

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

BOARD FOR

THE CONDEMNATION OF INSANITARY BUILDINGS

NOTICE OF PUBLIC INTEREST

The Director of the Department of Consumer and Regulatory Affairs, in accordance with section 742 of the District of Columbia Home Rule Act of 1973, as amended, D.C. Code section 1-1504 (1999 Repl.), hereby gives notice that the Board for the Condemnation of Insanitary Buildings' (BCIB) regular meetings will be held on the dates listed below for calendar year 2008, (the second and fourth Wednesday of each month). The meetings will begin at 10:00 a.m. in Room 7100 of 941 North Capitol Street, NW, Washington, D.C. 20002. These regularly scheduled meetings of the BCIB are open to the public. Please call the Building Condemnation Division on (202) 535-1859 for further information or for changes in this schedule.

The BCIB is charged with examining the sanitary condition of all buildings in the District of Columbia, determining which buildings are in such insanitary condition as to endanger the health or lives of its occupants or persons living in the vicinity, and issuing orders of condemnation requiring the owners to remedy the insanitary condition. Should the owner fail to remedy the cited conditions, the BCIB shall cause the building to be made habitable, safe and sanitary or razed and removed. The cost of work performed by the District of Columbia Government shall be assessed to the property.

Calendar Year 2008 Meeting Dates

January 9th January 23rd	July 9th July 23rd
February 13th February 27th	August 13th August 27th
March 12th March 26th	September 10th September 24th
April 9th April 23rd	October 8th October 22nd
May 14th May 28th	November 12th November 26th
June 11th June 25th	December 10th December 24th

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**GOVERNMENT OF THE DISTRICT OF COLUMBIA****DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS  
BOARD FOR THE CONDEMNATION OF INSANITARY BUILDING****NOTICE OF PUBLIC INTEREST  
LIST OF CONDEMNED BUILDINGS**

Find enclosed a list of buildings against which condemnation proceedings have been instituted. This list is current as of **December 1, 2007**. The following paragraphs will give some insight into why these buildings were condemned and the meaning of condemnation for insanitary reasons.

Each listed property has been condemned by the District of Columbia Government's Board for the Condemnation of Insanitary Buildings (BCIB). The authority for this board is Title 6, Chapter 9, of the District of Columbia Code, 2001 Edition. The BCIB has examined each property and has registered with the record owner (via condemnation) a strong disapproval of the condition in which the property is being maintained. The BCIB has recorded at the Office of the Recorder of Deeds an Order of Condemnation against each property for the benefit of purchasers and the real estate industry.

These properties were condemned because they were found to be in such an insanitary condition as to endanger the health and lives of persons living in or in the vicinity of the property. The corrective action necessary to remove the condemnation order could take the form of demolition and removal of the building by the owner or the BCIB. However, most buildings are rendered sanitary, i.e., the insanitary conditions are corrected by the owner or the BCIB.

The administration of the condemnation program does not take title to property. The title to each property remains with the owner. Accordingly, inquiries for the sale or value of these properties should be directed to the owner of record. Inquiries regarding the owner or owner's address should be directed to the Office of Tax and Revenue, Customer Service, Office of Real Property Tax (202) 727-4829, 941 North Capitol Street, NE, 1<sup>st</sup> floor.

For further assistance, contact the Support Staff of the BCIB on 442-4486.

THE BOARD FOR THE CONDEMNATION OF INSANITARY BUILDING

Enclosure:

**BOARD FOR  
THE CONDEMNATION OF INSANITARY BUILDINGS**

**LIST OF CONDEMNED BUILDINGS**

<u>BUILDINGS CONDEMNED</u>	<u>LOT</u>	<u>SQUARE</u>	<u>WD</u>
<u>Northwest</u>			
6412 Barnaby Street	0091	2352	4
7100 Blair Road	0800	3189	4
7220 Blair Road	0812	3176	4
811 Butternut Street	0006	2967	4
635 Columbia Road	0153	3052	1
1126 Columbia Road	0056	2853	1
5109 Connecticut Avenue	0048	1989	3
5109 Connecticut Avenue-Rear	0048	1989	3
321 Elm Street	0082	1111	1
410 Florida Avenue	0040	0507	5
1461 Florida Avenue	0147	2660	1
3003 Georgia Avenue	0111	3052	1
3919 Georgia Avenue	0035	3027	4
4419 Georgia Avenue	0815	3020	4
4607 Georgia Avenue	0016	3015	4
723 Girard Street	0214	2886	1
1710 Irving Street	0001	2771	4
1301 Kalmia Road	0001	2771	4
806 Kennedy Street	0812	2994	4
1026 Lamont Street	0802	2845	1
508 M Street	0071	0482	2
1002 M Street	0056	0341	2
1006 M Street	0051	0341	2
223 Missouri Avenue	0043	3331	4
1824 Monroe Street	0813	2614	1
212 Morgan Street	0083	0555	6
216 Morgan Street	0018	0555	6
3642 New Hampshire Ave.-Rear	0032	2898	1
447 Newton Place	0027	3035	1
1443 Newton Street	0430	2677	1
1424 North Capitol Street	0010	0616	5
1426 North Capitol Street	0836	0616	5
405 O Street	0802	0511	2
509 O Street	0479	2001/2002	2

Northwest (Con't)

340 Oakdale Place	3085	0051	1
3421 Oakwood Terr.	0768	2621	1
310 P Street	0037	553W	5
605 P Street	0154	0445	2
1433 Parkwood Place	0064	2688	1
1427 Q Street	0009	0208	2
729 Quincy Street	0822	3131	4
53 S Street	0039	3106	5
1605 S Street	0019	0177	2
423 Shepherd Street	0038	3238	4
423 Shepherd Street-Rear	0038	3238	4
1237 Shepherd Street	0014	2908	4
5136 Sherrier Place	0826	1415	3
321 T Street	0065	3089	1
901 U Street	0100	0360	2
613 Upshur Street	0072	3226	4
613 Upshur Street-Rear	0072	3226	4
1321 V Street	0182	0235	1
1943 Vermont Avenue	0011	0361	1
1943 Vermont Avenue-Rear	0011	0361	1
1401 1 <sup>st</sup> Street	0814	0616	5
1821 1 <sup>st</sup> Street	0137	3110	5
1202 3 <sup>rd</sup> Street	0837	0523	2
1506 3 <sup>rd</sup> Street	0818	0521	5
1859 3 <sup>rd</sup> Street	0810	3096	1
1922 3 <sup>rd</sup> Street-Rear	0010	3089	1
1209 4 <sup>th</sup> Street	0810	0523	6
1211 4 <sup>th</sup> Street	0502	2026	6
1417 5 <sup>th</sup> Street	0054	0511	2
1425 5 <sup>th</sup> Street	0511	0817	2
1551 6 <sup>th</sup> Street(Carriage House)	0821	0478	2
2206 6 <sup>th</sup> Street	0033	3065	1
6838 6 <sup>th</sup> Street	0013	3169	4
5124 7 <sup>th</sup> Street	0110	3149	4
5232 7 <sup>th</sup> Street	0032	3150	4
5232 7 <sup>th</sup> Street-Rear	0032	3150	4
1512 8 <sup>th</sup> Street	0832	0397	2
1543 8 <sup>th</sup> Street	0046	0421	2
1600 8 <sup>th</sup> Street	0020	0396	2
1905 8 <sup>th</sup> Street	0802	0416	1

<u>BUILDINGS CONDEMNED</u>	<u>LOT</u>	<u>SQUARE</u>	<u>WD</u>
<u>Northwest (Con't)</u>			
1905 8 <sup>th</sup> Street -Rear	0802	0416	1
6216 8 <sup>th</sup> Street	2980	0031	4
1819 10 <sup>th</sup> Street	0212	0362	1
1819 10 <sup>th</sup> Street-Rear	0212	0362	1
3007 11 <sup>th</sup> Street	0099	2851	1
3222 13 <sup>th</sup> Street	0034	2845	1
5113 13 <sup>th</sup> Street-Rear	0019	2929	4
5749 13 <sup>th</sup> Street-Rear	58/818	2935	4
2208 14 <sup>th</sup> Street	0030	0202	1
3405 14 <sup>th</sup> Street	0115	2836	1
3509 14 <sup>th</sup> Street	0053	2827S	1
4024 14 <sup>th</sup> Street	0053	2694	4
5209 14 <sup>th</sup> Street	0105	2804	4
2423 18 <sup>th</sup> Street	0093	2560	1
3222 19 <sup>th</sup> Street	0817	2604	1

<u>BUILDINGS CONDEMNED</u>	<u>LOT</u>	<u>SQUARE</u>	<u>WD</u>
<u>Northeast</u>			
4611 Clay Street	0011	5134	7
5212 Cloud Street	0801	5235	7
4226 Dix Street	0017	5089	7
4226 Dix Street-Rear(North)	0017	5089	7
4226 Dix Street-Rear(South)	0017	5089	7
1334 Downing Place	0039	4027	5
4710 Eads Street	0011	5144	7
635 Emerson Street	0008	3788	5
2800 Evart Street	0009	4346	5
1369 Florida Avenue-Rear	0129	1026	6
4326 Gault Place	0130	5093	7
413 H Street	0812	0809	6
1309 H Street	0088	1027	6
1311 H Street	0089	1027	6
1264 Holbrook Terr.	0840	4055	5
311 I Street	0048	0776	6
1826 I Street	0032	4488	5
1830 I Street	0031	4488	5

<u>BUILDINGS CONDEMNED</u>	<u>LOT</u>	<u>SQUARE</u>	<u>WD</u>
<u>Northeast (Con't)</u>			
5069 Just Street	0305	5176	7
303 K Street	0804	0775	6
1854 L Street	0806	4470	5
1249 Lawrence Street	0021	3930	5
5119 Lee Street	0038	5200	7
1310 Monroe Street	0010	3964	5
1310 Monroe Street-Rear	0010	3964	5
1410 Montello Avenue	0809	4059	5
1414 Montello Avenue	0807	4059	5
1712 Montello Avenue	0029	4053	5
1712 Montello Avenue-Rear	0029	4053	5
5706 NHB Avenue	0010	5214	7
1243 Owen Place	0188	4060	5
22 P Street	0057	0668	5
24 P Street	0056	0668	5
21 T Street	0809	5235	5
319 V Street	0801	3563	5
2511 Queen Chapel Road	4111E	0016	5
115 Riggs Road	0085	3701	5
2925 South Dakota Avenue	0028	4339	5
3110 South Dakota Avenue	0033	4224	5
3110 South Dakota Avenue-Rear	0033	4224	5
21 T Street	0029	3510	5
215 Warren Street	0809	1033	6
915 3 <sup>rd</sup> Street	0801	0775	6
1811 3 <sup>rd</sup> Street	0007	3570	5
619 4 <sup>th</sup> Street	0092	0810	6
1020 4 <sup>th</sup> Street-Rear	0034	0774	6
3215 7 <sup>th</sup> Street	0010	3650	5
251 8 <sup>th</sup> Street	0064	0917	6
819 8 <sup>th</sup> Street	0028	0911	6
2250 13 <sup>th</sup> Street-Rear	0034	3942	5
704 16 <sup>th</sup> Street	0085	4509	6
3114 16 <sup>th</sup> Street	0041	4014	5
3300 18 <sup>th</sup> Street	0019	4143	5
4310 22 <sup>nd</sup> Street	0012	4232	5
2921 26 <sup>th</sup> Street	0029	4342	5
2924 26 <sup>th</sup> Street	0026	4287	5
1123 46 <sup>th</sup> Street	0111	5155	7
1227 47 <sup>th</sup> Place	0039	5160	7
811 48 <sup>th</sup> Street	0065	5149	7
1055 48 <sup>th</sup> Place	0098	5153	7
717 50 <sup>th</sup> Street	0021	5179	7

BUILDINGS CONDEMNEDLOTSQUAREWDNortheast (Con't)

730 51 <sup>st</sup> Street	0061	5197	7
732 51 <sup>st</sup> Street	0060	5197	7
734 51 <sup>st</sup> Street	0808	5197	7
945 52 <sup>nd</sup> Street	0803	5199	7
109 53 <sup>rd</sup> Street	0091	5243	7
421 61 <sup>st</sup> Street	0009	5260	7

BUILDINGS CONDEMNEDLOTSQUAREWDSoutheast

1523 A Street	0816	1072	6
1751 A Street	0063	1097	6
1751 A Street-Rear	0063	1097	6
4427 A Street	0107	5350	7
4437 A Street	0102	5350	7
4437 A Street-Rear	0102	5350	7
5019 A Street	0005	5327	7
5019 A Street-Rear (Shed)	0005	5327	7
21 Atlantic Street	0051	6170	8
5010 Benning Road	0068	5340	7
3401 Brothers Place	0803	6006	8
5201 C Street	0009	5312	7
5100 Call Place	0016	5312	7
5100 Call Place-Rear(South)	0016	5312	7
4348 Dubois Place	0069	5400E	7
612 E Street	0814	0876	6
1525 E Street	0087	1076	6
3326 Ely Place	0807	5444	6
647 G Street	0139	0878	6
651 G Street	0141	0878	6
3009 G Street	0807	5480	7
1500 Galen Street	0048	5795	8
1239 Good Hope Road	0089	3033	8
1410 Good Hope Road	0024	5605	8
4324 Halley Terrace	0018	6214	8
4326 Halley Terrace	0017	6214	8
4338 Halley Terrace	2001	6214	8
2256 High Street-Rear East	0850	5799	8

<u>BUILDINGS CONDEMNED</u>	<u>LOT</u>	<u>SQUARE</u>	<u>WD</u>
<u>Southeast (Con't)</u>			
2309 Irving Street	0010	5846	8
2839 Jasper Road	0917	5875	8
1220 Mapleview Place	0811	5800	8
1354 Mapleview Place	0922	5804	8
1909 MLK Jr. Avenue	0829	5770	8
1911 MLK Jr. Avenue	0829	5770	8
1913 MLK Jr. Avenue	0829	5770	8
2228 MLK Jr. Avenue	0810	5802	8
2234 MLK Jr. Avenue	0811	5802	8
2238 MLK Jr. Avenue	0978	5802	8
2629 MLK Jr. Avenue-East	0192	5867	8
2629 MLK Jr. Avenue-West	0192	5867	8
2666 MLK Jr. Avenue, East bldg	1014	5868	8
2759 MLK Jr. Avenue-Rear	0802	5982	8
1354 Penn. Avenue	0051	3565	8
1431 Potomac Avenue	0045	1065NE	6
1005 Savannah Street	0804	5938	8
1500 Savannah Street	0801	5912	8
1502 Savannah Street	0802	5912	8
1225 Sumner Road	0980	5865	8
1326 Valley Place	0849	5799	8
1333 Valley Place	0891	5801	8
821 Virginia Avenue	0006	0929	6
1242 W Street	0099	5782	8
104 Xenia Street	0037	6128N	8
535 9 <sup>th</sup> Street	0830	0926	6
535 9 <sup>th</sup> Street-Rear	0830	0926	6
321 18 <sup>th</sup> Street	0801	1100	6
1427 22 <sup>nd</sup> Street	0812	5564	8

<u>BUILDINGS CONDEMNED</u>	<u>LOT</u>	<u>SQUARE</u>	<u>WD</u>
<u>Southwest</u>			
78 Darrington Street-Rear	0023	6223S	8
35 Forrester Street	0054	6240	8
157 Forrester Street	0803	6240	8

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**LIST OF CONDEMNED BUILDINGS**

Find enclosed a list of buildings against which condemnation proceedings have been instituted. This list is current as of **January 1, 2008**. The following paragraphs will give some insight into why these buildings were condemned and the meaning of condemnation for insanitary reasons.

Each listed property has been condemned by the District of Columbia Government's Board for the Condemnation of Insanitary Buildings (BCIB). The authority for this board is Title 6, Chapter 9, of the District of Columbia Code, 2001 Edition. The BCIB has examined each property and has registered with the record owner (via condemnation) a strong disapproval of the condition in which the property is being maintained. The BCIB has recorded at the Office of the Recorder of Deeds an Order of Condemnation against each property for the benefit of purchasers and the real estate industry.

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The administration of the condemnation program does not take title to property. The title to each property remains with the owner. Accordingly, inquiries for the sale or value of these properties should be directed to the owner of record. Inquiries regarding the owner or owner's address should be directed to the Office of Tax and Revenue, Customer Service, Office of Real Property Tax (202) 727-4829, 941 North Capitol Street, NE, 1<sup>st</sup> floor.

For further assistance, contact the Support Staff of the BCIB on 442-4486.

