed PUD modification. In its written report, OP advised that it was not able to provide a recommendation to the Zoning Commission, because the Applicant was not able to provide assurance that it had obtained what OP considered to be necessary approvals from the owners within the Watergate complex. OP further stated that, if these approvals are provided, OP would have no objection to the proposed modification to the PUD. As will be discussed later, the Commission has concluded that the concurrence of the other owners is not required for it to consider and approve this modification. The Commission therefore construes OP's position to be in support of the Application.
- 39. OP noted that the Applicant had not demonstrated that that it met all of the specific requirements of the Zoning Regulations for a PUD in the SP-2 District, particularly including rooftop enclosures, residential recreation space, lot occupancy, and parking. In a supplemental submission made on February 18, 2004, and in the report and testimony of the Applicant's land planner, the Applicant addressed the specific compliance issues identified by OP; for example, the requirements relating to residential recreation space (§ 533.4), lot occupancy (§ 532), and parking (§ 2101.1). Except for the roof structures (addressed in Findings No. 33 – 35 of this Order), the proposed PUD modification meets the technical requirements of the Zoning Regulations.
- 40. OP noted that the proposed modification met the specific applicable criteria of Chapter 24 of the Zoning Regulations. OP found that the proposal would have limited, if any, negative impacts on the surrounding area or on the operation of the city as a whole. OP found that the PUD modification would not be inconsistent with the Generalized Land Use Map or with Comprehensive Plan land use or housing objectives. OP found that the proposed modification would not lessen any of the benefits afforded by the original PUD and would provide additional housing.

District Department of Transportation Report

41. In its report dated February 24, 2004, the District Department of Transportation ("DDOT") reviewed the impact of the proposed modification. DDOT concluded that the proposed conversion of the hotel to apartments will generate fewer automobile trips and will have a positive impact in terms of capacity and level of service in the area road network. DDOT also concluded that the proposed level of parking supply would be adequate to meet the parking demand of this project with little or no spillover into surrounding areas.

ANC 2A Report

42. By resolution dated January 27, 2004, Advisory Neighborhood Commission ("ANC") 2A voted to support the Application for the following reasons:
- a. The conversion would mostly involve interior renovations to the building to change the hotel rooms and facilities to apartment units;
 - b. The building would continue to contain a health club available for use by all residents of the Watergate and a restaurant on the B-1 level of approximately 3,000 square feet, accommodating approximately 120 seats;
 - c. The conversion would involve no substantial change to the exterior appearance of the building, involving some small rooftop additions and six carports to be added to the surface at the rear;
 - d. The Commission of Fine Arts has granted conceptual approval to the exterior alterations;
 - e. The Applicant agreed that the new apartment building would be offered for sale as a cooperative, the same form of ownership as the units in the three existing apartment buildings in the project;
 - f. A majority of the East cooperative members voted to sell to Monument the space that the current owner now rents from East and to support the Application;
 - g. Watergate South, Inc. supports this application;
 - h. The ANC has long desired an increase in the number of permanent residents within the boundaries of the ANC, and the proposed PUD modification would eliminate 250 transient hotel units in favor of 133 apartment units, which would accommodate several hundred permanent residents;
 - i. The change from hotel to apartment house use would likely result in less traffic generated from the building;

- j. The Comprehensive Plan Generalized Land Use Map includes the subject property in the mixed-use high-density residential, medium-density commercial category, and the proposed change to apartment house use would be not inconsistent with that designation; and
 - k. The property is zoned SP-2, which would permit an apartment houses as a matter-of-right but for the original approval of the PUD.
43. The Zoning Commission afforded the views of the ANC 2A the "great weight" to which they are entitled.

Parties, Persons, and Letters in Support

44. The COCO, represented by William B. Wolf, Jr., supported the Application.
45. The Foggy Bottom Association, through the testimony of Barbara Spillinger, supported the Application.
46. Numerous individual residents from the Watergate cooperatives and from elsewhere in the area testified and wrote letters in support of the Application.
47. Watergate South, Inc., the third of the Watergate cooperatives, by letter dated January 27, 2004, supported the Application.
48. Subsequent to the ruling of the Delaware Court, a second meeting was convened of the members of the East cooperative on April 12, 2004. At that meeting, a majority of the members of East voted to sell to Monument the below-grade space currently leased to the hotel and voted to support the Application.
49. The bases for the support of the Application were generally that:
- a. The addition of permanent residents, in place of transient hotel guests, would be good for the project and good for the city;
 - b. The sale of the below-grade space in East to the Applicant would be beneficial economically to East;
 - c. The Applicant has agreed to set up the new apartment building as a cooperative, the same form of ownership as the existing apartment buildings; and
 - d. The project would continue to include a restaurant and the health club, two uses that are highly valued by Watergate residents.

Parties, Persons, and Letters in Opposition

50. West and the Committee Against, parties in opposition, consolidated their presentation for testimony at the hearing.
51. Numerous individual residents from the Watergate coops and from elsewhere in the area testified and wrote letters in opposition to the Application.
52. The bases for the opposition to the Application were generally that:
 - a. The project is a mixed-use project that has always had a hotel and the hotel use should be continued;
 - b. The hotel is an amenity to the project and to the residents;
 - c. The Comprehensive Plan calls for the retention of existing hotels;
 - d. The proposed apartment house would generate more traffic than the existing hotel;
 - e. The proposed apartment house would not be as economically advantageous to the District as suggested by the Applicant;
 - f. The Applicant had not guaranteed that the health club and the restaurant would be continued;
 - g. The Applicant had not demonstrated that the hotel was not economically viable and therefore there was no basis to change the use to an apartment house; and
 - h. The Applicant was not registered to do business in the District of Columbia.

