Government of the District of Columbia
OFFICE OF ZONING

Z.C. CASE NO.: 06-17

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ZONING COMMISSION
District of Columbia
CASE NO. 06-17
EXHIBIT NO. 78

ATTESTED BY: Sharon S. Schellin

Sharon S. Schellin
Secretary to the Zoning Commission
Office of Zoning

ZONING COMMISSION
District of Columbia
CASE NO.06-17
EXHIBIT NO.78

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
Z.C. ORDER NO. 06-17
Z.C. Case No. 06-17
(Consolidated Planned Unit Development and Related Zoning Map Amendment for District of Columbia Public Schools and George Washington University – School Without Walls, Square 80, Lots 55 and 829)
December 11, 2006

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held a public hearing on October 30, 2006, to consider an application from the District of Columbia Public Schools and the George Washington University for consolidated review and approval of a planned unit development and related Zoning Map amendment pursuant to Chapter 24 of the District of Columbia Municipal Regulations (DCMR), Title 11, Zoning. The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission approves the application, subject to conditions.

FINDINGS OF FACT

1. On April 3, 2006, the District of Columbia Public Schools ("DCPS") and the George Washington University ("GW" or the "University") (collectively, the "Applicant") filed an application for consolidated review and approval of a planned unit development ("PUD") and related Zoning Map amendment for the property consisting of Lots 829 and 55 in Square 80. Pursuant to a public-private development partnership between DCPS and GW, the Applicant requested approval of a map amendment from the R-5-D to the SP-2 Zone District in order to allow the modernization and expansion of the School Without Walls ("SWW") by DCPS (the "SWW Portion") and the construction of an undergraduate residence hall by GW (the "GW Portion").

2. During its meeting on June 12, 2006, the Commission requested more detailed architectural and material information for the public hearing and decided to set down the application for a hearing. Notice of the public hearing, including a description of the subject property and the proposed development, was published in the *D.C. Register* on July 28, 2006, 53 DCR 6087, and was mailed to all property owners within 200 feet of the subject property and to Advisory Neighborhood Commission ("ANC") 2A.

3. Parties in this proceeding were the Applicant, ANC 2A, and the SWW Home and School Association ("HSA") as a party in support. The Commission opened and completed the public hearing on October 30, 2006. At the public hearing, the Commission heard testimony and

received evidence from the Applicant, HSA, ANC 2A, the District of Columbia Office of Planning ("OP"), and the District Department of Transportation ("DDOT"), as well as from persons in support of or in opposition to the application.

4. At its meeting held November 13, 2006, the Commission took proposed action to approve the application, subject to conditions, by a vote of 4-0-1.

5. The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") pursuant to § 492 of the District Charter. NCPC, by action dated December 8, 2006, 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.

6. The Commission took final action to approve the application, subject to conditions, on December 11, 2006 by a vote of 4-0-1.

7. DCPS operates 167 schools and learning centers within the District of Columbia. SWW is a non-traditional high school established in 1971 and modeled after the successful Parkway Program in Philadelphia. SWW is located at 2130 G Street, N.W. (Square 80, Lot 829) (the "DCPS Property") in the building formerly known as the Ulysses S. Grant School, within GW's Foggy Bottom Campus Plan boundaries.

8. SWW facilities are in poor repair and do not provide adequate classroom space, science laboratories, an auditorium, a gymnasium, or a cafeteria. In October 2001, as part of a DCPS system-wide facilities planning process, SWW was ranked last out of all District high schools based on its physical characteristics and physical condition.

9. GW's campus has been located in Foggy Bottom since 1912. The campus is generally bounded by 19th Street to the east, 24th Street to the west, Pennsylvania Avenue to the north, and E Street to the south. The Board of Zoning Adjustment ("BZA") conditionally approved the University's 2000 Campus Plan in BZA Application No. 16553 ("Campus Plan 2000-2009", BZA Order No. 16553-I, April 26, 2004).

10. GW owns certain property and improvements thereon identified as Square 80, Lot 55, 2125-2135 F Street, N.W. (the "GW Property"), which is adjacent to the DCPS Property.

11. Since 1980, SWW and GW have engaged in a successful programmatic partnership, working together for the mutual benefit of all of their students. Among other benefits, SWW teachers and students may take college courses without charge for tuition, and university students may complete internship and student teaching experiences under the supervision of the teaching staff of SWW. SWW enjoys access to GW facilities, including Gelman Library, the Marvin Center, Lisner Auditorium, GW classrooms, and athletic facilities, and GW enjoys use of SWW classrooms in the evening. A programmatic task force comprised of SWW, GW, and DCPS central

office representatives is currently working to build on the existing academic structure to develop innovative programs that support the educational process for students at both schools.

12. On March 21, 2006, DCPS and GW entered into a memorandum of understanding ("MOU") whereby DCPS and GW agreed to enter into a public-private development partnership with three objectives: (1) modernizing the physical plant of SWW; (2) establishing SWW as the premier high school in the United States through a collaborative programmatic relationship with GW; and (3) maximizing the development potential of the GW Property adjacent to SWW in order to create value to be transferred to DCPS to achieve the SWW Portion of the PUD.

13. Pursuant to the MOU, GW committed to purchase certain development rights generated through a PUD and rezoning of the DCPS and GW Properties (the "Density Rights") and to purchase a portion of the DCPS Property fronting on F Street, N.W. that is currently used as a parking lot and comprising approximately 8,600 square feet of land area (the "SWW Parking Lot") as shown on Exhibit B of the MOU. GW and DCPS agreed that the purchase price of the Density Rights, including the SWW Parking Lot, would be expressed as the value per square foot of residential gross floor area to be developed as determined pursuant to the appraisal process set forth in the MOU.

14. The site of the proposed PUD (the "PUD Site") is located in Square 80, Lots 55 and 829. The proposed PUD is located in the southern portion of the campus of the University in the Foggy Bottom neighborhood of Ward 2, within the boundaries of ANC 2A. The PUD Site is predominantly surrounded by GW-owned buildings that vary in both use and scale.

15. The land area of the PUD Site is approximately 45,689 square feet. The PUD Site thus exceeds the 15,000 square foot minimum area requirement for a PUD in an SP-2 Zone District.

16. The PUD Site is located in the Institutional land use category as depicted on the District of Columbia Generalized Land Use Map. The areas immediately to the north and east of the Campus Plan boundaries are designated for high-density commercial use, and the area immediately to the south is designated for high-density residential use.

