

ECRD Response to Files Submitted on February 26, 2007

- 1. Response to final rebuttal of applicant as submitted.**
- 2. Finding of Fact and Conclusion of Law**
- 3. CD of photographic evidence depicting parking signage, the Franklin P Nash Methodist Church parking lot, and street shots responding to applicant's animation.**

ZONING COMMISSION
District of Columbia
CASE NO. 05-39
EXHIBIT NO. 73A
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The numbered statements below each respond to the corresponding, numbered testimony beginning on Attachment A of the documents that the applicant submitted on February 26th.

1. Our primary argument is the inappropriateness of the size of the project that they are proposing to exercise this opportunity. However, The proposed project cannot be considered one of “high quality” as the applicant contends because:
 - a. It is incompatible with its context in scale, massing, articulation, and materials. It is too large, too highly articulated for a neighborhood, not of Victorian exuberance, but of early 20th century neoclassical restraint, and will be executed in inferior materials.
 - b. It is a virtually impenetrable fortress, rather than a building or complex that is integrated with the neighborhood.
 - c. It proposes to demolish a hill, a landmark of not only the neighborhood, but of Northeast Washington.
 - d. The removal of the hill poses serious environmental threats to the neighborhood (please refer to the previously submitted letter from Nancy MacWood).
 - e. It proposes to move St. Martins Convent, an historically significant building, from its original site atop the hill, changing the relationship of the building to the site, as well as to the community, and with no guarantee of its reconstruction if it should be damaged in the move.

2. Some of the photographs presented by the applicant were in Washington DC, but not necessarily within the inner residential neighborhood of Eckington (or even neighborhoods comparable to Eckington), where the applicant proposes this building. Appropriately, there are no apartment structures of this magnitude and bulk other than on the major roads of New York Ave., Rhode Island Ave. or Florida Ave. All of these roads are more suitable for an apartment complex of the size being proposed.

McKinley Tech is a 3-story building on a hill. So yes, when you take into account the pleasant natural green space that rises up to the base of the building, it is very tall. However, if you were to measure the height of McKinley Tech from the ground up, as the applicant has measured their proposed building, it would not be nearly as tall. We also note that the height measurements of the applicant’s building were taken from the Todd Place side, where the ground is higher than on the T Street side. Therefore, a height measurement from the front of the building on T Street would be greater than the 55 foot measurement provided in the PUD application. When asked on cross examination the applicant did not know the height of the building on the T street façade, information that to our knowledge has still not been provided.

The proposed building does not, as the applicant contends, provide an appropriate transition from the height of McKinley Tech High School to the neighboring buildings. To the contrary, the new building would be taller than McKinley Tech

and with its fortress-like configuration, be an impediment to social interaction rather than a transition. Additionally, the scheme to design one elevation to relate to McKinley Tech and another to relate to the row houses is a fallacious construct. An appropriate response and an appropriate transitional building would be one that repeats the same elements on all facades, but with subtle changes in scale and arrangement. There is no better model than McKinley Tech itself, and the proposed design does not take its cues from that excellent model.

While it is true that the DC Preservation League has agreed to the removal of the convent from its current location to a corner of the site, it has in no way endorsed the design of the proposed building. It has not been shown nor approved the current iteration. Moreover, ECRD are not in agreement with DCPL that removal of the convent is an acceptable preservation solution to a building that derives a substantial amount of its significance from its location atop a hill.

3. We have no objection to an apartment building. We have strong objection to a 5-story apartment building among 2-story historic row houses, and 3-story historic schools.

The applicant's statement describes interior and exterior common spaces, and how the Todd Place design fosters interaction between the building's residents and their row house neighbors. We argue that to design a large, fortress-like building with common spaces that can only be seen from within its walls, will only promote interaction *within the walls of the building*. The community interaction of neighbors relaxing on their front porches, that is currently so commonplace, will hardly compare to the interaction of neighbors entering and exiting their building. This is precisely why we feel that simple "ground floor entrances" will not be sufficient to promote the community interaction that we are accustomed to and that our community has been designed to promote. Also, the interaction fostered by the building's interior community spaces further show how this building is designed to segregate its population from the community, not interact with it.

The alternative "*scheme*" presented by ECRD is but one example of an infinite amount of community integrated and area fitting designs that could be built on the site with just a small amount of creativity. The amount of excavation would be considerably less than proposed by the applicant's design, would retain the integrity of the hill, allow the community access to the hill and its views, and foster community interaction with the building's residents. However, as stated, this is but one idea, and we would delight in the opportunity to work with the applicant to create the best possible design. This collaboration would be in contrast to previous community outreach, which will be addressed in response to section four.

4. It is difficult not to criticize the applicant's methods for community outreach. One year into the "outreach" virtually none of the most affected residents, those

within 200 feet, were aware of the proposed construction unless they were a member of a church group. Only after the ANC vote, slightly over a year ago, was a legal notification sent out and people began to realize that a large apartment building had been proposed. The last year of “outreach” resulted in minor changes, for example a decrease in density from 184 to 178 apartments. Even the inclusion of the convent made no serious changes to the design.

ECRD has always been supportive of the mission to create affordable housing. If this zoning variance is denied we encourage the applicant to work with the community, particularly the most affected residents within 200 feet of the site, to create an affordable housing design of which we can all be proud. This would be in contrast to the time, effort, and money spent thus far to convince the neighborhood to accept an unwavering design concept.

