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**BEFORE THE ZONING COMMISSION
OF THE DISTRICT OF COLUMBIA**

3rd & H Street

ZONING COMMISSION CASE NO. 06-01

**PRE-HEARING STATEMENT IN SUPPORT
OF THE APPLICATION FOR CONSOLIDATED REVIEW
OF A PLANNED UNIT DEVELOPMENT
AND ZONING MAP AMENDMENT**

APRIL 28, 2006

**ZONING COMMISSION
District of Columbia**

CASE NO. 06-01

EXHIBIT NO. 21

ZONING COMMISSION
District of Columbia
CASE NO.06-01
EXHIBIT NO.21

PREFACE

This statement and attached documents are submitted by Steuart Investment Company and Steuart-H Street LLC (collectively known as the "Applicant") in support of its application for consolidated review and approval of a planned unit development in conformity with Chapter 24 of the District of Columbia Zoning Regulations and related Zoning Map Amendment before the Zoning Commission for the District of Columbia. The subject property is located between 3rd, 4th, H and Eye Streets, N.E. The subject property consists of Lots 9, 25-31, 51-53, 800 and 821 in Square 776. The majority of the property has been rezoned to C-2-B as part of the H Street, N.E. Neighborhood Commercial Overlay District. Eight interior lots not fronting on H Street were not rezoned and remain zoned C-2-A. The Applicant is seeking PUD approval under the C-2-B District for the entire site in order to construct a mixed use development. The project site is designated by the Comprehensive Plan as mixed use with moderate density residential and low density commercial. According to the Land Use Policies Map, the property is located in a Development Opportunity Area.

The Applicant originally filed a PUD Application Statement and supporting documents on January 6, 2006. The Application and supplemental materials set forth in detail the proposed development, project design, public benefits and project amenities, and consistency with the Comprehensive Plan and the Ward 6 Plan. This Pre-Hearing Statement further supplements the previous submission and responds to comments from the Zoning Commission raised at its March 20, 2006,

meeting and to comments contained in the report dated March 3, 2006 from the Office of Planning.

As set forth below, this Pre-Hearing Statement, in conjunction with the Applicant's previous submission, meets the filing requirement for a PUD and map amendment application under chapters 24 and 30 of the District of Columbia Zoning Regulations.

DEVELOPMENT TEAM

Applicant and Owner/Developer	Steuart Investment Company & Steuart-H Street LLC Suite 1600 5454 Wisconsin Avenue Chevy Chase MD 20815
Architects:	Torti Gallas and Partners, Inc. 4 th Floor 1300 Spring Street Silver Spring, MD 20910
Civil Engineers:	VIKA Suite 200 8180 Greensboro Drive McLean VA 22102
Landscape Architects	Lee and Associates 638 I Street, N.W. Washington D.C. 20001
Economic Benefits Consultant:	Bolan Smart Associates Suite 600 900 19 th Street, N.W. Washington, D.C. 20036
Traffic Consultant:	Wells & Associates, LLC Suite 600 1420 Spring Hill Road McLean, VA 22102
Land Use Counsel:	Holland & Knight LLP Suite 100 2099 Pennsylvania Avenue, N.W. Washington, D.C. 20006

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**CERTIFICATION OF COMPLIANCE
WITH SECTION 3013 OF THE ZONING REGULATIONS**

The Applicant hereby certifies that this application, twenty copies of which were filed with the Zoning Commission on January 6, 2006, complies with the provisions of Section 3013 of the Zoning Regulations as set forth below, that the application is complete.

<u>Subsection</u>	<u>Description</u>	<u>Page</u>
3013.1(a)	Information Requested by Commission	Pre-Hearing Stmt
3013.1(b)	List of Witnesses	Exhibit A
3013.1(c)	Summary of Testimony of Applicant's Witnesses and Reports for Record: • Guy Steuart, Applicant's Representative • Martin Wells, Wells & Associates, Traffic Consultant • Maurice Walters, Torti Gallas and Partners, Inc., Architect • Eric Smart, Bolan Smart Associates • Steven E. Sher, Holland & Knight LLP, Land Planner	Exhibit A
3013.1(d)	Additional Information	Herein or with previous submissions
3013.1(e)	Reduced Plans	Exhibit D
3013.1(g)	Estimated Time Required for Presentation of Applicant's Case (45 minutes)	Exhibit A
3013.6(a)	List of Names and Addresses of All Property	Exhibit B

<u>Subsection</u>	<u>Description</u>	<u>Page</u>
	Owners Within 200 Feet of the Subject Property	
3013.6(b)	List of Names and Addresses of Each Person having a Lease with the Owner for All or Part of Any Building Located on the Property Involved in the Application	None

