Office of
Documents and
Administrative
Issuances

2008 MAY -7 PM 2:39

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning

MEMORANDUM

To: Office of Documents and Administrative Issuance

From: Sharon S. Schellin
Secretary to the Zoning Commission

Date: May 7, 2008

Re: Publication for the Office of Zoning

Please publish the following in the *D.C. Register* on May 16, 2008:

1. Z.C. Order No. 05-15A;
2. Z.C. Order No. 06-08A;
3. Z.C. Order No. 07-17;
4. Z.C. Order No. 07-18; and
5. Z.C. Order No. 07-29.

Attachment

ZONING COMMISSION
District of Columbia
CASE NO. 07-18
EXHIBIT NO. 44

441 4th Street, N.W., Suite 200/210-S, Washington, D.C. 20001
Telephone: (202) 727-6311 Facsimile: (202) 727-6072 E-Mail: dcoz@dc.gov Web Site: www.dcoz.dc.gov

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 07-18
Z.C. Case No. 07-18
Consolidated Planned Unit Development – 1000 F Street, N.W.
Jemal's Up Against the Wall, LLC
April 14, 2008

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held a public hearing on January 24, 2008 to consider an application from Jemal's Up Against the Wall, LLC (the "Applicant"), for consolidated review and approval of a planned unit development ("PUD"). The Commission considered the application pursuant to Chapters 24 and 30 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR"). The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby approves the application.

FINDINGS OF FACT

The Application, Parties, and Hearing

1. On June 19, 2007, the Applicant filed an application for consolidated review and approval of a PUD for property located at 1000 F Street, N.W., consisting of Lots 18, 19, 818–821, and a small portion of the alley to be closed in Square 347 (the "Subject Property"). The Subject Property is located in the DD/C-4 Zone District at the southwest corner of 10th and F Streets, N.W.

2. At its public meeting held on September 10, 2007, the Commission voted to schedule a public hearing on the application.

3. On October 10, 2007, the Applicant submitted a Pre-Hearing Statement, marked as Exhibit 15 of the record in this case. The Pre-Hearing Statement addressed a number of concerns raised by the Office of Planning ("OP") and the Commission at the public meeting on September 10, 2007.

4. On November 27, 2007, the Applicant submitted supplemental information on the proposed project (Exhibits 21 and 22), further refining the original plans. These plans were further amended and supplemented through an addendum dated January 24, 2008, and marked as Exhibit 32.

5. After proper notice, the Commission held a public hearing on the application on January 24, 2008. The parties to the case were the Applicant and Advisory Neighborhood Commission ("ANC") 2C, the ANC within which the property is located.

6. The Applicant presented five witnesses at the Commission's hearing of January 24, 2008, including Paul Millstein of Douglas Development, LLC, an affiliate of the Applicant and an expert in real estate development; Shalom Baranes of Shalom Baranes Architects, an expert in architecture and compatible designs in historic districts; Laura Hughes of EHT Traceries, an expert in architectural history and historic preservation; Iain Banks, O.R. George & Associates, an expert in transportation planning and management; and Steven E. Sher, Director of Zoning and Land Use Services, Holland & Knight LLP, an expert in zoning and land planning. Based upon their professional experience, as evidenced by the resumes submitted for the record and prior appearances before the Commission, Messrs. Millstein, Baranes, Banks and Sher, and Ms. Hughes, were qualified by the Commission as experts in their respective fields.

7. Leroy Thorpe of the East Central Civic Association testified in support of the application. Don Hawkins of the Committee of 100 on the Federal City testified in support of the preservation component of the PUD but took no position on the other aspects of the project.

8. Culvert Long, a nearby resident at 506 10th Street, N.W., registered as an opponent to the project. In his testimony, Mr. Long clarified that he was not necessarily opposed to the project, but the negative impacts of construction on his residence and home business. The Applicant met with Mr. Long after the hearing and agreed to work with him to help mitigate any adverse effects of construction.

9. At its public meeting held on February 21, 2008, the Commission took proposed action by a vote of 5-0-0 to approve with conditions the applications and plans that were submitted to the record.