5. A large building or a small building will create traffic and parking issues. Given the choice, we prefer the traffic and parking issues of a smaller building. The cost of the parking lot, the internal community spaces and the removal of the hill are driving the need for an over-sized complex. A smaller complex and more creative design could mitigate traffic and parking issues. We will address the issue of parking further in response to attachment C.
6. We are grateful to the Office of Planning for identifying the applicant’s weaknesses in ensuring neighborhood participation and for encouraging them to address those shortcomings. Unfortunately, we feel that that the applicant’s efforts at neighborhood participation did not promote an honest dialogue, but instead were meant to dictate to the community what they had already decided.

The Attachment by Holland & Knight’s Steven E. Sher makes several notable statements:

- a. *“... the land use definitions describe the general character of development in each area, citing typical building heights (in stories) as appropriate. **It should be noted that the granting of density bonuses (for example, through Planned Unit Developments) may result in heights that exceed the typical ranges cited here.**”*

The underlined and bold section obviously was to bring attention to the applicant’s PUD plan. This also means that the granting of a density bonus for the applicant’s PUD would result in heights that would exceed the typical ranges of the area and thus be inappropriate.

- b. *“The designation of an area with a particular land use category does not automatically mean that the most intense zoning district described in the land use definitions is automatically permitted.”*

This PUD would create the most intense zoning district described in the

land use definitions for this area and, according to this statement, should not be automatically permitted.

- c. We wish to point out two specific areas of the section which reads:

On the new Proposed Generalized Policy Map, the subject property is located in a Neighborhood Conservation Area. Those areas are described on the map as follows:

[These sections are:]

(d) Where change occurs, it will be modest in scale and will consist primarily of scattered site infill housing;

(g) New development should be compatible with existing scale and architectural character.

The more specific Comp. Plan policies for Ward 5, Section 1607.5, indicate “In-fill housing and housing rehabilitation are a pressing concern in...Eckington”. This implies that any in-fill housing or new housing should conform to the existing R-4 zoning. This development is not scattered site infill housing, and the request for a density bonus resulting in “heights that exceed the typical ranges”, indicate that the applicant’s building will not be modest in scale compared to the surrounding area.

7. The creation of affordable housing is a meaningful and important goal that could be accomplished while maintaining the respect and dignity of the neighborhood in which it is built.

ATTACHMENT B: Vinyl Siding Specifications

It is the contention of ECRD that no matter the quality of the vinyl siding to be used in the proposed project it would be inappropriate in Eckington, a neighborhood characterized by masonry buildings. Unlike Takoma Park, Cleveland Park, and LeDroit Park, residential districts that were developed beginning in the late 19th century, Eckington is an early 20th century neighborhood of dark-red brick buildings designed in neo-classical modes.

Note: This attachment references 60% brick and 40% vinyl, which contradicts the applicant’s testimony of 60% vinyl and 40% brick. Is this a change or a mistake?

ATTACHMENT C

St Martins has accepted a formal obligation to allow parking for City Lights School. St Martins has also accepted an informal obligation to allow parking for Hyde School. While they have addressed how they will provide for their obligation to City Lights, their solution to parking for Hyde School is to simply have them park in the street. Unfortunately, this is not an option for Hyde School because the surrounding streets are residentially zoned parking, and two hours would not provide sufficient parking throughout the school day. *(For photographs documenting the parking signage in the immediate area of the proposed site please refer to the CD included with this document)*

The creation of east bound one way travel on T street has partially alleviated the current problem of school related congestion, but it will also force any future residents of this new building further into the neighborhood and away from any major roads. It is also important to note that the timing of these major traffic events, the arrival of students and the departure of apartment residents, will coincide.

The definition of Level of Service as per Page 5 of OR GEORGE's Report is as follows:

"Level of Service" is a qualitative measure describing operational conditions within a traffic stream or at an intersection, and reflects their perception by drivers and other roadway users. Principal considerations are factors such as speed and travel time, delay, and freedom to maneuver, traffic interruptions, comfort, convenience and safety.

OR George's study only focused on intersections and not points within the stream of traffic. It is between the intersections that the current Level of Service is severely compromised by student drop off and pickup activity. This activity will be further compromised by having the garage and loading area traffic exit directly into the student drop off and pickup activity. The safety of the kids will be severely compromised by the PUD project.

OR GEORGE updated their study on two intersections: Lincoln Road @ T Street, NE and T Street @ Summit Place, NE. The Level of Service at these two intersections may be acceptable. We believe the "numbers work" at these intersections because (1) There is no need for parents to arrive via Summit Place as they would have to turn left onto T Street missing the pickup and drop off points therefore the traffic flows easterly along T Street, away from Lincoln Road thus no real delay encountered at the Lincoln Road intersection. There is no stop sign on T Street at Summit Place so there is no delay at that intersection.

We do not know why DDOT would approve the study as it was full of errors, omissions, and inconsistencies. Further, we do not know why OR George did not provide a copy of the Traffic Study Scoping Agreement and Relevant Correspondence with DDOT Staff. We believe the scope of the study was inadequately planned to identify the Level of Service throughout the affected area.

