GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission

GOVERNMENT OF THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 06-35
Z.C. Case No. 06-35
Application for Approval of a Consolidated Planned Unit Development –
CESC 1229-1231 TRS, Inc. and CESC 1227 LLC
(Square 24, Lots 109 and 883)
July 9, 2007

Pursuant to proper notice, the Zoning Commission for the District of Columbia (the "Commission") held a public hearing on March 26, 2007 to consider an application by CESC 1229-1231 TRS Inc. and CESC 1227 LLC (the "Applicant") for consolidated review and approval of a planned unit development ("PUD") for Square 24, Lots 109 and 883 (the "Application"). The Commission considered the Application pursuant to Chapters 24 and 30 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR"). The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons discussed herein, the Commission hereby approves the Application, subject to conditions.

FINDINGS OF FACT

Application, Parties, and Hearing

1. The project site consists of Square 24, Lots 109 and 883 (the "Property") and fronts on 25th Street N.W. between M and N Streets, N.W. The Property contains approximately 75,317 square feet of land area (approximately 1.66 acres) and is located in the CR Zone District. The Property is currently occupied by three office buildings commonly referred to as the BNA buildings.

2. The Application for consolidated review and approval of a PUD was submitted on July 11, 2006 by CESC 1229-1231 TRS, Inc. and CESC 1227 LLC, the contract purchaser of the Property, on behalf of BNA Washington, Inc., the owner of the Property ("Owner"). Ex. _ (PUD Application dated July 7, 2006).

3. During its public meeting on November 13, 2006, the Commission unanimously voted to set down the case for a hearing. Notice of the public hearing, including a description of the subject property and the proposed development, was published in the *D.C. Register* ("*DCR*") on December 29, 2006, 53 *DCR* 10306, and was mailed to all property owners within 200 feet of the subject property and to Advisory Neighborhood Commission ("ANC") 2A.

4. The Application was updated by a 60-day pre-hearing submission filed on November 20, 2006, a 20-day pre-hearing submission filed on March 6, 2007, and the Applicant's presentation at the public hearing. See Ex. 17 (60-Day Pre-Hearing Submission, Nov. 20, 2006); Ex. 27 (20-Day Pre-Hearing Submission, Mar. 6, 2007); Ex. 31 (Presentation, Mar. 26, 2007).

5. Parties in this proceeding were the Applicant, ANC 2A, the Friends of Francis Field ("FFF") as a party in support of the Application, and the Whitman Place Condominium Association ("WPCA") as a party in opposition. The Commission opened and closed the public hearing on March 26, 2007. During the public hearing, the Commission heard testimony and received evidence from the parties and the Office of Planning ("OP"), as well as from ANC 2B and from persons in support of or in opposition to the Application.

6. The Applicant further refined the plans and drawings in response to the Commission's comments and concerns at the public hearing, and submitted the revisions with other information requested by the Commission. Ex. 40 (Post-Hearing Submission, Apr. 9, 2007).

7. At a public meeting on May 14, 2007, the Commission took proposed action by a vote of 4-0-1 to approve the Application with conditions.

8. The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") pursuant to § 492 of the District Charter. NCPC, by action dated May 31, 2007, found the proposed PUD would not affect the federal interests in the National Capital, and would not be inconsistent with the Comprehensive Plan for the National Capital.

9. The Commission took final action to approve the Application on July 9, 2007 by a vote of 4-0-1.

Overview of the PUD Site

10. The Property is located at 1227–1231 25th Street N.W. (Lots 109 and 883 in Square 24). The Property consists of approximately 75,317 square feet of land area. It is located approximately six blocks from both the Foggy Bottom-GWU and Dupont Circle Metrorail stations. The Property is located in the West End neighborhood of Ward 2, and is within the boundaries of ANC 2A. The Property is currently improved with one 85-foot office building at 1227 25th Street (the "1227 Building") and two 68-foot office towers at 1229-1231 25th Street, connected at the ground level to create one building (the "1229-1231 Building"). They are collectively known as the BNA buildings.