10. The applications were referred to the National Capital Planning Commission ("NCPC") for review of any impacts on the federal interest under the Comprehensive Plan pursuant to § 492 of the District Charter. NCPC, by action dated March 6, 2008, advised "the Zoning Commission that the proposal would be adverse to the federal interest because it does not conform to the requirements of the Height of Buildings Act in two ways: (1) the parapet wall exceeds the maximum allowable height and (2) the roof top penthouse exceeds the allowable height and is not set back from the southern and western exterior walls as required by the Height Act." NCPC recommended "that the Zoning Commission require the applicant to modify the project design to setback both the parapet wall and the penthouse distances from the exterior walls of the building equal to their height above the adjacent roof." The NCPC Action was transmitted to the Zoning Commission by letter dated March 12, 2008.

11. At its April 14, 2008 meeting, the Commission considered the NCPC report. The Commission voted to approve the application, but did so without taking a position on NCPC's interpretation of the An Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 452, as amended; D.C. Official Code §§ 601.01 to 601.09) ("Height Act"). The Commission noted that it was up to the Zoning Administrator, not the Commission, to interpret the Height Act. While the Commission would be reluctant to approve plans that clearly violated the Height Act, no such clear cut infraction was present. Rather, the question of whether the design feature referred to as a parapet in NCPC's action is in fact a parapet, and whether the southern and western walls are in fact exterior walls that require a setback, are questions best left to the judgment of the Zoning Administrator. Nevertheless, the Zoning Administrator should not view the Commission's approval of this modification as obviating the need for a careful review of these plans for compliance with the Height Act and the Zoning Regulations. The Commission also notes it does not have the authority to require an applicant to revise its plans. The Applicant is clearly aware of NCPC's view and has nevertheless decided to stand on its plans.

12. The Zoning Commission took final action to approve the application on April 14, 2008 by a vote of 5-0-0.

<u>The PUD Project</u>

13. Located in the historic areas known as the Pennsylvania Avenue National Historic Site ("NHS"), the Subject Property is currently improved with several small-scale buildings. The Applicant intends to demolish the buildings deemed "non-contributing" to the historic district, relocate the interior and exterior of the building at 910 10th Street, N.W., known as the Waffle Shop, to a more historically appropriate setting, and incorporate the historic corner structure into the PUD project. The new eleven-story office building will contain approximately 97,872 square feet of gross floor area, including 7,813 square feet devoted to retail uses. The new building will have a density of 8.3 FAR and will rise to a maximum height of 120 feet, as measured from F Street. The proposed development will include a below-grade parking garage with approximately 19 zoning-compliant spaces, as well as vault spaces. The office building entrance will be located on F Street and the garage entrance and service area for the building will be accessed from the alley along the west side of the site.

14. The proposed project at 1000 F Street, N.W., is the last corner site to be developed at the intersection of 10th and F Streets, N.W., joining the recently completed rehabilitation of the former Woodward and Lothrop Department Store, the construction of Carroll Square and the Atlantic Building. Additionally, the site is within the Downtown Development District of the Zoning Regulations.

15. The project site is located in Ward 2 and consists of Lots 18, 19, 818, 819, 820, 821, and a portion of an alley to be closed in Square 347. The total land area of the Subject Property is approximately 11,790 square feet. The Subject Property is located in the DD/C-4 District, and is part of the Central Employment Area and the Central Washington Area, as defined on the Generalized Land Use Policies Map. The Future Land Use Map of the Comprehensive Plan designates the Subject Property for high density commercial uses.

16. Large office buildings with a predominant height of 110 to 130 feet are located to the east, west, north, and south of the site. Immediately to the west of the Subject Property across a public alley is a large commercial office and retail building constructed to a height of 130 feet. Across F Street to the north is the former Woodward & Lothrop Department Store building, which is also 130 feet in height. To the northeast of the site is Carroll Square, which rises to a height of 110 feet. Along F Street to the east is the Atlantic Building at 120 feet in height.

17. The DD/C-4 District is designed for the downtown core that comprises the retail and office centers of the District of Columbia. The C-4 District permits a maximum height of 110 feet and a maximum density of 8.5 FAR. The PUD guidelines for the C-4 District increase the allowable density to 10.5 FAR and the height to 130 feet. The 1910 Height Act limits the height of the site to 120 feet, which is derived from the width of F Street increased by twenty feet. The Downtown Development ("DD") Overlay District is designed to create a balanced mixture of uses by means of incentives and requirements for critically important land uses and to guide and regulate office development to further the land use objectives for retail, hotel, residential, entertainment, arts, and cultural uses. In order to protect historic properties from development pressures, the maximum density for certain properties within the DD is limited to 6.0 FAR. Pursuant to § 1707.4(c) of the Zoning Regulations, this limitation applies to the Subject Property.

