

**CENTER CITY PUBLIC CHARTER SCHOOLS, INC.****NOTICE OF REQUEST FOR PROPOSALS**

Center City Public Charter Schools, Inc. is soliciting proposals from qualified vendors for the following products and services:

- 1) Summer school programming including curriculum, staff, program design & full implementation for 5-6 week program and 200 students.

To obtain copies of full RFP's, please visit our web-site: [www.centercitypcs.org](http://www.centercitypcs.org). The full RFP's contain guidelines for submission, applicable qualifications and deadlines. Contact person:

Lauran Greene

(202) 589-0202

**D.C. COMMISSION ON JUDICIAL DISABILITIES AND TENURE****Judicial Tenure Commission Begins Reappointment Reviews Of  
Judges Vanessa Ruiz and James A. Belson**

This is to notify members of the bar and the general public that the Commission has begun inquiries into the qualifications of Judge Vanessa Ruiz of the District of Columbia Court of Appeals who is a declared candidate for reappointment as an Associate Judge upon the expiration of her term on October 10, 2009.

Under the provisions of the District of Columbia Self-Government and Governmental Reorganization Act, P.L. 93-198, 87 Stat. 796 (1973), §443(c) as amended by the District of Columbia Judicial Efficiency and Improvement Act, P.L. 99-573, 100 Stat. 3233, §12(1) provides in part as follows:

"...If a declaration (of candidacy) is so filed, the Tenure Commission shall, not less than sixty days prior to the expiration of the declaring candidate's term of office, prepare and submit to the President a written evaluation of the declaring candidate's performance during his present term of office and his fitness for reappointment to another term. If the Tenure Commission determines the declaring candidate to be well qualified for reappointment to another term, then the term of such declaring candidate shall be automatically extended for another full term, subject to mandatory retirement, suspension, or removal. If the Tenure Commission determines the declaring candidate to be qualified for reappointment to another term, then the President may nominate such candidate, in which case the President shall submit to the Senate for advice and consent the renomination of the declaring candidate as judge. If the President determines not to so nominate such declaring candidate, he shall nominate another candidate for such position only in accordance with the provisions of subsections (a) and (b). If the Tenure Commission determines the declaring candidate to be unqualified for reappointment to another term, then the President shall not submit to the Senate for advice and consent the nomination of the declaring candidate as judge and such judge shall not be eligible for reappointment or appointment as a judge of a District of Columbia court."

The Commission also is reviewing the qualifications of Judge James A. Belson of the District of Columbia Court of Appeals who has requested a recommendation for reappointment as a Senior Judge upon the expiration of his term on July 24, 2009. The Commission must submit its report and recommendation concerning Judge Belson's fitness for continued judicial service to Chief Judge Eric T. Washington prior to July 24.

The Commission hereby requests members of the bar, litigants, interested organizations, and members of the public to submit any information bearing on the qualifications of Judges Ruiz and Belson which it is believed will aid the Commission. The cooperation of the community at an early stage will greatly aid the Commission in fulfilling its responsibilities. The identity of any person submitting material shall be kept confidential unless expressly authorized by the person submitting the information.

All communications shall be mailed or delivered by **June 30, 2009**, and addressed to:

District of Columbia Commission on Judicial  
Disabilities and Tenure  
Building A, Room 246  
515 Fifth Street, N.W.  
Washington, D.C. 20001  
Telephone: (202) 727-1363  
Fax: (202) 727-9718

The members of the Commission are:

William P. Lightfoot, Esq., Chairperson  
Hon. Gladys Kessler, Vice Chairperson  
Gary C. Dennis, M.D.  
Noel J. Francisco, Esq.  
Shirley A. Higuchi, Esq.  
Ronald Richardson  
Claudia A. Withers, Esq.

BY: /s/ William P. Lightfoot  
Chairperson

**COMMUNITY ACADEMY PUBLIC CHARTER SCHOOL (CAPCS)****REQUEST FOR PROPOSALS****Copy Equipment**

Community Academy Public Charter School (CAPCS), with offices at 1351 Nicholson Street, NW, in accordance with section 31-2801,2853 14 of the District of Columbia Reform Act of 1995, is soliciting proposals from qualified companies to install, supply and service copy equipment at its five campuses.

Proposals must include pricing, product warranty, supplies, service commitment, product functionality, company profile and references. LSBDE firms are encouraged to respond. CAPCS RESERVES THE RIGHT TO CANCEL THIS RFP AT ANY TIME.

For information on the campus buildings, locations and a score of work, contact Wesley Harvey at [wesleyharvey@capcs.org](mailto:wesleyharvey@capcs.org) or 202-315-6071.

**Final bids are due on Friday, May 17, 2009.**

**COMMUNITY ACADEMY PUBLIC CHARTER SCHOOL (CAPCS)****REQUEST FOR PROPOSALS****Lockers**

Community Academy Public Charter School (CAPCS), with offices at 1351 Nicholson Street, NW, in accordance with section 31-2801,2853 14 of the District of Columbia Reform Act of 1995, is soliciting proposals from qualified companies to install lockers for elementary and middle school students at its campus located at 1400 First Street, NW.

Proposals must include pricing, product installation, warranty, company profile and references. LSBDE firms are encouraged to respond. CAPCS RESERVES THE RIGHT TO CANCEL THIS RFP AT ANY TIME.

For information and a score of work, contact Wesley Harvey at [wesleyharvey@capcs.org](mailto:wesleyharvey@capcs.org) or 202-315-6071.

**Final bids are due on Friday, May 17, 2009.**

**COMMUNITY ACADEMY PUBLIC CHARTER SCHOOL (CAPCS)****REQUEST FOR PROPOSALS****Maintenance Management Software**

Community Academy Public Charter School (CAPCS), with offices at 1351 Nicholson Street, NW, in accordance with section 31-2801,2853 14 of the District of Columbia Reform Act of 1995, is soliciting proposals from qualified companies to implement, train and service a maintenance management software application. The software will facilitate order requests, fulfillment, and inventory management among other tasks.

Proposals must include pricing, product warranty, training, service commitment, product functionality, company profile and references. LSBDE firms are encouraged to respond. CAPCS RESERVES THE RIGHT TO CANCEL THIS RFP AT ANY TIME.

For information on the campus buildings, locations and a score of work, contact Wesley Harvey at [wesleyharvey@capcs.org](mailto:wesleyharvey@capcs.org) or 202-315-6071.

**Final bids are due on Friday, May 17, 2009.**

## DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

NOTICE OF PUBLIC INTEREST**Raze Permit Applications**

The following is a listing of raze permit applications filed with the Permit Operations Division of the Department of Consumer and Regulatory Affairs:

<b>Application Date</b>	<b>Address</b>	<b>Lot</b>	<b>Square</b>	<b>Use</b>
April 27, 2009	23 Florida Avenue, NE	88	68	1 story commercial

For further information, please contact Mr. Joseph Bembry at the Permit Operations Division via email at [Joseph.Bembry@dcra.gov](mailto:Joseph.Bembry@dcra.gov) or Ms. Cheryl Randall Thomas, Manager of the Permit Center, at (202) 442-4534.

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:

Margaret Sewell  
Single-Member District 3G03

Holly Muhammad  
Single-Member District 7B01

Terrell Waller  
Single-Member District 8E05

**BOARD OF ELECTIONS AND ETHICS****CERTIFICATION OF ANC/SMD VACANCIES**

The District of Columbia Board of Elections and Ethics hereby gives notice that there are vacancies in four (4) Advisory Neighborhood Commission offices, certified pursuant to D.C. Official Code § 1-309.06(d)(2); 2001 Ed; 2006 Repl. Vol.

**VACANT: 6B11, 8C05, 8C06, 8E01**

Petition Circulation Period: **Monday, May 11, 2009 thru Monday, June 1, 2009**

Petition Challenge Period: **Thursday, June 4, 2009 thru Wednesday, June 10, 2009**

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Candidates seeking the Office of Advisory Neighborhood Commissioner, or their representatives, may pick up nominating petitions at the following location:

**D.C. Board of Elections and Ethics  
441 - 4<sup>th</sup> Street, NW, Room 250N  
Washington, DC 20001**

For more information, the public may call **727-2525**.

**DEPARTMENT OF HEALTH  
COMMUNITY HEALTH ADMINISTRATION**

**NOTICE OF FUNDING AVAILABILITY # CHA-RFA-050809  
District of Columbia Grant  
Integrated Community Systems Grant**

The Government of the District of Columbia, Department of Health/Community Health Administration is soliciting applications from qualified applicants to provide services addressing the needs of families raising children with special health care needs.

These funds will be awarded by the District of Columbia Community Health Administration (CHA) using funds provided by the U.S. Health Resources & Services Administration (HRSA) under the Integrated Community Services Grant contingent upon availability of funds. These funds were originally made available in CHA-RFA-030609. The RFA is being reissued at this time since no applications were submitted under the previous solicitation.

Approximately \$100,000 in funds will be able to support:

- Medical Homes Pilot Project: Supporting an Integrated Community System

The Request for Applications (RFA) will be released on Friday, May 8, 2009, and the deadline for submission is Monday, May 22, 2009. Applications may be obtained from the Department of Health, 825 North Capitol St., NE – 3<sup>rd</sup> Floor Reception Area. The RFA will also be available on the Office of Partnerships and Grants Development website, [www.opgd.dc.gov](http://www.opgd.dc.gov) under the District Grants Clearinghouse.

Please contact Charles Nichols at (202) 442-9342 for additional information.

## DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

## NOTICE OF SOLICITATION OF OFFERS

The Department of Housing and Community Development (Department) will release its 2nd Solicitation for Offers (SFO) for the development of several District-owned properties on May 15, 2009.

The Department is seeking offers for the development of single and multifamily housing units, including affordable and workforce units, to be built on the Development Sites in the following six locations:

**Development Site #1:**

SSL	Property Address	Property Type	Ward	Zoning	Historic District	Neighborhood	Assessed Value
5936, 0802	3401 13 <sup>th</sup> St, SE	Building	8	R-5-A	No	Congress Heights	\$565,900

**Development Site #2:**

SSL	Property Address	Property Type	Ward	Zoning	Historic District	Neighborhood	Assessed Value
0615, 0825	14 Q St., NW	Lot	5	R-4	No	Old City 2	\$234,630
0615, 0148	10 Q St., NW	Building	5	R-4	No	Old City 2	\$395,270
0615, 0149	6 Q St, NW	Lot	5	R-4	No	Old City 2	\$320,000
0615, 0150	8 Q St, NW	Lot	5	R-4	No	Old City 2	\$320,000
0615, 0151	4 Q St, NW	Lot	5	R-4	No	Old City 2	\$319,200
0615, 0152	16 Florida Ave, NW	Lot	5	C-2-A	No	Old City 2	\$299,400
0615, 0075	14 Florida Ave, NW	Lot	5	C-2-A	No	Old City 2	\$335,200
						TOTAL VALUE:	\$2,223,700

**Development Site #3:**

SSL	Property Address	Property Type	Ward	Zoning	Historic District	Neighborhood	Assessed Value
5936, 0817	1715-1717 28 <sup>th</sup> Pl, SE	Lot	7	R-5-A	No	HillCrest	\$449,430

**Development Site #4:**

SSL	Property Address	Property Type	Ward	Zoning	Historic District	Neighborhood	Assessed Value
0507, 0016	1713 New Jersey Ave, NW	Building	5	R-4	No	HillCrest	\$307,090

**Development Site #5:**

SSL	Property Address	Property Type	Ward	Zoning	Historic District	Neighborhood	Assessed Value
0239, 0804	1335 R Street, NW	Building	2	R-4	No	Old City II	\$166,560

**Development Site #6:**

SSL	Property Address	Property Type	Ward	Zoning	Historic District	Neighborhood	Assessed Value
0363, 0034	922 French Street, NW	Building	2	R-4	Greater U Street	Old City II	\$489,500

The Solicitation for Offers, including application materials (CD format), will be available on May 15th for pickup at Department of Housing and Community Development, Property Acquisition and Disposition Division, 1800 Martin Luther King Avenue, SE, Lobby, Washington, DC 20020. Hard Copies of the Solicitation materials will be available upon request. A pre-bid meeting will be held at the Department's offices, Monday, June 8<sup>th</sup> at 2pm. The deadline for submitting proposals will be June 24, 2009 at 3pm. For further information and questions, please contact Adarsh Hathi, Realty Project Manager at [Adarsh.hathi@dc.gov](mailto:Adarsh.hathi@dc.gov) or (202) 478-1351.

## DC DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

### Tax Credit Assistance Program Project Selection Criteria

On February 27, 2009, President Obama signed the American Recovery and Reinvestment Act of 2009. The purpose of the Act is to stimulate the economy with a focus on job creation and retention and investing in long term infrastructure. Title XII of the Recovery Act appropriated \$2.25 billion under HOME for the Tax Credit Assistance Program that will provide funds for capital investments in Low Income Housing Tax Credit projects. Projects must have been awarded tax credits between October 1, 2006 and September 30, 2009.

In order to be eligible to receive funds from HUD, the Department of Housing and Community Development must publish the eligibility requirements and criteria for selection of projects under TCAP.

#### *Selection and Eligibility Criteria*

Broadly, the mission of the DC Department of Housing is to create and preserve opportunities for affordable housing and economic development and to revitalize underserved communities in the District of Columbia.

Projects eligible for District of Columbia Tax Credit Assistance Program (TCAP) funds must complete the TCAP application form and be scored competitively under a Request for Proposals issued by the District and be consistent with the District's applicable Qualified Allocation Plan.

The competitive scoring will include the following factors:

- Selected developments must demonstrate an ability to spend the funds within the designated timeframes.
- Projects selected for TCAP funds must demonstrate immediate readiness to proceed and preference will be given to projects that can close within 30 days of selection.
- Preference will be given to projects, including those that scored highly in the policy priorities sections of the RFP and those deals in which financing has changed due to the economic downturn.
- The Department has a goal of moving projects forward that are otherwise stalled in the pipeline.

For additional information on these or other stimulus programs through the DC Department of Housing and Community Development, please see the District's recovery website: [recovery.dc.gov](http://recovery.dc.gov) or contact Brad Hicks at (202) 442-7200 or [Housing.Recovery@dc.gov](mailto:Housing.Recovery@dc.gov).

**DC STATE BOARD OF EDUCATION****NOTICE OF PUBLIC MEETING**

DC State Board of Education

The DC State Board of Education will hold  
their regularly scheduled public meeting.

Should anyone wish to testify before the DC State Board of Education on any educational concerns, they should notify the State Board of Education office by close of business May 18, 2009. They should also bring fifteen (15) copies of their testimony to the meeting.

Wednesday, May 20, 2009

5:30 pm

First Floor State Board of Education Chambers

441 4<sup>th</sup> Street, NW

Washington, DC 20001

Contact: Beverley R. Wheeler (202) 741-0884

[Beverley.wheeler@dc.gov](mailto:Beverley.wheeler@dc.gov)

**THURGOOD MARSHALL ACADEMY PUBLIC CHARTER HIGH SCHOOL****NOTICE OF REQUESTS FOR PROPOSALS****Fitness Room Equipment**

**Thurgood Marshall Academy** - a non-profit, college preparatory, public charter high school seeks a contractor to provide fitness equipment for our new fitness facility. The contractor will provide Fitness Room equipment (cardiovascular and strength) for a facility that will serve approximately 300 students.

**Ideal contractors will provide the following services**

- Provide equipment specifications, warranty, preventative maintenance and equipment servicing information.
- Provide equipment that is durable and suitable for high frequency use by multiple users.
- Provide sample equipment layouts that TMA might consider suggesting equipment locations.
- Provide itemized unit costs breakdown per piece.
- Provide delivery options, and costs for shipping and setting up equipment.
- Suggest cost saving options.
- Provide staff training on equipment care and use.
- Delivery, Installation, and service of all products must be provided by the same company and not outsourced.
- Provide references.