The Applicant goes to great lengths to prove their provisions for parking spaces to City Lights, Hyde and McKinley schools, or other area residents. We want to remind you of the reason they give in asking you to approve the rezoning in the first place:

“In order to attract low income individuals, it is essential to provide a building that is constructed to market-rate standards, particularly with respect to parking and architectural design, to avoid any adverse impacts on the community. The parking which will be provided in a partially below-grade garage is a considerable expense for the project, as is the level of architectural detailing that will be provided. In particular, it raises the operating cost of the 30% AMI-income units beyond that which an affordable rent can cover. Therefore, the Applicant has proposed rezoning the property to the R-5-B District, which will allow the density and type of residential development to construct the project.”

We believe that if they reduce the density of the project and plan transportation access after having performed a more thorough traffic study, their expressed original intent can be reached without the need for such rezoning.

With regards to the parking accommodations that the applicant has made for both schools during construction please refer to the photograph of the Franklin P. Nash Methodist Church’s lot below. The photograph clearly depicts how small this lot is and it is not likely to be able to accommodate more than 20 vehicles.¹ On a regular basis the church has 2 to 3 of their vans parked in the lot. Clearly there is barely enough space left over for the conservatively estimated needs of City Lights School, let alone Hyde School.

¹ Each segment of chain link fence measures approximately 9 feet wide. The street side of the fence is composed of 9 sections and therefore measures about 81 feet in length. The alley side of the lot includes the entrance to the lot and is composed of 6 fence segments (or is about 54 feet in length). Maximum capacity would allow two rows of cars along each side of the lot, and each row could accommodate approximately 10 cars if parked tightly (10 cars along 81 feet), for no more than 20 mid-size vehicles.



(For more photographs of this lot please refer to the CD included with this document)

A large building or a small building will exacerbate the problem of parking in our neighborhood, but clearly a smaller building will have a more manageable impact. Throughout the applicant's testimony, and in their final submission, they have simultaneously committed the parking spaces in their proposed garage to future tenants, City Lights School, Hyde School and local residents. There are simply not enough parking spaces being built to accommodate the needs of all four of these entities and alleviate the parking burden that this complex will put on the community. In addition to over committing the parking garage they have not sufficiently explained how all of these entities will be able to share the limited spaces – What will the payment process be? How will the garage be enforced? If spaces are rented to primarily daytime users (such as the schools) then must they remain unused at night, or if they are rented to tenants and local residents will they lose access to their rented spaces during the day to accommodate the schools? Will people have to pay full price for spaces used during a portion of the day? These are only a few of the issues that have not been thought through.

Whereas we realize that they could build an inadequate matter of right project we would hope that if denied the zoning variance for this PUD that the applicant would choose to achieve its mission through working with the community to create a more fitting and compatible affordable housing complex.

ATTACHMENT D

ECRD finds that the applicant's solution regarding City Lights' Trash disposal to be acceptable.

Regarding the letter from the executive director of City Lights School:

While we respect the statement made by St Martin's tenant, the executive director of City Lights School, we do not believe that it accurately reflects the current and future parking situation at the school. The letter fails to mention that the school has entered into an agreement with Hyde School to allow teachers to park on their lot. No comment has been made as to whether or not this agreement will continue once the St. Martin's complex is built. In addition, while the director reaffirms that the school requires only 16 spaces, a reasonable accounting of the number of students at the school and the number and frequency of visitors that they require does not support this argument. For each class the school employs both teachers and teaching assistants. Imagining that there would be at least one teacher and teaching assistant for each grade (9-12), the executive director, and minimal additional administrative and custodial staff, the number of individuals needing parking spaces already totals close to 15 people without accounting for visitors. The website explicitly states that "each child is assigned a social worker" and that "family meetings and planning sessions are held at the school" with each student's "psychosocial support network". It would reasonable to think that such a meeting might require at least three additional people visiting the school- if the school only held one meeting per child per day. Adding in unexpected visitors, other personnel not accounted for, and the possibility of multiple family meetings being held in one day, a more reasonable assessment of the parking situation seems to be significantly more than 16 spaces.

Government of the District of Columbia

Zoning Commission

ZONING COMMISSION ORDER NO. _____

Case No. 05-39

(Consolidated Planned Unit Development and
Zoning Map Amendment for Square 3531, Lots 114 and 115,
_____, 2007

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PRELIMINARY STATEMENT

1. This proceeding concerns an application for consolidated and approval of a Planned Unit Development and related map amendment, filed on December 2, 2005 by the Archdiocese of Washington and Catholic Community Services hereinafter called the "Applicant").

2. The proposal seeks to re-zone the area from R-4 to R-5-B and approve a Planned Unit Development ("PUD") to facilitate construction of 178 new residential units at 116 T Street, N.E., to be known as "St. Martin's Apartments."

3. The original re-zoning and PUD application sought to construct 184 apartments, which project would have required the demolition of the historic convent and school on the site. The D.C. Preservation League ("DCPL") subsequently filed a landmark designation application for the school and convent. On September 13, 2006, the Applicant reached an agreement with DCPL, under which DCPL agreed to withdraw its landmark designation application and the Applicant agreed to move the convent from its location at the center of the site to the corner of T and Summit Streets, resulting in a slight reduction in the FAR and reducing the number of apartment units to 178.

4. Pursuant to notice, a public hearing was held by the Zoning Commission for the District of Columbia on January 29, 2007 and February 8, 2007.