18. The proposed stepped massing of this project has been designed to create an effective transition between the 130-foot high-rise structures to the west and north of the property along F Street and the low- and mid-rise historic structures along 10th Street to the south. To balance the sense of scale between the proposed new construction and the historic buildings, the architectural design includes masonry planes with double-height fenestration wrap metal and glass volumes. Additionally, the two floors located directly behind and above the corner building, are setback along the eastern edge of the property to further balance the sense of scale between the proposed construction and the historic buildings.

19. At the street level, the restored facades of the historic corner building, with its chamfered corner entrance, will mark the primary retail entrance. Additional retail entrances can be accommodated along F and 10th Streets in portions of the new construction based on the tenant's needs. A projecting canopy will provide clear identification for the office

entrance whose location at the northwestern corner of the site will allow for maximum contiguous retail street frontage. New sidewalk paving, curbs, gutters, and street trees will continue the recently completed improvements along F and 10th Streets. Brick pavers are proposed along 10th Street and concrete pavers along F Street, with granite curbs and brick gutters. Lastly, tree plantings include Chinese Elm trees along F Street and Bloodgood London Planetrees along 10th Street.

20. The Applicant entered into an agreement (the "Preservation Agreement") with the D.C. Preservation League, the Committee of 100 on the Federal City, the Art Deco Society of Washington, and the Downtown Artists Coalition (the "Preservation Groups") to preserve the Waffle Shop by dismantling, storing, and reassembling it at another, historically appropriate site. The Preservation Groups filed a landmark application for the Waffle Shop on June 14, 2007, thereby protecting the building under the District's Historic Landmark and Historic District Protection Act. Under the terms of the Preservation Agreement, the Waffle Shop will be relocated to property in Square 450 or 451 owned by an affiliate of the Applicant, or to another historically suitable site in consultation with the Historic Preservation Office and the Preservation Groups.

Waivers and Relief Required from Zoning Provisions

21. The Applicant seeks a waiver from the minimum land area requirement of 15,000 square feet for PUDs in the C-4 District. Here, the site is only 11,790 square feet. The Commission may waive not more than 50% of the minimum area requirement provided the development is of exceptional merit and is in the best interest of the city or country. As described herein, the Commission finds the project to be of exceptional merit in that it removes undesirable land uses in the immediate vicinity of the Ford's Theatre NHS, a major tourist attraction of the highest historic merit; enhances the Downtown core of the city; preserves the corner historic building; allows for the relocation of the historic Waffle Shop; and completes the development of the pivotal intersection at 10th and F Streets, N.W. None of this would be accomplished without the PUD. Accordingly, waiver of the minimum area requirements is appropriate.

22. The Applicant also seeks relief from the 6.0 FAR limitation under § 1707.4 in order to construct the PUD to a density of 8.30 FAR. Based on the evidence of record, the Commission finds that the 8.3 FAR is appropriate given the unique circumstances of the Subject Site. First, four of the six lots are deemed noncontributing to the Downtown Historic District and consequently do not need to be protected against development pressures. Second, the historic Waffle Shop, which is the subject of a landmark application, is being protected through relocation to a new site. Finally, the corner building, which is deemed to contribute to the historic district, will be rehabilitated and incorporated into the new development, but will maintain its free-standing, two-story appearance. Thus, the spirit and intent of § 1707.4 is achieved without the need for imposing the more restrictive density limitation. The Commission finds that the

proposed 8.3 FAR, which is less than the matter-of-right density of 8.5 FAR and well below the 10.5 FAR permitted under the PUD guidelines, is necessary to achieve the exceptional features of the PUD.