**Registration with the DC Department of Small & Local Business Development (“LSDBE” status) is a plus.**

**Desired Fitness Equipment:**

- One upright stationary bike
- Two Ellipticals
- Two Treadmills
- One Rowing Machine
- One Leg Press
- One Leg Extension/Curl Machine
- One Multi-Press
- One Lateral Pull
- One Ab/Low back machine

Further information about Thurgood Marshall Academy – including our nondiscrimination policy- may be found at [www.thurgoodmarshallacademy.org](http://www.thurgoodmarshallacademy.org)

Submit proposals no later than 5 pm EST on May 18, 2009, via email to [mthompson@tmapchs.org](mailto:mthompson@tmapchs.org)

**The William E. Doar, Jr. Public Charter School for the Performing Arts****REQUEST FOR PROPOSALS****Notice of Request for Proposal**

The William E. Doar Jr. Public Charter School for the Performing Arts, in compliance with Section 2204 (c) of the District of Columbia School Reform Act of 1995 ("Act"), hereby solicits expressions of interest from Vendors or Consultants for the following tasks and services:

1. Substitute Teachers/Receptionists Supplier
2. Artists in Schools/Guest Artist Teachers/Part-Time Arts Educators

At two campuses, vendors must provide assurances as to the person's qualifications, background checks, and references. Must be able to provide Educators/support staff for planned days off as well as for early morning calls. Please include References, current clients, fees, and procedures for temp to perm arrangements.

Location #1 is 705 Edgewood Street, NE. Location #2 is 3700 N. Capitol Street, NW (AFRH).

**Proposal Submission**

An original and four (4) copies of your proposal or a proposal by **mail only** must be received at the offices of the School no later than **2:00 p.m. EST** on Friday, May 22, 2009 at the following address:

**William E. Doar, Jr. Public Charter School for the Performing Arts  
705 Edgewood Street, NE, 2nd Floor  
Washington, DC 20017  
Attention: Julie S. Doar-Sinkfield, Executive Director**

**For information regarding the school and the full RFP please see: [www.wedjschool.us](http://www.wedjschool.us)**

No phone calls or late responses please. Interviews, samples, demonstrations will be scheduled at our request after the review of the proposals only.

**The William E. Doar, Jr. Public Charter School for the Performing Arts****REQUEST FOR PROPOSALS****Notice of Request for Proposal**

The William E. Doar Jr. Public Charter School for the Performing Arts, in compliance with Section 2204 (c) of the District of Columbia School Reform Act of 1995 ("Act"), hereby solicits expressions of interest from Vendors or Consultants for the following tasks and services:

1. Evening Cleaning Service – two sites: (1) 40,000 sq. feet over two floors and (2) 23,000 square feet in two buildings across the street from one another. To include cleaning supplies, equipment, replacement of toilet paper, hand soap, urinal cakes, etc. Organization must be bonded and insured and all employees must pass background checks. Organizations may bid on one or both sites.
2. Food Service – two sites: (1) up to 600 students and (2) up to 160 students plus small daycare center – location at site (1) or (2) TBD. Vendor needed for school year only – September through June. Must be able to provide bag lunches and unitized meals upon request. All other meals should be able to be served family style. Must be able to provide other catering services as needed. Will entertain one year or five year contracts
3. Security Service for two sites. 4 major entrances/exits between both facilities. Additional Security patrols needed for arrival and dismissal.
4. Umbrella Insurances: Health, Dental, Hospitalization, Directors and Office, Liability, STD, LTD, etc. for Board of Directors and Employees.

Location #1 is 705 Edgewood Street, NE. Location #2 is 3700 N. Capitol Street, NW (AFRH).

**Proposal Submission**

An original and four (4) copies of your proposal or a proposal by **mail only** must be received at the offices of the School no later than **2:00 p.m. EST** on Friday, May 22, 2009 at the following address:

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No phone calls or late responses please. Interviews, samples, demonstrations will be scheduled at our request after the review of the proposals only.

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

**Appeal No. 17830 of L. Napoleon Cooper**, pursuant to 11 DCMR §§ 3100 and 3101, from a March 21, 2008 decision of the Zoning Administrator to issue Certificate of Occupancy No. 163333, for a grocery store and sale of off-premises alcoholic beverages in the RC/C-2-B District, at premises 1631 Kalorama Road, N.W. (Square 2572, Lot 36).

**HEARING DATE:** November 18, 2008

**DECISION DATE:** November 18, 2008

**DISMISSAL ORDER**

Background

On May 22, 2008, Mr. L. Napoleon Cooper (“Appellant”) filed this appeal on his own behalf and on behalf of Mr. Yeheyis Getachew and Dorchester Grocery and Deli. The Appellant appealed the Department of Consumer and Regulatory Affairs’ (“DCRA”) issuance of Certificate of Occupancy Permit (“C of O”) No. 163333 to Harris Teeter, Inc, intervenor herein. The C of O, issued on March 21, 2008, authorized the intervenor to open a “[g]rocery store with accessory delicatessen- prepared food shop (8 seats) and off-premises alcoholic beverage sales as an accessory use- subject to BZA Orders 17395-A, 17675, and 17677” at 1631 Kalorama Road, N.W., within the Reed-Cooke Zoning Overlay District (R-C Overlay). *See*, 11 DCMR Chapter 14.

The Appellant herein had brought an earlier appeal concerning the same property and use, which was decided by the Board of Zoning Adjustment (“Board” or “BZA”) on March 4, 2008, and memorialized in a written Board Order, No. 17677, issued December 9 , 2008. In this earlier appeal, Mr. Cooper had appealed a letter from DCRA’s Zoning Administrator (“ZA”) which opined that the prohibitions set forth in the R-C Overlay, including one on off-premises alcoholic beverage sales, applied only to principal uses and not to accessory uses. *See*, 11 DCMR § 1401.1. This Board, in Order No. 17677, upheld the ZA’s interpretation, thus permitting the intervenor’s grocery store to sell alcoholic beverages for off-premises consumption as an accessory use to the grocery store, which is a matter-of-right use in both the R-C Overlay, and in the underlying C-2-B zone in which the property is located.

Prior to both this appeal and Appeal No. 17677, on November 13, 2006, a building permit, No. 98040, had been issued permitting build-out of the grocery store use. This building permit had been properly applied for and specifically noted that the grocery store it authorized would be 37,405 square feet in area. Along with the building permit application, the required plans had been filed with DCRA. These plans depicted areas for the display of beer and wine, *i.e.*, alcoholic beverages, for sale in the store. Although the sale of alcoholic beverages for off-premises consumption was not affirmatively stated as an accessory use on the face of the building permit, its authorization was implicit in the building permit because the presence of

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alcoholic beverages in the store was made explicit on the plans. The ZA's letter, which was upheld in Appeal No. 17677, affirmatively stated what was implied in the building permit – that intervenor's grocery store was authorized to sell alcoholic beverages for off-premises consumption.

The current appeal

The Appellant now brings the instant appeal against the issuance of the C of O for the intervenor's grocery store, alleging various violations of the law. Specifically, the Appellant's addendum to his appeal document alleges that (1) the C of O issued for the grocery store violates the purposes of the R-C Overlay, (2) building permit no. 98040 is "automatically void" because of alleged unlawful actions of the intervenor in violation of D.C. Official Code § 25-434 (2005), and (3) certain constitutional rights of the Appellant were violated, presumably by the issuance of the C of O, apparently because, the Appellant claims, the presence and operation of the grocery store has negative impacts on the neighborhood, including negative economic consequences for a nearby small grocer. Exhibit No. 1, Addendum. It became clear during the course of the proceedings in this appeal that the zoning violation alleged by the Appellant (#1, above) was actually two separate claimed violations: (1) the C of O's permission to sell alcoholic beverages for off-premises consumption violates the R-C Overlay prohibition set forth at 11 DCMR § 1401.1(b), and (2) the size of the grocery store allowed by the C of O violates the purposes of the R-C Overlay set forth at 11 DCMR § 1400.2.

Disposition of the current appeal

This Board has a narrow jurisdiction, confined to interpreting the Zoning Regulations of the District of Columbia. In appeals, its jurisdiction is limited to decisions made "in the carrying out or enforcement of" the Zoning Regulations. D.C. Official Code § 6-641.07(g)(1) (2001). The Board has no jurisdiction over alleged violations of the D.C. Code, particularly those sections of the Code, such as § 25-434, not in any way related to zoning, and it has no jurisdiction to interpret or decide Constitutional questions. *See, e.g.,* Board Order No. 17504, *Appeal of JMM Corporation*, and Board Order No. 13967, *Appeal of California Steakhouse*, cited therein. Therefore, the only allegations of the Appellant which the Board may decide are those claiming that the issuance of the C of O for the grocery store violated the R-C Overlay.

The Board may have the jurisdiction to hear that portion of the appeal alleging violations of the R-C Overlay, but this jurisdiction disappears if the appeal were not timely brought. *See, Waste Management of Maryland v. D.C. Bd. of Zoning Adjustment*, 775 A.2d 1117, 1121-1122 (D.C. 2001), citing *Goto v. D.C. Bd. of Zoning Adjustment*, 423 A.2d 917, 923 (D.C. 1980). (Timeliness is mandatory and *jurisdictional* and "if the appeal [is] not timely filed, the Board [is] without power to consider it.") In order for an appeal to be timely, it must be filed "within sixty (60) days from the date" the appellant "had notice or knowledge of the decision complained of, or reasonably should have had" such notice or knowledge. 11 DCMR § 3112.2(a).<sup>1</sup>

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<sup>1</sup> The Appellant also appears to be alleging that 11 DCMR § 3112.2(d) applies to make his appeal timely in that he claims DCRA's actions prevented him from finding out about the issuance of the C of O until April 30, 2008. Subsection 3112.2(d) permits the Board to extend the 60-day filing period if exceptional circumstances outside of an

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The decision complained of here is ostensibly the March 21, 2008 issuance of the C of O for the grocery store, but the two allegations on appeal, i.e., the size of the store and its sale of alcoholic beverages, do not arise from the issuance of the C of O. The decisions to allow the store's size and sale of alcohol were *made* at the building permit stage and were *validated* by the subsequent issuance of the C of O. Building Permit No 98040 set forth the size of the grocery store. Its accompanying plans depicted shelf space for alcoholic beverages within the grocery store, and the ZA's letter ratified the store's ability to sell alcoholic beverages. All of these documents were included in the record of Appeal No. 17677, which was brought by the same Mr. Cooper who is the Appellant herein. Therefore, the Appellant has been aware of the size of the grocery store since the issuance of Building Permit No. 98040, and at least since the decision in Appeal No. 17677 on March 4, 2008. Further, the Appellant has been aware of the fact that the store was going to sell alcoholic beverages for off-premises consumption at least since the March 4, 2008 decision in Appeal No. 17677, and it could reasonably be stated that he was aware of this fact long before that date, as the proceedings leading up to the decision in Appeal No. 17677 stretched out over several months. (Appeal No. 17677 was filed on May 25, 2007.) Yet, the Appellant did not file the instant appeal until May 22, 2008, more than the required 60 days after the March 4, 2008 decision in Appeal No. 17677.

This appeal alleges nothing new – nothing that has not already been before this Board, specifically in Appeal No. 17677 – and therefore, nothing that the Appellant was unaware of during the pendency of Appeal No. 17677. This type of appeal was specifically disallowed by the District of Columbia Court of Appeals (“DCCA”) in *Basken v. D.C. Bd. of Zoning Adjustment*, 946 A.2d 356 (D.C. 2008). In *Basken*, DCRA issued a building permit that ambiguously permitted seven dwelling units in an R-4 zone district. After the permit was issued, questions were raised as to the legality of seven units, and the Director of DCRA issued a letter that unambiguously stated that although seven units may have been allowed in error, the Zoning Administrator would not deny the property owners a C of O due to that error. That unambiguous statement put the appellants on notice that seven units would be allowed and constituted the “decision complained of” contemplated by 11 DCMR § 3112.2(a). The *Basken* appellants, however, although aware of this decisional letter the day after its issuance, did not appeal it, and chose instead to appeal the C of O for the property. The C of O was issued 13 days after the appellants knew of the letter and the appellants appealed the C of O approximately 55 days after its issuance, i.e., approximately 68 days after the issuance of the letter. The C of O, however, made no new zoning decisions, nor did it contain any new information – it reflected that the building would contain seven dwelling units.

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appellant's control prevented him from filing his appeal, and if this extension of time will not prejudice any parties. During the hearing in this appeal, the Board heard no factual evidence on the possible applicability of § 3112.2(d), but concludes that, even if this provision did apply, this appeal would still be untimely under the *Basken* decision, (*see, infra*) and that it is highly likely that permitting an extension of time to file under § 3112.2(d) would have prejudiced the intervenor, who, in March of 2008, had opened its grocery store in reliance on this Board's decisions in Application No. 17395, Appeal No. 17677, and related Appeal No. 17675.

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The Board concluded that the decision on appeal – the legality of seven units – was made in the DCRA Director’s letter and that, therefore, the C of O “was not the ‘decision ... associated with the zoning error complained of.’” *Basken*, at 362. The Board additionally found that the issuance of the C of O did not start the time to appeal because “DCRA made no additional zoning decisions when it issued the C of O.” *Id.*

The DCCA, in upholding the Board’s determinations, clearly stated that a C of O is separately appealable where it provides the *first notice* of a particular zoning decision, but that “[a] certificate of occupancy does not ... start another sixty-day appeal period as to any and all DCRA zoning decisions affecting a project that preceded issuance of the certificate.” *Id.* At 367-368.

The latter scenario is precisely what is before the Board in the instant appeal. Both the decisions being questioned on appeal – the size of the store and its ability to sell alcoholic beverages – were decided at the building permit stage, or at the latest, in the Board’s March 4, 2008 decision in Appeal No. 17677. The C of O for the grocery store contained no new information and did not constitute the “first notice” of these decisions to the Appellant; therefore it is not separately appealable.

For all the reasons set forth above, the Board concludes that this appeal is untimely<sup>2</sup> and the Board is without jurisdiction to hear it. Therefore it is hereby **ORDERED** that the appeal is **DISMISSED**.

**VOTE: 4-0-1** (Ruthanne G. Miller, Shane L. Dettman, Mary Oates Walker and Gregory N. Jeffries to dismiss. No fifth Board member participating or voting.)

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

Each concurring Board member approved the issuance of this order.

**FINAL DATE OF ORDER: FEBRUARY 18, 2009**

PURSUANT TO 11 DCMR § 3125.6, THIS DECISION AND 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.

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<sup>2</sup> Untimeliness notwithstanding, one of the precise issues alleged on appeal – a violation of the prohibition in § 1401.1(b) -- has already been determined adverse to the Appellant by this Board in Order No. 17677. The other issue alleged on appeal, the size of the store and potential impacts on the public good, has already been vetted by this Board in Order No. 17395, which arose out of the intervenor’s original application for area variances necessary to operate the grocery store in the first place.

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

**Application No. 17861 of The Bishop John T. Walker School for Boys**, pursuant to 11 DCMR § 3104.1, for a special exception to establish a private school under section 206, and accessory parking spaces under sections 214 and 2303.3, in the R-2 District at premises 3624 and 3640 Martin Luther King Jr. Avenue, S.E. (Square 6090, Lots 32, 810 and 813).

**HEARING DATE:** February 17, 2009

**DECISION DATE:** February 17, 2009 (Bench Decision)

**SUMMARY ORDER**

**SELF CERTIFIED**

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register and by mail to Advisory Neighborhood Commission (ANC) 8C and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 8C, which is automatically a party to this application. According to the Office of Planning, ANC 8C voted unanimously to approve the Applicant's proposal at its October 1, 2008 meeting, but the ANC failed to file a written report of the approval vote. The Office of Planning (OP) submitted a report in support of the application, subject to conditions outlined in its report. (Exhibit 25). In addition, there was a letter of support from one of the Applicant's neighbors. (Exhibit 21)

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for special exception under section 206, 214 and 2303.3. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP report, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 206, 214, and 2303.3, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

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Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application be **GRANTED** subject to the following **CONDITIONS**:

1. The Applicant shall limit enrollment at the subject property so as not to exceed 80 students. The total number of faculty and staff at the subject property shall not exceed 18 persons at any one time.
2. The Applicant shall restrict the use of the grass space fronting Martin Luther King Jr. Avenue from any recreational usage beyond 7:00 p.m.
3. The Applicant shall provide a four-foot high fence parallel to the Martin Luther King Jr. Avenue street frontage.
4. The Applicant shall furnish and install appropriate school signs and pavement markings, in accordance with the Manual on Uniform Traffic Control Devices and other applicable DC Department of Transportation standards, prior to the first day of school in order to promote safe and efficient school traffic controls.
5. The Applicant shall provide screening at the northern property line that includes a stockade fence and evergreen hedges or evergreen trees that are thickly planted and maintained and at least 42 inches in height when planted.
6. The Applicant shall share its modal split data with the DC Department of Transportation, Policy and Planning staff and Advisory Neighborhood Commission 8C every other year and within 30 days of the start of the school year.