5. Party status was requested by and granted to the Eckington Citizens for Responsible Development (ECRD), a neighborhood association with over 50 members and supporters who live near the proposed PUD site and who presented uncontested evidence that they would be adversely affected by construction of the PUD based on increased traffic congestion, parking problems, diminution of light and air, environmental impacts, and adverse impacts to the historic and aesthetic character of the neighborhood.

6. Under Sections 3012.1 and 3012.2 of the Zoning Regulations, the application was referred to the Office of Planning, which is required to prepare an

impact assessment of the application, and coordinate review of the case by “all relevant District departments and agencies.” Here, the only agency other than the Office of Planning to review the application and provide a written report was the D.C. Department of Transportation (DDOT).

FINDINGS OF FACT

7. The applicant is the Archdiocese of Washington and Catholic Community Services, which is proposing to construct a 178-unit apartment building at 116 T Street, N.W.

8. The site, which is owned by the Archdiocese of Washington, is bounded by Todd Place, N.E. to the north, Summit Place, N.E. to the east, T Street, N.E., Mckinley High School, and the Hyde Leadership Charter School to the south, and row houses, apartment buildings, and Lincoln Street to the west.

9. The topography of the site slopes steeply upward for 20 feet from the adjacent streets to a plateau near the center of the site, which is currently occupied by the historic St. Martin’s Convent, a two-story building now used by the Applicant as Single Resident Occupancy (SRO) residences for 17 formerly homeless men. In addition, the site is currently developed with the City Lights Charter School, a Quonset hut, and a surface parking lot. The surface lot provides spaces for 70 cars, although often more than 80 or 90 cars are parked there. Currently, the lot is used by the teachers, staff and visitors of the City Lights Charter School, the residents and employees of the SRO residences, and Hyde Charter School

10. In order to construct the apartments, the St. Martin’s convent will be moved to the corner of Summit and T Streets, and the Quonset hut and the surface parking lot will be removed completely. The site will be graded so that the apartment building will be at the same elevation of the row houses on T Street.

11. Under the revised plans, the Applicant would construct a 178-unit apartment building at 116 T Street, N.W., with approximately 240,940 gross square feet, an underground parking garage with 109 parking spaces plus 17 tandem spaces, a FAR of 2.64 and a lot occupancy of 60 %. The building would be 55 feet high measured from Todd Place and uses a variety of architectural embellishments. The building material is a mix of dark and light brick, with vinyl siding on approximately 40-60% of the facades.

12. The majority of the apartment units will be two bedrooms (92), junior one-bedrooms (44), and one bedrooms (37), with three 3-bedroom apartment and 5 efficiencies. All of the one-,two-, and three-bedroom units will be available to residents with annual incomes of up to 60 % of the Area Median Income or between \$30,000 and \$54,000. The junior apartments and efficiencies will be available to fifty formerly homeless men with annual incomes of around \$18,000.

13. The Applicant presents the 109-space parking garage as an important amenity for the 128 residents occupying the one-, two-, and three-bedroom units. The project assumes that the 50 formerly homeless men will not own cars. Residents will be required to pay \$45/month for parking, with excess spaces made available to others, such as the area schools, whose parking area is being eliminated. The project will include a 30-foot rather than a 50-foot loading berth, based on the assumption that the residents will not require large loading vehicles.

14. There is a shortage of on-street parking in the Eckington neighborhood in the vicinity of the subject site.

15. The Rhode Island Avenue Metro Station, is 1.2 miles from the subject site and the New York Avenue-Florida Avenue Metro station is approximately one mile from the subject site.

16. Each of the streets bounding the site are two-lane with no median or shoulder, with the exception of Todd place, which is one way and has a single lane. T Street is 30 feet wide curb-to-curb; Summit Place is 24 feet wide curb-to-curb. Todd Place is also very narrow. Not all of the streets surrounding the site allow parking on both sides of the street, and barely allow room for one lane of travel.

17. McKinley Technical High School and the Hyde Charter School are located across T Street from the project site. In 2004, the high school served only two grades, but currently, the high school serves four grade levels, with 200 students per grade. There is parking on both sides of T Street, which is frequently fully occupied by school related vehicles. In addition, vehicles use T Street for drop off and pick up for McKinley and Hyde.

18. As a result of traffic congestion school resulting from school buses turning on T Street, and the parents dropping their children off, DDOT put into place a one-way restriction on T Street, allowing only east bound traffic in the morning peak hour.

19. St. Martin's convent is a historically significant building for its history and architecture, located on the top of a hill at the center of the site. The hill, one of the highest in Northeast Washington, is a character-defining feature of the neighborhood as well as of the city as whole, especially as one enters the city from the northeast. The convent's prominent location on the top of a hill with commanding views of the District and its relationship to the site is an important contributing feature of its historic significance.

20. As part of this project, the Convent will be moved to the southeast corner of the site and the steep slopes that characterize the site with significant changes in grade -- approximately twenty feet, between the street frontages and the highest elevation near the center of the site -- would be removed

from the site.

21. The Applicant has not provided a proposed route for construction vehicles, including trucks removing waste and debris from the site or a location for the disposal of waste and debris. No pre- or post-construction surveys will be conducted of the 100-year old row houses on Todd Street and Summit Place, nor will these buildings be monitored for damage from vibration and truck traffic. No construction management agreement has been proposed to attempt to mitigate construction noise, traffic, and other impacts to neighboring properties or to provide a framework for addressing neighborhood concerns that may arise during the construction process.