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7100 Blair Road	0800	3189	4
7220 Blair Road	0812	3176	4
811 Butternut Street	0006	2967	4
1126 Columbia Road	0056	2853	1
5109 Connecticut Avenue	0048	1989	3
5109 Connecticut Avenue-Rear	0048	1989	3
5233 Connecticut Avenue	0041	1874	3
321 Elm Street	0082	1111	1
410 Florida Avenue	0040	0507	5
1461 Florida Avenue	0147	2660	1
3003 Georgia Avenue	0111	3052	1
3919 Georgia Avenue	0035	3027	4
4419 Georgia Avenue	0815	3020	4
4607 Georgia Avenue	0016	3015	4
723 Girard Street	0214	2886	1
1710 Irving Street	0001	2771	4
1301 Kalmia Road	0001	2771	4
806 Kennedy Street	0812	2994	4
1026 Lamont Street	0802	2845	1
508 M Street	0071	0482	2
1002 M Street	0056	0341	2
1006 M Street	0051	0341	2
223 Missouri Avenue	0043	3331	4
1824 Monroe Street	0813	2614	1
212 Morgan Street	0083	0555	6
216 Morgan Street	0018	0555	6
3642 New Hampshire Ave.-Rear	0032	2898	1
447 Newton Place	0027	3035	1
1443 Newton Street	0430	2677	1
1424 North Capitol Street	0010	0616	5
1426 North Capitol Street	0836	0616	5
405 O Street	0802	0511	2
509 O Street	0479	2001/2002	2

Northwest (Con't)

1344 Otis Place	0118	2835	1
1346 Otis Place	0117	2835	1
1346 Otis Place-Rear	0117	2835	1
1350 Otis Place	0115	2835	1
340 Oakdale Place	3085	0051	1
310 P Street	0037	553W	5
605 P Street	0154	0445	2
1433 Parkwood Place	0064	2688	1
1427 Q Street	0009	0208	2
729 Quincy Street	0822	3131	4
53 S Street	0039	3106	5
1605 S Street	0019	0177	2
423 Shepherd Street	0038	3238	4
423 Shepherd Street-Rear	0038	3238	4
1237 Shepherd Street	0014	2908	4
5136 Sherrier Place	0826	1415	3
321 T Street	0065	3089	1
901 U Street	0100	0360	2
613 Upshur Street	0072	3226	4
613 Upshur Street-Rear	0072	3226	4
1321 V Street	0182	0235	1
1943 Vermont Avenue	0011	0361	1
1943 Vermont Avenue-Rear	0011	0361	1
1401 1 <sup>st</sup> Street	0814	0616	5
1202 3 <sup>rd</sup> Street	0837	0523	2
1506 3 <sup>rd</sup> Street	0818	0521	5
1859 3 <sup>rd</sup> Street	0810	3096	1
1922 3 <sup>rd</sup> Street-Rear	0010	3089	1
1209 4 <sup>th</sup> Street	0810	0523	6
1211 4 <sup>th</sup> Street	0502	2026	6
1417 5 <sup>th</sup> Street	0054	0511	2
1425 5 <sup>th</sup> Street	0511	0817	2
1551 6 <sup>th</sup> Street(Carriage House)	0821	0478	2
2206 6 <sup>th</sup> Street	0033	3065	1
6838 6 <sup>th</sup> Street	0013	3169	4
5124 7 <sup>th</sup> Street	0110	3149	4
5232 7 <sup>th</sup> Street	0032	3150	4
5232 7 <sup>th</sup> Street-Rear	0032	3150	4
1512 8 <sup>th</sup> Street	0832	0397	2
1543 8 <sup>th</sup> Street	0046	0421	2

<u>BUILDINGS CONDEMNED</u>	<u>LOT</u>	<u>SQUARE</u>	<u>WD</u>
<u>Northwest (Con't)</u>			
1600 8 <sup>th</sup> Street	0020	0396	2
1905 8 <sup>th</sup> Street	0802	0416	1
1905 8 <sup>th</sup> Street -Rear	0802	0416	1
6216 8 <sup>th</sup> Street	2980	0031	4
1819 10 <sup>th</sup> Street	0212	0362	1
1819 10 <sup>th</sup> Street-Rear	0212	0362	1
3007 11 <sup>th</sup> Street	0099	2851	1
3222 13 <sup>th</sup> Street	0034	2845	1
5113 13 <sup>th</sup> Street-Rear	0019	2929	4
2208 14 <sup>th</sup> Street	0030	0202	1
3405 14 <sup>th</sup> Street	0115	2836	1
3509 14 <sup>th</sup> Street	0053	2827S	1
4024 14 <sup>th</sup> Street	0053	2694	4
5209 14 <sup>th</sup> Street	0105	2804	4
2423 18 <sup>th</sup> Street	0093	2560	1

<u>BUILDINGS CONDEMNED</u>	<u>LOT</u>	<u>SQUARE</u>	<u>WD</u>
<u>Northeast</u>			
5212 Cloud Street	0801	5235	7
4226 Dix Street	0017	5089	7
4226 Dix Street-Rear(North)	0017	5089	7
4226 Dix Street-Rear(South)	0017	5089	7
4335 Douglas Street	0060	5115	7
1334 Downing Place	0039	4027	5
4710 Eads Street	0011	5144	7
635 Emerson Street	0008	3788	5
2800 Evart Street	0009	4346	5
1369 Florida Avenue-Rear	0129	1026	6
4326 Gault Place	0130	5093	7
413 H Street	0812	0809	6
1309 H Street	0088	1027	6
1311 H Street	0089	1027	6
1264 Holbrook Terr.	0840	4055	5
311 I Street	0048	0776	6
1826 I Street	0032	4488	5
1830 I Street	0031	4488	5

<u>BUILDINGS CONDEMNED</u>	<u>LOT</u>	<u>SQUARE</u>	<u>WD</u>
<u>Northeast (Con't)</u>			
5069 Just Street	0305	5176	7
303 K Street	0804	0775	6
1854 L Street	0806	4470	5
1249 Lawrence Street	0021	3930	5
5119 Lee Street	0038	5200	7
1310 Monroe Street	0010	3964	5
1310 Monroe Street-Rear	0010	3964	5
1410 Montello Avenue	0809	4059	5
1414 Montello Avenue	0807	4059	5
1712 Montello Avenue	0029	4053	5
1712 Montello Avenue-Rear	0029	4053	5
5706 NHB Avenue	0010	5214	7
1243 Owen Place	0188	4060	5
22 P Street	0057	0668	5
24 P Street	0056	0668	5
21 T Street	0809	5235	5
319 V Street	0801	3563	5
2511 Queen Chapel Road	4111E	0016	5
115 Riggs Road	0085	3701	5
2925 South Dakota Avenue	0028	4339	5
21 T Street	0029	3510	5
215 Warren Street	0809	1033	6
915 3 <sup>rd</sup> Street	0801	0775	6
1811 3 <sup>rd</sup> Street	0007	3570	5
619 4 <sup>th</sup> Street	0092	0810	6
1020 4 <sup>th</sup> Street-Rear	0034	0774	6
3215 7 <sup>th</sup> Street	0010	3650	5
251 8 <sup>th</sup> Street	0064	0917	6
2250 13 <sup>th</sup> Street-Rear	0034	3942	5
704 16 <sup>th</sup> Street	0085	4509	6
3114 16 <sup>th</sup> Street	0041	4014	5
3300 18 <sup>th</sup> Street	0019	4143	5
4310 22 <sup>nd</sup> Street	0012	4232	5
2921 26 <sup>th</sup> Street	0029	4342	5
2924 26 <sup>th</sup> Street	0026	4287	5
1123 46 <sup>th</sup> Street	0111	5155	7
1227 47 <sup>th</sup> Place	0039	5160	7
811 48 <sup>th</sup> Street	0065	5149	7
1055 48 <sup>th</sup> Place	0098	5153	7
717 50 <sup>th</sup> Street	0021	5179	7

**DISTRICT OF COLUMBIA REGISTER**  
**BUILDINGS CONDEMNED**

**VOL. 55 - NO. 4**

**JANUARY 25 2008**

**Northeast (Con't)**

	<b><u>LOT</u></b>	<b><u>SQUARE</u></b>	<b><u>WD</u></b>
730 51 <sup>st</sup> Street	0061	5197	7
732 51 <sup>st</sup> Street	0060	5197	7
734 51 <sup>st</sup> Street	0808	5197	7
945 52 <sup>nd</sup> Street	0803	5199	7
109 53 <sup>rd</sup> Street	0091	5243	7
338 58 <sup>th</sup> Street	0813	5254	7
421 61 <sup>st</sup> Street	0009	5260	7

**BUILDINGS CONDEMNED**

**LOT**                      **SQUARE**                      **WD**

**Southeast**

1523 A Street	0816	1072	6
1751 A Street	0063	1097	6
1751 A Street-Rear	0063	1097	6
4427 A Street	0107	5350	7
5019 A Street	0005	5327	7
5019 A Street-Rear (Shed)	0005	5327	7
21 Atlantic Street	0051	6170	8
5010 Benning Road	0068	5340	7
3401 Brothers Place	0803	6006	8
5201 C Street	0009	5312	7
5100 Call Place	0016	5312	7
5100 Call Place-Rear(South)	0016	5312	7
612 E Street	0814	0876	6
1525 E Street	0087	1076	6
3326 Ely Place	0807	5444	6
647 G Street	0139	0878	6
651 G Street	0141	0878	6
3009 G Street	0807	5480	7
1500 Galen Street	0048	5795	8
1239 Good Hope Road	0089	3033	8
1410 Good Hope Road	0024	5605	8
4324 Halley Terrace	0018	6214	8
4326 Halley Terrace	0017	6214	8
4338 Halley Terrace	2001	6214	8
2256 High Street-Rear East	0850	5799	8

**Southeast (Con't)**

	<b><u>LOT</u></b>	<b><u>SQUARE</u></b>	<b><u>WD</u></b>
2309 Irving Street	0010	5846	8
2839 Jasper Road	0917	5875	8
1220 Mapleview Place	0811	5800	8
1354 Mapleview Place	0922	5804	8
1909 MLK Jr. Avenue	0829	5770	8
1911 MLK Jr. Avenue	0829	5770	8
1913 MLK Jr. Avenue	0829	5770	8
2228 MLK Jr. Avenue	0810	5802	8
2234 MLK Jr. Avenue	0811	5802	8
2238 MLK Jr. Avenue	0978	5802	8
2629 MLK Jr. Avenue-East	0192	5867	8
2629 MLK Jr. Avenue-West	0192	5867	8
2666 MLK Jr. Avenue, East bldg	1014	5868	8
2759 MLK Jr. Avenue-Rear	0802	5982	8
1354 Penn. Avenue	0051	3565	8
1431 Potomac Avenue	0045	1065NE	6
643 Raleigh Place	0804	5954	8
1005 Savannah Street	0804	5938	8
1500 Savannah Street	0801	5912	8
1502 Savannah Street	0802	5912	8
1225 Sumner Road	0980	5865	8
1326 Valley Place	0849	5799	8
1333 Valley Place	0891	5801	8
821 Virginia Avenue	0006	0929	6
1242 W Street	0099	5782	8
104 Xenia Street	0037	6128N	8
535 9 <sup>th</sup> Street	0830	0926	6
535 9 <sup>th</sup> Street-Rear	0830	0926	6
321 18 <sup>th</sup> Street	0801	1100	6
1427 22 <sup>nd</sup> Street	0812	5564	8

**BUILDINGS CONDEMNED**                      **LOT**                      **SQUARE**                      **WD**

**Southwest**

78 Darrington Street-Rear	0023	6223S	8
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**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS  
LICENSING AND PERMITTING DIVISION  
OFFICE OF THE SURVEYOR**

**NOTICE OF AN OPPORTUNITY TO SUBMIT COMMENTS  
ON THE PROPOSED MODIFICATION OF THE PLAN  
OF THE PERMANENT SYSTEM OF HIGHWAYS**

The District of Columbia Office of the Surveyor, pursuant to Section 9-101.06 of the D.C. Official Code, gives notice of an opportunity to submit comments on the proposal to remove the Highway Plan for Hamlin Street, NE, between Hamlin Street, NE and 5<sup>th</sup> Street, NE, from the Plan of Permanent System of Highways.

A map showing the proposed modification is in file in the Office of the Surveyor at 941 North Capitol Street, NE, Room 2700, Washington, D.C. 20002. The file number is 07-1657. This map may be examined during business hours, from 8:30 am to 4:15 pm, Monday through Friday.

Persons wishing to submit comments should mail them to the Office of the Surveyor. Copies of comments will be submitted to the Council of the District of Columbia.

For further information, you may contact Roland F. Dreist, Jr., Surveyor of the District of Columbia at (202) 442-4699.

**OFFICE OF THE DEPUTY MAYOR FOR PLANNING AND ECONOMIC  
DEVELOPMENT  
NEIGHBORHOOD INVESTMENT FUND (NIF)**

**NOTICE OF FUNDING AVAILABILITY**

**NIF Target Area Project Grant**

The District's Office of the Deputy Mayor for Planning and Economic Development (ODMPED) invites the submission of applications for the NIF Target Area Project Grant authorized under Resolution 17-433 "Neighborhood Investment Act Spending Plan for Fiscal Year 2008 Emergency Approval Resolution of 2007". There is \$3.9 million dollars available for this round of funding.

The purpose of the NIF Target Area Project Grant (TAPG) is to provide not for profit organizations with grants up to a maximum of \$200,000 to complete major projects in the 12 target areas of the Neighborhood Investment Fund. The goal of the TAPG is to fund initiatives that will revitalize target areas by strengthening economic opportunities and improving the quality of life.

Eligible applicants include not-for-profit 501c(3) organizations that can demonstrate a commitment to the NIF target area where the project is proposed through a successful track record of offering and operating programs, projects, services, or facilities. Eligible projects must fall into one of the following five categories: (1) Housing (not acquisition, predevelopment, or construction); (2) Education, Job Training, and Job Placement; (3) Commercial District Revitalization and Small Business Assistance; (4) Senior and Youth Initiatives; (5) Proposals that directly fulfill a target area goal stated in Section 4 of the Neighborhood Investment Act of 2004. Proposed projects must be physically located within the boundaries of one of the NIF target areas and provide a public benefit to the target area that addresses a recognized need. Proposed projects that leverage other resources for shall be given special consideration. Additional applicant and project eligibility requirements and evaluation criteria are detailed in the Request for Applications (RFA).

The Request for Applications will be released on Friday, February 1, 2008 and the deadline for submission is Monday, March 3, 2008 at 4pm. ODMPED will hold an information session at the Washington DC Economic Partnership, 1495 F Street, NW, Washington, DC 20004 on Thursday, February 7, 2008 at 10am. All questions and answers from the information session will be documented and posted on the ODMPED website prior to the due date. No questions are allowed after the information session, to ensure all applicants have access to the same information. The RFA will be available for pick up at 1350 Pennsylvania Avenue, NW, Suite 317, Washington, DC 20004. Applications can also be completed on-line at the ODMPED website: [www.dcbiz.dc.gov](http://www.dcbiz.dc.gov) or on the Office of Partnerships and Grants Development website [www.opgd.dc.gov](http://www.opgd.dc.gov) Inquires should be directed to (202) 727-6365.

**NIF Target Areas:** Anacostia, Bellevue, Bloomingdale/ Eckington, Brighwood/Upper Georgia Ave., Brookland/Edgewood, Columbia Heights, Congress Heights, Deanwood Heights, H Street, Logan Circle, Shaw, Washington Highlands.

**DISTRICT OF COLUMBIA  
BOARD OF ELECTIONS AND ETHICS**

**Certification of Filling Vacancies  
In Advisory Neighborhood Commissions**

Pursuant to D.C. Official Code §1-309.06(d)(6)(G) and the resolution transmitted to the District of Columbia Board of Elections and Ethics "Board" from the affected Advisory Neighborhood Commission, the Board hereby certifies that the vacancies have been filled in the following single-member districts by the individuals listed below:

**Lee Brian Reba  
Single-Member District 3C01**

**Lee P. Minochiello  
Single-Member District 3D08**

**DISTRICT DEPARTMENT OF THE ENVIRONMENT**

**PRE-APPLICATION CONFERENCE**

**Affordable Housing Energy Efficiency Rebate Program**

District Department of the Environment Energy Office

Attendance Recommended

WHEN: January 28, 2008

WHERE: District Department of the Environment  
Reeves Center  
2000 14<sup>th</sup> Street, NW, Suite 300 East Conference Room  
Washington, DC 20009

TIME: 10:00 AM

**CONTACT PERSON:**

Sabrina Williams, Energy Program Specialist  
District Department of the Environment, Energy Office  
Conservation Services Branch  
(202) 671-3311  
[Sabrina.williams@dc.gov](mailto:Sabrina.williams@dc.gov)

**DISTRICT DEPARTMENT OF THE ENVIRONMENT****FY 2008-2009 REQUEST FOR GRANT APPLICATIONS****Affordable Housing Energy Rebate Program**

The District Department of the Environment (DDOE) Affordable Housing Energy Efficient Rebate Program ("Affordable Housing Energy Rebate Program" or "Program") is requesting grant applications from District of Columbia nonprofit developers to receive rebate funds for the incremental cost of installing specified more energy efficient measures in Affordable Housing developments located in the District of Columbia.

This is a two-year pilot program. In FY 2008 and 2009 there will be \$443,957 available for rebates that cover the incremental cost to nonprofit developers for specific electric energy improvements and upgraded technologies outlined in the proposal, and based on the availability of funds.

The source of funds for the Program is the Reliable Energy Trust Fund (RETF) which is governed by the DC Public Service Commission (PSC) Order No. 14547, dated August 21, 2007 and any future PSC orders relating to the Affordable Housing Energy Rebate Program.

The Request for Grant Applications (RFGA) will be available beginning Monday, January 28, 2008. The RFGA will be available for pick-up (one per applicant) on weekdays from 9:00 a.m. to 4:00 p.m. at the DDOE, 2000 14<sup>th</sup> Street, NW, Suite 300 East, Washington, DC 20009.

**The deadline date to submit applications is Monday February 11, 2008 for FY 2008 and FY 2009.**

For more information, please contact Sabrina Williams 202-671-3311.

**DISTRICT DEPARTMENT OF THE ENVIRONMENT****NOTICE OF PERMIT ACTION**

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, and D.C. Code §2-505, the Air Quality Division (AQD) of the District Department of the Environment (DDOE), located at 51 N Street, NE, Washington, D.C., intends to issue a permit to install and operate three (3) 230 kW, one (1) 800 kW, one (1) 176 kW, and one (1) 320 kW diesel emergency generators at the Walter Reed Medical Center (WRAMC) located at 6900 Georgia Avenue, N.W., Washington D.C.

The application to construct/operate the generators and the draft permit are available for public inspection at AQD and copies may be made between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Olaniyan Tajudeen at (202) 535-2998.

Interested persons may submit written comments within 30 days of publication of this notice. The written comments must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit.

Comments should be addressed to:

Stephen S. Ours  
Chief, Permitting and Enforcement Branch  
Air Quality Division  
District Department of the Environment  
51 N Street, NE  
Washington D.C. 20002

**No written comments postmarked after February 18, 2008 will be accepted.**

For more information, please contact Olaniyan Tajudeen at (202) 535-2998.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
DEPARTMENT OF HEALTH  
HEALTH REGULATION AND LICENSING ADMINISTRATION**

**NOTICE OF THE IMPLEMENTATION OF THE  
HOME CARE AGENCIES REGULATIONS**

The Department of Health, Health Regulation and Licensing Administration (DOH/HRLA) hereby announces the implementation of the Home Care Agencies Regulations, effective January 31, 2008. The DOH/HRLA further informs the public that after April 30, 2008, any organization, individual, or corporation providing home care agencies services without a license will be subject to enforcement actions by the Department.

Those who wish to obtain additional information regarding the licensure program or obtain application information and materials should contact:

Helen R. Jordan  
Executive Director  
Boards of Allied Health  
Health Regulation and Licensing Administration  
717 14<sup>th</sup> Street, NW, Sixth Floor  
Washington, DC 20005  
Telephone Number (202) 724-8745

**DEPARTMENT OF HEALTH  
HIV/AIDS ADMINISTRATION**

**NOTICE OF FUNDING AVAILABILITY  
RFA # HAA\_01.25.08-NEP**

**FY 2008 Integration of HIV Prevention-Needle Exchange Services into Continuum of Care  
and Services, District of Columbia Grant**

The Government of the District of Columbia, Department of Health/ HIV/AIDS Administration is soliciting applications from organizations that currently deliver primary care health services, mental health services, substance use prevention/treatment, HIV services, pharmacy services, homeless services, or other social support services to add new needle exchange services into their ongoing programs as part of building a continuum of care and services to reduce HIV and hepatitis transmission and other harms related to drug use in the District of Columbia.

