

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 512
Case No. 86-1C
December 8, 1986
(Boston Properties - PUD)

Pursuant to notice, a public hearing was held by the Zoning Commission for the District of Columbia on July 17 and 24, 1986. At those hearing sessions, the Zoning Commission considered an application from the Square 35 Residential Joint Venture for consolidated review and approval of a Planned Unit Development (PUD) and related map amendment, pursuant to Sections 7501 and 9101 of the Zoning Regulations of the District of Columbia. The public hearing was conducted in accordance with the provisions of the Chapter 6 of the Rules of Practice and Procedure before the Zoning Commission.

FINDINGS OF FACT

1. The application, which was filed on February 6, 1986, requests consolidated review and approval of a PUD and related change of zoning for lot 802 in Square 35 from R-5-B to CR. The developer of the PUD site is Boston Properties.
2. The PUD site includes portions of public alleys immediately to the north and west of lot 802, which are proposed to be closed.
3. The PUD site is in the West End area of the city, is bounded by 23rd street to the east, N street to the south, Francis Junior High School to the west, and Rock Creek Park to the north; and consists of approximately 24,460 square feet of land area including approximately 21,328 square feet for lot 802, and approximately 3,132 square feet for the alleys.
4. The applicant proposes to construct a mixed-use residential and office building.
5. On March 10, 1986, the Zoning Commission authorized the scheduling of a public hearing for this case and determined that it would also

consider C-2 rezoning in addition to the requested CR rezoning.

6. The R-5-B District permits matter-of-right medium, high density development of general residential uses, including single-family dwellings, flats, and apartment buildings, to a maximum height of sixty feet, a maximum floor area ratio (FAR) of 1.8, and a maximum lot occupancy of sixty percent.
7. The C-2-A District permits matter-of-right low density development, including office, retail, and all kinds of residential uses, to a maximum floor area ratio (FAR) of 2.5 residential uses, to a maximum floor area ratio (FAR) of 2.5 with non-residential uses Limited to 1.5 FAR, maximum height of fifty feet, and a maximum lot occupancy of sixty percent for residential uses,
8. The G-2-E District permits matter-of-right medium density development, including office, retail, housing, and mixed uses to a maximum height of sixty-five feet, a maximum floor area ratio (FAR) of 3.5 for residential and 1.5 for other permitted uses, and maximum lot occupancy of eighty percent for residential uses.
9. The C-2-C District permits matter-of-right high density development, including office, retail, housing, and mixed uses to a maximum height of ninety feet, a maximum floor area ratio (FAR) of 6.0 for residential and 2.0 far other permitted uses, and a maximum lot occupancy of eight percent.
10. The CR District permits matter-of-right residential, commercial, and certain light industrial development to a maximum height of ninety-feet, a maximum floor area ratio (FAR) of 6.0 far residential and 3.0 for all other permitted uses, and a maximum lot occupancy of seventy-five percent for residential uses.
11. Under the PUD process of the Zoning Regulations, the Zoning Commission has the authority to impose development conditions, guidelines and standards which may exceed or may be less than the matter-of-right standards identified above. The Zoning Commission may also approve uses that are permitted as a Special Exception by the Board of Zoning Adjustment.
12. Lot 802 is rectangular in shape, and is presently used as a parking lot serving employees of U.S.

News and World Report, which occupies a portion of adjacent Square 24, The parking lot contains fifty-seven lined parking spaces with an actual capacity of approximately eighty-five vehicles and has been used as a parking lot since 1961. Before it became a parking lot, lot 802 contained fifteen row structures that were used for residential purposes.