Existing Zoning and the Comprehensive Plan

22. Square 3531 is currently zoned R-4, as are the all the neighboring squares in the vicinity of the site. The R-4 district is designed to include those areas developed primarily with row dwellings, but within which there have been a substantial number of conversions of the dwellings into dwellings for two or more families. 11 DCMR § 330.1 The R-4 district shall not be an apartment district. 11 DCMR § 330.3. The predominant existing uses in the neighborhood surrounding the subject site are Row Houses

23. The applicant is requesting a related map amendment to re-zone Square 3341, Lots 114 and 115 from R-4 to R-5-B. The differences are as follows:

- a. The R-4 District permits matter of right development of single-family, semi-detached and row house dwellings with a maximum lot occupancy of 40 percent and a maximum height of three stories or 40 feet, and FAR of .9.
- b. The R-5-B District with PUD standards permits matter of right development of apartments with a maximum lot occupancy of 60 percent of the site with a maximum FAR of 3.0 and a maximum height of 60 feet.

24. The current Comp. Plan Land Use Map designates Sq. 3531 in a “moderate density” residential land use category. Section 1103.2 of the Comprehensive Plan states “The moderate density residential land use category includes row houses and garden apartments as the predominant uses and may also include, as appropriate uses, low density”.

25. The Comprehensive Plan does not recommend the Eckington area or any of its squares for a zoning change, in order for the area no to be inconsistent with the Comp. Plan. The current zoning of this area now is consistent with the land use designation

26. Section 1102, “Objectives for Residential Neighborhoods” of the Comp. Plan provides the general planning guidance for the Eckington neighborhood, namely

1102.1 (a), “To conserve and enhance the essentially satisfactory qualities of the many stable residential neighborhoods including those qualities that make them unique; and 1102.1 (c) To redirect public and private initiatives to neighborhoods most in need of improvement and stability; ...”

27. In addition the more specific Comprehensive Plan policies for Ward 5, Section 1607.5, indicate “In-fill housing and housing rehabilitation are a pressing concern in...Eckington”. This implies that any in-fill housing or new housing should conform to the existing R-4 zoning.

28. The subject site is not designated a housing opportunity area, and its location over one mile from the Rhode Island Avenue Metrorail Station area does not promote the housing objectives in Ward 5 of providing housing near the Metrorail Station, as provided in Section 1608.1 of the Comprehensive Plan. The distance from the Metro and the fortress-like design of the building will not further the objective of Section 1614.1 of the Ward 5 transportation element to improve the pedestrian environment on major streets roadways and increase the use of mass transit.

29. There are several general theme policies in the Comprehensive Plan, some of which include Urban Design, Housing Quality, Affordability, Non-profit Involvement, which support the proposed project. However, the Ward 5 “in-fill housing” and the “Objectives for Residential Neighborhoods” should be the guidance with respect to Plan conformance. Therefore, the proposal fails to comply with the more specific Comp. Plan policies cited above.

30. Furthermore, Section 330.3 of the D.C. Zoning Regulations stipulates that “The R-4 (maximum height of 40 feet) shall not be an apartment house district as contemplated under the General Residence (R-5) Districts, since the conversion of existing structures shall be controlled by a minimum lot area per family requirement”. Therefore, re-zoning the site to R-5-B, as requested in the PUD, violates Section 2400.5 of the Regulations which states that “... the PUD process shall not be used to circumvent the intent and purpose of the title, or to result in action that is inconsistent with the Comprehensive Plan”. (Section 330.1).

31. The design of the five-story apartment building, its use of vinyl siding as a material, its excessive and overly-frenetic use of an excessive variety of architectural materials and motifs, and fortress-like scale and suburban feel, would be incompatible in scale, design, and material with the two-story masonry, houses, and in no way respects the established pattern of residential development in the area. Therefore, the apartment building would not be consistent with the following Comprehensive Plan policies:

- a. Comprehensive Plan and Public Policies, Section 708.2(b), requiring that building design include the use of appropriate arrangements of building materials, height, scale, massing, and

buffering to complement the immediate region.

- b. Draft Comprehensive Plan, Policy H-1.1.5: Housing Quality: "Require the design of affordable housing to meet the same high-quality architectural standards required of market-rate housing. Regardless of its affordability level, new or renovated housing should be indistinguishable from market rate housing in its exterior appearance..."
- c. Comprehensive Plan and Public Policies: Section ,710.2 (e): Encourage building massing and scale of new development to be sensitive to established patterns;
- d. Comprehensive Plan and Public Policies, Section 708.2 (b) Design buildings to include the use of appropriate arrangements of building materials, height, scale, massing, and buffering to complement the immediate region.

Requirements for Approval of a PUD

32.. Section 2403.9 of the Zoning Regulations enumerates ten "evaluation standards" that be proven by the proponent of a PUD to exhibit and document the public benefits or amenities of the project. Other "additional categories" may be used as well." *Id.* "A project may qualify for approval by being particularly strong in only one or a few of the categories in Section 2403.9, but must be found to be acceptable in all proffered categories and superior in many." 11 DCMR Section 2403.10.

33. 2403.9(a) Urban design, architecture, landscaping, or creation or preservation of open spaces.

