

Government of the District of Columbia
ZONING COMMISSION



ZONING COMMISSION ORDER NO. 945

Case No. 00-34C

**(Consolidated Planned Unit Development and Amendment to the Zoning Map for
EYA Development Inc., Bryan School)**

July 16, 2001

Pursuant to public notice, the Zoning Commission for the District of Columbia held a public hearing on June 21, 2001 to consider an application from EYA Development, Inc. for the consolidated review and approval of a planned unit development and an amendment to the Zoning Map of the District of Columbia from R-4 to R-5-B for Lot 803 in Square 1038 located at 1325 Independence Avenue, S.E., pursuant to Chapter 24 and Section 102, respectively, of the District of Columbia Municipal Regulations (DCMR) Title 11 (Zoning). The public hearing was conducted in accordance with the provisions of 11 DCMR 3022.

FINDINGS OF FACT

1. The property that is the subject of this application, located at 1325 Independence Avenue, S.E. (Lot 803, Square 1038), is owned by the District of Columbia. EYA Development, Inc. ("EYA" or "applicant") and the District of Columbia have entered into a contract for the applicant to purchase the property. EYA filed an application with the Zoning Commission ("Commission") on November 29, 2000, for review and approval of a planned unit development ("PUD") and a related amendment to the Zoning Map of the District of Columbia.
2. The Commission unanimously agreed to set the case down for a public hearing at its March 12, 2001, public meeting. The Commission held a public hearing on the above-mentioned application on June 21, 2001, which was conducted in accordance with the provisions of 11 DCMR § 3022.
3. At the June 21, 2001 public hearing, the Commission granted party status to the Bryan School Neighborhood Association ("BSNA"). The Commission also denied the party status request of Caroline Bader, who resides at 1362 Independence Avenue, S.E., citing the fact that Ms. Bader failed to describe how she would be particularly aggrieved or affected by the proposed application in a manner that was different than a member of the general public.
4. The property that is the subject of these applications is located at 1325 Independence Avenue, S.E., Lot 803, Square 1038 ("Subject Property"). The Subject Property consists of approximately 89,364 square feet of land area

(approximately 2.05 acres), is located in the Capitol Hill neighborhood of the District of Columbia and within the Capitol Hill Historic District. The Subject Property is generally bounded by Independence Avenue, S.E., 14th Street, S.E., South Carolina Avenue, S.E., and Kentucky Avenue, S.E. The Subject Property is a through-lot with frontage on both Independence Avenue and South Carolina Avenue. The Subject Property is located in the moderate density residential land use category on the Generalized Land Use Map of the District of Columbia Comprehensive Plan.

5. The OP report, dated June 14, 2001, states that the proposed project is consistent with the Comprehensive Plan.
6. The Subject Property is currently improved with a structure formerly used as an elementary school (known as the Thomas B. Bryan Elementary School) and a surface parking lot. The structure is comprised of a three-story plus basement building (Bryan West), constructed in 1909, connected by a single-story enclosed structure to a two-story building (Bryan East), built in 1957. These buildings contain approximately 54,700 square feet of gross floor area and occupy approximately one-third of the site.
7. The applicant seeks to construct a residential project that includes the restoration and conversion of the historic portion of the Bryan Elementary School building. The proposed project will provide up to 30 condominium units and 38 townhouse units. The townhouse units will be constructed in three different building clusters on the remaining portion of the Subject Property.
8. The total gross floor area included in the project is 133,914 square feet. The condominium units in the Bryan Elementary School building will consist of approximately 39,804 square feet of gross floor area. The townhouse units and garage buildings will consist of approximately 94,110 square feet of gross floor area. The PUD provides 115 parking spaces for the entire project, 76 spaces for the townhouse units, 30 spaces for the condominium units and 9 parking spaces for guests.
9. The Zoning Regulations in 11 DCMR § 3203.3 provide that a building permit may not issue for the proposed construction of any principal structure or any addition to a principal structure unless that land for the purpose of construction has been divided so that each structure will be on a separate lot of record. Without PUD approval, the applicant would need a variance or special exception approval (pursuant to 11 DCMR § 2516) from this requirement for the proposed project.