17. The PUD Site is located in the R-5-D Zone District. The R-5-D Zone District permits a maximum height of ninety (90) feet, a maximum lot occupancy of seventy-five percent (75%), and a maximum floor area ratio ("FAR") of 3.5. The PUD guidelines for the R-5-D District allow a height of ninety (90) feet and a maximum density of 4.5 FAR. However, the aggregation rule that applies to residentially-zoned property within an approved campus plan would permit greater density on the PUD Site as long as the overall campus cap of 3.5 FAR was maintained.

18. The Applicant requested a map amendment that would rezone the PUD Site to the SP-2 Zone District. SP-2 zoning is located near the PUD Site in adjacent Square 81, located across F Street from Square 80, and nearby Square 122, which is located within the Campus Plan

boundary. Other nearby squares containing SP-2 zoning include Squares 33, 59, and 104. A small strip of R-5-E zoning is located in between the PUD Site and SP-2 zoning to the south.

19. The SP-2 Zone District is designed to preserve and protect areas that contain a mix of row houses, apartments, offices, and institutions at a medium to high density, including buildings of historic and architectural merit. The SP-2 Zone District permits a maximum height of ninety (90) feet, a maximum lot occupancy of eighty percent (80%) for buildings devoted to residential use, and a maximum density of 6.0 FAR for buildings devoted to residential use. The PUD guidelines allow a height of ninety (90) feet and a maximum density of 6.5 FAR for buildings devoted to residential use in the SP-2 Zone District. The required rear yard for a 90-foot building in the SP-2 Zone District is eighteen and one-half (18.5) feet. The minimum width of an open court in the SP-2 Zone District is three (3) inches per foot of height, but not less than ten (10) feet. The minimum width of a closed court is four (4) inches per foot of height, but not less than ten (10) feet, and the minimum area of a closed court is twice the square of the required width, but not less than 350 square feet. There is a residential recreation space requirement of ten percent (10%) of the gross floor area devoted to residential uses in this zone. A penthouse structure on the roof of a building must be set back from all exterior walls a distance at least equal to its height above the roof and must not exceed eighteen (18) feet, six (6) inches in height.

20. College and university uses, including dormitory uses, are permitted in the SP-2 Zone District if approved by the Commission. Land that is zoned SP-2 and is subject to a campus plan is not subject to the aggregation rule that applies to residentially-zoned property within an approved campus plan. The value in the DCPS/GW development partnership is created through the rezoning to a category not subject to the aggregation rule but otherwise appropriate for the PUD Site. The rezoning of Lots 829 and 55 to SP-2 removes the development from the aggregate density cap that otherwise applies to residentially-zoned land within the Foggy Bottom Campus Plan boundaries, thereby creating value for which GW can pay DCPS.

21. The proposed PUD includes two (2) construction projects: 1) the SWW Portion, the modernization and expansion of the SWW by DCPS; and 2) the GW Portion, the construction of a new residence hall by the University.

22. The northern portion of the PUD Site is currently improved with the historic Grant School and a surface parking lot extending from the east and south of the school. It has a frontage of 164.50 feet on G Street N.W. The existing parking lot provides sixteen (16) striped spaces. For the SWW Portion of the PUD, the Applicant proposed to renovate the historic but deteriorating Grant School, and to construct an addition on the parking area to the east of the historic structure that will provide additional classroom, laboratory, and auxiliary facilities, as well as an outdoor space. The SWW Portion will provide approximately 25,300 square feet of

additional above-grade space for SWW, resulting in a total building of approximately 48,900 square feet.

23. The SWW parking spaces in the existing surface parking lots will be removed when construction on the SWW addition and GW residence hall commences. Pursuant to the MOU, GW will provide SWW with thirty (30) spaces, at no cost to SWW, in a nearby GW parking facility. Further, SWW will have the right to purchase up to fifteen (15) additional spaces at the prevailing GW faculty/staff rates. A bicycle rack with capacity for at least six (6) bicycles is also proposed in front of SWW as part of its streetscape plan.

24. The southern portion of the PUD Site is improved with the SWW Parking Lot and two (2) GW-owned tennis courts. For the GW Portion of the PUD, the Applicant proposed to construct a residence hall that will provide approximately 474 beds for undergraduate student housing on the Foggy Bottom campus, as well as approximately 178 below-grade parking spaces (including attendant-assisted parking).

25. The GW Portion of the PUD has been designed to maximize on-campus housing. It will allow approximately 224 beds above the number identified for development on this site under the existing Foggy Bottom Campus Plan. While the PUD Site was identified as a "preferred site" for development of student housing in the Foggy Bottom Campus Plan, the Plan envisioned fewer beds on this site because the development was confined to the GW Property. The proposed new residence hall will include approximately 192,700 square feet of gross floor area.

26. The typical residential unit will include four (4) single bedrooms, two (2) bathrooms, and shared kitchen and living areas, and will house four (4) students. The residence hall will offer a building layout with both F Street and courtyard entrances, and will encourage GW students to approach the structure from the interior of the campus utilizing inner-block pedestrian pathways that connect to G Street.

27. The BZA order approving the Campus Plan required the University to provide beds on campus for seventy percent (70%) of full-time Foggy Bottom undergraduate students up to an enrollment of 8,000 (or 5,600 on-campus beds) and one bed on campus for each full-time Foggy Bottom undergraduate student over 8,000, by the fall of 2006. The University's on-campus bed count has increased by approximately 2,800 beds since 1999, and with the completion of this project as scheduled, approximately 3,300 on-campus beds will have been added.

28. The proposed underground parking garage will allow GW to maintain the minimum 2,800 total parking spaces required by the current campus plan while transitioning parking to underground facilities. The underground parking garage will accommodate approximately 160 striped spaces, with a total capacity of 178 vehicles with attendant-assisted parking. The garage will be a permit parking facility – that is, only GW students, faculty, and staff with permits will be allowed to use the facility. The University will issue permits equal to the number of striped spaces in the facility (approximately 160) and will use the stacked spaces during special events

or as a means of increasing parking capacity during planned construction projects and garage maintenance that affect the on-campus off-street parking inventory. Approximately fifty percent (50%) of the parking permits will be for student use, and approximately fifty percent (50%) will be for faculty/staff use. The parking garage will also contain a bicycle storage facility that will provide at least twenty-five (25) secure storage spaces.