Consistency with the Comprehensive Plan

53. Through its land planning expert, the Applicant argued that the project is not inconsistent with the Comprehensive Plan. The Applicant presented the following points:
 - a. The proposed development is consistent with the Generalized Land Use Map, which designates the PUD Site for high-density residential and medium-density commercial uses.
 - b. The Project is consistent with the Comprehensive Plan's major themes as follows:
 - 1) Stabilizing and Improving the District's Neighborhoods: The conversion of a hotel into a multi-family residential building will provide an increased sense of community in the Foggy Bottom neighborhood. It will provide additional

housing opportunities in an area immediately outside of the Central Employment Area.

- 2) Reaffirming and Strengthening District's Role as an Economic Hub: The Comprehensive Plan encourages making maximum use of the District's location at the center of the region's radial Metrorail and commuter rail systems. The Project takes advantage of this asset by its proximity to the Foggy Bottom Metrorail Station.
- c. According to the Housing Element of the Comprehensive Plan, housing in the District is viewed as a key part of a total urban living system that includes access to transportation and shopping centers, the availability of employment and training for suitable employment, neighborhood schools, libraries, recreational facilities, playgrounds, and other public amenities. The subject property supports the housing goals of the Comprehensive Plan and furthers the total urban living system of the District through its proximity to the Foggy Bottom Metrorail Station and its provision of multi-family residential units and on-site retail and service uses.
 - d. A basic philosophy of the District's Transportation Element is to provide for the efficient movement of people and goods within the District and its metropolitan area. The policies established in support of the general transportation objectives include supporting land use arrangements that simplify and economize transportation services. The location of the project in proximity to the Foggy Bottom Metrorail Station furthers this goal, as does the mixed-use nature of the development. The project also supports the District's goal of adequate parking through its provision of 146 parking spaces for 133 residential units, a ratio that exceeds the minimum requirement for parking in an SP-2 District, where only thirty-seven spaces would be required for 146 units. The parking is provided in a three-level, below-ground garage.
 - e. The Transportation Element of the Comprehensive Plan also states that reverse commute options that will provide District residents with access to the regional job market should be provided. The proximity of the subject property to I-66 and the Theodore Roosevelt Memorial Bridge, in addition to the Foggy Bottom Metrorail Station, will provide District residents with easy access to suburban job markets.
 - f. The Urban Design Element states that it is the District's goal to "promote the protection, enhancement and enjoyment of the natural environs and to promote a built environment that serves as a complement to the natural environment, provides visual orientation, enhances the District's aesthetic qualities, emphasizes neighborhood identities, and is functionally efficient." As the project involves a use conversion of an existing hotel, the building will maintain its consistency with the surrounding area in terms of materials, height, scale, and massing. The project's

massing and scale are already sensitive to the established patterns of development in the area.

- g. The Land Use Element encourages a substantial amount of new housing primarily in housing opportunity areas and near Metrorail Stations in order for the District to perform its role as the region's urban center providing the greatest density of jobs and housing. The Site furthers this goal due to the subject site's proximity to the Foggy Bottom Metrorail Station.
- h. The Project fulfills and furthers the specific objectives for this area, as set forth in the Comprehensive Plan for Ward 2, as follows:
 - 1) The Ward 2 Economic Development Element seeks to enhance the image of the ward as a place to do business and to reside. The proposed development creates additional residential opportunities in the ward while increasing income and property tax revenues to the District.
 - 2) The Ward 2 Housing Element encourages the provision of new housing to meet the needs of present and future District residents at locations consistent with the District land-use policies and objectives. The proposed development furthers this goal through the development of high-quality housing in a mixed-use area that is in close proximity to Metrorail.
 - 3) The Ward 2 Housing Element further states that the District government shall improve neighborhood-level commercial services throughout the ward while protecting residential neighborhoods from disruptive uses. The proposed development creates both additional housing that will enhance the residential neighborhood and neighborhood-level retail and service uses that will support the residents.
 - 4) Ward 2 is located at the center of the District and at the focal point of the Metrorail system, bus lines, and the city's freeway and arterial street system. Although its location provides great benefits to the residents and employees of Ward 2, it also creates some adverse impacts on quality of life. Parking within the ward is identified as a major problem due to evening visitors, student parking, and the lack of parking provisions for many residential dwellings. This element of the Comprehensive Plan encourages strict adherence to the current parking requirements of the zoning regulations. The proposed development will include 146 parking spaces for 133 residential units, providing adequate parking for the residents of the apartment building.
 - 5) Primary objectives of the Ward 2 Residential Land Use Element include the conservation and enhancement of existing residential neighborhoods and the creation of new residential neighborhoods. Specifically, the Foggy Bottom and

West End residential neighborhoods are to be maintained and enhanced. The project supports the Residential Land Use Element of the Comprehensive Plan by creating the opportunity for a new residential use that will significantly enhance the character of the neighborhood.

54. West and the Committee Against argued that the proposed elimination of the hotel is contrary to sections of the Ward 2 Plan Element that encourage "continued improvement of existing hotels." The opposition further argued that the PUD is not in a housing priority area and that the loss of hotel jobs is contrary to the economic goals of the Plan.
55. OP testified that the project would not be inconsistent with the Generalized Land Use Map or with Comprehensive Plan land use or housing objectives.
56. The Zoning Commission finds that focusing on the particular sections of the Ward 2 Element of the Plan concerning existing hotels, without reference to other parts of the Plan, does not yield a complete picture of the goals, objectives, and policies of the Plan. While the "continued improvement of existing hotels" is a Ward 2 Plan objective, the Land Use Element of the Plan stresses the promotion of housing. The District Elements of the Comprehensive Plan are set forth in Title 10 of the D.C. Municipal Regulations, and include General Provisions, city-wide elements related to Economic Development, Housing, Environmental Protection, Transportation, Public Facilities, Urban Design, Preservation and Historic Features, Downtown, Human Services, and Land Use, as well as eight ward plans.
57. The General Provisions Element of the Plan instructs how to interpret the District elements:
 - a. "The primary dynamic of the District elements of the Plan is the overlapping of its elements' goals. This overlapping is intentional." (§112.1)
 - b. "District elements of the Plan should be studied and executed in concert with each other and should be interpreted broadly." (§111.(a))
 - c. "The interpretation and implementation of any element should necessarily rely upon, and be respectful of, the objectives and policies of other elements." (§112.1(b))
 - d. "An element may be tempered, even defined, by one (1) or more of the other elements. This may occur within one (1) element and between elements. Since the Land Use element integrates the policies and objectives of all other District elements, it should be given greater weight than the other elements." (§112.1(c))