LIST OF EXHIBITS

Description

Exhibit

List of Witnesses

A

List of Property Owners within 200 Feet of Project

B

Supplement to Traffic Study

C

Revised Architectural Plans

D

I. INTRODUCTION

This pre-hearing statement and the attached documents (the "Pre-Hearing Statement") support the application of Steuart Investment Company and Steuart-H Street LLC (collectively the "Applicant") to the Zoning Commission for the District of Columbia (the "Commission") for the consolidated review and one-step approval of a Planned Unit Development ("PUD") and related Zoning Map Amendment. The proposed PUD contemplates the construction of a mixed use development to be located on property between 3rd, 4th, H and Eye Streets, N.E. consisting of Lots 9, 25-31, 51-53, 800 and 821 in Square 776 (the "Site" or "the Property"). The Site is currently vacant and unimproved. The majority of the Site has been rezoned to C-2-B as part of the H Street, N.E. Neighborhood Commercial Overlay District (the "H Street Overlay" or "the Overlay"). Eight interior lots not fronting on H Street were not rezoned and remain zoned C-2-A. The Applicant is seeking an amendment to the Zoning Map to rezone those interior lots and seeks PUD approval under the C-2-B District for the entire Site. The requested zoning change is fully consistent with the District of Columbia Comprehensive Plan ("Comprehensive Plan").

The Applicant originally filed the PUD Application Statement and supporting documents on January 6, 2006. The Application and supplemental materials set forth in detail the proposed development, project design, public benefits and project amenities, and consistency with the Comprehensive Plan and the Ward 6 Plan. This Pre-Hearing Statement further supplements the previous submission and

responds to comments from the Zoning Commission raised at its March 20, 2006, meeting and to comments contained in the report dated March 3, 2006 from the Office of Planning.

II. ISSUES RAISED BY THE ZONING COMMISSION

The Commission requested further information and clarification regarding the proposed grocery store and other retail space, as well as information regarding project design and affordable housing. The Commission also requested the Applicant to address the comments raised by the Office of Planning in its report.

A. Grocery Store and Retail

The Commission requested clarification and further detail regarding the size and functioning of the proposed grocery store and other retail along H Street. The Commission specifically requested clarification of 1) the retail mezzanine, 2) how parcel pickup for the grocery would function, 3) the circulation pattern for trucks servicing the retail and residential loading, 4) the trip generation rate and non-auto mode split for the grocery store and 5) the term "neighborhood serving retail." The Applicant responds as follows:

1) The Applicant has revised its plans and has deleted the mezzanine level (approximately 2,700 sq. ft.) from the retail area fronting on H Street. A mezzanine of 10,000 sq. ft. will remain as part of the grocery store. This grocery

mezzanine is included in the FAR calculation that is detailed in the Zoning Analysis on Plan G04 and is highlighted on the FAR diagram on Plan G05;

2) Parcel pick-up for the grocery store will be handled within the below grade garage area of the project on the first garage level, which is entirely dedicated to retail parking.

3) The Applicant included a circulation diagram with its submission (Plan T01) demonstrating the traffic pattern for accessing the residential and retail loading berths from 4th Street and the grocery loading berths from 3rd Street. The Project does not contemplate any significant use of the remainder of the alley system for access. The Applicant has located the loading and service spaces to encourage and facilitate access directly from 3rd Street or from 4th Street via the alley.

4) The Traffic Consultant, Wells and Associates, based its estimates on the Institute of Transportation Engineers' (ITE) trip generation rates and a non-auto mode split of 65 percent. The Commission commented that the 65 percent non-auto mode split seemed high, considering the high number of grocery store parking spaces. Based upon a review of other projects located in the Washington, DC area, the Traffic Consultant revised its non-auto mode split to 60 percent.

Wells' traffic study dated January 6, 2006 found that all intersections (and all intersection approaches) would operate at LOS "D" or better with the proposed Project and the 65 percent non-auto grocery/retail store estimates, except for

southbound 3rd Street at H Street during the PM peak hour, which would operate at capacity at LOS "F" based on current traffic signal timings. This deficiency could be fully mitigated by optimizing the current signal timings. With the revised grocery/retail store trip generation estimates based on a 60% non-auto mode split, the same levels of service would be obtained.

Wells and Associates has prepared a supplemental memorandum attached as Exhibit C presenting revised trip generation and intersection capacity analyses;

5) "Neighborhood serving retail" is a term used by the Applicant to indicate service retail that because of its size, scale, and convenience is likely to draw the substantial percentage of its market from residents of the neighborhood. The Applicant has not identified specific uses nor limited the options available. The total space is 5,958 square feet which may be divided into 1-3 units. This size space is not typically large enough for a department store tenant or other national chain store. The Applicant believes that it is beneficial to allow the market place to indicate which uses are best suited for this location and that it would be premature to define or limit the retail use before such information is available.

B. Project Design and Affordable Housing

The Commission requested further detail regarding the project design and the proposed affordable housing units. The Commission specifically requested 1) shadow studies showing the potential impact of the project on adjacent properties, 2) information regarding the grade of the ramps to the parking garage,

and 3) information regarding the term and period of affordability of the proffered affordable housing units. The Applicant responds as follows:

1) The Applicant has commissioned shadow studies to be performed. The studies are included in the revised plans as Plans A20 and A21;

2) The garage ramps have been designed to ensure efficient circulation for retail and residential vehicular ingress and egress in the parking garage. The Applicant has reviewed the grade of the ramps and determined that they are consistent with standard practice within the District and do not violate any regulations, including Section 2117.8(a) of the Zoning Regulations. The Zoning Administrator has determined that the provisions of section 2117.8(a) of the Zoning Regulations that restrict driveways to a slope of no more than 12% do not apply to garage ramps.

