

**Government of the District of Columbia**  
**ZONING COMMISSION**



**Zoning Commission Order No. 969**  
**Case No. 00-02**  
**(PUD Map Amendment – MedStar Health)**  
**October 17, 2002**

Pursuant to notice, a public hearing of the Zoning Commission for the District of Columbia was held on December 7, 2000. At the hearing session, the Zoning Commission considered the application of MedStar Health (“MedStar” or the “Applicant”). The application requested a rezoning from R-5-A to SP-1 and SP-2 for all of the area of Square 3129 that is zoned R-5-A. Subsequently, the application was amended by the Applicant to request a consolidated review and approval of a Planned Unit Development (“PUD”) and related amendment to the zoning map of the District of Columbia pursuant to Chapter 24 and § 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. For the reasons stated below, the Commission granted first-stage approval with conditions.

**FINDINGS OF FACT**

1. This application was filed on November 4, 1999, requesting a map amendment rezoning from R-5-A, a flexible multi-family residential classification, to SP-1 and SP-2, medium-density and medium-high-density districts, respectively, all of the area within Square 3129 that is zoned R-5-A (the “Site”). The Site is part of Lot 2 in Square 3129 and contains approximately 1,460,851 square feet or 33.53 acres of land area.
2. Square 3129 contains numerous medical facilities, including the Washington Hospital Center, The National Rehabilitation Hospital, The Children’s Hospital National Medical Center, and the Veterans Affairs Medical Center.
3. Lot 2, which is the subject of this application, is occupied by the Washington Hospital Center and The National Rehabilitation Hospital. The remaining portion of Lot 2 was rezoned by Zoning Commission Order No. 784 (September 11, 1995), in which the Commission approved a PUD and map amendment to allow the construction and use of the Physicians’ Office Building, certain adjunct hospital related facilities, and a parking structure. That PUD also approved a rezoning from R-5-A to SP-1 of approximately 237,726 square feet of land (5.48 acres), which was used predominantly for surface parking. All other areas of Lot 2 remained in the R-5-A district.

4. The Site is located in the northwest quadrant of the District of Columbia and is bounded by Irving Street to the north, Michigan Avenue to the south and west, and North Capitol Street to the east. Directly to the north and south of the Site are government facilities that are unzoned, including the United States Soldiers' and Airmen's Home to the north, the Veterans Administration Hospital to the east, and the Macmillan Reservoir and (old) Sand Filtration site to the south. The reservoir property is operated by the U.S. Army Corps of Engineers. The old Sand Filtration site is owned by the Government of the District of Columbia. The site slopes approximately 15 feet from the northwest to the southeast and is 40% occupied by the buildings and structures, 31% paved, and 29% open space.
5. The R-5-A district permits matter-of-right single-family detached and semi-detached dwellings, and, with the approval of the Board of Zoning Adjustment, low-density development of general residential uses including row houses, flats, and apartments to a maximum floor area ratio ("FAR") of 0.9, a maximum lot occupancy of forty percent (40%) and a maximum height of three (3) stories/forty (40) feet.
6. The SP-1 district permits matter-of-right, medium high-density development including all kinds of residential uses, and office development, both to be compatible with surrounding properties, to a maximum height of sixty-five (65) feet, a maximum FAR of 4.0 for residential and 1.5 for other permitted uses, and a maximum lot occupancy of eighty percent (80%) for residential uses.
7. The SP-2 district permits matter-of-right, medium high-density development including all kinds of residential uses, and office development, both to be compatible with surrounding properties, to a maximum height of ninety (90) feet, a maximum FAR of 6.0 for residential and 3.5 for other permitted uses, and a maximum lot occupancy of eighty percent (80%) for residential uses.
8. The Applicant assembled and submitted a "Master Plan 2000" for its campus, including the Site, upon which it based its application for the map amendment that it seeks. That document sets forth the history of the medical uses on the Site; the current zoning scheme; the development objectives of the Applicant for a fifteen (15) year period; the methodology that was used to assemble the Master Plan 2000; a description of the streets, building, topography, political jurisdictions, and comprehensive plan land use designations, adjacent planning considerations, adjacent zoning considerations; a public and bicycle transportation plan; an assessment of public transportation and bicycle routes; an explanation of existing conditions, a discussion of the programmatic and space needs of the hospital; development guidelines; a discussion of planning alternatives; floor plans; landscape plans; design illustrations, signage plans, circulation and way-finding designs; and an implementation schedule for the proposed development.

