

**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 five (5) Advisory Neighborhood Commission offices, certified pursuant to D.C. Official Code § 1-309.06(d)(2); 2001 Ed; 2006 Repl. Vol.

**VACANT: 3D07, 6B11, 8C05, 8C06, 8E01**

Petition Circulation Period: **Monday, December 28, 2009 thru Tuesday, January 19, 2010**  
Petition Challenge Period: **Friday, January 20, 2010 thru Friday, January 28, 2010**

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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**.

**D.C. DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS  
BUSINESS AND PROFESSIONAL LICENSING ADMINISTRATION**

**SCHEDULED MEETINGS OF BOARDS AND COMMISSIONS**

**January 2010**

<b>CONTACT PERSON</b>	<b>BOARDS AND COMMISSIONS</b>	<b>DATE</b>	<b>TIME/ LOCATION</b>
John McFarland	Board of Accountancy	5	8:30 am-12:00pm
Leon Lewis	Board of Appraisers	20	10:00 am-12:00 pm
Leon Lewis	Board Architects and Interior Designers	22	9:00 am-1:00 pm
Sheldon Brown	Board of Barber and Cosmetology	4	10:00 am-4:00 pm
Sheldon Brown	Boxing and Wrestling Commission	12	7:00-pm-9:00 pm
Sheldon Brown	Board of Funeral Directors	7	1:30 pm-5:00 pm
John McFarland	Board of Professional Engineering	28	9:30 am-1:30 pm
Leon Lewis	Real Estate Commission	12	10:30 am-12:30 pm
Pamela Peters	Board of Industrial Trades	19	2:00 pm-5:00 pm
	Asbestos Electrical Plumbing Refrigeration/Air Conditioning Steam and Other Operating Engineers		

Dates and Times are subject to change. All meetings are held at 941 North Capitol Street, NE., Suite 7616, Washington, DC 20001. For further information on this schedule, please contact the front desk at 202-442-4320.

**DISTRICT DEPARTMENT OF THE ENVIRONMENT**

**NOTICE OF MEETING SCHEDULE OF THE  
SUSTAINABLE ENERGY UTILITY ADVISORY BOARD**

In accordance with section 204(i) of the Clean and Affordable Energy Act of 2008, D.C. Official Code, §§ 8-1773.01, *et seq.*, § 8-1774.04(i), which requires that all Sustainable Energy Utility Advisory Board (“Board”) meetings be subject to the District’s open meetings law set forth at D.C. Official Code § 1-207.42, the District Department of the Environment hereby gives notice of the Board’s meeting schedule for January - March 2010. The Board welcomes all persons and entities with energy efficiency and renewable energy expertise to provide information to the Board. Persons wishing to receive subsequent notices or additional information concerning the Board should provide their email addresses to Lynora M. Hall (lynora.hall2@dc.gov), Energy Office, District Department of the Environment. Information related to the Board may also be obtained from [www.greenenergy.dc.gov](http://www.greenenergy.dc.gov).

<b>Meeting Date</b>	<b>Location</b>	<b>Time</b>
Monday, January 4, 2010	John A. Wilson Building 1350 Pennsylvania Avenue, N.W. Room 527 Washington, D.C.	9:30 am – 12:30 pm
Tuesday, January 19, 2010	John A. Wilson Building 1350 Pennsylvania Avenue, N.W. Room 527 Washington, D.C.	9:30 am – 12:30 pm
Monday, February 1, 2010	John A. Wilson Building 1350 Pennsylvania Avenue, N.W. Room 527 Washington, D.C.	9:30 am – 12:30 pm
Tuesday, February 16, 2010	John A. Wilson Building 1350 Pennsylvania Avenue, N.W. Room 527 Washington, D.C.	9:30 am – 12:30 pm
Monday, March 1, 2010	John A. Wilson Building 1350 Pennsylvania Avenue, N.W. Room 527 Washington, D.C.	9:30 am – 12:30 pm
Monday, March 15, 2010	John A. Wilson Building 1350 Pennsylvania Avenue, N.W. Room 527 Washington, D.C.	9:30 am – 12:30 pm
Monday, March 29, 2010	John A. Wilson Building 1350 Pennsylvania Avenue, N.W. Room 527 Washington, D.C.	9:30 am – 12:30 pm



**OFFICE OF THE SECRETARY OF THE DISTRICT OF COLUMBIA****APPOINTMENTS OF NOTARIES PUBLIC**

Notice is hereby given that the following named persons have been newly appointed as Notaries Public in and for the District of Columbia, effective on or after December 15, 2009.

Comments on these appointments should be submitted, in writing, to Naomi Shelton, Administrator, Office of Notary Commissions and Authentications, 441 4<sup>th</sup> Street, NW, Suite 810 South, Washington, D.C. 20001 within seven (7) days of the publication of this notice in the *D.C. Register*. Additional copies of this list are available at the above address or the website of the Office of the Secretary at [www.os.dc.gov](http://www.os.dc.gov).

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Anderson	Vanessa A.	Edison International 555 12th Street, NW	20004
Arias	Eimy M.	Center for Community Self-Help/CRL 910 17th Street, NW, Suite 500	20006
Barkas	Jennifer J.	The Partnership Federal Credit Union 1776 F Street, NW Room 1C	20429
Battle	Tyisha	TD Bank 605 14th Street, NW	20005
Bhanu	Priya L.	Clifford Chace US LLP 2001 K Street, NW	20036
Blystone	Jessica	Manatt, Phelps & Phillips 700 12th Street, NW, Suite 1100	20005
Boston	La Shawn A.	Government Accountability Project 1612 K Street, NW, Suite 1100	20001
Boyd	Valerie	Wells Fargo Advisors 5301 Wisconsin Avenue, NW, Suite 400	20015
Brown	Rosalind	National Economic Research Association, Inc. 1255 23rd Street, NW	20037
Brown	Velma L.	Overseas Private Investment Corporation 1100 New York Avenue, NW	20527
Burkart	William	Mid-Atlantic Settlement Services-Coldwell Banker 5028 Wisconsin Ave., NW	20016
Calixto-Lobo	Maria S.	Self 712 Marietta Place, NW, Unit 102	20011
Cannon	Susannah	US House of Representatives B227 Longworth HOB	20515
Carey	Patricia A.	Hogan & Hartson, LLP 555 13th Street, NW	20004

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Casey	Judith Leigh	Perkins Coie LLP 607 14th Street, NW Suite 800	20005
Catreach	Latay Sayles	The Centre For Development and Population Activities 1133 21 Street, NW Suite #800	20036
Chester	Edward L.	Self 200 K Street, NW, Apt. 504	20001
Clark	Lovelace Z.	St. Patrick's Episcopal Church and Day School 4700 Whitehaven Parkway, NW	20007
Clowe	Linda L.	Verizon Wireless 1300 I Street, NW	20005
Coit	Angela Mace	United States Department of Justice Criminal Division 1301 New York Avenue, NW, 12th Floor	20019
Colliton	Kathleen D.	Fannie Mae 3900 Wisconsin Avenue, NW	20016
Dawson	Ernest C.	Department of Housing and Urban Development 820 First Street, NE, Suite 300	20002
Daza	Julie A.	DC Child & Family Services Agency 400 6th Street, SW	20024
Dessuit	Velma	Action on Smoking and Health 2013 H Street, NW	20006
Diaz, Jr.	Hernan	Washington Passport & Visa Service, Inc. 2318 18th Street, NW, Suite 200	20009
Dickerson-Coleman	La Verne	Share Our Strength 1730 M Street, NW, 700	20036
Dodson	Latoya L.	Feldesman Tucker Leifer Fidell, LLP 2001 L Street, NW, 2nd Floor	20036

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Donnelly	Virginia	District of Columbia Housing Authority 1133 North Capitol Street, NE Suite 210	20002
Downing	Sherrie	White House FCU 1724 F Street, NW	20006
Fairfield	Harriet	Agriculture Federal Credit Union 14th and Independence Ave., SW	20250
Fleshman	Donna Yvette	BMS Realty Services LLC 3050 K Street, NW Suite 170	20007
Fletcher	Diane L.	Stewart Title and Escow, Inc. 1050 17th Street, NW, Suite 600	20036
Goodman	Barbie A.	Vedder Price PC 875 15th Street, NW Suite 725	20005
Greene	Gabriele	Self 1006 4th Street, NE	20009
Gross	Karen N.	Citibank 1000 Vermont Ave., NW	20005
Gusman	Nancy L.	Buckman Legal, PLLC 4315 50th Street, NW, Suite 60	20016
Hailstock	Mika A.	EEC of DC/ Forrester Construction 4058 Minnesota Avenue, NE	20019
Hall	Sandra T.	US General Services Administration 301 D Street, SW	20407
Harris	Yvonne Wyatt	DC Office of Contracting and Procurement 441 4th Street, NW, Suite 700 South	20001
Higgins	Sterling	PNC Bank 1920 L Street, NW	20036
Hudson	Patrick J.	Shearman & Sterling LLP 801 Pennsylvania Avenue, NW	20004

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Jenkins-Sahlin	Elizabeth	Latin America Youth Center (LAYC) Foster Care Program 3045 15th Street, NW	20009
Johnson	Janet E.	The Warrenton Group 301 Massachusetts Avenue, NW, Suite 302	20001
Jones	Glorine R.	Glorine Jones 1505 Tubman Road	20020
Jones	Shirley A.	The Washington Post 1150 15th Street, NW	20071
Keast	Lauren	Capitol Reporting Company 1821 Jefferson Place, NW	20036
Lawhorn-Brown	Linda	US Department of Commerce/National Oceanic & Atmospheric Administration 14th & Constitution Ave., NW, RM 5128	20230
Leake	Yolanda	Green Door 1221 Taylor Street, NW	20011
Lee	LeChe M.	Lee's Flower & Card Shop 1026 U Street, NW	20001
Lee	Jennifer	New Seven Market 1406 Good Hope Road, SE	20020
Leithead	Katharine R.	US Trust, Bank of America Private Wealth Management 730 15th Street, NW, 1st Floor	20005
Madlock	Sandra L.	FINRA 1801 K Street, NW, 8th Floor	20006
Manley	Linda R.	DC Water and Sewer Authority 5000 Overlook Ave, SW	20032
Mantilla	Michelle A.	Federal Title & Escrow Company 5335 Wisconsin Avenue, NW, Suite 700	20015

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Massimo	Anna Grotola	Vedder Price PC 875 15th Street, NW, Suite 725	20005
McLemore	Sheila P.	Chevy Chase Bank 2831 Alabama Avenue, SE	20020
Mills	Gina B.	Vedder Price PC 875 15th Street, NW	20005
Molina	Monique D.	United Bank 1875 I Street, NW	20006
Mulvee-Herrera	Julie	US Chamber of Commerce 1615 H Street, NW	20062
Nguyen	My	Neal R. Gross & Company, Inc. 1323 Rhode Island Avenue, NW	20005
Olachea	Bonnie Marcus	Capital Reporting Company 1821 Jefferson Place, NW	20036
Perno	Cynthia	NERA Economic Consulting 1255 23rd Street, NW, Suite 600	20037
Peters	Kathleen G.	Taylor Companies Inc 1128 16th Street, NW	20036
Petty	Sylvia J.	Vedder Price PC 875 15th Street, NW Suite 725	20005
Pourahmadi	Lobat F.	FINRA 1801 K Street, NW, 8th Floor	20006
Price	Sandra C.	Greenberg Traurig, LLP 2101 L Street, NW, Suite 1000	20037
Proper	Todd B.	CT Corporation System 1015 15th Street, NW, Suite 1000	20005
Reeves	Deborah E.	Self 6827 4th Street, NW, Unit 113	20012

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Rixen	Erica G.	US House of Representatives 216 Cannon House Office Building	20515
Shifflett	Jacob R.	Wachovia Bank 1310 G Street, NW	20005
Tyce	Sara Jeanette	WHUR-FM 529 Bryant Street, NW	20060
Upshaw	Tongalis A.	Ideal Electrical Supply Corporation 2230 Adams Place, NE	20018
Wallace	Niquela	Bank of America 4201 Connecticut Avenue, NW	20008
Ward	Lorraine S.	Eastbanc, Inc. 3307 M Street, NW, Suite 400	20007
Williams	Antwan D.	Metropolitan AME Church 1518 M Street, NW	20005
Woodall	Rikki J.	Federal Title & Escrow Company 5335 Wisconsin Avenue, NW, Suite 700	20015
Xavier	Moise N.	Citibank, NA 1000 Vermont Avenue, NW	20005

**OFFICE OF THE SECRETARY OF THE DISTRICT OF COLUMBIA****APPOINTMENTS OF NOTARIES PUBLIC**

Notice is hereby given that the following named persons have been newly and reappointed as Notaries Public in and for the District of Columbia, effective on or after December 15, 2009.

Comments on these appointments should be submitted, in writing, to Naomi Shelton, Administrator, Office of Notary Commissions and Authentications, 441 4<sup>th</sup> Street, NW, Suite 810 South, Washington, D.C. 20001 within seven (7) days of the publication of this notice in the *D.C. Register*. Additional copies of this list are available at the above address or the website of the Office of the Secretary at [www.os.dc.gov](http://www.os.dc.gov).

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Fraley	Toya S.	Debevoise & Plimpton LLP 555 13th Street, NW, Suite 1100E	20004
Hargrove	Robbin	Washington Hospital Center 110 Inving Street, NW	20010
Hart	Lucille E.	Department of Human Services Family Services Administration 645 H Street, NE 4th Floor	20002
Hazelock	Mabel T.	Self 1342 Sheridan Street, NW	20011
Hubbard	Patricia	Independence Federal Savings Bank 1301 9th Street, NW	20001
Patterson	Barbara	OBE Information Resources, LLC 422 Marietta Place, NW	20011
Sheer	Jessica P.	Federal Trade Commission 600 Pennsylvania Ave. NW	20580

**OFFICE OF THE SECRETARY OF THE DISTRICT OF COLUMBIA****APPOINTMENTS OF NOTARIES PUBLIC**

Notice is hereby given that the following named persons have been newly appointed as Notaries Public in and for the District of Columbia, effective on or after January 2, 2010.

Comments on these appointments should be submitted, in writing, to Naomi Shelton, Administrator, Office of Notary Commissions and Authentications, 441 4<sup>th</sup> Street, NW, Suite 810 South, Washington, D.C. 20001 within seven (7) days of the publication of this notice in the *D.C. Register* on December 25, 2008. Additional copies of this list are available at the above address or the website of the Office of the Secretary at [www.os.dc.gov](http://www.os.dc.gov).

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Alexandrovich	Marsha A.	Ford & Harrison LLP 1300 19th Street, NW, Suite 700	20036
Armen, Jr.	Robert N.	United States Tax Court 400 Second Street, NW	20217
Arneson	Stephanie	Bank-Fund Staff Federal Credit Union 1900 Pennsylvania Avenue, NW	20006
Arnold	Karen Stuck	L.A.D. Reporting Company, Inc. 1325 G Street, NW, 2nd Floor	20005
Bahur	Linda	Alderson Court Reporting 1155 Connecticut Avenue, NW, Suite 200	20036
Baylor	Tameka L.	Higher Achievement 317 8th Street, NE	20002
Bhagat	Shashi	Bhagat & Associates, Raj K. Bhagat, Esq. 1001 Connecticut Avenue, NW#1138	20036
Bobman	Jennifer S.	Blank Rome 600 New Hampshire Avenue, NW	20037
Brewer	Mary E.	Troutman Sanders LLP 401 9th Street, NW, Suite 1000	20004
Brown	Yolanda M.	Serve DC, The Mayor's Office on Volunteerism 441 4th Street, NW Suite 1140N	20001
Brown	Nancy R.	Milbank, Tweed, Hadley & McCloy, LLP 1850 K Street, NW	20006
Browner	Susan	Self 2656 Bowen Road, SE#201	20020
Butler	Janet	League of Conservation Voters 1920 L Street, NW	20036
Cahn	Ellen R.	Skadden Arps Slate Meagher & Flom, LLP 1440 New York Avenue, NW	20005

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Campbell	Jessica	Gore Brothers Reporting & Videoconferencing 1025 Connecticut Avenue, NW, Suite 1000	20036
Camponeschi	Joseph	Heritage Title & Escrow Co. 2000 Florida Avenue, NW, Suite 250	20009
Chaaban	Majid	Valor, LLC 4101 Albemarle Drive, Suite 634	20016
Colucci	Abigail	Compass Lexecon 1101 K Street, NW, 8th Floor	20005
Crump	Nina A.	Holland & Knight LLP 2099 Pennsylvania Avenue, NW Suite 100	20006
Dau	Kelly	James E. Brown & Associates, PLLC 1220 L Street, NW Suite 700	20005
Davis	Sarah F.	Self 1328 Riggs Street, NW	20009
Davis	Brandi	Bank of America 1501 Pennsylvania Avenue, NW	20005
Dildy	Betty L. K.	Self 232 50th Street, NE	20019
Edwards	Patricia A.	Bradford Associates 1050 17th Street, NW, Suite 600	20036
Epperly	Linda J.	Pepco Holdings, Inc. 701 9th Street, NW, Suite 1300	20068
Fernandez	Marta M.	Merrill Lynch 1152 15th Street, NW, Suite 6000	20005
Ferris	Jared V.	GSA Federal Credit Union 301 7th Street, SW, Room 5021	20407
FitzHugh	Augusta Tyler	Stoladi Property Group 1636 Connecticut Avenue, NW, 4th Floor	20009

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Freeman	Sherry D.	Self 3983 Ames Street, NE	20019
Gordon	Faye	North American Securities Administrators Association 750 First Street, NE, Suite 1140	20002
Green	Delores M.	Delores Green, Court Reporter 229 S Street, NE	20002
Hampton	Georgiann E.	Sullivan & Cromwell LLP 1701 Pennsylvania Avenue, NW Suite 8th Floor	20006
Hicks	Suzanne C.	Venable LLP 575 7th Street, NW	20004
Hoffman	Charles David	Ace Federal Court Reporters 616 H Street, NW	20001
Jackson	Lyn	Sincerely Yours 325 Pennsylvania Avenue, SE	20003
Johnson	Karen L.	Rand Construction Corporation 515 M Street, SE, Suite 102	20003
Jones	Timothy A.	TAJ Realty and Investment 737 Rock Creek Church Road, NW	20010
Kanstoroom	David	North American Title 801 D Street, NE	20002
Lautenberger	David M.	Holland & Knight LLP 2099 Pennsylvania Avenue, NW, Suite 100	20006
Lee	Brandon	Wachovia Bank 215 Pennsylvania Avenue, NW	20003
Levine	Matthew E.	International Monetary Fund 700 19th Street, NW	20431
Lewis	David	Self 4107 Connecticut Avenue, NW, #308	20008

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Marsh	Cheryl	Brinks Hofer Gilson & Lione 1850 K Street, NW, Suite 675	20006
Marshall	Ruth E.	Premier Consultants International, Inc. 1020 16th Street, NW, Suite 201	20036
Martin	Lindsey	TransPerfect Translations, Inc. 601 13th Street, NW, Suite 370 South	20005
Miller, Jr.	Ivan D.	AAA Home Solutions, LLC 1611 T Street, SE, #2	20020
Nott	Warren L.	Self 1504 Lawrence Street, NE	20017
Panagi	Ellen	Self 912 3rd Street, NE	20002
Partsch	Monica M.	AAA Home Solutions, LLC 1611 T Street, SE, #2	20020
Pauley	Patrick J.	Urban Village Apartments 3403 16th Street, NW	20010
Pena	Juan Jose	Xariel Business Services, Inc. 3155 Mount Pleasant Street, NW, Suite B1	20010
Polsenberg	Johanna F.	Self 1504 Lawrence Street, NE	20017
Porter	Kathleen A.	The Barker Foundation 1066 30th Street, NW	20007
Price	Sandra C.	Greenberg Traurig, LLP 2101 L Street, NW, Suite 1000	20037
Quezada	Vickie	M&T Bank 6434 Georgia Avenue, NW	20012
Riley	Adrienne	American Resort Development Association 1201 15TH Street, NW Suite 400	20005

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Robinson	LaShonne	Heritage Reporting Corporation 1220 L Street, NW, Suite 600	20005
Rojas	Armando	BB&T Bank 1316 U Street, NW	20010
Rudd	Nichelle	Ober Kaler Grimes & Shriver 1401 H Street, NW, Suite 500	20005
Sanchez	Mirna H.	Ayuda, Incorporated 1707 Kalorama Road, NW	20009
Schabacker	Catherine	Dykema Gossett, PLLC 1300 I Street, NW, Suite 300 West	20005
Sinclair	Michelle	The Washington Post Company 1150 15th Street, NW	20071
Snitzer	Allison	TransPerfect Translations, Inc. 601 13th Street, NW, Suite 370 South	20005
Spearman	Vernon	ILL DO IT LLC 126 S Street, NW	20001
Taylor	Geraldine D.	Federal Communications Commission 445 12th Street, SW	20002
Thibodeaux	Sonia	TCA TrustCorp America 5301 Wisconsin Ave, NW, Suite 450	20015
Tinney-Young	Anjanette K.	Palisades Title Company and Buckman Legal, PLLC 4315 50th Street, NW, Suite 60	20016
Tinsley	Phyllis	Georgetown University Hospital, Medstar Health 3800 Reservoir Road, NW	20007
Tyce	Sara Jeanette	WHUR-FM 529 Bryant Street NW	20060
Vasseghi	Sheda	Rothwell, Figg, Ernst, Manbeck 1425 K Street, NW, Suite 800	20005

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Vaughn	Jeanette B.	Public Education Network 601 13th Street, NW, Suite 710 South	20005
Vitale	Kathleen	Paralegal Associates of Washington, Inc. 1001 Connecticut Avenue, NW Suite 1137	20037
Walters-Williams	Kia N.	US Government Printing Office 732 N. Capitol Street, NW	20401
Wellborn	Jewelyn A.	Direct Selling Association 1667 K Street, NW, Suite 1100	20006
Wilhelm	Dean A.	RBC Wealth Management 1700 Pennsylvania Ave, NW, Ste 700	20006
Williams	Stacey E.	Executive Office of the President 725 17th Street, NW	20503
Williams	Bruce T.	Mifam and Associates 826 Division Avenue, NE	20019
Wilson	Mary H.	Rafael J. Convit, MD 106 Irving Street, NW, Suite 4000 North	20010
Wilson	Rosie A.	Wiley Rein LLP 1776 K Street, NW	20006
Yancey, M.D.	Robert W.	Robert Yancey, MD Internal Medicine 3104 Georgia Avenue, NW	20010

DISTRICT OF COLUMBIA DEPARTMENT OF HEALTH  
HIV/AIDS, HEPATITIS, STD & TB ADMINISTRATION

NOTICE OF FUNDING AVAILABILITY  
RFA # HAHSTA\_12-24-09

FY 2010 Ryan White Part B Grant

The Government of the District of Columbia, Department of Health- HIV/AIDS, Hepatitis, STD & TB Administration (Grantee and the District of Columbia Administrative Agency) is soliciting applications from qualified applicants to provide a variety of clinical and medical support services to indigent, uninsured and under-insured persons who are HIV-infected and affected.