**VOTE:**       **5-0-0** (Ruthanne G. Miller, Marc D. Loud, Mary Oates Walker, Shane L. Dettman, and Anthony J. Hood to APPROVE AS CONDITIONED.)

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

Each concurring member approved the issuance of this order.

**FINAL DATE OF ORDER:** February 20, 2009

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME

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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 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.

PURSUANT TO 11 DCMR § 3205, FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

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

**Application No. 17869 of Greater Calvary Holy Church**, pursuant to 11 DCMR § 3104.1, for a special exception from the parking space location requirements under section 2116, and a special exception for a reduction in the number of parking spaces under subsection 2108.2, serving a child development center and private school in the C-M-2 District at premises 806 Rhode Island Avenue, N.E. (Square 3846, Lot 84).

**HEARING DATE:** February 17, 2009  
**DECISION DATE:** February 17, 2009 (Bench Decision)

**SUMMARY ORDER**

**SELF-CERTIFIED**

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

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 5C and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 5C, which is automatically a party to this application. ANC 5C submitted a report in support of the application. The Office of Planning (OP) submitted a report in support of the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for special exception under section 2108.2 and 2116. No parties appeared at the public hearing in opposition to this application. Accordingly a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1, 2108.2 and 2116, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

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Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application (pursuant to Exhibit No. 9 - Plans) be **GRANTED** subject to the following **CONDITIONS**:

1. The Applicant shall maintain, and replace as necessary, the masonry wall and fencing on the parking lot at 649 Rhode Island Avenue, N.E.
2. The Applicant shall maintain all landscaping and vegetation on the lot at 649 Rhode Island Avenue, N.E. in a healthy growing condition, and shall replace any dead or dying vegetation as necessary.
3. The private school and child development center shall operate Monday through Friday, from 6:30 A.M. to 6:00 P.M.
4. The Applicant shall manage the accessory parking lot at 649 Rhode Island Avenue, N.E. so as to ensure that adequate parking is available for the school and child development center during their hours of operation, and that no other use shall occupy the spaces needed to accommodate the school and child development center's employees and visitors during their hours of operation.
5. The Applicant shall coordinate with the D.C. Department of Transportation the posting of a sign at the exit of the accessory parking lot at 649 Rhode Island Avenue, N.E. directing drivers leaving the lot to "Right Turn Only".

**VOTE:**       **5-0-0** (Marc D. Loud, Anthony J. Hood, Mary Oates Walker, Ruthanne G. Miller, and Shane L. Dettman to Approve)

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

Each concurring member approved the issuance of this order.

**FINAL DATE OF ORDER:** February 18, 2009

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

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

PURSUANT TO 11 DCMR § 3205, FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

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.

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

**Application No. 17881 of Kristen Degan and Frank Schipani**, pursuant to 11 DCMR §3104.1 and 3103.2, for a variance from the accessory structure provisions under subsections 2300.2 (alley set-back requirement), and a special exception to allow the construction of a rear deck, porch and accessory garage serving an existing one-family row dwelling under section 223, not meeting the lot occupancy requirements under section 403, in the R-4 District at premises 1367 Parkwood Place, N.W. (Square 2827-S, Lot 135).

**Note:** The application was amended to eliminate the request for relief under subsection 2300.3 (height requirement), and subsection 2500.4 (rear yard occupancy requirement).

**HEARING DATE:** February 17, 2009  
**DECISION DATE:** February 17, 2009

**SUMMARY ORDER**

**SELF-CERTIFIED**

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

The Board provided proper and timely notice of public hearing on this application by publication in the D.C. Register and by mail to the applicant, Advisory Neighborhood Commission (ANC) 1A, and to the owners of all property within 200 feet of the property that is the subject of this application. The site of this application is located within the jurisdiction of ANC 1A which is automatically a party to this application. ANC 1A submitted a report in support of the application. The Office of Planning (OP) also submitted a report in support of the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for special exception relief under section 223. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the ANC and the OP reports filed in this case, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 223, that the requested relief can be granted, as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

**BZA APPLICATION NO. 17881**  
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As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for a variance pursuant to § 3103.2. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the ANC and OP reports filed in this case, the Board concludes that in seeking variances from § 2300.2, the applicant has met the burden of proving under 11 DCMR § 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is appropriate in this case. It is therefore **ORDERED** that this application, pursuant to Exhibit No. 22 - PLANS, be **GRANTED**.

**VOTE:**       **5-0-0** (Ruthanne G. Miller, Marc D. Loud, Mary Oates Walker, Shane L. Dettman and Anthony J. Hood to approve)

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

Each concurring member has approved the issuance of this summary order.

**FINAL DATE OF ORDER: FEBRUARY 20, 2009**

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.

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.

**BZA APPLICATION NO. 17881****PAGE NO. 3**

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

THE APPLICANT SHALL COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, AS AMENDED, AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. CODE 2-1401.01 *ET SEQ.* (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, 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. 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.

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

**Application No. 17913 of Gonzaga College High School**, pursuant to 11 DCMR §§ 3104.1 and 3103.2, for a special exception to construct new facilities for academic and athletic uses, to construct a below grade parking garage and to make other related modifications to the campus under section 206, and for a variance from the court requirements under section 406, in the R-4, C-2-A and C-3-C Districts at premises 19 I Street, N.W. (Square 622, Lots 90 and 840).

**HEARING DATE:** April 28, 2009  
**DECISION DATE:** April 28, 2009 (Bench Decision)

**SUMMARY ORDER**

**SELF CERTIFIED**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 5)

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission (ANC) 6C and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6C, which is automatically a party to this application. On April 7, 2009, ANC 6C, at a duly noticed, regularly scheduled meeting with a quorum present, voted to recommend approval of the application. The ANC submitted a timely report. (Exhibit 26) The Office of Planning (OP) submitted a report in support of the relief requested under section 206 and subsection 406.1, subject to the implementation of the Transportation Management Plan (TMP). (Exhibit 27)

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for special exception under section 206. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 206, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested

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relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.<sup>1</sup>

Based upon the record before the Board, and having given great weight to the OP report, the Board also concludes that the Applicant has met the burden of proving under 11 DCMR §§ 3103 and 406 that there exists an exceptional or extraordinary condition or situation related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Zoning Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application (pursuant to Exhibit 31 – Plans) be **GRANTED, SUBJECT TO THE FOLLOWING CONDITION:**

1. The Applicant shall implement the Transportation Management Plan (TMP) contained in the application. (Exhibit 25, Attachment D)

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<sup>1</sup> The Board conditioned its approval on the Applicant's implementation of the Transportation Management Plan (TMP) provided in the application. In so doing, the Board gave great weight to OP's report. In its report OP emphasized the 8 commitments the Applicant made in the TMP (Exhibit 25, Attachment D, pgs 20 – 21); namely that the Applicant, in implementing the TMP, would:

- a. Increase vehicle occupancies (i.e. carpooling) with appropriate consideration for the classification of young drivers who access the School as well as in keeping with the regulations applying to teenage driving and the number of passengers allowed (as per local District of Columbia laws);
- b. Encourage the use of public transportation by staff and students;
- c. Monitor traffic operations within the campus during the peak drop off/pick up periods to ensure efficient operations and that no "spill back" occurs on the adjacent public roadways;
- d. Assign a staff member with the specific responsibility to coordinate carpools among students, parents and staff. In addition, Gonzaga will create an online system to help identify those with similar travel routes and residence locations;
- e. Host regular discussions with the student drivers on road safety, courtesy, and the local laws and regulations of the jurisdictions in which they drive;
- f. Provide a copy of the School's Transportation Management Plan and its traffic and transportation policies to all students, parents and staff at the beginning of each school year as part of the student enrollment contract;
- g. Designate a Campus Transportation Coordinator with the responsibility of implementing the School's Transportation Management Plan;
- h. Undertake monitoring and evaluation of the TMP and make adjustments as necessary to meet the stipulated objectives.

Furthermore, as part of the TMP, the Applicant will provide a Transportation Performance Report to the Policy and Planning Administration Staff of the District's Department of Transportation (DDOT) and the ANC on an annual basis. (Exhibit 25, Attachment D)

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**VOTE:** 3-0-2 (Shane L. Dettman, Marc D. Loud, Gregory N. Jeffries to APPROVE. Mary Oates Walker and the third Mayoral appointee (vacant) not participating, not voting.)

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

Each concurring member approved the issuance of this order.

**FINAL DATE OF ORDER:** \_\_\_\_\_

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

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, 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 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

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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.

PURSUANT TO 11 DCMR § 3205, FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**  
**ZONING COMMISSION ORDER NO. 07-27**  
**Z.C. Case No. 07-27**  
**EYA, LLC and St. Paul's College**  
**(Consolidated Planned Unit Development and Related Zoning Map Amendment)**  
**November 10, 2008**

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held a public hearing on July 17, 2008 to consider an application for EYA, LLC and the Missionary Society of Saint Paul the Apostle, for the consolidated review and approval of a planned unit development ("PUD") and a PUD-related amendment to the Zoning Map from the R-5-A Zone District to the R-5-B Zone District for a portion of the property known as Square 3648, Lot 808, pursuant to Chapter 24 of the District of Columbia Municipal Regulations (DCMR) Title 11 (Zoning). The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022.

At its public meeting on September 29, 2008, the Commission took proposed action to approve the application and plans that were submitted into the record.

The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") pursuant to § 492 of the Home Rule Act. The NCPC Executive Director, through a Delegated Action dated October 7, 2008, found that the proposed PUD and related map amendment to change the zoning from R-5-A to R-5-B is not inconsistent with the Comprehensive Plan for the National Capital, nor would it adversely affect any federal interests.

The Commission took final action to approve the application on November 10, 2008.

**FINDINGS OF FACT**

**PROCEDURAL HISTORY**

1. The property that is the subject of this application is an irregularly-shaped portion of Lot 808 in Square 3648 bounded by 5<sup>th</sup> Street N.E. and 6<sup>th</sup> Street N.E. to the south, Hamlin Street N.E. and Jackson Street N.E. to the east, the campus of St. Paul's College to the west, and the United States Conference of Catholic Bishops to the north (the "Subject Property" or "Property"). The PUD is located in the Brookland/Edgewood neighborhood in Ward 5. The Property consists of approximately 10.2 acres or 444,312 square feet. The Property is located in the R-5-A Zone District.
2. EYA, LLC ("EYA") is a residential developer based in Bethesda, Maryland, and the Missionary Society of Saint Paul the Apostle ("St. Paul's College") is a Catholic Paulist seminary (collectively, the "Applicant"). St. Paul's College is the current owner of the Property. EYA is a contract purchaser of the Property and developer of the PUD project.
3. The Applicant seeks to construct a 237-unit townhome development consisting of three sizes of single-family townhomes (14-foot, 16-foot, and 18-foot-wide models). (Exhibit 16, pp. 4-5.)

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4. The Commission to set the case down for a public hearing at its November 19, 2007 public meeting. At that meeting, the Commission members and the Office of Planning (“OP”) expressed the following concerns and/or requested additional information: density of the project, adequacy of green space, traffic circulation, amount of surface parking, type and amount of affordable housing units, extent of environmental impacts, extent of public improvements, types of streetscape improvements, and extent of community participation. (November 19, 2007 Transcript, pp. 76-87.)
5. In its Pre-Hearing submission, dated April 18, 2008, the Applicant addressed and submitted information on the above-mentioned issues. In addition, the Applicant made other modifications to the plans, including:
  - A reduction in the number of townhomes from 251 to 237;
  - Elimination of the largest unit types that sealed off open spaces;
  - A reduction in the variety of floor plans;
  - A reduction in the number of off-street parking spaces from 542 to 403;
  - A four percent increase in overall green space from 107,000 square feet (24%) to 126,504 square feet (28%);
  - Expansion of the central green park area to 14,200 square feet; and
  - Improved vehicular circulation patterns and street configuration. (Exhibit 16.)
6. The Applicant filed a supplemental submission on June 30, 2008, which included the following: a revised site plan illustrating the locations of the affordable units; an illustration of the elevations of the rear of the townhouses; an illustration of private green spaces in the development; an updated explanation of community benefits; and resumes of proposed expert witnesses. (Exhibit 25.)
7. The Commission held a public hearing on the above-mentioned application on July 17, 2008, which was conducted in accordance with the provisions of 11 DCMR § 3022.
8. At the July 17, 2008 public hearing, the Commission recognized Jack McLaurin of Lessard Group, Inc. as an expert in architecture, Jami Milanovich of Wells & Associates, LLC as an expert in traffic engineering and transportation planning, and Mark Morelock of VIKA as an expert in engineering. (July 17, 2008 Transcript, pp. 9-10.)
9. At the July 17, 2008 public hearing, the Commission requested the following additional information from the Applicant:
  - Details of the amenities package;
  - Reconsideration of the size affordable housing units in response to the OP’s position;
  - A site plan better illustrating the relationship between the private streets and the neighborhood streets;

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- Three-dimensional views of the project to depict how an observer will view the project;
  - Volumetric study and perspective of a typical courtyard;
  - Photographs of the surrounding neighborhood; and
  - Detailed color renderings of the houses including the downspouts. (July 17, 2008 Transcript, pp. 259-262.)
10. The Applicant filed a post-hearing submission on August 15, 2008, which included the following responses to the Commission's requests: photographs of the surrounding neighborhood; a depiction of the project's relationship to the neighborhood; a vignette of views into the project; a volumetric study of the courtyard; detailed color renderings with roof line variety; graphic depictions of traffic circulation patterns; and a checklist of LEED commitments. (Exhibit 44.) The Applicant filed a supplemental post-hearing submission on September 25, 2008. The submission stated the Applicant had continued its discussions with ANC 5C but the parties were unable to reach a mutually agreeable resolution. The submission also proffered enhancements to the amenities package. (Exhibit 50.) The Applicant filed a second supplemental post-hearing filing on October 25, 2008 proffering a Construction Management Plan for the PUD project.

#### PUD SITE AND SURROUNDING AREA

11. The Property is located in Ward 5 and is composed of approximately 10.2 vacant acres or 444,312 square feet. It is an irregularly shaped parcel bounded by 5<sup>th</sup> Street N.E. and 6<sup>th</sup> Street N.E. to the south, Hamlin Street N.E. and Jackson Street N.E. to the east, 4<sup>th</sup> Street N.E. and the campus of St. Paul's College to the west, and the United States Conference of Catholic Bishops to the north. (Exhibit 4, Exhibit A.)
12. The subject site is part of the 19.68-acre St. Paul's College campus. The subject site occupies approximately one-half of the College campus and will be under separate ownership. (Exhibit 4, p. 1, Exhibit A.)
13. The Property has significant grade changes, with the St. Paul's College building being located at the high point. The Property slopes downward from the College's main building to the subject site. Open fields interspersed with large, mature trees dominate most of the subject site. The site is bordered mainly by moderate-density residential development to the south and to the east and institutional uses to the north and west. (Exhibit 16, p. 4; Exhibit 4, Exhibit B.)
14. The project will leave the College's Main Building unchanged. (Exhibit 16, Exhibit B.)

#### DESCRIPTION OF THE PUD PROJECT

15. The proposed 237-unit townhouse development will provide a variety of housing options for individuals and families seeking homeownership opportunities in Ward 5. The

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various unit types have been interspersed throughout the Property. The proposed density of the PUD project (1.27 FAR) is significantly lower than the matter-of-right density limitation (1.8 FAR) and the proposed building heights (38-48 feet) are also lower than the maximum matter-of-right building height (50 feet) in the R-5-B Zone District. (Exhibit 16, p. 6.)