9. The implementation sequences are described in Phase I (the Emergency and Intensive Care Unit addition); Phase II (Laboratory and Administrative addition); Phase III (the Radiology and Mechanical Equipment addition); Phase IV (the Cancer Institute Expansion); Phase V (the addition to the East Building); and Phase VI (the Southeast Complex). The Master Plan suggests three zoning alternatives, labeled "A", "B", and "C." Of these, the Applicant seeks approval, through the PUD process, of Zoning Strategy B which is described at Figure 6.6c of the Master Plan 2000. The area proposed for rezoning to the SP-1 district contains 623,866-square-feet. The existing floor area amounts to 537,657 square feet. Rezoning this parcel to SP-1, which has a maximum FAR of 1.9, will result in a maximum building floor area of 1,185,345 square-feet (FAR) at a maximum permitted height of sixty-five (65) feet.
10. The area proposed for the SP-2 district contains 836,985-square-feet. The existing floor area in that parcel is 902,972 square feet. Thus, the maximum 3.4 FAR permitted in the SP-2 district would permit an additional building floor area of 1,942,792 square-feet at a maximum height of ninety (90) feet. Thus, the approval of Zoning Strategy B will result in a maximum total additional building floor area of 2,845,749 square feet of building space to be used primarily for the medical services and related uses described in the Master Plan 2000.
11. On January 25, 2001, the Applicant formally adopted the Master Plan 2000 as its development guide for the period 2001 to 2020.
12. The Applicant also submitted a transportation impact analysis which discusses peak hour traffic counts, roadway capacities under the existing zoning, trip generation rates under the existing zoning and roadway, and trip generation capacities under the proposed rezoning. This study concluded that three (3) of the nine (9) intersections within the immediate vicinity of the Site operated at less than acceptable levels of service and, the existing parking supply is "somewhat inadequate." However, the report goes on to recommend improvements to those three (3) intersections and concludes that the increased parking supply proposed in the Master Plan 2000 will increase the parking supply to an adequate level.
13. The Applicant testified at the public hearing that it was in discussions with the District Division of Transportation of the Department of Public Works (now the District Department of Transportation ("D-DOT")) to formalize an Agreement to improve nearby roadway capacities and efficiencies. By this proposed agreement, the Applicant would provide partial funding for certain roadway improvements that are deemed appropriate and necessary to resolve the intersection and parking supply deficiencies associated with the proposed development plan.
14. At the public hearing, Christine Swearinger, the Applicant's Senior Vice-President, testified that MedStar is the largest health care system in the Baltimore-Washington region. It consists of seven (7) hospitals, more than 3,000 licensed

beds, 22,000 employees, and 4,000 affiliated positions. In Washington, D.C., MedStar operates the Washington Hospital Center, the National Rehabilitation Hospital, Georgetown University Hospital, the Visiting Nurses Association, and MedStar Manor at Lamond Riggs. The Washington Hospital Center was founded in 1958 at its current location as a result of the merger of the old Garfield Memorial Hospital; the Episcopal Eye, Ear, and Throat Hospital; and the Central Dispensary and Emergency Hospital. The Washington Hospital Center is now the District of Columbia's largest health care facility providing the largest number of inpatient/outpatient and emergency services for the residents of the District of Columbia, especially for residents who live east of Rock Creek Park.