29. The combined gross floor area of the existing Grant School, the new SWW addition, and the proposed new GW residence hall will be 241,600 square feet. As a result, the PUD Site will have a total density of 5.29 FAR, which is less than the 6.0 FAR allowed as a matter-of-right in the SP-2 Zone District and less than the 6.5 FAR allowed for a PUD in the SP-2 Zone District.

30. In order to create an addition of the appropriate size, scale, and configuration for its location adjacent to a historic landmark, the SWW Portion of the PUD requires relief from the lot occupancy, rear yard, and open court width requirements. The lack of rear yard and deviation from the lot occupancy and open court requirements will not be objectionable because the rear addition to the SWW will be only one story above grade, and is designed with a roof deck that will provide approximately 34 feet of separation between the two (2) buildings above the first level and will create adequate light and air between the GW residence hall and the historic Grant School. Further, relief is required from the off-street parking requirement for SWW. As indicated above, parking spaces will be provided for use by SWW in nearby GW facilities. Finally, the SWW Portion requires relief from the penthouse setback requirement in order to house the penthouse structures toward the back of the site and screen them from public view, thereby limiting the visual impact of the penthouse on the historic structure.

31. In order to design a residence hall of appropriate interior and exterior design to accommodate additional on-campus student housing, the GW Portion of the PUD requires relief from the rear yard and closed court requirements of the SP-2 Zone District. In order to maximize the capacity to house students, the U-shaped GW residence hall will abut the SWW addition to the rear, and will not provide any rear yard. While the interior courtyard of the GW residence hall will comply with the closed court area and width requirements, the exterior closed courts will not. The lack of a rear yard and noncompliant exterior closed courts will not be objectionable. The interior courtyard and 34-foot wide roof deck on the SWW Portion will provide for adequate light and air to both buildings. The University owns the abutting townhouse properties to the west and east of the proposed residence hall (with one exception, which is a University-affiliated fraternity house on 22nd Street). The low-scale row houses will allow ample light and air to reach both the residence hall and the abutting buildings. The residence hall also requires relief from the residential recreation space requirement.

32. As addressed in the Applicant's pre-hearing statement, the proposed PUD will provide the following project amenities and public benefits:

a) Urban Design, Architecture, Landscaping and Open Spaces. The building design for both structures involves high quality materials such as brick and superior detailing. The SWW Portion will include an addition to the existing building that will respect the historic character of the original structure, while also providing SWW with much-needed, attractive outdoor space. The SWW Portion also features substantial improvements to the G Street streetscape immediately in front of the DCPS property. The GW Portion offers attractive design that is contextually sensitive and complements existing nearby structures. The GW Portion will create an interior courtyard that will offer an alternate entrance to the building from the center of campus. Finally, the University will provide improvements to the streetscape along the north side of the 2100 block of F Street, N.W. and the south side of the 2100 block of G Street, N.W. consistent with its proposed Streetscape Plan included in the Foggy Bottom Campus Plan: 2006 – 2025 (except for the portion immediately in front of SWW, which will be improved by DCPS as a part of the SWW project).

b) Site Planning. The project offers a comprehensive site plan that provides efficient and economical land utilization through new development on a partly vacant site that will create desirable infill development with an attractive urban design and streetscape. The location of the residence hall on a site approved for "preferred" residential development in the existing Campus Plan also furthers efficient and economical land utilization.

c) Effective and Safe Vehicular and Pedestrian Access. The project will provide a positive impact on the overall transportation infrastructure in the area because the students residing in the residence hall will be able to walk to classes and other activities on campus. Further, the residence hall's courtyard and connections to interior pathways in Square 80 will provide GW students with an alternate entrance to the residence hall from the center of campus. Also, the underground parking garage will further the distribution of parking to below-grade facilities throughout the campus, which is a goal of the proposed *Foggy Bottom Campus Plan: 2006-2025.*

d) Historic Preservation of Private or Public Structures. The project will achieve the preservation of the historic Grant School, which has been designated as a historic landmark. The SWW Portion has been designed to meet the program requirements on the site in a manner that substantially preserves the four (4) exterior walls of the existing Grant School and proposed an addition that is contextually sensitive and differentiates itself from the existing structure. In addition, by increasing the capacity of undergraduate housing in the GW Portion of the PUD, GW is able to preserve other sites on its campus that were previously designated for future residential development and include these sites within the

proposed Historic District that is set forth under the *Foggy Bottom Campus Plan: 2006-2025.*

e) Employment and Training Opportunities. The expansion of SWW will increase public education opportunities available to children in the District of Columbia. The project will also result in additional employment opportunities for DC public school teachers. The enhanced programmatic relationship with GW will further increase opportunities for both teachers and students. Finally, construction of the two projects will offer employment in the District during the development and construction phases.

f) Housing. The GW Portion of the project will create approximately 474 new undergraduate student beds within the Campus Plan boundaries, which represents an increase of approximately 224 beds over the amount contemplated for this site under the existing Foggy Bottom Campus Plan.

g) Social Services/Facilities. The project achieves the modernization and expansion of a DCPS facility, made possible by the MOU between DCPS and GW, which provides substantial funds for the SWW renovations. This private funding allows DCPS to maximize its available resources to benefit other schools within the DCPS system. The project also provides social services in the form of enhanced delivery of secondary education to residents of the District.

h) Environmental Benefits. Both buildings will be designed in an environmentally sensitive manner. The elimination of surface parking lots and creation of 178 underground parking spaces are significant environmental benefits. The overall goal of the design of the SWW renovation and modernization was to create a sustainable, high performance learning environment that conserves energy and natural resources and minimizes its impact on urban eco-systems.

i) Uses of Special Value. The Comprehensive Plan indicates that the provision of additional on-campus housing for students of The George Washington University will be particularly beneficial to the Foggy Bottom neighborhood. The renovation of public school facilities is also a priority in the Comprehensive Plan.

j) Furthering the Comprehensive Plan. As set forth in the Applicant's pre-hearing statement, the PUD and Zoning Map amendment will improve the Foggy Bottom neighborhood by enabling the renovation and expansion of the School Without Walls, a public facility, which, under the Plan, should be "stabilized and improved." 11 DCMR § 102.3. The proposed rezoning also improves the neighborhood by providing additional on-campus housing for GW undergraduate students.