23. The Applicant also seeks relief from the following provisions of the Zoning Regulations:

a. *Roof Structure Setbacks.* The proposed development requires flexibility from the roof structure requirements of § 770.6 to permit a mechanical penthouse along the southern and western exterior walls that does not meet the setback requirements of § 770.6(b). In order to balance the sense of scale between the proposed development and the surrounding historic buildings and to limit the view of the mechanical penthouse from the street, it is necessary to locate the penthouse as far back from the street elevations as possible. The Commission finds that a waiver from the setback requirements of § 770.6 is appropriate and necessary to allow the construction of a mixed-use development that respects the historic character of the Pennsylvania Avenue NHS and is in scale with the surrounding neighborhood.

b. *Off-Street Parking.* The Applicant also requests flexibility from the off-street parking requirements of § 2101.1 of the Zoning Regulations to allow the Applicant to meet its required provision of off-street parking spaces with 19 zoning-compliant parking spaces. Under § 2101.1 of the Zoning Regulations, the Applicant is required to provide 45 zoning-compliant parking spaces. The proposed development provides 19 zoning-compliant parking spaces, as well as four compact spaces and 38 vault spaces that do not count toward the Applicant's required provision of off-street parking. The Applicant cannot provide any additional zoning-compliant parking spaces because the unique L-shape of the property creates insufficient space for access and driveways within the parking garage. Thus, the Applicant requires flexibility from the off-street parking provisions of the Zoning Regulations to allow the Applicant to meet its off-street parking requirement through the provision of 19 zoning-compliant parking spaces. The Commission finds that a reduction in the number of required parking spaces is reasonable, given the site constraints and the overall total of 61 spaces, which exceed the zoning requirement and will adequately serve the project.

c. *Off-Street Loading.* The Applicant also seeks flexibility from the off-street loading requirements of Chapter 22. Based on the proposed uses in the building, the Applicant is required to provide one loading berth at 30 feet deep; one platform at 100 square feet, and one service/delivery space at 20 feet deep. The site configuration and programmatic requirements of the project only allow the Applicant to provide one 30-foot loading berth. The Commission finds that the benefits of the project outweigh the strict application of the loading requirements and that the project can function successfully without the loading platform and delivery space.

d. *Open Courts.* The Applicant requests flexibility from § 776 of the Zoning Regulations to allow two non-compliant open courts with widths less than the required 12 feet. The Commission finds that these two non-compliant open courts provide subtle architectural details that add to the massing and scale of the proposed development, which are critical to the proposed development's compatibility with the historic structures within the Pennsylvania Avenue NHS and newer developments across 10th and F Streets, N.W.

Project Amenities and Public Benefits

24. The following superior benefits and amenities will be created as a result of the PUD project:

a. *Urban Design and Architecture.* The PUD provides an appropriate urban design solution for the development of a new office building with ground floor retail located in a historic district. The proposed mixed-use development restores the existing façade of the building located at the corner of 10th and F Streets, N.W. The scale, massing, and architectural details of the proposed development are consistent with the structures located in the surrounding area. The historic preservation of the existing façade of the building located at the corner of 10th and F Streets, N.W. provides an architectural amenity for the project. The PUD will provide high-quality, superior design features to reinforce the visual identity of the Central Washington Area and the Central Employment Area.

b. *Site Planning and Efficient and Economical Land Utilization.* The PUD provides an efficient and economical utilization of the existing land area in order to create an exceptional mixed-use project. The site plan has been designed to respect the surrounding historic landmarks, while complementing newer developments in the surrounding neighborhood.

c. *Transportation Features.* Because the proposed development has convenient access to Metrobus transit services and is in close proximity to the Metro Center Metrorail Station and the Gallery Place – Chinatown Metrorail Station, the proposed development will be considered a Transit Oriented Development with very low vehicular trip generation. The 1000 F Street PUD is also in close proximity to bicycle lanes along 10th Street and a signed bicycle route along 13th Street. The proposed development also includes an upgrade of the abutting sidewalk which will provide a public benefit for current and future users of the area

d. *Historic Preservation.* The Subject Property is located within the Pennsylvania Avenue NHS and is in close proximity to the Ford's Theatre NHS, which is under the jurisdiction of the U.S. National Park Service ("NPS"). The PUD will foster the goals of historic preservation by retaining and rehabilitation of the corner building

in a manner that respects the surrounding historic resources, consistent with the conceptual design endorsed by the D.C. Historic Preservation Review Board ("HPRB"). The project will also preserve the Waffle Shop at 910 10th Street, N.W., for which a landmark application is pending, by carefully dismantling, storing, and reassembling it in a more suitable historic neighborhood, pursuant to an agreement with the city's leading preservation advocacy groups. The Applicant will also enter into a construction management plan with the Ford's Theater NHS representatives to ensure protection of the Petersen House, which is part of the Ford's Theater complex, during construction of the PUD. These preservation components of the project will greatly enhance the Pennsylvania Avenue NHS by improving and protecting the historic setting of Ford's Theatre and the Petersen House, two of the city's most important national landmarks, as well as preserving two locally significant architectural resources.