The Zoning Regulations make a distinction between driveways and ramps – they are not the same thing. For example, section 2115.7 of the Regulations provides that "[a]ll entrances, exits, access aisles, ramps, and driveways providing access to parking spaces shall also have the minimum vertical clearances as prescribed in §§ 2115.5 and 2155.6, respectively." Similar distinctions are also made in sections 2115.1, 2115.3, and 2117.10. Section 2117.8(a) regarding a maximum grade of 12% applies only to driveways; it does not address aisles, ramps, parking spaces or other features of a garage.

3) The Applicant proposes a ten year term for the affordable housing units.

III. COMMENTS BY OFFICE OF PLANNING

The Office of Planning ("OP") requested information regarding the effect that the provision of a grocery store has on the economic viability of the project and the Applicant's ability to provide affordable housing and the distribution of the proposed affordable units. The Applicant responds as follows:

A. Grocery Store and Affordable Housing

1) As noted by OP, the grocery store is a significant project amenity, but because of the need to provide garage parking at no additional charge to the grocery store, it burdens the economics of the project. Ongoing negotiations with grocers interested in the project indicate that the rental income that can be expected from the grocery store will be similar, if not equivalent to the going rate for suburban grocery stores that provide surface parking. Garage parking is significantly more expensive to construct and operate than surface parking. Construction budget information provided by the James G. Davis Construction Corporation indicates that the cost of construction of a garage parking space is \$35,000 per space while the cost of construction of a typical suburban surface parking space is \$4,000 per space. Based on the 121 spaces being provided for the exclusive use of the grocery store this \$31,000 per parking space premium equates to a \$3,751,000 economic burden on the project. Thus, when compared to a

suburban grocery store, this project suffers a significant loss and is at an economic disadvantage due to the premium cost of the underground garage parking for which the Applicant is not compensated. The Applicant has commissioned an economic consultant to perform further study on the burden of the grocery store to the project as a whole. The Applicant will supplement its filing with this information as soon as it is available, but not less than 20 days prior to the hearing date.

It is clear from OP's comments and ongoing negotiations with grocers that a grocery store is needed in this growing residential area and would be a tremendous benefit to existing and new residents of the area. As such, the additional burden that the Applicant assumes in providing this significant amenity to the community warrants special consideration in assessing the other amenities provided, such as affordable housing. OP states that developments typically proffer 15% of the bonus density granted through the PUD process as affordable housing. The Applicant is proposing to provide 10% of the density increase as affordable housing in addition to this significant project amenity (the grocery store) which will benefit the entire community. Ten percent of the density increase is 9,510 sq. feet which represents a meaningful contribution to the stock of affordable housing in the city.

2) The unit type breakdown of the affordable housing units will be comparable to the percentage breakdown of all unit types in the building. The affordable housing units will be distributed throughout the building except for the top two floors and each unit will be no less than 95% of the average size of a comparable unit type.

B. Miscellaneous Clarifications

In its report at page two, the Office of Planning states the area of the grocery store to be 62,000 sq. feet. The gross floor area of the grocery is 63,135 sq. ft. with a net selling area of 45,000 sq. feet.

Also in its report, OP notes that in addition to the flexibility requested in the Application, the Applicant proposes to combine the loading platform for the neighborhood retail and the residential use. This is correct and the Applicant does request such flexibility from the Commission. The Regulations require a 100 sq. ft. platform for the retail use (non-grocery) and a 200 sq. ft. platform for the residential use. The Applicant is providing a 200 sq. ft. platform to be shared by the retail and residential use. Use of the shared platform will be coordinated between the residential and retail. Located inside the building immediately adjacent to the loading platform, there will be a service area of approximately 590 sq. ft. that compensates for the lack of a 100 sq. ft. platform.

On page six of its report, OP notes that the Applicant proposes to pave the open areas adjacent to the alley system that abuts the project, in effect widening these alleyways for easier passage for all adjacent property owners. The cost of this additional paving area will be borne by the Applicant. As such, the Applicant considers this to be a project amenity.

The Applicant will be continuing its communications with the ANC and the community during the course of this process.

IV. CONCLUSION

For the foregoing reasons, the Applicant submits that the PUD plan meets the standards of Chapter 24 of the Zoning Regulations; is consistent with the purposes and intent of the Zoning Regulations and Zoning Map; is consistent with the land use objectives of the District of Columbia; will enhance the health, welfare, safety and convenience of the citizens of the District of Columbia; is consistent with the H Street Plan; satisfies the requirements for approval of a consolidated PUD; provides significant public benefits and project amenities; advances important goals and policies of the District of Columbia and, therefore, should be adopted by the Zoning Commission. Accordingly, the Applicant requests that the Zoning Commission approve the PUD application with relief from the roof structure regulations, loading regulations and the residential recreation space requirements and the concurrent change in zoning to C-2-B.

Respectfully submitted,

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