33. By report dated October 20, 2006, and by testimony at the public hearing, OP recommended approval of the application. OP stated that the proposed PUD met the standards of the PUD regulations in 11 DCMR Chapter 24, was consistent with the intent and purpose of the Zoning Regulations and Map, was not inconsistent with the Comprehensive Plan, was consistent with the existing Foggy Bottom Campus Plan, and would provide significant public benefits. According to OP, the rezoning to the SP-2 District would allow GW to remove the site from the existing campus density cap and process the project on a separate timetable from the proposed *Foggy Bottom Campus Plan: 2006–2025*. OP noted that the proposed development would fill two needs: 1) funds to renovate and modernize SWW; and 2) on-campus housing opportunities for GW undergraduates. OP further noted that review of the proposed project as a consolidated PUD would allow utilization of the flexibility provided for in § 2400 of the Zoning Regulations.

34. The Commission credits the testimony of OP that the project offers superior amenities and benefits to the community and the District. The Commission agrees with OP that GW's contribution of approximately $12 million to DCPS in exchange for ownership of the SWW Parking Lot and additional Density Rights generated through rezoning constitutes a major public benefit both to SWW and DCPS as a whole. The Commission further agrees with OP that the site and building designs of both buildings are a benefit. In particular, OP cited the size of the SWW expansion and its respect for the historic Grant School and the large open courtyard at the rear of the GW residence hall as positive design elements. The Commission agrees with OP that the proffered streetscape improvements to the north side of the 2100 block of F Street and the south side of the 2100 block of G Street are a major benefit. The Commission also agrees with OP that the provision of additional on-campus undergraduate housing is a public benefit, because it furthers goals of both the existing and proposed Foggy Bottom Campus Plans and because members of the surrounding community have raised objection to housing undergraduate students outside of the Campus Plan boundaries. The Commission agrees with OP that the proposed project's impact on the surrounding area and on public facilities and services are acceptable and commensurate with the public benefits of the PUD and that the proposed development would be consistent with land use and policies of the Comprehensive Plan and is also consistent with major themes and elements of the plan.

35. The Commission also credits the testimony of OP that the application is consistent with Condition 9 of GW's existing Foggy Bottom Campus Plan, which requires a significant majority of GW undergraduates to be housed on campus. The addition of approximately 474 new on-campus beds will also assist with the transition of off-campus undergraduate residential uses as set forth in the proposed conditions to the *Foggy Bottom Campus Plan: 2006–2025*.

36. DDOT, by memorandum dated October 26, 2006 and by testimony at the public hearing, supported the PUD application. DDOT observed that the residence hall would have ample connections to transit service. With regard to the residence hall, DDOT (a) suggested that the curb cut entrance be a minimum of twenty-four (24) feet in width to accommodate truck traffic; (b) requested further clarification and commitment on the allocation of permits that would be issued to each parking user in the residence hall garage; and (c) urged consideration of bicycle

storage in the parking garage. Regarding the SWW modernization and expansion, DDOT recognized that the SWW expansion would not generate a significant number of additional vehicle trips, noting the high level of transit use by students at the facility. With regard to the SWW Portion, DDOT (a) encouraged SWW to encourage continued transit use among its students, faculty, and staff; and (b) recommended the provision of a bicycle rack. Finally, DDOT requested that the University consult with DDOT on potential improvements to address mid-block crossings at this location.

37. The Community Affairs Coordinator for Ward Two in the Executive Office of the Mayor, by letter dated October 30, 2006, supported the application. The letter commended GW for engaging in a public private development partnership project with DCPS that will result in the much needed modernization of SWW. The Coordinator indicated that, based on his conversations with many residents in the Foggy Bottom community, there was support for the project because the community stands to benefit from the modernization and addition to the SWW. The Coordinator further indicated GW has done an excellent job in reaching out to and working with the community as they developed the partnership with DCPS. The Coordinator concluded that the project would benefit not only the Foggy Bottom community but also the District as a whole.

38. ANC 2A, by resolution dated October 20, 2006 and by testimony at the public hearing, recommended against approval of the proposed PUD by a vote of 4-2. According to the ANC: (1) the PUD application was defective because it presented a partial plan for a university campus within a residentially zoned area, in violation of 11 DCMR § 210.4; (2) the Zoning Map amendment was unjustified and used the PUD process to circumvent the intent and purposes of the Zoning Regulations because the sole justification was to exempt the PUD Site from the 3.5 FAR limit for residentially zoned properties set forth in 11 DCMR § 210.3; (3) the massing of any new residence hall must be counted against the 3.5 FAR limit; and (4) the proposed GW residence hall would overwhelm the site and historic Grant School, and contravened the claimed intention of GW to place high-intensity uses in the core of the campus, thereby maximizing impacts on the few remaining residential buildings on the south side of F Street. The ANC expressed unanimous support for SWW, but opposed the application because of the GW residence hall, its massing, and the zoning tools used to achieve the development of the PUD Site. At the public hearing, the ANC representative also expressed support for the partnership between GW and SWW as a healthy way to connect the university and the school, and as a model that other universities in the District should emulate.

39. SWW HSA, a party in support, by petition filed October 16, 2006 and by testimony at the public hearing, supported the application. HSA was incorporated in May 2000 and its mission is to support and advance the educational mission of SWW. Members include faculty, staff, parents, and community members. HSA presented testimony that provided an overview of the SWW educational program, the benefits of a SWW education, the modernization efforts, the impact of physical conditions on teaching, the value of SWW education and GW connections, and the impact of physical conditions on learning. HSA testimony also included a short

presentation that offered photographic evidence of the deteriorating school conditions and inadequate facilities. HSA testified that the location of SWW in Foggy Bottom has a positive and direct impact on the Foggy Bottom neighborhood as well as the District. HSA also testified that the location of SWW on GW's campus combined with the existing programmatic partnership allows both institutions to share resources and facilities. HSA requested that the Commission approve the application because it would repair the deteriorating Grant School, expand the educational opportunities at SWW, and improve the relationship between the Foggy Bottom community and SWW students.