15. Ms. Swearinger testified that the developments proposed under the Master Plan 2000 were critical to alleviate crowded and cramped facilities, to renovate substandard facilities to modern standards, to replace obsolete facilities, and to improve access to facilities and service areas within the Washington Hospital Center campus. She stated that the density limitations of the existing residential zoning (0.9) FAR accord the Washington Hospital Center no more latitude to expand facilities to serve the needs of its patients and physicians. The hospital campus is built to the capacity of the existing R-5-A zoning envelope. She testified further that it is extremely unlikely that the Site would ever be used for the residential purposes for which it is zoned.
16. Clarence Brewton, Jr., the Applicant's Vice-President of Regulatory Compliance and Community Development, testified that the Applicant held meetings with neighboring residents, its patients, its institutional neighbors, Advisory Neighborhood Commissions, civic and citizens associations, community leaders, elected officials, and oversight agencies to create and comment upon the Master Plan 2000. The Applicant also surveyed 21,000 households and incorporated those summary views into its Master Plan 2000.
17. Albert G. Dobbins III, of A.G. Dobbins & Associates, a planning consultant who was recognized as an expert in planning and zoning by the Commission, testified that the proposed rezoning from R-5-A to SP-1 and SP-2 is not inconsistent with the comprehensive plan, supports the theme of the National Capital Planning Commission's ("NCPC") Extending the Legacy Plan, is in harmony with the surrounding uses and zoning, and is consistent with the past and present uses of the site and the zoning regulations.
18. Gerald Oudens, of Oudens & Knoop Architects, recognized by the Commission as an expert in planning and zoning, testified to the site development history, the planning methodology of the Master Plan 2000, the existing conditions on the Site, functional issues, vehicular access issues, landscaping, the major space needs of the hospital, the gross floor area needs, the development plan objectives, the proposed development plan, and the proposed zoning and phased construction schedule. The specifics of his testimony are included in the Master Plan 2000 and

in slides submitted into the record by the Applicant on March 15, 2001. (Exhibit Number 20C)

19. O.R. George, of O.R. George & Associates, who was recognized by the Commission as an expert on traffic and parking, testified to MedStar's current site access needs and their impacts on the transportation and parking infrastructure with respect to the proposed development outlined in the Master Plan 2000. He also discussed the roadway and parking usage under both the current and the proposed development, and the improvements needed at critical intersections to reasonably accommodate the Applicant's development plan. The recommended improvements included intersection improvements at Irving and First Streets, N.W., First Street and Michigan Avenue, N.W., and at Michigan Avenue east, and west of the Children's Hospital Building. With these improvements, Mr. George concluded that the rezoning and development of the Washington Hospital Center campus site could be undertaken as proposed, without an adverse impact to area roadways.
20. On December 4, 2000, the D.C. Office of Planning ("OP") submitted a report and later testified at the public hearing in support of the application conditioned upon the approval of a letter agreement regarding roadway improvements between the Applicant and the D.C. Department of Public Works. In making this recommendation, the OP noted the design control and transportation management advantages of this application being processed as a PUD instead of as a map amendment case.
21. Representatives of the Children's Hospital National Medical Center, the Department of Veterans Affairs, Providence Hospital, Catholic University, the D.C. Chamber of Commerce, and the American Heart Association all submitted letters to the record in support of the application.
22. Various citizens, including a Commissioner from Advisory Neighborhood Commission ("ANC") 5C submitted statements to the record in support of this application.
23. By letter dated August 16, 2000, ANC 4D recommended that this application be approved. The letter did not address any particular issue or concern, but noted that the plan did not address the issue of offering some free parking for patients and visitors.
24. By letter dated December 1, 2000, ANC 5C expressed its support for the application. ANC 5C indicated that approval of the application, "will have negligible adverse impact upon the surrounding residential community." ANC 5C based its conclusion upon traffic control measures already taken by the Applicant as well as the District government, and the Applicant's commitment to work with ANC 5C to resolve any traffic or parking issues that might arise. Like

ANC 4D, ANC 5C expressed the concern of some of its members, "about the affordability of public parking for visitors and patients of the hospital." ANC 5C therefore recommended that MedStar should either provide a certain amount of free parking or implement a system of discounted parking.