- e. "The interpretation of the District elements of the Plan should also be guided by the major themes set forth in §101.1, which establish the overall priorities of the District elements of the Plan." (§112.2)
58. Accordingly, the Commission finds that the Plan must be read as a whole, and reliance on a narrow, isolated portion of the Plan to assess compliance is inconsistent with the above-cited provisions.
59. The Commission finds that the broader reading of the entire Comprehensive Plan, both city-wide and Ward 2 Element provisions, places the stronger emphasis on housing. The Housing Element is replete with references to the production of new housing. The Generalized Land Use Map of the Land Use Element designates the site in the mixed-use high-density residential and medium-density commercial category. While a broad range of uses could fit within that designation, including commercial, hotel, and residential, the Commission finds that the density categories (high residential vs. medium commercial) suggest a preference for residential and that changing the hotel to an apartment house would not be inconsistent with this land use designation.
60. The Commission further finds that the overall thrust of the hotel provisions of the Ward 2 Element is to locate hotels at appropriate locations, particularly citing locations near the new Convention Center north of Mount Vernon Square. While §1333.1(a)(1) speaks to encouraging continued improvement of existing hotels, the Commission finds that, considered in the overall context of the Plan, that section cannot be read to prevent the conversion of an existing hotel to another favored use, such as residential.
61. The Commission therefore finds that the proposed PUD modification is not inconsistent with the Comprehensive Plan.

Economic Benefits of the Modification

62. The Applicant submitted a written study performed by Basile Baumann Prost & Associates, Inc. ("BBP"). James Prost presented testimony at the hearing, and BBP submitted additional material as part of the Applicant's post-hearing submission (in total, the "economic analysis") concerning the fiscal and economic benefits that would accrue to the District of Columbia if the Application was approved. The economic analysis compared the economic and fiscal benefits that are derived from the existing hotel operation to those benefits that would result from an apartment house on the site.
63. The economic analysis determined that the existing hotel has 228 on-site jobs and 122 indirect jobs generated by the economic activity that occurs on-site, for a total of 350 jobs. The hotel's employment generates an aggregate annual payroll of more than \$10.8 million and the wages and salaries of employees generate \$5.3 million in consumer expenditures within the District. The economic analysis further determined that the existing hotel generates \$3.2 million annually in tax revenue.

64. The economic analysis estimated that the renovation of the building necessary to convert it to an apartment house would create 56 direct on-site jobs and 52 indirect jobs and would generate approximately \$460,000 in tax revenue to the District.
65. The economic analysis further estimated that, once completed and fully occupied, the apartment house would create 41 direct on-site jobs and 412 indirect jobs as a result of expenditures by residents in the District, for a total of 453 jobs. The apartment house was estimated to generate \$4.1 million in annual tax revenue, including about half of that total in income taxes paid by residents.
66. On an ongoing basis, after the one-time benefits during the construction period, the economic analysis concluded that converting the hotel into an apartment house would yield a net increase of 103 jobs overall, with most of the new jobs created as a product of residents' expenditures within the District. There would be an estimated increase of \$26 million in consumer expenditures. Annual tax revenue to the District would increase by more than \$900,000.
67. The economic analysis concluded that the conversion of the hotel to an apartment house will meet District economic development and housing objectives, and that the conversion will contribute substantively to the tax revenues and the economy of the District.
68. The conclusions of the economic analysis were consistent with those of the Rivlin Report and other economic studies that taxpaying residential development is highly beneficial to the District and offers a way to increase the overall fiscal stability and tax base of the District.
69. West and the Committee Against argued that the economic analysis overstated the benefits that would result from the apartment house conversion by using unrealistic assumptions about where residents would spend money, what percentage of the residents would pay income taxes to the District, the percentage of future hotel guests who would choose to stay in other hotels in the District, and the ability of present hotel employees to find new jobs in the District. The opponents presented no substantive evidence or expert testimony to contradict the findings of the economic analysis.
70. The Zoning Commission finds that the economic and fiscal benefit to the District from the conversion of the hotel to quality residential use stems from a variety of factors: the significant capital investment and hence construction period benefits; the transfer of the on-site hotel demand, and hence economic impact, to other, better-located hotels in the District; and, primarily from the new permanent households on site, who will live, spend, work, and pay taxes to the District.
71. The Zoning Commission finds that residents who occupy high value units have significant positive economic and fiscal impacts for the city. These residents have high incomes that generate significant local income tax and their units generate high property

taxes. These residents make significant local purchases that generate local sales taxes and in turn create demand for retail and other service, and retail and service jobs. These expenditures and jobs in turn create economic spin-offs or multiplier impacts that create an entire cycle of economic benefits. These residents, at the same time, generate relatively minimal new service costs to the District in terms of such high cost public services as education and human services.