40. Approximately twenty (20) individuals testified in support of the application at the public hearing. Those testifying in support included students at SWW and GW, parents of SWW students, SWW faculty, Foggy Bottom residents, District taxpayers, and GW administrators. Individuals testifying in support spoke to the dire need to upgrade the SWW facilities, the high quality design of the proposed PUD, the appropriateness of the use of the PUD and rezoning process, the positive experiences and achievements generated by SWW, and GW's role in the partnership as a "good neighbor." One panel composed of GW administrators and students described GW's recent efforts to create an "F Street Commission" that takes a peer-to-peer approach toward educating students living on the southern half of campus regarding issues of student behavior and neighborly conduct. One resident of Foggy Bottom also called for GW commitments to sustainable design as well as landscape and streetscape improvements.

41. Doug Firstenberg, principal at Stonebridge Associates, a real estate development firm that serves as an advisor to educational institutions, testified in support of the application at the public hearing. During his testimony, Mr. Firstenberg indicated his firm served as pro bono advisor to DCPS during the creation of the public/private development partnership for SWW. Mr. Firstenberg stated that in order to generate the funding necessary to renovate SWW, DCPS and GW determined that the proposed rezoning to the SP-2 District, consistent with the Land Use Map and Comprehensive Plan, would create the maximum value under the development agreement – thereby maximizing funding for the renovation and expansion of the SWW. Mr. Firstenberg concluded that the deal represented a, "wonderful economic and programmatic benefit for the DC school system."

42. James Morris, former commissioner for ANC/SMD 2A04, submitted a written statement in support of the application, and David Lehrman, commissioner for ANC/SMD 2A01 and resident in the 2000 block of F Street, testified in support of the application at the public hearing. Both commissioners indicated that they had voted to support the proposed application at ANC 2A's October 18, 2006 meeting and supported the proposed application because it would transform the physically deteriorating high school into a state-of-the-art high school facility. Both commissioners indicated that they substantially disagreed with the position taken by the other four (4) members of ANC 2A that placed the ANC's history of opposition to GW above the welfare of the SWW students and community.

43. Anne DiGiulio testified in support of the application at the public hearing on behalf of the GWU Residence Hall Association. Ms. DiGiulio testified that the proposed layout and design of the residence hall—with four (4) single rooms oriented around a common living area—would provide an attractive living experience to upperclassmen because it would compete with the privacy and other amenities offered by off-campus apartments yet retain proximity to classes and activities also within the Foggy Bottom campus. Ms. DiGiulio also testified in support of the site layout and, in particular, the two (2) entrances provided into the facility. Finally, Ms. DiGiulio testified that the on-campus beds provided by the residence hall would benefit the GW community because they would provide an on-campus alternative to replace beds lost by the anticipated transition of University-operated residence halls located off-campus as contemplated by the *Foggy Bottom Campus Plan: 2006–2025.*

44. The Foggy Bottom Association ("FBA"), by letter dated October 30, 2006, opposed the application. FBA expressed concern regarding the relationship of the application to zoning process and policy as follows: (1) the application represented a partial plan for a university campus within a residentially zoned area, contrary to § 210.4 of the Zoning Regulations; (2) the rezoning represented an unprecedented use of PUDs not entertained in the Zoning Regulations and contrary to the intent and purpose of the Regulations; and (3) the location of the proposed residence hall was objectionable because it would add to the density along the southern boundary of the campus, eliminate open space and recreational space for students, and improperly maximize the objectionable impacts of noise, traffic, and number of students on the Foggy Bottom community. FBA also reiterated its argument that the project required the preparation of an Environmental Impact Statement ("EIS") as a prerequisite to zoning approval. FBA supported improvements to SWW.

45. The West End Citizens Association ("WECA") testified in opposition to the application at the hearing. WECA testified that: (1) the requested rezoning represented "spot zoning;" (2) the other requested areas of relief were not justified; and (3) the project required the preparation of an EIS as a prerequisite to zoning approval. WECA proposed rezoning to the R-5-E District in order to keep the PUD Site within the FAR cap. WECA also indicated that it did not oppose renovation of SWW.

46. One individual, Elizabeth Elliott, testified in opposition to the application at the hearing. Ms. Elliott testified that SWW was a concept, not a building, that SWW had outgrown the Grant School and should, therefore, be relocated to either a larger and more appropriate facility or to a new facility behind the Grant School. Ms. Elliott also testified that the GW residence hall was out of scale and would block light and air. Ms. Elliott testified further that GW's needs, and not the needs of SWW or the community, were driving the application.

47. The Commission of Fine Arts ("CFA") has jurisdiction over both the GW and DCPS portions of the project. The Applicant received concept approval for both the DCPS and GW portions of the project from CFA in April 2006, and letters indicating that approval were attached to the June 23, 2006 pre-hearing submission in Exhibit J. With respect to the DCPS

portion of the project, the Applicant is continuing to work with CFA as they refine the design. The Applicant received revised concept approval from CFA for the DCPS portion of the project in September 2006, and a letter from CFA indicating that approval was included in the October 10, 2006 supplemental filing in Attachment D.

48. The Applicant has continued to work closely with the Historic Preservation Office ("HPO") within the Office of Planning with respect to the preservation of the historic Grant School. The Applicant presented the Grant School portion of the project for concept review by the Historic Preservation Review Board ("HPRB") on June 22, 2006 and September 28, 2006. HPRB was supportive of the project and the concept of a contemporary addition to the Grant School. A copy of the HPRB Staff Report and Recommendation was included in the October 10, 2006 supplemental filing in Attachment D.

49. The Applicant will continue to work with both HPRB and CFA, as appropriate, and respond to comments and concerns raised by these entities. The Applicant, therefore, requested flexibility to address design refinements and materials selections that may be requested by HPRB and/or CFA prior to issuance of building permits.

50. The Commission credits the testimony of the Applicant's architect and finds that the superior building design, streetscape and landscape design, site planning, historic preservation features, employment and training opportunities, housing, improvements to public facilities, and environmental benefits constitute project amenities. The Commission also concurs with the architect's conclusions regarding the requested areas of relief. Specifically, the Commission finds that the lot occupancy, court width, penthouse setback, rear yard relief, residential recreation space relief, and off-street parking relief will not diminish the quality of the project or result in adverse impacts to its residents or neighboring properties.