16. The 14-foot-wide townhomes will include approximately 2,022 square feet of living area; the 16-foot-wide townhomes will include approximately 2,318 square feet of living area; and the 18-foot-wide townhomes will include approximately 2,586 square feet of living area. These homes are comparable in size to typical single family detached homes located in an R-5-B Zone District. Each single family townhome will be three or four stories with varying layouts. All of the single-family townhome units will have garages on the first floor and two or three bedrooms on the upper floors. All of the townhomes will have optional rooftop terraces. (Exhibit 16, Exhibit B; Exhibit 17.)
17. The Project will provide a significant amount of open and green space. Open space accounts for 126,504 square feet (2.9 acres) or 28% of the site area. The overall building lot occupancy (which includes decks) is 31%. (Exhibit 16, Exhibit B, p. C-48.)
18. The central open space provided in the project is the large Corner Park, which includes a total of 14,000 square feet, is intended for non-organized, passive and active recreational use. The southeast corner of the Corner Park will include a plaza with stadium style seating. The park will be a mostly level expanse of lawn punctuated by shade trees and surrounded by masonry seat walls and retaining walls, benches, and mixed border plantings (Exhibit 16, p. 16).
19. Many of the townhomes will open onto shared courtyards of varying widths and lengths. These courtyards will feature outdoor seating and panels of lawn surrounded by flowers, evergreen shrubs and ornamental grasses. In addition, smaller open spaces and lawns will weave throughout the development, particularly on the sides of some of the buildings and along the perimeter of the subject site. Many townhomes will have lawns in their rear and side yards, and one-third of the townhomes will have private yards. (Exhibit 16, p. 16.)
20. The front façades and sides of most the buildings will be predominantly brick. Siding will be used on the loft levels and on the alley façades. The homes located near the existing St. Paul's College will have a more complimentary architectural style with stone veneer. (Exhibit 16, p. 5.)
21. All units will have one or two garage parking spaces accessed from the rear of the units via alleys. The 14-foot-wide and 16-foot-wide units will have a single parking space in the garage with the option of an additional tandem parking space, while the 18-foot-wide units will have two side-by-side parking spaces in the garage. In addition, 85 additional

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guest parking spaces will be made available throughout the site on the interior private street system. (Exhibit 16, pp. 5-6; Exhibit 17, pp. A-100, A-104, A-120.)

22. The Applicant requests a PUD-related amendment to the Zoning Map, from the R-5-A to the R-5-B Zone District, in order to accommodate all of the specifications and goals of the project. (Exhibit 4, p. 8.)
23. Pursuant to 11 DCMR Chapter 24, the Applicant also requests relief from the rear and side yard requirements (§§ 2516.5(b), 404 and 405) and to allow more than one principal structure on a single lot (§ 2516.1). This flexibility requested to the R-5-B Zone District will have no impact on the surrounding properties. (Exhibit 16, p. 6.)

#### SATISFACTION OF PUD EVALUATION STANDARDS

24. Through written submissions and testimony to the Commission, the Applicant and its representatives noted that the application will provide high-quality residential development on the Subject Property with significant public benefits to the neighborhood and the District as a whole.
25. The goal of this project to create high quality homeownership opportunities and an attractive community that would be an integral part of the larger Brookland/Edgewood neighborhood. This project will be integrated with the neighborhood and will benefit the community as a whole. Neighborhood residents will be able to enjoy the large Corner Park. (Exhibit 16, pp. 7-8.)
26. At the hearing, the Applicant's representative, Jack Lester, noted that the amenities package had been thoroughly vetted with the ANC-5C Single Member District Commissioner and that the Applicant would continue to work with the ANC and community to satisfy its commitments (July 17, 2008 Transcript, pp. 45-48.)
27. The Applicant's architect, Jack McLaurin, admitted as an expert in architecture, testified that the project's design showed a strong sense of neighborhood compatibility by taking into account the streets, the nearby institutions, the neighborhood houses and the public spaces. Mr. Lester noted that the community will not be gated and will be directly accessible from several streets: 5<sup>th</sup> Street N.E., 6<sup>th</sup> Street N.E., Hamlin Street N.E., and Jackson Street N.E. to connect the project to the surrounding street grid. Mr. Lester also noted the importance of open space in the project. (July 17, 2008 Transcript, pp. 21-24.)
28. Urban Design and Architecture: The proposed townhomes are designed to complement and elevate the level of architectural quality and design in this area of the District. The proposed design connects the homes to the public streets and courtyards, incorporates the entire development into the existing neighborhood, and enhances the walkability of the entire project. The façades of most of the townhomes have been designed in a traditional brick front-porch style that is common in the neighborhood. A variety of color schemes

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will be used create a varied streetscape. Townhomes near, and facing, St. Paul's College have been designed in a complementing architectural style in order to provide a transition from the College's Main Building to the more traditional townhomes. The proposed landscape plan and treatment of the Corner Park, the courtyards and the private open spaces will provide active and passive recreation opportunities for residents of the project and their guests. (Exhibit 16, p. 7; July 17, 2008 Transcript, pp. 25-34; Exhibit 44, Exhibit F.)

29. Site Planning: The site plan for the proposed project makes efficient use of an undeveloped site that sits in the center of a developing neighborhood. The site is laid out in a general pattern of orthogonal streets and blocks. The design of the residential complex intersperses street-oriented, rear-loaded townhomes in an efficient and economical manner appropriate for the R-5-B Zone District. The plan seamlessly ties the new development with the existing neighborhood in a fashion that encourages pedestrian activity. (Exhibit 16, p. 8.)
30. Effective and Safe Vehicular and Pedestrian Access: The Project provides four means of vehicular access: 5<sup>th</sup>, 6<sup>th</sup>, Hamlin, and Jackson Streets N.E. The connections to the surrounding street allow pedestrians and vehicular traffic to enter and exit the development safely and efficiently. The new internal road system allow for two way traffic. Safe and ample sidewalks will be created along the surrounding public streets and throughout the site to encourage pedestrian activity and also mitigate any pedestrian/vehicular conflicts. The PUD will provide residents with 403 parking spaces and 85 spaces designated for guests. (Exhibit 16, p. 8.)
31. The Applicant's traffic and parking expert provided written documentation and testimony that analyzes the Subject Property and the neighborhood as recommended by the District of Columbia Department of Transportation ("DDOT"). (Exhibit 4, Exhibit C; July 17, 2008 Transcript, pp. 40-41.)
32. The private roadway improvements recommended by the traffic and parking expert and proposed by the Applicant include:
  - Adjustments to the green light times during the AM and PM peak hours at the Michigan Avenue/Harewood Road intersection;
  - Adjustments to the green light times during the AM peak hour at the Michigan Avenue/4th Street intersection;
  - Adjustments to the green light times during the PM peak hour at the 7th Street/Monroe Street intersection;
  - Install signs to help lower speed and update pavement markings on Franklin Street; and
  - Provide incentives for new residents to use public transit. (Exhibit 4, Exhibit C, p. 36.)

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33. Housing: In addition to providing a significant amount of market rate housing units, the project will also set aside 28 affordable units. The sale of the affordable units will be targeted buyers with annual household incomes (four person family size) at or below 50% of the Washington Metropolitan Area Median Income (“AMI”) and to those with annual household incomes at or below 80% of the Washington Metropolitan AMI. The 28 affordable units will be divided equally between both income distributions (14 units for 50% AMI and 14 units for 80% AMI). All affordable units will be the 14-foot-wide model. The gross floor area for this unit type is approximately 2,022 square feet and these homes contain two or three bedrooms and two or three bathrooms. Each unit has a one car garage and an optional second tandem space. The Affordable Housing Program will commence on the date that the first building including an affordable unit has received a certificate of occupancy and will run for 20 years. Upon expiration of the 20 year term, these units may be sold at market rates. (Exhibit 22, p. 19.)
34. First Source Employment Program: The Applicant will enter into an agreement to participate in the Department of Employment Services (“DOES”) First Source Employment Program to promote and encourage the hiring of District of Columbia residents during the development and construction process. (Exhibit 16, p. 9.)
35. Environmental Benefits: The construction of this project will have no adverse environmental impact. The Applicant stated that it is committed to building a community that meets LEED – ND certification, which includes low energy appliances and low-e glass. In addition, the project includes a Low Impact Development strategy that will reduce and treat stormwater runoff; this will include bioretention facilities, a rain garden, bioswales, interconnected water mains, separate storm water and sewer systems, and new storm drains on some streets. The Applicant also will minimize the number of trees that it must remove. (Exhibit 4, pp. 9-10, 15; Exhibit 16, p. 12.)
36. Uses of Special Value to the Neighborhood: The Applicant is providing the following public benefits and amenities. The total value of the community amenities package is at least \$1.58 million:
- Affordable Dwelling Units – 28 units, as described above, will be set aside as affordable dwelling units.
  - The Triangle Park – The Applicant will make \$315,000 in improvements to the District of Columbia Department of Parks and Recreation’s “Triangle Park” bounded by 4<sup>th</sup> Street, Lincoln Road, and Franklin Street N.E. This park is within 150 feet of the Subject Property. The Applicant will make this improvement upon completion of one half of the townhomes (unit 119). The Applicant will plant trees; install sidewalks, lights, and outdoor furniture; construct a cast iron fence around the perimeter; and create stone dust paths through the park in accordance with the plan approved by the Department of Parks and Recreation. The Applicant will maintain

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the park for three years after completion with a maintenance cost of approximately \$35,000.00. (Exhibit 50.)

- Improvements to Public Infrastructure – Prior to the issuance of a Certificate of Occupancy for this PUD project, the Owner will spend approximately \$340,000 to improve the existing infrastructure for 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, and Hamlin Streets above and beyond what would be required for the project. Such improvements shall include sidewalks, street trees, new curbs and gutters, water mains, storm sewers. (Exhibit 50.)
- Local College Scholarship Fund – The Applicant will provide \$60,000 to a fund for the purpose of granting college scholarships to deserving District of Columbia Public School high school seniors residing within ANC 5C. This contribution will be made in single lump sum at the time of the settlement of the first home to the Community Foundation for the National Capital Region, which has a specific administrative infrastructure in place to manage this fund. (Exhibit 50.)
- Homeownership Training – The Applicant will sponsor training for people interested in purchasing the affordable for sale homes in the new community. Specifically, prior to releasing the affordable homes for sale, the Applicant will organize and sponsor informational sessions to meet the various needs of potential purchasers as described in Exhibit 50 of the record.
- Improvements to Shaed Elementary School –. Representatives from EYA inspected the school with its head custodian on May 28, 2008 and compiled a detailed list of improvements to be made. EYA completed the list of improvements, including electrical repairs, tile replacement, masonry and concrete repairs, painting, and landscaping, prior to the start of the 2009 school year. The improvements have a value of \$35,000. (Exhibit 50.)
- Mass Transit Incentives – The Applicant will provide each new homeowner with a Transit Welcome Package, which will be intended to educate new residents on the many options available for transit usage. This package will include a \$20.00 Metro SmartCard (\$25), Metro map, bus schedules and routes, and information concerning retailers and service providers within walking distance of the site. (Exhibit 50.)

The Applicant will also make an application for a ZipCar location on the site and will pay the application fee (currently \$25) for each homeowner to become a ZipCar member.

Prior to the issuance of a Certificate of Occupancy for this PUD project, the Applicant will also install a SmartBike kiosk at the site's property line at Hamlin Street N.E.

- Small Business Grants – The Applicant will make a \$55,000 contribution to the Ward 5 Business Council to fund grants and training to small businesses within ANC 5C. EYA's contribution will be made in single lump sum at the time of the settlement of the first home. (Exhibit 50.)
- Contribution to Edgewood Civic Association – Prior to the issuance of a Certificate of Occupancy for this PUD project, the Applicant will provide \$15,000 for equipment and services for the benefit of Edgewood Civic Association. EYA will purchase a

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laptop and printer for the Association so that it may further its membership goals. Any funds remaining from the purchase of the referenced equipment will be used pay legal fees for establishing the Association as a non-profit 501(c)(3) and to prepay printing costs of the Association. (Exhibit 50.)

37. Comprehensive Plan: The PUD is consistent with many Major Elements of the Comprehensive Plan, including; the Land Use Element, the Transportation Element, the Housing Element, the Environmental Protection Element, the Parks, Recreation, the Open Space Element, the Urban Design Element, the Generalized Land Use Map, and portions of the Upper Northeast Element.

- Land Use Element: The proposed development is consistent with the land use provisions of the Comprehensive Plan since it is an infill development within one-half mile of a Metro station. The proposed project will be complementary to the surrounding neighborhood and will create a walkable community with usable green space.
- Housing Element: The proposed development is consistent with the housing provisions of the Comprehensive Plan since it creates 237 new townhomes. The Housing Element of the Plan seeks to ensure housing affordability; foster housing production, promote home ownership, and limit displacement. The Property is located in a residential and institutional neighborhood. A new development of townhomes in this neighborhood will not be disruptive, and in fact provides a new type of residential opportunity for existing residents of the neighborhood. No displacement of residents will occur as a result of this application. The proposed project will create new homes in a community with significant for-sale housing needs on property that is currently vacant. The proposed high-quality residential community will serve as an anchor that strengthens and enhances the surrounding residential neighborhood.
- Transportation Element: The proposed development is consistent with the Transportation element because of its proximity to the Brookland-CUA Metrorail Station. This site is also well served by the Metrobus service. These transit options will encourage people to live within the District and utilize public transportation resulting in a decrease in automobile traffic. The Plan promotes smart growth as a regional solution of promoting infill and transit-oriented development. In addition, the Applicant will enhance the existing road network of the District by creating an effective and safe internal street system. Further, the sidewalks of the proposed development will be connected to the existing sidewalk system on 5<sup>th</sup>, 6<sup>th</sup>, Hamlin and Jackson Streets N.E. The sidewalks on these streets will be safer and more user-friendly with the integration of a complete pedestrian sidewalk system for the surrounding neighborhood.
- Urban Design Element: The proposed development will reflect the beneficial architectural qualities of the surrounding neighborhood, including St. Paul's College. In site planning and architectural detailing, the Project will emphasize and help

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strengthen a neighborhood identity for this area while still creating a new development that is in harmony with the strong architectural character of St. Paul's College. The Project proposes an appropriate number and density of residential units, while allowing for sufficient private and public open space for the residents.

- Parks, Recreation, and Open Space Element: The proposed project will offer new parks and public open space for residents of the new community and the surrounding neighborhood. Many of the townhomes will open onto shared courtyards of varying width and length. These courtyards will feature outdoor seating areas and panels of lawn surrounded by lush and diverse plantings of flowering and evergreen shrubs, herbaceous perennials and ornamental grasses. The Project will have a primary public open space: a 14,000 square foot park with a relatively level expanse of lawn punctuated by shade trees and surrounded by masonry seat walls and retaining walls, benches and mixed border plantings of ornamental trees, shrubs, herbaceous perennials, and ornamental grasses. The park will be suitable for both active and passive recreational activities and will include a paved plaza to serve as a community gathering place.

In addition, one of the public amenities, as discussed above, is the improvement of the existing public Triangle Park located a short distance away.

- Environmental Protection Element: The proposed project incorporates an extensive landscape plan providing for abundant trees and for comprehensive and creative stormwater treatment. The Low Impact Development ("LID") strategy included in this project will both reduce stormwater runoff and help treat stormwater prior to it leaving the Property. In addition, the Project will promote environmental sustainability by complying with the U.S. Environmental Protection Agency and the U.S. Department of Energy's Energy Star Program for new homes and the equivalent of the LEED – ND certification from the U.S. Green Building Council.
- Generalized Land Use Map: The Comprehensive Plan Generalized Land Use Map includes the Subject Property in the Institutional land use category. The Institutional land use category envisions multiple-unit housing as well as low and moderate density housing such as row houses. The proposed project is entirely consistent with the Generalized Land Use Map designation of this site.
- Upper Northeast Element: The project is consistent with the area element calling for the capitalization on the presence of Metro stations. The creation of 237 new townhouses so close to the Brookland – CUA Metrorail station will capitalize on the presence of this Metro station and will improve transit ridership on both Metrorail and Metrobus.