11. The West End neighborhood is characterized by a mixture of land uses, including predominantly high-rise office buildings, hotels and apartment houses. The Property is

located at the western edge of the neighborhood, across 25th Street from Francis Field, which is operated by the D.C. Department of Parks and Recreation ("DPR"). To the west of Francis Field is Rock Creek Park. To the immediate north is a mixed-use office and residential structure, approved as a PUD in Z.C. Order No. 573-A, which contains the American Association of Medical Colleges ("AAMC") and the Whitman Place condominiums. Across N Street from the mixed-use building that houses the AAMC and Whitman Place is Francis Junior High School. To the east is the headquarters of the World Wildlife Fund ("WWF"), which was approved as a PUD in Z.C. Order No. 453. To the south of the site is an office building. Two other buildings in the square contain office, hotel, and ground-floor retail uses.

12. The District of Columbia Generalized Land Use map indicates that the Property is located in the Mixed-Use High-Density Residential/Medium Density Commercial Land Use category. Surrounding properties are also located in that category. Francis Field and Rock Creek Park to the west across 25th Street are located in the Parks, Recreation, and Open Space category.

13. The structures that compose the 1229–1231 Building were approved for development by the Board of Zoning Adjustment ("BZA") in Orders No. 8549 (March 15, 1966) and 11157 (December 11, 1972). The structures were constructed in what was then the C-M-2 zone to a maximum floor area ratio ("FAR") of 4.0 and a height of 68 feet, and contained office use. In the mid-1970s, the Commission rezoned the West End to the CR Zone District, and the structures became nonconforming as to FAR.

14. The 1227 Building, was constructed in the mid-1980s according to the requirements of the CR District for structures devoted to non-residential uses, and was built to a height of approximately 85 feet. The 1227 Building has a density of 3.64 FAR on Lot 109 alone; however, it is subject to a covenant, dated May 25, 1984, with the owner of Lot 880. As a result of the covenant, the 1227 Building achieves a conforming density of 3.0 FAR. The 1227 Building also holds two variances, per BZA Order No. 14336 (February 12, 1986), for a nonconforming side yard and to allow attendant parking.

PUD Project

15. The proposed project is a mixed-use development of residential and office uses that is intended to create an active pedestrian-oriented environment within walking distance of both the Foggy Bottom-GWU and Dupont Circle Metrorail Stations.

16. The Applicant will convert the 1229-1231 Building from office use to residential use, expand the current ground-level connection for the entire height of the structure, and add four floors to the building (the "Residential Building"). The new building will measure 110 feet tall.

a. The existing precast concrete and glass exterior of the 1229-1231 Building will be completely removed. The new street and open court façades will be constructed of a highly articulated metal and glass curtain wall, and will feature glass and metal railed projecting and inset balconies. The side and rear façades will be constructed of brick, and some units will feature metal railed balconies.

b. As part of the conversion, the interior courtyard footprint will be expanded to provide more light and air and offer residents better views and exposure. The existing bay on the north side of the south tower will be shaved away by approximately one bay in order to open the courtyard, and will be replaced with a new angled wall that will maximize views to the park across the street. The new Residential Building will feature setbacks at the 7th, 9th, and 10th floors to diminish the apparent height and massing, and to provide significant private terraces. Additionally, the building will feature a rooftop pool and deck, open to all residents.

c. The expanded courtyard will be landscaped to provide a semi-private realm for the residents of the Residential Building and extend the greenery of the park into the site. New trees and groundcover at the sidewalk entrance will enhance the pedestrian experience along 25th Street.

d. The Residential Building will include approximately 7,667 gross square feet of affordable housing for residents earning up to 80 percent of the average median income ("AMI"), which is consistent with requirements for PUDs generating office use as well as new housing units. This amount of affordable housing will satisfy the housing linkage requirement for the office portion of the PUD and will exceed the requirements of the Inclusionary Zoning regulations approved by the Commission in Z.C. Order No. 04-33 ("IZ") as they apply to the residential portion of the PUD. In order to properly analyze the distinct affordable housing requirements for this project, the Applicant analyzed the residential and office structures as stand-alone buildings based on their underlying lots.

e. In response to concerns from WPCA, the original design was modified to incorporate an approximately 10-foot setback of the top floor of the Residential Building. Additionally, the roof structure heights were reduced. As demonstrated by shadow studies presented by the Applicant at the public hearing, this setback will minimize the effect of the additional height requested through the PUD on the Whitman Place condominiums. In addition, the Applicant set back the northern line of the proposed rooftop trellis approximately two feet in order to eliminate additional shadow that might otherwise be created by the trellis. In response to concerns expressed by the Commission at its May 14, 2007 public meeting, the Applicant proffered a design that further reduced the size of the trellis, which will be significantly set back from the west-edge of the building.