51. The Commission credits the testimony of OP that the project offers superior amenities and benefits to the community and the District. The Commission agrees with OP that the exchange made possible by the MOU and this application (that is, the exchange of Density Rights and the SWW Parking Lot for approximately $12 million in funding and an enhanced programmatic relationship) represents a major public benefit to both SWW and DCPS. The Commission also agrees with OP that the site and building design, streetscape improvements, and provision of on-campus undergraduate housing represent significant benefits. The Commission also agrees with OP that the proposed development is consistent with major themes and policies of the Comprehensive Plan, including the land use policies, and preservation of historic features, rehabilitation and maintenance of public facilities. Finally, the Commission agrees with OP that the application is consistent with the existing Foggy Bottom Campus Plan, which requires the University to provide beds on campus to house at least seventy percent (70%) of GW full-time undergraduates.

52. The Commission agrees with DDOT's support for approval of the proposed PUD. The Commission agrees with DDOT that a curb cut entrance having a minimum of twenty-four (24) feet in width in order to accommodate truck traffic should be provided. The Commission agrees with DDOT that both the GW and SWW portions of the project should incorporate bicycle storage features. Finally, the Commission agrees with DDOT that GW should issue no more permits than spaces available for the residence hall parking garage, and that GW should preserve a balance of approximately fifty percent (50%) student parking permits and approximately fifty percent (50%) faculty/staff permits in the facility.

53. The Commission accorded ANC 2A the "great weight" to which it is entitled. In doing so, the Commission fully credited the unique vantage point that ANC 2A holds with respect to the impact of the proposed PUD on the ANC's constituents. However, the ANC has not offered persuasive advice that would cause the Commission to find that the planned PUD is contrary to the Zoning Regulations or would adversely affect the use of neighboring property. The Commission finds the PUD process may be appropriate for a site regulated by a Campus Plan, provided that the proposed project is consistent with the Campus Plan. The Commission disagrees with the ANC's contention that the University does not need a PUD to construct a new residential hall on the PUD Site. The proposed PUD and related Map Amendment will allow the Applicant to provide a greater number of beds than it would have been able to provide without the requested flexibility and rezoning.

54. The Commission also disagrees with the ANC's contention that the requested Zoning Map amendment is unjustified and uses the PUD process to circumvent the intent and purposes of the Zoning Regulations. The requested SP-2 zoning is consistent with the Campus Plan, the Comprehensive Plan, and the character of the campus and surrounding area. The PUD provides the flexibility needed for the development. The Commission also recognizes that the rezoning is the tool that allows DCPS to obtain the funds necessary to renovate and expand the deteriorating Grant School and create a state-of-the-art facility.

55. The Commission finds the ANC's concern that the proposed GW residence hall will overwhelm the historic Grant School and other surrounding buildings is unsupported. As set forth above, because the rear addition to SWW will be only one story above grade, the distance between the north side of the residence hall and the existing Grant School above that point will be thirty-four (34) feet, which is adequate to provide light and air to both the residence hall and the Grant School. The Commission credits the testimony of Applicant's architects that the GW residence hall will not be visible to a street-level pedestrian on G Street.

56. The Commission agrees with the ANC's support for the modernization and expansion of SWW, and with the ANC's testimony in support of public-private partnership between GW and SWW.

CONCLUSIONS OF LAW

The PUD process is an appropriate means of controlling development of the site in a manner consistent with the best interests of the District of Columbia. 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 carries out the purposes of Chapter 24 of the Zoning Regulations to encourage well-planned developments that will offer a variety of building types with more efficient and attractive overall planning and design not achievable under matter-of-right development. The proposed PUD meets the minimum area requirements of 11 DCMR § 2401.1.

The Zoning Commission has the authority under the Zoning Regulations to consider this application as a consolidated PUD. The Commission may impose development conditions, guidelines, and standards that may exceed or be less than the matter-of-right standards identified for height, FAR, lot occupancy, penthouse setback, yards, or courts. The Zoning Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment. The Commission finds that this PUD project provides a significant package of public benefits and project amenities that provides superior features that benefit the surrounding neighborhood to a significantly greater extent than a matter-of-right development on the PUD Site would provide. The approval of this PUD is not inconsistent with the Comprehensive Plan or with other adopted policies and programs related to the site.

The proposed PUD and Zoning Map amendment are consistent with the Major Themes of the Comprehensive Plan, especially those relating to stabilizing and improving the District's neighborhoods and respecting and improving the physical character of the District. As a surface parking lot, the SWW Parking Lot neither provides significant benefit to, nor helps stabilize, the Foggy Bottom neighborhood. However, the proposed PUD and rezoning will improve the neighborhood by enabling the renovation and expansion of the SWW, a public facility, which, under the Plan, should be "stabilized and improved." 11 DCMR § 102.3. Further the construction of a residential building on the site of an existing surface parking lot and tennis courts represents significant improvement to the physical character of the District, and the creation of a residence hall within the boundaries of the Campus Plan supports the theme of stabilizing the District's neighborhoods. Finally, in addition to its benefit to the Foggy Bottom/West End neighborhood, the proposed PUD and rezoning will stabilize and improve other neighborhoods in the city as the public-private partnership between DCPS and GW enables DCPS to reallocate existing funds to other high priority projects in other areas of the District and serves as a model for other university-DCPS partnerships.

The proposed PUD also furthers the objectives and policies of several of the Major Elements of the Comprehensive Plan:

- the Public Facilities Element because it enables the joint development of a publicly-owned site with a private entity and uses legal procedures and instruments to enable such private assistance through creative financial techniques;

- the Urban Design Element because it has been designed to include the use of appropriate arrangements of building materials, height scale, mass, and buffering to complement the immediate region, and because it provides for the development of a unifying system of well-designed streets and sidewalks;

- the Preservation and Historic Features Element through the continued appropriate use of a historic landmark as its original use, and new construction that is compatible with the historical architectural character of the landmark; and

- the Land Use Element, by assuring neighborhood stability as non-government institutions grow and promoting the continued contributions by private institutions toward the economic and cultural vitality of the District.

Finally, the project is consistent with the stated goal of the Ward 2 Element that the University must continue to construct student dormitories to alleviate the pressure on the housing stock outside the boundaries of the Campus Plan.

The impact of the proposed PUD on the surrounding area and upon the operation of city services and facilities is favorable and acceptable given the quality of public benefits in the project.

The proposed PUD can be approved with conditions that ensure that the development will enhance the neighborhood and ensure neighborhood stability.