13. The surrounding area is characterized by a mix of residential, commercial, and recreational land uses. The remaining portion of Square 35, to the north of the PUD site, consists of four public tennis courts. These courts are contained within unzoned federal land under the jurisdiction of the D.C. Department of Recreation. Squares to the south of the site are zoned CR and are occupied by office buildings and hotels either newly constructed or currently under construction. Other uses in these southern Squares include retail, service, embassy and residential uses. Squares to the west of the site contain the Francis Junior High School. and additional recreational uses (Francis Swimming Pool). Squares east of the site are zoned R-5-B and are occupied by residential uses in the form of apartment buildings, townhouses, and row dwellings.
14. The District of Columbia Generalized Land Use Element of the Comprehensive Plan includes the PUD site in the Parks, Recreation and Open Space land use category.
15. The applicant, by revised plans submitted at the public hearing, proposes to construct a sixty-five foot six-story mixed use building, The office component is located on the west end of the building and consists of 45,626 square feet of floor area. The residential component is located on the east end of the building and consists of 53,468 square feet of floor area.
16. The project includes forty-eight (48) dwelling units, a floor area ratio of 4.05, (2.18 FAR residential and 1.87 FAR office) a lot occupancy of 74.9 percent, a penthouse party room of approximately 675 square feet, and a two-level underground parking garage containing parking spaces for ninety-nine cars. The dwelling units will include studio, one-bedroom and two-bedroom units, ranging in size from 570 to 1,640 square feet,

17. The project has a roof-line that stepsdown from the roof of the office component to the roof of the fourth floor, providing three twelve-foot, six-inch terraces for use by occupants of the building. The applicant indicated that this stepped design emphasizes the reduced scale of the building to the east and creates the visual effect of a 24th Street gateway to Rack Creek Park.
18. The applicant's architect testified that the project's design is sensitive to the unique aspects of the site and its surroundings, and it harmonizes with the existing improvements in the neighborhood. The project's design reflects community and city concerns for design features, building materials and color.
19. The office and residential facades utilize alternating brick and pre-cast concrete horizontal banding as a unifying element. The residential component has projecting balconies and bays which are reminiscent of the bays and corner turrets of the rowhouses to the east. The fireplace chimneys further suggest the residential nature of the building and create a picturesque roofscape. The residential component of applicant's mixed-use proposal, at fifty-four percent of the project's total gross floor area, constitutes a substantial commitment to residential use and provides an opportunity to construct substantially more dwelling units than would otherwise be provided under R-5-B conventional zoning.
20. The development will relate favorably to development in the entire area, including its function as a transition structure. The site is now an isolated piece of private property, is used as a parking lot, and is not a part of or located within any residential neighborhood. In its present use, the property relates most closely to the West End and is consistent with its mixed-use character. The land planner also testified that the project is compatible with Francis Junior High School.. The circulation scheme proposed for traffic entering and exiting the building will result in a lower impact on the school during the morning peak hours than the present configuration.
21. The development will enhance the park and public facilities, through the various amenities to be provided. Those amenities will make the facilities more enjoyable and usable for the general public, while their very existence will enhance the project set-ting for its occupants,

22. The PUD is consistent with the Comprehensive Plan because of the mixed-use character of the project. It will also add to the housing stock in the West End through conversion of a parking lot to residential and office use and, by combining offices with a residential component, will meet the desire for time providing a reasonable transition to the residential neighborhood east of 23rd Street. The project will add to economic development of the area and, because of its convenient location in relation to Metrorail and Metrobus operations, directly coincides with transportation goals.
23. Finally, in compliance with urban design elements of the Comprehensive Plan, the project will improve the street and streetscape system in the West End while at the same time improving landscaping. The mixed-use character of the project and the public benefits to be derived makes CR zoning appropriate for the site.
24. The amenity package offered is directed towards improving public facilities and services of the District and public and semi-public property such as Park Service and Board of Education property and the improvement of facilities. Various benefits and amenities, not available under the site's existing zoning, will become possible under development through the PUD process. These include the following:
- a. Mixed-use development combining living and working opportunities in the same project;
 - b. New residential development of 53,468 square feet providing 48 units, including a variety of unit sizes. This represents a 36 percent increase over the gross floor area permitted by matter-of-right development;
 - c. Elimination of surface parking lot;
 - d. Coordinated superior design and building materials, sensitive to the transitional nature of the site. (The proposed project received conceptual design approval from the Commission of Fine Arts on November 13, 1985.);
 - e. Increase tax revenues and creation of jobs from new development with minimal additional costs; and