The project is also consistent with the area element recognizing the importance of institutional open space. Accordingly, the development's primary public open space will be a 14,000 square foot on-site park. In addition, the Applicant is proposing to make improvements to the landscaping of the nearby, off-site Triangle Park.

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### GOVERNMENT REPORTS

38. In its July 7, 2008 report, OP recommended that the Commission approve the project. OP determined that the project is consistent with the goals and objectives of the Comprehensive Plan by increasing the range of housing options within Edgewood/Brookland. OP noted although the Property is designated as Institutional on the Generalized Land Use Map, this project would not be inconsistent with this designation. OP also noted that the project supports several Smart Growth principles. (Exhibit 28, p. 5.)
39. The July 7, 2008 OP report included the following:
- A recommendation that the affordable units be distributed among all sizes (14-, 16-, and 18-foot widths);
  - More information about some of the community amenities, such as the scholarship, the contribution to the Edgewood Civic Association, the homeownership training, the improvements to Shaed Elementary School, and the contents of the Transit Welcome Package;
  - Installation of a SmartBike kiosk along the 7<sup>th</sup> Street frontage;
  - Dedicate 2-3 ZipCar parking spaces on-site; and
  - Copies of the First Source Employment Program contract be placed in public record before any permits are issued. (Exhibit 28, pp. 4, 12, 13.)

### ADVISORY NEIGHBORHOOD COMMISSION REPORT

40. Silas Grant, ANC Commissioner of 5C09, testified on behalf of concerns expressed from citizens in the community. He noted first that EYA has done a good job in engaging the community and in designing the project. He then stated that many citizens are concerned that the project will decrease the availability of on-street parking in the neighborhood and that traffic (both from residents and from construction) will adversely impact the neighborhood. He also expressed that the amenities should be refined to reflect the needs of the community most directly impacted by this project (July 17, 2008 Transcript, p. 200-209).
41. By resolution dated September 16, 2008, ANC 5C voted to oppose the PUD because the community and the Applicant could not agree on the components or value of the community benefits package and because the residents continued to have concerns about construction traffic and commuter traffic on the proposed ingress and egress streets. (Exhibit 41.)

### PARTIES AND PERSONS IN SUPPORT

42. Victoria Leonard Chambers, Senior Policy Analyst, testified in support of the project on behalf of Ward 5 Councilmember Harry Thomas, Jr. She noted the importance of

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building housing in the area and praised EYA for its engagement of the community. In addition, she commented on how EYA, the community, and Councilmember Thomas worked closely to design the community amenities package. (July 17, 2008 Transcript, p. 58.)

43. Deborah Smith, a nearby resident, testified in support of the project but with reservations. She testified that the community should have more input concerning the community amenities package and that the number of amenities should be increased. She also noted that the additional traffic should be considered more. (July 17, 2008 Transcript, pp. 223-230.)
44. Linda Yahr, a nearby resident, testified in support of the project but with reservations. She testified that she was pleased with the development and that it would be an asset to the community. However, she also stated that the community amenities being offered are insufficient for the impact that the project will have on the neighborhood, so she requested an increase in the amenities. She noted that more green space should be provided. (July 17, 2008 Transcript, pp. 233-239.)

#### PARTIES AND PERSONS IN OPPOSITION

45. Other than ANC 5C, which was automatically a party and whose opposition is discussed above, no parties testified in opposition to the project.
46. By letter dated July 3, 2008, the Dominican House of Studies and College of the Immaculate Conception (the "Dominicans") requested to participate as a party in opposition to the project. The Dominicans withdrew their request prior to the hearing.
47. Carol Parks, a nearby resident, testified as a person in opposition to the project. She noted that she does not oppose the project but that she opposes the parking scheme. She stated that the project does not provide a sufficient amount of off-street parking. (July 17, 2008 Transcript, pp. 240-243.)

#### DECISION MEETING

48. At the September 29, 2008 decision meeting, the Commission asked the Applicant to provide a Construction Management Plan including the study of the use of 4<sup>th</sup> Street N.E. for construction traffic and a clarification on the Applicant's proposed benefits package. (September 29, 2008 Transcript, pp. 35-51.)
49. In its post-hearing supplementary filing, dated October 20, 2008, the Applicant addressed and submitted information on the preceding requests of the Commission. This filing provided a detailed Construction Management Plan, including construction vehicle routing, work hours, parking, deliveries, site management, and cleanliness. The filing also included greater explanation of the amenities package. (Exhibit 56, Exhibits 1, 2.)

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### CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality developments that provide public benefits. (11 DCMR §2400.1.) The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project “offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience.” (11 DCMR §2400.2.)
2. Under the PUD process, the Commission has the authority to consider this application as a consolidated PUD. The Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards. In this application, the Commission finds that the requested relief from the rear and side requirements and to allow more than one principal structure on a single lot can be granted with no detriment to surrounding properties and without detriment to the zone plan or map.
3. The development of this PUD project carries out the purposes of Chapter 24 of the Zoning Regulations to encourage 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.
4. The Commission agrees with the written submissions and testimony of the Applicant’s representatives that the project will provide superior features that benefit the surrounding neighborhood to a significantly greater extent than a matter-of-right project on the Subject Property would provide. The Commission finds that the mix of residential unit sizes, the harmonious architecture and design, the extensive green spaces, the pedestrian-friendly streets, the orientation of the residential units to front on courtyards or private streets, and the transportation oriented design are significant project amenities and exemplify superior features of urban design and architecture and site planning.
5. The Commission determines that the provision of 28 14-foot-wide affordable units made available to purchasers at or below 50% AMI (14 units) and to purchasers at or below 80% AMI (14 units) is a significant project amenity. The Commission also concludes that the proposed community amenities package will provide appropriate benefits to members of the surrounding area and the District as a whole.
6. The Commission finds that the proposed low impact development strategy proposed by the Applicant is an environmentally sensitive approach to development on the Property and is a public benefit and project amenity. The Commission believes that the landscape elements of the project add to the attractiveness of the immediate area and the comfort of the residents of the project and their guests and are therefore deemed to be another amenity of the project.

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7. The Commission agrees with the testimony and written submissions of the Applicant and its experts, as well as the recommendations of OP, that approval of the proposed project is not inconsistent with the Comprehensive Plan. The Commission finds that the project is consistent with and promotes numerous elements and policies of the Comprehensive Plan. Specifically, the Commission believes that the project furthers the elements of: land use by creating an infill and transit-adjacent project; transportation by capitalizing on its proximity to the Brookland – CUA Metro station; housing by providing more neighborhood housing; environmental protection through its stormwater runoff plan; parks, recreation, and open space by offering extensive green space; and urban design by providing a harmonious and pedestrian-friendly design. The Commission also finds that the proposed PUD is also consistent with policies from the Upper Northeast Area Element.
8. The Commission agrees with the conclusions of the Applicant's traffic and parking expert and DDOT that the proposed project will have negligible adverse traffic or parking impacts on the surrounding community. The Commission believes that the proposed traffic signal adjustments at the identified intersections and that signs and pavement markings on Franklin Street are important in reducing any traffic impacts.
9. The impact of the project on the surrounding area and the operation of city services and facilities is acceptable given the quality of the public benefits in the project.
10. Judging, balancing, and reconciling the project amenities and public benefits offered, the degree of development incentives requested and the potential adverse affects of the project, the Commission concludes that the Application warrants approval.
11. In accordance with D.C. Official Code §1-309.10(d), the Commission must give great weight to the issues and concerns of the affected ANC raised in its written recommendation. ANC 5C stated in its resolution that it opposed the application because the community and the Applicant could not agree on the components or value of the amenities package and because the residents had ongoing concerns about construction and commuter traffic on the streets proposed as entrances/exits to the project. In particular, the Applicant and the ANC 5C09 Commissioner could not agree on the amount of money to be allocated to each of the particular amenities and whether certain amenities held value for the community. While the Commission acknowledges the ANC's concerns, it concludes that the Applicant's benefits and amenities are comprehensive, complete and in keeping with the requirements of the Zoning Regulations and § 2403.9. Further, the Commission concludes that it credits the Applicant's traffic expert and DDOT that the PUD will not create adverse impacts on neighboring property or the neighborhood due to an increase in vehicular traffic.
12. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code § 6-623.04) to give great weight to OP recommendations. For the reasons stated above, the Commission

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agrees with the OP recommendation for approval and accords those recommendations the great weight to which they are entitled.

13. Approval of the application will promote the orderly development of the Property 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.
14. Notice of the public hearing was provided in accordance with the Zoning Regulations.
15. The proposed PUD meets the minimum area requirements of 11 DCMR § 2401.1.
16. The Applicant is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

### DECISION

In consideration of the Finding of Fact and Conclusions of Law contained in this order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the application for consolidated review of a planned unit development and related Zoning Map amendment application from the R-5-A Zone District to the R-5-B Zone District for a portion of Lot 808 in Square 3648 as shown on Exhibit 1. The approval of this PUD and related Zoning Map amendment is subject to the following guidelines, conditions, and standards of this Order.

Except where otherwise noted, compliance with the following conditions shall be the sole responsibility of the Owner, although the Owner may authorize others to perform on its behalf. For the purposes of these conditions, the term "Owner" shall mean the person or entity then holding title to the subject property. If there is more than one owner, the obligations under this order shall be joint and several. If a person or entity no longer holds title to the Subject Property, that party shall have no further obligations under this Order, however that party remains liable for any violation of these conditions that occurred while an Owner. Reference to the Applicant shall refer to EYA, LLC and any successor in interest.

1. The PUD project shall be developed in accordance with the plans and materials submitted by the Applicant marked as Exhibits 16, 17, 25, and 44 of the record, as modified by the guidelines, conditions, and standards of this Order.
2. Twenty-eight of the residential units shall be reserved as affordable housing dwellings. Fourteen of the affordable units will be available to purchasers with annual household incomes at or below 50% of the Washington Metropolitan Area Median Income and 14 of the units will be available to purchasers at or below 80% of the Washington Metropolitan Area Median Income. The 28 affordable housing units offered will be the 14-foot-wide units and will be dispersed evenly throughout the project in accordance with the plan submitted by the Applicant.

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3. Upon completion of one half of the townhomes, the Owner shall make \$315,000 in improvements to the District of Columbia Department of Parks and Recreation's "Triangle Park" bounded by 4<sup>th</sup> Street, Lincoln Road, and Franklin Street N.E. The improvements shall include, but not be limited to planting trees; installing sidewalks, lights, and outdoor furniture; constructing a cast iron fence around the perimeter; and creating stone dust paths through the park in accordance with the plan approved by the Department of Parks and Recreation. The Owner shall maintain the park for three years after completion of these improvements
4. Prior to the issuance of a Certificate of Occupancy for this PUD project, the Owner shall improve the existing infrastructure for 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, and Hamlin Streets in accordance with the plans contained in Exhibit 16 of the record.
5. On or before the settlement date of the first home, the Owner shall provide \$60,000 to a fund that will grant college scholarships to deserving District of Columbia Public School high school seniors residing within ANC 5C. The funds shall be deposited with the Community Foundation for the National Capital Region, which will administer the fund.
6. Prior to the release of the affordable homes for sale, the Owner shall organize and sponsor informational sessions to meet the various needs of potential purchasers as described in Exhibit 50 of the record.
7. The Owner shall provide each new homeowner with a Transit Welcome Package to educate new residents on the options available for transit usage. This package shall include a \$20.00 Metro SmartCard, Metro map, bus schedules and routes, and information concerning retailers and service providers within walking distance of the site.
8. The Owner shall apply for a ZipCar location on the site and pay the application fee for each homeowner to become a ZipCar member.
9. Prior to the issuance of a Certificate of Occupancy for this PUD project, the Owner shall install a SmartBike kiosk at the site's property line at Hamlin Street N.E.
10. The Owner shall make a \$55,000 lump sum contribution to the Ward 5 Business Council to fund grants and training to small businesses within ANC 5C on or before the time of the settlement of the first home.
11. Prior to the issuance of a Certificate of Occupancy for this PUD project, the Owner will provide \$15,000 for equipment and services for the benefit of Edgewood Civic Association. The contribution will be conditioned upon the use of the money for a laptop and printer and that any remaining may only be used to pay legal fees for establishing the Association as a non-profit organization recognized as exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code.

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12. The Project shall include the low-impact development features specified in Exhibit 16 of the record, including the following features:
  - Four underground storm water management facilities, which will have integral sediment traps, will provide water filtration, and will reduce peak flows;
  - A rain garden to treat the runoff from the roof and paved parking areas of some buildings;
  - Bioswales along the roadways to filter the runoff;
  - Existing water mains will be looped and interconnected throughout the site to improve the water system;
  - Separate storm water and sewer systems;
  - New storm drains on Hamlin Street, Jackson Street, and 5th Street to accommodate runoff from the project;
  - Compliance with the Energy Star Program for new homes; and
  - Compliance with LEED – ND standards of the U.S. Green Building Council.
13. Prior to the issuance of a building permit for the PUD project, the Applicant shall enter into a First Source Employment Agreement with the Department of Employment Services. In addition, the Applicant shall provide information session for relevant Ward 5 businesses about the type of subcontractors needed for the project and the qualifications for completing the work.
14. The Applicant shall abide by the Construction Management Plan in Exhibit 56 of the record.
15. The Applicant shall have flexibility with the design of the PUD in the following areas:
  - To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, and toilet rooms, provided that the variations do not change the exterior configuration of the structures;
  - 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 without reducing the quality of the materials;
  - To vary the exact location of the affordable units, as show on the plans, provided they are so located in the same townhome building units or in the townhome building across from a common open space as shown on the plans; and
  - To make minor refinements to exterior details and dimensions, including balcony enclosures, belt courses, sills, bases, cornices, railings and trim, or any other changes to comply with Construction Codes or that are otherwise necessary to obtain a final building permit.

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16. The PUD 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, the filing of the building permit application will vest the Zoning Commission Order. Construction of the PUD project must start within three (3) years of the date of the effective date of this order.
17. No building permit shall be issued for the PUD until a covenant has been recorded in the land records of the District of Columbia, between the Owner and the District of Columbia, that is satisfactory to the Office of the Attorney General and the Zoning Division of the Department of Consumer and Regulatory Affairs (“DCRA”). Such covenant shall bind the Owner and all successors in title to constrict and use the Property in accordance with this order, or amendment thereof by the Zoning Commission. The Applicant shall file a certified copy of the covenant with the records of the Office of Zoning.
18. The PUD related map amendment shall be effective upon the recordation of the covenant discussed in Condition No. 20, pursuant to 11 DCMR § 3028.9.
19. The Applicant and Owner are required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 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 denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this order.

For these reasons above, the Commission concludes that the applicant has met the burden, it is thereby ORDERED that the application is GRANTED.

On September 29, 2008, upon the motion of Chairman Hood, as seconded by Commissioner Turnbull, the Zoning Commission **APPROVED** the Application by a vote of **4-1-0** (Anthony J. Hood, Curtis L. Etherly, Jr., Michael G. Turnbull to approve; Gregory N. Jeffries to approve by absentee ballot; Peter G. May to oppose).

On November 10, 2008, upon the motion of Chairman Hood, as seconded by Commissioner Turnbull, the Order was **ADOPTED** by the Zoning Commission at its public meeting by a vote of 3-1-1 (Anthony J. Hood, Michael G. Turnbull to adopt; Gregory N. Jeffries to adopt by absentee ballot; Peter G. May to oppose; Third Mayoral Appointee seat vacant, not voting).

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In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the *D.C. Register* on May 8, 2009.

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**ANTHONY HOOD**  
**Chairman**  
**Zoning Commission**

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**RICHARD S. NERO, JR.**  
**Acting Director**  
**Office of Zoning**

Washington, D.C., May 18, 2007

Plat for Building Permit of SQUARE 3648 LOTS 807 & 808

Scale: 1 Inch = 100 feet Recorded In Book A&T Page 3796-C

Receipt No. 07898

Furnished to: PWSP

*[Signature]*  
Surveyor, D.C.