10. The applicant also proposes to amend the Zoning Map in order to change the Zone District of the Subject Property from R-4 to R-5-B. The R-4 District is designed to include those areas now developed primarily with row dwellings, but within which there have been a number of conversions of dwellings into dwellings with two or more families. The R-4 Zone District permits a maximum height of 40 feet, and a maximum lot occupancy of 60% for a row dwelling, flat, church, or public school and 40% for all other structures. The R-5-B District permits multi-family residential development, a maximum height of 50 feet, a maximum Floor Area Ratio (FAR) of 1.8 and a maximum lot occupancy of 60%. The development standards for a PUD in the R-5-B District permit a maximum height of 60 feet and a maximum FAR of 3.0.
11. The PUD will have a lot occupancy of 45%, the townhouse units will range from approximately 33-41 feet in height while the former Bryan Elementary School building will have a height of 58 feet, and the total FAR for the project will be 1.5. The proposed height and lot occupancy of the project therefore exceeds the guidelines for a R-4 and R-5-B District but do not exceed the PUD guidelines for the R-5-B District.
12. The project does not meet the requirements for rear yard, side yard, parking, and loading in a R-5-B Zone District, according to the OP report of June 14, 2001. A PUD in a R-5-B Zone District has no such requirements.
13. Conversion of the school building to residential use would not be allowed under the R-4 designation but would be allowed under the R-5-B designation.
14. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality developments that provide 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.
15. A PUD must not have an unacceptable impact on the operation of city services and facilities. 11 DCMR § 2403.3.
16. A PUD must not be inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject site. 11 DCMR § 2403.4.
17. A PUD must include public amenities and benefits, as outlined in 11 DCMR §§ 2403.9 and 2403.10.
18. The applicant offered testimony and evidence from Toby Millman, Vice-President for Project Development for EYA, and the following experts: Jack McLaurin,

Architect, Lessard Architectural Group, Inc., Tom Johnson, Architect, Martinez & Johnson; Joseph Plumpe, Landscape Architect, Studio 39 Architects; and Martin Wells, Traffic Engineer, Wells & Associates.

19. Toby Millman addressed the Applicant's history of creating exciting and vibrant residential projects in the District and neighboring jurisdictions. Mr. Millman also discussed the applicant's development philosophy which includes:
 - Creating unique site plans and architecture compatible with surrounding neighborhoods;
 - Fronting all homes on public or private streets or interior courtyards;
 - Enhancing streetscapes through premium spending on streetscape and elevation details; and
 - Building neighborhood consensus through an open, participatory approval process.

20. Mr. Millman discussed the comprehensive community dialogue process that the applicant undertook regarding the project. The applicant held community-wide meetings with community organizations and individuals, made presentations to ANC 6B, the Capitol Hill Restoration Society and the Bryan School Neighborhood Association beginning in June of 1998. Including three presentations to the District of Columbia Historic Preservation Review Board, the applicant participated in 25 meetings with the community regarding this project.

21. Mr. Millman noted that, as a result of these meetings and dialogue with the community and staff of District of Columbia agencies, the applicant made the following modifications to the project:
 - Reduction in the number of townhouses from 43 to 38;
 - Addition of approximately 40% more green space to the project;
 - Reduction in height of all the perimeter townhouses by one story;
 - The roof decks were set back from the front of the houses and the rooftop stair penthouses were relocated to minimize visibility;
 - Increased the parking ratio to two garage parking spaces for every townhouse;
 - Reconfigured the circulation pattern of the project to eliminate the through-street and removed one curb cut; and
 - Agreed to add covenants to the townhouse units prohibiting the use of garage space for living or storage space.

22. Mr. Millman also discussed the public benefits and project amenities that will be created as a result of this project. These benefits and amenities include:

- Historic Preservation – restoring and renovating the historic Bryan School Elementary building;
- Housing – the proposed townhouses and condominiums will add much-needed housing stock in the District;
- Urban Design and Architecture – the proposed townhouses and condominium building have been sensitively designed to complement the existing buildings in the neighborhood;
- Site Planning – the project will take a currently underutilized and deteriorating property, and with a sensitive site design, return it to active urban use;
- Effective and Safe Vehicular and Pedestrian Access – the two entrances to the project ensure the safe and efficient flow of traffic into and out of the project;
- Environmental Benefits – the project will include a storm water filtration system for quality and quantity that presently does not exist on the property;
- Employment and Training Opportunities – the applicant will enter into a First Source Employment Agreement with the Department of Employment Services (DOES) and a Memorandum of Understanding with the Local Business Opportunity Commission (LBOC); and
- Social Services/Facilities – the applicant has agreed to contribute \$82,000 to the following neighborhood organizations, \$55,000 to the Payne Elementary School for air conditioning equipment and maintenance (\$40,000) and library materials (\$15,000), \$15,000 to the Computer Center for building enhancements, and \$12,000 to the Friends of Lincoln Park for playground equipment.