- a. The proposed development is not of high-quality either in its design or in the benefits that it would offer the residents of Eckington. The development does not respect the design integrity of adjacent properties and the surrounding neighborhood, nor does it address the need for open space and recreational amenities for the neighborhood as a whole, nor does it promote social interchange.
- b. The design of the buildings is primarily suburban in style, unnecessarily complex in façade design, and of inferior materials. The reality is that the proposed building, if allowed to be constructed, would not be an improvement to the neighborhood. The scale, materials, articulation, and proposed color scheme are inconsistent with the context. The project, therefore, would not improve the neighborhood.

- c. The proposed design is frenetic and, therefore, incompatible with the homogeneous rows of houses and small apartment buildings found in the neighborhood. Most of the streets are defined by buildings that repeat a module and continue the same materials and motifs for an entire block. Even the long facades of McKinley Tech and the Hyde School manage to be interesting and elegant without being extremely articulated as the proposed building would be. The proposed design does not respect its context, is of lesser quality than that of the surrounding buildings, and could not be considered to be an improvement to the neighborhood.
- d. The building design is not compatible in design or materials with the two historic structures on the site – both designed by a well-regarded Washington ecclesiastical architect – or with the houses in the surrounding neighborhood – many also by master architects. The project, therefore, would not improve the district.
- e. The proposed building would be incompatible in scale with the proximate houses and, therefore, not an improvement to the neighborhood. Furthermore, it in no way respects the established pattern of residential development in the area.
- f. The Applicant's proposed building would have a negative impact on the surrounding area. The surrounding areas are predominant two-story row houses; there is no five story building on T Street and the surrounding streets
- g. The scale, height and density of the proposed building makes it ill-suited for the site.
- h. The design is out of character with the surrounding buildings.
- i. The façade is incompatible with neighboring buildings. The predominant façade in the neighborhood is masonry. The use of vinyl siding for any of the facades of the proposed project would be incompatible with the high quality of material in the neighborhood.

34. 2403.9(b) Site planning, and efficient and economical land utilization.

- a. The proposed apartment building would be an impenetrable fortress that that would not permit social interaction with the neighbors; an unfortunate oversight in a neighborhood that provides, with its front-porch row houses, a superb example of architecture that effectively promotes community interchange. The project, therefore, does not respond to social responsibility for the surrounding residents nor would it produce a favorable impact.

- b. The project will result in property damage to neighboring structures prior to and during construction given the scale of the construction. Neighboring homes will likely be damaged by the waste removal trucks hauling over 20 feet of hillside debris

35. 2403.9(c) Effective and safe vehicular and pedestrian access; transportation management measures, connections to public transit service, and other measures to mitigate adverse traffic impacts.

- a. The Applicant proposed to provide a single loading space of 30 feet rather than the required 50-foot space, which will be insufficient for even the smaller trucks or transportation vehicles that the Applicant expects will be used by residents. The project will result in the removal of the loading space for the City Lights Charter School, which the Applicant acknowledges frequently requires service and delivery vehicles. Further, the Applicant's proposal that residents use a 30 feet driveway to load will likely result in vehicles obstructing public space.
- b. The lack of sufficient loading berths and service/delivery areas will result in vehicles parking in the street for deliveries and delivery and loading vehicles parking in the street and will create scenarios that will cause traffic, unreasonable accessibility, and safety problems.
- c. The Applicant's traffic study based on the trip generators currently located near the site fails to take into account a number of possible developments, such as a currently vacant, 37-unit apartment building on the corner of 2nd and T Street, the fact that two additional grades have been added to McKinley Technical HS, with 200 students per grade level, plus additional staff parking, and the possibility of a new use for the 66,000 of under-utilized space in McKinley HS.
- d. The apartment building, located a mile from the nearest Metro stations, is poorly served by public transportation, and residents of the apartment building will likely own cars and residents and their visitors are likely to use cars for most of their trips. There is no support for the Applicant's assumption that none of the 50 formerly homeless residents will own vehicles.
- e. The project will exacerbate the current shortage of on -street parking in the neighborhood. The elimination of the surface lot will displace the 70 to 90 vehicles currently parking on the surface lot. Residents of the proposed apartment are likely to opt to park their vehicles on the street rather than pay a monthly charge for parking.
- f. The Applicant's traffic report failed to apply a uniform 2 % annual

growth factor to traffic on T Street and the other surrounding residential streets, The Applicant offered no solution to mitigate the adverse traffic impact that a 178-unit building will have on the surrounding residential streets.

- g. The Applicant failed to recognize the increased demand for street parking that a building this size will generate. Service vehicles, guests and delivery vehicles will all add to the congestion on narrow, residential streets.
- h. The proposed driveway entrance to the parking garage of the proposed building on T Street will create additional traffic problems for this already-congested street, particularly in the a.m. peak hour when T Street is one-way to accommodate the morning drop off for McKinley HS and Hyde Charter School on T Street, as well as drop off and pick up at the City Lights Charter School, whose drop off area will be eliminated.
- i. The Applicant has not provided any proposed conditions to mitigate traffic or parking impacts. At a minimum, parking in the parking garage should be provided free of charge to residents and their visitors to ensure that they will not park on the street.
- j. The Applicant's proposal offers no access for large trucks and moving vans to make deliveries to the building. The Applicant has failed to provide any plan or measures that would prevent residents from using large moving trucks or to prohibit large trucks from making deliveries to the building.
- k. The Applicant has not submitted any Construction Management Plan. This is unacceptable for a project of this magnitude. The project has the potential to cause serious damage through the excavation for underground parking possible below the water table, and the removal of over 20 feet of hill side, requiring that soil and material be hauled to and from the site prior to and during construction. The Applicant failed to disclose the number of trips and level of vibration caused by these trucks, or identify which streets will be used for hauling material. The Applicant project has included no plans to undertake pre-construction surveys of the homes lining these streets notwithstanding the likelihood that these homes will experience damage as a result of the construction.