- f. In conjunction with the Minority Business Opportunity Commission, applicant will strive towards a goal of 35 percent of construction-related contracts to minority businesses.
25. Under this proposal, a number of physical improvements and other benefits to the immediately surrounding area, which would enhance the permanent character and stability of the neighborhood, would be accommodated, as follows:
- a. 24th Street would be extended along its present center line terminating at the edge of the park with entrances to the school property and the project. The two existing driveways serving the school and the U.S. News parking lot will be eliminated. Sidewalks, street trees, lighting and bollards will be constructed along the 24th Street extension;
 - b. Additional pathways, lighting and extensive grading and landscaping are proposed within the park in the area which is now a gravel parking lot;
 - c. Several existing large cherry trees which will be affected by construction activities will be relocated to the triangular parcel of land east of 23rd Street behind the existing residential buildings. Additional existing cherry trees will be transplanted in the park, subject to National Park Service approval;
 - d. The two existing eastern-most tennis courts will be resurfaced. The existing basketball court will be repaved and new backboards installed;
 - e. The existing badly deteriorated parking lots behind the school will be repaved and the area adjacent to the western end of the school will be regraded and landscaped;
 - f. Applicant will work closely with the National Park Service and will construct a number of other improvements with the park and will perpetually maintain a portion of park land;
 - g. The D.C. Board of Education will be given an initial grant for use at Francis Junior High School;

- h. Thereafter, the applicant will provide an annual grant of \$5,000-\$10,000 for use at the Francis Junior High School for physical improvements for education programs for the duration of the PUD Covenant; and
 - i. Applicant will make lease payments to the Board of Education for use of its property for the 24th Street extension.
26. In addition, applicant will provide for off-hours use of the office garage parking facilities by local residents. Applicant will also provide, as requested by area residents, the following:
- a. Construction of a new sidewalk on the east side of 23rd Street from the corner of N Street north to the end of the apartment building.
 - b. Installation of one street tree in the empty tree pit on N Street between 22nd and 23rd Streets.
 - c. Installation of one additional decorative light pole on N Street east of 23rd Street.
 - d. Replacement of existing sidewalk on the west side of 22nd Street from the corner of N Street north to the new apartment building;
 - e. Installation of two street trees in the empty tree pits on 22nd Street near the corner of N Street;
 - f. Repair of existing block paving on N Street between 22nd and 23rd Streets; and
 - g. Construction of yet to be determined architectural elements, such as piers, walls and fences on the corners of 22nd Street, 23rd Street and along N Street, which would create a visual architectural continuity from our project into the neighborhood.
27. The applicant and its economic consultant testified that matter-of-right residential development is not economically feasible and prior residential projects in the area have not succeeded, The office component is required to carry the project and to permit a rate of return sufficient to cover land acquisition and construction costs. The applicant's economic consultant and real estate consultant testified

that, under prevailing market conditions, matter-of-right development as a residential condominium project would be highly inadvisable and would involve a potential loss on the project would substantially improve the potential finance returns from the combined condominium-office component.

28. There will be adequate on-site parking to meet the needs of condominium residents and office workers. The peak hour traffic that would be generated would not affect the current levels of service in the area. Access to the parking garage would be appropriate from safety and operational viewpoints, and truck access would be safe and efficient.
29. CR is the zoning classification of the squares contiguous to the site on the southern frontage, and mixed-use development of the site is in keeping with the character and evolution of the West End. The site is not part of the Dupont Circle neighborhood, but is much more a part of the mixed-use West. End neighborhood.
30. The District of Columbia Office of Planning (OP), by memorandum dated July 7, 1986 and by testimony presented at the public hearing recommended approval of the PUD and map amendment to CR zoning. OP indicated that the Generalized Land Use Map portrays the site in the Parks, Recreation and Open Space land use category, While this category is generally reflective of the land uses surrounding the site, e.g., Rock Creek Park, District-managed tennis courts, and Francis Jr. High School. recreational Facilities, it bears no relationship to the privately-owned site which is the subject of this application. However, this "mapping" misclassification is of no special significance, given the generalized nature of the land use map, the small size of the parcel, and the proximity of public parklands and public recreational facilities to the site. Further, the site is located on the boundary of four land use classifications, two of which-medium density residential and mixed use, high density residential/medium density commercial -- provide a reference point for determining a suitable land use classification for the site.
31. OP believes the proposed CR zoning and resulting mixed use development is fully consistent with the applicable goals and policies of the Comprehensive Plan. In addition, OP believes CR zoning

constitutes a logical zoning designation for the site given the generalized nature of the Land Use Map, the existence of a mixed use, high density residential/medium density commercial category contiguous to the site, the site's relative isolation from adjacent residential neighborhoods with the West End neighborhood. Further, OP believes the design of the proposed structure responds positively to the sensitive, transitional nature of the site. Finally, the applicant's proposal includes a number of public benefits and amenities which accrue to city and nearby residents by virtue of the site's development via the PUD process.