17. The Applicant also proposed to add two floors to the 1227 Building (the "Office Building") as part of the PUD, and to continue the existing office and office-related retail uses in the building. The Office Building will be expanded to 110 feet high. The existing precast concrete and ribbon-glazed exterior of the Office Building will remain, while the two-story rooftop addition will be constructed of metal panels and glass curtain wall and will feature a prominent cornice. A new metal canopy will extend from the 25th Street sidewalk along the south side yard to the main building entrance at the middle of the south façade.

18. The project will use the existing parking garages and loading facilities in both buildings, which will allow for separate parking garages and loading docks for the residential and office uses. Garage access ramps are located along 25th Street, N.W. The PUD features approximately 249 spaces for the Residential Building and approximately 112 spaces for the Office Building. Loading will be achieved through the existing private alley system in Square 24. The Residential Building's loading area will be accessed from the alley to the north of the building, and the Office Building's loading area will be accessed by the alley between the two buildings.

19. The project's adaptively reuse of the existing structures on the site will eliminate the most disruptive practices commonly associated with construction (i.e. excavation and blasting) and reduce the impact of demolition and new construction work. Further, the Applicant proposed a construction management plan for the Residential Building derived from agreements executed and successfully implemented previously at other developments in the District. Among other things, the proposed agreement included jobsite rules applicable to site management, cleanliness, deliveries, work hours, traffic restrictions, parking, and truck management, as well as provisions to establish lines of communication among the developer, general contractor, and the community. The Applicant revised its initial proposed construction management plan to expand the methods of communication and response, clarify and detail the jobsite rules and restrictions, and incorporate a dispute resolution mechanism and schedule of fines. The revised construction management plan includes the WPCA as well as the adjacent AAMC and WWF office buildings.

20. The project will be phased, with the Residential Building being constructed first, as detailed in Condition 1 of this Order.

21. The total gross floor area included in the proposed PUD is approximately 466,713 square feet for a total density of approximately 6.2 FAR. Both new buildings will have a height of 110 feet, with setbacks in the Residential Building as described above. The project will have a lot occupancy of approximately 70 percent. The project's density will be

slightly above the maximum permitted as a matter-of-right and less than what is permitted under the PUD guidelines for the CR District (maximum density of 8.0 FAR and a maximum building height of 110 feet).

PUD Evaluation Standards

22. The Property is located in the CR Zone District. The CR zone permits a density of 6.0 FAR, of which no more than 3.0 FAR may be devoted to the non-residential uses. The maximum height allowed in the CR Zone District is 90 feet as a matter-of-right. Under the IZ regulations, the project would be able to achieve a height of 100 feet and density of 7.2 FAR as a matter-of-right provided it included the required amount of affordable housing, and OP indicated that the amount of affordable housing proposed meets the IZ requirements. The project's density is less than that permitted as a matter-of-right under IZ, and its height represents an increase of 10 feet over that permitted as a matter-of-right under IZ.

23. The Applicant has requested approval to construct the buildings to a height of 110 feet and density of 6.2 FAR, which is within the PUD standards set forth in 11 DCMR § 2405. In addition to height and density flexibility within the CR Zone District PUD guidelines, the Applicant requested relief from the rear and side yards, court, roof structures, parking (drive aisles and width), and loading requirements, which are triggered by adaptive reuse of the existing structures and, for the 1229-1231 Building, its conversion to residential use.[2]

24. The Commission of Fine Arts ("CFA") has jurisdiction over the Property. The Applicant received concept approval for the project from CFA in June 2006, and letters indicating that approval were included with the Application. The Applicant will continue to work with CFA and respond to comments and concerns. The Applicant, therefore, requested flexibility to address design refinements and materials selections that may be requested by CFA prior to the issuance of building permits.

25. The project will not cause adverse traffic impacts, as demonstrated by the Applicant's Traffic Study and the testimony presented by the Applicant's traffic consultant, recognized by the Commission as an expert, during the public hearing. According to the Applicant's traffic consultant, the project will have negligible impacts, due in large part to relatively low levels of automobile use. The Applicant will implement and maintain a Transportation Management Plan ("TMP") in order to continue to maintain strong levels of transit use. The Applicant committed to controls on the time and use of the residential loading dock as a condition of approval of the PUD.