The Commission is required under D.C. Code § 1-308.10(d) (2001) to give great weight to the issues and concerns raised in the recommendations of the affected ANC. The Commission has considered the resolution of ANC 2A. As set forth above in the Findings of Fact, the Commission finds the ANC's arguments are not persuasive. The PUD application is not a "partial plan for a university campus," but a project of the type identified and included in both the existing Campus Plan 2000 and the proposed *Foggy Bottom Campus Plan: 2006-2025*. The Commission has approved the use of the PUD process in prior applications involving property contained within the boundaries of a campus plan; other properties within the Foggy Bottom Campus Plan have been developed pursuant to the PUD process, including a new residence hall

on F Street.[4] The location and design of the project are appropriate, as the PUD Site was identified in both the existing and proposed Foggy Bottom Campus Plans as a housing opportunity site, and substantial efforts have been made to minimize impacts associated with student residential use of the PUD Site by orienting student access from the interior courtyard to G Street and the core of the Foggy Bottom campus. The height and massing are also appropriate, as evidenced by the CFA and HPRB approvals for the project.

The PUD-related Zoning Map amendment to the SP-2 Zone District is appropriate and is not spot-zoning. The Commission notes that to:

> constitute illegal spot zoning, the Commission's action must (1) pertain to a single parcel or a limited area – ordinarily for the benefit of a particular property owner or specially interested party; and (2) must be inconsistent with the city's comprehensive plan, or if there is none, with the character and zoning of the surrounding area, or the purposes of the zoning regulation, *i.e.* the public health, safety and general welfare.

Daro Realty, Inc. v. District of Columbia Zoning Comm'n (D.C. 1990), 581 A.2d 295 at 299; *see also Citizens Association of Georgetown, Inc. v. District of Columbia Zoning Comm'n*, (D.C. 1979), 402 A.2d 36 at 39-40. The proposed amendment to the Zoning Map for the PUD Site fails this test. While the PUD-related map amendment pertains only to the PUD Site, the proposed SP-2 zoning on the subject property is consistent with the SP-2 zoning in adjacent Square 81, located across F Street from Square 80, and is not inconsistent with the Comprehensive Plan.

As to the argument that an EIS is required, the Commission has repeatedly held that environmental review is part of the building permit review process, not the zoning review process, and therefore takes place subsequent to any review by the Zoning Commission.

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Commission orders **APPROVAL** of this application for consolidated review of a planned unit development and related Zoning Map amendment for the property located at 2025 F Street, N.W. (Lots 829 and 55 in Square 80), subject to the following **CONDITIONS**:

1. The PUD shall be developed in accordance with the plans prepared by Ehrenkrantz Eckstut & Kuhn Architects and DMJM/CGS, dated October 10, 2006, and marked as Exhibit 22 in the record, as modified by the guidelines, conditions and standards herein.

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[4] *See* Z. C. Order Nos. 03-29 and 03-29A, which approved a consolidated PUD for a new residence hall within the campus boundaries at 2025 F Street, N.W. (Square 103, Lot 817).

2. The PUD Site shall be rezoned from R-5-D to the SP-2 Zone District, and shall have relief from the lot occupancy, court width, penthouse setback, rear yard, residential recreation space, and off-street parking requirements of the Zoning Regulations, consistent with the plans prepared by Ehrenkrantz Eckstut & Kuhn Architects and DMJM/CGS, dated October 10, 2006, and marked as Exhibit 22 in the record, as modified by the guidelines, conditions, and standards herein.

3. The project shall include the following: (1) the modernization and expansion of SWW, including an addition of approximately 25,300 square feet of gross floor area for a total of 48,900 square feet of gross floor area; and (2) a GW residence hall consisting of approximately 192,700 square feet of gross floor area and constructed to a maximum height of ninety (90) feet. The entire PUD Site shall be constructed to a maximum density of 5.29 FAR.

4. Both the GW and SWW Portions shall incorporate the sustainable design features as detailed in Applicant's post-hearing submission dated November 1, 2006 and marked as Exhibit 68.

5. The SWW Portion of the project shall be further developed in accordance with the landscape and streetscape elements provided in the "G Street Landscape" plan dated November 1, 2006 and provided in the Applicant's post-hearing submission of the same date.

6. The GW Portion of the project shall be further developed in accordance with the landscape and streetscape elements provided in the "F Street Landscape Plan" dated November 1, 2006 and provided in the Applicant's post-hearing submission of the same date. Moreover, GW shall make appropriate improvements to the streetscape along the north side of the 2100 block of F Street and the south side of the 2100 block of G Street (except for the area immediately fronting the SWW portion of the project), in a manner consistent with the proposed Streetscape Plan for the *Foggy Bottom Campus Plan: 2006–2025.*

7. The GW Portion of the project shall provide approximately 474 beds.

8. The GW Portion shall include an underground parking garage containing approximately 160 striped spaces, with a total capacity of 178 vehicles with attendant-assisted parking. The garage will be a permit parking facility that allows only GW personnel with permits will be allowed to use the facility. GW will only issue permits equal to the number of striped spaces in the facility (currently approximately 160) and will use the stacked spaces during special events or as a means of increasing parking capacity during planned construction projects and garage maintenance that affect the on-campus off-street parking inventory. Approximately fifty percent (50%) of the parking permits will be for student use, and approximately fifty percent (50%) will be for faculty/staff use, subject to overall University parking demand.

9. GW shall provide SWW with thirty (30) parking spaces, at no cost to SWW, in a nearby GW facility. Further, SWW will have the right to purchase up to fifteen (15) additional parking spaces at the prevailing GW faculty/staff rate.

10. The SWW Portion shall include a bicycle rack, with capacity for at least six (6) bicycles, in front of the School Without Walls, for use by its students, faculty, and staff.

11. The GW Portion shall include a bicycle storage facility in the underground parking garage that provides at least twenty-five (25) secure storage spaces.

12. The GW Portion shall include a shared curb cut no less than thirty-five (35) feet in order to provide ample room for refuse service vehicles accessing the service bay.

13. The Applicant shall have flexibility with the design of the PUD in the following areas:

    a. To vary the exterior design, signage, and landscaping of the GW portion in accordance with the final plans reviewed by the Commission of Fine Arts.

    b. To vary the exterior design, signage, and landscaping of the SWW portion in accordance with the final plans reviewed by the Commission of Fine Arts and the Historic Preservation Review Board.

c. To vary the location and design of all interior components, including, but not limited to, partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, elevators, and toilet rooms.

d. To vary final selection of the exterior materials within the color ranges and materials types as proposed, without a reduction in quality, based on the availability at the time of construction.

e. To make minor refinements to exterior details and dimensions, including belts, courses, sills, bases, cornices, railings, and trim or any other changes to comply with the D.C. Building Code or that are otherwise necessary to obtain a final building permit.