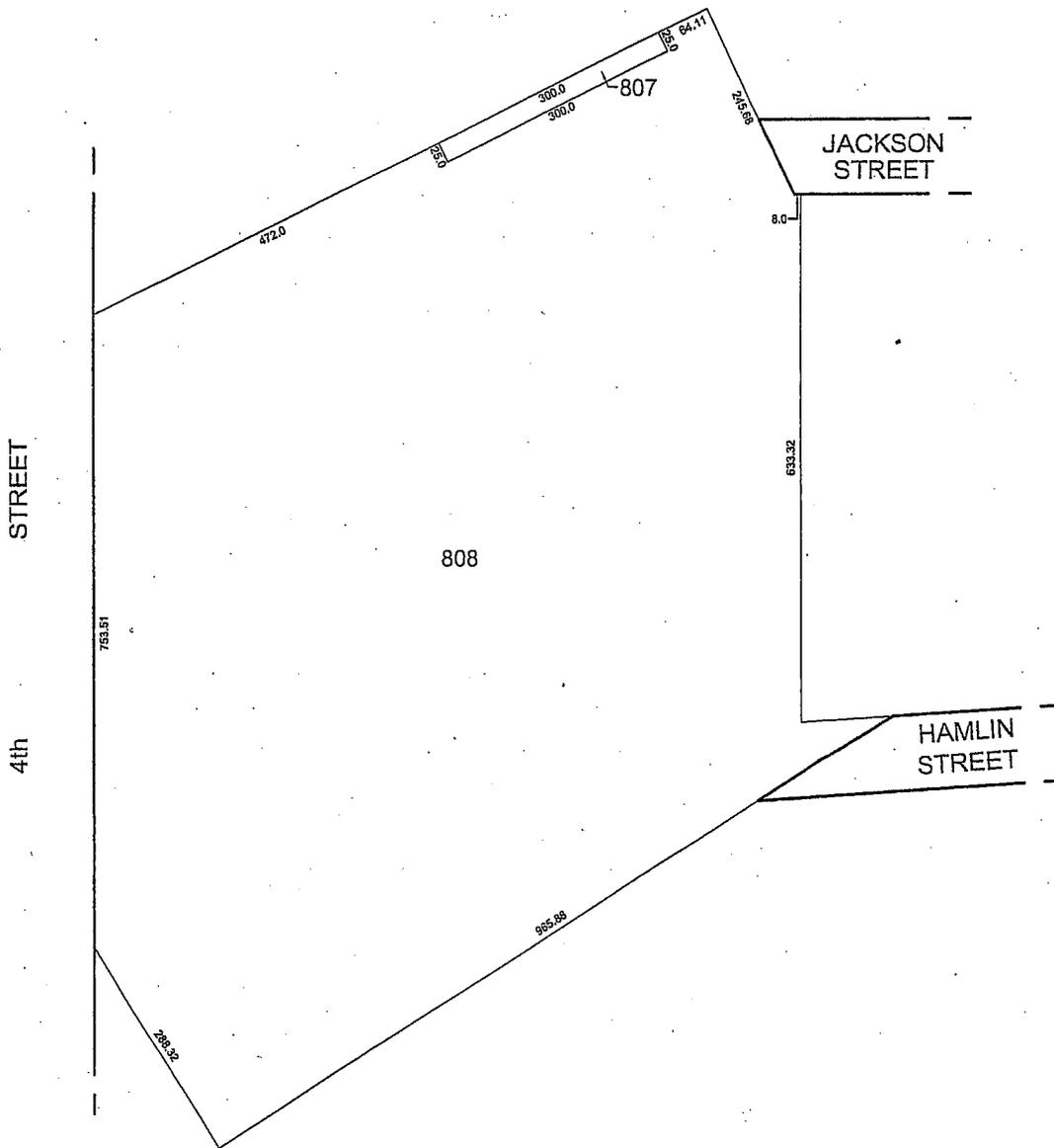
By: L.M.A. *[Signature]*

I hereby certify that all existing improvements shown hereon, are completely dimensioned, and are correctly stated; that all proposed buildings or construction, or parts thereof, including covered porches, are correctly dimensioned and platted and agree with plans accompanying the application; that the foundation plans as shown hereon is drawn, and dimensioned accurately to the same scale as the property lines shown on this plat; that by reason of the proposed improvements to be erected as shown hereon the area of any adjoining lot or premises is not decreased to an area less than is required by the Zoning Regulations for light 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 shown and dimensioned hereon. It is further agreed that the creation 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 centerline 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.



*Z. C. Case 07-27*

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**  
**ZONING COMMISSION ORDER NO. 08-26**  
**Z.C. Case No. 08-26**

**Consolidated Planned Unit Development and Zoning Map Amendment – Georgia and  
Lamont Limited Partnership - Square 2892, Lots 98, 903, 904, 908 and 911  
April 27, 2009**

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held a public hearing on March 12, 2009, to consider applications from Georgia and Lamont Limited Partnership (the "Applicant"), owner of Lots 98, 903, 904, 908, and 911 in Square 2892, for the consolidated review and approval of a planned unit development ("PUD") and a zoning map amendment to rezone the subject property from the R-4 and GA/C-2-A Zone Districts to the GA/C-2-B Zone District. 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 hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby approves the applications.

**FINDINGS OF FACT**

**The Application, Parties, and Hearing**

1. On October 3, 2008, Georgia and Lamont Limited Partnership, a partnership between the Neighborhood Development Company and Mi Casa, Inc. (collectively referred to herein as the "Applicant"), filed an application with the Commission for the consolidated review and approval of a PUD and a related zoning map amendment to rezone Lots 98, 903, 904, 908, and 911 in Square 2892 (the "Subject Property") from the R-4 and GA/C-2-A Zone Districts to the GA/C-2-B Zone District.
2. The Subject Property, which includes a portion of a public alley to be closed, has a combined land area of approximately 19,191 square feet and is located at the southwest corner of Georgia Avenue and Lamont Street, N.W. Approximately 8,402 square feet of the Subject Property is located in the R-4 Zone District, and the remaining 10,789 square feet is located in the GA/C-2-A Zone District. Square 2892 is located in the northwest quadrant of the District and is bounded by Lamont Street to the north, Georgia Avenue to the east, Kenyon Street to the south, and Sherman Avenue to the west.
3. The site is within walking distance of the Georgia Avenue Metrorail Station and is currently improved with two asphalt parking lots and a number of low-rise commercial buildings which the Applicant proposes to raze in connection with redevelopment of the Subject Property.
4. The Applicant is seeking approval to develop a multiple-family dwelling building with ground-floor retail on the Subject Property in accordance with the C-2-B PUD zoning requirements. The project will contain approximately 87,055 square feet of gross floor

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area, with an overall density of 4.54 FAR and a maximum building height of approximately 80 feet. Approximately 10,955 square feet of gross floor area will be devoted to retail uses and approximately 76,100 square feet of gross floor area will be devoted to residential uses. The project will include a total of 69 residential units, at least half of which will be affordable to households earning 60–80% of the Washington Metropolitan Area Median Income ("AMI"). The project also includes 29 off-street parking spaces located in a below-grade garage.

5. At its public meeting held on November 10, 2008, the Commission voted to schedule a public hearing on the application.
6. On December 22, 2008, the Applicant submitted a Prehearing Statement, along with revised Architectural Plans and Elevations (the "Plans"). (Exhibits 16 and 17.) The Prehearing Statement included additional information regarding access and truck circulation maneuvers; a list of the revisions made to the Plans; a request for flexibility regarding the design of the loading berth; and additional materials required pursuant to § 3013 of the Zoning Regulations.
7. After proper notice, the Commission held a public hearing on the application on March 12, 2009.
8. There were no applications for party status. The parties to the case were the Applicant and Advisory Neighborhood Commission ("ANC") 1A (the ANC within which the Subject Property is located).
9. Five principal witnesses testified on behalf of the Applicant at the public hearing, including Adrian Washington, on behalf of the Neighborhood Development Company, as an expert in urban real estate development; Logan Schutz and Mel Thompson, on behalf of Grimm and Parker Architects, as experts in architecture; Nicole White, on behalf of Symmetra Design, as an expert in transportation planning and analysis; and Steven E. Sher, Director of Zoning and Land Use Services, Holland & Knight LLP, as an expert in land use and zoning. Based upon their professional experience, as evidenced by the resumes submitted for the record, Mr. Washington, Mr. Schutz, Mr. Thompson, Ms. White and Mr. Sher were qualified by the Commission as experts in their respective fields.
10. The Office of Planning ("OP") testified in support of the project. The District Department of Transportation ("DDOT") testified regarding DDOT's report and review of the project, as discussed in more detail below.
11. ANC 1A submitted a resolution in support of the application. (Exhibit 14.) ANC 1A's resolution of support indicated that at a duly noticed public meeting on October 8, 2008, at which notice was properly given and a quorum was present, ANC 1A voted

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- unanimously to recommend that the Commission approve the Applicant's proposed PUD and zoning map amendment. ANC 1A indicated that it strongly supports the project, particularly since the development will assist in the revitalization of a long-neglected area and will also provide affordable housing. ANC 1A also indicated that the proposed residential and retail uses on the site constitute significant amenities for the neighborhood, and the District as a whole.
12. Councilmember Jim Graham also submitted a letter in support of the project. (Exhibit 25). Councilmember Graham indicated that he strongly supports the project and that he is especially pleased with the Applicant's commitment to designate at least half of the residential units as affordable. Councilmember Graham concluded his letter by recommending that the Commission approve the applications.
  13. Ms. Kay Gunn, an individual residing at 746 Lamont Street, testified in support of the project and indicated that she commends the Applicant for bringing development and change to Georgia Avenue.
  14. On April 15, 2009, the Applicant submitted a post-hearing submission. (Exhibits 41-44.) The post-hearing submission included a proposed order and supplemental Plan sheets which addressed the architectural issues raised during the public hearing, including: (1) additional bike racks in the building garage; (2) bike racks on Lamont Street and Georgia Avenue; (3) a revised trellis design; (4) an updated roof plan showing screening around the mechanical units; and (5) a more developed green roof planting plan.
  15. At its public meeting held on March 12, 2009, the Commission took proposed action to approve the application and plans that were submitted to the record.
  16. The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") on March 16, 2009 under the terms of the District of Columbia Home Rule Act. (Exhibit 38.) NCPC, by action dated April 2, 2009, found that the proposed PUD would not affect the federal establishment or other federal interests in the National Capital, nor be inconsistent with the Comprehensive Plan for the National Capital. (Exhibit 40).
  17. The Commission took final action to approve the application on April 27, 2009.

### **The PUD Project**

18. The Subject Property is situated in Ward 1 and consists of Lots 98, 903, 904, 908, and 911 in Square 2892. The Subject Property has a combined land area of approximately 19,191 square feet, with approximately 8,402 square feet located in the R-4 District and approximately 10,789 square feet is located in the GA/C-2-A District.

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19. The Applicant proposes to develop a multiple-family dwelling building with ground-floor retail on the Subject Property. The project will contain approximately 87,055 square feet of gross floor area, with an overall density of 4.54 FAR and a maximum building height of approximately 80 feet. The project will include a total of 69 residential units, at least half of which will be affordable to households earning 60–80% of the AMI. The project also includes 29 off-street parking spaces located in a below-grade garage.

#### **Development under Existing Zoning**

20. The Subject Property is currently zoned R-4 and GA/C-2-A. The Applicant is seeking to rezone the Subject Property to GA/C-2-B in connection with this application.
21. The R-4 zoning classification is designed to include areas developed with row dwellings and dwellings for two or more families. 11 DCMR § 330.1. R-4 Zone Districts permit residential uses, child/elderly development centers, hospitals, churches, public and charter schools, and other similar uses as a matter-of-right. (11 DCMR § 330.5.)
22. The maximum permitted matter-of-right height in the R-4 Zone District is 40 feet with a maximum of three stories. (11 DCMR § 400.1.) The R-4 Zone District requires a minimum lot area ranging from 1,800 square feet to 9,000 square feet (depending on the use), and a minimum lot width ranging from 18 feet to 120 feet (depending upon the use). 11 DCMR § 401.3. There is no prescribed maximum floor area ratio ("FAR") in the R-4 District. (11 DCMR § 402.4.)
23. The maximum percentage of lot occupancy in the R-4 Zone District ranges from 40% to 60%, depending upon the use. (11 DCMR § 403.2.) Moreover, pursuant to § 404.1 of the Zoning Regulations, a rear yard with a minimum depth of 20 feet must be provided for each structure in the R-4 Zone District. Side yards generally are not required in the R-4 Zone District. However, if a side yard is provided, it must be at least three inches wide per foot of building height, but not less than eight feet. (11 DCMR § 405.6.)
24. Where an open court is provided in the R-4 Zone District for anything other than a one-family dwelling, the court must have a minimum width of four inches per foot of height of court, but not less than ten feet. (11 DCMR § 406.1.) Where a closed court is provided in the R-4 Zone District for anything other than a one-family dwelling, the court must have a minimum width of four inches per foot of height of court, but not less than 15 feet, and an area of twice the square of the required width of court dimension based on the height of court, but not less than 350 square feet.
25. An apartment house or multiple dwelling in the R-4 Zone District is required to provide one parking space for each three dwelling units. (11 DCMR § 2101.1.) The loading requirement for an apartment house or multiple dwelling with 50 or more dwelling units

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- in all zoning districts is one loading berth at 55 feet deep, one loading platform at 200 square feet, and one service/delivery loading space at 20 feet deep. (11 DCMR § 2201.1.)
26. Development of the Subject Property under the PUD guidelines for the R-4 Zone District would allow a maximum building height of 60 feet, and a maximum density of 1.0 FAR, all of which would be devoted to residential use. (11 DCMR §§ 2405.1 and 2405.2.)
  27. The C-2 zoning classification is divided into C-2-A, C-2-B, and C-2-C Zone Districts. The C-2-A Zone District is designed to provide facilities for shopping and business needs, housing, and mixed uses for large segments of the District outside of the central core. (11 DCMR § 720.2.)
  28. The maximum permitted matter-of-right height in the C-2-A Zone District is 50 feet with no limit on the number of stories. (11 DCMR § 770.1.) The maximum density in the C-2-A Zone District is 2.5 FAR, all of which may be devoted to residential use, but not more than 1.5 of which may be devoted to non-residential uses. (11 DCMR § 771.2.)
  29. In the C-2-A Zone District, the maximum percentage of lot occupancy for a building or portion of building devoted to residential use is 60%. (11 DCMR § 772.1.) Moreover, pursuant to § 774.1 of the Zoning Regulations, a rear yard with a minimum depth of 15 feet must be provided for each structure in the C-2-A Zone District. Side yards generally are not required in the C-2-A Zone District. However, if a side yard is provided, it must be at least two inches wide per foot of building height, but not less than six feet. (11 DCMR § 775.5.)
  30. Where a court is provided for a building or portion of building devoted to residential uses, at any elevation in the court, the width of court must be a minimum of four inches per foot of height, measured from the lowest level of the court to that elevation, but not less than 15 feet. (11 DCMR § 776.3.) In the case of a closed court for a building or portion of a building devoted to residential uses, the minimum area must be at least twice the square of the width of court based upon the height of court, but not less than 350 square feet. (11 DCMR § 776.4.)
  31. An apartment house or multiple dwelling in the C-2-A Zone District is required to provide one parking space for each two dwelling units. (11 DCMR § 2101.1.) The loading requirement for an apartment house or multiple dwelling with 50 or more dwelling units in all zoning districts is one loading berth at 55 feet deep, one loading platform at 200 square feet, and one service/delivery loading space at 20 feet deep. (11 DCMR § 2201.1.)
  32. Development of the Subject Property under the PUD guidelines for the C-2-A Zone District would allow a maximum building height of 65 feet, and a maximum density of

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- 3.0 FAR, all of which may be devoted to residential use, but not more than 2.0 of which may be devoted to non-residential uses. (11 DCMR §§ 2405.1 and 2405.2.)
33. The Georgia Avenue Commercial (“GA”) Overlay District applies to certain properties zoned C-2-A and/or C-3-A along both sides of Georgia Avenue. (11 DCMR § 1327.1.)
34. The GA Overlay includes a number of design requirements in § 1328 of the Zoning Regulations, including the following:
- Buildings must be designed and built so that not less than 75% of the street wall at the street level is constructed to the property line abutting the street right-of-way;
  - Buildings on corner lots must be constructed to all property lines abutting public streets;
  - In the GA/C-2-A Zone District, 70% lot occupancy is permitted for mixed use buildings that include residential use;
  - On-grade parking structures with frontage on Georgia Avenue, N.W. must provide not less than 65% of the ground level frontage as commercial space;
  - Each building on a lot that fronts on Georgia Avenue, N.W. must devote not less than 50% of the surface area of the street wall at the ground level to entrances to commercial uses or to the building’s main lobby, and to display windows having clear or clear/low emissivity glass. Decorative or architectural accents do not count toward the 50% requirement;
  - Security grilles over windows or doors shall have no less than 70% transparency;
  - Each commercial use with frontage on Georgia Avenue, N.W. must have an individual public entrance directly accessible from the public sidewalk.
  - Buildings must be designed so as not to preclude an entrance every 40 feet on average for the linear frontage of the building, excluding vehicular entrances, but including entrances to ground floor uses and the main lobby;
  - The ground floor level of each building or building addition must have a uniform minimum clear floor-to-ceiling height of 14 feet;
  - Buildings that have a minimum clear floor-to-ceiling height of 14 feet on the ground floor level are permitted an additional five feet of building height over that permitted as a matter-of-right in the underlying zone; and
  - Off-street surface parking is permitted in rear yards only.
35. The GA Overlay also prohibits certain uses, such as drive-through and automobile – related uses (11 DCMR § 1329), includes special exception provisions for certain uses (11 DCMR § 1330), and includes PUD provisions 11 DCMR § 1331).
36. The Commission finds that the proposed PUD is meets the applicable requirements of the GA Overlay as set forth in the report and testimony of the Applicant's land use and zoning expert and the report of the Office of Planning.