72. The Zoning Commission concurs in the importance of bringing new high-income households into the District to grow the District's tax base. This means increasing the income, spending, and wealth of the existing population and enlarging that population. The Commission finds that virtually all economic and development reports on the District note that upper income households with no children contribute significantly and positively to the District's overall economic health.
73. The Zoning Commission finds that the economic analysis was conducted in accordance with standard methodology based upon and accepted and used by the Federal and District governments. The Commission credits the results of the economic analysis and finds no alternative substantive information in the record. The Commission further finds that the results of the analysis are so strongly positive for the city that, even if some of the background assumptions for the economic analysis were changed and the results were further discounted, the fiscal and economic benefits for the city would still be better than what the current use provides.
74. With respect to the potential loss of the existing hotel jobs, the Zoning Commission finds that even if the Commission disapproves this Application, there is no guarantee that the existing hotel will remain in operation. The Commission further finds that the hotel has lost its competitive position in the hotel market to newer, better-located hotels.
75. The Zoning Commission finds that denial of the Application will not cause the hotel's position to improve and will not guarantee the retention of existing jobs.
76. The Commission finds that the hotel market in the District of Columbia is comparatively strong and that there is a substantial likelihood that the existing hotel demand will shift to other hotels nearby and elsewhere in the District of Columbia, causing those hotels to seek additional employees to service that demand.
77. The Commission finds that the total number of direct and indirect jobs, including jobs located in the District and/or jobs held by District residents, generated by the proposed apartment house use, will be more than the number generated by the hotel, even though the type and location of those jobs will be different.

Ability of the Applicant to Carry-Out the Modification

78. The Committee Against argued that the Applicant was not registered to do business in the District of Columbia and that it was therefore unable to carry out the plan for which it sought approval. The Committee Against likewise argued that, because East had not approved the sale to Monument, the Applicant could not proceed with the development as proposed.
79. The Applicant responded that Monument did not have to be registered to do business in the District just to own real or personal property or to maintain bank accounts, that Monument intended to assign the contract to purchase the property to an affiliated LLC that would actually undertake the development, that such a procedure was typical of real estate development practices, and that the new entity would be registered in the District at such time that it undertakes any activities which would require it to be registered. Notwithstanding its legal position that Monument did not have to be registered in the District, as part of its post-hearing submission, the Applicant advised that Monument was registered with the District of Columbia and submitted a Certificate in Good Standing, dated March 30, 2004, for Monument from the Department of Consumer and Regulatory Affairs.
80. With respect to the ability to proceed if it does not own the below-grade space, the Applicant argued that it has the right under BRE's lease with East to use that space for an additional sixty-one years. The Applicant is prepared to go forward with the development if the space can only be leased for that period, believing that is economically feasible and prudent to do so. However, the vote of East on April 12, 2004, to agree to the sale and support the proposed modification, will allow the Applicant to conclude the purchase from East and eliminate any concern about the ability to go forward.
81. The Zoning Commission finds that the questions about the Applicant's ability to proceed with the project are outside the Commission's purview. Whether a corporation needs to be registered is not a land use matter. Other agencies of the District can determine whether registration is required and take action if a violation is found. In any event, this issue is moot because Monument appears to be in good standing in the District of Columbia.
82. With respect to the leased parking space, the Commission need not determine the rights and obligations under the lease between East and the Applicant. The Applicant has proffered that it will provide sufficient parking for the apartment building and such parking is a condition of approval of this Application. The Commission notes that East's agreement to sell the below-grade space to the Applicant appears to render this question moot in any event.

Compliance with PUD and Zoning Standards

83. West and the Committee Against argued that the hotel was originally considered as an amenity for the PUD and that eliminating the hotel would undercut the basis for approval of the original PUD. The opponents further argued that the original PUD envisioned a complementary, integrated mix of uses and that removing the hotel from that mix would undermine the integrity of the whole project. The opponents further argued that the Applicant had not proven that keeping the hotel would constitute an economic hardship for its owners.
84. The Applicant observed that, at the time the PUD was approved, the portion of the Zoning Regulations covering PUDs were different from the current Regulations, which were adopted in 1995. The Regulations in 1962 did not contain a balancing test between the development incentives or the degree of flexibility requested by an applicant and the benefits or amenities offered as part of an application. The concept of amenities was not added to the Regulations until 1979 and the balancing of amenities and benefits was not added to the Regulations until 1995. Consequently, the Applicant argued that a hotel could not have been offered as an amenity to satisfy the Regulations in 1962, because amenities were not part of the Regulations. While the mixed-use character of the PUD was integral to its approval, the loss of the hotel use will not change the project's mixed-use character. Because of the continued office building, retail, restaurant, and health club uses, the proposed modification will not result in a project that is purely residential.
85. In its original statement, in its pre-hearing statement, in testimony at the hearing, and its in post-hearing submission, the Applicant further set forth its arguments in support of the proposed modification and demonstrated how the project met the requirements of the Regulations.
86. The Applicant noted that the project as first approved had a much larger residential component than resulted from the project as modified and built. Allowing an increase of 133 apartments would bring the total number of units closer to but still well below the originally contemplated number of residential units.
87. OP reported that the project met the standards of the Regulations except for roof structures and parking for the proposed restaurant and that the proposed modification was acceptable in those two areas as well.
88. The Zoning Commission finds that a hotel was an important component of the project as originally conceived. But the Commission also finds that allowing the hotel to be converted to apartments would strengthen the residential component of the mix of uses. The Commission finds that PUDs are not static. They are dynamic elements, the composition of which is often adjusted to reflect changes in markets, economics, and project and community needs. In the Foggy Bottom community, with the decrease in the number of permanent apartment units and the increase in the number of hotel rooms at

other locations, the Commission finds that adjusting the mix to increase the number of apartments is an appropriate action in the current climate. The Regulations allow for modification of a PUD precisely because of the need for flexibility. The subject PUD has been modified previously in response to changed conditions.