23. Jack McLaurin, the applicant's architect for the townhouse portion of the project, addressed the site layout and design of the townhouse portion of the project. Mr. McLaurin noted the following attributes of the proposed project:

- The townhouse units have been designed to appropriately blend with the surrounding residential neighborhood. The townhouse units along South Carolina and Independence Avenues will have three floors. These units will have rooftop terraces to provide residents of these units with substantial recreation space. In addition, these rooftop terraces will include a setback from the edge of the roof in order to minimize any visual impact that the use of the rooftop terrace may create on the public streets surrounding the Subject Property.
- The project will have vehicular entrances/exits on both South Carolina and Independence Avenues. The Independence Avenue entrance/exit will only allow right turns into and out of the Subject Property. The Independence Avenue entrance includes a landscaped traffic circle on the east side of the

condominium building that provides an efficient system for dropping off people or goods at the entrance to the condominium building and then following the traffic circle to exit the site via Independence Avenue.

- The South Carolina Avenue entrance/exit will allow for right and left turns into and out of the Subject Property in a single entrance/exit at the location of the existing alley. The internal circulation system creates the most efficient use of space to avoid vehicular constraints and conflicts on the Subject Property.
 - The townhouse units on the interior of the Subject Property will have a fourth floor that is incorporated into the façade of the unit. The fourth floor interior space covers approximately half of the building footprint, with the remaining area serving as a rooftop terrace.
24. Tom Johnson, the architect for the Bryan School building, testified regarding the condominium portion of the project. Mr. Johnson discussed the history of the design of the Bryan School building and the expensive and costly process that will be undertaken to renovate and convert the historic former elementary school building to residential use. Mr. Johnson noted that the building is currently in a very dilapidated state and continues to deteriorate. Renovation of the building will require costly removal of significant amounts of asbestos and lead paint.
25. Mr. Johnson noted that the condominium building will have eight units on the ground, first and second floors and will have six units on the third floor. This building will include mostly studio and one-bedroom residential units and a small number of two-bedroom units. The building will maintain the wide hallways and high ceilings to provide an open, loft-style feeling to its residents.
26. Joseph Plumpe, the applicant's landscape architect, discussed the project's attention to creating a large amount of open and green space on the site. Mr. Plumpe noted the following:
- The interior courtyard is designed to provide a communal greenspace for all residents of the project, with extensive plantings, benches, and landscaping;
 - The project includes alternative paving materials for the parking areas as well as the landscaped traffic circle at the Independence Avenue entrance to provide an appropriate contrast of impervious material on the Subject Property;
 - The applicant has also paid a great deal of attention to the alley elevations of the townhouse units and has provided significant landscaping elements such as trellis structures, planters, and flower boxes along the private alleys in the project;

- The Independence Avenue and South Carolina Avenue frontages of the project will include landscaping that is consistent with the neighboring properties and the condominium building will also be surrounded by a substantial and appropriate landscape buffer; and
 - The private roof terraces will include landscaping and planters that will minimize visibility from surrounding streets.
27. Martin Wells, recognized by the Commission as an expert in traffic and parking engineering, the applicant's traffic expert, testified to the proposed impact on traffic and parking in the area surrounding the site. Mr. Wells noted that existing levels of service along Independence Avenue during the PM peak hour are at capacity. Mr. Wells testified that with minor adjustments to signal timing, the levels of service at these intersections could be improved. The proposed project will only generate 22 AM peak hour trips and 27 PM peak hour trips. Mr. Wells concluded that the proposed project will have a virtually non-existent impact on the future traffic system in the area.
28. The applicant's traffic engineers prepared a Parking Study to address potential impacts that the project may have on parking conditions in the area surrounding the subject site. The proposed project will provide 115 total parking spaces, while matter-of-right zoning requirements only require 53 parking spaces. In his testimony, Mr. Wells concluded that adequate off-street parking is provided by the project.
29. In response to issues raised by Commissioners during the June 21, 2001 public hearing, the record of the case was left open for the applicant to provide the following materials and information:
- Information on the Applicant's satisfaction of its Local Business Opportunity Commission (LBOC) and Department of Employment Services (DOES) requirements for its Capitol Square and Harrison Square projects in the District of Columbia;
 - Information on how the public/private alley on the eastern portion of the site will be maintained and how other residents of the Square will be able to continue to utilize the public alley system in the Square;
 - A revised elevation/rendering of the façade of the interior building on the site;
 - Pictures of sample building materials that will be used; and
 - A discussion of how the historic preservation component of this project exceeds what could be required by the District of Columbia Historic Preservation Review Board (HPRB) for a matter-of-right project.
30. The applicant submitted the post-hearing information and materials requested by the Commissioners on June 29, 2001. In this submission, the applicant provided