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[2] The Applicant originally also requested relief from the residential recreation space requirement. The publication of Z.C. Order No. 05-02 on April 6, 2007, however, eliminated the need for relief from that requirement.

26. As detailed in Applicant's testimony and written submissions, the proposed PUD will provide the following project amenities and public benefits.

    a. Housing. The project will create new housing opportunities consistent with the Zoning Regulations and Comprehensive Plan as well as District planning policies. The conversion and expansion of the 1229-1231 Building from office to residential use will create approximately 275 to 295 residential units.

    b. Urban Design, Architecture, and Open Spaces. The project exhibits characteristics of exemplary urban design and architecture. The Residential Building will feature a clean, modern, glassy façade and a semi-public landscaped open courtyard that engage the pedestrian, and will have a green roof over a significant portion of the main roof that will provide both environmental and aesthetic benefits. The Residential Building will be open to neighboring open space, providing its residents with views of Rock Creek Park and Georgetown. The project will result in streetscape improvements along both sides of 25th Street as well as improvements to nearby Francis Field. As a result, the project design also respects and enhances surrounding public spaces.

    c. Site Planning, and Efficient and Economical Land Uses. The Project will utilize the existing structural footprint of the 1229–1231 Building, but will expand and refine it to create a desirable residential building that will offer ample light, air, and privacy to its residents. The Project was designed to provide open and inviting public and private spaces for entertainment and relaxation, including the spacious public court in the front of the building, a rooftop sun deck and pool, and, for a number of units, private terraces. The PUD will efficiently replace a mid-1960s office building with an attractive 21st-century residential development, yet will use the existing structural footprint and foundation to reduce the impact of development on the surrounding community.

    d. Uses of Special Value. The PUD will include the following benefits to the surrounding neighborhoods as well as the District as a whole.

        i. *Streetscape Improvements*. As shown on the plans, the project includes unique paving, landscaping, and streetscape elements for portions of both sides of 25th Street in front of the Property that will create a vibrant urban street environment. Specifically, the Applicant will make appropriate streetscape improvements, including sidewalk, curb, and gutter improvements as well as street trees and lighting improvements designed to enhance the streetscape, that are consistent with existing improvements in the area.

        ii. *Francis Field—Fence*. As part of the streetscape improvements to 25th Street, the Applicant will replace the existing chain-link fence around Francis Field with a new ornamental metal fence.

iii. *Francis Field—Other Improvements*. In addition to the new fence, the Applicant will (1) prepare a landscape plan for Francis Field that includes the addition of trees, park lighting, furniture, trash receptacles, and a drinking fountain and (2) following approval by DPR, install the improvements, valued at $150,000.

iv. *Francis Junior High School*. The Applicant will contribute needed computer equipment, library improvements, air conditioners, software, and signage to Francis Junior High School, valued at $150,000.

v. *Construction Management Plan*. The Applicant's adaptive reuse of existing structures will reduce the construction impact of the project. The Applicant developed a construction management plan in conjunction with its residential and office neighbors that will provide jobsite rules applicable to site management, cleanliness, deliveries, work hours, traffic restrictions, parking, and truck management; provisions to ensure communication among the developer, general contractor, and the community; and a dispute resolution mechanism and schedule of fines.

e. Environmental Benefits. The Applicant will utilize a variety of sustainable strategies that achieve the equivalent of a minimum score of 20 points for the Residential Building and 16 points for the Office Building under U.S. Green Building Council's LEED for New Construction, version 2.2. Additionally, as shown on the plans, the Residential Building will feature a partial green roof.

f. Employment and Training Opportunities. In order to further the District's policies relating to the creation of employment and training opportunities, the Applicant will participate in a First Source Agreement with the District of Columbia Department of Employment Services. The Applicant will also enter into a Memorandum of Understanding with the D.C. Small and Local Business Opportunity Commission.