Approximately \$3,600,000 in FY 2010 (April 1, 2010 – March 31, 2011) Ryan White Part B Grant funds are expected to be available.

These funds will be awarded to the District of Columbia Department of Health - HIV/AIDS, Hepatitis, STD & TB Administration (HAHSTA) by the U.S. Health Resources & Services Administration (HRSA) under the Ryan White Part B program contingent upon availability of funds. Services under the FY 2010 Ryan White Part B Grant programs include health insurance premium and cost sharing assistance, medical case management and treatment adherence.

**The release date for this RFA is Thursday, December 24, 2009.** The District of Columbia, Department of Health, HIV/AIDS, Hepatitis, STD & TB Administration will have the complete RFA available for pick up at 64 New York Avenue, NE, 5<sup>th</sup> Floor, Suite 5001 and on the following website [www.opgs.dc.gov](http://www.opgs.dc.gov) on **Thursday, December 24, 2009**. Please contact T'Wana Holmes at (202) 671-4900 for additional information.

**The Request for Application (RFA) submission deadline is 5:00 pm Friday, February 5, 2010.** The Pre-Application conference will be held in the District of Columbia at 64 New York Avenue, NE, 5<sup>th</sup> Floor, Suite 5001, Washington, DC 20002, **on Wednesday, January 6, 2010, from 10:00am – 12:00pm.**

## D.C. SENTENCING AND CRIMINAL CODE REVISION COMMISSION

## PUBLIC NOTICE

COMMISSION EXECUTIVE DIRECTOR'S POSITION  
DESIGNATED AS AN EXCEPTED SERVICE POSITION

On November 8, 2009, the D.C. Sentencing and Criminal Code Revision Commission (DCSCCRC), pursuant to D.C. Code § 1-609.03 (a)(6C) (2001 ed.), designated the position of Executive Director of the Commission as a position in the Excepted Service.

The D.C. Sentencing and Criminal Code Revision Commission hereby gives notice pursuant to D.C. Code § 1-609.03 (a)(6C) of the position qualifications, standards, and the proposed salary range for the Commission's Executive Director.

The DCSCCRC's Executive Director's duties include: developing and managing research strategies for the Commission and developing proposals to justify changes in sentencing policy; drafting legislative testimony and preparing for briefings and meetings with Members of the Council, their staffs, the Mayor's office, other governmental agencies, and other interested parties; managing the Commission's budget and ensuring sound financial management, personnel policies, and other administrative matters; managing the Commission's criminal code revision project; and, managing the production and distribution of annual and other interim reports generated by the Commission.

The Executive Director must have demonstrated leadership abilities and management experience directly related to the work of the position which has equipped him or her with the particular knowledge, skills, and abilities to carry out the duties of this position. He or she must possess a law degree (JD) from an accredited law school or an advanced degree in the social sciences (Ph.D. preferred), such as criminology, criminal justice, sociology, or public policy/administration. He or she should have education and/or experience in most or all of the following areas:

1. Effective leadership and management skills, gained through training and previous employment in formal and informal leadership roles;
2. Understanding of sentencing guidelines in the District of Columbia and elsewhere, and of criminal law and criminal procedure;
3. Strong social science research and quantitative analysis skills;
4. Excellent analysis, writing, and editing skills. The applicant must possess the ability to express, orally and in writing, complex issues in clear and succinct language so that the concepts are understood by both lawyers and non-lawyers, and must also possess effective presentation skills in business meetings and public forums; and,
5. Ability to serve as a spokesperson for the agency and to develop and maintain harmonious and effective working relationships with a diverse group of organizations and key individuals.

The salary range for the position is \$90,321 to \$127,468.

D.C. SENTENCING AND CRIMINAL CODE REVISION COMMISSION

PUBLIC NOTICE

APPOINTMENT OF BARBARA TOMBS AS EXECUTIVE DIRECTOR OF  
THE D.C. SENTENCING AND CRIMINAL CODE REVISION COMMISSION

The D.C. Sentencing and Criminal Code Revision Commission hereby gives notice pursuant to D.C. Code § 1-609.03 (a)(6C) (2001 ed.) that Barbara Tombs was appointed the Executive Director of the Commission on December 7, 2009.

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

**Application No. 17696-A of Hines VAFII 2100 M Street LP**, pursuant to 11 DCMR §§ 3104.1 and 3103.2, for a special exception from the roof structure setback requirements under subsection 400.7, and the parking space requirements under subsection 2108.2, and a variance from the loading platform height requirements under subsection 2201.7, a variance from the van parking requirements under subsection 2115.8, a variance from the compact parking space requirements under subsection 2115.4, a variance from the 45 degree height setback from neighboring property requirement under subsection 1709.20 and a variance from the loading space height requirements under subsection 2201.6, to allow the expansion of an existing office building with street level retail (through transferable development rights) by adding three new floors in the C-3-C District, at premises 2100 M Street, N.W. (Square 72, Lot 75).

**HEARING DATE (Orig. Application):** December 18, 2007

**DECISION DATE (Orig. Application):** December 18, 2007 (Bench Decision)

**FINAL ORDER ISSUANCE DATE (Orig. Application):** December 20, 2007

**DECISION ON MOTION TO EXTEND ORDER:** December 1 and 8, 2009

**ORDER ON MOTION TO EXTEND  
THE VALIDITY OF BZA ORDER NO. 17676**

The Underlying BZA Order

On December 18, 2007, the Board of Zoning Adjustment (the Board or BZA) approved the Applicant's request for special exception relief from the requirements of roof structure setbacks and parking spaces as well as variance relief from the requirements of loading platform height, van parking, compact parking spaces, the 45 degree height setback from neighboring property, loading space heights, to allow the expansion of an existing office building with street level retail (through transferable development rights) by adding three new floors in the C-3-C District. Thus, pursuant to 11 DCMR §§ 3104.1 and 3103.2, the Board granted special exceptions from the roof structure setback requirements under subsection 400.7 and the parking space requirements under subsection 2108.2 as well as variances from the loading platform height requirements under subsection 2201.7, the van parking requirements under subsection 2115.8, the compact parking space requirements under subsection 2115.4, the 45 degree height setback from neighboring property requirement under subsection 1709.20 and the loading space height requirements under subsection 2201.6, to allow the expansion of an

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existing office building with street level retail (through transferable development rights) by adding three new floors in the C-3-C District, at premises 2100 M Street, N.W. (Square 72, Lot 75). The Order was issued December 20, 2007. (BZA Order 17696)

Under the Order, and pursuant to § 3130.1 of the Zoning Regulations, the Order was valid for two years from the time it was issued – until December 20, 2009.

Section 3130.1<sup>1</sup> states:

No order [of the Board] authorizing the erection or alteration of a structure shall be valid for a period longer than two (2) years, or one (1) year for an Electronic Equipment Facility(EEF), unless within such period, the plans for the erection or alteration are filed for the purposes of securing a building permit, except as permitted in § 3130.6.

(11 DCMR § 3130.1)

#### Motion to Extend

On October 23, 2009, the Board received a letter from the Applicant, which requested, pursuant to 11 DCMR §3130.6,<sup>2</sup> a two-year extension in the authority granted in the underlying BZA Order, which was due to expire December 20, 2009. (Exhibit 32). The Board received additional, supplemental material from the Applicant in support of the request for a time extension, pursuant to §3130.6. (Exhibit 33).

The Applicant is requesting a two-year extension in the authority granted in the underlying BZA Order because, due to the deterioration of the real estate market in Washington, D.C., certain conditions of the Applicant's financing commitment could not be met and replacement financing has not been available. Despite its marketing efforts, the Applicant has been unable to obtain a tenant which would enable the financing for the construction of the project. The Applicant indicated that large class A building users that were slated for the Project have materially scaled back expansion plans and that the office market has become too soft so that new office space cannot be introduced. Despite the lack of financing, the Applicant has still funded work on plans and construction drawings necessary to apply for a building permit from the Department of Consumer and Regulatory Affairs for the Project. The Applicant provided a list of third party work solicited

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<sup>1</sup> Section 3130.1 was amended by the addition of the phrase "except as permitted in § 3130.6" by the Zoning Commission in Z.C. Case No. 09-01. The amendment became effective on June 5, 2009.

<sup>2</sup> Section 3130.6 was adopted by the Zoning Commission in Z.C. Case No. 09-01 and became effective on June 5, 2009.

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and funded by the Applicant. (Exhibit 33D). The extension would allow the Applicant the additional time in which to secure the permits and financing.

Accordingly, the Applicant requested that, pursuant to § 3130.6 of the Regulations, the Board extend the validity of its prior Order for an additional two years, thereby allowing the Applicant additional time to secure financing and apply for a building permit.

Criteria for Evaluating Motion to Extend

The Zoning Commission adopted 11 DCMR § 3130.6 in Zoning Commission Case No. 09-01. The Section became effective on June 5, 2009.

Section 3130.6 of the Zoning Regulations states in full:

- 3130.6 The Board may grant one extension of the time periods in §§ 3130.1 for good cause shown upon the filing of a written request by the applicant before the expiration of the approval; provided, that the Board determines that the following requirements are met:
- (a) The extension request is served on all parties to the application by the applicant, and all parties are allowed thirty (30) days to respond;
  - (b) There is no substantial change in any of the material facts upon which the Board based its original approval of the application that would undermine the Board's justification for approving the original application; and
  - (c) The applicant demonstrates that there is good cause for such extension, with substantial evidence of one or more of the following criteria:
    - (1) An inability to obtain sufficient project financing due to economic and market conditions beyond the applicant's reasonable control;
    - (2) An inability to secure all required governmental agency approvals by the expiration date of the Board's order because of delays that are beyond the applicant's reasonable control; or

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- (3) The existence of pending litigation or such other condition, circumstance, or factor beyond the applicant's reasonable control.

(11 DCMR § 3130.6)

The Board finds that the Applicant has met the criteria set forth in this provision. The filing of the motion on October 23, 2009, prior to the expiration date, tolled the effect of the order. The request was served on all the parties to the application and those parties were given 30 days in which to respond under § 3130.6(a). The Applicant's inability to secure the necessary permits and financing and the poor economic conditions in the District constitute the "good cause" required under § 3130.6(c)(1).

As required by § 3130.6(b), there is no substantial change in any of the material facts upon which the Board based its original approval. In requesting this extension of the Order, the Applicant's plans for development of the site would be unchanged from those approved by the Board in its Order dated December 20, 2007 (Exhibit No. 30 in the record). There have been no changes to the zone district classification applicable to the property or to the Comprehensive Plan affecting this site since the issuance of the Board's Order.

Neither the ANC nor any party to the application objected to an extension of the Order. The Board concludes that the extension of that relief is appropriate under the current circumstances.

Accordingly, pursuant to § 3130.6 of the Regulations, the Board hereby extends the validity of the underlying Order, for a period not to exceed two years from the current expiration date, thereby establishing a new expiration date of December 20, 2011.

Pursuant to 11 DCMR § 3101.6, 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 request for extension of time be **GRANTED** until December 20, 2011.

**VOTE: 3-0-2** (Meridith H. Moldenhauer, Shane L. Dettman, and Michael G. Turnbull to approve; no other Board members participating, nor voting)

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

A majority of the Board members approved the issuance of this order.

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**FINAL DATE OF ORDER:** DEC 15, 2009

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

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 PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

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

**Application No. 18005 of Attias O Street LLC**, pursuant to 11 DCMR § 3103.2, for a variance from the nonconforming structure provisions under subsection 2001.3, to allow the renovation of and third story addition to an existing apartment house in the DC/R-5-B District at premises 2142 O Street, N.W. (Square 69, Lot 218).

**HEARING DATE:** December 8, 2009

**DECISION DATE:** December 8, 2009

**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) 2B and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2B, which is automatically a party to this application. ANC 2B submitted a report in support of the application. The Office of Planning 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 § 3103.2, for a variance from § 2001.3. 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 ANC and OP reports filed in this case, the Board concludes that in seeking a variance from § 2001.3, 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. Finally, the Board concludes that the Applicant shall have flexibility to revise the project based on review and comments by the Historic Preservation Review Board (HPRB) or HPRB staff, provided that the revisions do not increase or create any new areas of zoning relief granted by the Board.

**BZA APPLICATION NO. 18005**  
**PAGE NO. 2**

It is therefore **ORDERED** that this application, pursuant to Exhibit No. 29 (Plans and Elevations) is hereby **GRANTED**.

**VOTE:**           **3-0-2**           (Shane L. Dettman, Meridith H. Moldenhauer and Michael G. Turnbull to APPROVE; Marc D. Loud not present, not voting; one Mayoral appointee (vacant) not participating)

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**  
A Majority of the Board members approved the issuance of this order.

**FINAL DATE OF ORDER: DECEMBER 15, 2009**

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

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 PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS

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PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

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

**Appeal No. 17915 of Jonathon Bolduc**, pursuant to 11 DCMR §§ 3100 and 3101, from a March 25, 2008 letter from the Director of the D.C. Department of Consumer and Regulatory Affairs confirming the validity of building permit number B466306, which authorized the construction of a front porch as part of an addition to a row dwelling located in the R-5-B District at premises 1433 Parkwood Place, N.W. (Square 2688, Lot 64).<sup>1</sup>

**HEARING DATE:** May 12, 2009  
**DECISION DATE:** May 12, 2009

**DECISION AND ORDER**

This appeal was submitted November 3, 2008 by Jonathan Bolduc (“Appellant”), who challenged a letter from the Director of the Department of Consumer and Regulatory Affairs (“DCRA”) concerning the construction of a front porch that was part of an addition on a row dwelling at 1433 Parkwood Place, N.W., which adjoins the row dwelling owned by the Appellant. The Department of Consumer and Regulatory Affairs, the Appellee herein, filed a motion to dismiss the appeal as untimely, which the Board orally granted on May 12, 2009 for the reasons explained below.

**PRELIMINARY MATTERS**

Notice of Appeal and Notice of Hearing. By memoranda dated November 20, 2008, the Office of Zoning provided notice of the appeal to the Office of Planning; the Zoning Administrator, at DCRA; the Councilmember for Ward 1; Advisory Neighborhood Commission (“ANC”) 1A, the ANC in which the subject property was located; and Single Member District/ANC 1A04. Pursuant to 11 DCMR § 3112.14, on February 25, 2008 the Office of Zoning mailed letters providing notice of the hearing to the Appellant; the Zoning Administrator; Gailya Wright, the owner of the property that was the subject of the appeal; and ANC 1A. Notice was published in the D.C. Register on February 27, 2009 (56 DCR 1809).

Party Status. Consistent with 11 DCMR § 3199.1, the parties in this proceeding were the Appellant, DCRA, the owner of the subject property, and ANC 1A. There were no additional requests for party status.

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<sup>1</sup> The caption, as advertised, stated that the appeal was from a DCRA letter “allowing” construction of the porch. As will be explained below, the letter only confirmed the legality of the permit that authorized the construction. The caption has been revised to reflect the correct nature of the correspondence.

**BZA APPEAL NO. 17915****PAGE NO. 2**

ANC Report. By letter dated May 7, 2009, ANC 1A indicated that, at a meeting held April 8, 2009 with a quorum present, the ANC voted to request additional information from the Board with regard to whether a variance was required for the construction undertaken at the subject property. The ANC expressed concern “that proper procedures may not have been followed by the Department of Consumer and Regulatory Affairs (DCRA) inspectors.”

**FINDINGS OF FACT**

1. The subject property is located at 1433 Parkwood Place, N.W. (Square 2688, Lot 64). The property is improved with a row dwelling that adjoins the Appellant’s row dwelling at 1435 Parkwood Place, N.W.
2. The owner of the subject property was issued Building Permit No. 466306 on October 1, 2004, authorizing the owner to renovate the row dwelling, including the front porch. A stop work order was issued in January 2005, leading to revised plans and the issuance on June 6, 2007 of Building Permit No. 107753.
3. Although Mr. Bolduc appealed neither building permit, he made a number of complaints to DCRA, alleging, among other things, that a variance was required because the porch extended into the front yard by nine feet, which was at least two feet greater than those of adjacent properties.<sup>2</sup>
4. In response to these assertions, the DCRA Director, sent a letter dated March 25, 2008, stating that there was no basis for enforcement and no reason to believe that there had been misrepresentation or bad faith by the owner.
5. The Appellant’s appeal of the letter was filed more than seven months later, on November 3, 2008.
6. The Appellant gave several reasons why the appeal “was slow in being brought forward,” including concerns about “DCRA’s process,” poor relations with the neighbors at the subject property, family responsibilities, “the collapse of the international credit market,” and the lack of a response to a Freedom of Information Act request submitted to DCRA by the Appellant.

**CONCLUSIONS OF LAW AND OPINION**

The Board is authorized by Section 7 of the Zoning Act of 1938, D.C. Official Code § 6-641.07(g)(2) (2001), to hear and decide appeals where it is alleged by the appellant that there is error in any decision made by any administrative officer in the administration of the Zoning

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<sup>2</sup> Appellant also complained about the manner that the porch was being constructed. Issues of building code compliance are not within the Board’s jurisdiction.

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Regulations. DCRA filed a motion to dismiss asserting that the appeal was untimely. If true, the Board would have no jurisdiction to hear and decide this case. *Economides v. District of Columbia Bd. of Zoning Adjustment*, 954 A.2d 427, 434-435 (D.C. 2008); *Waste Mgmt. of Md., Inc. v. District of Columbia Bd. of Zoning Adjustment*, 775 A.2d 1117, 1121 (D.C.2001).

Pursuant to 11 DCMR § 3112.2(a), an appeal must be filed within 60 days after the date the person appealing an administrative decision interpreting the Zoning Regulations had notice or knowledge of the decision complained of, or reasonably should have had notice or knowledge of the decision complained of, whichever is earlier.

The first question then is what is the decision complained of? For the purposes of this analysis, the Board will assume that decision to be the March 25, 2008 letter that, in essence, affirmed the validity of the 2004 building permit.<sup>3</sup> The next question is when the Appellant knew or should have known of the decision. Consistent with the customary rule, the Board will assume that the letter was received by Appellant three days after its date. The Appellant therefore had notice of the decision on March 30<sup>th</sup> and, to be timely, an appeal had to be filed on or before May 29, 2008. This appeal was filed on November 3, 2008.

Subsection 3112.2(d)(1) allows the Board to extend the May 29<sup>th</sup> deadline if the Appellant demonstrates that there were “exceptional circumstances that are outside of the appellant’s control and could not have been reasonably anticipated that substantially impaired the appellant’s ability to file an appeal to the Board.” As factors contributing to his delay, the Appellant cited concerns about “DCRA’s process,” poor relations with the neighbors at the subject property, family responsibilities, “the collapse of the international credit market,” and the lack of a response to a Freedom of Information Act request submitted to DCRA.

While some of these circumstances might be exceptional, and perhaps all were outside of the Appellant’s control, none could have “substantially impaired the appellant’s ability to file an appeal.” See, e.g. *Waste Management, supra*, 775 A.2d at 1123) (fact that Appellant “chose to concentrate on avenues that reasonably may have appeared more promising than an appeal does not excuse its delay in noting an appeal”). In view of this finding, the Board need not reach the issue of whether granting the six-month extension would prejudice the owner, which is the second showing required under § 3112.2(d)(2).

The Board is required to give “great weight” to any issues and concerns raised by ANC 1A in this proceeding. The Board credits the unique vantage point that ANC 1A holds with respect to the impact of the appeal on the ANC’s constituents. However, the ANC did not offer advice to

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<sup>3</sup> As an alternative ground to its motion, DCRA argued that the 2004 building permit, and not the 2008 letter, was actually the “decision complained of.” Although the Board chose to measure the time for filing this appeal based upon the 2008 letter, it does not at all question its past precedent holding that a post-building permit letter or certificate of occupancy cannot be appealed unless it contains a new decision. See, *Appeal No. 16982 of J. Brendan Herron Jr. and ANC 3F*, 52 DCR 3904 (2005), *Appeal No. 17411 of Paul A. Basken and Joshua S. Meyer*, 53 DCR 2495, affirmed, *Basken v. District of Columbia Bd. of Zoning Adjustment*, 946 A.2d 356, 362 (D.C. 2008); *Appeal No. 17830 of L. Napoleon Cooper*, 56 DCR 3737 (2009).