information on its satisfaction of previous agreements and memoranda of understanding that it entered into with the LBOC and DOES as well as its plan for improving compliance with the requirements of the LBOC memorandum of understanding in the present case.

31. In regards to the maintenance of the public/private alley system on the eastern portion of the subject site, the applicant agreed to require the homeowners and condominium associations to maintain the public alley areas that are adjacent to the private alleys on that portion of the subject site. In addition, the applicant agreed to grant a public access easement over a portion of the private property to allow other residents of the Square to continue to utilize the existing and proposed public alley system in the Square.
32. In the June 29, 2001 submission, the applicant also discussed how the historic preservation component of this project exceeds what would be required by the District of Columbia Historic Preservation Review Board (HPRB) for a matter-of-right project. The applicant noted the following:

- Restoration and Conversion of the Bryan School Building - The applicant has proposed very few modifications to the building exterior and will restore the building's exterior to resemble its original condition. Many projects in historic districts are permitted by HPRB to make significant exterior changes to accommodate an adaptive re-use.

Inside the building, as testified by Thomas Johnson of Martinez & Johnson Architects, the Applicant is sacrificing efficiency to maintain and restore important and distinctive spaces such as the central corridors and classrooms. In other similar projects, HPRB has allowed developers to gut and reconfigure interior spaces to gain more saleable area. The substantial cost of this restoration will be offset in this project by the revenue generated by the townhouses.

- School Building as Centerpiece – The flexibility permitted through the PUD process has allowed the applicant to design a site plan that treats the historic school building as the centerpiece of the development. By relaxing rear yard setback requirements, the applicant is able to provide significant green space in front of the proposed townhouses on the interior of the site, creating a substantial buffer around the historic school building that would not necessarily occur in a matter-of-right project presented to HPRB.
- Architectural Context – Architecturally, the development goes beyond what the Applicant believes would normally be required of a developer in the Capitol Hill Historic District. The proposed townhouses on the perimeter of the site are designed to reflect the unique architectural styles of each frontage.

On the interior of the site, the applicant has taken on the self-imposed and challenging task of providing an appropriate architectural transition between Independence Avenue and the Bryan School building by borrowing cues from both architectural styles.

- Building Materials - The applicant has committed to using enhanced building materials throughout the project, including all-brick facades, wood windows, and pre-cast accents. Although proposed by the applicant from the outset, many of these elements have not always been required by HPRB for new construction projects.
33. Neighborhood Amenity – As part of the PUD process and through extensive discussions with the Capitol Hill community, the applicant has committed \$82,000 toward neighborhood projects. This off-site amenity is significantly greater than any similar project providing such significant on-site historic preservation and housing benefits. It is highly unlikely that a matter-of-right development before HPRB would have offered such a substantial off-site neighborhood amenity package”.
34. The Office of Planning (OP), in its report dated June 15, 2001, recommended approval of the project. OP testified that the project has substantial benefits and amenities to the community that justify the requested zoning relief, these benefits include:
- The restoration of an old school building and its reuse for condominium units, thereby contributing to the revitalization of the neighborhood;
 - The creation of a residential development whose design, architecture, and site planning is complementary to the historic site as well as to the historic district;
 - A site plan that is able to achieve a development that provides additional open space as well as providing all parking on site to serve the new residents; and
 - A mixture of housing types and sizes that will facilitate a diversified community that may not be possible under a matter-of-right development.
35. The OP report also noted the project’s consistency with the Comprehensive Plan, including the goals of the Land Use Element that new development significantly advance the social and economic development of the District through the creation of quality residential development. In addition, the OP report also highlighted the project’s compliance with the Major Themes of the Comprehensive Plan, including:
- stabilizing the Capitol Hill neighborhood with the restoration and reuse of the old school building;
 - improving the physical character of the neighborhood;
 - preserving and ensuring community input; and