Government Agency Reports

27. By report dated March 16, 2007, and by testimony at the public hearing, OP recommended approval of the project. OP testified that the project would complement the character of the area through improved architecture and enliven the block through the conversion from office to residential use, and that the Property was an appropriate location for such conversion because of its proximity to Francis Field and Rock Creek Park. OP testified that the impact on services was not unacceptable and would indeed have a positive impact on the continued improvement of the area. OP testified that the proffered amenities were commensurate with the relief requested. OP testified that the project was consistent with the mix of High-Density Residential and Medium-Density Commercial Land Use map designations for the site, would further the goal of

strengthening residential neighborhoods, and would remain consistent with the land use policies of the Comprehensive Plan. OP also testified that the Project was consistent with the major themes of the Comprehensive Plan, including stabilizing and improving District neighborhoods, respecting and improving the physical character of the District, and preserving and ensuring community input. OP further found that the project was consistent with the Housing and Ward 2 Elements of the Plan. OP found that the relief requested was largely due to existing conditions and would neither create any further difficulty for the surrounding neighborhood nor affect the intent or integrity of the Zoning Regulations. Finally, OP also testified that the project was consistent with elements of the 2006 Comprehensive Plan passed by the Council of the District of Columbia and pending final Congressional approval.

28. The District Department of Transportation ("DDOT"), by reports dated October 16, 2006 and March 26, 2007, supported approval of the project based on its analysis that the project will have a negligible impact on local streets and that the Applicant's TMP was a proactive method for addressing future traffic demand. DDOT noted that the existing column grid of the 1229-1231 Building created the need for relief from the drive aisle and parking space width requirements of the Regulations. DDOT also stated that the private alley system and loading could accommodate the project's loading requirements, as residents moving in and out of units typically reserve the loading ahead of time and use of the loading berth could be managed by the property owner.

ANC Report

29. ANC 2A, by letter dated February 28, 2007, indicated that at a regularly-scheduled meeting on February 21, 2007, the ANC approved a motion to protest the Application on the grounds that the amenities package was inadequate and that an appropriate construction management agreement had not been reached. However, at the public hearing, the ANC 2A representative indicated that ANC 2A now supported the Application based on the provision of additional amenities to Francis Field. ANC 2A's support was conditioned on the provision of satisfactory construction management and loading plans. ANC 2A's representative noted that the amenities would make a notable difference in improving the character and appearance of the immediate neighborhood as well as the conditions at Francis Junior High School.

30. A representative of ANC 2B testified in support of the PUD at the public hearing. The representative observed that the amenity package was remarkable in part because it included improvements to Francis Junior High School, which was located within the jurisdiction of ANC 2B.

Party and Person in Support

31. FFF, a neighborhood organization devoted to the improvement of Francis Field, testified in support of the application. Representatives of FFF indicated particular support for the conversion to residential use, the landscape and streetscape improvements to both sides of 25th Street, the new fence along Francis Field, and the design improvements to Francis Field.

32. One individual, a resident located approximately one block of the Property, submitted a letter in support of the PUD. The individual also expressed concern about lighting and security in the immediate neighborhood.

Party and Person In Opposition

33. WPCA appeared as a party in opposition. A representative of WPCA testified regarding (1) the height of the Residential Building, (2) the impact of the building on parking and traffic, (3) the construction impacts, and (4) the adequacy of the amenities. The WPCA representative noted appreciation for the Applicant's outreach to WPCA and the design modifications that ameliorated the impacts. The WPCA representative also indicated that a satisfactory construction management plan would include clear language that provides for the workable enforcement of its terms, and include liaisons to the community, a dispute resolution mechanism, and a schedule of fines for violations. The WPCA representative indicated that the amenities package would improve the neighborhood and represented a positive result of the project.

34. One individual, a resident of the Whitman Place condominiums, testified in opposition to the Application at the public hearing, but also noted that the Applicant had demonstrated a commitment to open communication and observed that the setbacks were a welcome design revision.

Compliance with PUD Standards

35. In evaluating a PUD application, the Commission must "judge, balance, and reconcile the relative value of project amenities and public benefits offered, the degree of development incentives requested and any potential adverse effects." 11 DCMR § 2403.8. The Commission finds that the development incentives and requested flexibility from the Zoning Regulations are appropriate and are justified by the benefits and amenities offered by this project.

36. The Commission credits the testimony of the Applicant, OP, ANC 2A, FFF, and WPCA and finds that the proposed conversion to housing, superior architecture and design, streetscape improvements including the new fence along Francis Field, improvements to

Francis Field, improvements to Francis Junior High School, construction management plan, and sustainable design elements all constitute project amenities and public benefits.