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### Development under Proposed GA/C-2-B Requirements

37. The Applicant proposes to rezone the Subject Property to GA/C-2-B in connection with this application. The C-2-B Zone District is designed to serve commercial and residential functions similar to the C-2-A Zone District, but with high-density residential and mixed-uses. 11 DCMR § 720.6. The C-2-B Zone Districts are compact and located on arterial streets, in uptown centers, and at rapid transit stops. (11 DCMR § 720.7.) Buildings may be entirely residential or a mixture of residential and commercial uses in the C-2-B Zone District. (11 DCMR § 720.8.)
38. The C-2-B Zone District includes the following development requirements:
- A maximum matter-of-right height of 65 feet with no limit on the number of stories (11 DCMR § 770.1), and a maximum height of 90 feet under the PUD requirements (11 DCMR § 2405.1);
  - A maximum matter-of-right density of 3.5 FAR, all of which may be devoted to residential use, but not more than 1.5 of which may be devoted to non-residential uses (11 DCMR § 771.2), and a maximum density of 6.0 FAR, all of which may be devoted to residential use, but not more than 2.0 of which may be devoted to non-residential uses under the PUD requirements (11 DCMR § 2405.2);
  - A maximum lot occupancy of 80% (11 DCMR § 772.1);
  - A minimum rear yard depth of 15 feet (11 DCMR § 774.1) and, if provided, a side yard at least two inches wide per foot of building height, but not less than six feet (11 DCMR § 775.5);
  - If provided for a residential use, a minimum court width of four inches per foot of height, but not less than fifteen feet (11 DCMR § 776.3) and in the case of a closed court, a minimum area of at least twice the square of the width of court, but not less than 350 square feet (11 DCMR § 776.4);
  - For a retail establishment in excess of 3,000 square feet, one off-street parking space for each additional 350 square feet of gross floor area and cellar floor area (11 DCMR § 2101.1) and for an apartment house or multiple dwelling with 50 or more units, one off-street parking space for each three dwelling units (11 DCMR § 2101.1); and
  - For a retail establishment with 5,000 to 20,000 square feet of gross floor area, one loading berth at 30 feet deep and one loading platform at 100 square feet (no service/delivery loading space is required) (11 DCMR § 2201.1) and for an apartment house or multiple dwelling with 50 or more dwelling units, one loading berth at 55 feet

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deep, one loading platform at 200 square feet, and one service/delivery loading space at 20 feet deep (11 DCMR § 2201.1).

### **Development Incentives and Flexibility**

39. The Applicant requested the following areas of flexibility from the Zoning Regulations:

- a. *Flexibility from Parking Requirements (§ 2101.1).* Pursuant to § 2101.1 of the Zoning Regulations, the project is required to provide a total of 33 off-street parking spaces. However, the Applicant is seeking flexibility to provide 29 instead of 33 off-street parking spaces. The Applicant cannot provide all of the required parking spaces given the size of the building footprint. The parking garage has been designed to encompass the full area of the building footprint – some of which must be used to accommodate necessary and required functions such as the garage access ramp, egress stairs, building systems, and the elevator lobby. Given the geometry of the standard and accessible parking spaces, as well as the anticipated vehicle movements, no more than 29 parking spaces could be achieved without extraordinary and impractical structural and construction measures. Moreover, as indicated in the Traffic Impact Study prepared by Symmetra Design, the Applicant's traffic consultant, the amount of proposed parking is sufficient to meet the anticipated parking demand. The site is located on Georgia Avenue, which is served by a number of bus routes. Moreover, the Subject Property is within walking distance of the Georgia Avenue/Petworth Metrorail Station. DDOT indicated in its memorandum dated March 6, 2009, that it credits the Applicant with providing a reduced number of parking spaces. (Exhibit 29.) Thus, the Commission finds that reducing the number of parking spaces will not have an adverse impact on the project or the area.
- b. *Flexibility from Loading Requirements (§§ 2201.1 and 2203.3).* The Applicant requests relief from §§ 2201.1 and 2203.3 of the loading requirements. Pursuant to § 2201.1 of the Zoning Regulations, the Applicant is required to provide the following: one loading berth at 30 feet deep; one loading berth at 55 feet deep; one loading platform at 100 square feet; one loading platform at 200 square feet; and one service/delivery space at 20 feet deep. However, due to the anticipated needs of the residents and retail uses, the Applicant is seeking flexibility to provide one loading berth at 30 feet deep; one loading platform at 100 square feet; and one service/delivery space at 20 feet deep. The Applicant cannot provide a 55 foot loading berth and an additional 200 square foot loading platform because doing so would impact the location of the building core, trash collection and storage area, and other uses proposed on the ground-floor. The Commission finds that this requested flexibility is in accordance with the Comprehensive Plan's recommendations to consolidate loading areas within new developments and minimizing curb cuts on streets to the greatest extent possible, and to provide

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shared loading spaces in mixed-use buildings. Given the nature and size of the residential units, it is unlikely that the building will be served by 55 foot tractor-trailer trucks. In addition, the loading areas are likely to be used by the residents primarily when they move in or out of the building, and any subsequent use by residents is generally infrequent and can be restricted to times which pose the least potential conflicts with retail users.

Pursuant to § 2203.3 of the Zoning Regulations, all loading berths are required to be designed such that no vehicle or part thereof projects over any lot line or building line. As shown on the Plans, in order to provide better access to the loading facility, the Applicant has redesigned the loading berth such that it no longer runs north to south, but is now at a slight angle to the service drive to the rear. This layout is improved from an operational and transportation management perspective since it allows for easier maneuvering into the loading berth and provides adequate spacing for circulation during loading operations. In addition, the loading berth has been designed such that vehicles will not project over any lot line. However, when a 30 foot truck is utilizing the berth, a small portion of the truck will project beyond the building line and into the easement area, the underlying fee of which will remain owned by the Applicant. The Applicant cannot increase the depth of the loading berth because doing so would require decreasing the size of the loading dock area, which has been sized to provide adequate loading area for the building. The Applicant has developed this layout in consultation with DDOT, and DDOT has submitted a memorandum approving of the layout of the loading berth. (Exhibit 23.) The Applicant also submitted a Transportation Demand Management and Loading Management Plan that includes provisions regarding delivery vehicle access, delivery vehicle size limits, delivery hours, service/delivery facility management, and loading berth scheduling/management provisions. (Exhibit 31.) DDOT submitted a supplemental memorandum indicating that the Applicant's plan includes measures to ensure the loading and delivery operations perform well. (Exhibit 39.) The Commission finds that based upon the above, the proposed number and layout of the loading facilities will not have an adverse impact on the project or the neighborhood.

- c. *Flexibility from Roof Structure Requirements.* The Applicant requests flexibility from the roof structure requirements of the Zoning Regulations because there will be multiple roof structures (§§ 411.3 and 770.6(a)), and the roof structure containing the elevator tower cannot be setback from all exterior walls a distance equal its height above the roof (§§ 411.2 and 770.6(b)). The Commission finds that each roof structure is a necessary feature and the structures have to be separated due to the building code requirement to provide separate means of egress for buildings, as well as the desire to break up massing on the roof. Moreover, each roof structure meets the setback requirement from all street

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frontages and flexibility is requested only from the wall of the court in the center of the building. The location and number of mechanical units on the roof is driven by the layout and design of the residential units within the building. In addition, the Applicant is providing the greatest setbacks possible given the size of the roofs and the internal configuration of the proposed buildings. The Commission further finds that the requested roof structure design will not adversely impact the light and air of adjacent buildings since each element has been located to minimize its visibility. Therefore, the intent and purposes of the Zoning Regulations will not be materially impaired and the light and air of adjacent buildings will not be adversely affected.

- d. *Additional Areas of Flexibility.* The Applicant also requests flexibility in the following areas:
- i. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not change the exterior configuration of the building.
  - ii. To make refinements to the garage configuration, including layout, number of parking spaces, and/or other elements, provided the number of zoning-compliant parking spaces is not reduced below 29 spaces.
  - iii. 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 without reducing the quality of the materials; and to make minor refinements to exterior details and dimensions, including curtainwall mullions and spandrels, window frames, glass types, 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.

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

40. The Commission finds that the following benefits and amenities will be created as a result of the PUD:
- a. *Urban Design, Architecture, Landscaping, and Open Space.* The project will help to implement a number of urban design and architectural best practices, will assist in the further development of Georgia Avenue into a major mixed-use corridor with higher-density residential uses and high-quality community oriented retail uses. Moreover, given the width of the Georgia Avenue right-of-way, taller buildings holding a uniform street wall will create a well-proportioned street section with a better sense of enclosure and place. This new street section in

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combination with the mix of uses and streetscape improvements on the site will support the ultimate revitalization of this portion of Georgia Avenue into another great Washington mixed-use main street.

- b. *First Source Employment Agreement and Local, Small and Disadvantaged Business Enterprises.* The Applicant has entered into a First Source Employment Agreement with the Department of Employment Services. (Exhibit 27.) The Applicant will also enter into a CBE Agreement with the District's Office of Local Business Development and will submit a copy of the fully-executed agreement prior to the issuance of a building permit for the project. Execution and implementation of these agreements will help to expand employment opportunities for residents and local businesses is a priority of the Applicant.
- c. *Housing and Affordable Housing.* The single greatest benefit to the area, and the city as a whole, is the creation of new housing consistent with the goals of the Zoning Regulations, the Comprehensive Plan and the Mayor's housing initiative. The proposed PUD includes 75,905 square feet of residential gross floor area, at least half of which will be designated as affordable housing units for households earning 60–80% of the AMI. This substantially exceeds the amount of affordable housing that would be required under the Inclusionary Zoning requirements set forth in § 2603.1 of the Zoning Regulations.
- d. *Environmental Benefits.* The proposed development will help to ensure the environmental, economic and social sustainability of the residents through the implementation of sustainable design features. The Applicant's goal is to provide high quality affordable housing that will promote a healthy living environment, reduce life cycle costs for long term property management, promote efficient utility costs for residents and create a synergy that will enhance interest in practical green building in the community. Thus, the Applicant is participating in the Green Communities program and the project will include a number of sustainability features, and not less than 58 points, as indicated in the Green Communities Criteria matrix filed by the Applicant and included as Exhibit H of the Applicant's application statement marked as Exhibit 4 of the record.

#### **Compliance with the Comprehensive Plan for the National Capital: District Elements**

41. The Subject Property is designated in the Mixed-Use, Medium-Density Residential and Moderate-Density Commercial land use category on the District of Columbia Comprehensive Plan Future Land Use Map. The Medium-Density Residential designation is used to define neighborhoods or areas where mid-rise (4-7 stories) apartment buildings are the predominant use. Pockets of low- and moderate-density housing may exist within these areas. The Medium-Density Residential designation also may apply to taller residential buildings surrounded by large areas of permanent open space. The R-5-B and R-5-C Zone Districts are generally consistent with the Medium-

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Density designation, although other zones may apply in some locations. (§ 2.4.2, ¶ 224.8)

42. The Moderate-Density Commercial designation is used to define shopping and service areas that are somewhat more intense in scale and character than the low-density commercial areas. Retail, office, and service businesses are the predominant uses. Areas with this designation range from small business districts that draw primarily from the surrounding neighborhoods to larger business districts uses that draw from a broader market area. Buildings are larger and/or taller than those in low density commercial areas but generally do not exceed five stories in height. The corresponding Zone districts are generally C-2-A, C-2-B, and C-3-A, although other districts may apply. (¶ 224.12)
43. The Commission finds that the Applicant's proposal to rezone the property from the R-4 and GA/C-2-A Zone Districts to the GA/C-2-B Zone District to construct a mixed-use development on the Subject Property is not inconsistent with the Comprehensive Plan designation of the Subject Property. The Applicant proposes to construct 3.96 FAR of residential use on the Subject Property, which is consistent with the amount of residential density permitted in moderate density zones. Moreover, the proposed C-2-B zoning classification is specifically identified as a moderate-density commercial zone district. In addition, one of the primary purposes of the C-2-B Zone District is to provide commercial and residential functions within a single building, which is also consistent with the stated principle of the mixed-use designation of the Subject Property. The Subject Property is also located along a transportation corridor and is in close proximity to a Metrorail station. Given the District's stated policy of channeling new residential and retail growth into areas near transit stations and along bus routes, the proposed project and map amendment are not inconsistent with the Comprehensive Plan's designation of the Subject Property.
44. A portion of the Subject Property is designated in a Neighborhood Conservation Area on the District of Columbia Comprehensive Plan Generalized Policy Map, and the remaining portion is designated in a Main Street Mixed Use Corridor on the map. Neighborhood Conservation Areas are anticipated to include some new development and reuse opportunities. The guiding philosophy in these areas is to preserve and enhance the character of these neighborhoods, and that new developments should be compatible with the existing scale and architectural character of the area.
45. Main Street Mixed Use Corridors are traditional commercial business corridors with a concentration of older storefronts along the street. The service area for Main Streets can vary from one neighborhood (e.g., 14<sup>th</sup> Street Heights or Barracks Row) to multiple neighborhoods (e.g., Dupont Circle, H Street, or Adams Morgan). Their common feature is that they have a pedestrian-oriented environment with traditional storefronts. Many have upper story residential or office uses. Conservation and enhancement of these corridors is desired to foster economic and housing opportunities and serve neighborhood

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needs. Any development or redevelopment that occurs should support transit use and enhance the pedestrian environment.