e. *Sustainable Design Features*. One of the main benefits of the proposed PUD is its sustainable design features. The Applicant will achieve a minimum of 26 LEED points and will seek LEED Certification for the project. The new building will receive credit for water, energy and atmosphere efficiency, sustainable sites, materials and resources, indoor environment quality, and innovation and design process, among other elements.

f. *Assistance to Ford's Theatre Society*: The Applicant has made several financial commitments to the Ford's Theatre Society to assist in the continued viability of the organization and Ford's Theatre in general. First, it provided a $200,000 tenant build-out allowance for space in the nearby Atlantic Building and leased the space to Ford's Theatre for ten years at 50% of market value, a savings of approximately $200,000 for each year of the lease. The Applicant also provided four apartment units at 910 F Street, N.W., for ten months at 50% of current market rent, for a savings of $50,000. Finally, the Applicant will provide 4,000 square feet of rehearsal space to the Theatre at mutually agreeable nearby location.

g. *Affordable Housing*. The Applicant will assist in the creation of adequate, affordable housing for current and future District residents by contributing $50,000 to the Affordable Housing Production Trust Fund.

h. *Dedication of an Alley Easement*. The PUD will expand the area of the adjacent public alley from 15 feet to 20 feet in width, and to a height of 16 feet.

i. *Car-Sharing*. The PUD will provide a car-sharing space on the first level of the garage.

j. *Employment and Training Opportunities*: In furtherance of the District's policies relating to the creation of employment opportunities, the Applicant will make a

bona fide effort to utilize local, small, or disadvantaged business enterprises certified by the Department of Small and Local Business Development to achieve, at a minimum, the goal of 35% participation in the contracted development costs in connection with the proposed project. The Applicant will also enter into a First Source Agreement with the Department of Employment Services so that, at a minimum, 51% of the employees hired in connection with the proposed project are District residents.

Compliance with the Comprehensive Plan

25. *Land Use Element (Chapter 3).* The Comprehensive Plan provides that "[b]ecause the and Use Element integrates the policies and objectives of all the other District Elements, it should be given greater weight than the other elements as competing policies in different elements are balanced." (10 DCMR § 300.2.) The underlying goal of the Land Use Element is to ensure the efficient use of land resources to meet long-term neighborhood, citywide, and regional needs; to help foster other District goals; to protect the health, safety, and welfare of District residents and businesses; to sustain, restore, or improve the character and stability of neighborhoods in all parts of the city; and to effectively balance the competing demands for land to support the many activities that take place within District boundaries. (10 DCMR § 302.1.) The proposed project will advance this important goal by complying with a number of the policies set forth in the Land Use Element of the Comprehensive Plan.

    a. *Policy LU-1.1.1: Sustaining a Strong City Center*: The proposed project contemplates the construction of a mixed-use development that will include over 90,000 square feet of gross floor area devoted to office uses and approximate 7,800 square feet of gross floor area devoted to retail uses. This reinvestment in a central city building will provide for the continued vitality of Central Washington as a thriving business and retail center. The entire street frontages of the two-story historic building at the southwest corner of 10th and F Streets, N.W., will be retained and rehabilitated. The building will continue to read as a separate structure with no new floors added above the historic resources. This existing historic resource will be carefully integrated into the new building, thus preserving the quality and character of the Pennsylvania Avenue NHS in which the project is located.

    b. *Policy LU-2.1.4: Rehabilitation Before Demolition*: The proposed project retains and rehabilitates the only two historic buildings on the site. First, the corner building which contributes to the character of the Pennsylvania Avenue NHS, will be retained and rehabilitated in situ and continue to read as a free-standing structure while being connected to the new building. The proposed project also includes the rehabilitation and relocation of the Waffle Shop to a more suitable historic setting, in accordance with the Preservation Agreement. The remaining, non-contributing buildings will be replaced with a modern design that complements the surrounding landmarks and

historic properties redeveloped under the District's historic preservation review process. These historic buildings represent precisely the type of rehabilitation and adaptive reuse encouraged by Policy LU-2.1.4.