37. The Commission also finds that the project's public benefits and project amenities relating to housing; urban design, landscaping, and open space; site planning; uses of special value to the neighborhood and District as a whole; environmental benefits; and job training and employment opportunities to be either superior or acceptable.

38. The Commission finds the Property is a suitable site for the proposed PUD and that the character, scale, mix of uses and design of the project are appropriate, and finds that the site plan is consistent with the intent and purposes of the PUD process to encourage high quality developments that provide public benefits.

39. The Commission finds that the Applicant has offered to provide approximately 7,667 gross square feet of affordable housing for residents earning up to 80 percent of the average median income, which is consistent with requirements for PUDs generating office use and exceeds the requirements of the IZ regulations approved by the Commission as they apply to the residential portion of the PUD.

40. The Commission credits the testimony of OP that the project provides benefits and amenities of substantial value to the community and the District that are commensurate with the additional density and height sought through the PUD. Further, the Commission credits OP's testimony that the impact of the PUD on the level of services is not unacceptable.

41. The Commission credits the testimony of OP that the PUD is consistent with many of the major themes of the Comprehensive Plan. It will stabilize and improve the West End neighborhood by creating new housing opportunities, and will respect and improve the physical character of the District by providing an exceptional high-quality and pedestrian-oriented design containing significant public spaces at a transit-oriented location. The Applicant's continued dialogue with ANC 2A and members of the community has ensured community input. The Commission credits the testimony of OP that the project is also consistent with many of the Comprehensive Plan's major elements, including the Land Use, Housing, and Ward 2 Elements.

42. The Commission credits the testimony of the Applicant's transportation consultant and DDOT and finds that the traffic and other impacts of the project on the surrounding area are negligible and that the TMP will proactively address future transportation issues and ensure continued high levels of transit use.

43. The Commission finds that the Applicant's top story setback, reduced roof structure heights, and further design revisions to the trellis made in Exhibit B to the of the Applicant's letter to the Commission dated May 21, 2007 will mitigate the impact of the

additional 10 feet of height requested through this PUD above the matter-of-right development available under IZ.

44. The Commission finds that the Applicant's proposed construction management plan, which, as revised, includes clear terms providing jobsite restrictions, communication between the developer and the community, and a dispute resolution mechanism and a schedule of fines, as well as a system for timely response and resolution of typical construction issues, is a public benefit as a proffer not available under matter-of-right development.

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process provides a means for creating a "well-planned development." The objectives of the PUD process are to promote "sound project planning, efficient and economical land utilization, attractive urban design and the provision of desired public spaces and other amenities." (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, the Commission has the authority to consider this Application as a consolidated PUD. (11 DCMR § 2402.5) 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 and loading, yards, or courts. The Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the BZA. (11 DCMR § 2405)

3. The development of the project will implement 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 and that would not be available under matter-of-right development.

4. The Application meets the minimum area requirements of § 2401.1 of the Zoning Regulations.

5. The Application meets the contiguity requirements of § 2401.3.

6. The PUD is within the applicable height and density standards of the Zoning Regulations. The proposed height and density will not cause a significant adverse effect on any nearby properties, is consistent with the height and density of surrounding properties, and is appropriate given the location within walking distance of two Metrorail stations. The

mix of residential and commercial uses is appropriate for the site, which is located in the high-density mixed-use West End neighborhood.

7. The impact of the project on the surrounding area is not unacceptable. As demonstrated in the traffic study submitted by the Applicant, the project will not cause adverse traffic impacts and the Property is located in close proximity to mass transit.

8. The Application can be approved with conditions to ensure that any potential adverse effects on the surrounding area from the project will be mitigated.

9. The Application seeks an increase in height and density as permitted under the PUD guidelines. The Application also seeks flexibility from the building control, rear and side yards, court, parking, loading, and roof structure requirements. The benefits and amenities provided by the project, particularly the conversion of office space to housing, the superior design of the buildings, the sustainable design features, the construction management plan, and the contributions toward public neighborhood facilities and institutions, are all reasonable trade-offs for the requested development flexibility.

10. Approval of the PUD is not inconsistent with the Comprehensive Plan, including the current designation of the Property as part of the Mixed-Use High-Density Residential/Medium-Density Commercial Land Use category. The PUD is also consistent with and fosters the goals and policies stated in the elements of the Comprehensive Plan. The project is consistent with the following major themes of the Comprehensive Plan: stabilizing the District's neighborhoods, respecting and improving the physical character of the District, and preserving and ensuring community input. The project is also consistent with many major elements of the Comprehensive Plan, including the Land Use, Housing, and Urban Design elements, as well as the goals and policies of the Ward 2 Element, especially the objective to assist in the completion of residential development in the West End.