- preserving the historic character of the Capitol Hill neighborhood.
36. On June 20, 2001, OP submitted a supplemental report addressing the applicant's proposed off-site community amenities and included conditions of approval. OP recommended the following conditions of approval, which are incorporated in this order:
- Adding a provision to the homeowners association covenants to prohibit conversion of garages to living or storage space;
 - Adding a provision to the homeowners association covenants prohibiting the use of decorative lights on roof terraces that can be viewed from the roadway or adjacent properties;
 - Retaining all street trees except for those that are dying or diseased, in which case they should be replaced;
 - Continue to work with the staff of the Historic Preservation Division to modify the architecture of the internal townhouse units and the restoration of the Bryan West building; and
 - Provide \$82,000, prior to the occupancy of the first unit, for community amenities to be shared as follows:
 - \$55,000 to Payne Elementary School towards air conditioning (\$40,000) and library (\$15,000) improvements,
 - \$15,000 to the Computer Center (a non-profit organization) for either landscaping and outdoor furniture or the funding of a specific project to be decided on between the Computer Center and the Applicant, and
 - \$12,000 to the Friends of Lincoln Park for playground structures.
37. The Department of Public Works (DPW) submitted a report dated June 21, 2001. In this report DPW, supported the application and noted that the 115 parking spaces provided in the project should be adequate given the number of proposed housing units. DPW also noted that the number of trips generated by the project should not significantly impact the existing level of service on Independence Avenue or South Carolina Avenue. DPW recommend approval the project with the following conditions, which are incorporated in this order:
- All access to the site would be limited to one (1) access driveway from Independence Avenue and one (1) access driveway from South Carolina Avenue, with entrance and exit lanes as shown in the applicant's pre-hearing statement;
 - There shall be a physical barrier will separate the alley on the west side of the site from the internal circulation driveway;
 - The internal driveway shall be a private roadway owned and maintained by the housing development; and
 - The internal private driveway shall be a minimum of 20 feet wide (not including parking lanes) and shall provide sufficient width and turning

radii to accommodate emergency vehicles and trash collection trucks. (The Division of Transportation would require a minimum of 22-foot width for any public street.) All trash collection shall be provided by private trash collection services.

38. ANC 6B adopted a resolution in support of the application at its June 12, 2001 public meeting. The ANC supported the project with four conditions that concerned reaching an agreement with the community on the off-site amenity, and with a condition that the Zoning Commission prohibit the conversion of the garages to residential use, which is incorporated in this order. At the hearing, the ANC 6B indicated its support for the amenity package presented by the applicant.
39. Ward 6 Councilmember, Sharon Ambrose, testified in support of the proposed project. The Councilmember noted the applicant's history of working with the community regarding the project, as well as the significant off-site amenity that the applicant proposed.
40. The Bryan School Neighborhood Association (BSNA) by written submission and testimony at the June 21, 2001, public hearing supported the project. BSNA's support was conditioned upon the understandings that the townhouses were to be used as one-family units with no conversion of the garages to habitable rooms, the project was not to become gated (unimpeded public access), and umbrellas and other equipment would be confined to the roof terrace area so as not to be visible from the street. These conditions are incorporated in this order.
41. Charles MacMillan, on behalf of the Capitol Hill Restoration Society (CHRS) testified in support of the project. CHRS' support of the project was similarly conditioned upon the understandings that the townhouses were to be used as single-family units with no conversion of the garages to habitable rooms, the project was not to become gated, and umbrellas and other equipment should be confined to the roof terrace area so as not to be visible from the street. These conditions are incorporated in this order.

CONCLUSIONS OF LAW

1. The development of this PUD project carries out the purposes of Chapter 24 of the Zoning Regulations in that it is a well-planned development that will offer a variety of building types with attractive and efficient overall planning and design not achievable under matter-of-right development.
2. The proposed project is not inconsistent with, and fosters the goals and policies of, the Comprehensive Plan. Specifically, the proposed project reflects the following policies and objectives of the Comprehensive Plan for Ward 6 (citations are to the Comprehensive Plan, Title 10, DCMR).