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the Board, but instead sought additional information from it. The Board cannot give great weight to a request.

For the reasons stated above, the Board hereby **GRANTS** the motion of DCRA to dismiss the appeal as untimely. Accordingly, it is **ORDERED** that the appeal from a March 25, 2008 letter from the Director of the Department of Consumer and Regulatory Affairs concerning the construction of a porch addition under building permit number B466306 in the R-5-B district at 1433 Parkwood Place, N.W. (Square 2688, Lot 64) is **DISMISSED**.

**VOTE:**           **3-0-2** (Marc D. Loud, Shane L. Dettman, and Gregory N. Jeffries voting to dismiss; no other Board members participating)

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

A majority of Board members approved the issuance of this order.

**FINAL DATE OF ORDER: DECEMBER 17, 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.

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

**Application No. 17958 of Community Auto Service Center**, pursuant to 11 DCMR §§ 3103.2 and 3104.1, for a variance from the use provisions under subsection 701.1 and a variance from the off-street parking requirements (14 required spaces) under subsection 2101.1, and for a special exception from subsection 2116.6 to permit the location of accessory parking spaces off-site, to establish an automobile repair and service establishment in the C-1 District at premises 4408 Arkansas Avenue, N.W. (Square 2819, Lot 808).<sup>1</sup>

**HEARING DATE:** September 8, 2009 and December 1, 2009  
**DECISION DATE:** December 15, 2009

**SUMMARY ORDER**

**REVIEW BY THE ZONING ADMINISTRATOR**

The Application was accompanied by two letters, one dated February 19, 2009 and the other April 14, 2009, from the Zoning Administrator certifying the required relief.<sup>2</sup> (Exhibits 5 and 17).

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) 4C and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 4C, which is automatically a party to this application. ANC 4C filed a report, dated December 8, 2009, which indicated that the ANC, at a properly noticed meeting at which a quorum was present, considered and unanimously voted to support the application, as amended.<sup>3</sup> (Exhibit 39). The Office of Planning (OP)

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<sup>1</sup> The Applicant amended the original application that only requested a change of use so as to include a request for a variance from the off-street parking requirements under subsection 2101.1 and a special exception to permit accessory parking under section 2116. The Applicant noted in its amended application that it is required to have 14 parking spaces and that, because the auto repair shop occupies 97% of the property, the Applicant requested a variance from off-street parking as well as special exception to permit accessory spaces off-site. (Exhibit 33). The Applicant contracted with Alpha Kappa Alpha Sorority, its next-door neighbor, to lease 11 parking spaces to assist in meeting the Applicant's parking requirements. The unsigned lease agreement, for an initial term of 2 years and with the potential of renewal at the Tenant's option for successive 2-year periods up to a total of ten years, was entered into the record. (Exhibit 38).

<sup>2</sup> The second letter from the Zoning Administrator clarified that the Applicant needed a use variance.

<sup>3</sup> The ANC had previously submitted a Letter of Support, dated June 9, 2009, in support of a use variance, after a prior ANC vote at a duly noticed meeting. (Exhibit 25).

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filed a timely report recommending approval of the amended application. (Exhibit 36).

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 § 3103.2, for a variance from the use provision under subsection 701.1 and from the off-street parking requirements under subsection 2101.1. 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 the applicant has met the burden of proving under 11 DCMR §§ 3103.2, 701.1, and 2101.1, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty or an undue hardship 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.

In addition, 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 subsection 2116.6. 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, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 2116.6, 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.

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 AS CONDITIONED**:

1. The Applicant shall enter into an agreement to provide 11 off-site accessory parking spaces and the term for that agreement shall be for a period of two years, beginning the effective date of this order. At the end of that two-year period, the Applicant shall return to this Board for renewal of this approval.

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**VOTE:** 3-0-2 (Shane L. Dettman, Meridith H. Moldenhauer, Konrad W. Schlater to APPROVE. Two other Board members not present, nor voting.)

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

The majority of the Board members approved the issuance of this order.

**FINAL DATE OF ORDER:** DEC 21, 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.

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 SIX MONTHS AFTER IT BECOMES EFFECTIVE UNLESS THE USE APPROVED IN THIS ORDER IS ESTABLISHED WITHIN SUCH SIX-MONTH PERIOD.

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 TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
NOTICE OF FILING**

**Z.C. Case No. 97-16A**

**(Modification to a Previously-approved PUD @ Square 2745F; Lots 815 and 817)  
December 17, 2009**

**THIS CASE IS OF INTEREST TO ANC 4A**

On December 14, 2009, the Office of Zoning received an application from Lowell School (the "Applicant") for approval of a modification to a previously-approved PUD for the above-referenced property.

The property that is the subject of this application consists of Square 2745F, Lots 815 and 817 in Northwest Washington, D.C. (Ward 4) at 1640 Kalmia Road, N.W. and 7775 17<sup>th</sup> Street, N.W. The Applicant proposes a PUD modification to expand its operation and renovate its infrastructure within the existing cap on the student population.

The Applicant proposes to expand its services to include 7<sup>th</sup> and 8<sup>th</sup> grades and to increase its faculty and staff to 100 individuals. The Applicant also proposes to renovate the Middle School, including construction of an addition to the building along 17<sup>th</sup> Street; to reconfigure its drop-off area at Parkside; to raze Fraser Hall (aka Schreiber Hall) and replace it with a new below-ground parking garage, with a playing field on the roof; and to expand the existing gymnasium building.

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

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
ZONING COMMISSION ORDER NO. 08-33  
Z.C Case No. 08-33**

**Conference Center Associates I, LLC  
(Consolidated Planned Unit Development, First-Stage Planned Unit Development,  
and Related Map Amendment @ Parcel 121/31)  
September 14, 2009**

Pursuant to proper notice, the Zoning Commission for the District of Columbia (the "Commission"), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 787, *et seq.*; D.C. Official Code § 6-641.01), held a public hearing on July 9, 2009 to consider an application from Conference Center Associates I, LLC (consisting of Hospitality Partners LLC, Mariani Family, LLC, and H Street Investment Corporation) ("Applicant"), for the consolidated review and one-step approval of a planned unit development ("PUD"), the first-stage approval of a PUD, and a corresponding Zoning Map amendment to the C-3-A Zone District for unzoned Parcel 121/31. The Commission considered the application pursuant to Chapter 24 of the 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.

**FINDINGS OF FACT**

**Procedural Background**

1. On December 23, 2008, the Office of Zoning received an application from the Applicant requesting the Commission to approve a consolidated PUD, a first-stage PUD, and a related Zoning Map amendment to the C-3-A Zone District for the property at the corner of Irving Street, N.E. and Michigan Avenue, N.E., known as Parcel 121/31 (the "Property").
2. On January 8, 2009, the Applicant submitted a letter signed by the Director of the District of Columbia Department of Housing and Community Development ("DHCD") stating that DHCD had jurisdictional responsibility for the Property, that DHCD had entered a lease with the Applicant, and authorized the Pillsbury Winthrop Shaw Pittman law firm to file and prosecute the PUD application on its behalf.
3. On February 23, 2009, the Commission considered the consolidated PUD, first-stage PUD, and Zoning Map Amendment application and voted to set the case down for a public hearing. On April 23, 2009, the Applicant filed its pre-hearing statement with the Office of Zoning, and a public hearing was scheduled before the Commission for July 9, 2009. Notice of the public hearing was given in accordance with the provisions of 11 DCMR §§ 3014 and 3015.
4. On July 9, 2009 the Commission held a public hearing on the application, which was conducted in accordance with the provisions of 11 DCMR § 3022. Paul Tummonds of Pillsbury Winthrop Shaw Pittman, LLP and members of the

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- development team presented the Applicant's case. As a preliminary matter, the Commission accepted Sean Stadler of WDG Architecture as an expert in architecture; Theodore Mariani as an expert in architecture and engineering; Erwin Andres of Gorove/Slade Associates as an expert in traffic engineering; and Chris Cowles of The Care of Trees as an expert in urban forestry. Ronnie Edwards and Anita Bonds testified on behalf of Advisory Neighborhood Commission ("ANC") 5C.
5. The Commission took proposed action to approve the PUD and related Zoning Map amendment application at a properly noticed public meeting on July 27, 2009.
  6. The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") pursuant to § 492 of the District Charter. NCPC, by report dated September 3, 2009, advised: (1) that the proposed consolidated PUD and related Zoning Map amendment application is not inconsistent with the Comprehensive Plan for the National Capital nor would it adversely affect any other federal interests; and (2) that the first-stage PUD "would have an adverse effect on an identified federal interest because the proposed inclusion of dwelling units is inconsistent with the acceptable uses stipulated in the Statement of Non-Disturbance established on March 7, 1990 between the District of Columbia government and the General Services Administration."
  7. At its September 14, 2009 public meeting, the Commission considered the NCPC report and discussed its advice regarding the Statement of Non-Disturbance. The Commission noted that in deciding the first-stage PUD, its role is limited to deciding whether the Applicant has met its burden of proof under Chapter 24 of the Zoning Regulations which does not include an evaluation of whether the proposed project, if constructed, would violate an agreement between the Applicant and third parties. The Commission noted that its approval of the PUD is limited to these criteria, and that the Applicant proceeds at its own risk with respect to the Non-Disturbance Agreement. In approving the application, the Commission takes no position as to whether the inclusion of dwelling units is inconsistent with the acceptable uses stipulated in the Statement of Non-Disturbance established on March 7, 1990 between the District of Columbia government and the General Services Administration.
  8. The Commission took final action to approve the consolidated PUD, first-stage PUD, and related Zoning Map amendment application on September 14, 2009.

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**PUD SITE**

9. The Property is known as Parcel 121/31, which is bounded by Irving Street, N.E. on the north and Michigan Avenue, N.E. on the east; residential and commercial areas to the south; and a cloverleaf traffic interchange on the west. The Property is located at the southwest corner of Michigan Avenue and Irving Street, with frontage on both streets. The Property is comprised of 238,909 square feet of land area. (Exhibit 18, p. 4.)
10. The Property is improved with a surface parking lot containing approximately 400 spaces. This parking lot occupies about 60% of the Property and serves as a remote parking facility for the Washington Hospital Center, which is located to the west of the Property along Michigan Avenue. (Exhibit 18, p. 4.)
11. In 1991, pursuant to Zoning Commission Order No. 689, a PUD for a conference/training center was approved for the Property. The project was never constructed, and the Zoning Commission's approval expired. (Exhibit 18, p. 5.)
12. The Property is included in the Government Land Use category on the District of Columbia Comprehensive Plan Future Land Use Map. (Exhibit 18, p. 3.)
13. The area immediately adjacent to the Property is comprised of the following Zone Districts:
  - Immediately to the north across Irving Street is R-5-A zoned property;
  - Immediately to the east across Michigan Avenue is R-5-A zoned property;
  - Immediately south of the Property is zoned C-1 and R-5-A; and
  - Immediately west of the Property is zoned GOV. (Exhibit 19, p. A1.01.)

The Property is currently unzoned (designated as GOV). (Exhibit 19, p. A1.01.)

14. The Applicant requests a map amendment to rezone the Property to the C-3-A Zone District. The C-3-A Zone District is a commercial district that permits medium-density development, with a general pattern of mixed-use development. Buildings in the C-3-A Zone District may be constructed to a maximum height of 65 feet and a maximum density of 4.0 floor area ratio ("FAR") (2.5 commercial) as a matter-of-right. The PUD guidelines for the C-3-A Zone District allow for a building height of 90 feet and a maximum density of 4.5 FAR (3.0 Commercial).

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### PUD APPLICATION AND PROJECT

15. The consolidated PUD application proposes the construction of a hotel, conference center, restaurant, parking structure, and retail space on the eastern half of the Property. The hotel will be a nine-story, 314-room SpringHill Suites by Marriott (233 rooms will be constructed in the initial development of the hotel in the consolidated portion of the PUD project). The all-suite hotel will contain a pool, spa, exercise room, and business center. The hotel will also include a white tablecloth restaurant on the ground floor, accessible from both within the hotel and directly from Michigan Avenue; the restaurant will also offer an outdoor seating area along Michigan Avenue. The conference center will contain 37,346 square feet of meeting rooms and ballroom space. The conference center will open onto a landscaped rooftop garden on the second level of the hotel and directly onto the parking garage. The parking garage and retail space will be to the west of the conference center and hotel, fronting on Michigan Avenue. The parking garage will contain 400 parking spaces in four above-grade levels, and the 20,000 square feet of retail space will be on the ground floor of the parking garage, accessible directly from Michigan Avenue. The below-grade retail space and loading facilities have been designed in a manner that could accommodate a grocery store use. The northern portion of the Property will remain as a surface parking lot until development of the second phase of the PUD project is developed. Upon completion of the consolidated portion of the PUD project, 600 parking spaces will be provided in the project (400 in the parking structure and 200 surface parking spaces). (Exhibit 18, pp. 2-3, 7-9.)
16. The first-stage PUD will be the second phase of the project on the northern half of the Property. The second phase proposes two nine-story buildings. One building is expected to be used as a hotel and/or residential building. The second building is expected to contain additional conference space and/or residential amenities on the first two floors with residential and/or hotel uses on the upper floors. The two buildings will be separated by an entry plaza. A below-grade parking garage providing approximately 295 parking spaces is also included in the first-stage PUD application. The Applicant requested that the Commission make the first-stage PUD approval effective for a period of five years from the date of approval of the consolidated PUD application. (Exhibit 18, pp.12-13.)
17. Sean Stadler of WDG Architecture, admitted as an expert witness in the field of architecture, testified about the design of the consolidated PUD and the first-stage PUD. Mr. Stadler noted that the Property will contain a landscaped plaza between the hotel and conference center building. This area will serve as the vehicular drop off area and will provide pedestrian access between the hotel and the conference center. Mr. Stadler also noted that a pedestrian walkway and entrance to the hotel will be provided from Michigan Avenue. Mr. Stadler noted

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- that the building height of 94.5 feet is necessary to the successful functioning of the project in order to provide larger clear floor-to-ceiling heights at the ground floor and for the hotel room floors, consistent with the high quality rooms and experience associated with this hotel brand. In addition, Mr. Stadler stated that the 94.5 foot measured building height is attributable to the grade change from the property line to the Irving Street curb. Mr. Stadler noted that the building will be 89.5 feet tall as measured from lobby to the roof. (July 9, 2009 Transcript, pp.19-20)
18. Chris Cowles of The Care of Trees, admitted as an expert witness in the field of urban forestry, submitted a report and testified about the tree and vegetation coverage on the Property. Mr. Cowles noted that the purpose of this report was to visually assess and characterize the vegetation located on the northwest half of the Property. Mr. Cowles noted that in his inspection of the site, he did not encounter any "special trees," which are those typically having a circumference greater than 55 inches. Mr. Cowles concluded that the existing vegetation and ecological conditions are not healthy or beneficial to the community due to the degraded nature of the site, the trash and use by homeless people, and the lack of "special trees" of 55 inches or greater circumference on this portion of the Property. Mr. Cowles noted that, "...a high value urban landscape will add considerably more to the neighborhood property values according to the highest and best use of the land." (Exhibit 33.)
  19. Theodore Mariani, admitted as an expert witness in the field of civil engineering, testified about the sustainable design features of the project. He noted that the project will be LEED certified and that the goal for the project is to be able to obtain a LEED Silver certification. Mr. Mariani noted that the parking garage will feature a green screen on its façade facing the adjacent Trinity Square shopping center. Mr. Mariani noted that the roof level of the parking garage will feature trees and plantings to help decrease the urban "heat island" effect. In addition, Mr. Mariani testified that the Applicant's preferred retail tenant for the mixed use building in the consolidated PUD was a grocery store. (July 9, 2009 Transcript, pp. 89-90.)
  20. Erwin Andres of Gorove/Slade Associates, admitted as an expert witness in the field of transportation engineering, submitted a Traffic Impact Study and Addendum, and a Transportation Management Plan ("TMP"). At the public hearing, Mr. Andres testified about vehicular access to the site, the adequacy of the proposed loading facilities, and presented the Applicant's response to the District Department of Transportation's ("DDOT") report. Mr. Andres noted that the site is generally suburban in character and will be accessed primarily by automobile. Mr. Andres testified that vehicular access to the site will occur from both Irving Street and Michigan Avenue. Mr. Andres noted that the Applicant is

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proposing the relocation of the Irving Street entrance to the Property and the addition of a traffic signal at the Irving Street entrance to allow better access to and from the Property.

Mr. Andres' traffic study concluded that the vehicular trips generated by this project, "would not degrade intersection levels of service or significantly increase average delay beyond what would occur in the future without development. Therefore, the development in and of itself would have minimal impacts on the study area roadway network." In addition, Mr. Andres' study also concluded that the proposed development would not adversely affect the operational efficiency and comfort of pedestrian and bicycle traffic movements within the study area.

In response to DDOT's questions regarding the proposed Michigan Avenue access to the Property, Mr. Andres stated that full access into and out of the Michigan Avenue entrance is the best alternative for vehicles entering and exiting the Property because of expected trip generations, the left turn restriction at Irving Street from Michigan Avenue, limited left turns from the Michigan Avenue entrance, the benefit of having two vehicular access points, and the additional Irving Street entrance.

Mr. Andres also testified that loading will be accessed from Michigan Avenue, with separate loading areas for the hotel/convention center and the retail space. He noted that the loading facilities are adequate for the needs of the project and that the use and access of the loading facilities would not adversely impact the adjacent roadways. In addition, Mr. Andres stated that he believed that DDOT was unwarranted in its concern that loading would occur from Michigan Avenue; rather, he stated that trucks would likely want to avoid unloading on busy Michigan Avenue and would prefer to unload in the designated loading areas.

Mr. Andres testified that he did not believe that a SmartBike location was appropriate for the Property due to the suburban nature of the site and the proposed uses in the project.

(July 9, 2009 Transcript, pp. 36-51; Exhibit 18, Exhibit A).

21. Rob Reinders of the Marriott Corporation testified about the SpringHill Suites brand and the high quality of this hotel. He noted that this hotel has many upgrades from the usual SpringHill Suites design and stated that this hotel will be a showcase for the SpringHill Suites brand. (July 9, 2009 Transcript, p. 55.)
22. Michael Dickens testified on behalf of the Applicant. Mr. Dickens addressed the Applicant's community outreach program, the need for this type of hotel project

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in this community, and the Applicant's community amenities program. The community amenities program includes:

- **Ward 5 Skills Development and Job Readiness Program:** The Applicant will contribute \$75,000 for a project-specific job readiness program that will prepare 40-50 Ward 5 residents for jobs directly related to the project's development and the hospitality industry. The program will be administered by the University of the District of Columbia ("UDC") hospitality program or other similar non-profit institution. The program will target Ward 5 residents who are interested in the hospitality industry and assist successful participants with job placement. The program will coordinate its efforts with other existing programs/institutions, such as the Hotel Association of Washington, DC ("HAWDC") and the Hospitality High School of Washington, DC, a Public Charter School.
- **Scholarships and internships for Ward 5 residents who are students at the Community College hospitality program of UDC/HAWDC:** The Applicant will provide scholarship assistance of at least \$2,000 for twenty years, a value of at least \$40,000, to a student or students selected by the school and HAWDC under the UDC/HAWDC-administered scholarship program, who are Ward 5 residents. In addition, the hotel will commit to hiring two students who are Ward 5 residents from the school as interns each summer (estimated cost of \$5,000 per intern).
- **Culinary Internships for Ward 5 Students:** The Applicant will hire two Ward 5 students who attend a Career Technical Education based Culinary Arts Program as interns each summer (estimated cost of \$5,000 per intern) for twenty years.
- **Business opportunities for the community:** A directory of services will be placed in each hotel room, listing local businesses that may be of interest to hotel guests.
- **First Source and CBE Agreements:** The Applicant will enter into a First Source Employment Agreement with the Department of Employment Services ("DOES"). The Applicant will also enter into a Certified Business Enterprise ("CBE") Agreement with the Department of Small and Local Business Development.
- **Meeting room space for the ANC 5C or Single Member District ("SMD") 5C11:** ANC 5C or SMD 5C11 will be provided meeting room space for monthly public meetings on a scheduled basis, free of charge.

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- **Reduced rates for use of the hotel and conference facilities:** Programs will be established to provide reduced charges for reasonable use of the hotel and conference center by private residents of the area served by ANC 5C, including use of the conference facilities and rooms, as well as the ballroom facility, on a space available basis.
  - **Seniors group lunch program:** The Applicant will host a luncheon for a seniors group consisting of area residents (up to 25 guests) four times per year for a period of 20 years from the date that the restaurant opens.
  - **ANC 5C residents' holiday party:** The Applicant will make meeting space available for an annual holiday party for area residents, on a space available basis, for a period of 20 years from the date that the hotel opens. (Exhibit 32.)
23. At the conclusion of the July 9, 2009 public hearing, the Commission requested that the Applicant provide additional information regarding the following issues:
- The request for set-back relief for the main roof structure on the hotel building;
  - Additional analysis regarding the proposed treatment of the Michigan Avenue façade of the retail/parking garage structure;
  - Revisions to the proposed vehicular access to the Property from Michigan Avenue;
  - Discussion of the Applicant's commitment to satisfy the applicable Inclusionary Zoning requirements for the second phase of development of the PUD project; and
  - An update on discussions between the Applicant and representatives of the Urban Forestry Administration ("UFA").
24. On July 20, 2009, the Applicant submitted a post-hearing submission that addressed all of the Commission's requests for additional information.
- The Applicant reduced the height of the main roof structure on the hotel building from 18 feet, six inches to 17 feet, six inches. The configuration of the main roof structure was revised so that this roof structure now satisfies the 1:1 setback requirement for the majority of the building's frontage along Michigan Avenue. The only portion of the main roof structure that does not satisfy the 1:1 setback requirement along Michigan Avenue occurs at the point

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that the configuration of the hotel building changes when the Michigan Avenue and Irving Street wings of the hotel meet.