89. The Zoning Commission finds that the hotel was not an amenity to the overall project, as amenities are now defined and considered in Chapter 24 of the Zoning Regulations. While the hotel may have been discussed in marketing and newspaper accounts as an amenity, that term was not incorporated into the Regulations until much later. Moreover, under current Zoning Regulations, the Watergate Hotel would have required special exception approval, whereas the proposed apartment house use can be commenced as a matter of right. It is counterintuitive to suggest that the preservation of a use that now requires a special except should be favored over the establishment of a use that is permitted by right.
90. The Zoning Commission further finds that the Applicant is not required to prove that keeping the hotel would cause a hardship. This application is not for a variance and the Applicant is not required to establish a practical difficulty or hardship. The Applicant is seeking a modification to an approved planned unit development. Chapter 24 requires that such modifications “meet the requirements for and be processed as a second stage application.” 11 DCMR § 2409.9. Nowhere does Chapter 24 mandate an inquiry into an applicant’s motivation for undertaking a particular development. Here, the Applicant has proposed an appropriate alternative use that is a “high quality development[] that provide[s] public benefits”, 11 DCMR 4200.1. The Applicant has to meet its burden of complying with the standards of Chapter 24, and the Commission finds that the Applicant has met that burden.
91. The Zoning Commission further finds that this Applicant is not required to secure the consent of all property owners for modification of the PUD. The Zoning Regulations do not require the consent of owners and, in practice, the Commission has not required unanimous consent of the owners of property within a PUD before approving a modification. In fact, the Zoning Commission may rezone property over the objection of a property owner, so long as the owner is given an opportunity to be heard. Nothing in this order will result in a zoning change affecting the other owners’ properties². Nevertheless, the other owners have been afforded a full opportunity to make their views known, all of which have been discussed at length in this Order. Nothing more is required.

¹ Approval of the original PUD did not require a covenant binding all owners and successors-in-interest to the conditions of approval. Thus, the project owners never recorded such a covenant in the land records. The Commission does not decide here whether it would require the consent of all co-owners if such a covenant were in place. However, the covenant that will be required as a condition of this Order will only required the signature of the owners of the site.

92. The Commission finds that the Applicant met its burden of proof under the current regulations. The relief that the Applicant seeks relative to the underlying SP-2 District is minor. The proposed apartment house use is normally permitted as a matter-of-right and therefore is a favored use. The existing hotel use is now normally a special exception, and therefore is less favored. The deviations requested by the Applicant are minor, related to the number and height of roof structures. The benefits and amenities proposed by the Applicant, as set forth in Finding No. 37, above, are more than adequate to balance the approval requested.

Traffic Impact

93. Through the report and testimony of its expert traffic consultant, Wells & Associates, the Applicant demonstrated that the proposed change in use would not have an adverse effect on traffic. The Applicant's traffic consultant concluded that the proposed apartment house would generate fewer vehicle trips during the morning and evening peak hours than the existing hotel. The proposed residential use would be served by the same access and circulation systems as the existing hotel. The proposed apartment building would have more than one parking space for each apartment unit, which exceeds the requirements of the Zoning Regulations of one space for every four units. The Applicant's traffic consultant concluded that the public street network will adequately accommodate the proposed residential use and that the trips generated by the proposed use would have an insignificant effect on the traffic volume already present on Virginia Avenue.
94. West and the Committee Against presented their own traffic expert, Joe Mehra. Mr. Mehra argued that the Applicant's traffic analysis was flawed, because it relied on projections of traffic for the Hotel and did not count the actual number of trips at the Hotel driveways. Mr. Mehra's observations of traffic indicated that the hotel actually generated less traffic than was estimated and that the proposed use would therefore generate relatively more traffic than the existing use.
95. DDOT concluded that the proposed conversion of the hotel to apartments will generate fewer automobile trips and will have a positive impact in terms of capacity and level of service in the area road network. DDOT also concluded that the proposed level of parking supply will be adequate to meet the parking demand of this project with little or no spillover into surrounding areas.
96. The Zoning Commission finds that the analysis performed by the Applicant's traffic expert, the conclusions of whom were confirmed by DDOT, is a credible and internally consistent analysis. The Commission is not persuaded by the testimony of the opponents' expert, who counted trip volumes at the existing hotel driveways. In so doing, Mr. Mehra did not count all of the trips that are generated by the existing hotel, excluding trips that end in parking garages, on street, or other than in the driveway areas. Further, Mr. Mehra used estimated values for the proposed apartment house and did not use actual numbers for the existing apartment buildings. The Commission further finds that Wells &

Associates' conclusion that the 133 proposed apartment units would generate fewer trips than the existing hotel is consistent with the building population of both uses. In total, the existing hotel is occupied by 377 guests and staff on an average day and the proposed apartments would be occupied by only 170 residents and staff on an average day.

97. Accordingly, the Commission finds that the impact on traffic would be lower with the proposed use than with the existing use. The Commission further finds that the number of trips generated would have no significant effect on traffic, given the existing traffic volumes present on Virginia Avenue.