32. The District of Columbia Department of Public Works (DPW), by memorandum dated July 7, 1986 and by testimony presented at the public hearing, did not oppose the application. The DPW believes that the parking and loading, as proposed, is adequate and that the development would not pose any adverse impacts on the surrounding street system. The DPW recommended that the applicant provide ten bicycle parking spaces, participate in the D.C. Rideshare Program, and coordinate all construction and design elements within public space with the DPW and assume their cost.
33. The District of Columbia Department of Finance and Revenue, by memorandum dated June 23, 1986, did not comment because there appeared to have been no revenue issues involved.
34. The Department of Employment Services (DOES), by memorandum dated June 17, 1986, found that the proposal would complement or relate to the four existing commercial buildings in that neighborhood, DOES encourages applicant to voluntarily enter into a first source hiring agreement with DOES,
35. The District of Columbia Metropolitan Police Department, by memorandum dated June 26, 1986, noted that the project would not impact adversely upon any current or planned operations by the Department or the second District. The Department advocated the inclusion of security considerations during design and construction phases.
36. The Department of Recreation (DOR), by memorandum of June 26, 1986, supports the proposed resurfacing of two of the tennis courts as an important benefit and also favors the construction

of two additional tennis courts, if approved by the National Park Service. The DOR does not object to the application,

37. The District of Columbia Board of Education, by letter dated July 16, 1986, supported the application, in part, because the Board would be aided as follows:

- a. The developer has agreed to provide an initial grant of \$20,000 and an annual grant thereafter of \$5,000-\$10,000 to be used at Francis Junior High School. for programs or physical improvements; and
- b. The developer and Board of Education will negotiate an annual lease payment for use of school property as a common entrance driveway,

38. The District of Columbia Public Schools, by statement presented at the public hearing and letter dated August 5, 1986, supports the application and believes the project will enrich and beautify the school community.

39. Advisory Neighborhood Commission (ANC) 2B, party in the proceedings and in whose jurisdiction the PUD site is located, by letter dated July 10, 1986, opposed the application for the following reasons:

- a. The building is too dense for the neighborhood in which it would be located and the density is based on the property owners' acquiring alleys which have not been closed;
- b. The Comprehensive Plan Land Use Map retained R-5-B zoning on the site so that it would be used only for residential purposes and ANC 2B is opposed to any change in zoning for the site;
- c. The 2300 block of N Street, N.W., is a narrow two-way street with parking on both the north and south sides and already congested; additional vehicular traffic would only exacerbate the situation;
- d. Any access to the rear of the building from 23rd Street, N.W., via a curb cut and alley is undesirable; 23rd Street is one-way south and a major thoroughfare; for trucks or other

traffic to slow down in order to make a right turn into the rear of this building would interfere with the traffic flow;

- e. This is not a PUD under the intent of the Zoning Regulations, as the amenities are very weak and hardly offer any new or greatly improved features to the neighborhood; about \$5,000.00 a year for improvements to Francis Junior High School is not compared to the profit the owners expect to make; the paving of a tennis court is not a very substantial amenity; the availability of parking in the commercial space during hours of non-commercial use would be for a price--which is further commercial use and profit to the owners; and
 - f. It is believed that the premises could be developed for residential use and financially profitable by some other plan for residential development.
40. City Councilmember John A. Wilson (Ward Two) , by statement dated July 17, 1986, opposed the application because it served as further erosion of residentially-zoned land to commercial uses.
41. One local residential testified in support of the application because the benefit of bringing more residents to the community outweighs the detriments that might be associated with the project,
42. Approximately fourteen letters in support of the application were received from neighboring business and residential factions. The following include reasons for supporting the application:
- a. The residential component will. bring vitality to the community to balance the office uses in the area;
 - b. The applicant proposes to make some improvements on public space; e.g. improved Lighting, tennis courts, and the school parking lot;
 - c. The project is compatible with existing neighboring uses and its design is of superior quality; and