- Housing. The proposed project will be compatible with the surrounding brick row housing (§ 1705.1), and includes the conversion of a school that has outlived its current use (§ 1706(d)).
 - Urban Design. The proposed project protects the unique character of Ward 6 by providing models of townhouses that resemble the adjacent historic row houses and by providing well-designed and innovative condominium units (§ 1721(a)) and represents high quality architecture consistent with the styles and characteristics of buildings in Ward 6 (§ 1721(b)).
 - Preservation of Historic Features. The design of the new townhouses and the renovation of the former Bryan School is sensitive to the historic character of the Capitol Hill Historic District (§ 1725(c)).
 - Land Use. The proposed project maintains the general level of existing residential uses, densities and heights and improves the physical conditions of Ward 6 by providing efficient and attractive residential space (§ 1733.1(a)).
3. The proposed project is not inconsistent with the following major themes of the Comprehensive Plan: stabilizing the District's neighborhoods, respecting and improving the character of the District, and preserving and ensuring the community input.
 4. The development of this PUD is compatible with the development patterns in the area, as well as citywide goals, plans, and programs, where it is providing needed housing with architectural features that are in keeping with the historic character of the Capitol Hill Historic District and of the District as a whole.
 5. The area included within the proposed development is over 2 acres, which meets the minimum area requirements of 11 DCMR § 2401.1.
 6. The proposed project will have an acceptable impact on the operation of city services and facilities due to the public benefits provided, including storm water runoff treatment and financial contributions to Payne Elementary School, Friends of Lincoln Park, and the Computer Center.
 7. The proposed project meets the benefits and amenities requirements of 11 DCMR § 2403.9 in that it is superior in categories (a) through (d), (f), and (i), because of its efficient use of space, efficient traffic control plan, the preservation of a significant portion of the historic Bryan School building, and because it provides much needed housing in the District. The project is acceptable in the remaining categories (e), (g), (h), and (j).
 8. The amenities provided by the proposed project will benefit the occupants as well as the neighboring community.

9. The applicant is subject to compliance with the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Code § 2-1401.01 *et seq.* (2001 ed.)).
10. The Commission notes the ANC 6B's resolution in support of the project and has accorded to the ANC's decision the "great weight" consideration to which it is entitled. The Commission conditioned this approval on a restriction on converting the garages to residential use, as recommended by the ANC, while the amenities approved by this order were endorsed by the ANC.
11. The Commission notes OP's recommendation to approve this application and has given OP the "great weight" consideration to which it is entitled. The Commission incorporated in this approval all conditions recommended by OP in its report and the supplement thereto.

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 these applications for consolidated review of a planned unit development for Lot 803 in Square 1038 and a related amendment of the Zoning Map. The approval of this PUD is subject to the following guidelines, conditions and standards:

1. The PUD shall be developed in accordance with the plans and materials submitted by the applicant as Exhibits 16, 16A, 23, and 33, as modified by the guidelines, conditions, and standards of this order.
2. The approved PUD shall consist of a residential project including not more than 30 condominium units in the Bryan Elementary School building and 38 townhouse units. The project shall not become gated (or other wise restrict public access). The townhouse units shall be used only for one-family dwellings. The project shall include 115 total parking spaces, with 76 parking spaces for the townhouse units, 30 spaces for the residents of the condominium building, and 9 parking spaces for guests.
3. The applicant shall include in the homeowners association covenant a clause that prohibits the conversion of any garage to living or storage space. The applicant shall also include a provision in the homeowners association covenant prohibiting the use of decorative lights on roof terraces that can be viewed from the roadway or adjacent properties and requiring that all umbrellas and other equipment be confined to the roof terrace area so as not to be visible from the street.
4. Prior to the issuance of the project's first Certificate of Occupancy, the applicant shall provide the following off-site amenities:

- \$40,000 to Payne Elementary School for air-conditioning equipment and maintenance;
 - \$15,000 to Payne Elementary School for library improvements;
 - \$15,000 to the Computer Center (a non-profit organization) for either landscaping and outdoor furniture or the funding of a specific project to be decided on between the Computer Center and the applicant; and
 - \$12,000 to the Friends of Lincoln Park for playground equipment.
5. The project shall retain all trees adjacent to the street, except that dying or diseased trees shall be replaced.
 6. The applicant shall install and maintain a storm water filtration system for storm water runoff from the subject property.
 7. The project shall satisfy the following conditions of the District of Columbia Department of Public Works (DPW):
 - All vehicular access to the site shall be limited to one (1) access driveway from Independence Avenue and one (1) access driveway from South Carolina Avenue, with entrance and exit lanes as shown in the applicant's pre-hearing statement;
 - There shall be a physical barrier shall separating the public alley on the west side of the site from the internal circulation driveway;
 - The internal driveway shall be a private roadway owned and maintained by the housing development; and
 - The internal private driveway shall be a minimum of 20 feet wide (not including parking lanes) and shall provide sufficient width and turning radii to accommodate emergency vehicles and trash collection trucks. All trash collection will be provided by private trash collection services.
 8. With permission from the DPW, the applicant shall take responsibility for the maintenance and repair of the 10 feet wide public alley that abuts the eastern boundary of the property. In addition, the applicant shall grant an easement for public access over the new private alley adjacent to the existing public alley.
 9. The applicant shall enter into a Memorandum of Understanding with the Department of Human Rights and Local Business Development. The applicant shall promptly provide the Office of Zoning copies of all filings with the Department of Human Rights and Local Business Development. The applicant shall file a description of the steps to be taken in order to comply with the Memorandum of Understanding. The applicant shall diligently follow such steps.

10. The applicant shall continue to work with the staff of the Historic Preservation Division to modify the architecture of the internal townhouse units and the restoration of the Bryan West building.
11. The applicant shall enter into a First Source Employment Agreement with the Department of Employment Services. The applicant shall promptly provide to the Office of Zoning copies of all filings with the Department of Employment. The applicant shall file a description of the steps to be taken in order to comply with the Memorandum of Understanding. The applicant shall diligently follow such steps.
12. The applicant shall provide documentation depicting the sunken plaza in and surrounding public space adjacent to the Subject Property along South Carolina Avenue to the National Park Service (NPS) prior to the commencement of construction activity on the Subject Property. Such documentation shall consist solely of photographs and drawings that document the condition of the sunken plaza and surrounding public space as of the time period of this application, approximately year 2001.
13. The change of zoning from R-4 to R-5-B for the Subject Property shall be effective upon the recordation of a covenant, as required by 11 DCMR § 2409.3.
14. No building permit shall be issued for the PUD until the applicant has recorded a covenant in the land records of the District of Columbia, between the applicant and the District of Columbia, that is satisfactory to the Office of the Corporation Counsel and the Zoning Division of the Department of Consumer and Regulatory Affairs (DCRA). Such covenant shall bind the applicant and all successors in title to construct and use the Subject Property in accordance with this order, or amendment thereof by the Zoning Commission.
15. The Office of Zoning shall not release the record of this case to the Zoning Regulations Division of DCRA until the applicant has filed a certified copy of the covenant with the Office of Zoning.
16. The consolidated 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 §§ 2408.8 and 2409.1. Construction shall start within three years of the effective date of this order.
17. Pursuant to § 267 of the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Code § 2-2402.67 (2001 ed.)), the applicant is required to comply fully with the provisions of D.C. Law 2-38, and this order is conditioned upon full compliance with those provisions. Nothing in this order shall be

understood to require the Zoning Regulations Division of the DCRA to approve permits if the applicant fails to comply with any provision of D.C. Law 2-38 as amended.

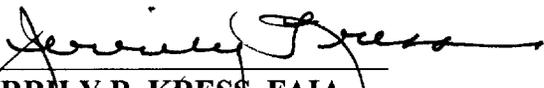
The Commission on July 16, 2001, voted to **approve** the application on a vote of **4-0-1** (Anthony J. Hood and John G. Parsons, to approve, Peter G. May and Carol J. Mitten to approve, by absentee vote, James H. Hannaham, present, not voting.).

The order was **adopted** by the Zoning Commission at its public meeting on September 17, 2001, by a vote of **5-0-0** (Peter G. May, Anthony J. Hood, Carol J. Mitten, James H. Hannaham, and John G. Parsons, to approve).

In accordance with the provisions of 11 DCMR 3028, this order shall become final and effective upon publication in the D.C. Register on SEP 28 2001.



CAROL J. MITTEN
Chairman
Zoning Commission



JERRY R. KRESS, FAIA
Director
Office of Zoning