The Health Club and the Restaurant

98. West, the Committee Against and other opponents argued that the conversion of the hotel would result in the loss or diminution of valuable community resources: the hotel itself, the restaurant, and the health club. Much of the opposition concern revolved around the Applicant's perceived failure to guarantee the future operation of the health club.
99. The Applicant's proposal identifies space on the B-1 level for a restaurant and on the B-3 level for the health club. The Applicant will construct the space for the restaurant, and in the case of the health club, will renovate, improve, and fit out the existing space. The future operation of those spaces will not be in the hands of the Applicant. The management, levels of service, and operation of those uses will be determined by the future owners of the new apartment house. The Applicant has provided a mechanism to include the residents of the current apartment houses in making the decisions about the future of those facilities, should the existing cooperatives want to be involved in those decisions.
100. The Zoning Commission finds that the Applicant has made appropriate arrangements to continue the two components of the existing hotel deemed most critical by most of those who testified, namely, the health club and the restaurant. The Commission will require by condition made a part of this Order that the Applicant provide the spaces for the two uses. Future control of the operation of the restaurant will be vested in the Watergate Council, which is comprised of the ownership interests of the apartment and office buildings. Future control of the operation of the health club will be vested in the membership of the club, which includes each of the cooperative share owners of the proposed apartment building and any other share owners of the three existing cooperatives who chose to join the club. As to the hotel, as set forth in Finding No. 87, changing the hotel to an apartment house is an appropriate reinforcement of the residential component of the Watergate complex. There are other existing hotels nearby in the Foggy Bottom/West End area that can accommodate demand for hotel rooms from Watergate residents.

Response to Issues and Concerns of ANC 2A

101. In its report, ANC 2A supported the Application based on the issues and concerns set forth in Finding No. 41. The Commission concurs with the findings and recommendations of the ANC. In particular, the Zoning Commission gives great credence to the ANC's desire to obtain more permanent residents. Replacing 250 transient hotel units with 133 apartment units will be another step to counter the loss of dwelling units, which has been an issue for the Foggy Bottom neighborhood for some time.

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 modification to the approved PUD. 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 Board of Zoning Adjustment. The Zoning Regulations do not require the consent of all owners within an approved PUD in order to modify that PUD.
3. The modification of this PUD project continues to carry out the purposes of Chapter 24 of the Zoning Regulations to encourage 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 PUD is within the applicable height and bulk standards of the Zoning Regulations, and the change in use within the existing building will not cause any adverse effect on any nearby properties. Apartment use for this building is appropriate on this Site, which is located in a zone that otherwise permits multiple dwellings as a matter-of-right. Allowing the hotel to be converted to an apartment house will not upset the mix of uses in the overall PUD. The impact of the project on the surrounding area is not unacceptable. Accordingly, the Application should be approved.
5. The Application can be approved with conditions to ensure that the potential adverse effects on the surrounding area from the development will be mitigated.

6. The Application does not seek significant development incentives or flexibility beyond what the Zoning Regulations ordinarily require. The amenities and benefits provided are a reasonable trade-off for the change in use, particularly given that the proposed development requests no development incentives from the existing underlying matter-of-right zoning other than minor zoning relief relating to the roof enclosures. The use, height, bulk, and design of the proposed development are appropriate for all sides and all contexts of the building.
7. Approval of the Application is appropriate, because the proposed development is consistent with the present character of the area.
8. Approval of this modification to the approved PUD is not inconsistent with the Comprehensive Plan, including the designation of the Site as mixed-use high-density residential and medium-density commercial.
9. The Commission is required under D.C. Code 2001 Ed. § 1-309.10(d) to give great weight to the affected ANC's recommendation. The Commission has done so and concurs with the ANC's position that the Application should be approved.
10. The approval of the Application will promote the orderly use and 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.
11. The Application is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.
12. Ordinarily a covenant is not required as a condition to a PUD modification order. This is because a covenant usually has been recorded pursuant to the original PUD, which subjects the owners, or their successors, to abide by the conditions of all future amendments. However, no such covenant was required or recorded at the time of the original approval of this PUD. Chapter 24 mandates that all non-minor PUD modifications meet the requirements for and be processed as a second stage application, 11 DCMR § 2409.9. Subsection 2409.3 precludes the Zoning Administrator from approving a building permit authorized by a second stage order until a covenant is recorded in accordance with that subsection. Therefore, the Commission must require that such a covenant be recorded with respect to this modification. For the purposes of satisfying § 2409.3's requirements that the "owner or owners" sign the covenant, the Commission concludes that only the owner or owners of the site to which the modification applies must execute the instrument, since they are the only persons who will be bound by the covenant's declarations.

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 modification to an approved Planned Unit Development for property located at 2650 Virginia Avenue, N.W., in Square 8, Lot 807. This approval is subject to the following guidelines, conditions, and standards:

1. The Applicant may convert the existing building to an apartment house to be owned and operated as a cooperative.
2. The conversion shall be accomplished substantially in accordance with the plans and computations dated February 17, 2004, marked as Exhibit No. 55 in the record, as modified by the guidelines, conditions, and standards herein.
3. The apartment house shall contain a maximum of 133 units. The exterior and interior modifications to the existing building shall be those shown on the approved plans.
4. The Applicant shall designate approximately 3,000 square feet of space on the B-1 level for a restaurant, as shown on the plans. The nature of the operation of a restaurant in that space, including hours of operation, shall be determined by the cooperative association to be formed.
5. The Applicant shall include a health club on the B-3 level, as shown on the plans. The health club shall be outfitted initially with the equipment and in the manner shown in the Applicant's Post-hearing submission, marked as Exhibit No. 152 in the record. The operation of the health club in that space, including the hours of operation and the level of services offered, shall be determined by the cooperative association to be formed.
6. The apartment building shall contain at least 146 parking spaces, located as shown on the plans marked as Exhibit No. 55 in the record.
7. Prior to the issuance of a certificate of occupancy for the apartment building, the Applicant shall contribute \$250,000 to Jubilee Housing to assist in providing 3,000 square feet of affordable housing at 1631 Euclid Street, N.W. In the event that Jubilee determines not to proceed with the renovation of that building, the Applicant may contribute the funds to Jubilee for another project or to another non-profit housing provider for the renovation of at least 3,000 square feet of affordable housing in the District of Columbia. If an alternate project receives the funds, the Applicant shall submit a written certification, including plans, to the Zoning Administrator, with a copy to the Zoning Commission, showing the area to be renovated and obligating the housing developer to reserve the units for affordable housing.
8. 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, mechanical rooms, elevators, escalators, and toilet rooms, provided that the variations do not change the exterior configuration of the building;
 - b. To combine units to reduce the total number of units but make larger units as a result;
 - c. To vary the number and location of underground parking spaces, not to decrease below a minimum of one parking space for each dwelling unit;
 - 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, without reducing the quality of the materials;
 - e. To make minor modifications to the exterior in response to the final review by the Commission of Fine Arts and review by the Historic Preservation Review Board, if the building is designated a historic landmark; and
 - f. To make minor refinements to exterior details and dimensions, including 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.
9. The modification to the PUD 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.
10. 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 of the modification site and the District of Columbia, that is satisfactory to the Office of the Attorney General for the District of Columbia and the Zoning Division of the Department of Consumer and Regulatory Affairs. Such covenant shall bind the owners or owners and all successors in title to construct on and use the property that is the subject of this modification, in accordance with this Order or amendment thereof by the Zoning Commission.
11. 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 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 that 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 the denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this order.