Funds from the District of Columbia local budget will be administered through the District of Columbia HIV/AIDS Administration (HAA), contingent upon availability of funds. Eligible organizations include those with successful health or social support services reaching injection drug users that do not currently include needle exchange. Services to be supported include development and implementation of needle exchange program and linkages to a continuum of services such as HIV testing, hepatitis testing and immunization, drug treatment, medical care, mental health, and other HIV prevention activities.

Approximately \$350,000 in funds will be awarded, as \$50,000-\$100,000 individual grants to up to 4 organizations representing a spectrum of core services and integration models to support the integration of needle exchange. Key trainings and technical assistance will also be provided to support successful applicants.

The RFA will be available in the District of Columbia for pick up at 64 New York Avenue, NE, 5th Floor, Suite 5001 and on the following website [www.opgd.dc.gov](http://www.opgd.dc.gov) under the District Grants Clearinghouse on Friday, January 25, 2008. Deadline is Friday, February 29, 2008

Applicants obtaining this RFA through the Internet must provide the HIV/AIDS Administration with the following c/o Charles Sessoms ([Charles.Sessoms@dc.gov](mailto:Charles.Sessoms@dc.gov)):

- Name of organization;
- Key contact;
- Mailing address;
- Telephone and fax numbers; and E-mail address.

The Pre-Application meeting will be held in the District of Columbia at HIV/AIDS Administration, 64 New York Avenue, NE, 5th Floor, Suite 5001, Tuesday February 12, 2008, from 10:30 AM – 12:30 PM.

Please contact Charles Sessoms at (202) 671-4900 or (202) 671-5060 for additional information.

**DISTRICT OF COLUMBIA DEPARTMENT OF HEALTH  
HIV/AIDS ADMINISTRATION**

**NOTICE OF FUNDING AVAILABILITY # RFA\_HAA\_01.25.08**

**Effi Barry HIV/AIDS Program: Supporting local indigenous organizations to increase capacity to provide HIV-related prevention, care, and support services**

The Government of the District of Columbia, Department of Health HIV/AIDS Administration (HAA), in collaboration with the Office of Partnerships and Grants Development (OPGD) is soliciting applications from small (program budgets less than \$500,000) ward-based organizations to participate in the Effi Barry HIV/AIDS Program. The Effi Barry Program is a two-year training and capacity-building initiative that seeks to strengthen the internal administration and build the capacity of small community and faith-based organizations based and located within areas of the District hardest hit by the HIV/AIDS epidemic to start and/or expand a range of HIV/AIDS prevention and support programming. HAA encourages applicants that have HIV/AIDS as their primary mission and also those that seek to mainstream HIV activities into non-HIV/AIDS primary missions. Priority consideration will be given to organizations located and operating in Wards 5, 6, 7, and 8.

In accordance with the requirements of the Fiscal Year 2008 Budget Support Act of 2007, approximately \$700,000 in FY 08 District Appropriated funds will be utilized to support capacity-building grants under the Effi Barry Program. An additional \$650,000 is provided to the OPGD for the training and consultation services to the participants. The grant program shall be administered by HAA, with funding levels contingent upon availability of funds. Year-One mini-grants will support training participation and capacity-building interventions. Year-Two grants will support advanced organizational development and a selection of program service activities.

Funds will be awarded, as \$10,000 mini-grants for up to 20 new organizations (Year-One applicants did not receive prior mini-grants from the "East of the River Initiative") and \$50,000 grants for approximately 10 continuing organizations (Year-Two organizations are those that participated in the FY07 "East of the River Initiative" and successfully completed the associated OPGD training course). Key trainings and technical assistance will also be provided to support successful new (Year-One) applicants and all continuing (Year-One) organizations.

The RFA will be available in the District of Columbia for pick up at 64 New York Avenue, NE, 5th Floor, Suite 5001 and on the following website [www.opgd.dc.gov](http://www.opgd.dc.gov) under the District Grants Clearinghouse on Friday, January 25, 2008. Deadline for application submission is Friday, **February 29, 2008 no later than 5:00 p.m.**

Applicants obtaining this RFA through the Internet must provide the HIV/AIDS Administration with the following c/o Patrice Bailey (Patrice.Bailey@dc.gov):

- Name of organization;
- Key contact;
- Mailing address;
- Telephone and fax numbers; and E-mail address.

The Pre-Application meetings will be held in the District of Columbia at HIV/AIDS Administration, 64 New York Avenue, NE, 5th Floor, Suite 5001, Wednesday **February 6, 2008** from 10:30 AM–12:30 PM and 4:30 PM–6:30 PM.

Please contact Patrice Bailey at (202) 671-4946 for additional information.

**DEPARTMENT OF HEALTH****CALL FOR NOMINATIONS****Perinatal Advisory Committee**

The District of Columbia Department of Health, Community Health Administration hereby gives notice of a call for nominations for persons interested in participating as a member of the **District of Columbia Department of Health Perinatal Advisory Committee (DOHPAC)**. Self nominations will be accepted.

On December 19, 2007, Mayor Adrian Fenty held a press conference to present the District's infant mortality rate for 2005. The Center for Statistics revealed that between 1996 and 2005 the infant mortality rate (IMR) has trended downward slightly. However, over the last two years we have seen an increase in IMR from 10.2 in 2003 to 11.8 in 2004 and finally to 13.6 deaths per 1000 lives in 2005. During that press conference, Dr. Carlos Cano had the privilege to present the Citywide Action Plan aimed at addressing infant mortality in the District. You may access the infant mortality report and/or the Citywide Action Plan at the following link: <http://doh.dc.gov/doh/site/default.asp>.

The Committee is being established to assist the Department of Health, Community Health Administration to explore and cultivate additional strategies and interventions directed at reducing the District's infant mortality rate. The Committee will focus on decreasing the health disparities in identified residential areas; improving the pre- and interconception health outcomes of women of child-bearing age; and perinatal outcomes and other issues affecting at-risk women and infants in the District of Columbia. All interested parties are invited to submit the following items:

- A. A copy of resume or CV
- B. Area of Specialty
- C. Reference(s)
- D. Statement as to why candidate is qualified to participate on this committee.

Please submit all requested information via email by February 29, 2008 to Karen Smith at [karen2.smith@dc.gov](mailto:karen2.smith@dc.gov).

**D.C. DEPARTMENT OF HUMAN RESOURCES**  
**NOTICE CONCERNING COVERAGE UNDER THE**  
**PERFORMANCE MANAGEMENT PROGRAM**  
**OFFICE OF THE CHIEF TECHNOLOGY OFFICER**

Sections 1351 through 1353 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (CMPA), effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-613.51 *et seq.*) (2001), established a comprehensive performance management system for the District government. Chapter 14, *Performance Management*, of Title 6 of the District of Columbia Municipal Regulations, implements the guidelines and procedures for the Performance Management Program pursuant to sections 1351 through 1353 of the CMPA.

As of the date of this notice, the majority of Career Service employees (especially, non-unionized, and non-managerial/non-supervisory) in agencies under the personnel authority of the Mayor are not covered under the Performance Management Program. However, section 1400.1 (e) of Chapter 14 of the regulations provides that the Director of the D.C. Department of Human Resources, may, on an agency-by-agency basis, authorize coverage under the Performance Management Program for this category of employees.

Further, section 1400.2 of the regulations provides that, upon authorizing an agency for coverage pursuant to section 1400.1 (e) of the chapter, the Director, D.C. Department of Human Resources, shall publish a notice in the *D.C. Register* concerning such authorization.

Accordingly, the purpose of this notice is to announce that on **Wednesday, December 19, 2007**, Brender L. Gregory, Director, D. C. Department of Human Resources, authorized coverage under the Performance Management Program for non-unionized Career Service employees in the Office of the Chief Technology Officer. Coverage for these employees began **on January 7, 2008**.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**Appeal No. 17581 of Edward B. Rooths**, pursuant to 11 DCMR §§ 3100 and 3101 from the administrative decision of the Zoning Administrator, Department of Consumer and Regulatory Affairs, to revoke Certificate of Occupancy 109753, for a Dry Cleaning Pick-Up Only establishment located in the R-5-C zone district at premise 1312 13<sup>th</sup> Street, N.W. (Square 243, Lot 12).

**HEARING DATE:**           **March 20, 2007**  
**DECISION DATE:**       **May 1, 2007**

**DECISION AND ORDER**

**INTRODUCTION**

Edward B. Rooths (“Appellant”) filed this appeal with the Board of Zoning Adjustment (“BZA” or “Board”) on November 13, 2006, pursuant to 11 DCMR §§ 3100 and 3101, challenging the September 12, 2006 administrative decision of the Zoning Administrator (“ZA”), Department of Consumer and Regulatory Affairs (“DCRA”), to revoke Certificate of Occupancy (“CO”) 109753, issued on December 22, 2005, for a Dry Cleaning Pick Up Only establishment at 1312 13<sup>th</sup> St N.W. (“subject property” or “property”). The Notice of Revocation stated that the property had not been used in a nonconforming manner in the three years prior to the issuance of CO 109753 and that Appellant was attempting to change the use of the property from a conforming use to a nonconforming use.

Appellant contended that the ZA erred in determining that the nonconforming use had been discontinued. The Appellant also argued that any enforcement of the discontinuance regulation was barred by estoppel and laches and that he made no material misrepresentation in his application for CO 109753.

A public hearing on the appeal was duly noticed and held on March 20, 2007. The Board closed the record on April 24, 2007 except for those additional filings the Board specifically

**BZA APPEAL NO. 17581****PAGE NO. 2**

requested.<sup>1</sup> After hearing from the parties to the matter, the Board rendered its decision at the BZA's Public Meeting on May 1, 2007, voting 3-0-2 to deny the appeal.

**PRELIMINARY MATTERS***Notice of Appeal and Notice of Public Hearing*

The Notice of Appeal was filed on November 13, 2006 by Edward B. Rooths. The Office of Zoning scheduled a public hearing on the appeal for March 20, 2007. In accordance with 11 DCMR § 3112.14, the Office of Zoning mailed notice of the hearing to the Appellant, DCRA, and ANC 2F04, and advertised the hearing notice in the *D.C. Register* at 54 *D.C.R.* 519 (January 19, 2007).

*Parties*

The Appellant in this case is Edward B. Rooths, the owner of the subject property. DCRA is the Appellee. The Zoning Administrator, Bill Crews, as well as neighbors Helen Kramer, Barry Johnson, and David Chianese, testified in support of Appellee's position. Advisory Neighborhood Commission 2F ("ANC"), the ANC within which the subject property is located, is automatically a party to this appeal.

**FINDINGS OF FACT**

1. The property that is the subject of this appeal is located at 1312 13<sup>th</sup> Street, N.W. (Square 243, Lot 12) and is zoned R-5-C.
2. The R-5-C zone district is a medium height and density Residence District. Commercial uses such as laundries and dry cleaners are not permitted as of right. *See*, 11 DCMR §§ 350.1 – 350.6.
3. The property is improved with a three-story building, with a basement and a sub-basement.
4. Certificates of Occupancy were issued specifically and only for the Basement floor of the building on the property on: August 20, 1947, CO 114676, "Barber-valet shop;" November 3, 1947, CO 116264, for a "Cleaning and dyeing agency;" November 5, 1947, CO 116318, for a "Barber shop;" December 12, 1947, CO 117090, for a "Shoe

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<sup>1</sup>The Board waived its deadline and allowed the Appellant's late filing of its Findings of Fact and Conclusions of Law into the record.

**BZA APPEAL NO. 17581****PAGE NO. 3**

repair shop;" and, November 1, 1949, CO A909, for a "Pressing establishment – Not more than five persons employed." *See*, Exhibit ("Ex.") 22.

5. Certificates of Occupancy were issued for "All and Basement" on October 5, 1970, CO B73932, as an "Apartment House – (4 Apts.);" June 3, 1977, CO B101582, to use all floors of the property as an "Apartment House – 4 Units;" and, March 27, 1979, CO B111487, to use the Basement and First Floors as a "2 family flat, 1 unit Basement, 1 unit on 1<sup>st</sup> floor." *See*, Ex. 22.

6. A use of the basement and first floor of the property for residential apartments would have been in conformance with the Zoning Regulations applicable to an R-5-C zone district. *See* 11 DCMR § 350.4(c).

7. At some time after March 27, 1979, the property was purchased by Ha Ok Kim. On June 23, 1989, CO 1890948 was issued to Mr. Kim to use the basement as an "Industrial Laundry Service < 2500 sq ft (also shoe repair)." *See*, Ex. 22.

8. A property owner in an R-5-C zone may not operate an Industrial Laundry Service as a matter of right. *See*, 11 DCMR § 350. No special exception was granted by this Board to Mr. Kim to operate such a business.

9. There was no evidence presented to establish that such a business was operated on the property other than Appellant's testimony that heavy machinery of some type was housed in the basement when Appellant visited the property.

10. Long-term neighbors testified that they had not observed any indicia of the operation of such a business. *See*, Tr. at 370, 492 – 495, 499 – 503, 504 – 509.

11. Appellant Rooths and his wife purchased the property on January 12, 2000. *See*, Tr. at 307.

13. On December 19, 2001, CO 25923 was issued to Appellant. The stated reason for the CO was a change of ownership. The listed previous use and proposed use were a laundry housed in the basement (*See*, Ex. 2).

14. Appellant never operated a laundry or dry-cleaning operation of any type at the property. *See*, Tr. at 385. (*But See*, Finding of Fact No. 33.)

**BZA APPEAL NO. 17581****PAGE NO. 4**

15. Unless an application for a CO proposes a change in use or an increase in load, the Zoning Administrator issues the CO without inspecting the property. *See*, 12A DCMR § 110.1.2.

16. On February 1, 2002, Appellant entered into a two-year lease with his brother and two others to operate a commercial copy center on the property named Bar Legal Services and Consulting. *See*, Tr. at 371.

17. On June 28, 2002, approximately five months after that Bar Legal Services and Consulting allegedly began operations, CO 36543 was issued to Appellant, trading as N & E Services. The stated reason for the CO was a change in ownership. The listed previous use was for a laundry. The listed proposed use was for a “laundry service (laundry & consulting).” *See*, Ex. 22.

18. It is unclear whether Bar Legal Services and Consulting, a commercial copying service, ever operated on the property, but it is clear that no CO was ever issued for such a use on the property.

19. On July 12, 2002, CO 37193 was issued to Appellant. Again, the stated reason for the CO was a change in ownership. The listed previous use was for a laundry. The listed proposed use was for a “laundry service (laundry & consulting).” *See*, Ex. 22.

20. On June 13, 2003, CO 56426 was issued to Appellant. The stated reasons for requiring a new CO were a change in load and use. *See*, Ex. 22. While Line 9 in the Application for Certificate of Occupancy was checked for Load change, Line 12, Proposed Occupancy Load, was marked “N/A.” There was a use change noted from Laundry Service (Laundry & Consulting) to Laundry Service (Laundry & Office Space). *See*, Ex. 22.

21. In 2003, Appellant filed an application with this Board for a special exception to allow a change from one nonconforming use (laundry) to another nonconforming use (office space). The application was withdrawn on April 16, 2004. *See*, BZA Special Exception Application, No. 17071.

22. The District of Columbia Office of Planning (“OP”) investigated the property in 2003 pursuant to the above-noted application for a special exception. As stated in its memo to this Board, OP could find no evidence “to document that a nonconforming use has actually been in operation on the property [from January 2001 to January 28, 2004]” (the date of OP’s Report). *Id*, Ex. 26, (Report of the Office of Planning), at 1 – 2, 3 – 4, and 5.

**BZA APPEAL NO. 17581****PAGE NO. 5**

23. On September 29, 2003, while the Appellant's application for a special exception was pending before this Board, CO 62687 was issued to Floyd A. Smith, Sr. for use of the property's basement. The stated reason for the CO was a change in ownership. The listed previous use and proposed use were for a laundry. *See, Ex. 22.*
24. On November 7, 2003, while the Appellant's application for a special exception was still pending before this Board, a second CO, CO 64701, was issued to Floyd A. Smith, Sr. The stated reason for the CO was a change of use. The listed previous use was a laundry. The listed proposed use was a dry clean collect/pickup. *See, Ex. 22.*
25. Consistent with his second CO, Mr. Smith apparently intended to operate a pick-up laundry and dry cleaning business. *See, Tr. at 317.*
26. Due to circumstances not relevant here, Mr. Smith never operated any kind of business on the property. *See, Tr. at 320 – 321.*
27. On December 22, 2005, CO 109753, the subject of this appeal, was issued to Appellant. The stated reason for the CO was a change in ownership. The listed previous use was a dry clean collect/pickup. The listed proposed use was a dry cleaning pick-up only. *See, Ex. 22.*
28. During the spring and summer of 2006, DCRA received complaints about commercial use on the property. DCRA investigated the circumstances whereby CO 109753 had been issued. As part of the investigation, the ZA reviewed the prior zoning records for the property, including BZA Special Exception Application, No. 17071.
29. DCRA placed a Stop Work Order ("SWO") on the property on March 22, 2006. It is unclear whether this SWO was lifted, but DCRA placed a second SWO on the property on June 14, 2006, and a third on June 28, 2006, the latter specifically for allegedly not having a permit to erect a sign.
30. At some time within a month before September 12, 2006, the Zoning Administrator met with the Appellant and gave the Appellant an opportunity to provide documentation of his assertions that the basement of the property had recently been, and/or was currently being, used as a dry cleaning pickup and/or collection business.
31. The Appellant did not provide any documentation to contradict the conclusion reached by the ZA on the completion of his investigation – that the property had not been

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used as a laundry or dry cleaning pick-up since at least December 22, 2002, that is, for at least the previous three years.

32. The Zoning Administrator issued a Notice of Revocation of CO 109753 on September 12, 2006.

33. Appellant opened a dry clean collect/pick-up business on September 12, 2006, which remained open until closed by the ZA on September 28, 2006.