- In the development of the construction drawings for this structure, the Applicant will: (i) attempt to bring more of the texture and articulation of the hotel façade to the parking structure; (ii) soften the appearance of the parking deck through additional appropriate plantings, or possibly a structured planting bed at the top of the structure; (iii) investigate the potential for adding a screen grid or louvers at the openings of the precast façade; and (iv) once the tenants for the retail uses are finalized, create a more detailed ground floor façade elevation that will enliven the façade's appearance through one or more store fronts, signage, and canopies.
- Based on an additional meeting with DDOT representatives, the Applicant understood that DDOT's concern with the left turn vehicular movement from Michigan Avenue onto the Property is due to the speed of traffic along Michigan Avenue during non-peak hour traffic periods, particularly the speed of traffic that is achieved by the "slip lane" that allows vehicles to enter Michigan Avenue from Irving Street without having to come to a stop. The Applicant noted the importance of providing a safe and efficient transportation system that acknowledges the needs of pedestrians, bicyclists and drivers. The Applicant believes that maintaining the ability for all vehicles to take left turns onto the site from Michigan Avenue, just as vehicles are able to do today into the Washington Hospital Center parking lot on the site and as they are able to do at the adjacent Trinity Square Shopping Center, is of paramount importance to the viability of the proposed restaurant and retail uses along Michigan Avenue. For the Michigan Avenue entrance, the Applicant proposed a right and left turn in for all vehicles and a right turn only out for all vehicles.

The Applicant proposed the following changes to the PUD project:

- i. All Washington Hospital Center employees utilizing the parking spaces provided on the site will be required to enter and access the site from Irving Street;
- ii. All directions to the hotel and conference center (whether on websites, printed materials, or from hotel employees) will direct guests to the Irving Street entrance;
- iii. No vehicles will be able to make a left turn out of the Michigan Avenue exit (this will be accomplished through signage at the Michigan Avenue exit); and
- iv. The Applicant will pay for all costs associated with the removal of the "slip lane" from Irving Street to Michigan Avenue, by redesigning and

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constructing a revised intersection of Michigan Avenue and Irving Street at the same time that the Applicant undertakes the construction of the new signalized intersection at the Irving Street entrance into the site.

- The Applicant acknowledges that if a residential component is included in the second phase of development of the PUD project, that portion of the PUD project will satisfy all applicable Inclusionary Zoning requirements.
- Representatives of the Applicant met with representatives of the Urban Forestry Administration (UFA) on July 17, 2009. At that meeting, the attendees reviewed the report of the Applicant's arborist and discussed the importance of the Applicant receiving comment and input from UFA at this stage of the development process. In addition to a discussion of the vegetated area of the site, the Applicant and UFA representatives discussed issues related to the stormwater management infrastructure that will be incorporated into the development of the project.

(Exhibit 36.)

25. During the Commission's deliberations at the July 27, 2009 public meeting, the Commission required that the Applicant submit the following information before the Commission considered final action:
  - Updated renderings depicting the revised main roof structure on the roof of the hotel building;
  - Elevations and details depicting the enhancements to the Michigan Avenue façade of the retail/parking garage structure; and
  - Additional information on the proposed reconstruction of the Michigan Avenue/Irving Street intersection.
26. On September 4, 2009, the Applicant submitted a second post-hearing submission that addressed the Commission's requests for additional information. The submission attached plans, renderings and details that depict the revised main roof structure and enhancements to the Michigan Avenue façade of the retail/parking garage structure. The submission described that the Applicant had met with DDOT to discuss the planned changes to the Michigan Avenue/Irving Street intersection, attached the materials the Applicant submitted to DDOT, and stated that the Applicant believed the materials were sufficient for DDOT to determine whether the new intersection met DDOT standards.
27. Pursuant to 11 DCMR § 2405.7, the Commission has the authority to grant flexibility from the Zoning Regulations in connection with a PUD. The Applicant

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requested relief from the following roof structure requirements: a single roof structure, all roof structures be the same height, and roof structures be set back from all exterior walls at a ratio of 1:1 (§ 411). The Applicant requested additional relief from the side yard requirement (§ 775.5), the loading requirement (§ 2201.1), and the requirement for one building on a single record lot (§ 2517). The Applicant also requested that the Commission use its authority under § 2405.3 to approve a height increase of up to five percent over the PUD guidelines for the C-3-A Zone District to allow a building height of 94.5 feet. The Commission finds that granting this requested minor flexibility is necessary for the project to achieve its goals, that granting this flexibility will have no impact on the surrounding properties, and that granting this flexibility is consistent with the 1910 Height Act.

### **SATISFACTION OF THE PUD EVALUATION STANDARDS**

28. Pursuant to 11 DCMR § 2403, in evaluating a PUD application the Commission must “judge, balance, and reconcile the relative value of Project amenities and public benefits offered, the degree of development incentives requested and any potential adverse effects.” (11 DCMR § 2403.8.) The Commission finds that the rezoning, development incentives, and requested flexibility from the Zoning Regulations are appropriate and are justified by the benefits and amenities offered by this project. As detailed in the Applicant’s written submissions and testimony to the Commission, the proposed PUD will provide the following project amenities and public benefits:

- Community Amenities Program: The Applicant will provide the Community Amenities Program described above in Finding of Fact 22.
- Site Planning: Section 2403.9(b) lists site planning and efficient and economical land utilization as one category of public benefits and project amenities for a PUD. As shown in the detailed plans, elevations, and renderings, the proposed project exhibits efficient land use and exceptional site planning. The PUD combines a hotel, a conference center, a restaurant, and a retail space into one project. The conference center ballroom extends over a driveway to connect with the garage, thereby allowing a full size ballroom without sacrificing access to the site. Similarly, the parking structure incorporates ground floor retail along Michigan Avenue in order to offer a project that is both pedestrian friendly and adequate to accommodate cars for hotel guests and conference attendees. (Exhibit 18, p. 20.)
- Urban Design, Architecture, Landscaping, and Creation of Open Spaces: Section 2403.9(a) lists urban design and architecture as categories of public benefits and project amenities for a PUD. The inclusion of the direct

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pedestrian entrance from Michigan Avenue to the hotel lobby, the treatment of the plaza between the hotel and the conference center, an outdoor dining terrace, and a sunbathing terrace are all project amenities resulting from the urban design, landscaping, and creation of open spaces found in this project. Benches, lighting, and landscaping on the Property and in the adjacent public space will provide respite and seclusion from the vehicular traffic along Michigan Avenue and will animate the Michigan Avenue pedestrian experience. The Applicant will pay for the cost of these improvements in public space. (Exhibit 18, p. 20.)

- Effective and Safe Vehicular and Pedestrian Access: The Zoning Regulations, pursuant to § 2403.9(c), state that “effective and safe vehicular and pedestrian access” can be considered public benefits and project amenities. The project will result in the relocation of the Irving Street vehicular entrance onto the Property. The current location of this entrance creates sight distance and operational constraints for left-turn movements from the Property. As a result of this project, the Applicant will undertake the following improvements: relocate the Irving Street entrance drive into the Property; install a traffic signal and advanced flashing beacon on Irving Street; provide a separate left turn-lane along the westbound approach of Irving Street; provide improved roadway striping and signage to allow efficient and safe merging of mainline and ramp vehicles approaching from the west; and remove the “slip lane” from Irving Street to Michigan Avenue through the redesign and construction of a revised intersection at Michigan Avenue and Irving Street.

The Applicant submitted a TMP for this project. The primary objective of the TMP is to reduce the potential transportation impacts of the project by managing traffic and parking demand. The Applicant’s TMP includes the following measures: designation of a transportation services coordinator, increased transit services, three reserved parking spaces for a car-sharing service, a ride-matching/ride-sharing program, and a guaranteed ride home program.

The Applicant will pay the costs for the expanded new 10-foot sidewalks in the public space adjacent to the Property and to replace and enhance the bus shelter located on Michigan Avenue adjacent to the Property. The new sidewalks and enhanced bus shelters will enhance pedestrian safety in the area and will also help encourage the use of public transportation. (Exhibit 18, pp. 21-22.)

- Employment: According to § 2403.9(b) of the Zoning Regulations, the use of local firms in the development and construction of the project is a

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representative public benefit and project amenity. The Applicant estimates that the hotel and restaurant operations will generate 160 full time equivalent jobs. The Applicant will enter into a CBE Agreement with the Department of Small and Local Business Development.

According to § 2403.9(b) of the Zoning Regulations, “employment and training opportunities” are public benefits and project amenities that a PUD may offer. The Applicant will enter into an agreement to participate in the DOES First Source Employment Program to promote and encourage the hiring of District of Columbia residents. (Exhibit 18, p. 23.)

- Uses of Special Value and Revenue for the District: Pursuant to § 2403.9(i), “uses of special value to the neighborhood or the District of Columbia as a whole” are public benefits and project amenities to be evaluated by the Commission. The proposed 314-room hotel will generate income to the District of Columbia through various taxes and payments. The estimated amount of annual revenue generated by this project is \$4 million. In addition, the Applicant, ANC 5C representatives, and neighborhood organizations have developed a comprehensive community amenities plan. (Exhibit 18, pp. 23-24.)
29. The Commission finds that the proposed consolidated PUD, first-stage PUD, and related map amendment are not inconsistent with the District Elements of the Comprehensive Plan for the National Capital (“Comprehensive Plan”) and are fully consistent with the following components of the Comprehensive Plan:
- Upper Northeast Area Element: The Comprehensive Plan advances the policy of improved streetscapes. (Policy UNE-1.2.1 Streetscape Improvements). In addition, the Area Element promotes linkages between residents and jobs within Upper Northeast (Policy UNE-1.2.4 Linking Residents to Jobs) and increasing economic opportunity in the area (Policy UNE-1.2.5 Increasing Economic Opportunity). The proposed project focuses on enhancing the vibrancy and appearance of Michigan Avenue. The significant landscaping proposed on the Property and the public space along Michigan Avenue will create a more attractive and vibrant stretch of this gateway avenue. The project will result in the creation of 160 new jobs that can be filled by residents of the surrounding communities. This project will also provide for increased economic opportunity for neighborhood and District residents.
  - Land Use Element: The Comprehensive Plan provides policies to encourage infill development (Policy LU-1.4.1 Infill Development), to ensure that zoning of vacant infill sites is compatible with the surrounding neighborhood (Policy LU-1.4.3 Zoning of Infill Sites), and to ensure that new uses within

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commercial areas are developed in a way that is compatible with the surrounding neighborhood (Policy LU-2.4.6 Scale and Design of New Commercial Uses). The proposed commercial uses and proposed C-3-A Zone District are consistent with these policies.

- Economic Development Element: The Comprehensive Plan states that the District should create additional shopping opportunities in Washington's neighborhood commercial districts. (Policy ED-2.2.3: Neighborhood Shopping). Also, the Comprehensive Plan supports the development of a diverse range of hotel types and encourages new hotels (Policy ED-2.3.4: Lodging and Accommodation). In addition, the Comprehensive Plan promotes job training and job placement in the hospitality industry by working with local hotels (Policy ED-2.3.9: Hospitality Workforce Development). Finally, the Comprehensive Plan promotes the policies of expanding opportunities for small, local businesses (Policy ED-3.2.8: LSDBE Programs) and creating incentives to hire local residents (Policy ED-4.2.12: Local Hiring Incentives). The Applicant expects that the demand for the retail space provided in this project will come from predominantly neighborhood serving retailers that will provide basic goods and services. The creation of an all-suites hotel at this location is entirely consistent with the policy of creating a range of hotel types in various parts of the District of Columbia. The project will also provide significant job opportunities in the hospitality sector. Also, the Applicant has agreed to enter into First Source Employment and CBE Agreements related to this project.

### GOVERNMENT REPORTS

30. The Office of Planning ("OP") submitted a report, dated June 29, 2009, that recommended unconditional approval of the proposed consolidated PUD, first-stage PUD, and Zoning Map amendment. The report states, in part,

OP concludes that the redevelopment proposal for the site would be beneficial to the District and the immediate neighborhood. It would add commercial activity along a predominantly institutional corridor ... The project would be at a scale which is compatible with its location, and with surrounding development. Elements are included that are improvements over what could be achieved as a matter-of-right, removal of a large portion of the surface parking in conjunction with the development of neighborhood serving retail, improved pedestrian access, as well as increased hotel revenue for the District.

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- The OP report supported the Applicant's request for flexibility from the Zoning Regulations with regard to roof structures, loading, building height, side yards, and multiple buildings on a record lot. The OP report also noted OP concluded that the application is not inconsistent with the 2006 Comprehensive Plan Future Land Use and Policy maps and furthers many important policies for the Upper Northeast Area. The OP report also supported the Applicant's request to extend the first-stage PUD approval for a period of five years from the date of the consolidated PUD's approval in order to gauge the development proposal's preferred option due to market conditions. (Exhibit 26, p. 15.)
31. DDOT submitted a report, dated July 2, 2009, which recommended conditional approval of the consolidated PUD. In its report, DDOT recommended several changes to the Applicant's planned circulation pattern. First, DDOT recommended that all personal vehicles should be restricted to right turns out of and right turns into the Michigan Avenue entrance. Second, DDOT supported the Applicant's request for relief from the loading requirements but raised a concern that trucks for the retail spaces will not use the loading facilities and, instead, will park on Michigan Avenue and unload on the sidewalk; thus, DDOT recommended a delivery schedule and loading dock coordinator. Third, DDOT requested that the Applicant place a SmartBike station on the site near the retail spaces. Finally, DDOT recommended that the Applicant adopt a ten point transportation demand management plan. DDOT's report also required that the Applicant provide appropriate signage alerting drivers, from all directions, about the new Irving Street signalized entrance to the Property and that the Applicant re-examine the parking needs at Phase II of the development to ensure that parking is not overbuilt and that the development takes advantage of its proximity to the Brookland-Catholic University Metro Station. (Exhibit 28, pp. 1-4.)
32. UFA submitted a report, dated June 19, 2009, that classified the unimproved areas of the Property as a stand, i.e., "a group of forest trees of sufficiently uniform species, composition, age, and condition to be considered a homogeneous unit for management purposes." UFA recommended that the Applicant, "work with a consultant and perform a thorough and complete assessment of the vegetated area to determine the type of tree cover and other species that are growing in this space and what the overall impacts will be if removed." UFA report also noted that the Applicant should, "consult with the District Department of the Environment ("DDOE") Watershed Protection Division, Stormwater Management Division, Fisheries and Wildlife Division to determine the hydrology of this site, the type of wildlife and micro-organisms that inhabit the space as well as best management practices for managing run-off." (Exhibit 26, Attachment)

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### ANC REPORT

33. ANC 5C's June 27, 2009 resolution of support noted the ANC's unanimous support for the proposed project and for the negotiated amenities plan. The ANC's resolution requested that the Applicant "collaborate with the community and the District Department of Transportation to address concerns about 'access' to and from the Michigan Avenue entrance, including proposed signage at the intersection of Michigan Avenue and North Capitol Street to guide hotel traffic to use North Capitol and Irving Streets to access the hotel property." (Exhibit 29, pp. 1-2)
34. At the July 9, 2009 public hearing, Anita Bonds, chairperson of ANC 5C, and Ronnie Edwards, ANC 5C11 representative, testified for ANC 5C's support of the consolidated PUD, first-stage PUD, and Zoning Map amendment application. Ms. Bonds and Mr. Edwards noted that the Applicant and ANC 5C had agreed on a community amenities plan. (July 9, 2009 Transcript, pp. 153-154)

### PERSONS AND PARTIES IN SUPPORT OR OPPOSITION

35. The Ward 5 Councilmember, Harry Thomas Jr., submitted a letter in support of the application. Councilmember Thomas' letter of support noted that, "the hotel and conference center project will offer much needed services to the community and institutions of Ward 5, and will provide significant revenues and job creation for the District of Columbia." (Exhibit 35.)
36. The Basilica of the National Shrine of the Immaculate Conception also submitted a letter in support of the project. (Exhibit 15.)
37. There were no persons or parties in opposition to this application.

### CONCLUSIONS OF LAW

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.) The development of this PUD project executes 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.

The proposed PUD meets the minimum area requirements of 11 DCMR §2401.1.

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Under 11 DCMR § 2402.5, the Commission has the authority to consider part of 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 Applicant requested relief from the roof structure requirements, from the side yard requirement, from the loading requirement, and from the requirement for one building on a single record lot. The Commission finds that granting the requested relief will not adversely impact the surrounding properties and that the requested relief is consummate with the benefits and amenities that the PUD project will provide. The Commission finds that the Applicant's revised roof plan, which proposes a main roof structure that does not require set-back relief from 94% of the building's frontage along Michigan Avenue, is a significant improvement over the initial design.

The Commission also finds that the Applicant's request to approve a height increase of up to five percent over the PUD guidelines for the C-3-A Zone District to allow a building height of 94.5 feet is necessary for the superior quality of the hotel suites and that the Property's grade change results in a taller building height than might otherwise be the case without the grade change. The Commission finds that the allowance of five percent greater building height above the PUD guidelines for the C-3-A Zone District, as permitted in 11 DCMR § 2405.3, is essential to the successful functioning of the project and is consistent with the purpose and evaluation standards of the PUD regulations. The Commission also concludes that granting this additional building height will not have an adverse impact on the nearby properties.

The Commission finds that the proposed PUD project offers significant public benefits and project amenities that justify the Applicant's greater flexibility in planning and design. At minimum, the PUD project will provide the following public benefits:

- Significant economic development potential for the area and the District as a whole;
- Ground floor retail uses;
- Significant job creation;
- High quality public open spaces;
- Vehicular and pedestrian infrastructure improvements; and
- Environmentally sensitive design.

The Commission finds that the proposed PUD-related rezoning of the Property to the C-3-A Zone District is consistent with the surrounding uses, intensity of uses, and heights of surrounding properties. Approval of the application will result in no adverse effect on neighboring properties. The Commission concludes that approval of the proposed consolidated PUD, first-stage PUD, and related Zoning Map amendment to the C-3-A Zone District is not inconsistent with the policies and goals of the Comprehensive Plan and is consistent with the other requirements of the Zoning Act. The proposed consolidated PUD, first-stage PUD, and related Zoning Map amendment is not

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inconsistent with the unzoned (GOV) designation of the Property on the Future Land Use Map.

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. The Commission notes OP's conclusions regarding the PUD project's satisfaction of the standards for PUD approval, OP's support for the requested flexibility from the Zoning Regulations, the project not being inconsistent with the Comprehensive Plan, and OP's support for the extended period of approval for the first-stage PUD approval. The Commission concurs with OP's recommendation for approval and has given its recommendation the great weight to which it is entitled.

The Commission recognizes the conditioned support that this application received from DDOT. The Commission finds that the conditions proposed in the Applicant's post-hearing submission regarding Michigan Avenue access are an appropriate compromise that responds to the concerns raised by DDOT and ANC 5C. The Commission agrees with the Applicant's statement that pedestrian, bicycle, and vehicular safety are furthered through the reduction of vehicles using the Michigan Avenue entrance, the prohibition of left turns out of the Michigan Avenue exit, and the potential for a significant reduction of vehicular speed along Michigan Avenue in front of the Property. Therefore, the Commission concludes that for the Michigan Avenue entrance to the Property, all vehicles should be allowed to make a right and left turn onto the Property from Michigan Avenue and all vehicles will only be allowed to make a right turn out of the Michigan Avenue exit. Nothing herein is intended to compel DDOT to allow or relocate such curb cuts as may be requested by the Applicant to permit this traffic pattern.

The Commission does not believe that it is necessary for the Applicant to designate a loading dock coordinator to coordinate all truck deliveries and trash disposal services for all of the proposed uses in order to provide assurance that the neighborhood quality of life will be maintained. The Commission agrees with the testimony of the Applicant and its representatives that the location of the loading docks included in the project, the amount and speed of traffic along Michigan Avenue and the distance from the retail and restaurant uses from Michigan Avenue make it unlikely that unloading of trucks and delivery vehicles will create problems along Michigan Avenue.

The Commission notes that the Applicant agrees with DDOT's conditions regarding signage for the new Irving Street entrance to the Property and the reexamination of the parking needs in the second phase of development. The Commission finds that it is not necessary for the Applicant to pay for a SmartBike station on the Property, as the Applicant is providing an appropriate amount of benefits and amenities as a result of this application without the need to pay for the Smart Bike station. The Commission finds that the Applicant's TMP, including the provisions related to loading and deliveries, is

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sufficient to reduce the potential impacts of the proposed development by managing traffic and parking demand. The Commission does not believe that it is necessary to include as conditions of this order the Transportation Demand Management measures included in the DDOT report.