- d. The project would render the opportunity for the neighborhood to gain additional off-street parking spaces than what presently exists.
43. The Residential Action Coalition (RAC) party in the proceedings, by testimony presented at the public hearing, opposed the application because of the **unattractive** architecture that is proposed and the belief that the site could be developed as a matter-of-right. RAC supported the position of ANC's 2B and 2A.
44. Advisory Neighborhood Commission (ANC) 2A, beyond whose jurisdiction the PUD site is located, by resolution dated July 8, 1986, and by testimony presented at the public hearing, opposed the application for the following reasons:
 - a. The proposal is inconsistent with the District of Columbia Comprehensive Plan Land Use Element;
 - b. The proposal is inconsistent with the draft Ward Two Plan;
 - c. The proposal is inconsistent with the intent and purpose of the CR District; and
 - d. That matter-of-right development of the site is financially feasible,
45. The Commission concurs with the recommendation of the Office of Planning and the positions of the Department of Public Works, the Department of Environmental Services, the Metropolitan Police Department, the Department of Recreation, the Board of Education and the D.C. Public Schools.
46. The Commission further concurs with the position of various persons in support of the application, and finds that the residential component of the project will serve as a benefit to the West End community because of the potential of having twenty-four-hour vitality in the community.
47. The Commission finds that the amenities package is of significant merit to the immediate community and the city, and particularly to Francis Junior High School.
48. As to the concern of ANC 2B and others that the project is too dense, the Commission finds to the contrary. The proposed FAR of 4.02 is only 1.02

FAR higher than the development guideline for R-5-B zoned property, under the PUD process. The additional 1.02 FAR is appropriate when considering the benefits of the project to the city vis-a-vis the use of the site during the past twenty-five years,

49. As to the concerns of ANC 2B and others regarding the proposal being inconsistent with the Land Use Element of the Comprehensive Plan, the Commission does not concur-. Based on testimony of OP and others at the public hearing, the Commission is persuaded that it was not the Council's intent to prevent an owner of private property from developing that property, The Commission is not aware of any efforts by the District or Federal Government to purchase the property for public purposes. The Commission notes that an argument could be made that matter-of-right development under R-5-B zoning or any development under any zone district is inconsistent with the Land Use Element of the Comprehensive Plan. The Commission believes that an error may have been made by including the subject site in the Parks, Recreation, and Open Space category on the Generalized Land Use Element of the Comprehensive Plan.
50. upon the consideration of all of the related elements of the Comprehensive Plan and the issue raised in Findings of Fact No.49, the Commission finds that the proposal is not inconsistent with the Comprehensive Plan of the District of Columbia,
51. As to the concern of ANC 2B and others regarding traffic congestion in the area and curb cuts on 23rd street, the Commission finds that the DPW has addressed these concerns and concurs with the position of that government agency,
52. As to the concern of ANC 2B and others regarding the amenities package, the Commission has addressed this matter in its Findings of Fact #47.
53. As to the concern of ANC 2B and others regarding the feasibility of developing the subject site under R-5-B zoning, the Commission is not persuaded that such development is presently feasible at this site. The Commission is not aware of new R-5-B development in the West End in recent years and concurs with the position of the applicant's economic consultant.