34. The Notice of Revocation indicates that CO 109753 was being revoked because it had been issued in error due to the fact that the nonconforming use as a laundry had been discontinued for over three years and no non-matter-of-right use had ever been approved by the BZA. Specifically, the Notice of Revocation states: "Even if the CO issued on June 23, 1989, had been properly issued, DCRA issued C/O No. CO109753 in error because the use of the location as a laundry had been discontinued for at least three years prior to issuance." *See*, Ex. 2 at 2-3, (Notice of Revocation Building Permits and Certificate of Occupancy, 9/12/06).

35. Further, the Notice of Revocation avers that the application for CO 109753 had contained a material misrepresentation insofar as the application had indicated that the location had been used, and would continue to be used, as a "Pick up Laundry." The Notice of Revocation states: "[T]his statement is not correct, and the statement materially misleads as to the previous use of the location. DCRA must revoke a CO issued on the basis of a material misrepresentation." *See*, 12A DCMR § 110.5.2.

36. The Notice of Revocation also asserts that pursuant to 11 DCMR § 3203.8(b), the property had to be put to the use for which the CO was issued within six months of the date of issuance. Certificate No. 109753 had been issued on December 22, 2005, for use as a "Dry Cleaning Pick-Up Only," but the property was not used for that purpose by June 22, 2006.

36. The Appellant filed this appeal on November 13, 2006.

**CONCLUSIONS OF LAW**

The Board is authorized under the Zoning Act of June 20, 1938 (52 Stat. 797, as amended, D.C. Official Code § 6-641.07(g)(1)) to hear and decide appeals where it is alleged that there is error in any order, requirement, decision, determination, or refusal made by the Zoning Administrator in the enforcement of the Zoning Regulations. This appeal is properly before the Board pursuant to 11 DCMR § 3100.2.

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**The Positions of the Parties**

The Appellant maintained that the ZA erred in issuing a Notice of Revocation of CO 109753, dated September 12, 2006, for a Dry Cleaning Pick-Up-Only establishment both because the use permitted was a continuation of an existing nonconforming use and because that there was no material misrepresentation in the Rooths' application for CO 109753. In the alternative, the Appellant argued that the ZA was estoppel from revoking the CO 109753.

DCRA responded that the Notice of Revocation of CO 109753 was proper, as the use of the premise at 1312 13<sup>th</sup> Street, N.W. (basement) had reverted back to a conforming use as an apartment dwelling in 1970. DCRA further contended that any Certificates of Occupancy issued subsequent to that date for nonconforming uses were issued in error, and, in any event, there was no evidence of lawful nonconforming commercial activity in the three years prior to the issuance of CO 109753.

**The Nonconforming Use had been abandoned prior to the date on which the C of O was issued**

The subject property is located in an R-5-C zone. In this residential district, the use of the property for a laundry or a Dry Cleaning Pickup Only establishment is not permitted as matter-of-right or by special exception. *See*, 11 DCMR § 350. Although this commercial activity does not conform to the regulations governing an R-5-C zone today, a use that was lawfully established as of May 12, 1958 may be continued, but is considered "nonconforming." 11 DCMR § 2000.4. As a result, the commercial activity authorized on November 1, 1949, by CO A909, a "Pressing establishment – Not more than five persons employed," could have been lawfully continued after a change in zoning had rendered it no longer a matter-of-right use.

The right to continue a nonconforming use, however, is limited. Section 2005.1 of the Zoning Regulations limits the right to continue a nonconforming use by creating a rebuttable presumption that if a nonconforming use has not operated for at least three years, it has been permanently abandoned. The revoked certificated of occupancy was issued on December 22, 2005. For the reasons stated below, the Board concludes that the Zoning Administrator did not err in concluding that the use has been discontinued for over three years prior to that date and that the Appellant failed to rebut the presumption of abandonment.

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Appellant was first issued a CO for a basement laundry on December 19, 2001. Subsequently, DCRA issued several COs for the property, either to Appellant or to a Mr. Smith, with the last being issued to Appellant on December 22, 2005. This CO, which is the subject of this appeal, as well as all the others issued after December 19, 2001, were all issued for some type of laundry or dry cleaning use, sometimes oddly combined with a consulting or office space use. Significantly, however, per Appellant's own testimony, no laundry or dry cleaning business operated on the property between at least December 19, 2001, the date of the first CO issued to Appellant, and December 12, 2005, the date of the CO in question here. Between December 19, 2001 and December 22, 2005 is a period of almost exactly four years – one more year than the three years necessary to presume abandonment of the nonconforming laundry use pursuant to § 2005.1.

During the spring and summer of 2006, the ZA investigated the circumstances surrounding the issuance of the CO on appeal here. He searched databases and files to find old building permits, CO's, and zoning categories for the property. He also consulted the Geographic Information System, spoke with the neighbors, looked at aerial photos and pictures of the property, and searched the Office of Zoning website to find any pertinent Zoning Commission or BZA cases or orders. Lastly, DCRA sent out an inspector to visit the property. *See, e.g.*, Tr. At 440, 443, 445-446, and 448.

After this thorough investigation, the ZA concluded that the nonconforming laundry/dry cleaning use had ceased for at least four years. He then afforded the Appellant an opportunity to rebut the presumption of permanent abandonment of the nonconforming use. The Appellant failed to come forth with any convincing evidence to rebut the presumption, and, based on the results of his investigation, the ZA concluded that the nonconforming use had been abandoned and revoked CO109753.

Appellant appealed that revocation to this Board, but has presented no new evidence to the Board to persuade it that the ZA erred in revoking his CO. Appellant has failed to demonstrate to this Board that the nonconforming laundry/dry cleaning use has not been abandoned. Therefore, the Board concludes that the Appellant has failed to rebut the presumption of § 2005.1 and further concludes that the nonconforming laundry use at the property has been abandoned. The ZA was not in error in revoking the Appellant's last-issued CO, number 109753.

Since the Board finds that certificate of occupancy was issued in error based upon the abandonment of the nonconforming use through a discontinuance of more than three years, it will not address DCRA's alternative theory that abandonment occurred upon the receipt of a certificate of occupancy for a residential use that apparently never began

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**Misrepresentations made in application**

As to the misrepresentation ground, the Appellant does not contest making the material misrepresentations, but claims that he was encouraged by DCRA staff to do so. He therefore claims that DCRA should be estopped from revoking the permit based upon the misrepresentation it encouraged him to make. The Board need not address this question because it has already found a sufficient independent basis for the revocation.

**Laches**

This then leaves Appellant's laches defense. Laches, an equitable doctrine, is sometimes referred to as "sleeping on one's rights." It arises when a party tries to claim some right after an inordinate delay, which acts to the prejudice of other parties. The principal element in laches is the resulting prejudice to the "other" parties, rather than the delay itself, and the entire course of events leading up to a claim of laches must be reviewed to determine the validity of the claim. *Goto v. D.C. Board of Zoning Adjustment*, 423 A.2d 917 (D.C. 1980).

The Appellant claims that the District/ZA is barred from revoking his CO because COs for nonconforming uses had been issued for the property since June 23, 1989, when the CO for an "Industrial Laundry Service" was issued, nineteen years after the right to use the property for the prior nonconforming use arguably terminated due to the issuance on October 5, 1970 of a CO for a conforming apartment house use. The Zoning Regulations do not contain any provision indicating that the issuance of a C of O for a conforming use terminates a nonconforming use. Since there is no evidence that this use was ever begun, the ZA was without any notice that the nonconforming use had been terminated. In fact, the successive requests for non-residential C of Os would have led the Zoning Administrator to the opposite conclusion.

Once DCRA became aware of potential problems at the property, it issued a stop work order in March, 2006, only three months after the CO in question was issued, and began an investigation. After the investigation, DCRA acted quickly to revoke the CO on September 12, 2006. The Board does not find the approximate 9-month period between the issuance of the CO in December, 2005 and its revocation in September, 2006, to be unreasonably long. In addition, Appellant has not shown any significant prejudice from the revocation of the CO in 2006, particularly because the property is still available for many uses.

The Board concludes that the Appellant's laches claim fails.

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**Great Weight**

The Board is required by § 13 of the Advisory Neighborhood Commission Act of 1975, effective October 10, 1975 (D.C. Official Code § 1-309.10(d)(3)(A) (2001)), to give "great weight" to the issues and concerns raised in the affected ANC's recommendations. Great weight means acknowledgement of the issues and concerns of the ANC and an explanation of why the Board did or did not find its views persuasive. On March 19, 2007, ANC 2F voted to affirm the Zoning Administrator's revocation of CO 109753 and the Board agrees with the ANC's position. *See*, Exhibit 18.

For the reasons stated above, the Board concludes that the Appellant did not meet his burden of demonstrating that DCRA erred in revoking CO number 109753. Accordingly, it is **ORDERED** that the appeal is **DENIED**.

Vote taken on May 1, 2007

**VOTE: 3-0-2** (Curtis L. Etherly, Jr., John A. Mann II, and Michael G. Turnbull in support of the motion to deny; Ruthanne G. Miller and Marc D. Loud, not present and not voting)

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

Each concurring member has approved the issuance of this Order.

**FINAL DATE OF ORDER:**     **JAN 11 2008**    

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**Application No. 17617-A of First Congregational United Church of Christ, et al.**, pursuant to 11 DCMR §§ 3103.2, and 3104.1, for a variance from the off-street loading facility requirements under section 2201, a special exception from the roof structure requirements under sections 411 and 770.6(b), and a special exception for a waiver of the rear yard requirements under section 774, to allow the construction of a mixed use church/social services and general commercial/office development in the DD/C-4 District at premises 945 G Street, N.W. (Square 375, Lot 823).

**Hearing Date (Application No. 17033):** June 12, 2007  
**Decision Date (Application No. 17033):** June 12, 2007 (Bench Decision)  
**Final Issue Date (Application No. 17033):** June 15, 2007  
**Modification Decision Date:** January 8, 2008

**SUMMARY ORDER ON  
REQUEST FOR MODIFICATION OF APPROVED PLANS**

**SELF-CERTIFIED**

The zoning relief requested in this case was self-certified pursuant to 11 DCMR §3113.2.

**BACKGROUND**

The original Application for this property was BZA Application No. 17617, pursuant to 11 DCMR §§ 3103.2 and 3104.1, for a variance from the off-street loading facility requirements under section 2201, a special exception from the roof structure requirements under sections 411 and 770.6(b), and a special exception for a waiver of the rear yard requirements under section 774, to allow the construction of a mixed use church and residential development on the subject property. The alternative relief originally advertised in this application, a variance from the side yard requirements under subsection 775.5, was eliminated. Advisory Neighborhood Commission 2C (ANC 2C) submitted a report in support of the application. The Office of Planning also submitted a report in support of the application. The Board of Zoning Adjustment heard and decided the case by bench decision on June 12, 2007, and issued a summary order on June 15, 2007.

**MODIFICATION**

Subsection 3129.7 of the Zoning Regulations states that "Approval of requests for modification of approved plans shall be limited to minor modifications that do not change the material facts the Board relied upon its [sic] approving the application."

In this modification, the Applicant seeks to replace the above-grade residential use in the original project with general commercial office space, while maintaining relatively unchanged the proposed church and social service uses on the first two levels of the project. The proposed changes are minor and that the areas of relief needed for the modified project are virtually identical to the original project because the subject property continues to be affected by the same

confluence of factors that the Board has already determined result in an extraordinary and exceptional condition on the subject property. With the proposed modification, this practical difficulty is the same. Furthermore, due to the change in above-grade use from residential to office, the project now fully complies with the roof structure requirements, which eliminates the need for a special exception from sections 411 and 770.6(b), and the project no longer needs relief from the 55-foot loading berth requirement because no such berth is required for the proposed office use.

The table below sets forth the elimination or reduction of each area of relief:

	<b>Permitted / Required</b>	<b>BZA Order No. 17617</b>	<b>Proposed Modification</b>
<b>Loading Facilities</b>	<p><u>Approved Project:</u></p> <p>Berths: 1 @ 55 feet                      1 @ 30 feet</p> <p>Platforms: 1 @ 200 square feet                      1 @ 100 square feet</p> <p>Service/Delivery: 2 @ 20 feet</p> <p><u>Modified Project:</u></p> <p>Berths: 2 @ 30 feet</p> <p>Platforms: 2 @ 100 square feet</p> <p>Service/Delivery: 1 @ 20 feet</p>	<p>Berths: 1 @ 30 feet</p> <p>Platforms: 1 @ 200 square feet                      1 @ 100 square feet</p> <p>Service/Delivery: 1 @ 20 feet</p> <p>*The loading berth and service delivery space in the previously approved project did not satisfy the minimum width requirements because they extended into the adjacent lot.</p>	<p>Berths: 2 @ 30 feet</p> <p>Platforms: 1 @ 300 square feet</p> <p>Service/Delivery: 1 @ 20 feet</p> <p>*While the number of loading berths now complies with the Zoning Regulations, the berths still extend into the adjacent lot and therefore require variance relief on that basis.</p>
<b>Rear Yard Depth</b>	22.9 feet	5 feet	5 feet
<b>Roof Structures</b>	All rooftop structures must be placed within a single enclosure having walls of equal height.	Rooftop penthouse had two separate levels in order to comply with the one-to-one setback requirement.	All rooftop structures will be placed within a single enclosure having walls of equal height, so relief from this provision is no longer necessary.

Since the approval granted in BZA Order No. 17617, the District's residential real estate market has experienced a downturn. As a result, the Applicant has elected to move forward with a revised mixed-use project to ensure economic feasibility for the project. The proposed modification is in keeping with the design of the approved project.

Advisory Neighborhood Commission 2C submitted a report indicating that it voted unanimously to support the modified project. The Office of Planning did not submit a report but provided testimony at the public meeting. The Office of Planning noted no objection to the proposed modification.

There were no other parties to the application.

### **CONCLUSIONS OF LAW**

The Board, after reviewing the Applicant's written submission and plans, as required by 11 DCMR § 3129.5, concludes that the modifications requested are minor and do not change the material facts upon which the Board relied in approving the application. See, 11 DCMR § 3129.7. Therefore, the Board concludes that the Applicant's request for permission to modify its plans meets the requirements set forth in the regulations for a minor modification. It is hereby **ORDERED** that the motion is **GRANTED** and the plans (Exhibit 33) are approved.

**VOTE: 3-0-2** (Ruthanne G. Miller, Marc D. Loud, and Anthony J. Hood (by absentee ballot) to grant; the NCPC and third mayoral appointee not present not voting)

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

Each concurring Board member has approved the issuance of this Order.

**FINAL DATE OF ORDER: JAN 14 2008**

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT

**BZA APPLICATION NO. 17617-A****PAGE NO. 4**

THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA****NOTICE OF SPECIAL PUBLIC MEETING**

The Zoning Commission of the District of Columbia, in accordance with § 3005 of the District of Columbia Municipal Regulations, Title 11, Zoning, hereby gives notice that it has scheduled a Special Meeting for Monday, January 28, 2008, at 6:00 P.M., to consider various items.

For additional information, please contact Sharon Schellin, Secretary to the Zoning Commission at (202) 727-6311.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA****NOTICE OF SPECIAL PUBLIC MEETING**

The Zoning Commission of the District of Columbia, in accordance with § 3005 of the District of Columbia Municipal Regulations, Title 11, Zoning, hereby gives notice that it has scheduled a Special Meeting for Thursday, January 31, 2008, at 6:00 P.M., to consider various items.

For additional information, please contact Sharon Schellin, Secretary to the Zoning Commission at (202) 727-6311.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
ZONING COMMISSION ORDER NO. 02-38A**

**Z.C Case No. 02-38A**

**(Modification to a First-Stage Planned Unit Development, a Second-Stage Planned Unit  
Development Application and a Related Zoning Map Amendment  
for Waterfront Associates, LLC)**

**November 19, 2007**

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held public hearings on June 7, 2007, June 14, 2007, and September 17, 2007, to consider applications from Waterfront Associates, LLC, on behalf of and in conjunction with RLA Revitalization Corporation ("RLARC"), the owner of the property (collectively, the "Applicant"), in support of the applications to the Commission for the District of Columbia for a modification to a first-stage Planned Unit Development ("First-Stage PUD") for property located at 401 M Street, S.W. (Lot 89, Square 542) (the "Site"), second-stage review and approval of a Planned Unit Development ("PUD") for the central portion of the Site, and a change to the District of Columbia Zoning Map under Chapter 24 of the District of Columbia Zoning Regulations, 11 DCMR (February 2003), as amended ("Zoning Regulations") (collectively, the "Applications"). The Commission considered the Applications pursuant to Chapters 24 and 30 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR"). The public hearings were conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby approves the Applications.

**FINDINGS OF FACT**

**Applications, Parties, and Hearings**

1. On November 15, 2006, the Applicant filed the Applications for a modification to the First-Stage PUD for the Site, second-stage review and approval of a PUD for the central portion of the Site, and a related zoning map amendment of the Site to rezone the Site to C-3-C (the "PUD Submission"). The PUD Submission is in the record at Exhibit 4 (PUD Submission Statement), Exhibit 5 (First Stage Plans), and Exhibit 6 (Second Stage Plans).
2. At its February 12, 2007, public meeting, the Commission set the case for hearing.
3. The Applicant filed materials in its Prehearing Submission on March 30, 2007 (the "Preheating Submission") in the record at Exhibit 15. The Applicant then filed additional

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materials in its Supplemental Prehearing Submission on May 18, 2007, along with fully re-issued plans and elevations (the "Supplemental Prehearing Submission"), in the record at Exhibit 24A (Supplemental Prehearing Statement), in the record at Exhibit 25 (Updated First Stage Plans), and in the record at Exhibit 26 (Updated Second Stage Plans).

4. A description of the proposed development and the Notice of Public hearing were published in the *D.C. Register* on April 20, 2007. The Notice of Public Hearing was mailed to all property owners within 200 feet of the Site as well as to Advisory Neighborhood Commission ("ANC") 6D.
5. The Commission held public hearings on the Applications on June 7, 2007, June 14, 2007, and September 17, 2007.
6. The Commission determined the parties to the case at the June 7, 2007 public hearing. Parties in this case included the following: the Applicant; ANC 6D, the ANC within which the Site is located; Tiber Island Cooperative Homes, Inc. ("Tiber Island"); and Carrollsburg Square Condominium Association ("Carrollsburg Square") (collectively, the "Parties"). Paul Greenberg and Henry Baker were not granted party status in their individual capacities, instead being named as the representatives for the Parties above respectively. Although the requests for party status from Tiber Island and Carrollsburg Square were framed as parties in opposition, the Chairman ultimately determined that the Parties were in support despite specific issues raised by each of the Parties.
7. The Applicant presented the following witnesses: Mitchell Schear and Deborah Ratner-Salzberg representing the Applicant; Shalom Baranes, architect with the firm of Shalom Baranes Associates; Chad Baird, traffic consultant with Gorove/Slade Associates; and Steven Sher, Land Planner with Holland & Knight. Mr. Schear and Ms. Ratner-Salzberg were accepted as experts in real estate and development. Messrs. Baranes, Baird, and Sher were accepted as experts in their respective fields. In addition, the following witnesses were available for questions and were accepted as experts in their respective fields: Tom Martens, Economics Research Associates, and Iris Amdur, GreenShape LLC.
8. The Office of Planning ("OP") testified in support of the project. The District Department of Transportation ("DDOT") testified generally in support of the project but raised several issues in its report, which are discussed below in Findings 121 through 136.
9. ANC 6D was represented Max Skolnick. His testimony reflected those issues set forth in the ANC 6D letter, discussed in Findings 137 through 138. Additional issues were raised, discussed in Finding 139.