The Commission notes the UFA memo in this case and the request of UFA that the Applicant undertake a thorough and complete assessment of the vegetated area of the Property. The Commission finds that the report of the Applicant's arborist adequately satisfies the request of UFA. The Commission agrees with the conclusions contained in that report that the "existing vegetation and ecological conditions are not healthy and are not beneficial to the community". The Commission finds that the most appropriate process for the Applicant to address UFA's request for consultation between the Applicant and various divisions in DDOE is through the Environmental Impact Screening Form ("EISF") process. The Commission notes the dialogue that has occurred between the Applicant and UFA representatives and encourages that dialogue to continue through the EISF process.

The Commission is required under D.C. Official Code § 1-309.10(d) to give great weight to the issues and concerns expressed in the affected ANC's written recommendation. The Commission concurs with ANC 5C's support of the PUD project and has addressed the ANC's concerns regarding Michigan Avenue access to the Property. The Commission finds that it has accorded ANC 5C the great weight to which it is entitled.

### **DECISION**

In consideration of the Finding of Facts 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, a first-stage review of a Planned Unit Development, and a related Zoning Map amendment to the C-3-A Zone District for Parcel 121/31. The approval of this PUD and related Zoning Map amendment is subject to the following guidelines, conditions, and standards of this Order. For the purposes of the following conditions, the term "Applicant" shall be the person owning a fee simple title to the property or their agent.

1. The PUD Project shall be developed in accordance with the plans and materials submitted by the Applicant marked as Exhibits 18, 19, 36, and 39 of the record, as modified by the guidelines, conditions, and standards of this Order.
2. The consolidated PUD project shall include a 314 room hotel and conference center on the portion of the Property that has frontage along Michigan Avenue and Irving Street, and a four-story above grade structure along Michigan Avenue that will include retail uses at grade and in a basement level and 400 parking spaces. The consolidated PUD project also includes a 200 space surface parking lot on the northern portion of the Property.

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3. The hotel in the consolidated PUD project shall include a white tablecloth restaurant on the ground floor including a main entrance open and accessible to the public during restaurant hours directly from Michigan Avenue. The restaurant will also offer an outdoor seating area along Michigan Avenue.
4. The hotel in the consolidated PUD project shall be LEED certified, and the Applicant shall make a good faith effort to achieve a LEED Silver certification for the hotel. In this case, good faith efforts shall constitute at minimum registration of the project with the U.S. Green Building Council ("USGBC"), as well as submission of an application to the USGBC applying for LEED Certification (including Silver Certification for the hotel).
5. The Applicant shall make a good faith effort to lease the retail space in the mixed use structure of the consolidated PUD project to a grocery store tenant.
6. The Applicant shall undertake (subject to DDOT approval) and pay all costs associated with the following improvements to the transportation system on Irving Street and Michigan Avenue adjacent to the Property: relocation of the Irving Street entrance drive into the Property; installation of a new traffic signal at the Irving Street entrance and appropriate signage that will alert drivers (from all directions) about the Irving Street signalized intersection; creation of a separate westbound approach off of Irving Street; improved roadway striping and signage; the removal of the "slip lane" from Irving Street to Michigan Avenue through the redesign and construction of a revised intersection of Michigan Avenue and Irving Street; installation of expanded new 10 foot sidewalks in the public space adjacent to the Property; and replacement of the bus shelter located on Michigan Avenue adjacent to the Property. All of these actions must be completed prior to the issuance of a Certificate of Occupancy for the consolidated portion of the PUD project.
7. The Applicant shall implement the Transportation Management Plan, as described in Exhibit 16 of the record.
8. Subject to DDOT's approval of the installation or relocation of any needed curb cuts, all vehicles will be able to make left turns from Michigan Avenue onto the Property, provided the following conditions are satisfied: all Washington Hospital Center employees utilizing the parking spaces provided on the site will be required to enter and access the site from Irving Street; all directions to the hotel and conference center (whether on websites, printed materials, or from hotel employees) will direct guests to the Irving Street entrance; and no vehicles will be able to make a left turn out of the Michigan Avenue exit.
9. The Applicant shall contribute \$75,000 for a project-specific job readiness program that will prepare 40-50 Ward 5 residents for jobs directly related to the

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- project's development and the hospitality industry. The program will be administered by the University of the District of Columbia hospitality program or other similar nonprofit institution and will coordinate its efforts with other existing programs/institutions. The Applicant will present evidence of the program to the Department of Consumer and Regulatory Affairs prior to the issuance of the Certificate of Occupancy for the consolidated portion of this PUD.
10. The Applicant will provide an annual scholarship of at least \$2,000 annually for 20 years to a student or students who are residents of Ward 5, at the community college hospitality program of UDC and the Hotel Association of Washington, D.C. The first scholarship payment shall be made no later than 60 days after a certificate of occupancy is issued for the hotel, with each subsequent scholarship payment due upon the anniversary date of the first payment. The Applicant will also hire two students at the community college hospitality program who are Ward 5 residents as interns each summer to work in the hotel. The hotel will present evidence of the required payment and hiring of the interns annually to the Office of Zoning.
  11. The Applicant will hire two Ward 5 students attending any District Career Technical Education-based culinary arts programs as interns each summer to work at the restaurant, beginning the first summer after the restaurant opens. The Applicant will present evidence of such hiring annually to the Office of Zoning.
  12. A directory of services will be placed in each hotel room. The directory will list local businesses that may be of interest to hotel guests.
  13. The Applicant shall enter into a First Source Employment Agreement with DOES. The Applicant will file this executed agreement with the Zoning Administrator prior to the issuance of a building permit. The Applicant will also enter into a Certified Business Enterprise Agreement with the Department of Small and Local Business Development. The Applicant will file this executed agreement with the Zoning Administrator prior to the issuance of a building permit
  14. The Applicant shall provide ANC 5C or SMD 5C11 with meeting room space for monthly public meetings on a scheduled basis, free of charge.
  15. The Applicant shall establish a program to offer reduced rates for reasonable use of the hotel and conference center, including use of the conference facilities and rooms and the ballroom, by residents of ANC 5C, on a space available basis.
  16. The Applicant shall host a luncheon for a seniors group of area residents (for up to 25 guests) four times per year for 20 years from the date that the restaurant opens.

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17. The Applicant shall provide meeting space for ANC 5C residents' annual holiday party for a period of 20 years from the date the hotel opens. The meeting space will be free of charge and will be on a space available basis.
18. No building permit shall be issued for the Consolidated PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the Applicant and the District of Columbia, which 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 Applicant and all successors in title to construct 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.
19. The Consolidated PUD approved by the Zoning Commission shall be valid for a period of two years from the effective date of this Order. Within such time, an application must be filed for a building permit and construction of the Consolidated PUD must start within three years of the effective date of this Order pursuant to 11 DCMR §§ 2408.8 and 2408.9.
20. The first-stage PUD approved by this Order includes two nine story buildings with a measured building height of 94.5 feet (as measured from the curb at Irving Street) and, just like the hotel building in the consolidated PUD application, will be no greater than 90 feet tall as measured from the finished grade at the building. The two buildings will be dedicated to either additional hotel and/or residential units and may include more space for conference center uses. A below-grade parking structure including 295 parking spaces is also provided. If a residential component is included in a portion of the Property that is subject to this first-stage PUD approval, that portion of the PUD project will be required to satisfy all applicable Inclusionary Zoning requirements. The first-stage PUD approval is effective for a period of five (5) years from the effective date of this Order.

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, gender identity or expression, 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 tolerated. Violators will be

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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.

On July 27, 2009, upon the motion of Chairman Hood, as seconded by Commissioner May, the Zoning Commission **APPROVED** the Application at its public meeting by a vote of **4-0-1** (Anthony J. Hood, Konrad W. Schlater, Peter G. May, and Michael G. Turnbull to approve; William W. Keating, III, not having participated, not voting).

On September 14, 1009, upon motion of Chairman Hood, as seconded by Commissioner Schlater, the Zoning Commission **ADOPTED** the Order at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Konrad W. Schlater, Peter G. May, and Michael G. Turnbull to approve; William W. Keating, III, to approve by absentee ballot) .

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the *D.C. Register* on December 25, 2009.

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DISTRICT OF COLUMBIA GOVERNMENT  
OFFICE OF THE SURVEYOR

Washington, D.C., November 28, 2009

Plat for Building Permit of SQUARE PARCEL 121/31

Scale: 1 inch = 50 feet      Recorded on Book A & T Page 3516 - Q

Receipt No. 00447

Furnished to: P W S P

*[Signature]*  
Surveyor, D.C.

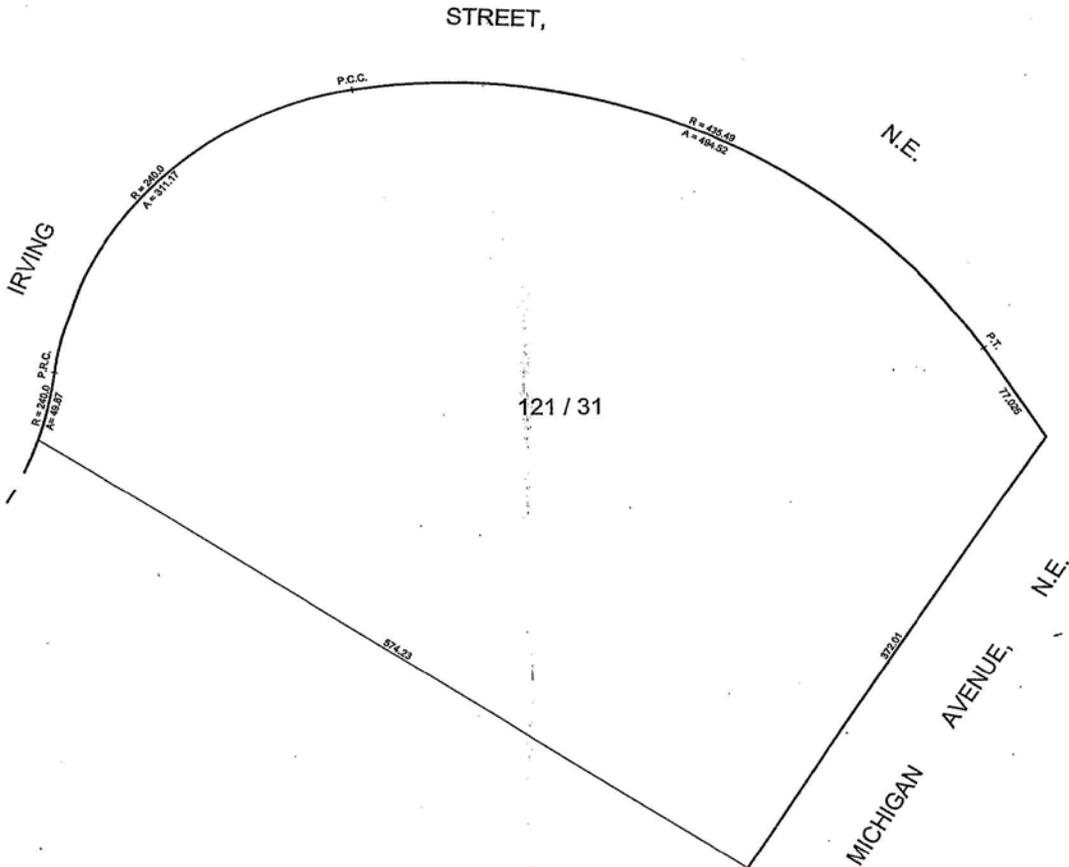
By: A.S. *[Signature]*

I hereby certify that all existing improvements shown hereon, are completely dimensioned, and are correctly plotted; that all proposed buildings or construction, or parts thereof, including covered porches, are correctly dimensioned and plotted; and agree with plans accompanying the application; that the foundations shown as shown hereon in 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 subjacent 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's approved curb and alley grade will not result in a rise 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.)

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.



2009 JAN -6 PM 2:35  
DISTRICT OF COLUMBIA  
OFFICE OF THE SURVEYOR

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**  
**ZONING COMMISSION ORDER NO. 08-24/08-24A/04-25**  
**Z.C. Case Nos. 08-24 and 08-24A/04-25**  
**Consolidated Approval for a Planned Unit Development, Zoning Map**  
**Amendment and Campus Plan Amendment**  
**Abdo Development, LLC and The President and Trustees of**  
**The Catholic University of America**  
**(Square 3654, Lots 4, 5, 6, 10, 12, 15, 16, 17, 801, 802, 803, 804, 805,**  
**806, 811; Square 3655, Lot 1; Square 3656, Lot 800; Square 3657,**  
**Lots 805, 821, 826; Square 3831, Lot 818)**  
**December 21, 2009**

Pursuant to notice, the Zoning Commission for the District of Columbia (“Commission”) held a public hearing on October 5, 2009, to consider an application from Abdo Development, LLC and The President and Trustees of The Catholic University of America (“CUA”) (collectively the “Applicant”) for consolidated review and approval of a planned unit development, related zoning map amendment, and amendment to an approved Campus Plan. The Zoning Commission considered the application pursuant to Chapters 2, 24, and 30 of the District of Columbia Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations). The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby approves the application.

**FINDINGS OF FACT**

**The Application, Parties, and Hearing**

1. The project site consists of Square 3654, Lots 4, 5, 6, 10, 12, 15, 16, 17, 801, 802, 803, 804, 805, 806, 811; Square 3655, Lot 1; Square 3656, Lot 800; Square 3657, Lots 805, 821, 826; and Square 3831, Lot 818 (“Subject Property” or “Property”). The Subject Property is known as CUA’s South Campus and is generally bounded by Michigan Avenue, N.E. to the north, Kearny Street, N.E. to the south, the WMATA/CSX train tracks to the east, and the Dominican House of Studies to the west. The Subject Property is located within the boundaries of Advisory Neighborhood Commission (“ANC”) 5C and abuts the boundaries of ANC 5A. The Subject Property consists of vacant lots and also includes dormitories for CUA (Conaty, Spalding, and Spellman Halls). The Subject Property consists of approximately 8.9 acres of land area. (Exhibit 4, p. 1; Exhibit 18, p. 1.)
2. The Applicant initially filed its application on September 8, 2008, and subsequently filed modified plans on March 26, 2009. The Commission set the application down for a public hearing at its April 27, 2009, public meeting. (Exhibits 4, 14; April 27, 2009 Transcript, p. 18.)
3. The Applicant filed a pre-hearing statement on July 10, 2009, and a public hearing was timely scheduled for October 5, 2009. Prior to the public hearing, the Applicant supplemented its application with additional information on September 15, 2009. (Exhibits 18, 26.)

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4. A public hearing was held on October 5, 2009. The parties to the case are the Applicant and ANC 5C. Testimony was presented by the Applicant's project team, the Office of Planning ("OP"), and ANC 5C. Additional individuals testified in support and in opposition to the application.
5. The record was otherwise closed at the end of the public hearing. No other individuals or entities requested, or were granted, party status. (11 DCMR § 3024.1.)
6. At its meeting held on November 9, 2009, the Commission took proposed action to approve the application. At the suggestion of the Office of the Attorney General, the Commission ordered the Applicant to submit a final list of the benefits and amenities it was proffering for the consolidated PUD, along with a listing of the conditions it would agree to follow in order to make each and every proffer specific and enforceable by November 16, 2009 and serve that list on the Attorney General, OP, and ANC 5C. The Commission instructed OAG and OP to complete any dialogue they felt was necessary with respect to any perceived deficiencies in the Applicant's proposed conditions by November 23, 2009, and for the Applicant to serve OAG, OP, and the parties with a revised list of conditions by November 30, 2009. The Commission further instructed that by December 7, 2009, OAG, OP, and the parties must file any responses to the revised conditions, with OAG's response to be treated as a privileged attorney-client communication.
7. By letter dated November 16, 2009, the Applicant submitted a table identifying its final proffer of benefits and amenities, and the conditions it believed would make the proffer enforceable. OAG and OP discussed the proposed conditions with the Applicant, and on November 30, 2009, the Applicant submitted a revised list of conditions. On December 7, 2009, OP and OAG submitted their comments to the revised conditions.
8. The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") pursuant to the District of Columbia Home Rule Act. NCPC, by action dated December 3, 2009, found the proposed PUD would not affect the federal interests in the National Capital, and would not be inconsistent with the Comprehensive Plan for the National Capital.
9. At a public meeting on December 14, 2009, the Commission deferred taking final action and requested the Applicant to provide a draft condition that stated its proffer with the artist studio spaces in Block C with greater specificity. On December 16, 2009, the Applicant submitted a letter responding to this request.
10. The Commission took final action to approve the application in Case Nos. 08-24 and 08-24A/04-25 on December 21, 2009.

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### **The Subject Property and Surrounding Area**

11. The PUD consists of five parcels of land that are labeled Blocks A-E. Blocks A1 and A2 of the Subject Property are currently improved with the Spellman, Conaty, and Spalding dormitories. Blocks A1 and A2 are bounded by Monroe Street, 7<sup>th</sup> Street, and Kearny Street. Block B is currently vacant property, but was previously the location of CUA's St. Bonaventure Hall. Block B is bounded by Michigan Avenue, 7<sup>th</sup> Street, and Monroe Street. Block C is currently vacant, but previously included a hotel. Block C is bounded by Michigan Avenue, the WMATA/CSX train tracks, and Monroe Street. The area between Block B and Block C, which includes a building that currently houses the Bennett School of Beauty and a building that was formerly a Pizza Hut restaurant, is not owned by CUA and is not included in this PUD and Zoning Map Amendment application. Blocks D and E are also currently vacant properties. Block D is bounded by Monroe Street and the WMATA/CSX train tracks. Block E is bound by Monroe Street, 8<sup>th</sup> Street, Lawrence Street, and 7<sup>th</sup> Street. (Exhibit 18, p. 7.)
12. CUA's main campus is located to the north of the Subject Property across Michigan Avenue. The Basilica of the National Shrine of the Immaculate Conception is located to the northwest of the Subject Property, also across Michigan Avenue. Immediately to the west of the Subject Property is the Dominican House of Studies. Further to the west, adjacent to the Dominican House of Studies along Michigan Avenue, is Theological College, the Oblates of St. Francis deSales, and Trinity University. (Exhibit 18, p. 6.)
13. The Edgewood neighborhood to the south of the Subject Property includes single family detached homes, row homes, apartment buildings, and various religious institutional uses. This area is generally zoned R-4 and R-5-A. The properties along 8<sup>th</sup> Street, south of Monroe Street, include numerous industrial and arts uses, such as Lee's Body and Repair Shop, the Brookland Studios, and Dance Place. These properties are zoned C-M-1. (Exhibit 18, p. 6.)
14. The Brookland neighborhood is located to the east of the WMATA/CSX train tracks and the Subject Property. Brookland consists primarily of single family detached homes and small garden apartment buildings, but also includes a small commercial strip along 12<sup>th</sup> Street north of Monroe Street. (Exhibit 18, pp. 6-7.)

### **Campus Plan Amendment**

15. CUA's existing Campus Plan is valid through May 22, 2012, as approved by Zoning Commission Order No. 02-20 and amended by Zoning Commission Orders No. 04-25A, 06-39, and 08-10. (Exhibit 18, p. 5.)
16. One of the goals of the CUA Campus Plan is to consolidate university uses on the main campus. The proposed demolition of the existing dormitories on the Subject Property

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and the removal of the Subject Property from the jurisdiction of the CUA Campus Plan was anticipated in the Commission's approval of the Campus Plan as noted below:

- 2002 Campus Plan – Section 4.2 - Overview p. 25 – “The south campus, because of its separation from the main campus by Michigan Avenue, will continue to be slowly phased out as a student housing area, and reserved for cooperative ventures between the University and other appropriate organizations.”
- 2002 Campus Plan – Section 4.3 – Building Demolitions p. 26 – “Proposed building demolitions include St. Bonaventure, Conaty, Spellman, ...”

“St. Bonaventure currently houses academic programs and student life offices. Given its location on the south side of Michigan Avenue, the University prefers to relocate those functions to the main campus.”

“Conaty, Spellman and Spalding Halls are existing residence halls located in the south campus area. All three were identified for demolition in the previous Campus Plan as a means of advancing the University's goal for consolidation of academic and residential facilities to the main campus.”

(Exhibit 18, p. 5.)

17. The removal of the land area of the Subject Property from the CUA Campus Plan results in a minor change to the floor area ration (“FAR”) of the Campus Plan. The previous FAR of the CUA campus was 0.34; it will be 0.36 with the removal of the Subject Property. The proposed removal of the Subject Property from the CUA Campus Plan is consistent with the goals and objectives of CUA's approved Campus Plan. (Exhibit 18, pp. 5-6.)

### **Existing and Proposed Zoning**

18. Blocks A1, A2, and B are currently located in the R-5-A Zone District; Block C is located in the C-M-1 and C-1 Zone Districts; Block D is located in the C-M-1 Zone District and Block E is located in the R-4 Zone District. Blocks A1, B, C, and E will be rezoned through a PUD-related map amendment to the C-2-B Zone District; Block A2 will be rezoned to the R-5-B Zone District through a PUD-related map amendment, and Block D will remain in the C-M-1 Zone District. (Exhibit 16, p. 4; Exhibit 18, p. 30.)
19. The Property is located in a Land Use Change Area, a Neighborhood Conservation Area, and Institutional Area under the District of Columbia Generalized Land Use Map. The Future Land Use Map indicates that moderate-density mixed-use residential and commercial, moderate-density residential, institutional, and production and technical employment uses are appropriate for the Subject Property. (Exhibit 16, p. 8.)