46. The Commission finds that the proposed PUD is consistent with each of these designations. With respect to the Neighborhood Conservation Area policies, the project presents a new development opportunity that will help to enhance, and have an overall positive impact on, the surrounding area by virtue of the proposed retail uses, additional residents, and the project's exceptional architectural design. Moreover, consistent with the purpose of the Main Street Mixed Use Corridors, the project includes both residential and retail uses, which will help to further economic and housing opportunities and serve neighborhood needs.
47. The Commission finds that the proposed PUD is also consistent with many guiding principles in the Comprehensive Plan for managing growth and change, creating successful neighborhoods, and building green and healthy communities, as follows:
  - a. *Managing Growth and Change.* In order to manage growth and change in the District, the Comprehensive Plan encourages, among other factors, the growth of both residential and non-residential uses, particularly since non-residential growth benefits residents by creating jobs and opportunities for less affluent households to increase their income. (§ 2.3, ¶ 217.4). The Comprehensive Plan also states that redevelopment and infill opportunities along corridors is an important part of reinvigorating and enhancing neighborhoods. (§ 2.3, ¶ 217.6). The Commission finds that the proposed PUD is fully-consistent with each of these goals. Redeveloping the Subject Property into a vibrant mixed-use development will further the revitalization of the neighborhood. Moreover, the proposed ground floor retail uses will increase employment opportunities for District residents.
  - b. *Creating Successful Neighborhoods.* One of the guiding principles for creating successful neighborhoods is the recognition that many neighborhoods include commercial uses that contribute to the neighborhood's character and make communities more livable. (§ 2.3, ¶ 218.2). Another guiding principle for creating successful neighborhoods is getting public input in decisions about land use and development, from development of the Comprehensive Plan to implementation of the plan's elements. (§ 2.3, ¶ 218.8). The Commission finds that the proposed PUD further these goals with the construction of a quality residential project. In addition, the Applicant has worked with, and received the support of, ANC 1A to ensure that the development provides a positive impact to the immediate neighborhood.
  - c. *Building Green and Healthy Communities.* One of the guiding principles for building green and healthy communities is that building construction and renovation should minimize the use of non-renewable resources, promote energy

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and water conservation, and reduce harmful effects on the natural environment. (§ 2.3, ¶ 221.3) As discussed in more detail herein, the Commission finds that the building will include a significant number of sustainable design features.

48. The Commission also finds that the proposed PUD furthers the objectives and policies of many of the Comprehensive Plan's major elements as set forth in the report and testimony of the Applicant's land use and zoning expert and the report of the Office of Planning. The Commission finds that approval of the PUD and map amendment would not be inconsistent with the Comprehensive Plan.

### **Office of Planning Report**

49. By report dated October 31, 2008, the Office of Planning ("OP") indicated that it supports the applications and that the proposed PUD and related zoning map amendment are not inconsistent with the Comprehensive Plan. Therefore, OP recommended that the Commission schedule a public hearing on the application. (Exhibit 13.)
50. By report dated March 2, 2009, OP recommended final approval of the application. (Exhibit 26.) OP indicated that the proposed project is consistent with the PUD evaluation standards, that the application will further a number of the elements and principles of the Comprehensive Plan, and the project is not inconsistent with the Comprehensive Plan's policies and land use maps. OP also indicated that the project includes an appropriate amount of public benefits and amenities. OP also supported the requested zoning flexibility from the parking, roof structure and loading requirements. OP's recommendation that the Commission approve the applications was subject to the following conditions: (1) the Applicant submit floor plans indicating why additional windows could not be installed on the south elevation of the building; (2) floor plans showing the location of the affordable units; (3) species of the proposed street trees to be installed; and (4) submission and approval of a loading management plan by DDOT.
51. The Commission finds that the Applicant has satisfied each of these conditions. The Applicant submitted and presented at the public hearing a PowerPoint presentation (Exhibit 33) and revised Plans (Exhibit 34) which indicate that the Applicant has provided additional windows where possible on the south elevation, the location of the affordable units, and information regarding the species of trees proposed to be planted on the site. The Applicant also submitted a Transportation Demand Management and Loading Management Plan (Exhibit 31), and DDOT submitted a supplemental memorandum (Exhibit 39) indicating that the Applicant's plan includes measures to ensure the loading and delivery operations perform well.

### **DDOT Reports**

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52. DDOT submitted a memorandum dated December 30, 2008, indicating that the Applicant's proposed design for the loading dock facilities meets DDOT recommendations and does not conflict with the public easement providing access to the building. (Exhibit 23.) DDOT indicated that it has no objections to the development as long as the loading dock design is incorporated into the construction documents.
53. DDOT also submitted a memorandum dated March 6, 2009, indicating that DDOT agrees with the Applicant's request to build a mixed-use PUD and to rezone the site. (Exhibit 29.) DDOT indicated that the proposed easement will provide better access to the residential and retail loading berth and underground parking. DDOT also supports the Applicant's request to provide 29 parking spaces. DDOT requested that the Applicant provide a truck tracking diagram and additional information regarding management of the loading dock. DDOT also recommend that the Applicant implement a number of transportation demand management measures. DDOT also made a number of public space recommendations.
54. DDOT's Urban Forestry Administration submitted a memorandum, dated March 10, 2009, recommending that the Applicant be required to preserve four existing Oak trees and three existing Chinese elm trees on the site, and that the Applicant be required to widen the existing street tree boxes from four feet to six feet. (Exhibit 28.)
55. DDOT submitted an additional memorandum dated March 19, 2009, indicating that it reviewed the Applicant's Transportation Demand Management and Loading Management Plan and concluded that the Applicant's plan includes measures to ensure the loading and delivery operations perform well. (Exhibit 39.) DDOT also included specific recommendations regarding how the plan should be enforced. DDOT also recommend that the Applicant provide additional parking for the bicycles within the building, two public bicycle racks on Lamont Street, and three public bike racks on Georgia Avenue. DDOT also reiterated its recommendation that the Commission require the Applicant to locate its utilities on the proposed site and not in public space.
56. Based upon the testimony of the Applicant's expert in transportation analysis and planning, and DDOT's March 19, 2009 memorandum, the Commission finds that the Applicant's Transportation Demand Management and Loading Management Plan includes measures to ensure the loading and delivery operations perform well and sufficient transportation demand measures. The Commission also finds that the Applicant's PowerPoint presentation (Exhibit 33) and revised Plans (Exhibit 34) submitted at the public hearing address the public space concerns raised by DDOT regarding the doorway entrances, ADA ramps, curb cuts, and location of street trees. The Commission further finds that the Plans included with the Applicant's posthearing submission on April 15, 2009, increase the number of bicycle spaces from 10 to 18 within the building, and provide two public bicycle racks on Lamont Street and three public bike racks on Georgia Avenue. However, given the extent of DDOT's

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recommendations regarding enforcement of the Transportation Demand Management and Loading Management Plan and the location of the utility vaults, the Commission declines to adopt such recommendations in this case due to the specific facts of this case. Moreover, a number of the public space concerns raised by DDOT will have to be addressed during the permitting process, which the Commission finds is the most appropriate setting for resolving those issues for this project. The Commission will also not adopt DDOT's recommendation to authorize the Zoning Administrator to revoke the property owner's certificate of occupancy for a commercial use because of a tenant's failure to abide by the loading management plan. The current grounds for C of O revocation stated at 12A DCMR § 110.5 do not include violations of conditions stated in Zoning Commission orders. Such violations are enforceable through fines issued to the owner or through court action to enforce the PUD covenant that is required in this and all other PUD cases. If DDOT believes that these enforcement mechanisms are insufficient, it should request DCRA to modify its regulations.

57. With respect to DDOT's Urban Forestry Administration memorandum, the Commission finds that the Applicant's PowerPoint presentation (Exhibit 33) and revised Plans (Exhibit 34) submitted at the public hearing indicate that there are five existing trees on the site, and that the Applicant proposes to install eight street trees on the site, which is a net increase of three trees. The Commission further finds that the Applicant will work with DDOT during the permitting phase of the project to appropriately size the proposed street tree boxes.

### 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 consider this application as a consolidated 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 and loading, or for yards and 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. Development of the property included in this application carries out the purposes of Chapter 24 of the Zoning Regulations to encourage the development of well-planned

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- 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.
4. The PUD meets the minimum area requirements of § 2401.1 of the Zoning Regulations.
  5. The PUD, as approved by the Commission, complies with the applicable height, bulk and density standards of the Zoning Regulations. The uses for this project are appropriate for the Subject Property. The impact of the project on the surrounding area and the operation of city services is acceptable given the quality of the public benefits in the project.
  6. The Applicant's request for flexibility from the Zoning Regulations is consistent with the Comprehensive Plan. Moreover, the project benefits and amenities are reasonable trade-offs for the requested development flexibility.
  7. Approval of this PUD is appropriate because the proposed development is consistent with the present character of the area, and is not inconsistent with the Comprehensive Plan. In addition, the proposed development will promote the orderly development of the Subject Property in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.
  8. The Commission is required under D.C. Code Ann. § 1-309.10(d) to give great weight to the issues and conditions expressed in the written report of an affected ANC. In this case, ANC 1A voted unanimously to support the project and recommended that the Commission approve the application. (Exhibit 14.) The Commission has given ANC 1A's recommendation great weight in approving this application.
  9. The Commission is required under Section 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code §6-623.04) to give great weight to OP recommendations. For the reasons stated above, the Commission concurs with OP's recommendation for approval and has given the OP recommendation the great weight it is entitled.
  10. The application for a PUD is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

### DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the applications for the consolidated review and approval of a planned unit development and a related zoning map amendment to rezone Lots 98, 903, 904, 908, and 911 in Square 2892 from the R-4 and GA/C-2-A Zone Districts to the GA/C-2-B Zone District subject to the following guidelines, conditions and standards:

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1. The PUD shall be developed substantially in accordance with the plans prepared by Grimm and Parker Architects, dated December 22, 2008, marked as Exhibit 17 in the record (the "Plans"); as modified by the revised architectural plans submitted at the public hearing and marked as Exhibit 34 and the supplemental sheets submitted on April 15, 2009 and marked as Exhibit 44; and as further modified by the guidelines, conditions, and standards herein.
2. The PUD shall have a maximum density of 4.54 FAR and a gross floor area of no more than 87,055 square feet, including approximately 76,100 square feet of gross floor area dedicated to residential uses and approximately 10,955 square feet of gross floor area dedicated to ground floor retail uses. The project shall contain no more than 69 residential units.
3. The maximum height of the building shall be 80 feet.
4. The project shall include a minimum of 29 striped off-street parking spaces in the garage.
5. The project shall include a minimum of 34 affordable units devoted for use by households earning between 60% and 80% of the Area Median Income ("AMI") for the Washington, D.C. metropolitan area in the locations shown on Exhibit 34.
6. The Applicant shall enter into a CBE Agreement with the District's Office of Local Business Development. A fully executed agreement shall be filed with the Office of Zoning and the Office of the Zoning Administrator prior to the issuance of a building permit for the PUD Project.
7. The Applicant shall participate in the Green Communities program and the project shall include a number of sustainability features, and not less than 58 points, as indicated in the Green Communities Criteria matrix filed by the Applicant and included as Exhibit H of the Applicant's application statement marked as Exhibit 4 of the record.
8. The Applicant shall abide by the Transportation Demand Management and Loading Management Plan filed by the Applicant and marked as Exhibit 31 of the record.
9. The Applicant is granted flexibility from the parking (§ 2101.1), loading (§§ 2201.1 and 2203.3), and roof structure number and setback requirements (§§ 411 and 770), consistent with the approved Plans and as discussed in the Development Incentives and Flexibility section of this Order.
10. The Applicant shall also have flexibility with the design of the PUD in the following areas:

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- a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not change the exterior configuration of the building;
  - b. To make refinements to the garage configuration, including layout, number of parking spaces, and/or other elements, provided the number of striped parking spaces is not reduced below 29 spaces; and
  - c. 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 without reducing the quality of the materials; and to make minor refinements to exterior details and dimensions, including curtainwall mullions and spandrels, window frames, glass types, 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.
11. No building permit shall be issued for this PUD until the Applicant has submitted to the Zoning Division of the Department of Consumer and Regulatory Affairs ("DCRA") a fully-executed agreement with the District of Columbia Department of Small and Local Business Development.
  12. 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 owners and the District of Columbia, that is satisfactory to the Office of the Attorney General and DCRA. Such covenant shall bind the Applicants and all successors in title to construct on and use the Subject Property in accordance with this Order or amendment thereof by the Zoning Commission.
  13. The PUD approved by the Zoning Commission shall be valid for a period of two (2) years from the effective date of this Order. Within such time, 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.
  14. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this Order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 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 that is also prohibited by the Act. In addition, harassment based on any of the above protected

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categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The failure or refusal of the Applicant to comply shall furnish grounds for the denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this Order.

On March 12, 2009, upon the motion of Chairman Hood, as seconded by Commissioner May, the Zoning Commission **APPROVED** the applications by a vote of **4-0-1** (Anthony J. Hood, William W. Keating, III, Michael G. Turnbull, and Peter G. May to approve; Gregory N. Jeffries not present, not voting).

On April 27, 2009, upon the motion of Chairman Hood, as seconded by Commissioner May, this Order was **ADOPTED** by the Zoning Commission at its public meeting by a vote of 4-0-1 (Anthony J. Hood, William W. Keating, III, and Peter G. May to adopt; Michael G. Turnbull to adopt by absentee ballot; 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 May 8, 2009.

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**ANTHONY HOOD**  
Chairman  
Zoning Commission

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**RICHARD S. NERO, JR.**  
Acting Director  
Office of Zoning

DISTRICT OF COLUMBIA GOVERNMENT  
OFFICE OF THE SURVEYOR

Washington, D.C., October 2, 2008

Plat for Building Permit of: SQUARE 2892 LOTS 98, 903, 904, 908 & 911

Scale: 1 inch = 30 feet

Recorded in Book 93 Page 77 ( LOT 93 )  
Book A & T Page 3667 - H ( LOTS 903 & 908 )  
Book A & T Page 1860 ( LOT 904 )  
Book A & T Page 2415 ( LOT 911 )

Receipt No. 06592

Furnished to: HOLLAND & KNIGHT F. HOBAR

I hereby certify that all existing improvements shown hereon, are completely dimensioned, and are correctly platted; that all proposed buildings or construction, or parts thereof, including covered porches, are correctly dimensioned and platted and agree with plans accompanying the application; that the foundation plans as shown hereon is drawn, and dimensioned accurately to the same scale as the property lines shown on this plat; and that by reason of 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 light 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 this 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 centerline of driveway at any point on private property in excess of 20% for single-family dwellings or flats, 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.)

*[Signature]*  
Surveyor, D.C.

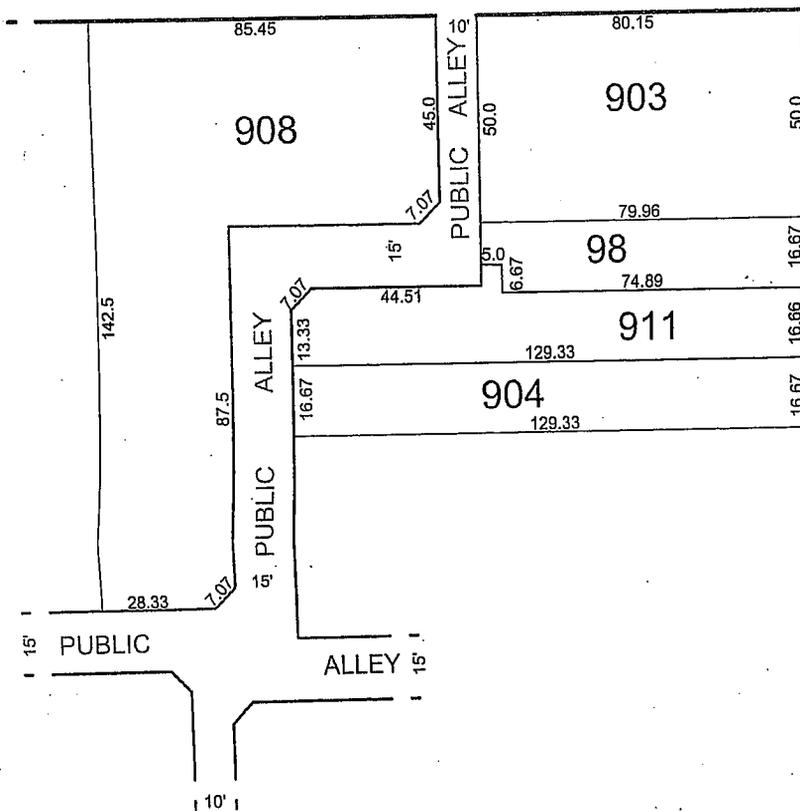
Date: \_\_\_\_\_

By: A.S. *[Signature]*

\_\_\_\_\_  
(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.

LAMONT STREET, N.W.



GEORGIA AVENUE, N.W.

003794

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