54. As to the concern regarding the erosion of residential zoning for commercial zoning, the Commission finds that the subject proposal would yield housing for forty-eight families under CR zoning, in lieu of no housing being produced under R-5-B for more than twenty-five years,
55. As to the concern regarding the architecture of the project, the Commission finds that the design of the project is aesthetically pleasing and compatible with the architecture in the area.
56. As to the concern regarding the proposal being inconsistent with the draft Ward Two Plan, the Commission finds that it is inappropriate to give substantial consideration to a draft document because of the potential of change before becoming finalized.
57. As to the concern regarding the proposal being inconsistent with the intent and purpose of the CR District, the Commission finds to the contrary. The Commission notes that the proposal is a mixed-use residential and office project that is guided by an approved plan through the PUD process .
58. The Commission finds that rezoning the subject site to CR, in lieu of C-2, is appropriate because of the existing pattern of CR in the immediate area,
59. The proposed action of the Zoning Commission to approve the application with conditions was referred to the National Capital Planning Commission (NCPC), pursuant to the terms of the District of Columbia Self Government and Governmental Reorganization Act. The NCPC, by report dated November 6, 1986, indicated 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 purposes of Article 75 to encourage the development of well-planned residential, institutional, commercial 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. The approval of this application is not **inconsistent with the** Comprehensive Plan of the District of Columbia.
5. The approval of this application is not inconsistent with the Judiciary Square Master Plan.
6. The approval of this application is consistent with the purposes of the Zoning Act.
7. The proposed application can be approved with conditions which ensure that the development will not have an adverse affect on the surrounding community, but will enhance the neighborhood and ensure neighborhood stability.
8. The approval of this application will promote orderly development in conformity with the entirety of the District of Columbia zone plan, as embodied in the Zoning Regulations and Map of the District.
9. The Zoning Commission has accorded to the Advisory Neighborhood Commission (ANC) 2B the "great weight" to which it is entitled.

DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the District of Columbia Zoning Commission hereby orders APPROVAL of this application for consolidated review of a Planned Unit Development and change of zoning from R-5-B to CR for lot 802 and public alleys proposed to be closed in Square 35 at 2301 N Street, N.W. The approval of this PUD and change of zoning are subject to the following guidelines, conditions, and standards:

1. The PUD shall be developed as a mixed-use project in accordance with the plans prepared by Lockman Associates, marked as Exhibits No. 23, 48a, 64, and 79a of the record, as modified by the guidelines, conditions and standards of this order.
2. The floor area ratio of the project shall not exceed 4.05 (1.87 FAR max. office use and 2.18 FAR max. residential use), excluding roof structures,
3. The height of the project shall not exceed sixty-five (65) feet, excluding roof structures.
4. The lot occupancy of the project shall not exceed seventy-five (75) percent.
5. Antennas shall be permitted on the roof of the building subject to the regulations in effect at the time that the antennas are to be erected.
6. A minimum of ninety-nine (99) off-street parking spaces shall be provided. In addition, applicant shall make available to the community at the applicant's cost, the use of the office building garage during off-hours, that is, at least from 6:00 P.M. to 7:00 A.M. weekdays and all day on weekends. Access to parking shall be by a card key system or similar entry mechanism or by security guard.
7. Loading and unloading facilities shall be provided within the first garage level and garage circulation for trucks shall be provided by a "through-building" system with ingress from 23rd Street, and egress from the 24th Street cul-de-sac newly created as a part of this development to provide a terminus to 24th Street, N.W.
8. Landscaping shall be provided, as shown on sheet Z-7 of Exhibit No. 23.
9. The design of the north terrace wall shall be as shown on Exhibit No. 79a.
10. The applicant shall participate in a rideshare program, in conjunction with other subject programs, and coordinate with the D.C. Rideshare Coordinator in order to minimize the on-site parking demand and to encourage ridesharing among the employees of the project,
11. All final material and color selections are subject to the approval of the Commission of Fine Arts,
12. Prior to the issuance of a building permit, the

applicant shall establish an interest-bearing escrow account, or post a letter of credit for not less than \$50,000.00 to be used for improvements to the National Park Services property located to the north of the subject site,