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### Description of the PUD Project

20. The PUD creates a retail and residential project with a significant arts component. The development establishes a unique mixed-use development that will help connect the portions of the Edgewood and Brookland communities that are currently separated by the WMATA/CSX train tracks. (Exhibit 18, pp. 1-2.)
21. Approximately 75,000-85,000 square feet of ground floor retail will line Monroe Street, starting at the intersection of Monroe Street and Michigan Avenue and continuing to the Monroe Street Bridge, with residential uses provided above. The residential component of the PUD project consists of approximately 725-825 residential units. Approximately 63,000 square feet of the residential square footage will be reserved for workforce affordable housing units. In addition, approximately 45 townhouses will be developed on a portion of the Subject Property bounded by a future extension of Kearny Street to the south, 7<sup>th</sup> Street to the east, a future extension of Lawrence Street to the north, and the Dominican House of Studies to the west, known as Block A2. (Exhibit 18, p. 2.)
22. The parcels of land will be developed as follows: Public Square and Block A: The western entrance to the Subject Property will be announced by a large public square -- a community gathering place that will include a clock tower, fountain, benches, café seating, moveable chairs, and ample space for people to enjoy outdoor passive recreational activities. Located at the intersection of Monroe Street and Michigan Avenue, this public square will cover approximately 1,000 square feet. The central fountain will animate the square and act in conjunction with the clock tower as a gateway into the development. The square will be bordered with trees that will provide shade yet allow for open views to and from the CUA campus. Seating will be accommodated by benches, moveable furniture, steps up to the fountain, and low planter walls edging the Square. The planter walls also will provide seasonal color and soften the edges of the square. (Exhibit 18, p. 10.)
23. The building located on Block A1 will have approximately 30,130 square feet of retail use and will include residential units on the upper floors. The building will be four and five stories tall. The residential uses will include approximately 293,160 square feet and approximately 308 units. A two level below-grade parking garage will be created underneath this building and accessed off of 7<sup>th</sup> Street. The parking garage in Block A1 will include approximately 204 parking spaces reserved for the residential units in this building and 190 spaces for all of the retail uses in the PUD. (Exhibit 18, p. 11.)
24. Parking spaces will be made available for car-sharing service vehicles inside the public retail garage. In addition, approximately 100 bike parking spaces, 50 for retail and an additional 50 for residential, will be provided inside the A1 garage. The loading platform for this building will also be accessed from 7<sup>th</sup> Street, adjacent to the entrance to the parking garage. (Exhibit 18, pp. 11-12.)

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25. The Applicant noted that the townhouses on Block A2 will create an appropriate transition from the taller and more dense structures on Monroe Street to the lower scale residences to the south of the Subject Property. The townhouses will be three to four stories (approximately 39-54 feet) in height and will include garage or surface parking spaces for each unit. (Exhibit 18, p. 13.)
26. Block B – The “Flatiron” Building: This building will be six stories tall and will have a building height of approximately 70 feet. This building will include approximately 106,980 square feet of residential use and approximately 140 residential units. Approximately 16,390 square feet of retail will be provided along the ground floor of the Michigan Avenue and Monroe Street frontages of this building. A parking garage for the owners of the residential units in this building will be accessed off of 7<sup>th</sup> Street, and loading will also be accessed from 7<sup>th</sup> Street. Building B will include 112 parking spaces for the residential units and 20 bicycle spaces. (Exhibit 18, p. 14; Exhibit 19, p. 13.)
27. Block C – Arts Walk: The Applicant proposes the transformation of the very challenging Block C, a block which abuts the WMATA/CSX train tracks and the Michigan Avenue viaduct, into one of the signature features of this project, the Arts Walk. The Arts Walk will establish a newly created pedestrian-only 8<sup>th</sup> Street running from Monroe Street north to the Michigan Avenue viaduct and the Brookland/CUA Metro station. The ground floor of the Arts Walk will include approximately 27 artist studio spaces totaling approximately 15,000 square feet. These studio spaces will feature glass roll-up doors that will allow the artists to open their studios directly to the outdoors while they work and to set up outdoor display areas as weather permits. These work spaces will be rented to artists at a significantly reduced rate. The Applicant has executed a Memorandum of Understanding with Cultural Development Corporation (“CuDC”) for CuDC to program and potentially operate and manage the studio spaces and the other arts functions within the project. (Exhibit 18, p. 16.)
28. The Arts Walk will culminate at a public piazza that will include open space, trees, bike parking (including space available for a District Department of Transportation (“DDOT”) SmartBike station), flexible market kiosks, and a stage/fountain. The public piazza will be focused on the stage with a vegetative green wall backdrop that covers the Michigan Avenue viaduct. The public piazza will be located at the end of the underpass that runs from the Brookland/CUA Metro station to the Edgewood community that is located south of Michigan Avenue and west of the WMATA/CSX train tracks. As part of the PUD project, the Applicant will work with DDOT to illuminate and enhance the underpass so that it provides a safe and welcoming environment to those accessing the Metro station. (Exhibit 18, p. 16-17.)
29. Two new five-story buildings will flank the Arts Walk. These buildings include approximately 140,800 square feet of residential space (approximately 152 units), approximately 13,450 square feet of retail space at the southern end of the buildings

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along Monroe Street, and approximately 15,100 square feet of artist studios. A single parking garage satisfying the residential parking demand for both buildings will be located on Block C and will include 91 spaces. This parking garage and the required loading docks will be accessed via a private alley off of Monroe Street and Bunker Hill Road. (Exhibit 19, p.14.)

30. Block D – Arts Flex Space Building: At the southeast corner of the intersection of 8th and Monroe Streets, the Arts Flex Space Building will be constructed. This building will be made available for use by community and arts groups, as well as groups and organizations from CUA and others for performance, exhibit, and meeting space. There will be no charge to the two local ANCs (5A and 5C) for the monthly meetings or for community groups. Other organizations will be charged a nominal fee for the use of this space, in order to cover maintenance and staffing costs. The space will be available for rent by other users on a priority basis at published rates. (Exhibit 18, pp. 18-19.)
31. Four surface parking spaces and the service facilities will be provided on the south end of the building. The entire building will consist of approximately 3,000 square feet and will have a building height of 36 feet. (Exhibit 18, p. 19.)
32. Block E: The building on Block E will continue the ground floor retail uses along Monroe Street and includes residential uses above. This building will have six stories along Monroe Street, but will provide ceiling heights ranging from 17 feet to 23 feet on the ground floor retail level. The building will step down to four stories as it moves south along 7<sup>th</sup> Street to Lawrence Street and the nearby lower scale residential structures. (Exhibit 18, p. 19 and Exhibit 58 [Applicant’s post-hearing submission dated October 26, 2009].)
33. The building will include approximately 162,270 square feet of residential use (approximately 156 units) and approximately 23,000 square feet of retail uses. Two levels of below-grade parking, including approximately 171 parking spaces, will be provided for the residential owners of this building. (Exhibit 19, p. 17.)

### **Transportation Infrastructure Improvements**

34. The public square adjacent to Block A1 will be bounded by a reconfigured “T” intersection of Monroe Street and Michigan Avenue that will remove the current “high-speed right turn” from Michigan Avenue onto Monroe Street. The reconfiguration of this intersection will provide significant traffic calming benefits for Monroe Street and will create a much safer condition for pedestrians crossing Michigan Avenue to and from the CUA campus. (Exhibit 18, pp. 10-11.)
35. The Applicant will realign the intersection of 7<sup>th</sup> Street and Michigan Avenue to create a four-legged intersection with the entrance to CUA. This new intersection will create a significantly safer pedestrian environment for those crossing Michigan Avenue. The

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plans for this new intersection include striped pedestrian crosswalks on Michigan Avenue on the east and west sides of the reconfigured intersection. (Exhibit 18, p. 15.)

36. Block C will incorporate a portion of the Metropolitan Branch Bike Trail that will run alongside the public piazza and the eastern building adjacent to the train tracks on the Subject Property.
37. The total cost of the proposed infrastructure improvements that will be undertaken as a result of this project is approximately \$800,000: \$777,776 for the construction and signalizing of the reconfigured intersections and \$23,500 for the construction of the Metropolitan Branch Trail extension. (Exhibit 58.)

### **Density Proposed and Flexibility Requested**

38. The total gross floor area included in the proposed PUD is approximately 917,722 square feet for approximately 2.31 FAR. (Exhibit 58.)
39. The PUD is granted the flexibility to locate the required parking spaces for all of the retail uses and bicycle spaces in a single parking structure in Building A1. It is also granted flexibility from the amount of parking spaces required for the Arts Flex Space Building. The Zoning Commission has the authority to grant this flexibility pursuant to § 2405.6 of the Zoning Regulations. (Exhibit 18, p. 22.)
40. More than one building will be constructed on a single record lot on Blocks A2 and C and relief from §§ 2516 and 2517 is required. The Commission has the authority to grant this flexibility pursuant to § 2405.7 of the Zoning Regulations. (Exhibit 18, p. 22.)
41. The PUD is granted flexibility from the strict application of the roof structure requirements of the Zoning Regulations in order to allow roof structures on the buildings on Blocks A1, B, C, and E that do not satisfy the requirements that roof structures be enclosed in a single structure of equal height and set back from all exterior walls at a ratio of 1:1. The Commission has the authority to grant this flexibility pursuant to § 2405.7. (Exhibit 18, p. 22.)
42. The PUD will be designed to satisfy LEED certification. Building designs will include sustainable features such as cool roofs, efficient fixtures, collection of rain-water for irrigation, permanent erosion control, management of stormwater run-off from roofs, and use of pre-fabricated wood trusses. (Exhibit 18, p. 32.)
43. The Applicant requested that the PUD approval be valid for a period of three years from the effective date of Zoning Commission Order No. 08-24 and 08-24A/04-25. Within such time, an application must be filed for a building permit for the construction of Block B, C, or D; the filing of the building permit application will vest the Commission Order. An application for the final building permit completing the development of the approved

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PUD project must be filed within 10 years of the issuance of the final certificate of occupancy for the first building. Block E will be utilized as an interim surface parking lot until the retail parking spaces located in Block A1 are created. Access to the interim lot proposed for Block E will occur via existing curb cuts or curb cuts proposed in connection with the development of Block E. (Exhibit 26, p. 2; Exhibit 43, p. 4.)

### **Public Benefits and Amenities**

44. The Applicant, in its written submissions and testimony before the Commission, noted that the following benefits and amenities will be created as a result of the Project, in satisfaction of the enumerated PUD standards in 11 DCMR § 2403.
- a. Housing and Affordable Housing: Pursuant to § 2403.9(f) of the Zoning Regulations, the PUD guidelines state that the production of housing and affordable housing is a public benefit that the PUD process is designed to encourage. This project will create approximately 725-825 residential units and approximately 63,000 square feet of workforce affordable housing (8% of the total amount of residential square footage in the project) for households earning up to 80% of the Area Median Income (“AMI”). The affordable housing units will be located in all of the multi-family buildings, and will be distributed throughout these buildings (except for the upper two stories of each building). In addition, three townhouses will be reserved for households earning up to 80% of AMI. The three affordable townhouses will be distributed evenly throughout the 21-unit townhouse string along Kearny Street. (Exhibit 18, pp. 33-34 and Exhibit 58; Transcript, pp. 79-80.)
  - b. Urban Design, Architecture, Landscaping, or Creation of Open Spaces: Section 2403.9(a) lists urban design and architecture as categories of public benefits and project amenities for a PUD. The Project exhibits all of the characteristics of exemplary urban design and architecture. The open spaces created in this project (the public square, the Arts Walk, and the public piazza at the northern end of the Arts Walk) will be signature components of the project and will create neighborhood destinations and gathering spots. The clock tower and fountain at the public square, along with the canopy of trees and low planter walls with seasonal plantings, will mark the entrance to the Brookland and Edgewood neighborhoods. The proposed streetscape along Monroe Street, with wide tree planting and café zones, will create a lively tree-lined shopping and dining experience. Finally, the Arts Walk and the public piazza will create a community arts environment that does not currently exist anywhere else in the District of Columbia.

The massing, height, and articulation of all the buildings have been refined, in particular the massing and height of the Block E building. While the project provides significant housing and retail opportunities at a transit-oriented location, it also provides for an appropriate transition with the buildings and uses in the surrounding neighborhood. Massing studies show that the proposed height and density of the

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buildings in the PUD project will not have significant adverse impacts on neighborhood views of the Shrine or other important structures and landmarks in the community. (Exhibit 18, pp. 34-35; Exhibit 58.)

- c. Site Planning, and Efficient and Economical Land Uses: Pursuant to § 2403.9(b) of the Zoning Regulations, “site planning, and efficient and economical land utilization” are public benefits and project amenities to be evaluated by the Zoning Commission. The creation of a mixed-use, transit-oriented development on the Subject Property, on vacant or underutilized land in close proximity to a Metro Station, is an example of appropriate site planning and efficient and economical land use as a project amenity. Given the Subject Property’s proximity to the Brookland/CUA Metro station, it is appropriate to have medium density uses as proposed in this PUD project. The creation of large civic and public spaces at the western and eastern edges of the Subject Property (the public square and the public piazza), the re-establishment of the street grid (through the reconstruction of 8<sup>th</sup> Street (the Arts Walk) and the extension of Lawrence and Kearny Streets west of 7<sup>th</sup> Street), and the realignment of the Monroe Street/Michigan Avenue and 7<sup>th</sup> Street/Michigan Avenue intersections are examples of appropriate site planning and efficient and economical land uses that constitute public benefits and project amenities. (Exhibit 18, p. 35.)
- d. Effective and Safe Vehicular and Pedestrian Access: The Zoning Regulations, pursuant to § 2403.9(c), state that “effective and safe vehicular and pedestrian access” can be considered public benefits and project amenities. The Applicant will pay for the reconfiguration and reconstruction of two intersections that currently create a dangerous vehicular and pedestrian traffic situation. The reconfiguration of the intersection of Michigan Avenue and Monroe Street will remove the current high speed right turn onto Monroe Street and will reduce the overall speed of traffic along Monroe Street. This reconfiguration will also allow for a significantly safer pedestrian experience in crossing Michigan Avenue. The Applicant will also reconfigure the intersection of 7<sup>th</sup> Street and Michigan Avenue to align with the entrance to CUA. The creation of a true four-legged intersection at 7<sup>th</sup> Street and Michigan Avenue will create a safer pedestrian and vehicular traffic pattern for the entire area. The Applicant has also agreed to provide appropriate cross-walk striping at these reconfigured intersections. As part of its modification of the 7<sup>th</sup> Street and Michigan Avenue intersection, the Applicant will also allocate space along 7<sup>th</sup> Street as potential drop-off space for shuttle buses.

The design minimizes the number of curb cuts along Monroe Street. Underground parking for the proposed residential and retail development in Blocks A, B, and E will be accessed by entrances off 7<sup>th</sup> and 8<sup>th</sup> Streets rather than Monroe Street. All of the public parking spaces for the retail uses on Monroe Street will be provided in a single parking garage located in the building on Block A1, which is accessed from 7<sup>th</sup> Street. This single parking garage will enhance traffic flow along Monroe Street and will

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reduce pedestrian and vehicular conflicts, as patrons of the retail uses along Monroe Street will be directed to a single dedicated parking garage, rather than having to search for available parking spaces in each of the buildings along Monroe Street.

The PUD project incorporates numerous elements that will reduce the anticipated number of vehicles that will come to the Subject Property. Dedicated parking spaces will be made available for car-sharing vehicles in the public parking area of the parking garage in the building on Block A1. A portion of the Metropolitan Branch Trail has been incorporated into the design of the building on Block C. Along this trail, the proposed project will provide bike parking spaces as well as available space for DDOT's SmartBike program. Dedicated bike parking spaces will also be provided in each residential building.

The Applicant submitted a Transportation Impact Study into the record of this case which concluded that the impact of the proposed PUD may be mitigated by a number of traffic improvements and the implementation of a Transportation Demand Management ("TDM") program. The TDM program includes significant measures to reduce the number of single-occupant vehicle trips including, but not limited to: designation of a Transportation Management Coordinator; provision for SmarTrip cards for new residents at the time of initial sales/lease, availability of parking spaces in the public garage for a potential car sharing service, and available space for a SmartBike location in the public piazza at the end of the Arts Walk.

In order to mitigate any effects of the loading practices for Block C, the Applicant has agreed to make a formal written request to DDOT to establish a permanent 55-foot loading space on the north side of Monroe Street, in front of Block C. It will also provide signage at the entrances to the alley adjacent to Block C prohibiting trucks larger than 30 feet from entering the alley. (Exhibit 43.)

The Applicant will also incorporate loading operations into the Rules and Regulations provided to all tenants of Block C. The Rules and Regulations for the loading operations will inform tenants that all trucks larger than 30 feet are prohibited from using the alley and are required to use the dedicated loading space on Monroe Street. The Applicant will designate a member of the on-site staff as the freight manager, who will be responsible for enforcing the Rules and Regulations regarding loading operations in Block C. (Exhibit 43.)

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- e. Uses of Special Value: According to Section 2403.9(i), “uses of special value to the neighborhood or the District of Columbia as a whole” are deemed to be public benefits and project amenities. The Applicant has agreed to provide the following community benefits as a result of this project:
- Arts Flex Space Building – The Arts Flex Space Building will create a venue for community groups and organizations, arts groups, and university groups/organizations to hold meetings, recitals, performances, and receptions.
  - Significant Arts Component – The proposed Arts Walk will provide work space to artists at below-market rents, while also creating a dynamic and active experience along pedestrian-only 8<sup>th</sup> Street.
  - Transportation Infrastructure Improvements – The project provides for the construction and signalization of reconfigured intersections at Monroe Street/Michigan Avenue and 7<sup>th</sup> Street/Michigan Avenue, the construction of the Metropolitan Branch Trail on Block C, and aesthetic improvements to the Monroe Street Bridge.
- f. Revenue for the District: Section 2403.9(i) states that “uses of special value to the neighborhood or the District of Columbia as a whole” are deemed to be public benefits and project amenities. The creation of approximately 725-825 new households and approximately 75,000-85,000 square feet of retail space on land that is currently not subject to real estate taxes will result in the generation of significant additional tax revenues in the form of real estate, recordation, transfer, income, sales, use, and employment taxes for the District.
- g. First Source Employment Program: According to § 2403.9(e), “employment and training opportunities” are representative public benefits and project amenities. The Applicant has agreed to 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.
- h. Comprehensive Plan: According to § 2403.9(j), public benefits and project amenities include “other ways in which the proposed planned unit development substantially advances the major themes and other policies and objectives of any of the elements of the Comprehensive Plan.” The PUD project furthers the goals and policies of the Brookland Small Area Plan and many elements and goals of the Comprehensive Plan.
- i. Public Benefits of the Project: Sections 2403.12 and 2403.13 require the Applicant to show how the public benefits offered are superior in quality and quantity to typical development of the type proposed. The Applicant proposes a community amenities package that includes the following elements:

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- Monroe Street Bridge Improvements: The Applicant shall make a financial contribution of \$50,000 to fund aesthetic improvements to the Monroe Street Bridge. The contribution shall be made prior to the issuance of a certificate of occupancy for the Block E building.
- 12<sup>th</sup> Street Retail Façade Improvement Grant: The Applicant shall make a financial contribution of \$25,000 to the existing 12<sup>th</sup> Street retail façade program currently administered by DC Department of Small and Local Business Development (“DSLBD”). The contribution shall be made prior to the issuance of above-grade building permits for the first building to be constructed on the Subject Property.
- Brookland-Edgewood Retail Strategy Study: The Applicant shall make a financial contribution of \$25,000 to engage a reputable third-party retail consultant to study and prepare a report on the retail needs for the Brookland and Edgewood communities and recommend the appropriate allocation of retail uses among 4<sup>th</sup> Street (Edgewood), 12<sup>th</sup> Street (Brookland), and the retail on the portion of Monroe Street within the Subject Property. The report shall be completed and submitted to the Office of Planning, ANC 5A, ANC 5C, and the Edgewood Civic Association prior to receipt of above-grade building permits for Block A1.
- Ward 5 Scholarships: The Applicant shall make a financial contribution of \$35,000 to Trinity College and \$40,000 to The Catholic University of America for scholarships for academically qualified Ward 5 residents. The contributions shall be made prior to receipt of the certificate of occupancy for Block E.
- Dance Place: The Applicant shall install a “sprung floor” in the Arts Flex Building (Block D) to accommodate dance classes and recitals (estimated cost \$40,000) and provide a \$15,000 financial contribution to the Next Generation Youth Program. The sprung floor shall be completed prior to receipt of the certificate of occupancy for Block D building. The \$15,000 monetary contribution shall be made prior to receipt of the first above-grade building permit for the Subject Property.
- Fatherhood/Career Development Program at Luke C. Moore Academy: The Applicant shall provide a financial contribution of \$45,000 to the HELP Foundation (or the relevant administering organization) in support of the fatherhood/career development program administered at the Luke C. Moore Academy located at 1001 Monroe Street, N.E. The financial contribution shall be made prior to receipt of the first above-grade building permit for the Subject Property.

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- The Commission will require those organizations receiving a monetary contribution to present evidence to the Office of Zoning's Compliance Review Manager demonstrating that the money has been applied to the designated use within six months of receiving the contribution. If the money has not been applied to the designated use within six months, the recipient must provide a reasonable explanation to the Office of Zoning's Compliance Review Manager as to why not and must present evidence to the Office of Zoning's Compliance Review Manager within one year indicating that the contribution has been properly allocated.