26. *Economic* Development *Element (Chapter 7).* The 1000 F Street PUD furthers the goals and policies of the Economic Development Element of the Comprehensive Plan by providing the District with more office and retail space, increasing the District's tax revenue, and renovating two structures located in one of the District's premiere tourist destinations. The overarching goal of the Economic Development Element is to strengthen the District's economy by sustaining its core industries, attracting new and diverse industries, accommodating future job growth, fostering the success of small business, revitalizing neighborhood commercial centers, improving resident job skills, and helping a greater number of District residents find and keep jobs in the Washington regional economy. (10 DCMR §701.2.) The proposed project will further this important goal by complying with a number of the policies set forth in the Economic Development Element of the Comprehensive Plan.

    a. Policies *ED-2.1.1: Office Growth, and ED-2.1.5 Infill and Renovation:* The 1000 F Street PUD, through its renovation of two existing structures, will add 90,059 square feet of office use to the District's current provision of office space. This addition will support growth in numerous service-sector office industries, while simultaneously making more efficient and productive use of the property.

    b. *Policies ED-2.2.1: Expanding the Retail Sector, and ED-2.2.2 Downtown Shopping:* The proposed project offers 7,813 square feet of retail use at street level. This provision of retail space will allow the District to capitalize on the spending power of District residents, workers and visitors. The proposed project contemplates a change in the retail program at street level. Until recently, when the Applicant encouraged their early departure to demonstrate its goodwill in advancing the city's planning goals, a souvenir shop and an unseemly adult bookstore occupied the ground floor of the existing structures. Through its abatement of the inappropriate adult bookstore, the proposed project will help promote Downtown as a regional retail destination of choice for a more inclusive population of patrons. The elimination of the adult bookstore also supports the development of an increasingly robust tourism and convention industry by complementing the Ford's Theatre and the Petersen House with retail use and massing that is appropriate and respectful of the historical significance of these two landmarks.

27. *Historic Preservation (Chapter 10):* The 1000 F Street PUD will advance the goals and policies of the Historic Preservation Element of the Comprehensive Plan by providing a mixed-use development which leverages the historic character of the existing building façade and the Pennsylvania Avenue NHS, while simultaneously offering office and retail uses that are compatible with the demands of today. The overarching goal for

Historic Preservation Element of the Comprehensive Plan is to preserve and enhance the unique cultural heritage, beauty, and identity of the District of Columbia by respecting the historical form of the city and the enduring value of its historic structures and places, recognizing their importance to the citizens of the District and the nation, and sharing mutual responsibilities for their protection and stewardship. (10 DCMR § 1001.1.) The proposed project will advance this important goal by complying with a number of the policies set forth in the Historic Preservation Element of the Comprehensive Plan.

a. *Policies HP-2.4.1: Adaptation of Historic Properties for Current Use, HP-2.4.3: Compatible Development:* The proposed development has been designed to respect the important historic features of the Pennsylvania Avenue NHS while incorporating new office and retail uses that are compatible with the historic features of the historic district. The 1000 F Street PUD includes the preservation of the existing building located at the corner of 10th and F Streets, N.W. The scale and massing of the 1000 F Street PUD have been designed to be compatible with and complementary to other structures in the Pennsylvania Avenue NHS.

b. *Policy HP-3.3.1: Promotion of Historic Preservation:* The Applicant has undertaken significant measures to preserve historically important buildings and structures associated with the property, including the relocation of the Waffle Shop to a more historically suitable location. The rehabilitation of the existing building and the relocation of the Waffle Shop will greatly enhance and convey the unique architectural and historical qualities of these two historic resources, and contribute to the public's understanding of our cultural heritage.

28. *Urban Design Element (Chapter 9):* The proposed project will advance the goals and policies of the Urban Design Element of the Comprehensive Plan. The overarching goal of Urban Design Element of the Comprehensive Plan is to enhance the beauty and livability of the city by protecting its historic design legacy, reinforcing the identity of its neighborhoods, harmoniously integrating new construction with existing buildings and the natural environment, and improving the vitality, appearance, and security of streets and public spaces. (10 DCMR § 901.1.) The proposed project is consistent with the overarching goal of the Urban Design Element and will enhance the beauty of the city by protecting its historic design legacy and harmoniously integrating new construction with existing buildings and the natural environment. The proposed project will also support this goal by complying with two of the policies set forth in the Urban Design Element of the Comprehensive Plan.