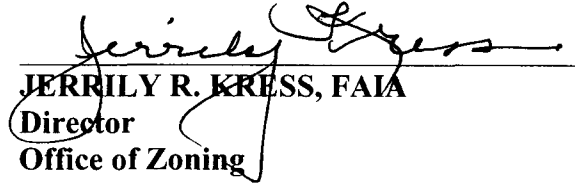
Vote of the Zoning Commission taken at its public meeting on May 10, 2004: 3-1-1 (Carol J. Mitten, John G. Parsons, and Kevin Hildebrand in favor; Anthony J. Hood opposed; Gregory Jeffries not voting, not having heard the case).

The Order was adopted by the Zoning Commission at its public meeting on June 14, 2004, by a vote of 3-1-1 (John G. Parsons, Carol J. Mitten, and Kevin Hildebrand in favor; Anthony J. Hood opposed; Gregory Jeffries not present, not voting).

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 AUG - 6 2004.



CAROL J. MITTEN
Chairman
Zoning Commission



JERRILY R. KRESS, FAIA
Director
Office of Zoning

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION ORDER NO. 631A

Z.C. Case No. 62-19A

**Minor Modification to Approved Planned Unit Development
Euro-Watergate Hotel and Residences, LLC**

**(Consolidated and First-Stage Planned Unit Development for Square 8, Lots 2001 and 2002)
January 9, 2012**

Pursuant to notice, a public meeting of the Zoning Commission for the District of Columbia ("Commission") was held on January 9, 2012. At that meeting, the Commission considered an application from Euro-Watergate Hotel & Residences, LLC ("Applicant") for modification to a previously approved planned unit development ("PUD") and related Zoning Map amendment for Square 8, Lots 2001 and 2002 ("Property"), pursuant to Chapter 24 and Chapter 30 of the District of Columbia Zoning Regulations (11 DCMR). Because the modification was deemed minor, a public hearing was not conducted.

The original PUD for the Watergate was approved before the courts determined that such cases should be treated as contested cases under the Administrative Procedure Act. Therefore, there were no parties to the original PUD on whom the Applicant should serve the subject modification request, as required by 11 DCMR § 3030.6. The Applicant's letter, dated December 15, 2011, requested the modification be sent to the Chair and the appropriate Single Member District Commissioner of Advisory Neighborhood Commission ("ANC") 2A. The letter was also sent to the Boards of Directors of Watergate East, Inc., Watergate West, Inc., and Watergate South, Inc., which are the governing boards for the three cooperative associations which own the apartment buildings in the Watergate. Neither the ANC nor the cooperative associations existed at the time that the original PUD was approved. By giving notice to the ANC and the cooperative associations, those likely to be most affected by the increase in the number of hotel rooms, the Applicant has met the letter and the spirit of § 3030.6.

The Commission determined that this modification request was properly before it under the provisions of §§ 2409.9 and 3030 of the Zoning Regulations. For the reasons stated below, the Commission hereby approves the application for modification.

FINDINGS OF FACT

1. By Z.C. Order No. 62-19, the Commission approved the PUD to develop the Watergate complex. The PUD permitted a multi-phased development of 1,300 multi-dwelling units, office and retail spaces, and a 300-room hotel ("Project"). Pursuant to Appeal No. 7903,

the Board of Zoning Adjustment ("Board") approved the Stage 2 development, which included the Hotel. The Project was subsequently amended in 1968, 1972, and 1975, but none of the amendments affected the 300-room hotel ("Hotel"). By 1989, the Project was fully built-out with 500,000 square feet of office and retail space, 644 multi-family units, and the Hotel, which was constructed with a total of only 250 rooms, a health club, and two restaurants. In 1989, and pursuant to Z.C. Order No. 631, the Commission permitted the Hotel to increase the size of the health club by 2,000 square feet, which was the only PUD amendment directly related to the Hotel since the PUD was initially approved.