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10. Tiber Island presented one witness, Paul Greenberg, the president of Tiber Island. According to its submissions and testimony, Tiber Island supports the redevelopment of the Site with new high-density development. Tiber Island objected to the following aspects of the development: (1) setback of the buildings along M Street; (2) height and width of the buildings fronting on M Street; (3) projecting bay on the East 4<sup>th</sup> Street Office Building; (4) lighting for the office buildings along M Street being compatible with the residential lighting patterns for the area; and (5) compatibility of the design of the new buildings with the existing character of the neighborhood.
11. Carrollsburg Square presented one witness, Henry Baker, the President of the Carrollsburg Square Board. According to its submissions and testimony, Carrollsburg Square generally supports the redevelopment of the Site and revitalization of the project. Carrollsburg Square cited the following primary concerns: (1) setback of the buildings along M Street; (2) the M Street façade; (3) insufficient parking associated with the residential aspect of the project; and (4) curb and median cuts on M Street.
12. Many persons and organizations testified and wrote letters in support of the modified project, including Neil Albert, the Deputy Mayor for Planning and Economic Development; RLA Revitalization Corporation; WMATA; Marina View Towers, property owner immediately to the east of the Site; Town Center Apartments, the property owner immediately to the west of the Site; the Arena Stage; and Southeastern University.
13. Several persons testified in opposition to the modified project. The primary concerns included the setback of the M Street façade, the height and openness of the M Street Buildings, and the impact on the light and air of properties across M Street.
14. On June 22, 2007, Tiber Island filed an objection letter asserting that it was not given the right to cross examine the Applicant's rebuttal witness and requesting that it be given additional time to submit proposed findings of fact and conclusions of law. On July 3, 2007, Carrollsburg Square filed a similar letter. ANC 6D filed a letter supporting Tiber Island's objection.
15. On June 27, 2007, the Applicant responded to the objection letter, stating that Tiber Island waived its right to cross examine by not requesting the opportunity to cross-examine at the hearing and, in any event, was not prejudiced by the lack of an opportunity for cross examination because the issues in question will be presented as part of a second-stage application, for which Tiber Island can fully participate.
16. On July 9, 2007, the Applicant submitted a letter restating its previous response but agreeing in the spirit of cooperation to present the rebuttal witness for cross-examination.

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17. At its July 9, 2007, public meeting, the Commission considered Tiber Island's objection and the Applicant's responses. The Commission scheduled a public hearing for the limited purpose of allowing the Parties to cross examine the rebuttal witness.
18. Prior to the public hearing on September 17, 2007, the Applicant submitted a Proposed Alternative Plan for the M Street Buildings (Exhibit 93). ANC 6D, Tiber Island and Carrollsburg Square each filed letters in support of the proposed alternative plan. The Commission held the public hearing on September 17, 2007, for the purpose of cross-examination and accepted the Applicant's and Parties' filings into the record.
19. At its regularly-scheduled public meeting on October 15, 2007, the Commission took proposed action by a vote of 3-0-2 to approve with conditions the Applications, including PUD plans, as presented at the public hearings or as part of the written record.
20. The proposed action of the Commission was officially referred to the National Capital Planning Commission ("NCPC") under the terms of the District of Columbia Self-Government and Governmental Reorganization Act. NCPC, by official action dated October 25, 2007, found that the Applications would not have an adverse effect on federal interests nor be inconsistent with the Comprehensive Plan for the National Capital.
21. The Commission took final action by a vote of 3-0-2 to approve the Applications at its public meeting held on November 19, 2007.

### **The Site and the Area**

22. The Site consists of Lot 89 in Square 542, containing approximately 584,655 square feet of land area (or approximately 13.42 acres) in the "superblock" generally located within M, I, 3<sup>rd</sup>, and 6<sup>th</sup> Streets, S.W. The Site is located in the Southwest neighborhood, within the former Southwest Urban Renewal Area.
23. The Site is currently improved with an existing building complex including a three-story shopping mall structure ("Waterside Mall" or the "Mall") flanked on its east and west edges by two 130-foot high office towers. Waterside Mall was built in phases primarily beginning in the 1960's through the early 1980's, pursuant to the Southwest Urban Renewal Plan, Area "C."
24. To create the superblock for the Mall, 4<sup>th</sup> Street, S.W., between M and I Streets, S.W., was closed. Other uses in this superblock include four large, high-rise apartment buildings – two of them to the east of the Mall known as Town Center Apartments and two to the west of the Mall known as the Marina View Apartments. North of the Mall, and fronting on the south side of I Street, S.W., are two churches, Federal parkland, and a District of Columbia library (Southwest Branch). At its southern end, Waterside Mall

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faces M Street and partially wraps around the entrance to the Waterfront/Southeastern University Metrorail station. A surface parking lot serving the Mall is also located at this end of the Site.

25. The central structure of the Mall is 45 feet in height and the two existing towers on each side of the central structure have heights of 130 feet. The existing improvements have a total gross floor area of approximately 1,316,871 square feet, or 2.25 FAR. In addition to the surface parking near the Metrorail Station on M Street and the above-grade parking structure, the Mall includes underground parking spaces accessed from I and M Streets, for a total of 1,252 existing parking spaces. The Mall is virtually vacant, with three remaining retail uses on the Site.
26. The Southwest neighborhoods surrounding the Site are primarily residential in character, with a mixture of building types and density. There are commercial uses lining the Southwest waterfront on the Washington Channel immediately to the west of the Site. The Amidon Elementary School and the Southeastern University are also located along the north frontage of I Street. Arena Stage is located to further to west.
27. The Site is not a designated historic landmark nor is it within a historic district.

#### **Existing and Proposed Zoning**

28. The underlying zoning of the Site is C-3-B. Based on the First-Stage PUD approval, the Site is split-zoned C-3-B/C-3-C.
29. The C-3-B District is designated as a major business and employment center and permits medium density development, including office, retail, housing, and mixed uses. C-3-B districts are compact in area and are located in or near the Central Employment Area, on arterial streets, in uptown centers, and at rapid transit stops. The uses permitted as a matter-of-right include office, retail, and residential, with a maximum permitted height of seventy feet and six stories. The C-3-B District permits as a matter-of-right a maximum floor area ratio ("FAR") of 5.0 for residential uses and a maximum density of 4.0 FAR for all other uses. The maximum permitted height as a matter-of-right is 70 feet and six stories. A PUD in the C-3-B District is permitted to have a maximum density of 5.5 FAR for residential uses and 4.5 FAR for all other uses and a maximum height of 90 feet. The density of the proposed modification to the First-Stage PUD and the accompanying second-stage PUD application is less than that allowed as a matter-of-right under the existing C-3-B zoning if the land area that will constitute a re-opened 4<sup>th</sup> Street is counted<sup>1</sup>.

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<sup>1</sup> Whether that occurs will depend on whether the D.C. Surveyor permits the single record lot that now includes the entire PUD site to remain once 4<sup>th</sup> Street is re-opened.

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30. Under the modification to the First-Stage PUD, the zoning of the entire Site would become C-3-C. The C-3-C District is a major business and employment center that permits medium-high density development for employment and mixed uses. The uses permitted as a matter-of-right include office, residential, and retail. The C-3-C District permits matter-of-right development to a height of ninety feet, and a density of 6.5 FAR. The PUD guidelines for the C-3-C District permit a height of 130 feet and a density of 8.0 FAR. Despite the additional density that is permitted for a PUD under the C-3-C District, the Applicant proposes to develop a project with a maximum aggregate density of 4.33 FAR based on the land area of the Site, which is consistent with the First-Stage PUD and less than the permitted density in both the C-3-B and C-3-C Districts.

### First-Stage PUD Approval

31. By order dated July 31, 2003, the Commission approved a First-Stage PUD for the Site. The First-Stage PUD included a medium-high density project containing a mixture of office, retail, and residential uses. The Commission approved an overall gross floor area of 2,526,500 square feet with a density of 4.33 FAR based on the total land area of the Site being 584,655 square feet ("Land Area"). Commercial uses, including office and retail uses, totaled 2,162,500 square feet of gross floor area, or 3.64 FAR based on the Land Area. This included a minimum of 75,000 square feet of gross floor area devoted to ground floor retail use. The total residential development was 400,000 square feet, or 0.69 FAR based on the Land Area.
32. The height of the buildings ranged from renovations with additions at 56 feet; new construction at 19 feet and 112 feet; and renovation of the two existing office towers at 130 feet. Both the two new residential buildings and the two proposed office buildings on M Street were proposed to be 112 feet to provide for extra height at the ground floor level to make the space optimal for retail establishments.
33. The project was to be developed in several phases, with the timing of phases dictated primarily by leasing agreements and construction of the roadway. The first phase was valid for three years. The Commission approval required that the Applicant not obtain a certificate of occupancy for more than 1,570,000 square feet of new and renovated office and retail use until it had obtained a certificate of occupancy for at least 200,000 square feet of residential use. If all milestones were met, the first stage would have been valid for a period of 17 years.
34. The urban design objectives for the project included the following:
- a. Reconnect the Site to the neighborhood by breaking it into two smaller city blocks, with the interior of the Site opened up to light and air and public access by re-establishing 4<sup>th</sup> Street through the Site;

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- b. Line 4<sup>th</sup> Street and the M Street frontage with ground floor retail uses visible from the outside and accessible to the neighborhood;
- c. In place of a single, monolithic low-rise structure, create four identifiable buildings with their own recognizable entrances;
- d. Create a more urban development pattern by constructing buildings to the 4<sup>th</sup> and M Street frontages, thereby visually defining the adjacent streets and public spaces; and
- e. Create a mixed-use town center, with office workers providing a significant daytime population, the apartments bringing full-time residents and evening activity to the Site, and both of these serving as customers of the retail uses, which will also serve the surrounding neighborhood. The public plaza surrounding the entrance to the Metro Station completes the town center concept.

#### **Proposed Modified First-Stage PUD Project**

35. The proposed modified First-Stage PUD project ("Modified Project") includes the development of eight buildings including residential, office, and ground floor retail uses. The Modified Project includes significant open spaces as well as the re-opening of the 4<sup>th</sup> Street right-of-way.
36. The Modified Project includes approximately 2,526,500 square feet of gross floor area, as was approved in the First-Stage PUD. The Modified Project incorporates approximately 1,296,895 square feet of gross floor area devoted to office and retail uses and approximately 1,229,605 square feet of gross floor area devoted to residential uses, with the flexibility to convert one residential building to office use, as is discussed in Finding 42(a).
37. The Modified Project includes two residential towers at the north end of the Site, with maximum heights of 114 feet (referenced as the Northwest Building and Northeast Building). The existing high-rise towers (referenced as the West Residential Tower and the East Residential Tower) will be converted to residential use, maintaining a height of 130 feet. In the center of the Modified Project, two new commercial structures will be constructed, each with a height of 94 feet and flanking the newly re-opened 4<sup>th</sup> Street (referenced as the West 4<sup>th</sup> Street Office Building and the East 4<sup>th</sup> Street Office Building). On the south end of the Site, there will be two new commercial buildings fronting M Street. These buildings were initially proposed to have maximum heights of 114 feet (referenced as the West M Street Building and the East M Street Building); however, upon further study of the massing, the Applicant proposed, and the Parties agreed, that the maximum height of the West M Street and East M Street Buildings should be 127 feet, with greater setbacks incorporated upon the second floor level.

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38. The Modified Project proposes a minimum of 1,087 parking spaces, and requests flexibility to increase this number based on market conditions, as was requested and granted in the approved First-Stage PUD.
39. Carrollsburg Square raised concerns regarding the number of parking spaces being insufficient to accommodate the demand of the Modified Project. Alternatively, DDOT raised concerns regarding the Applicant having the flexibility to increase the number of parking spaces without approval.
40. The Commission finds that the request for flexibility for increased parking spaces, so long as each increase is included in future second-stage applications, will address the concerns raised by community residents while at the same time will provide DDOT with sufficient opportunity to review impacts of the same.

**Consistency of Proposed Modified First-Stage PUD with the Approved First-Stage PUD**

41. The Modified Project is consistent with the approved First-Stage PUD as follows:
  - a. ***Overall Density.*** The overall density of the Modified Project is maintained at approximately 2,526,500 square feet of gross floor area, or 4.33 FAR based on the Land Area (calculated using the existing record lot, which includes the area that will comprise a re-opened 4<sup>th</sup> Street).
  - b. ***Building Height of the "Four Corners".*** The height of the buildings on each of the four corners has been modified – increasing from 112 feet to 114 feet for the Northwest and Northeast Buildings in order to accommodate increased retail ceiling heights on the ground level from 12 feet to 14 feet and increasing from 112 feet to 127 feet for the West M Street and East M Street Buildings to accommodate the increased retail ceiling heights on the ground level from 12 feet to 14 feet and the increased setbacks above the second floor.
  - c. ***Re-Opening of 4<sup>th</sup> Street.*** The Modified Project continues to include the re-opening of 4<sup>th</sup> Street through the Site, which will redefine the urban fabric of the area, create a vibrant neighborhood in numerous ways, and improve traffic circulation.
  - d. ***Public Benefits and Project Amenities.*** All of the public benefits and project amenities approved in the First-Stage PUD are maintained in the Modified Project; however, the Applicant has added additional amenities to the Modified Project, as set forth in Findings 90 and 91.

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**Modifications to First-Stage PUD Approval**

42. The Modified Project modifies the approved First-Stage PUD in the following ways:
- a. ***Increase in Residential Density.*** The total residential density will increase from a minimum of 400,000 square feet of gross floor area to a minimum of 800,000 square feet of gross floor area. If the Northwest Building is maintained for residential use, the total residential density will be up to approximately 1,200,000 square feet of gross floor area. The increased residential density results from the conversion of the East and West Towers from office use in the approved First-Stage PUD to residential use as well as the conversion of the Northeast Building from office to residential use.
  - b. ***Timing for Residential Density.*** The First-Stage PUD required that no more than 1.57 million square feet of gross floor area devoted to office use be constructed until at least 200,000 square feet of residential gross floor area was constructed. In the Modified Project, a minimum of 400,000 square feet of gross floor area of residential use will be constructed in the first phase of development.
  - c. ***Retail Commitment.*** The Applicant has increased its commitment for retail space from a minimum of 75,000 square feet to a minimum of 110,000 square feet. The Applicant has also strengthened its commitment to providing a grocery store, as detailed in Finding 91(c)(2).
  - d. ***Public and Private Open Spaces.*** The proposed public and private open spaces in the Modified Project have significantly increased. The proposed lot occupancy has been reduced by approximately 40,000 square feet from that approved as a result of the increased height for the East and West 4<sup>th</sup> Street Office Buildings, with the Modified Project having a maximum lot occupancy of 63% based on the Land Area. The First-Stage PUD provided for a maximum lot occupancy of between 60% and 70%. In addition, the Modified Project includes more than double the amount of public open space adjacent to the Metro with the addition of two public plazas that traverse the Site, extending from 4<sup>th</sup> Street to the proposed entrances of the East and West Residential Towers. The total proposed public space includes more than 50,000 square feet as compared to the First-Stage PUD, which incorporated a minimum of 25,000 square feet.
  - e. ***Building Height of West and East 4<sup>th</sup> Street Office Buildings.*** The heights of the proposed West and East 4<sup>th</sup> Street Office Buildings have increased from 79 feet (6 stories with 12-foot-retail ceilings) to 94 feet (8 stories with 14-foot-retail ceilings). The two stories of additional height are necessary to increase open space and reallocate approximately 70,000 square feet of commercial use with the massing changes of the Northeast Building.

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- f. *Access to West and East Residential Towers.* The primary entrances to the residential East and West Residential Towers are proposed to be from 4<sup>th</sup> Street via private drives through the east and west courtyards in lieu of access from east and west private drives adjacent to interior lot lines, which was approved in the First-Stage PUD. Moving the entrances to the façades that face the interior of the Site will increase pedestrian activity in the center of the Site along 4<sup>th</sup> Street and will improve the viability of retail. Eliminating the two entry courtyards of the First-Stage PUD adjacent to the East and West M Street Buildings also allows for more continuous retail frontage along M Street, thereby improving its viability as well.
- g. *Above-Grade Parking Structure.* The existing above-grade parking structure will be demolished under the new plan for the Modified Project, with a residential courtyard to be provided at-grade above a parking structure below
43. The Commission finds that all of the changes reflected in the Modified Project serve to improve and enhance the overall development for the benefit of the Southwest community and the District as a whole.

#### **M Street Set-Back, Height and Bulk**

44. As part of the Modified Project, the Applicant proposes two office buildings fronting on M Street with ground floor retail. The East M Street Building includes approximately 339,000 square feet of gross floor area, and the West M Street Building includes approximately 322,700 square feet of gross floor area
45. In the First-Stage PUD, the buildings fronting on M Street included a setback from the face of the curb to the face of the building of approximately 22 feet. After working with OP and the adjacent property owner with its redevelopment of Marina View Towers, this setback has been modified to be 18 feet, 9 inches from the face of the curb to the face of the building. The Applicant testified that the continuous retail frontage along M Street will help make the retail more successful, especially in light of the fact that there is no retail on the opposite side of M Street. Furthermore, as a result of the relocation of the buildings three feet, three inches to the south, the public plazas on the north side of these buildings increased by the same dimension.
46. ANC 6D, Tiber Island and Carrollsburg Square, as well as several individuals testifying at the hearing, expressed concern that the proposed setback was not sufficient.
47. OP did not object to the proposed width of sidewalk, noting that the width was adequate for street retail and landscaping. OP also testified that the proposed width contributes to the other public places that are located in the interior of the Modified Project and are publicly accessible.