36. 2403.9(d) Historic preservation of private or public structures, places or parks.

- a. The fact that the Applicant has attempted to avoid the demolition of the historic convent, located prominently on the hill at the center of the site,

does not constitute a benefit as a result of the project. To the contrary, moving the historic convent from this prominent site and grading the hill on which it was located will irrevocably alter the Convent's historic relationship to the site.

- b. Applicant has not provided sufficient guarantees that this fragile historic convent won't be damaged in the move or that it could be repaired to its original condition should that occur. The demolition of the hill, one of the highest in Northeast Washington, will adversely affect the aesthetic and historic character of the convent and the neighborhood. Therefore, the proposal could not be considered to be an acceptable preservation solution.
- c. The apartment building would tower the historic convent and be incompatible in design. The design of the apartment building is frenetic, incorporating an excessive number of different motifs and materials, while the convent is a much more restrained design.

37. 2403.9(e) Employment and training opportunities.

- a. The Applicant has not submitted any proposal to provide employment training opportunities to District of Columbia residents other than creation of short-term construction-related jobs, and six residential related jobs.

38. 2403.9(f) Housing and affordable housing.

- a. The 178 units of housing would increase the city's affordable housing stock. However, most of the units would not be for families and would not enhance the character of the neighborhood.
- b. The Applicant's proposed fortress-like building of 178 apartment units would be dramatic, negative contrast to the low density, stable neighborhood that it fronts. The density is not in the best interest of the city or the neighborhood.

39. 2403.9(g) Social Services/facilities.

- a. The apartment building would provide storage facilities for the City Lights Charter School, which is a benefit. However, this benefit is off-set by the fact that the project will eliminate the parking area currently used by the City Lights Charter School.
- b. The project will provide housing for 50 formerly homeless men. However, since the housing provided to these men currently on the site will be eliminated, the project will result in no net benefit.

40. 2403.9(h) Environmental benefits, such as storm water runoff controls and preservation of open space or trees.

- a. The Applicant will remove a 20-foot hill from the site, resulting in the removal of large amounts of fill. The Applicant has not tested the soils for contaminants or provided a plan for the disposal of this material and other construction debris.
- b. The Applicant will excavate the site to construct the parking garage, located partially below grade. The Applicant has not undertaken an environment assessment, or undertaken a study of the hydrology to determine any destabilizing effects of excavation.
- c. The Applicant's proposed plan to remove the hill on the site will require the removal and transportation through the neighborhood of hundreds of tons of soil and debris, causing noise and vibrations that may damage.
- d. Despite the extraordinary plans to level the 20 foot hill on the site, the Office of Planning failed to circulate the application to or secure the comments of the D.C. Department of Department of Health, Environmental Health Division. There is no evidence that the Applicant will prepare and Environmental Impact Statement or Environmental Assessment to identify and quantify environmental impacts of the project.

41. 2403.9(i) Uses of special value to the neighborhood or the District of Columbia as a whole.

- a. Given the nature of this project, this factor is not applicable.

42. 2403.9(j) Other public benefits and project amenities and 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.

- a. The applicant does not propose any off-site public benefits other than affordable housing, such as public facilities or public open space.

43. Based on the foregoing, the Commission concludes that the applicant has not demonstrated that the proffered public benefits and project amenities qualify the project for approval as a planned unit development.

44. As discussed more fully above, , the Commission further finds that the proposed PUD is inconsistent with and would not further certain policies and objectives of the Comprehensive Plan and the Ward 5 Element of the

Comprehensive Plan.

45. The Residential Neighborhood Objectives section of the Comprehensive Plan emphasizes the conservation of established neighborhoods.

Section 1104.1(b)

“Conserve and maintain the District’s sound, established neighborhoods through strict application and enforcement of housing, building and zoning codes and the maintenance of the general level of existing residential uses, densities and heights;”

The Applicant’s proposal fails to conserve an established neighborhood, and disregards the general levels of existing design, densities and heights of the low-density row houses that characterize the neighborhood housing stock.

CONCLUSIONS OF LAW

1. The Planned Unit Development 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 of quality or public benefits, and that it protects and advances the public health, safety, welfare, and convenience.” 11 DCMR § 2400.2.
2. The Commission must find that the project is not inconsistent with the Comprehensive Plan and other public policies, 11 DCMR § 2403.4, and that the impact of the project on surrounding areas and government operations will not be unacceptable. A project’s impact must either be favorable or, if adverse, capable of being mitigated or outweighed by the project’s benefits. 11 DCMR § 2403.3.
3. In evaluating whether the applicant has met its burden, the Commission must “judge, balance, and reconcile the relative value of the project amenities and public benefits offered, the degree of development incentives requested, and any potential adverse effects according to the specific circumstances of the case.” 11 DCMR § 2403.8.
4. A PUD applicant seeking a related map amendment must demonstrate that “public health, safety and general welfare goals of zoning regulation would be served by the ... amendment” *Citizens Association of Georgetown v. District of Columbia Zoning Commission* 402 A.2d 36, 39 (1974). A proposed map amendment should:

“create conditions favorable to health safety transportation, prosperity, protection of property, civic activity and recreational, educational and cultural opportunities, and as would tend to further economy and efficiency

in the supply of public services. Such regulations shall be made with reasonable consideration, among other things, of the character of respective districts and their suitability for the uses provided in the regulations, and with a view to encouraging stability of districts and of land values therein.”