11. The Commission is required under D.C. Official Code § 1-309.10(d)(3)(A) (2001) to give "great weight" to the issues and concerns of the affected ANC. As is reflected in the Findings of Fact, ANC 2A testified in support of approving the application. The Commission agrees with the ANC that this project should be approved.

12. The PUD will promote orderly development of the Property in conformance with the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.

13. The 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 contained in this Order, the Zoning Commission for the District of Columbia orders **APPROVAL** of the application for a consolidated review and approval of a planned unit development for property consisting of Square 24, Lots 109 and 883 (the "Property"). This approval is subject to the following guidelines, conditions, and standards, the satisfaction of which is the joint and several responsibility of the owner of the subject property and the Applicant, except where only the Applicant is referenced:

1. This PUD shall be developed in accordance with the plans prepared by Shalom Baranes Associates marked as Exhibits 27, 31, and 40 in the record, as modified by guidelines, conditions, and standards herein and as further revised by Exhibit B to the Applicant's Letter dated May 21, 2007 (Exhibit No. 45).

2. The project shall be developed as a mixed-use development and constructed to maximum density of 6.2 FAR. The height of the buildings shall measure 110 feet. The total lot percentage of the project shall not exceed 70 percent.

3. Approximately 323,380 square feet of gross floor area shall be devoted to residential use, resulting in approximately 275 to 295 units in the Project.

4. Approximately 143,333 square feet of gross floor area shall be devoted to office use.

5. Of the residential gross floor area for the project, a minimum of approximately 7,667 gross square feet, which represents 25 percent of the proposed increase in office spaces of 30,668 square feet, shall be devoted to affordable housing for residents with an income that is no greater than 80 percent of the area median income. The required affordable housing shall be distributed evenly throughout the lower half of the residential building, and shall reflect the overall unit mix of the building.

6. The project shall include parking as shown on the plans. The project shall make available at least two parking spaces for car-sharing purposes in the residential garage. The project shall also include at least 30 bicycle spaces in the residential garage and 12 bicycle parking spaces in the office garage.

7. The project shall provide off-street loading consistent with the approved plans. For the Residential Building loading dock: (i) move-ins and move-outs shall be done through the building loading dock; (ii) loading dock operation shall be scheduled between the hours of 7:00 a.m. to 7:00 p.m.; and (iii) building move-ins and move-outs shall be scheduled with building management in advance for three-hour blocks of time, with one move-in scheduled per three-hour block. No more than one simultaneous operation shall be permitted.

8. The project shall comply with the transportation management plan ("TMP") included with the final Traffic Impact Analysis dated March 5, 2007 and marked as Exhibit 27 in the record. In addition to the carsharing and bicycle parking spaces detailed in Condition 6 of this Order, the TMP shall include the following components.

    a. All new residents, upon move-in, shall receive a complimentary WMATA SmarTrip card (or its functional equivalent) with a $20 balance in order to encourage mass transit;

    b. An on-site business center shall be provided in the Residential Building;

    c. A member of the Residential Building's management shall be designated as the individual responsible for coordination and implementation of transportation demand management measures; and

    d. Employees in the Office Building shall be provided carpool spaces for registered rideshare groups. These parking spaces will be assigned and conveniently located as an incentive to form carpools. Additionally, a member of the building management for the Office Building shall be designated as the individual responsible for coordination and implementation of the carpool incentive program.

9. The project shall include the low-impact development features specified in Exhibit 32 of the record, including the following features:

    a. Provision of a green roof on the residential component, as shown on the plans marked as Exhibits 27 and 31 in the record.

    b. Sustainable strategies which will achieve the equivalent of a minimum score of 20 points for the residential component and 16 points for the office component under U.S. Green Building Council's LEED for New Construction, version 2.2. For purposes of this Condition, "office component" and "residential component" shall incorporate all shared components of the Project.