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48. The Commission finds that additional setback is not necessary and that the additional setback would impair the urban fabric along M Street. The Commission further finds that the additional three feet of setback would not provide a benefit to pedestrians but would potentially have adverse impacts for the retail proposed along M Street.
49. ANC 6D, Tiber Island, and Carrollsburg Square, including others who testified in opposition to the Modified Project, also argued that the M Street façade of the Modified Project was monolithic and would adversely impact the character of that area. These groups also suggested that the M Street buildings be made taller and thinner in an effort to minimize the horizontal visual impact.
50. Mr. Baranes testified that the impact of the buildings would be negligible on the nearby properties because no shadows would be cast due to the north facing alignment of the project. Furthermore, the M Street right-of-way is exceptionally wide in this area at 120 feet in width, which is comparable to the larger boulevards throughout the District.
51. The Applicant also presented testimony in rebuttal that it would review and study the options for increasing the heights of the M Street buildings while thinning the buildings starting above the first or second level. To the extent that such revision is feasible, the Applicant would present such revised designs as part of the second-stage application(s) for those two buildings.
52. The Applicant subsequently submitted a proposed alternative plan for the M Street buildings, which incorporates a maximum height of 127 feet and setbacks of approximately 45 feet above the second level. The density of the M Street buildings does not change. Based on the record, the Applicant worked with the Parties, who each supported the proposed alternative by letters in the record. OP indicated its support for the proposed alternative at the September 17, 2007 public hearing.
53. The Commission finds that there will be no adverse impact to the amount of light, air, or open space available to neighboring properties as a result of the height, bulk and location of the East and West M Street Buildings. The Commission finds that the large right-of-way combined with the setback of the Modified Project from its property line and the setback of the Tiber Island's buildings on the southern side of M Street provide a more than appropriate visual corridor along M Street.
54. The Commission finds that the proposed alternative with maximum heights of 127 feet and setbacks of approximately 45 feet, as shown on the plan in the record at Exhibit 93, addresses the community's concern. The proposed alternative with additional height and greater setbacks is appropriate for this location, based on its proximity to the Metrorail station and location within the Central Employment Area.

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**Second-Stage PUD**

55. The Applications include a request for second-stage approval of the four buildings through the center of the Site ("Second-Stage Site"), which involves the four buildings and their adjacent open spaces which span the middle third of the Site (the "Second-Stage Project"). The East and West 4<sup>th</sup> Street Office Buildings will flank the east and west sides of 4<sup>th</sup> Street and will include ground floor retail. Beyond these buildings, at the eastern and western boundaries of the Site, will be two existing twelve-story office buildings which will be renovated for residential use, known as the East and West Residential Towers. A continuous open space with an east/west orientation will connect the residential buildings' entrances to 4<sup>th</sup> Street. These spaces will provide pedestrian access across the center of the Site directly to the plaza surrounding the Metro station entrance. These spaces will be landscaped and activated with ground floor retail lining the base of each building along the newly re-opened 4<sup>th</sup> Street.

**East and West 4<sup>th</sup> Street Office Buildings**

56. The East and West 4<sup>th</sup> Street Office Buildings each have a maximum height of 94 feet, with eight stories. The East 4<sup>th</sup> Street Office Building is shaped to reflect the original 4<sup>th</sup> Street right-of-way alignment. A six-story, elongated bay which is a cantilevered extension of the aluminum and glass window system mirrors the angle right-of-way.
57. ANC 6D and Tiber Island raised concerns related to the design of this bay and its impact on the view corridors from the north and the south.
58. The Applicant responded that the construction of the Metro station in the original 4<sup>th</sup> Street right-of-way requires a curved 4<sup>th</sup> Street alignment. The proposed design allows the primary structure of the East 4<sup>th</sup> Street Office Building to respect the original 4<sup>th</sup> Street alignment while the "projecting" bay reflects the current alignment. Mr. Baranes, the Applicant's expert in architecture, testified that the impact on view corridors would be minimal.
59. The Commission finds that the design is an appropriate way of responding to an existing condition that cannot be modified (i.e., the location of the Metro station and the requirement that the 4<sup>th</sup> Street alignment). The Commission finds that the views will not be adversely impacted by the incorporation of this bay.
60. The West 4<sup>th</sup> Street Office Building establishes the west street-wall with an eight-story volume. A centrally-located indented bay, rising the entire height of the building, reduces the building's apparent length and marks the office entrance. A lower six-story bay wraps the western and southern faces of the building.

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61. Two façade-types are used to define the building elevations. West and south facing façades are fully glazed ceiling-to-floor with banding frame-lines clad in metal panels. Projecting bris-soleil running in continuous horizontal bands protect the glazing from the afternoon sun and terminate in a vertical band near the center of the building, reducing the building's apparent length and marking the office entrance below. Similar shading devices are common to the neighborhood. East and north facing façades are glazed in horizontal bands offset between spandrels of modular terra cotta, with an alternate for roman brick cladding. Viewed from 4<sup>th</sup> Street, the buildings present both façade types in opposition, creating an enhanced sense of orientation and architectural complexity.

**East and West Residential Towers**

62. The existing towers on the Second-Stage Site will be renovated and re-fenestrated in order to convert them from office buildings into residential buildings. The massing of the existing structures will remain largely unchanged other than the addition of a mechanical penthouse, shallow glass bays, and corner balconies. The West Residential Tower will feature a two-story infill structure within the building footprint along its eastern face to replace the void formed by the removal of an adjacent above-grade parking structure that extends under the building footprint. Along the East Residential Tower's eastern face, a similar two-story infill structure is provided. Both the East and West Residential Tower are linked internally to one-story loading structures on their northern faces.
63. The façades are re-fenestrated with insulating glass and operable windows to accommodate residential use. Glazing is set in aluminum frames with metal clad horizontal and vertical bands defining floor slabs and unit partitions. Horizontal bands articulate the façade in three-story increments. Modern architectural frames wrap the mid-section of the outward facing façades. These elements reflect the proportion and character of the four adjacent I.M. Pei-designed towers. Facing inward, the façades are framed by a full-height bracket wall and roof projection that adds a formal northward orientation to the project's mid-section. The ends of the east and west plazas are marked with ten-story vertical bays added to each building's inner face.
64. The Commission questioned whether the East and West Residential Towers could accommodate roof-top terraces. The Applicant's expert testified at the hearing, and the Applicant submitted additional information in its Post-Hearing Submission (Exhibit 80) that given the dimensions of the existing building structure, the inability to stack or reconfigure the HVAC units and maintain equipment warranties, and the belief that tenants should be able to measure their own energy consumption, roof terraces are not feasible on the residential towers. The Commission is satisfied with the Applicant's response.

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**Retail Streetscape**

65. The East and West 4<sup>th</sup> Street Office Buildings provide street-facing retail along the re-opened 4<sup>th</sup> Street. Retail extends deep into the East and West Plazas along the East and West 4<sup>th</sup> Street Office Buildings, taking full advantage of each building's corner location.
66. The retail façades have floor-to-ceiling heights of 14 feet and are expressed as one-story structures relieved from the upper levels by a shallow indented second floor. Copings, eaves, and extended canopies mark the upper horizon of the retail streetscape. Storefronts will maximize glazing heights and widths to allow for deep interior views. Canopies and solar-shading grilles enliven the Plaza-facing elevations.

**4<sup>th</sup> Street Landscape, Metro, and East and West Plazas**

67. The Metro Plaza is designed to direct pedestrian traffic efficiently with ample separation from vehicular traffic. Adequate sidewalk areas wrap the Metro escalator-way on all sides. The East Plaza private drive is set flush with the plaza paving to permit unimpeded pedestrian flow.
68. The Metro Plaza will be a center of activity. It incorporates two rows of shade trees, modular seating elements with internal lighting and water features. The vertical columns of water emerging from flush mounted jets in the pavement of the plaza will add visual and acoustic interest to the space. Lighting will be incorporated in the water feature to increase the effect at night. Additional lighting has been incorporated into the Metro Plaza, as indicated in Tab A of the Applicant's Post-Hearing Submission, in response to the Commission's request that this issue be further reviewed.
69. The East and West Plazas function as the development's mid-block cross-link in the best tradition of Southwest D.C. public space, including a crosswalk with additional safety measures, such as pedestrian signalization, "bulb outs," and special paving. Landscape elements further enhance the special character of these pedestrian-friendly open spaces. One-way private drives provide access to the residential towers.

**Residential Courtyards**

70. Amenities for the residential program are provided in the open spaces located between each pair of the residential and office buildings. The east courtyard is located above a one-story retail structure (or at-grade, pending development phasing). The landscaping in this courtyard has been designed to create two zones: a lawn and trees along the southern edge and sedum green roof panels along the northern end.

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71. The west courtyard is located at-grade and consists of a series of more enclosed, intimate spaces. The spaces are more residential in nature, serving as "outdoor rooms" to serve the adjacent residential buildings.

**Vehicular Access and Services**

72. One-way private drives traversing the East and West Plazas provide vehicular access to the entrances of the East and West Residential Towers. When merged, vehicular traffic is separated from pedestrian flow with lines of low bollards along the East Plaza.
73. The entrances for the East and West 4<sup>th</sup> Street Office Buildings are accessed directly from 4<sup>th</sup> Street.
74. Loading access for the eastern and western halves of the Second-Stage Project is provided in covered, one-story structures adjacent to the East Residential Tower and the West Residential Tower.
75. A private drive will extend along the western edge of the Site and will function as a shared drive with the adjacent development of Marina View Towers. This shared private drive minimizes curb cuts on M Street and consolidates loading facilities for both projects.

**Parking**

76. The Second-Stage Project originally proposed a minimum number of parking spaces of 505 spaces, with the flexibility to increase the number of parking spaces. Community members raised concerns with the number of parking spaces being too few while DDOT requested that if the number of parking spaces was increased, such increase be permitted only after separate review and approval by the Board of Zoning Adjustment and relevant District agencies.
77. At the public hearing, the Applicant testified that the Second-Stage Project will provide a minimum of 505 parking spaces and a maximum of 745 parking spaces.

**Compatibility of Design with Existing Southwest Neighborhood**

78. ANC 6D and Tiber Island raised concerns about the compatibility of the design of the Second-Stage Project (and as a whole the Modified Project) with the existing character of Southwest.
79. Mr. Baranes testified that the Second-Stage Project has been designed sensitively to relate to and be compatible with the original architectural designs of the Southwest neighborhood. The Site has maintained significant open spaces in keeping with the character of Southwest, for both residents and the public alike.

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80. Mr. Baranes further testified that the Second-Stage Project – and the Modified Project – have been designed in such a way to reflect the modernity that was an integral aspect of the original Southwest development. The buildings are one-of-a-kind and not found anywhere else in the District. Mr. Baranes also testified that the materials would complement the existing materials in Southwest while at the same time being unique and new.
81. The Commission finds that the Second-Stage Project has been designed to relate well with the existing character of Southwest while at the same time retaining a new and energized feeling for the town center.
82. The Commission finds that the Modified Project will create a sense of place and will achieve the goals of creating the town center.

#### **Phasing of the Project**

83. The Applicant requested that the Commission grant approval of the first-stage Modified Project for a period of five years from the effective date of the order granting the same. Within such time, the second-stage PUD application(s) for the Northwest Building, the West M Street Building, and the Northeast Building will be filed. These second-stage applications may be submitted individually, at the same time, or in any combination thereof.
84. The Applicant requested that the approval be granted for a longer period of time for the East M Street Building. In the event that the grocery store is constructed in the Second-Stage Project or that the existing grocery store surrenders its premises under the existing lease, the Applicant will file the stage-two PUD application for the East M Street Building within five years of the date that the existing grocery store vacates the Site, but no later than December 31, 2020.
85. The approval of the Second-Stage Project will be valid for a period of two years from the effective date of the order granting the same. Within this time, the Applicant shall file for a building permit. Construction shall begin with three years of the effective date of the order granting the Second-Stage Project.

#### **Development Flexibility and Incentives**

86. The Applicant requests the following areas of flexibility from the C-3-C standards:
  - a. Height in excess of matter-of-right for the Northeast Building, the Northwest Building, and the East and West M Street Buildings, but within that permitted for a PUD in the C-3-C District; and

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- b. Roof structure relief to permit roof structures with walls of unequal height on the East and West 4<sup>th</sup> Street Office Buildings.
87. The Applicant initially requested flexibility from the residential recreation space requirements; however, since that time, the residential recreation space requirements have been officially repealed by Z. C. Order No. 05-02.
88. As part of the PUD, the Commission may grant such flexibility without the need for variance approval from the Board of Zoning Adjustment or compliance with the variance standards that might otherwise apply.

### **Public Benefits and Project Amenities**

89. The Modified Project incorporates all of the public benefits and project amenities that were approved as part of the First-Stage PUD as follows:
- a. ***Reopening of 4<sup>th</sup> Street, S.W. (11 DCMR § 2403.9(i)).*** The Applicant continues to propose the re-opening of 4<sup>th</sup> Street through the center of the Site, and is currently negotiating the terms under which this area will be sold to the District. The re-opened 4<sup>th</sup> Street will consist of a 55-foot roadway within a 90-foot right-of-way for the portion of 4<sup>th</sup> Street within the confines of the Site. The re-opened 4<sup>th</sup> Street will redefine the urban fabric of the area and will create a vibrant neighborhood in many ways, including providing the opportunity for street-front retail, creating a passageway through the Site for pedestrians and vehicular traffic, opening the Site for development and benefiting the overall District transportation system. The re-establishment of 4<sup>th</sup> Street will knit the Southwest neighborhood back into the urban fabric of the District, with 4<sup>th</sup> Street ultimately running from P Street, S.W., through the Mall to Constitution Avenue, N.W.
  - b. ***Major Local Development Initiative (11 DCMR § 2403.9(i)).*** The Modified Project continues to be a major revitalization effort being undertaken with the close cooperation of the Applicant and the District to achieve important public objectives for the District and the Southwest neighborhood. The District's commitment to this revitalization effort has been confirmed by the lease agreement into which it has entered with the Applicant. Furthermore, the Modified Project will provide significant economic benefits to the District as compared to the existing situation.
  - c. ***Urban Design (11 DCMR § 2403.9(a)).*** The Modified Project will continue to accomplish major design objectives that were identified as an important part of the approved First-Stage PUD, such as superior streetscape design and pedestrian amenities, including wide sidewalks and public plaza, introduction of distinctive, vertical buildings that provide interest and variety along street frontages and are

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construed to defined public spaces, and creating better connections for the neighborhood.

- d. ***Town Center (11 DCMR § 2403.9(i)).*** The Modified Project will continue to create an important town center surrounding the Metrorail station. In the First-Stage PUD, the Applicant committed to a minimum of 25,000 square feet in public open space. The Applicant now commits to a minimum of 50,000 square feet of open space suitably paved and landscaped for public use and enjoyment.
  - e. ***Maintenance of Public Park North of the Site (11 DCMR § 2403.9(h)).*** The Applicant has also agreed to maintain the land immediately to the north of the Site as a public park amenity after the construction by the District of the 4<sup>th</sup> Street extension through the park (the "Park Site"). The maintenance of the Park Site may include trash removal, lawn mowing, and planting, continuing for the life of the PUD, and will be governed by an agreement to be entered into between the Applicant and the appropriate District agency, after the Park Site and Park Street Extension have been transferred to the District from the Federal government.
  - f. ***Retail and Service Establishment (11 DCMR § 2403.9(h)).*** The Applicant originally committed to a minimum of 75,000 square feet of gross floor area devoted to retail use. As part of the Modified Project, the Applicant has committed to a minimum of 110,000 square feet, in addition to the additional retail commitments set forth in Finding No. 91(c).
90. The Modified Project includes a number of additional public and project amenities, including the following:
- a. ***Housing (§ 2403.9(f)).*** The Modified Project constitutes a new residential development adjacent to a Metrorail station and will provide at least 800,000 square feet of gross floor area devoted to residential space, with up to approximately 1,200,000 square feet of gross floor area of residential use if the Northwest Building is constructed as a residential building. A minimum of 400,000 square feet of gross floor area will be constructed as part of the first phase of development.
  - b. ***Affordable Housing (11 DCMR § 2403.9(f)).*** The Applicant commits to a minimum of 160,000 square feet of on-site affordable housing, with at least eight percent of the gross floor area within the East and West Residential Towers in the Second-Stage Project (which equals approximately 32,000 square feet) being available to households earning 80% of the Metropolitan Washington, D.C. Area Median Income ("AMI") or less. The affordable housing shall be evenly distributed between the East and West Residential Towers (a total of approximately 80,000 square feet of gross floor area) and the Northeast

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Residential Building (approximately 80,000 square feet of gross floor area). The affordable housing units shall be approximately the same proportion of bedroom type and size as the market rate residential units and generally evenly distributed between and within the East and West Residential Towers, with the exception of the top two floors of each building. No affordable housing is required for the Northwest Building. All affordable housing units will be maintained as affordable for a period of twenty years, regardless of whether the units are rental or for sale.

- c. *Retail and Service Establishments (11 DCMR § 2403.9(f))*. Not only has the Applicant increased its minimum retail commitment from 75,000 square feet to 110,000 square feet, it has also committed to the following additional retail commitments:

- (1) *Use of Local and Small Businesses for Retail Space*: The Applicant will use best commercially reasonable efforts to provide opportunities for local and small businesses to occupy 12,500 square feet of retail space included within the minimum commitment. These local and small businesses will be certified by RLA Revitalization Corporation, as more specifically set forth in the Land Disposition and Development Agreement ("LDDA").
- (2) *Commitment to Grocery Store Use*: As part of the on-site retail, the Applicant has included space for a new 55,000 square foot grocery store within the Second-Stage Project. The Applicant has been working closely with the existing grocery store on the Site to renegotiate its lease, currently set to expire in December 2020, and to relocate the existing grocery store to the proposed new grocery store location on the east side of the Modified Project. The Applicant will continue to use best commercially reasonable efforts to complete such negotiations with the goal of executing a lease by August 18, 2007. If a lease is executed, the Applicant will maintain the space for the existing grocery store to operate while the new store is under construction.

In the event that the Applicant is unable to successfully negotiate a lease within the above timeframe, the Applicant agrees to:

- (a) Honor the existing grocery store lease expiring in 2020.
- (b) Reserve the proposed grocery location on the east side of the Modified Project and use best commercially reasonable efforts to lease such space to a full service grocery store (approximately 55,000 square feet) for a term commencing upon the earlier of the

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termination of the existing grocery store lease or the vacation of such space for any other reason.