a. *Policy UD-2.1.1: Design Character:* The 1000 F Street PUD has been designed to maintain the positive physical image of the Pennsylvania Avenue NHS and to be complementary in scale and character, thus helping to create a more coherent design character for Central Washington. The 1000 F Street PUD includes the preservation of the existing building located at the corner of 10th and F Streets, N.W., which will

help to secure a strong, positive physical identity. Additionally, the scale and massing of 1000 F Street PUD have been designed to complement and respect the historic landmarks within the Pennsylvania Avenue NHS and other adjacent and nearby structures.

b. *Policy UD-2.1.4: Architectural Excellence:* The proposed project, through its integration of the existing building with new construction, is an example of excellence in the design of Downtown buildings. The rehabilitation of the existing building façade and the abatement of the adult bookstore will enhance the architectural details of the existing building and will improve the visual image of the building at the street level. The 1000 F Street PUD will also enhance the District's aesthetic qualities in a functionally-efficient manner which incorporates a new mixed-use development that respects the historic character of the Pennsylvania Avenue NHS and is compatible with other structures in the surrounding area.

29. *Central Washington Elements:* In addition to the citywide elements, the Comprehensive Plan includes ten geographically based "area elements." The subject property is located within the Central Washington area. As discussed below, the proposed project is consistent with the objectives and policies of the Central Washington Area Element.

a. *Policy CW-1.1.2: Central Washington Office Growth:* As noted earlier, the proposed development offers 91,186 square feet of office use within the Central Washington Area. The provision of office space within the 1000 F Street PUD will help the District maintain Central Washington as the premier office location in Greater Washington and meet the challenge of suburban office parks.

b. *Policies CW-1.1.6: Capturing Visitor and Employee Spending and CW-1.1.8: Promote Central Washington Retail Develop:* The proposed project offers 7,813 square feet of retail use at street level, which will allow the District to capitalize on the spending power of District residents, workers and visitors. The abatement of the adult bookstore will help promote Downtown as a regional retail destination of choice for a more inclusive population of patrons. The elimination of this unseemly use will also support the development of an increasingly robust tourism and convention industry by complementing the Ford's Theatre and the Petersen House with retail use and massing that is appropriate and respects the historical significance of these two landmarks. Improved retail and a restored building will help capture visitor and employee spending in Central Washington and promote Central Washington as an inviting, regional retail destination.

c. *Policy CW-1.2.2: Preservation of Central Washington's Historic Resources:* The proposed project will protect and enhance Central Washington's historic resources by restoring and adaptively reusing a historic and architecturally significant building.

d. *Policies CW-2.1.1: Strengthening the Retail Core and CW-2.1.2: Promoting Central Washington Shopping:* The PUD's provision of improved retail and a rehabilitation of a small-scale commercial building will help strengthen the retail core along F Street, N.W., and will promote Central Washington as an inviting, regional retail destination. The elimination of inappropriate uses, the creation of a respectful architectural design and the rehabilitation of the existing building will help market the Central Washington Retail Core as a shopping destination for District residents and employees as well as suburban residents and tourists.

e. *Policy CW-2.1.5: Pedestrian Movement in the Retail Core Emphasize:* The 1000 F Street PUD encourages pedestrian movement along F Street, N.W., through its provision of appropriate retail use at street level that will draw a wide range of retail patrons, unlike the previous adult bookstore use. The new development and its extensive streetscape improvements will make this section of F Street, N.W., more attractive to a broader base of District residents, workers and visitors. The change in the retail program and the restored building facade will promote and support street-level activity around the proposed project.

Office of Planning Report

30. By report dated January 18, 2008, OP recommended approval of the PUD application subject to the Applicant fulfilling the following conditions: (i) designating a specific parking space for use by Flexcar or Zip-Car on the first level of the parking garage; (ii) identifying the specific location and duration of the rehearsal space for Ford's Theatre within either the subject building or at a location within the square in which the theater is located, at a location acceptable to the theater; (iii) submitting drawings detailing the green roof for review by the Commission; (iv) providing the Commission with samples of the proposed façade for review; (v) submitting specific information regarding the trellises; and (vi) obtaining approval from DDOT regarding the provision of vault spaces within the garage. At the hearing, the Applicant submitted supplemental drawings which addressed OP's concerns regarding the location of a car-share space and the green roof, and provided material samples for review by the Commission. The Applicant also clarified that the building features referred to as "trellises" were, in fact, cornices for the building, with glass guardrails required by the building code for the roof deck above.