### Comprehensive Plan

45. The Comprehensive Plan includes the following action item: "Prepare a Small Area Plan for the Brookland Metro Station area to provide guidance on the future use of vacant land, buffering of existing development, upgrading of pedestrian connections to Catholic University and 12<sup>th</sup> Street, urban design and transportation improvements, and the provision of additional open space and community facilities in the area." (Action UNE-2.6.A). (Exhibit 18, p. 25.)
46. On March 3, 2009, the Council of the District of Columbia approved the Brookland/CUA Metro Station Small Area Plan (the "Small Area Plan"). The PUD project satisfies and furthers the goals of the Small Area Plan. (Exhibit 18, p. 26.)
47. The Small Area Plan divides the areas under review into four sub-areas. The Subject Property is located in the Monroe Street Sub-Area. The Guiding Principles for the Monroe Street Sub-Area include: (Exhibit 18, p. 26.)
  - **Land Use and Neighborhood Character** – "Monroe Street is envisioned as a tree-lined mixed-use street, with neighborhood-serving retail, restaurants, arts, and cultural uses on the ground floor, and residential above.

Components of Catholic University's arts programs, as well as neighborhood organizations such as Dance Place could become cultural features of Monroe Street, potentially establishing a Brookland Arts District."

- **Economic Development and Neighborhood Amenities** – "The Small Area Plan proposes new mixed-use and residential development to bring people to the neighborhood, and to provide needed neighborhood retail, amenities, and services.

Monroe Street will be lined with a mix of uses, including retail, restaurants, arts and cultural uses on the ground floor, and residential above stores west of the tracks,"

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- **Transportation, Connectivity, Walkability** – “The Small Area Plan proposes strategies to create better and more efficient pedestrian and vehicular connectivity and linkages to neighborhood destinations. Reestablishing the fabric and grid of streets and blocks through street extensions and realignments wherever possible will reconnect the neighborhood by allowing for better circulation around the neighborhood and better pedestrian connectivity.

The Small Area Plan also proposes improved east-west connectivity across the neighborhood...primarily along a revitalized Monroe Street. It includes the integration of the Metropolitan Branch Trail on the west side of the CSX/Metro Tracks along 8<sup>th</sup> Street and John McCormack Road.”

“The draft plan supports connectivity between Monroe Street, Michigan Avenue, and 8<sup>th</sup> Street. That connectivity can take many forms. The conceptual plan shows an extended 8<sup>th</sup> Street that connects Monroe and Michigan Avenue; an extended 8<sup>th</sup> Street could accommodate vehicles or be limited to pedestrians. The connection could also be made via the Metropolitan Branch Trail.”

- **Open Space and Environment** – “New public spaces, open spaces, additional pocket parks and civic plazas are envisioned for the Metro Station area and along Monroe Street.

Sidewalks should include open space potentially in the form of continuous tree and planting areas. Improved streetscape including paving, lighting and trees should be implemented with all new development.”

48. The Applicant proposed that the PUD project fully achieves the goals outlined in the Small Area Plan’s Guiding Principles and Framework Plan for the Monroe Street Sub-Area. The public square, the Arts Walk and the public piazza, and the Arts Flex Space Building create a civic and arts infrastructure for this area and a true Brookland Arts District. The eclectic mix of ground floor community-serving retail uses, with residential uses above, will create the “Main Street” that the Small Area Plan envisions for Monroe Street and exemplifies all of the attributes of transit-oriented development. The large public square, with its significant landscaping and clocktower, will create the desired gateway opportunity at Michigan Avenue and Monroe Street and begins the strong east-west connection along Monroe Street that continues to the railroad tracks with the Arts Flex Space Building. The streetscape along Monroe Street, which will include a six foot planting strip, an eight foot sidewalk, and a four-to-eighteen foot café zone between the curb and the face of the buildings, is entirely consistent with the Green Space, Open Space and Environment Guiding Principle of the Small Area Plan. (Exhibit 18, pp. 27-28.)

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49. The Applicant also noted that the Small Area Plan's Guiding Principles related to Transportation, Connectivity, and Walkability are also fully supported in this PUD. The pedestrian-only Arts Walk will achieve the goal of extending the grid while creating an environment conducive to neighborhood connectivity, walkability, and bikability and is fully consistent with the Small Area Plan. By maintaining 8<sup>th</sup> Street at its existing grade (and not connecting directly to the Michigan Avenue Bridge some 30 feet higher), the Applicant is able to maintain a connection to the western Metro Station entrance and provide for the incorporation of the Metropolitan Branch Trail (with the Applicant contributing private land) into Block C of the project. As recommended in the Small Area Plan, the intersections of Monroe Street at Michigan Avenue and 7<sup>th</sup> Street at Michigan Avenue will be realigned to provide a safer environment for pedestrians crossing Michigan Avenue and the extensions of Kearny and Lawrence Streets will foster additional connectivity between CUA and the surrounding community. In addition, the enhancements to the pedestrian underpass that connects the public piazza to the Brookland/CUA Metro Station will also further connectivity and walkability within the surrounding communities. (Exhibit 18, p. 28.)
50. The proposed building heights in the project are fully consistent with the Small Area Plan's recommendations for maximum building heights of 70 feet and six stories along Monroe Street, west of the WMATA/CSX train tracks. The proposed 725-825 units are consistent with the 750-900 units proposed for Monroe Street (between Michigan Avenue and 12<sup>th</sup> Street). The 75,000-85,000 square feet of retail proposed in the project is consistent with the 80,000-100,000 square feet of retail (for Monroe Street between Michigan Avenue and 12<sup>th</sup> Street) envisioned in the Small Area Plan. The proposed building heights and massing will not have a negative impact on views of the National Shrine of the Immaculate Conception (Exhibit 18, p. 29.)

#### **Applicant's Post-Hearing Submission**

51. In its post-hearing submission, dated October 26, 2009, the Applicant provided the following information requested by the Commission:
- Plans, sections, and elevations depicting a reduction in the height, massing and scale of the south end of the building on Block E, along Lawrence Street;
  - Plans depicting enhanced landscaping along the east-west wall of the building in Block E, updated photo simulations of the appearance of the building on Block E and its relationship to the adjacent structures on Lawrence Street, and dimensioned site plans and elevations depicting the distance between the Block E building and the immediately adjacent property on Lawrence Street;

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- Elevations of the rear of the rowhouses including proposed materials, a perspective of the courtyard in Block A2, and information on the distribution of the affordable housing units in Block A2;
- Truck-turning diagrams for Block C and examples of successful projects that have buildings of a similar size fronting on streets of a similar width to the proposed Arts Walk;
- An analysis of the additional density achieved and flexibility granted through the PUD process compared to the amenities created by the PUD project. The entire amenities package for the Project is valued at approximately \$4,475,000;
- Enhanced details on the materials used for the rooftop structures and their general appearance;
- An analysis of the appropriateness of the amount of parking spaces provided in the project;
- An update on the dialogue with representatives of the Fire and Emergency and Medical Services (“FEMS”) regarding issues raised in the FEMS report dated September 15, 2009; and
- Information on the additional dialogue that occurred with representatives of the Brookland Neighborhood Civic Association regarding the Applicant’s community amenities package.

(Exhibit 58.)

52. In response to the Commission’s request at the December 14, 2009 public meeting, the Applicant submitted a letter dated December 16, 2009 that included a revised condition that addressed the proposed lease rental rate for the artist studio spaces in Block C of the project.

### **Government Agency Reports and District Government**

53. By reports dated April 17, 2009 and September 25, 2009, and by testimony at the public hearing, OP recommended approval of the application. In its September 25, 2009 report, OP stated that the Project, “would not be inconsistent with the Comprehensive Plan, including the Brookland/CUA Metro Station Small Area Plan. The project would redevelop vacant and underutilized land near a metro station at a height contemplated by the planning for this area. The design also extends the street grid and the applicant would improve the alignment of existing intersections. The proposed amenities are commensurate with the amount of flexibility sought in the campus plan which foresaw

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the removal of all university uses from this land and the property's eventual redevelopment." (Exhibit 30, p. 1)

54. In testimony at the public hearing and as noted in its September 25, 2009 report, OP conditioned its recommendation of approval on the Applicant addressing the following pertinent issues:

- Distribution of the three affordable rowhouses throughout Block A2;
- A reduction in the parking ratios on Blocks B and E;
- Provision of truck turning diagrams for both loading docks on Block C; and
- Additional information regarding the appearance and visibility of the rooftop structures on Blocks B and C.

(Exhibit 30, Attachment 1.)

55. The Commission notes that the overall parking ratio for the Property is appropriate for a transit-oriented development. The Commission accepts higher parking ratios for Blocks B and E because the overall ratio for the PUD will remain less than 1:1. The Commission acknowledges that the demand for a parking space is greater for a for-sale product rather than rental units. The Applicant has clarified its application to address the other concerns expressed by OP.

56. OP recommended that the Commission prospectively grant relief to certain lots within Block A2 to allow the Applicant or future homeowners to construct detached garages without pursuing additional zoning relief. The lots in question would be Lots 7-15, 24-30, and 41-45 and would be subject to certain criteria regarding maximum width, depth, footprint, height, location, materials, and total lot occupancy. (Exhibit 30, p. 14.)

57. OP concluded that the benefits and amenities provided by the Applicant "are commensurate with the amount of relief and flexibility proposed by the application." OP further concluded that "the proffered amenities are acceptable in all categories listed in § 2403.9 and [are] superior in many." (Exhibit 30, p. 17.)

58. OP recommended approval of the CUA Campus Plan Amendment application, noting that the, "the campus plan amendment is in keeping with the existing and past versions of the campus plan which foresaw the removal of all university uses from this land and the property's eventual redevelopment." (Exhibit 30, p. 1.)

59. By its report dated October 1, 2009, DDOT recommended conditional support of the PUD. DDOT agreed that the Project would not have significant transportation impacts. It determined that the Applicant would need to establish a transportation demand

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management program and it noted some concerns with loading in Block C and the number of parking spaces included in the Project. (Exhibit 34, p. 2.)

60. The Applicant's testimony at the public hearing addressed DDOT's comments and concerns. Specifically, the Applicant committed to adopting a transportation demand management program and to taking proactive steps to minimize impacts from loading on Block C.
61. The D.C. Water and Sewer Authority prepared comments on the case and noted that sewer capacity is sufficient to serve the property. (Exhibit 30, Attachment 4.)
62. The Department of Housing and Community Development prepared comments on the application and recommended approval of the Project. (Exhibit 30, Attachment 4.)
63. FEMS initially noted concerns regarding access to the project. The Applicant responded to each of FEMS' concerns in a submission dated October 16, 2009. (Exhibit 30, Attachment 4; Exhibit 58, Exhibit F [Applicant's Post-Hearing Submission dated October 26, 2009].)

#### **ANC 5C Report**

64. ANC 5C submitted a letter in support of the application on October 5, 2009. The letter stated that the ANC voted unanimously in support of the application at its properly noticed public meeting on September 29, 2009. (Exhibit 38.)
65. ANC 5C Chairperson Bonds submitted a letter into the record authorizing ANC 5C10 Commissioner Timothy Day to testify on the ANC's behalf at the public hearing. (Exhibit 40.) Commissioner Day testified in support of the PUD, specifically its amenities package, at the public hearing.
66. The Commission asked the ANC to supplement its report with a letter confirming that a quorum was present at its public meeting on September 29, 2009. On October 19, 2009, ANC 5C submitted a supplemental report stating that a quorum was present at its September public meeting. The supplemental ANC report satisfied all technical requirements enabling the Commission to grant the ANC's recommendation of approval great weight. (Exhibit 57.)

#### **Persons in Support**

67. Cheryl Cort with the Coalition for Smarter Growth; Thomas Lavash, a resident of Michigan Park; Theodora Brown with the H.E.L.P. Foundation; Todd Zirkle with the H.E.L.P. Foundation; and Anne Corbett with the Cultural Development Corporation testified in support of the application. (Exhibits 44, 46, 47, 48.)

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68. Those testifying in support of the application noted the Project's consistency with transit-oriented development principles, the opportunity for better quality retail in the neighborhood, and the PUD's efforts to improve pedestrian safety.
69. The Bennett Corporation, owner of the property located at 700 Monroe Street, N.E., and John Swagart, Trustee for the William Basiliko Trust, the owner of the property located at 701 Michigan Avenue, submitted letters in support of the application. These are the owners of the properties that are adjacent to Blocks B and C along Monroe Street. (Exhibits 28, 39.)
70. Leyla Phelan of Perry Street, Jessica and William Hanff of Perry Street, and Dance Place submitted letters in support of the application. (Exhibits 31, 33, 56.)
71. The Commission acknowledges those individuals who testified in opposition to the Application, particularly those who live in the immediate vicinity of Block E. Nevertheless, the Commission believes that the density, height, and scale of the development are appropriate. The Commission notes that the Applicant made numerous changes to the design of Building E over the course of the application to accommodate neighboring property owners. The final design is consistent with good urban planning principles and transit-oriented design and will not have a detrimental effect on neighboring properties.

#### **Party Status Request and Withdrawal**

72. The Dominican House of Studies and College of the Immaculate Conception filed a request for party status on September 22, 2009. They subsequently withdrew their request for party status. (Exhibits 27 and 29.)
73. No other entities or individuals requested party status.

#### **Persons in Opposition**

74. Jerome Peloquin, Joseph Yahr (on behalf of Linda Yahr), Edward Johnson, John Feeley (ANC 5A06 Commissioner), Phil Blair (ANC 5A10 Commissioner), M.J. McGroarty, Caroline Petti, Richard Houghton, and Sureia Ahmed testified in opposition to the application. (Exhibit 44.)
75. Individuals testifying in opposition to the application cited objections with the Small Area Plan, lack of green space, and concerns regarding the amenities package. (Exhibits 49, 50, 51, 52, 53, 54.)
76. Jerome Peloquin, Linda Yahr, and Sureia Ahmed testified specifically in opposition to the development proposed for Block E, citing the massing and height of the building as

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out of context with the single-family houses on the same block. They noted concerns with preserving their views of the Shrine as well as their privacy. (Exhibit 49.)

### **Satisfaction of the PUD and Zoning Map Amendment Approval Standards**

77. In evaluating a PUD application, the Commission must, “judge, balance, and reconcile the relative value of project amenities and public benefits offered, the degree of development incentives requested and any potential adverse effects.” (11 DCMR § 2403.8.) The Applicant’s post-hearing submission noted that the total value of the project and community amenities provided in this project was approximately \$4,475,000. Given the significant amount and quality of the project amenities and public benefits included in this PUD and Zoning Map Amendment application, the Commission finds that the development incentives to be granted for the Project and the related rezoning are appropriate. The Commission also finds that the requested areas of flexibility from the requirements are consistent with the purpose and evaluation standards of Chapter 24 of the Zoning Regulations and are fully justified by the superior benefits and amenities offered by this Project.
78. The Commission finds that the Project is acceptable in all proffered categories of public benefits and project amenities and is superior in public benefits and project amenities relating to urban design, landscaping and open space, site planning, job training and employment opportunities, transportation measures, environmental benefits, and uses of special value to the neighborhood and District as a whole.
79. The Commission credits the written submissions and testimony of the Applicant, OP, and the ANC that the proposed PUD and rezoning to the C-2-B and R-5-B Zone Districts are appropriate and that the proffered amenities and benefits are acceptable. The Commission also credits the testimony of the Applicant and OP that the proposed Project and rezoning are not inconsistent with the Comprehensive Plan, including the Brookland/CUA Metro Station Small Area Plan.
80. The requested rezoning to the C-2-B and R-5-B Zone Districts is part of a PUD application, which allows the Commission to review the design, site planning, and provision of public spaces and amenities against the requested zoning relief. In Zoning Commission Order No. 921, a PUD and Zoning Map amendment case, the Commission clearly articulated the legal standard for reviewing PUD-related Zoning Map amendments:

A PUD Map amendment is thus a temporary change to existing zoning, that does not begin until a PUD Covenant is recorded, ceases if the PUD is not built and ends once the PUD use terminates. This being the case, the Commission may grant PUD related map amendments in circumstances where it might reject permanent rezoning.

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Zoning Commission Order No. 921 at 15 (COL 5). The Commission added:

A map amendment granted as part of a PUD establishes no precedent for zoning cases involving permanent zoning map amendments. A PUD map amendment is tied to the PUD use. The PUD use is constrained by covenant. Therefore, the merits of such amendments are usually analyzed in the narrow context of the PUD use requested.

Id. at 17 (COL 13). Finally, the Commission observed:

A PUD applicant seeking a related map amendment must still demonstrate that public health, safety, and general welfare goals of the zoning regulations would be served by the amendment.

Id. at 16 (COL 6).

81. In this case, the Commission finds that the proposed PUD-related map amendment of the Property to the C-2-B and R-5-B Zone Districts is appropriate given the superior features of the Project, particularly when compared to the existing uses of the Property and the Property's proximity to public transportation. The Commission's conclusion is consistent with OP's and ANC 5C's recommendations to approve the Project and the PUD-related Zoning Map amendment.
82. The Commission concludes that the Applicant's post-hearing submission adequately addressed the issues raised by OP and DDOT in their written submissions and in OP's testimony at the public hearing. The Commission agrees with the Applicant's position that the amount of parking proposed in the Project is appropriate and that the TDM program included in this application will achieve the goals of OP and DDOT in encouraging the use of mass transit and other non-auto modes of transportation. The Commission concludes that the Applicant's proposed conditions regarding the limitations on the size of trucks that can utilize the loading docks in Block C and the proposal to apply for a permanent loading zone along Monroe Street adjacent to Block C appropriately address DDOT's issues regarding loading operations and Block C.
83. The Commission acknowledges the testimony provided by neighboring property owners who argued that the southern portion of the building proposed for Block E was out of scale with the neighboring structures. The Commission finds that the reduction in the height and massing of the building on Block E appropriately addresses the issues raised by these property owners, as well as the issues raised by the Commissioners at the public hearing. The Commission finds that the materials provided by the Applicant in its post-hearing submission show that the appearance, mass, and height of the building on Block E have been thoughtfully reviewed and will not adversely impact neighboring properties.

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### CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process provides a means for creating a "well-planned development." The objectives of the PUD process are to promote "sound project planning, efficient and economical land utilization, attractive urban design and the provision of desired public spaces and other amenities." (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. (11 DCMR § 2402.5.) The Commission may impose development conditions, guidelines, and standards that may exceed or be less than the matter-of-right standards identified for height, density, lot occupancy, parking, loading, 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. (11 DCMR § 2405).
3. The development of the Project will implement the purposes of Chapter 24 of the Zoning Regulations to encourage well-planned developments that will offer a variety of building types with more attractive and efficient overall planning and design and that would not be available under matter-of-right development.
4. The application meets the minimum area requirements of § 2401.1 of the Zoning Regulations.
5. The application meets the contiguity requirements of § 2401.3.
6. The proposed height and density of the buildings in the Project will not cause a significant adverse effect on any nearby properties and do, in fact, comport with District goals for development of the Monroe Street sub-area of the Brookland/CUA Metro Station Small Area Plan and transit-oriented development principles. Any impact of the Project on the surrounding area is not unacceptable. As demonstrated in the Traffic Study submitted by the Applicant and supported by DDOT, the Project will not cause adverse traffic impacts.
7. The application can be approved with conditions to ensure that any potential adverse effects on the surrounding area from the Project will be properly mitigated.
8. The benefits and amenities provided by the Project are truly significant, thus granting the development incentives proposed in this application is appropriate.

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9. The application seeks a PUD-related Zoning Map amendment to the C-2-B and R-5-B Zone Districts. The application also seeks limited flexibility from the Zoning Regulations regarding its vehicular and bicycle parking, roof structures, building lot controls, and prospective flexibility for detached garages in Block A2.
10. Approval of the PUD and change in zoning is not inconsistent with the Comprehensive Plan. The Commission finds that rezoning the site is consistent with the Comprehensive Plan, specifically the CUA/Brookland Metro Station Small Area Plan, and with the surrounding uses.
11. The PUD is fully consistent with and fosters the goals and policies stated in the elements of the Comprehensive Plan. The Project is consistent with the major themes and city-wide elements of the Comprehensive Plan, as well as the goals and policies of the CUA/Brookland Metro Station Small Area Plan.
12. The Commission has judged, balanced, and reconciled the relative value of the project amenities and public benefits offered, the degree of development incentives requested, and any potential adverse effects, and concludes the project amenities and public benefits are a reasonable trade-off for the development incentives and potential adverse effects.
13. The Commission is required under § 3 of the Comprehensive Advisory Neighborhood Commissions Reform Amendment Act of 2000, effective June 27, 2000 (D.C. Law 13-135; D.C. Official Code § 1-309.10(d)) to give “great weight” to the issues and concerns of the affected ANCs. As is reflected in Findings of Fact 62 to 64, ANC 5C voted to support the application and the Commission gives this recommendation great weight.
14. The Commission is also 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 the recommendations of OP. The Commission gives OP’s recommendation to approve the PUD great weight and concurs with its conclusions.
15. The PUD, rezoning of the Property, and amendment to the Campus Plan will promote orderly development of the Property in conformance with the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.
16. The Commission finds that the Campus Plan amendment application, which seeks to remove the Subject Property from the boundaries and jurisdiction of the CUA Campus Plan, is entirely consistent with the intent of previously approved CUA Campus Plans and the existing CUA Campus Plan.
17. The applications for a PUD, related Zoning Map amendment, and amendment to an approved Campus Plan are subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

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### 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 this application for consolidated review of a planned unit development, related Zoning Map amendment, and amendment to an approved Campus Plan for the Subject Property (Square 3654, Lots 4, 5, 6, 10, 12, 15, 16, 17, 801, 802, 803, 804, 805, 806, 811; Square 3655, Lot 1; Square 3656, Lot 800; Square 3657, Lots 805, 821, 826; and Square 3831, Lot 818). CUA's existing Campus Plan, as approved by Zoning Commission Order No. 02-20, and amended by Zoning Commission Orders No. 04-25A, 06-39, and 08-10, is amended by removing the Subject Property from the Plan. For the purposes of the following conditions, the term "Applicant" shall be the person owning a fee simple title to the property or their agent. The approval of this PUD is subject to the following conditions:

1. The PUD project shall be developed in accordance with the plans and materials submitted by the Applicant marked as Exhibit 71 of the record, as modified by the guidelines, conditions and standards of this order.
2. The Applicant shall make the following financial contributions within the specified time period:
  - **Monroe Street Bridge Improvements:** The Applicant shall make a financial contribution of \$50,000 to fund aesthetic improvements to the Monroe Street Bridge. The contribution shall be made prior to the issuance of a certificate of occupancy for the Block E building.
  - **12<sup>th</sup> Street Retail Façade Improvement Grant:** The Applicant shall make a financial contribution of \$25,000 to the existing 12th Street retail façade program currently administered by DC Department of Small and Local Business Development ("DSLBD"). The contribution shall be made prior to the issuance of above-grade building permits for the first building to be constructed on the Subject Property.
  - **Brookland-Edgewood Retail Strategy Study:** The Applicant shall make a financial contribution of \$25,000 to engage a reputable third-party retail consultant to study and prepare a report on the retail needs for the Brookland and Edgewood communities and recommend the appropriate allocation of retail uses among 4th Street (Edgewood), 12th Street (Brookland), and the proposed retail on Monroe Street. The report shall be completed and submitted to the Office of Planning, ANC 5A, ANC 5C, and the Edgewood Civic Association prior to receipt of above-grade building permits for Block A1.
  - **Ward 5 Scholarships:** The Applicant shall make a financial contribution of \$35,000 to Trinity College and \$40,000 to The Catholic University of America for

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scholarships for academically qualified Ward 5 residents. The contributions shall be made prior to receipt of the certificate of occupancy for Block E.