The Applicant further agrees to develop the Second-Stage Project in accordance with the plans set forth at Sheet 1.10 of the Second-Stage Plans (which shows the grocery store constructed) or Sheet 1.11 of the Second-Stage Plans (which shows the site plan option in the event that the existing grocery store is maintained in its current location). In the event that the Second-stage Project is constructed in accordance with Sheet 1.11 of the Second-Stage Plans, no additional construction between the East 4<sup>th</sup> Street Office Building and the East Residential Tower will be completed for any use other than the grocery store as shown on Sheet 1.10 unless the Applicant returns to the Zoning Commission for approval.

- (3) *Maintenance of Retail Uses During Construction*: In addition to the maintenance of the grocery use during the construction phase of the Second-Stage Project, the Applicant will maintain the operation of a bank and a drug store, which are the only other uses currently located at the Site
- d. *Sustainable Design Features (11 DCMR § 2403.9(h))*. The Applicant is committing to a variety of sustainable design features. For the East and West 4<sup>th</sup> Street Office Buildings, these sustainable design features include, among other items, storm water management, green roofs, and erosion and sedimentation control. A specific list of sustainable design features is set forth in Tab A to the Supplemental Prehearing Submission. The East and West Residential Towers will include sustainable design features such as erosion and sedimentation control and storm water management. A detailed list of these sustainable design features is set forth in the Applicant's Memorandum to OP (Exhibit 54). The Applicant intends to incorporate sustainable design features into each of the remaining buildings of the Modified Project in a similar quality and quantity to be determined at the second-stage proceedings for each of those projects.
- e. *Community Meeting Space (11 DCMR § 2403.9(i))*. The Applicant commits to provide approximately 1,000 square feet of office and meeting space for ANC 6D and the Southwest Neighborhood Assembly for a minimum of a 10-year term commencing upon the initial occupancy of such space. Within this committed space, the Applicant will provide approximately 350 square feet of space to each organization and a shared conference room for use by various community groups.
- f. *Security and Construction Mitigation Plan (11 DCMR § 2403.9(i))*. The Applicant commits to abiding by a Security and Construction Mitigation Plan ("Security and Construction Mitigation Plan") to be in place throughout the

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development of the Modified Project. An initial draft of the Security Construction Mitigation Plan is in the record at Tab C to the Supplemental Prehearing Submission. The Applicant will continue to work with the community, RLARC, and the District government to update this plan as is necessary throughout construction.

- g. *Transportation Management Plan (11 DCMR § 2403.9(c))*. The Applicant proposes a transportation management plan, set forth in the Summary of Public Benefits and Project Amenities (Exhibit 52 – "Transportation Management Plan").
- h. *Employment and Training Opportunities (DCMR § 2403.9(e))*. In order to further the policies established in Mayor's Order No. 83-265 and D.C. Law 5-93, the Applicant will enter into an agreement to participate in the Department of Employment Services First Source Employment Program that promotes and encourages the hiring of District residents. Furthermore, in order to further policies established in D.C. Law 1-95, the Applicant will enter into a Memorandum of Understanding with the District of Columbia Department of Small and Local Business Development to utilize local, small, and disadvantaged businesses in the development of this project.
91. The Commission finds that the relative value of the project amenities and public benefits offered is sufficient given the degree of development incentives requested and any potential adverse effects. The Commission finds that the benefits and amenities listed in Findings 90 and 91 are acceptable to be included as part of the balancing test required in § 2403.8 of the Zoning Regulations and deserve recognition as a benefit and amenities of the PUD.

#### **Compliance with PUD Standards**

92. The Applications comply with the standards for a PUD set forth in Chapter 24 of the Zoning Regulations.
93. The Commission finds that the Modified Project offers a high level of public benefits and project amenities. When compared with the amount of development flexibility requested and project impacts, the Applications satisfy the balancing test required in § 2403.8 of the Zoning Regulations.
94. The Site area is approximately 584,655 square feet in land area, which exceeds the minimum area requirement of 15,000 square feet for a PUD in the C-3-C District, in accordance with § 2401.1(c) of the Zoning Regulations.

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95. The Modified Project has been evaluated under the PUD guidelines for the C-3-C District. The Modified Project is well below the density permitted for a PUD within the C-3-C District, even if the re-opened 4<sup>th</sup> Street right-of-way is not included as part of the land area. The maximum height of new construction within the Modified Project is 127 feet, which is within that permitted for a PUD in the C-3-C District. The existing towers with a height of 130 feet are permitted pursuant to § 2521.1(c) of the Zoning Regulations.
96. The Modified Project has been evaluated by the relevant District agencies, including being supported by both OP and DDOT. Based on those reports, there will be no adverse impacts that cannot be mitigated by the conditions imposed herein.
97. The Commission finds that the Modified Project will provide additional economic boost to the Southwest neighborhood and the District of Columbia, as indicated in the Economic Impact Analysis attached as Tab C to the Prehearing Submission.

#### **Consistency with Comprehensive Plan**

98. In Z.C. Order No. 02-38, the Commission found that the project was consistent with, or would help implement, a number of policies in the Comprehensive Plan of 1998.
99. At the time the Applications were filed, the governing comprehensive plan was still the Comprehensive Plan of 1998. The Applicant, in its PUD Submission, set forth in detail the Modified Project's consistency with that plan.
100. On March 12, 2007, the Comprehensive Plan of 2006 came into effect and became the governing document. The Applicant set forth in its Prehearing Submission and the Applicant's expert witness testified at the June 7, 2006 public hearing, to the Modified Project's compliance with the Comprehensive Plan of 2006.
101. The Future Land Use Map of the Comprehensive Plan of 2006 designates the Site for High-Density Commercial and High-Density Residential uses. The High-Density Commercial designation defines the central employment district of the District and other major office employment centers on the downtown perimeter. This area is characterized by office and mixed office/retail buildings greater than eight stories in height, although many lower scale buildings are interspersed. The High-Density Residential designation defines neighborhoods and corridors where high-rise (eight stories or more) apartment buildings are the predominant uses. The Modified Project is consistent with these designations.
102. The Generalized Policy Map of the Comprehensive Plan of 2006 includes the Site in a Land Use Change Area and more specifically designates it for an Enhanced/New Multi-Neighborhood Center. Land Use Change Areas are defined as "areas where change to a different land use is anticipated. The guiding philosophy in the Land Use Change Areas

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is to facilitate new development and to promote the adaptive re-use of existing structures. Many of these areas have the capacity to become mixed-use communities containing housing, retail shops, services, workplaces, parks, and civic facilities." (§ 2.4.1, ¶¶ 223.9, 223.11) Designation as an Enhanced/New Multi-Neighborhood Center denotes a one to three mile service area with uses that could include supermarkets, restaurants, retail shops, service-oriented businesses, and office space for small businesses. Mixed-use infill development is encouraged to provide new retail and service uses, in addition to additional housing and job opportunities. The Modified Project is consistent with these designations.

103. The Modified Project is consistent with many of the Comprehensive Plan's Framework elements including managing growth and change, creating successful neighborhoods, increasing access to education and employment, and building green and healthy neighborhoods.
104. The Land Use Element (Chapter 3) of the Comprehensive Plan of 2006 sets forth the importance of a focus on transit-oriented and corridor development, which is a central theme throughout many elements of the plan. The Comprehensive Plan of 2006 recognizes the importance of fully capitalizing on the investment made in Metrorail and states that this requires better use of the land surrounding transit stations and along transit corridors. The plan further states that much of the city's planning during the last five years has focused on making better use of transit areas. The plan sets forth certain principles for management of these lands, including the following: a preference for housing above-ground floor retail uses; a preference for diverse housing types, including both market-rate and affordable housing units; a priority on attractive, pedestrian-friendly design; and a stepping down of densities away from each station. The plan further seeks to promote the vitality of neighborhood commercial districts, which should be inviting and attractive and should support social interaction and ease of access for nearby residents.
105. The Comprehensive Plan of 2006 also stresses the critical housing issues facing the District, including, among other things, ensuring housing affordability, fostering housing production, and promoting home ownership. The new Housing Element recommends providing zoning incentives to developers proposing to build affordable housing, which should be considered as a public benefit for the purposes of granting density bonuses when new development is proposed.
106. The Transportation Element (Chapter 4) of the Comprehensive Plan of 2006 seeks to link land use and transportation and to create walkable, transit-oriented neighborhoods. The Modified Project's location at a Metrorail station and the reopening of 4<sup>th</sup> Street serve to further many aspects of this element.

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107. The Lower Anacostia/Near Southwest Area Element specifically provides for the redevelopment of the Waterside Mall with residential, office, and local-serving retail uses. Policy AW-2.1.6 goes on to state that the Site should be strengthened as a retail anchor for the surrounding Southwest community and that its redesign should restore 4<sup>th</sup> Street S.W. as part of the District's street grid and improved aesthetics, circulate, and connectivity to surrounding uses.
108. The Commission finds that the Modified Project is not inconsistent with the Comprehensive Plan of 2006.

### **Office of Planning**

109. By report dated May 25, 2007 (Exhibit 33 – "OP Report"), and through testimony presented at the public hearing, OP recommended approval of the Applications subject to the Applicant providing the following:
- a. Additional pedestrian safety measures at the intersection of the public plazas and 4<sup>th</sup> Street;
  - b. Additional information regarding the percentage of affordable units available to households earning less than 80% of the Area Median Income;
  - c. Commitment to an even distribution of affordable units between the East and West Towers and the Northeast Building; and
  - d. Commitment that any change from a grocery use in the grocery store space of the project in the Second-Stage Project would require Commission approval as a PUD modification.
110. The Applicant submitted a response to OP (Exhibit 54), providing all of the information and commitments requested by OP.
111. In its testimony at the hearing, OP noted that the Applicant had resolved each of the four conditions set forth in the OP Report.
112. OP testified and also set forth in the OP Report that the project is consistent with the land use maps of the Comprehensive Plan of 2006 and with numerous policies in the Plan, including one specifically calling for the redevelopment of the Site and the reopening of 4<sup>th</sup> Street. OP also stated that the Modified Project is consistent with basic principals of the Comprehensive Plan such as redevelopment of underutilized sites, increased density near Metro stations, provision of affordable housing, and environmental protection.
113. OP testified and set forth in the OP Report that it had no objection to the requested zoning relief and design flexibility.

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114. OP set forth in the OP Report that it received comments related to the Applications from the following agencies:
- a. The Department of Parks and Recreation ("DPR") noted on that the open space areas will be a benefit to the area where public open space is lacking. Although DPR requested that consideration be given to certain proposed amenities, DPR did not response to the Office of Planning's request for additional information.
  - b. The Department of the Environment requested that certain sustainable design features be integrated into the Modified Project.
  - c. DC Water and Sewer Authority ("DC WASA") requested that certain modifications be made with respect to connections to the storm sewers. According the Office of Planning, these modifications were made and DC WASA had no additional issues.
  - d. The Metropolitan Police Department had no objection to the proposed development.
115. OP testified in support of the proposed alternative for the M Street Buildings at the September 17, 2007 public hearing.
116. The Commission finds that each of OP's issues set forth in Findings 113(a) through 113(d) have been addressed by the Applicant, as noted in Findings 114 and 115.

**District Department of Transportation**

117. DDOT testified at the June 7, 2007 public hearing that overall it is very supportive of the plan for the Site. DDOT further stated in the DDOT Report that there will be no adverse traffic impacts based upon the Applicant's traffic studies, with the implementation of a transportation demand management plan.
118. In the DDOT Report, and through its testimony at the June 7, 2007 public hearing, DDOT recommended approval of the Applications subject to certain conditions:
- a. The Applicant shall make a formal commitment to construct 4<sup>th</sup> Street, S.W., between Eye Street and M Street and provide an easement for a 110-foot wide right-of-way to the District. The Easement Agreement must be approved in writing by DDOT prior to the Applicant obtaining any demolition or building permits associated with this PUD. Through this Easement Agreement, the Applicant and the appropriate District agencies shall define the roles and responsibilities for 4<sup>th</sup> Street S.W. ownership, maintenance, and approval processes.

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- b. The Applicant and appropriate District government agencies shall complete a written agreement regarding the terms and amount of funds transferred for the construction of 4<sup>th</sup> Street, S.W.
  - c. The Applicant shall develop a Transportation Demand Management Plan to be reviewed and approved by DDOT prior to obtaining a certificate of occupancy.
  - d. The Applicant shall undergo a public space permitting review and approval process for all private surface and subsurface uses of the 110-foot easement area provided to the District of Columbia to ensure that 4<sup>th</sup> Street S.W. and site design details comply with DDOT safety and streetscape standards.
119. In response to DDOT's request, the Applicant submitted the Transportation Management Plan. The Applicant committed to work with DDOT as necessary to refine that plan.
  120. The Commission finds that the Applicant's submission of a Transportation Management Plan addresses DDOT's concern set forth in Finding 122(c).
  121. The Applicant testified at the hearing, and submitted in writing through its various submissions to the Commission, that it would agree to re-open a 90-foot right-of-way as 4<sup>th</sup> Street through the center of the Site.
  122. In its testimony at the public hearing on June 7, 2007, DDOT stated that it would accept a 90-foot right-of-way. In its Supplemental Report dated June 27, 2007 (Exhibit 81), DDOT agreed in writing to the 90-foot right-of-way, stating that both the planned function of 4<sup>th</sup> Street and the engineering documents that DDOT has completed can and are accommodated within a 90-foot right-of-way. DDOT further stated in its Supplemental Report that so long as the 4<sup>th</sup> Street right-of-way is controlled by DDOT through either fee simple ownership or an easement that is subject to all District public space review, permits, inspections, and approvals, DDOT supports the project as it relates to the re-opening of 4<sup>th</sup> Street, S.W.
  123. In order for 4<sup>th</sup> Street to be re-opened, the District must first acquire the land pursuant to D.C. Official Code § 9-203.10. Since the Applicant has neither offered to give this area to the District, nor construct the streets at no cost, the Commission will assume that the District will pay the market value of the land and the costs for building the street. The Applicant has merely stated its willingness to enter into an agreement to convey the land. This is not an insignificant benefit, in that the District will be spared the time and cost of acquiring the land by eminent domain.
  124. The terms of the conveyance of 4<sup>th</sup> Street should be determined through agreement between the Applicant and the District, so long as 4<sup>th</sup> Street is reopened through the center of the Site, as set forth in Condition No. 12.

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125. In its initial report, DDOT also raised concerns regarding the pedestrian safety improvements, such as crosswalks and traffic signals as they relate to the private drives and the civic plazas.
126. The Commission finds that the pedestrian safety issues within the Site have been addressed. To the extent that additional pedestrian safety measures are warranted in existing public spaces, DDOT can move forward with implementation of such measures, including cross walks across M Street to access properties south of M Street.
127. In its report, DDOT also recommended that the Applicant be required to seek additional review and approval by the Board of Zoning Adjustment and the relevant District agencies in the event that the number of parking spaces increased above the minimum number required.
128. The Applicant testified at the hearing that it would provide a maximum of 745 parking spaces for the Second-Stage Project and that it would provide a minimum of 1,087 parking spaces for the Modified Project. The Applicant requested flexibility to increase the number of parking spaces for the Modified Project based upon market conditions. To the extent that additional parking is provided, it will be shown on future second-stage applications.
129. The Commission finds that the Applicant should be given flexibility to increase the number of parking spaces for the Modified Project. The total number of parking spaces will be submitted with each of the future second-stage projects and thus the Commission and the relevant District agencies will have sufficient opportunity to review the sufficiency of such parking and the potential for adverse impacts.
130. DDOT also raised issues related to the loading access for the East and West M Street Buildings as well as for the proposed curb cuts on M Street for access to those commercial parking garages.
131. The Applicant submitted a report from its traffic consultant summarizing the reasoning behind the location of the entrances
132. The Commission finds that this issue should be further studied and addressed as part of the second-stage application(s) for the East and West M Street Buildings.
133. The Commission finds that the Modified Project, and more specifically the Second-Stage Project, will have no adverse traffic impacts.

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### ANC 6D Report and Testimony

134. By letter dated June 5, 2007 (Exhibit 42), ANC 6D indicated that it voted to support the Modified Project and Second-Stage Project by a vote of 6-1. ANC 6D noted the important community benefits to which the Applicant and ANC agreed, including the grocery store and retail commitments, the housing and on-site affordable housing, the comprehensive security and construction mitigation plan, the on-site community office and meeting space, the sustainable design features, and the commitment to an ongoing dialogue with the Applicant related to parking and traffic.
135. ANC 6D also noted in its report several issues of concern, including the following:
- a. Concern that the projecting bay from the East 4<sup>th</sup> Street Office Building will impede the sight view along 4<sup>th</sup> Street;
  - b. Concern as to whether the Modified Project incorporates the architectural characteristics of the Southwest neighborhood and creates a sense of place for the Southwest neighborhood, essentially requesting that the final product be fully integrated with the surrounding neighborhood;
  - c. Concern that the Zoning Commission is not simply targeting the Southwest neighborhood for increased density;
  - d. Concern with the M Street façade, both in terms of setback and openness; and
  - e. Concern that the affordable housing component of the Modified Project is targeted so that at least eight percent of the total floor area is available to households earning less than 80% of AMI.
136. In addition, in his testimony for ANC 6D, Mr. Skolnick noted that despite the great progress, several additional issues needed to be resolved:
- a. Concern regarding pedestrian crossings on M Street near 4<sup>th</sup> Street, S.W;
  - b. Concern regarding the impact on retail development in the event that the Northwest Building is converted to office and a request that any additional retail developed to serve office property be developed on a one-for-one square foot basis with neighborhood serving retail above what is currently provided; and
  - c. Request that additional space be provided in the East 4<sup>th</sup> Street Office Building to accommodate 100 people and that the duration of the space be longer than ten years.