14. No building permit shall be issued for this PUD until the Applicant has recorded a covenant among the land records of the District of Columbia between the owners and the District of Columbia that is satisfactory to the Office of the Attorney General and the Zoning Division of the Department of Consumer and Regulatory Affairs. Such covenant shall bind the Applicant and all successors in title to construct on or use the property in accordance with this order and any amendment thereof by the Zoning Commission.

15. The Office of Zoning shall not release the record of this case to the Zoning Division of DCRA until the Applicant has filed a copy of the covenant with the records of the Zoning Commission.

16. The PUD approved by the Zoning Commission shall be valid for a period of two (2) years from the effective date of this Order. Within such time, an application must be filed by either SWW or GW for a building permit as specified in 11 DCMR § 2409.1. Construction shall begin on either the SWW Portion or GW Portion within three (3) years of the effective date of this Order.

17. 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 that is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act. Discrimination in violation of the act will not be tolerated. Violators will be subject to disciplinary action.

The Zoning Commission at its public meeting held November 13, 2006, **APPROVED** the application by a vote of 4-0-1 (Anthony J. Hood, Michael G. Turnbull, Gregory N. Jeffries, and John G. Parsons (by absentee ballot) to approve; Carol J. Mitten, not having participated, not voting).

The Order was **ADOPTED** by the Zoning Commission at its public meeting on December 11, 2006, by a vote of 4-0-1 (Anthony J. Hood, Michael G. Turnbull, Gregory N. Jeffries, and John G. Parsons to approve; Carol J. Mitten, not having participated, not voting).

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 FEB 2 3 2007

ANTHONY J. HOOD, VICE CHAIRMAN
ZONING COMMISSION

JERRILY R. KRESS, FAIA
DIRECTOR, OFFICE OF ZONING

DISTRICT OF COLUMBIA GOVERNMENT
OFFICE OF THE SURVEYOR

Washington, D.C., February 6, 2006

Plat for Building Permit of SQUARE 80 LOTS 829, 55

Scale: 1 inch = 30 feet Recorded in Book A&T Page 1890 (LOT 829)

Book 175 Page 190 (LOT 55)

Receipt No. 25546

Furnished to: PWSP

Surveyor, D.C.

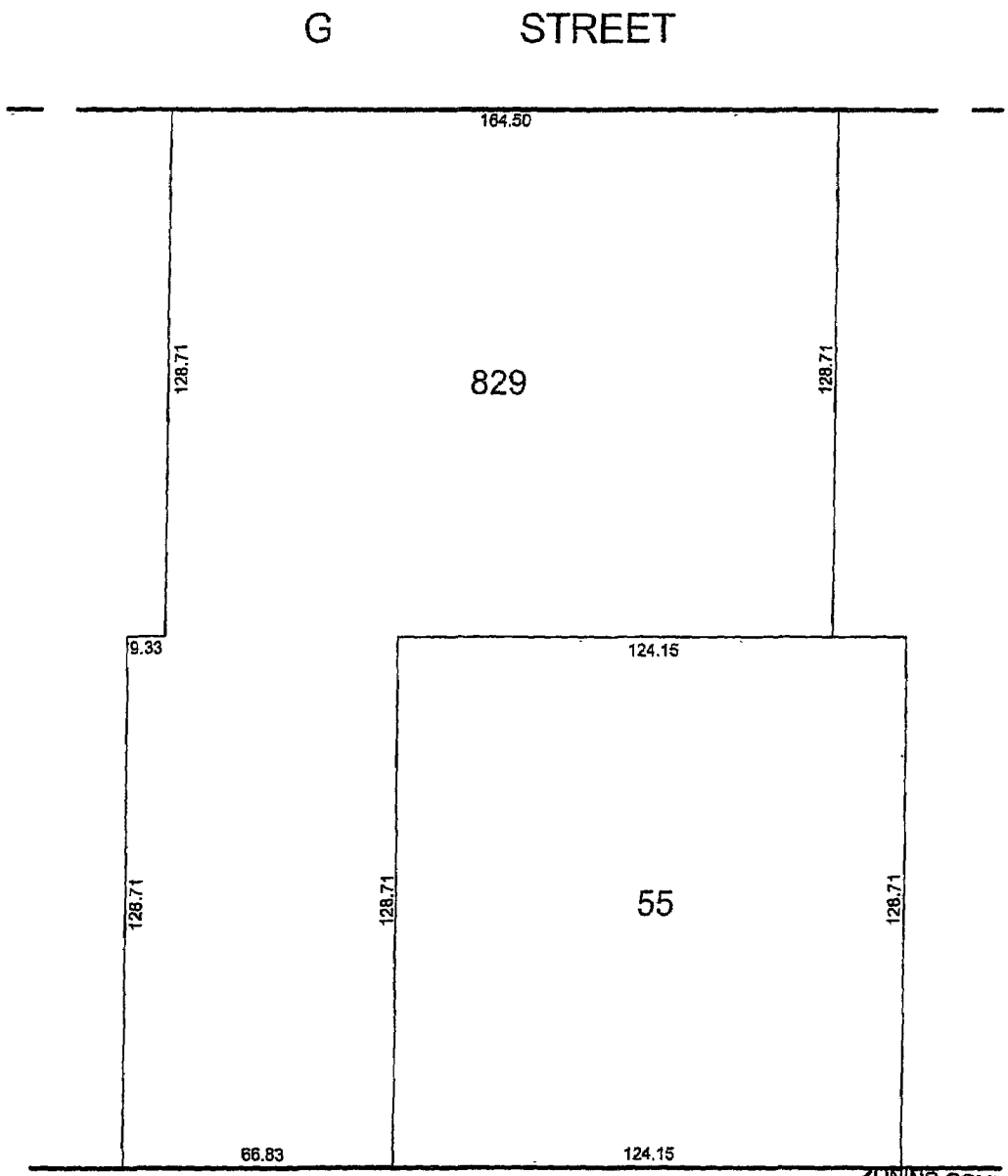
By: L.M.A.

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)

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.



ZONING COMMISSION
CASE No. 06-17
EXHIBIT No. 5

SO-25546(2006)