- **Dance Place:** The Applicant shall install a “sprung floor” in the Arts Flex Building (Block D) to accommodate dance classes and recitals (estimated cost \$40,000) and provide a \$15,000 financial contribution to the Next Generation Youth Program. The sprung floor shall be completed prior to receipt of the certificate of occupancy for the Block D building. The \$15,000 monetary contribution shall be made prior to receipt of the first above-grade building permit for the Subject Property.
  - **Fatherhood/Career Development Program at Luke C. Moore Academy:** The Applicant shall provide a financial contribution of \$45,000 to the HELP Foundation (or the relevant administering organization) in support of the fatherhood/career development program administered at the Luke C. Moore Academy located at 1001 Monroe Street, N.E. The financial contribution shall be made prior to receipt of the first above-grade building permit for the Subject Property.
3. Once the financial contribution is paid to the organization within the specified time period, there is no further obligation on the part of the Applicant. The Commission will require those organizations receiving a monetary contribution to present evidence to the Office of Zoning’s Compliance Review Manager demonstrating that the money has been applied to the designated use within six months of receiving the contribution. If the money has not been applied to the designated use within six months, the recipient must provide a reasonable explanation to the Office of Zoning’s Compliance Review Manager as to why not and must present evidence to the Office of Zoning’s Compliance Review Manager within one year indicating that the contribution has been properly allocated.
  4. The Applicant shall establish a transportation demand management program that includes the following:
    - Coordination with a local car-sharing vehicle service to reserve parking spaces, provided there is interest from said service in locating car-sharing vehicles at this site;
    - Providing all initial residents, upon move-in, a SmarTrip card (a cost of \$5 per card to the Applicant) to encourage the use of mass transit;
    - Allocating a space on the Subject Property for a SmartBike station to be provided by DDOT; and
    - Designating a transportation management coordinator.
  5. The Applicant will make a formal written request to DDOT to establish a permanent 55-foot loading space on the north side of Monroe Street, in front of Block C.

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6. The Applicant will provide signage at the entrances to the alley adjacent to Block C prohibiting trucks larger than 30 feet from entering the alley.
7. The Applicant will incorporate loading operations into the Rules and Regulations provided to all tenants of Block C. The Rules and Regulations for the loading operations will inform tenants that all trucks larger than 30 feet are prohibited from using the alley and are required to use the dedicated loading space on Monroe Street.
8. The Applicant will designate a member of the on-site staff as the freight manager, who will be responsible for enforcing the Rules and Regulations regarding loading operations in Block C.
9. The project shall reserve a total of 63,000 square feet of gross floor area as affordable housing to households having an income not exceeding 80% of Area Median Income for the Washington, D.C. Metropolitan Statistical Area (adjusted for family size). A proportionate amount of affordable housing will be provided in each Phase of the PUD's development and will be distributed throughout each of the multi-family buildings, except for the two upper stories of each building. The affordable housing unit types shall be comparable to the market rate mix of unit types in each building. The calculation of the 63,000 square feet of affordable gross floor area includes three 14-foot-wide townhouses that will be distributed evenly throughout the 21-unit townhouse string along Kearny Street.
10. The Applicant shall enter into a First Source Employment Agreement with the Department of Employment Services ("DOES") in substantial conformance with the First Source Agreement submitted as Exhibit F of Exhibit 18 of the record. A fully signed First Source Employment Agreement between the Applicant and DOES must be filed with the Office of Zoning prior to the issuance of the first above-grade building permit for the Subject Property.
11. The Project shall be designed to satisfy LEED certification but it shall not be required to be LEED certified.
12. The Applicant shall realign the intersection of 7<sup>th</sup> Street and Michigan Avenue to create a four-legged intersection with the entrance of CUA, as provided for in the approved plans. The Applicant shall coordinate the final design and construction of the intersection, including all pedestrian facilities, with DDOT staff and all plans and construction shall be consistent with DDOT standards. This intersection realignment will be undertaken at the same time or prior to the construction of Block B.
13. The Applicant shall reconfigure the intersection of Michigan Avenue and Monroe Street to establish a "T" intersection, as provided for in the approved plans. The Applicant shall coordinate the final design and construction of the intersection, including all pedestrian facilities, with DDOT staff and all plans and construction shall be consistent with DDOT

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- standards. This intersection realignment will occur at the same time as or prior to the construction of Block A1.
14. The Applicant shall incorporate the Metropolitan Branch Trail on Block C, as provided for in the approved plans. The Applicant shall coordinate the final design and construction of the Metropolitan Branch Trail with DDOT staff and all plans and construction shall be consistent with DDOT standards. The Metropolitan Branch Trail extension on Block C will be undertaken at the same time as the construction of the buildings on Block C.
  15. The Applicant shall provide space for a shuttle bus drop-off area on the west side of 7<sup>th</sup> Street between Michigan Avenue and Monroe Street that will be available to a limited number of private shuttles accessing the Metrorail station from the west side of the railroad tracks and shall be eliminated at such time as the existing shuttle buses serving the hospitals along Michigan Avenue are consolidated through a circulator bus or consolidated shuttle bus service.
  16. The Applicant shall provide the artist studio spaces in Block C at lease rates below the average rent for all retail on the Subject Property for the life of the improvements on Block C. Each occupied artist studio in Block C shall be rented at a dollar/sf net monthly lease rate not to exceed 50% of the average dollar/sf net monthly rent charged to occupied retail space in the project along Monroe Street at the time of lease execution for each artists studio. Notwithstanding the foregoing, this condition shall not require the artist studios to be rented at a monthly net rate less than \$1.50 per net leasable square foot, said rate being escalated by the CPI-U factor commencing with the date of this Order.
  17. The Applicant shall permit ANC 5A, ANC 5C, and the Edgewood Civic Association to use the Arts Flex Building on Block D for their scheduled monthly meetings without charge. Other community groups that have a duly elected board, hold tax-exempt status, and have a membership, the majority of which live within one mile of the Subject Property, can use the Arts Flex Building for a nominal fee, in order to cover maintenance and staffing costs.
  18. 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, elevators, 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;
    - To make minor refinements to exterior details and dimensions, including balcony enclosures, belt courses, sills, bases, cornices, railings and trim, or any other changes

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- to comply with Construction Codes or that are otherwise necessary to obtain a final building permit;
- To allow the Applicant or future homeowners to construct detached garages on lots 7-15, 24-30, and 41-45 in Block A2. If constructed, the garages are limited to a maximum gross floor area of 450 square feet, a 15 foot (1 story) height, can be up to 25 feet in depth; and extend to the rear and side property lines. The garage, in combination with the house, cannot exceed a lot occupancy of more than 80%; and
  - To use Block E as a surface parking lot until such time that retail parking spaces are established in Block A1. Access to the interim parking lot on Block E must occur via existing curb cuts or curb cuts proposed in connection with the development of Block E.
19. No building permit shall be issued for the PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the Applicant and the District of Columbia, which 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 Applicant and all successors in title to construct and use the Subject Property in accordance with this Order, or amendment thereof by the Zoning Commission. The Applicant shall file a certified copy of the covenant with the records of the Office of Zoning.
20. The change of zoning from the R-4, R-5-A, C-1, and C-M-1 Zone Districts to the C-2-B and R-5-B Zone Districts shall be effective upon the recordation of the covenant discussed in Condition No. 19, pursuant to 11 DCMR § 3028.9.
21. The PUD shall be valid for a period of three years from the effective date of Zoning Commission Order No. 08-24 and 08-24A/04-25. Within such time, an application must be filed for a building permit for the construction of Blocks B, C, or D as specified in 11 DCMR § 2409.1; the filing of the building permit application will vest the Zoning Commission Order. An application for the final building permit completing the development of the approved PUD project must be filed within 10 years of the issuance of the final certificate of occupancy for the first building.
22. 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, 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

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Z.C. CASE NOS. 08-24 & 08-24A/04-25  
PAGE 30

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.

23. CUA's existing Campus Plan, as approved by Zoning Commission Order No. 02-20, and amended by Zoning Commission Orders No. 04-25A, 06-39, and 08-10, is amended by removing the Subject Property from the Plan.

On November 9, 2009, upon the motion of Chairman Hood, as seconded by Vice Chairman Keating, the Zoning Commission **APPROVED** the application for the PUD and related map amendment by a vote of **5-0-0** (Anthony J. Hood, William W. Keating, III, Konrad W. Schlater, Michael G. Turnbull, and Peter G. May to approve.)

On December 21, 2009, upon the motion of Vice Chairman Hood as seconded by Vice Chairman Keating, the Zoning Commission **ADOPTED** this Order to approve the PUD, related Zoning Map amendment, and amendment to the Campus Plan by a vote of **5-0-0** (Anthony J. Hood, William W. Keating, III, and Michael G. Turnbull to adopt; Konrad W. Schlater and Peter G. May to adopt by absentee ballot.)

In accordance with the provisions of 11 DCMR § 2038, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on December 25, 2009.

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Washington, D.C., [redacted]

Plat for Building Permit of SQUARE 3654 LOTS 3-6, 10, 12, 15-17,  
801-806, 809-811

Scale: 1 inch = 40 feet Recorded in Book Co. 8 Page 120,  
Book 39 Page 101, Book 63 Page 130,  
A & T Book Pages 482, 738, 1188, 1934, 3160-B

Receipt No. [redacted] 19688  
Furnished to: SHAW PITTMAN

*M.E. F.P.*  
For Surveyor DC 9/23/09

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 in drawn, and dimensioned accurately to the same scale as the property lines shown on this plat; and that by reason of 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.)

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

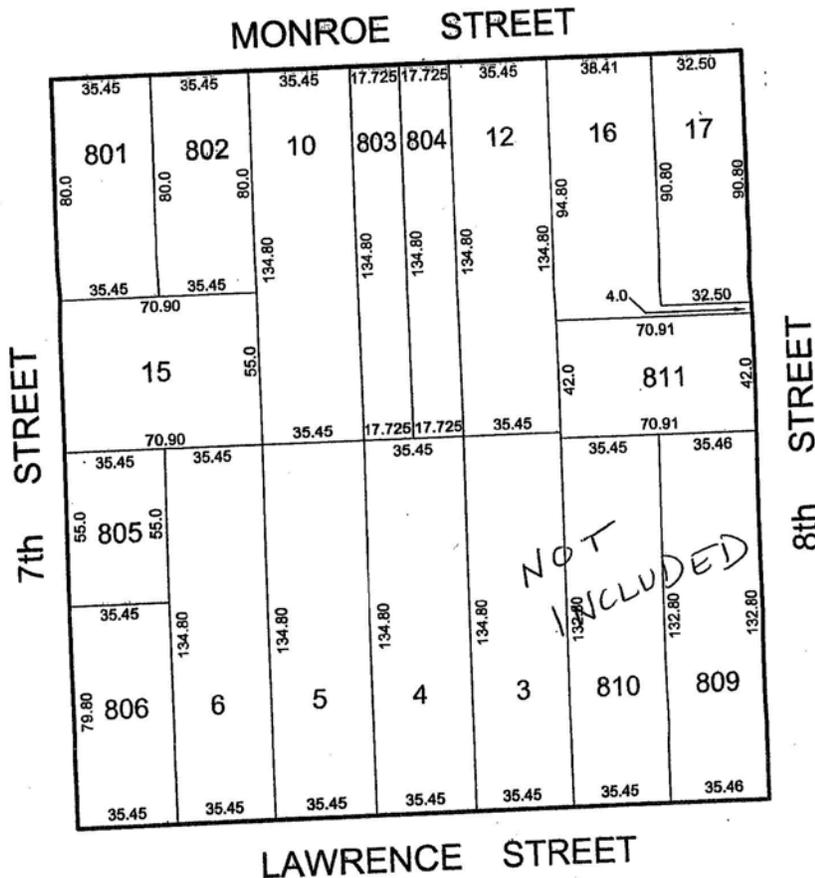
*[Signature]*  
Surveyor, D.C.

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

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

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

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DISTRICT OF COLUMBIA GOVERNMENT  
OFFICE OF THE SURVEYOR

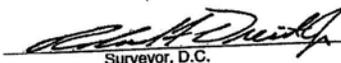
Washington, D.C., October 19, 2001

Plat for Building Permit of SQUARE 3656 LOT 800

Scale: 1 inch = 50 feet      Recorded in A & T Book Page 3693-E

Receipt No.      005878

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Surveyor, D.C.

By: L.E.S. 

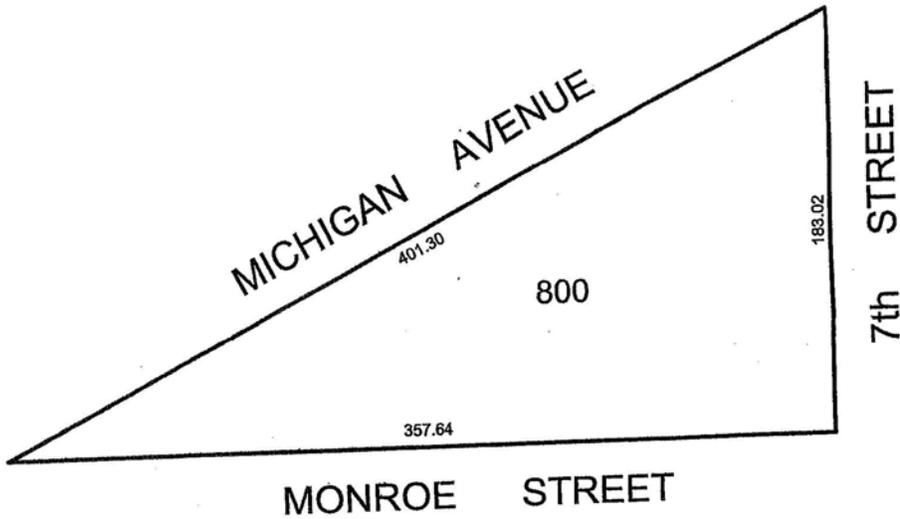
I hereby certify that all existing improvements shown hereon, are completely dimensioned, and are correctly platted; that all proposed buildings or construction, or parts thereof, including covered porches, are correctly dimensioned and platted and agree with plans accompanying the application; that 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.)

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

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

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DISTRICT OF COLUMBIA GOVERNMENT  
OFFICE OF THE SURVEYOR

Washington, D.C., October 17, 2001  
Plat for Building Permit of SQUARE 3655 LOT 1  
Scale: 1 Inch = 50 feet Recorded in Book 155 Page 128  
Receipt No. 005877  
Furnished to: SHAW PITTMAN

*[Signature]*  
Surveyor, D.C.

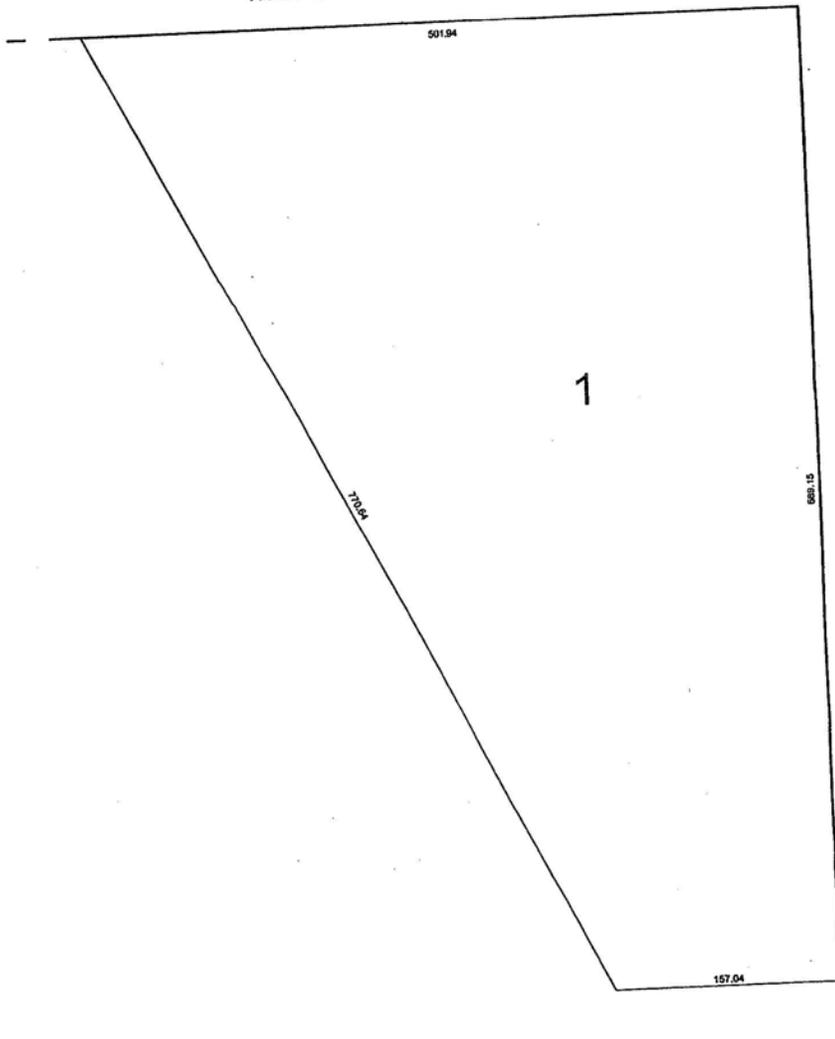
By: L.E.S. *[Signature]*

I hereby certify that all existing improvements shown hereon, are completely dimensioned, and are correctly plotted; that all proposed buildings or construction, or parts thereof, including covered porches, are correctly dimensioned and plotted and agree with plans accompanying covered porches, are correctly dimensioned and plotted and agree with plans accompanying the application; that the foundation plans as shown hereon, be drawn, and dimensioned 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 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 when 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 situation 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 less, or in excess of 12% at any point on 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]*  
(Signature of owner or his authorized agent)

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MONROE STREET, N.E.



7th STREET, N.E.

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DISTRICT OF COLUMBIA GOVERNMENT  
OFFICE OF THE SURVEYOR

Washington, D.C., July 3, 2008

Plat for Building Permit of SQUARE 3831 LOT 818

Scale: 1 inch = 20 feet Recorded in A&T Book Page 3610-P

Receipt No. 05209

Furnished to: PWSP

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.)

  
Surveyor, D.C.

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

By: D.M.

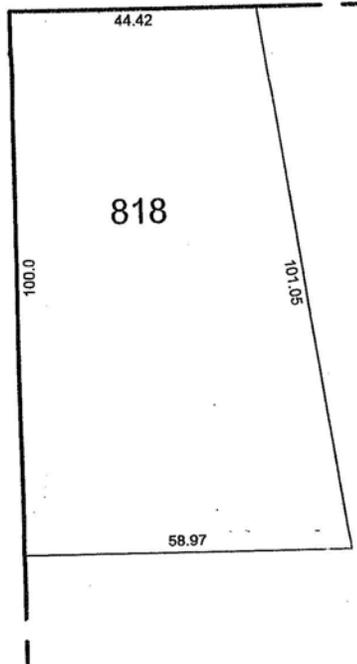
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(Signature of owner or his authorized agent)

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MONROE STREET, N.E.

8TH STREET, N.E.



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Z.C. CASE NOS. 08-24 & 08-24A/04-25  
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DISTRICT OF COLUMBIA GOVERNMENT  
OFFICE OF THE SURVEYOR

Washington, D.C., October 16, 2001

Plat for Building Permit of SQUARE 3657 LOTS 805,821,826

Scale: 1 inch = 40 feet Recorded in A & T Book Page 133 (LOT 805)  
A & T Book Page 2005 (LOT 821)  
A & T Book Page 2416 (LOT 826)

Receipt No. 005879

Furnished to: SHAW PITTMAN

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.)

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

  
Surveyor, D.C.

By: L.E.S. 

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

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

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