Id. at 40.

5. The proposed PUD is inconsistent with the land use element, the urban design element, the environmental element, the preservation and historic features element, and the housing element of the Comprehensive Plan and the Ward 5 Element of the Comprehensive Plan.
6. This project is an example of development that would have an adverse impact that the Commission finds cannot be mitigated. It does not preserve open space, is not compatible with the historic preservation, the existing character of the neighborhood, , increases traffic and parking congestion and does not meet the approval of the nearby residential community.
7. Approval of the application will not promote the orderly development of the site in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.
8. The applicant has proposed no project amenities and public benefits that positively affect the immediate neighborhood. None has exceptional merit.
9. Based on the record, and the findings of fact stated above, the Commission concludes that the applicant has not met its burden in all respects to all issues.
 - A. With regard to Section 2403.9(a), architecture and urban design, the Commission concludes that the proposed PUD lacks superior design, is insensitive to the surrounding neighborhood, is incompatible contextually with the neighboring buildings, is of a scale and density unsuitable for a residential street.
 - B. With regard to Section 2403.9(b), site design and planning, the Commission concludes that the proposed PUD is inconsistent with the Comprehensive Plan.
 - C. With regard to Section 2403.9(c), safe vehicle and pedestrian access and connections to public transportation, the Commission concludes that the project does not have adequate connections to public transportation, and the location of the parking garage is likely to create safety hazards for pedestrians, particularly for children being dropped off, picked up, or walking to and from the three schools in close proximity to the site, and traffic problems, particular in the morning hours when T Street is one-

way.

- D. With regard to Section 2403.9(d), the historic preservation of private or public structures and parkland, the Commission concludes the project would likely cause irrevocable harm to the historic St. Martin's convent and the proposed building would be incompatible with the one hundred year old houses across the street.
- E. With regard to Section 2403.9(e), employment and training opportunities, the Commission concludes the Applicant has not submitted any proposal to provide employment and training opportunities to District of Columbia residents.
- F. With regard to Section 2403.9(f), housing and affordable housing, the Commission concludes that the adverse effects to a stable, low-density residential neighborhood outweigh the benefits provided by adding additional affordable housing units to the District. ..
- G. With regard to Section 2403.9(g), social services, the Commission concludes that the proposal will provide no net benefits over the current use of the property in terms of social services.
- H. With regard to Section 2403.9(h), environmental benefits, storm water runoff and open space or trees, the Commission concludes the Applicant has provided an unacceptable plan for protecting the environment. The Applicant has done no testing of the site, and has prepared no environmental assessment. The Office of Planning failed to obtain the written report from the Department of Health, Department of Environmental Health, whose comments are directly relevant to the approval of the application.
- I. With regard to Section 2403.9(i), uses of special value to the neighborhood as a whole, the Commission concludes the proposed PUD will not benefit either the immediate neighborhood, the greater community or in Ward 5. It is without merit.
- J. With regard to Section 2403.9(j), other public benefits and amenities, the Commission concludes the proposed building lacks "any superior features that benefit the surrounding neighborhood or the public in general to a significantly greater extent than would likely result from development of the site under the matter-of-right provisions of this title. (2403.6)

11. The Commission concludes that the R-4 matter-of-right zoning for the subject site is not inconsistent with the Comprehensive Plan.

a. With respect to Comprehensive Plan issues, the Commission concludes that the proposed PUD would be inconsistent with certain policies and objectives of the Comprehensive Plan and the Ward 5 Element of the Comprehensive Plan, for reasons set forth in Findings 24 through 31,

12. The Commission finds that the proposed PUD will introduce unacceptable impacts on traffic, exacerbate the existing shortage of on-street parking, destroy a major, recognizable landscape feature of the neighborhood and city, irrevocably damage the historic St. Martin's Convent, and introduce a 55-foot tall building, vinyl-sided that towers over and is incompatible with the predominantly two-story, masonry row houses. In stark contrast to other PUDs of this magnitude, the Applicant has not prepared a traffic and parking management plan, or a construction management plan that could be adopted a condition to any order or that even attempts to mitigate these adverse effects. Therefore, the project's adverse have not been mitigated. This Commission cannot conclude that the project's benefits outweigh these impacts where the Applicant has not even attempted to work with the community in developing a set of conditions that might assist in mitigating these adverse impacts,. 11 DCMR § 2403.3

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 that the application for a consolidated Planned Unit Development and map amendment from R-4 to R-5-B for Square 3531, Lots 114 and 115 be DENIED.

The Commission on _____, 2007, voted to deny the application on a vote of _- (_____).

This Order was ADOPTED by the Zoning Commission at its public meeting on _____, 2007, by a vote of _- (_____).

In accordance with the provision of 11 DCMR 3028, this Order shall become final and effective upon publication in the D.C. Register, that is on _____.

Carol J. Mitten
Chairperson,
Zoning Commission

Jerrily R. Kress, FAIA
Director,
Office of Zoning