2. In 2003, in Z.C. Case No. 03-16, Monument Residential LLC, the contract purchaser, on behalf of the owner, BRE/Watergate LLC, filed an application to modify the approved PUD to convert the Hotel into an apartment house. By Z.C. Order No. 03-16, final and effective on August 6, 2004, the Commission approved the application to convert the Hotel to a 133-unit cooperative apartment house, subject to conditions. That approval was challenged in the D.C. Court of Appeals ("Court"). By Order No. 04-AA-1056, dated July 24, 2008, in *Watergate East Committee Against Hotel Conversion to Co-Op Apartments, et al. v. District of Columbia Zoning Commission*, 953 A.2d 1036 (D.C. 2008), the Court affirmed the Commission's approval of the PUD modification. The Hotel was closed in 2007 pending redevelopment, but the conversion never occurred, the Hotel has remained closed, and the Commission's approval granted by Z.C. Order No. 03-16 has expired.
3. By letter dated December 15, 2011, the Applicant requested a minor modification to the PUD approval to grant the Applicant flexibility to increase the maximum number of rooms in the Hotel from 300 to 355. The Applicant is also proposing other minor changes to the layout of the hotel, all of which are within the scope of the currently approved project and which require no further attention from or action by the Commission. Any renovation work altering the exterior of the building would be subject to review by the Commission of Fine Arts.
4. Attached to the Applicant's letter were: a letter, dated December 14, 2011, from the Board of Directors of Watergate East, Inc.; a letter dated December 6, 2011, from the Board of Directors of Watergate West, Inc.; and a letter, dated December 9, 2011 from the Board of Directors of Watergate South, Inc. All three letters described the history of the project, the benefits that would accrue from approving the modification and the support for approving the modification without a public hearing.
5. In support of this request, the Applicant noted that: reopening the Hotel would return amenities to the Watergate residents and tax revenue to the City; the Hotel was constructed with substantially larger rooms than other luxury hotels, and reconfiguration of the rooms to smaller sizes would enable the Hotel to be competitive in the current and future hospitality markets.

6. The Applicant is desirous of moving forward immediately with reconfiguration of the Hotel, in order to re-open the Hotel as soon as possible. Therefore, the Applicant has requested approval on the Consent Calendar without a public hearing to increase the rooms from a total of 300 to no more than 355 rooms. The Project is fully built-out, and reconfiguration will not change the Hotel building envelope, increase the floor area ratio, gross floor area, height, lot occupancy, or rear or side yard requirements. The Hotel, with the larger number of rooms, would meet the parking requirements of the Regulations.
7. The District of Columbia Office of Zoning referred this matter to the Office of Planning (“OP”) for analysis and recommendation. By memorandum dated December 29, 2011, OP stated its support for approval of the requested modification.
8. ANC 2A did not submit a report to the Commission. The Commission received a letter, dated December 30, 2012, from Armando Irizarry, the Single Member District (“SMD”) Commissioner for ANC 2A04, which is the SMD in which the Property is located, and a letter, dated January 5, 2012, from Councilmember Jack Evans, in whose Ward the Property is located, both in support of the application and supporting approval on the Consent Calendar without a public hearing.
9. The Commission concurs that approval of the modification is appropriate and is consistent with the intent of 11 DCMR §§ 2409.9 and 3030.

CONCLUSIONS OF LAW

Upon consideration of the record in this application, the Commission concludes that the proposed modification is minor and is consistent with the intent of the previously approved PUD as a mixed-use project with a combination of office, hotel, apartments, and retail uses. Further, the Commission concludes that approval of the requested modification is in the best interest of the District of Columbia and is consistent with the intent and purpose of the Zoning Regulations. Further, the modification does not change the material elements of the Project, including permitted use, height, gross floor area, lot occupancy, or rear or side yard requirements.

DECISION


In consideration of the Findings of Fact and Conclusions of Law provided herein, the Zoning Commission for the District of Columbia hereby **ORDERS APPROVAL** of the application for minor modification of an approved PUD for Square 8, Lots 2001 and 2002, to increase the maximum number of rooms in the Hotel from 300 to 355.

Pursuant to § 2409.3 of the Zoning Regulations, the Applicant shall record a notice of modification of Z.C. Order No. 631 among the land records of the District of Columbia. After

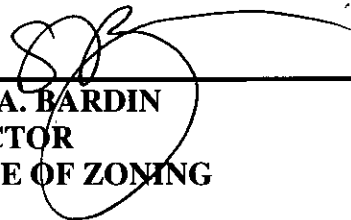
recording of the notice of modification, the Applicant shall provide a copy of same for the records of the Office of Zoning.

On January 9, 2012, upon the motion of Commissioner Turnbull, as seconded by Commissioner Cohen, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Konrad W. Schlater, Marcie I. Cohen, Peter G. May, and Michael G. Turnbull to adopt).

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 June 22, 2012.



ANTHONY J. HOOD
CHAIRPERSON
ZONING COMMISSION



SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning



Z.C. CASE NO.: 62-19A

JUN 25 2012

As Secretary to the Commission, I hereby certify that on _____ copies of this Z.C. Order No. 631A were mailed first class, postage prepaid or sent by inter-office government mail to the following:

1. *D.C. Register*
2. Norman Glasgow, Jr., Esq.
Alice Haase, Esq.
Holland & Knight
2099 Pennsylvania Avenue, N.W.
Suite 100
Washington, D.C. 20006
3. ANC 2A
West End Branch Library
1101 24th Street, N.W.
Washington, D.C. 20037
4. Commissioner Armando Irizarry
ANC/SMD 2A04
2475 Virginia Avenue, N.W. #911
Washington, D.C. 20037
5. Gottlieb Simon
ANC
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
6. Councilmember Jack Evans
7. DDOT (Martin Parker)
8. Melinda Bolling, Acting General Counsel
DCRA
1100 4th Street, S.W.
Washington, DC 20024
9. Office of the Attorney General (Alan Bergstein)
10. Watergate East, Inc.
Board of Directors
2510 Virginia Avenue N.W.
Washington, D.C. 20037-1902
11. Watergate West, Inc.
Board of Directors
2700 Virginia Avenue, N.W.
Washington, D.C. 20037
12. Watergate South, Inc.
Board of Directors
700 New Hampshire Avenue, N.W.
Washington, D.C. 20037

ATTESTED BY:

A handwritten signature in black ink, appearing to read "S. S. Schellin", is written over a horizontal line.

Sharon S. Schellin
Secretary to the Zoning Commission
Office of Zoning