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137. The Commission finds that the issues and concerns raised by ANC 6D have been fully addressed throughout this Order, and the Commission finds that all of the issues and concerns have been addressed or resolved. Specifically, the Commission finds that the specific issues and concerns have been resolved as follows:
- a. The projecting bay will not adversely impact the views along 4<sup>th</sup> Street, S.W., as set forth in Findings 57 and 58;
  - b. The Modified Project has been designed to be compatible with the Southwest neighborhood and to create a sense of place for the Southwest neighborhood, as set forth in Findings 79 through 83;
  - c. The proposed setback of the M Street buildings is sufficient, as set forth in Findings 44 through 48;
  - d. The design of the M Street buildings, in terms of height and openness is appropriate as proposed, as set forth in Findings 49 through 54;
  - e. The Applicant has agreed to target its affordable housing to ensure that at least eight percent of the total floor area is available to households earning less than 80% of AMI, as set forth in Finding 91(b);
  - f. The cross-walks requested by ANC 6D are located within the public space on M Street and are within the jurisdiction of DDOT. According to DDOT plans, crosswalks are intended for M Street near 4<sup>th</sup> Street;
  - g. In the event that the Northwest Building is converted to commercial use, the minimum commitments to the amount and type of retail use, as set forth in Findings 90(d) and 91(c), will not change. In the event that modifications to the amount and type of retail are necessary, such modifications will be fully reviewed through a second-stage public hearing process; and
  - h. The Commission reviews the amenities package presented by an applicant to determine whether it is appropriate given the development flexibility and incentives requested and the impacts of the project. The Commission does not make decisions as to whether certain amenities should be increased to the reduction or detriment of others. In this case, the Commission finds that that proposed amenities package when balanced with the development incentives and flexibility requested and the impacts of the project are sufficient, as set forth in Findings 90 through 92.
138. The Commission finds that development is occurring throughout the District, with projects being developed as a matter-of-right and with requests for increased density.

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The Commission finds that the Southwest neighborhood is not being targeted for development incentives any more than any other quadrant of the District.

139. The Commission afforded the views of ANC 6D the "great weight" to which it is entitled.

### CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality development that provides public benefits. (11 DCMR § 2400.1.) The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project "offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience." (11 DCMR § 2400.2).
2. Under the PUD process of the Zoning Regulations, the Commission has the authority to modify the approved First-Stage PUD and to consider the application for approval of a Second-Stage PUD. The Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards identified for height, density, lot occupancy, parking, loading, yards, or courts. The Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment.
3. The development of the Modified Project carries out the purposes of Chapter 24 of the Zoning Regulations to encourage the development of well-planned 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. The Modified Project is consistent with the purposes and goals of the Commission's approval of the First-Stage PUD, and the proposed modifications serve to enhance the overall project.
4. The Modified Project meets the minimum area requirements of § 2401.1 of the Zoning Regulations.
5. The Modified Project is within the applicable height, bulk and density standards of the Zoning Regulations for a PUD within the C-3-C District. This mixed-use project, at a Metrorail station and serving as a town center for the surrounding community, is appropriate for the Site. The impacts of the Modified Project are not unacceptable.
6. The Applications can be approved with conditions to ensure that the potential adverse effects on the surrounding area from the development will be mitigated.
7. The number and quality of the project benefits and amenities offered are a more than sufficient trade-off for the flexibility and development incentives requested.

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8. Approval of the Applications is not inconsistent with the Comprehensive Plan of 2006.
9. The Commission is required under D.C. Code § 1-309.10(d) (2001) to give great weight to the affected ANC's recommendations. The Commission has carefully considered ANC 6D's support and stated issues and concerns and has responded to or addressed each of its issues and concerns.
10. The approval of the Applications will promote the orderly development of the Site in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Zoning Map of the District of Columbia.
11. The rezoning of the Site to C-3-C is consistent with the purposes and objectives of zoning as set forth in the Zoning Enabling Act, Section 6-641-.01 of the D.C. Code.
12. Notice was provided in accordance with the Zoning Regulations and applicable case law.
13. The Applications are subject to compliance with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended.

### DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission orders **APPROVAL** of the application for a modification to the First-Stage PUD approval in Zoning Commission Case No. 02-38, second-stage PUD approval for the center portion of the Site, and for a related Zoning Map amendment to rezone the Site from C-3-B to C-3-C. This approval is subject to the following guidelines, conditions, and standards:

1. The Modified Project shall be developed substantially in accordance with the plans prepared by Shalom Baranes Associates, dated May 18, 2007, in the record at Exhibit 25, as supplemented by subsequent plan pages in the record at Exhibit 54 (Updated Cross Walk Plan), at Exhibit 68 (Revised Sheet 2.0 and Sheet 2.1), and at Exhibit 93 (Proposed Alternative Plan for M Street Buildings) (collectively the "First-Stage Plans"), as modified by the guidelines, conditions, and standards herein.
2. The Second-Stage Project shall be developed substantially in accordance with the plans prepared by Shalom Baranes Associates, dated May 18, 2007, in the record at Exhibit 26, as supplemented by subsequent plan pages in the record at Exhibit 68 (Revised Sheets 1.9 and Sheet 1.10), and Exhibit 80 (New Sheet 1.19) (collectively the "Second-Stage Plans"), as modified by the guidelines, conditions and standards herein.

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3. The Modified Project shall have an approximate gross floor area of 2,526,500 square feet, or 4.33 FAR based on the Land Area within the existing record lot. As shown on the First-Stage Plans, the Modified Project shall include approximately 1,296,895 square feet of gross floor area devoted to office and retail uses and approximately 1,229,605 square feet of gross floor area devoted to residential uses. The Applicant shall have flexibility to modify this allocation of density if it chooses to develop the Northwest Building for office use in place of the proposed residential use. In that alternative, the project shall include approximately 1,688,500 square feet of gross floor area devoted to office and retail uses and approximately 838,000 square feet of gross floor area devoted to residential uses, as shown Sheet 2.1 of the First-Stage Plans.
4. The lot occupancy of the Modified Project shall be a maximum of 63% based on the Land Area.
5. The maximum height of the East and West 4<sup>th</sup> Street Office Buildings shall be 94 feet, as shown on the Second-Stage Plans.
6. The maximum height of the East and West Residential Towers shall be the height of those existing structures, with the addition of penthouse structures as shown on the Second-Stage Plans.
7. The maximum height of the Northeast and Northwest Buildings shall be 114 feet, as shown on the First-Stage Plans.
8. The East and West M Street Office Buildings shall have a maximum height of 127 feet, with setbacks of approximately 45 feet on the exterior sides generally as shown on the plan in the record at Exhibit 93.
9. The Modified Project shall include a minimum of 1,087 parking space in a below-grade parking garage or multiple parking garages.
10. The Second-Stage Project shall include a minimum of 505 parking spaces and a maximum of 745 parking spaces in the below-grade parking garage.
11. The Applicant shall construct a minimum of 50,000 square feet of public open spaces in substantial conformity with the Second-Stage Plans.
12. The Applicant shall provide a 90-foot right-of-way for 4<sup>th</sup> Street, S.W., through the Site as shown on the First-Stage Plans.
13. The Modified Project shall include a minimum of 110,000 square feet of gross floor area which the Applicant shall target for neighborhood-serving retail and service uses,

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- including, but not limited to, uses such as restaurants, coffee shops, flower shops, video stores, grocery stores, drug stores, banks, electronic stores, bakeries, dry cleaners, and other similar types of uses. Such floor area shall be located at the ground floor level along the M Street frontage and on both sides of the re-opened 4<sup>th</sup> Street from M Street to the northern property boundary, as generally depicted in the First-Stage Plans.
14. The Applicant shall use best commercially reasonable efforts to provide opportunities for local and small businesses, as certified by RLARC, to occupy 12,500 square feet of retail space included within the Modified Project.
  15. The Applicant shall use best commercially reasonable efforts to negotiate a lease with the existing grocery store tenant until August 18, 2007. If a lease is executed, the Applicant shall maintain the space for the existing grocery store to operate while the new store is under construction. In the event that the Applicant is unable to successfully negotiate a lease within the above timeframe, the Applicant shall do the following:
    - a. Honor the existing grocery store lease expiring in 2020; and
    - b. Reserve the proposed grocery location on the east side of the Second-Stage Project and use best commercially reasonable efforts to lease such space to a full-service grocery store (approximately 55,000 square feet) for a term commencing upon the earlier of the termination of the existing grocery store lease or the vacation of such space for any other reason.
  16. In the event that the Second-Stage Project is constructed in accordance with the Interim Site Plan Option shown on Sheet 1.11 of the Second-Stage Plans, no additional construction between the East 4<sup>th</sup> Street Office Building and the East Residential Tower shall be permitted for any use other than the grocery store as shown on Sheet 1.10 of the Second-Stage Plans unless the Applicant returns to the Zoning Commission for approval.
  17. During construction of the Second-Stage Project, the Applicant shall maintain the operation of a bank, drug store, and grocery store on the Site.
  18. The Applicant shall provide a minimum of 160,000 square feet of affordable housing, with at least eight percent of the gross floor area within the East and West Residential Towers in the Second-Stage Project (which equals approximately 32,000 square feet) being available to households earning 80% of AMI or less. The affordable housing shall be generally evenly distributed between the East and West Residential Towers (a total of approximately 80,000 square feet of gross floor area) and the Northeast Residential Building (approximately 80,000 square feet of gross floor area). The affordable housing units shall be approximately the same proportion of bedroom type and size as the market rate residential units and generally evenly distributed between and within the East and

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West Residential Towers, with the exception of the top two floors of each building. No affordable housing is required for the Northwest Building. All affordable housing units shall be maintained as affordable for a period of twenty years, regardless of whether the units are rental or for sale. All other aspects of the affordable housing for the Modified Project shall be as set forth in the Applicant's Prehearing Submission.

19. The Second-Stage Project's East and West 4<sup>th</sup> Street Office Buildings shall include the sustainable design features set forth in Tab A to the Applicant's Supplemental Prehearing Submission. The Second-Stage Project's East and West Residential Tower shall include the sustainable design features set forth in record at Exhibit 54.
20. The Applicant shall provide approximately 1,000 square feet of office and meeting space for ANC 6D, the Southwest Neighborhood Assembly and other local community groups for a minimum of a 10-year term commencing upon the initial occupancy of the East 4<sup>th</sup> Street Office Building. Within this designated space, the Applicant shall provide approximately 350 square feet of office space to ANC 6D and approximately 350 square feet of office space to the Southwest Neighborhood Assembly. The remaining space shall be used as a shared conference room.
21. The Applicant shall abide by the Security and Construction Mitigation Plan to be in place throughout the development of the Second-Stage Project. The Applicant shall continue to work with the community and District government as is necessary throughout construction. The Applicant shall enter into plans similar to the Security and Construction Mitigation Plans as necessary for each subsequent second-stage application for the Modified Project.
22. The Applicant shall abide by the Transportation Management Plan. The Applicant shall continue to work with DDOT as necessary to refine the Transportation Management Plan.
23. The Applicant shall maintain the Park Site immediately to the north of the Site as a public park amenity. The Applicant's obligation to maintain the Park Site shall begin after the 4<sup>th</sup> Street right-of-way is constructed from the Site to Eye Street, S.W., and shall continue for the life of the Modified Project.
24. The Applicant shall enter into an agreement to participate in the Department of Employment Services First Source Employment Program that promotes and encourages the hiring of District residents. Furthermore, in order to further policies established in D.C. Law 1-95, the Applicant shall enter into a Memorandum of Understanding with the District of Columbia Department of Small and Local Business Development to utilize local, small and disadvantaged business in the development of this project. The fully

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executed agreements shall be filed with the Office of Zoning and the Office of the Zoning Administrator prior to the issuance of the first building permit for the project.

25. The Applicant shall have flexibility with the design of the PUD in the following areas:
- a. To vary the location and design of all interior components, including but not limited to partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not materially change the exterior configuration of the buildings.
  - b. To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction.
  - c. To make minor refinements to exterior materials, details, and dimensions, including belt courses, sills, bases, cornices, railings, and trim, or any other changes to comply with the District of Columbia Building Code or that are otherwise necessary to obtain a final building permit or any other applicable approvals.
  - d. To make refinements to the garage configuration, including layout, location, number, and design of parking spaces and/or other elements, so long as the total minimum number of parking spaces is provided.
  - e. To use the Northwest Building for either residential or commercial use, based on market conditions, with such use being specified in the second-stage approval for that building.
  - f. To vary the final alignment and design of the 4<sup>th</sup> Street right-of-way in consultation with and as approved by DDOT. This flexibility includes the right to make changes to locations of curb cuts, bulb outs, crosswalks, traffic calming measures, parking spaces, and parking meters, as well as the flexibility to make changes to the design and location of paving materials.
  - g. To vary the design and components of the proposed streetscape within the 4<sup>th</sup> Street right-of-way, including the flexibility to modify paving materials and design, street lights, street furniture, trees, landscaping, and other streetscape elements. This flexibility also includes the right to make changes to the overall design of the streetscape to comply the streetscape standards of the Anacostia Waterfront Initiative, in consultation with DDOT.
26. 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 of the Site

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- and the District of Columbia, that is satisfactory to the Office of the Attorney General and DCRA. Such covenant shall bind the Applicant and all successors in title to construct on and use this property in accordance with this Order or amendment thereof by the Zoning Commission.
27. The Office of Zoning shall not release the record of this case to the Zoning Division of DCRA until the Applicant has filed a copy of the covenant with the records of the Zoning Commission.
  28. The Second-Stage 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, an application must be filed for a building permit as specified in 11 DCMR § 2409.1. Construction shall begin within three (3) years of the effective date of this Order.
  29. The First Stage Approval for the Modified Project approved by the Zoning Commission shall be valid for a period of five (5) years from the effective date of the order granting the same. Within such time, the second-stage PUD application(s) for the Northwest Building, the West M Street Building, and the Northeast Building shall be filed. These second-stage applications may be submitted individually, at the same time, or in any combination thereof. In the event that the grocery store is constructed in the Second-Stage Project or that the existing grocery store surrenders its premises under the existing lease, the Applicant shall file second-stage PUD application for the East M Street Building within five (5) years of the date that the existing grocery store vacates the Site, but no later than December 31, 2020.
  30. The Applicant is required to comply fully with the provisions the D.C. Human Rights Act of 1977, D.C. Law 2-38, as amended, D.C. Official Code § 2-1401.01 et seq., (“Act”). This Order is conditioned upon full compliance with those provisions. In accordance with the 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, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The failure or refusal of the Applicant to comply shall furnish grounds for denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this Order.

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The Zoning Commission **APPROVED** the Applications at its public meeting held on October 15, 2007 by a vote of 3-0-2 (Anthony J. Hood, John G. Parsons, and Michael G. Turnbull to approve, Carol J. Mitten and Gregory N. Jeffries, having not participated, not voting).

The Order was **ADOPTED** by the Zoning Commission at its public meeting on November 19, 2007, by a vote of 3-0-2 (Anthony J. Hood, Michael G. Turnbull, and John G. Parsons to adopt; Curtis L. Etherly and Gregory N. Jeffries, having not participated, not voting).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the D.C. Register; that is on JAN 25 2008.

DISTRICT OF COLUMBIA GOVERNMENT  
OFFICE OF THE SURVEYOR

Washington, D.C., October 24, 2008

Plat for Building Permit of SQUARE 542 LOT 89

Scale: 1 inch = 100 feet      Recorded in Book 197 Page 91

Receipt No. 03987

Furnished to: HOLLAND & KNIGHT

*[Signature]*  
Surveyor, D.C.

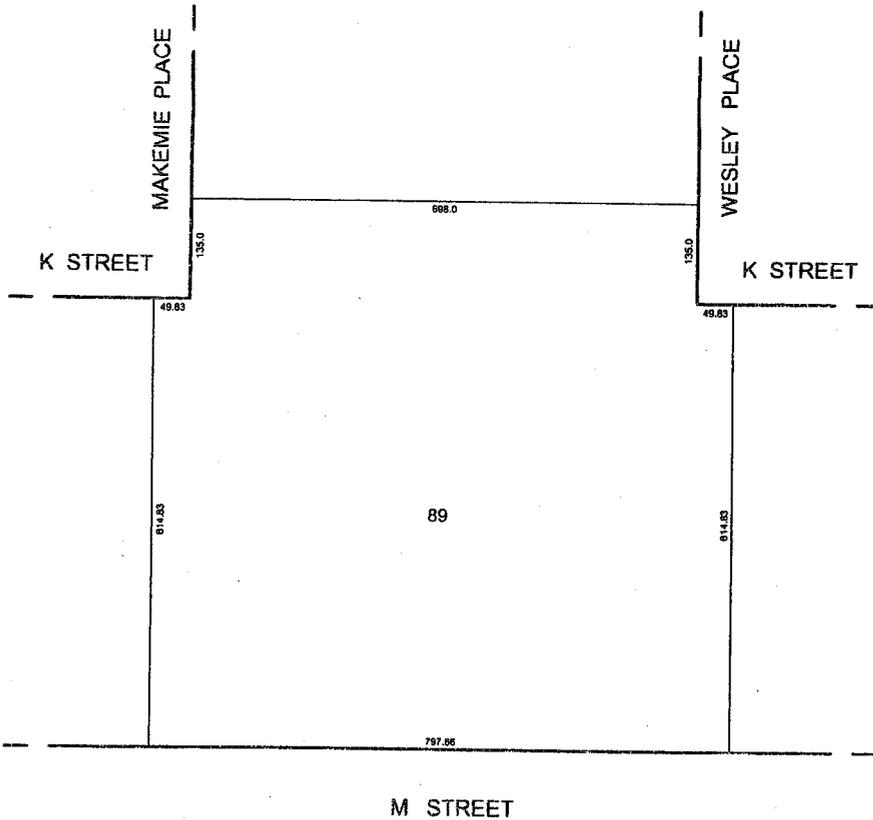
By: L.E.S. *[Signature]*

I hereby certify that all existing improvements shown hereon, are completely dimensioned, and are correctly placed; that all proposed buildings or construction, or parts thereof, including covered porches, are correctly dimensioned and placed and agree with plans accompanying the application; that the location shown hereon is drawn, and dimensioned, in accordance with the applicable laws and regulations of the District of Columbia; that the proposed improvements to be erected as shown hereon the size of any adjoining lot or premises is not decreased to an area less than is required by the Zoning Regulations for sign and ventilation; and it is further certified and agreed that accessible parking area where required by the Zoning Regulations will be reserved in accordance with the Zoning Regulations, and that the area has been correctly drawn and dimensioned hereon. It is further agreed that the elevation of the accessible parking area with respect to the Highway Department approved curb and alley grade will not result in a rate of grade along a line of driveway at any point on private property in excess of 20% for single-family dwellings or lots, or in excess of 12% at any point for other buildings. (The policy of the Highway Department permits a maximum driveway grade of 12% across the public parking and the private restricted property.)

Date: \_\_\_\_\_

\_\_\_\_\_  
(Signature of owner or his authorized agent)

NOTE: Data shown for Assessment and Taxation Lots or Parcels are in accordance with the records of the Department of Finance and Revenue, Assessment Administration, and do not necessarily agree with deed description.



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