25. Ms. Cleopatra Jones, President of the Bloomingdale Civic Association, appeared at the hearing to express that organization's support for the application.
26. Several area residents, including a Commissioner from ANC 4D, testified in support of this application.
27. There were no letters in opposition to the application submitted for the record , and no persons in opposition to the proposal testified at the public hearing.
28. At the conclusion of the testimony, the Commission asked the Applicant to consider how it might achieve its objectives using the process of a PUD rather than through a map amendment. Thereafter, the Applicant met with the OP to explore the means by which the Applicant's need for growth and flexibility could be accommodated within a PUD framework.
29. By its report dated, April 10, 2001, the OP indicated that it had developed a consensus approach that called for the Applicant to request a "hybrid" PUD. Under this approach, the Master Plan would be considered the PUD project. Each building would be reviewed by the Zoning Administrator for consistency with the master plan. OP and the Applicant disagreed over whether OP should also certify consistency. By letter dated April 9, 2001, the Applicant, "urge[d] the Commission to approve MedStar's rezoning request as stated in the Office of Planning's memorandum," with the exception of the OP certification process.
30. At its meeting on May 14, 2001, the Commission treated the Applicant's letter as an application for a consolidated PUD. The Commission, however, determined that the record evidence only supported approval of a first-stage PUD. Accordingly, it voted to approve Phases I through VI, as stated in the Master Plan 2000, as a first-stage PUD. However, the Commission specifically rejected the density proposed in Phase VI, stating that a project of lesser density should be submitted for later approval. The approval was also subject to the terms of the memorandum agreement relating to roadway improvements between MedStar and the D.C. Department of Public Works. The approval extends to Zoning Strategy B with a limit of 1.9 FAR in the SP-1 district and a limit of 3.4 FAR in the SP-2 district and square footage and height limitations as stated in the Master Plan 2000. All hospital uses, including Physicians' Office Buildings and related parking facilities, are approved as a matter-of-right.

31. On June 25, 2002, prior to the Commission taking final action to approve the first-stage PUD, the Applicant submitted plans and documents in satisfaction of the second-stage PUD application requirements of § 2406.12 of the Zoning Regulations. The Applicant specifically requested the Commission to:
  - a. rescind its vote of May 14, 2001 approving projects I, II, III, IV, V, and VI as a first-stage PUD; and
  - b. approve projects I, II, III, and IV as a consolidated PUD.

The Applicant stated that it would submit appropriate documents supporting subsequent approvals for projects V and VI (the East Building, the Southeast complex, and the expansion of the National Rehabilitation Hospital) separately for Commission action at a later date.

32. The Commission considered the June 25, 2002, submission at its public meeting of July 8, 2002, and, in the absence of comment on these documents by the OP and by ANC 4D, the Commission accorded those entities until August 30, 2002, to comment.
33. By memorandum dated September 3, 2002, the OP concluded that the Applicant had submitted documents sufficient to meet the requirements of § 2406.12 and stated its concern with the Commission acting on the Applicant's request without holding another public hearing. OP further recommended that the Commission incorporate the substantive provisions of MedStar's proposed agreement with D-DOT, relating to roadway improvements to be incorporated into the Zoning Commission's first-stage PUD Order.
34. ANC 4D did not make a submission into the record.
35. By letter dated September 9, 2002, D-DOT asked the Commission to incorporate the substantive provisions of its proposed memorandum agreement with the Applicant, as those provisions are stated in Appendix A to the OP's September 3, 2002, Memorandum, into any final zoning order in this case.
36. On September 9, 2002, at its monthly meeting, the Commission took no action with respect to the Applicant's request to rescind the previous vote in as much as such a request is not recognized under the Commission's rules of procedure. However, in recognition of the September 3, 2002, recommendation of OP and the September 9, 2002, recommendation of D-DOT, the Commission modified its earlier proposed action by adding conditions, inclusion of the provisions of the D-DOT agreement, to its first-stage approval.

37. The Commission finds that the first-stage elements of the PUD project and the related map amendment are in conformance with the comprehensive plan, which designates the site for institutional uses.
38. The Commission finds that the approval of this application will result in the efficient, economic utilization of the land; will provide improved building design; will create the opportunity for an increase in health care facilities; and will adequately address the protection of the public health, safety, welfare, and convenience.
39. The Commission finds that the Applicant has met the requirements of 11 DCMR, Chapter 24, with respect to first-stage PUDs and has fulfilled the intent and purposes thereof.
40. The proposed action of the Zoning Commission to approve the application as a first-stage PUD with conditions was referred to the NCPC pursuant to the terms of the District of Columbia Home Rule Act. The NCPC, by report dated October 3, 2002 indicated that the proposed consolidated PUD would not adversely affect the federal establishment or other federal interest in the National Capital, nor be inconsistent with the Comprehensive Plan for the National Capital

#### CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality development that provides public benefits. 11 DCMR 2400.1. The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project, "offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience." 11 DCMR 2400.2.
2. The development of this PUD carries out the purposes of Chapter 24 of the Zoning Regulations to encourage the development of all well-planned institutional, commercial, and mixed-use developments which will offer a variety of building types with more attractive and efficient overall planning and design that might otherwise be achieved under matter-of-right development.
3. The development of this PUD is compatible with District-wide and neighborhood 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 for the National Capital Area because it will stabilize the delivery of healthcare services, strengthen the distinguishing physical characteristics of the area, and increase employment opportunities.

5. The approval of this application is consistent with the purposes of the Zoning Act and the Zoning Regulations of the District of Columbia which include stabilizing land values and improving mix-use areas.
6. The application can be approved with conditions, which ensures that the development would not have an adverse effect on the surrounding community or the District.
7. The proposed PUD meets the minimum area requirements of § 2401.1 of the Zoning Regulations.
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 of Columbia.
9. This application is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977, as amended.
10. The Zoning Commission has accorded the recommendations and opinions of ANCs 4D and 5C the “great weight” to which they are entitled. The Commission is required under D.C. Code §1-309.10(d) (2001) to give great weight to the issues and concerns raised in the recommendations of the affected ANCs. ANC 4D did not indicate any issues or concerns, other than to indicate its position in favor of approval. The ANC did note that the provision of affordable public parking remained an open question. ANC 5C, for its part, indicated its belief that the adverse impact of the approval of this application would be negligible, the Commission notes the concerns raised by OP, to whom it must also give great weight, with respect to potential transportation-related impacts. However, the Commission, therefore, conditions this first-stage approval upon compliance with the substantive provisions of the agreement reached between the Applicant and D-DOT. The Commission notes that this agreement concerns actions which are tied to the issuance of building permits and certificates of occupancy, neither of which can be issued to the Applicant based upon first-stage PUD approval. Nevertheless, the Commission believes it is appropriate to include the substantive provisions of this agreement in this first-stage order in order to give the Applicant fair notice of its obligations should second-stage PUD approval be granted.
11. ANC 5C also recommended that MedStar address the need for affordable parking for patients and visitors. The Commission finds that the transportation and off-street parking plan, as conditioned hereby, is sufficient to avoid any adverse impacts resulting from the approval of this PUD. There are sufficient off-street parking spaces to accommodate the needs of the employees and guests of the Applicant. The Commission will not order the applicant to provide free parking spaces to the public, as raised by ANCs 4D and 5C, because no adverse impact from parking is anticipated from the proposed development.

## DECISION

In consideration of the findings of fact and conclusions of law contained in this order, the Zoning Commission of the District of Columbia orders APPROVAL of this application as a first-stage PUD for a portion of Lot 2 in Square 3129 and an amendment to the zoning map from R-5-A to SP-1 and SP-2 as set forth in Zoning Strategy B of Master Plan 2000 (Figure 6.6c). The approval is subject to the following guidelines, conditions and standards, and such other condition as the Commission may impose in any subsequent order it may issue granting final PUD approval:

1. The PUD shall be consistent with the Washington Hospital Center, MedStar Health Master Plan 2000, as revised and dated August 2000, and submitted to the Zoning Commission record on April 6, 2001. The following conditions shall also apply to the PUD approval and shall supercede, or be in addition to, any elements of the Master Plan in contradiction to, or silent on these conditions.
2. The zoning that shall accompany the PUD shall be that shown in Zoning Strategy B, WHC Master Plan 2000.
3. The total gross floor area shall be limited to approximately 4.5 million square feet (3.1 million square feet of additional gross floor area (gfa) added to the current 1.4 million square feet).
4. The FAR for the 623,866-square-foot SP-1 portion of the PUD shall be limited to a cumulative 1.9, for a total of 1,185,345 FAR-countable square feet.
5. The FAR for the 836,985-square-foot SP-2 portion of the PUD shall be limited to a cumulative 3.4, for a total of 2,845,749 FAR countable square feet.
6. While included in the above totals, approval of the square footage for the Southeast Complex/Phase VI building, as indicated in Figure 7.7e of the Master Plan, is withheld pending consideration of FAR for this phase in a later Stage II application for the Phase VI area.
7. Buildings within the SP-1/PUD shall not exceed sixty-five (65) feet.
8. Buildings within the SP-2/PUD shall not exceed ninety (90) feet.
9. Sight lines from the United States Soldiers' and Airmen's Home, as illustrated in the Applicant's submission of March 5, 2001, Tab C, shall be maintained.
10. Assuming 2<sup>nd</sup> Stage PUD approval is granted, no more than 2,500,000 square-feet of new below-grade, non-FAR-countable space shall be constructed without an approved PUD modification. Permitted uses shall include all uses described in

Chapter 4, pages 5–8 and Chapter 7, pages 11-14 of the Master Plan 2000 dated August 2000, as submitted for the record on April 6, 2001.

11. The square footage allocable to physicians’ office space, guest accommodations, and parking garages shall be that permitted as a matter-of-right under the zoning associated with the PUD.
12. The Applicant shall submit general site plans of all the proposed buildings, as well as dimensional floor plans, architectural facades, and sections for each of the buildings to be initially considered for Stage II PUD approval: i.e. Master Plan Phase I (the Emergency and ICU addition); Master Plan Phase II (Laboratory and Administrative addition); and Master Plan Phase III (the Cancer Institute and Linear Accelerator Addition).
13. The applicant shall adhere to the following transportation-related conditions:
  - a. MedStar shall implement the transportation management plan outlined in the Master Plan dated August 2000;
  - b. MedStar shall reimburse the District of Columbia Government for 100% of the traffic engineering and construction costs of Roadway Improvements 1 through 4, up to MedStar’s Reimbursement Amount, as outlined in the table below:

Roadway Improvements	Reimbursement Amount
1. Irving Street and Hobart Place at-grade access.	\$1.2 million
2. Irving Street at-grade right turn in and right turn out access to Parking Pavilion I	\$75,000
3. Michigan Avenue at Hospital Center Drive (south) signalization and signage (including interconnection with adjacent signal).	\$100,000
4. Michigan Avenue and First Street signalization and geometric improvements.	\$100,000

- c. MedStar shall pay D-DOT the total Reimbursement Amount of \$1,475,000 prior to the issuance of a building permit to construct any structure, that individually, or in combination with existing structures or with other structures not yet built but for which building permits have been applied, would cause the development on the property, which is the subject of Zoning Commission Case #00-02 to be increased by 300,000 square feet of net building space (including underground or parking facilities) beyond what existed on the date of the final approval of this Order. MedStar shall notify D-DOT prior to

filing each application for a building permit for a structure authorized by final PUD approval, until such time as MedStar makes the full payment set forth above.

- d. All design plans for Roadway Improvements 1 through 4 are to be reviewed and approved by D-DOT prior to construction;
- e. Roadway Improvements 1 through 4 shall be constructed before any new Certificate of Occupancy is issued to any structure that causes the total development on the property which is the subject of Zoning Commission Case #00-02 to be increased by 300,000 square feet of net building space (including underground parking or parking facilities), provided that Roadway Improvements 1 and 4 are constructed by D-DOT in a reasonable time after D-DOT has been notified of MedStar’s intention to apply for a building permit;
- f. MedStar shall, at its own expense, prepare and submit to D-DOT the design plans for Roadway Improvements 5 and 6 consistent with the following table:

Roadway Improvements	Estimated Construction Cost	Due Date for Design Plans
5. Irving Street and First Street intersection signalization and geometric improvements.	\$700,000	To be determined by D-DOT
6. North Capitol Street and Irving Street interchange improvements.	\$800,000	To be determined by D-DOT