13. The applicant shall pay for all on-going operating and maintenance costs for the new lights proposed to be installed on public property in connection with the project.
14. Prior to issuance of the office component Certificate of Occupancy, the applicant will perform the following:
 - a. The applicant shall, at its sole cost and expense, create a terminus cul-de-sac for 24th Street, north of N Street, subject to the approval of the Board of Education and National Park Service;
 - b. Several existing large cherry trees will be relocated to the triangular parcel of land east of 23rd Street behind the existing residential buildings. Additional existing cherry trees will be transplanted in the park, subject to National Park Service approval;
 - c. The two existing eastern most tennis courts will be resurfaced. The existing basketball court will be repaved and new backboards installed subject to the approval of the D.C. Department of Recreation;
 - d. The existing parking lots behind the school will be repaved and the area adjacent to the western end of the school will be regraded and landscaped subject to the approval of the Board of Education;
 - e. The B.C. Board of Education shall be given an initial grant for use at Francis Junior Eligh School of \$10,000.00; and
 - f. After the first year, the applicant will provide an annual grant of \$5,000-\$10,000 to the Board of Education for use at Francis Junior High School. for physical improvements or for educational programs. The grant shall be for no less than thirty (30) years, or until the demise of the school or the PUD, whichever comes first.
15. Subject to the approval of the appropriate District. of Columbia agencies, applicant shall apply for a permit to construct and will construct if said permit is issued the following improvements in the immediate neighborhood of the subject site east of 23rd Street N.W.:

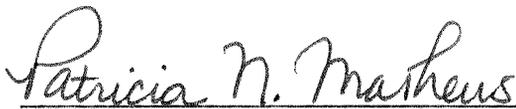
- a. Construction of a new sidewalk on the east side of 23rd Street from the corner of N Street north to the end of the apartment building;
 - b. Installation of one street tree in the empty tree pit on N Street between 22nd and 23rd Streets;
 - c. Installation of one additional decorative light pole on N Street east of 23rd Street;
 - d. Replacement of existing sidewalk on the west side of 22nd Street from the corner of N Street north to the new apartment building;
 - e. Installation of two street trees in the empty tree pits on 22nd Street near the corner of N Street;
 - f. Repair of existing block paving on N Street between 22nd and 23rd Streets; and
 - g. Construction of yet-to-be-determined architectural elements, such as piers, walls, and fences on the corners of 22nd Street, 23rd Street, and along N Street, which would create a visual architectural continuity from the project into the neighborhood,
16. Prior to the issuance of a building permit, the applicant shall implement a program with the Department of Employment Services and the Minority Business Opportunity Commission to provide first-source jobs hiring for D.C. residents, and to involve minority individuals and businesses with a goal to award twenty-five (25) to thirty-five (35) percent of the construction and management contracts.
 17. The applicant may vary the location of interior bearing walls or partitions of the building to comply with all applicable codes or as required to obtain a final building permit.
 18. The change of zoning from R-5-B to C-R shall be effective upon recordation of a Covenant as required by Subsection 7501.8 of the Zoning Regulations.
 19. No building permit shall be issued for this PUD until the applicant has recorded a Covenant in the Land Records of the District of Columbia, between the owner and the District of Columbia and satisfactory to the Office of the Corporation Counsel and the Zoning Regulations Division of the Department of Consumer and Regulatory Affairs, which Covenant shall bind the applicant and successors in title to construct on and use this property in accordance with this order or amendments thereof, of the Zoning Commission,

20. The applicant shall include in the PUD Covenant a mechanism for implementing and a means of assuring continuing compliance with the contribution to the Board of Education, as set forth in Condition No. 14(f) of this order.
21. No building permit shall be issued until the applicant has filed a certified copy of said Covenant with the records of the Zoning Commission.
22. The PUD approved by the Zoning Commission shall be valid for a period of two (2) years from the effective date of this order. Within such time, application must be filed for a building permit as specific in paragraph 7501.81 of the Zoning Regulations, Construction shall start within three (3) years of the effective date of this order.

Vote of the Zoning Commission taken at the public meeting on September 8, 1986: 3-2 (George M. White, Maybelle T. Bennett, and Patricia N. Mathews, to approve with conditions - John G. Parsons and Lindsley Williams, opposed).

This order was adopted by the Zoning Commission at the public meeting on December 8, 1986, by a vote of 3-2 (Maybelle T. Bennett, George M. White, and Patricia N. Mathews, to adopt as amended - John G. Parsons and Lindsley Williams, oppose).

In accordance with Section 4.5 of the Rules of Practice and Procedure before the Zoning Commission of the District of Columbia, this order is final and effective upon publication in the D.C. Register, specifically on 30 JAN 1987.



PATRICIA N. MATHEWS
Chairperson
Zoning Commission



EDWARD L. CURRY
Acting Executive Director
Zoning Secretariat