10. No certificate of occupancy for any building approved by this Order shall be issued until the following amenities have been provided:

    a. Francis Junior High School: contribution of computer equipment, library improvements, air conditioners, software, and signage to Francis Junior High School consistent with the Memorandum of Understanding included as Exhibit 25 of the record, valued at $150,000.

    b. Francis Field: contribution of design, materials, and labor for improvements to Francis Field to (1) prepare a landscape plan for Francis Field that includes the addition of trees, park lighting, furniture, trash receptacles, and a drinking fountain

and (2) following approval by DPR, install the improvements, consistent with the Memorandum of Understanding included with Exhibit 40 of the record, valued at $150,000.

c. The landscape and streetscape improvements to 25th Street, N.W., in accordance with the plans marked as Exhibits 27, 31, and 40 of the record. These improvements shall include, subject to approval by the appropriate District agency or agencies, the removal of the existing chain-link fence along the west side of 25th Street N.W. and replacement with an ornamental metal fence.

11. The Applicant shall abide by the terms of the Development and Construction Management Plan included with Exhibit 45 of the record.

12. The Applicant shall have flexibility with the design of the PUD in the following areas:

a. To vary the exterior design, signage, and landscaping in accordance with the final plans reviewed by the Commission of Fine Arts.

b. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, elevators, and toilet rooms, provided that the variations do not change the exterior configuration or appearance of the structures.

c. To vary final selection of the exterior materials within the color ranges and materials types as proposed based on availability at the time of construction.

d. To make minor refinements to exterior details and dimensions, including balcony enclosures, belts, courses, sills, bases, cornices, railings, and trim, or any other changes to comply with Construction Codes or that are otherwise necessary to obtain a final building permit.

e. To make alterations to the parking garage design, which need not conform to the parking garage requirements of the Zoning Regulations regarding aisle width and parking space width, provided that the office parking garage contains approximately 112 spaces and the residential parking garage contains approximately 249 spaces, which requirement may be satisfied with any combination of handicapped, full, compact, tandem, tandem compact, and valet spaces.

13. The Applicant shall enter into a Memorandum of Understanding with the Department of Small and Local Business Opportunity Commission.

14. The Applicant shall enter into a First Source Employment Agreement with the Department of Employment Services.

15. No building permit shall be issued for this PUD until the Applicant has recorded a covenant among the land records of the District of Columbia between the owners, the Applicant, and the District of Columbia that is satisfactory to the Office of the Attorney General and the Zoning Division of the Department of Consumer and Regulatory Affairs. Such covenant shall bind the Owner, the Applicant, and all successors in title to construct on or use the Property in accordance with this Order, including, but not limited to, the affordable housing condition, and any amendment thereof by the Zoning Commission.

16. The Office of Zoning shall not release the record of this case to the Zoning Division of DCRA until the Applicant has filed a copy of the covenant with the records of the Zoning Commission.

17. The PUD approved by the Commission shall be valid for a period of two (2) years from the effective date of this Order. The Applicant shall have the flexibility to construct the project in two phases: Phase 1 consists of the Residential Building and Phase 2 consists of the Office Building. Within such time, an application must be filed for building permit for Phase 1 as specified in 11 DCMR § 2409.1. Construction shall commence on Phase 1 within three (3) years from the effective date of this Order. The PUD shall vest upon the issuance of a certificate of occupancy for Phase 1.

18. The Applicant and Owner are 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 section 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, sexual orientation, familial status, family responsibilities, matriculation, political affiliation, disability, source of income or place of residence or business. Sexual harassment is a form of sex discrimination, which is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The failure or refusal of the Applicant to comply shall furnish grounds for the denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this Order.

On May 14, 2007, the Zoning Commission **APPROVED** the Application by a vote of 4-0-1 (Anthony J. Hood, Gregory N. Jeffries, Michael G. Turnbull, and John G. Parsons to approve; Carol J. Mitten not having participated, not voting).

This Order was **ADOPTED** by the Zoning Commission at its public meeting on July 9, 2007 by a vote of 4-0-1 (Gregory N. Jeffries, John G. Parsons, Anthony J. Hood, and Michael G. Turnbull to approve; Carol J. Mitten not having participated, not voting).

In accordance with the provisions of 11 DCMR § 2038, this Order shall become final and effective upon publication in the D.C. Register; that is, on OCT 12 2007.

ANTHONY J. HOOD
Vice Chairman
Zoning Commission

J ERRILY R. KRESS, FAIA
Director
Office of Zoning