- g. D-DOT shall be responsible for all construction engineering and construction costs related to Roadway Improvements 5 and 6. D-DOT shall seek eighty percent (80%) federal aid funding for the construction engineering and construction costs of these two projects which will be provided by the District local transportation trust fund, subject to appropriations;
- h. All design plans related to Roadway Improvements 5 and 6 shall be reviewed and approved by D-DOT prior to construction;
- i. D-DOT shall incorporate the design plans for Roadway Improvements 5 and 6 into a contract for the reconstruction of North Capitol Street near Irving Street, N.W.;

- j. Roadway Improvements 5 and 6 shall be constructed before any new Certificate of Occupancy is issued to any structure that individually, or in combination with existing structures or with other structures not yet built but for which building permits have been applied, would cause the development on the property which is the subject of Zoning Commission Case #00-02 to be increased by 300,000 square feet of net building space (including underground or parking facilities) beyond what existed on the date of the final approval of this Order, provided that Roadway Improvements 5 and 6 are constructed by D-DOT in a reasonable time after D-DOT has been notified of MedStar's intention to apply for a building permit.
  - k. There shall be at least five (5) entrances to the site: three (3) of those entrances should be via First Street, N.W.; one (1) via Michigan Avenue, west of the Children's Hospital National Medical Center; and one (1) shall be via Kenyon Street/Hobart Street from the west;
  - l. The entrances from the north shall be designed to accommodate approximately sixty-five percent (65%) of the anticipated vehicular traffic. Of the two (2) entrances from the north, one (1) entrance shall be for direct access to the existing Parking Pavilion I from the vicinity of Kenyon Street; the other – primary – entrance shall be from Irving Street at First Street; and
  - m. The entrance from the west side shall be designed to incorporate an entry into the Emergency Services Department.
15. This first-stage PUD approval by the Zoning Commission shall be valid for a period of one (1) year from the effective date of this order. Within such time, the Applicant must file a second-stage PUD application in order for this first-stage application to remain in effect.
16. The Applicant shall abide by the terms of the executed Memorandum of Understanding with the D.C. Office of Local Business Development in order to achieve, at a minimum, the goal of thirty-five percent (35%) participation by local, small, and disadvantaged businesses in the contracted development costs in connection with the design, development, construction, maintenance, and security for the project to be created as a result of the PUD project. After the completion of construction of the project, the Applicant shall provide a written status report to the Zoning Commission and the D.C. Local Business Opportunity Commission regarding compliance with this agreement.

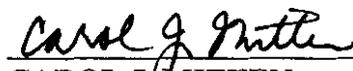
17. The Applicant shall abide by the terms of the executed First Source Employment Agreement with the Department of Employment Services (DOES) in order to achieve the goal of utilizing District of Columbia residents for at least fifty-one percent (51%) of the jobs created by the PUD project. After completion of construction of this project, the Applicant shall provide a written status report to the Zoning Commission and the DOES regarding compliance with this agreement.
18. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, as amended, and this order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 *et seq.*, (Act) the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, familiar 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. Nothing in this order shall be understood to require the Zoning Division of DCRA to approve permits if the Applicant fails to comply with any provision of the Human Rights Act.
19. The zoning designation approved herein shall not become effective unless the Commission grants final PUD approval and, then, not until the covenant required in 11 DCMT 2409.3 has been recorded

Vote of the Zoning Commission taken at the regular monthly meeting of May 14, 2001: **5-0-0** to grant first-stage approval (Carol J. Mitten, John G. Parsons, Anthony J. Hood, and Herbert M. Franklin to approve; Kwasi Holman to approve by proxy).

Vote of the Zoning Commission taken at the regular monthly meeting of September 9, 2002: **3-0-2** (Carol J. Mitten, John G. Parsons, and Anthony J. Hood to grant first-stage approval with conditions; Peter J. May and James H. Hannaham not voting, not having participated in the case).

This order was adopted by the Zoning Commission at its special public meeting on September 17, 2002 **5-0-0** (John G. Parsons, Peter J. May, Carol J. Mitten, Anthony J. Hood, and James H. Hannaham) adopt first stage with conditions. In accordance with the processing of 11 DCMR 3028, this order shall become final and effective upon publication in the D.C. Register; that is on

NOV 1 2002

  
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CAROL J. MITTEN  
Chairman  
Zoning Commission

  
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JERRILY R. KRESS, FAIA  
Director  
Office of Zoning