31. By letter dated February 7, 2008, Ford's Theatre submitted a letter to the record indicating that it was working with the Applicant on locating suitable rehearsal space. Based on the Applicant's successful fulfillment of past commitments to Ford's Theatre, the theater advised the Commission that it was unnecessary to specifically identify the space and that it be permitted to work with the Applicant in finding a suitable location. The Applicant has already demonstrated its commitment to this amenity as it has offered space in the nearby Atlantic and Woodward & Lothrop buildings, although the theater ultimately declined those alternatives because they did not meet its needs. Ford's Theatre

recommended that the Commission allow it the flexibility to continue working with the Applicant to find suitable rehearsal space without making it a condition of the PUD order so that this project can proceed as planned. The Commission concurs with this recommendation.

32. In its post-hearing submission dated February 7, 2008, the Applicant indicated that it had contacted the District Department of Transportation ("DDOT") regarding the vault spaces but had not received a response. The Commission notes that DDOT will need to review and approve the permits necessary to construct the PUD. Consequently, the Commission finds that input from DDOT on this minor issue is not critical to its evaluation of the overall merits of the proposed PUD.

DDOT Report

33. DDOT submitted a memorandum dated September 26, 2007, stating it had no objection to the proposed PUD, provided the Applicant (i) completes an alley closing application; (ii) provides a minimum of one parking space for use by Zip-Car or Flexcar; (iii) redesigns off-street loading to provide a 30-foot deep loading berth; (iv) eliminates the proposed vault parking spaces; and (v) provides a 5-foot-wide setback along the 10-foot-wide public alley.

34. At the hearing, the Applicant indicated that the D.C. Council had approved the alley closing legislation and that enactment was imminent. Additionally, as part of the alley closing process, the Applicant redesigned the loading dock to provide a 30-foot loading berth and agreed to dedicate a five-foot easement along the alley to increase its width to 15 feet. One parking space has also been designated for use by a car-sharing program. With respect to the vault parking spaces, the Applicant reconfigured the garage so that all vault spaces are set back a minimum of ten feet from the face of the curb. Based on these commitments and revisions, the Commission finds that the Applicant has satisfied all of DDOT's conditions.

ANC Report

35. By letter received by the Commission June 13, 2007, and through testimony at the public hearing, ANC 2C advised the Commission of its unanimous support for the PUD project. The Commission affords the views of the ANC the "great weight" to which they are entitled.

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality development that provides public benefits. (11 DCMR § 2400.1.) The overall

goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project "offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare and convenience." (11 DCMR § 2400.2.)

2. Under the PUD process of the Zoning Regulations, the Commission has the authority to consider this application as a consolidated PUD. The Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards identified for height, density, lot occupancy, off-street parking, loading, yards, and courts. The Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the BZA.

3. The development of this PUD project carries out the purposes of Chapter 24 of the Zoning Regulations to encourage the development of well-planned developments which will offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter of right development.

4. The PUD project exhibits exception merit by virtue of its urban planning, historic preservation, cultural assistance funds, sustainable design elements, and the PUD project is in the best interest of the city. Accordingly, the Applicant has met its burden of proof to warrant a reduction in the minimum area requirement for a PUD in the C-4 Zone District.

5. The PUD is within the applicable height and bulk standards of the Zoning Regulations, and the increased density will not cause a significant adverse effect on any nearby properties. The project is a continuation of an appropriate use at an appropriate location in the heart of the Central Employment Area and is immediately proximate to mass transit. Accordingly, the project should be approved. The impact of the project on the surrounding area is not unacceptable.

6. The proposed application can be approved with conditions to ensure that the potential adverse effects on the surrounding area from the development will be mitigated.

7. The project benefits and amenities—particularly the urban planning, historic preservation, cultural assistance funds, and sustainable design elements—are a reasonable trade-off for the density provided in the application, particularly given the high-density commercial nature of property in the immediate area.

8. Approval of this PUD is appropriate because the proposed development is consistent with the present character of the area.

9. Approval of this PUD is not inconsistent with the Comprehensive Plan.

10. The Commission is required under D.C. Official Code § 1-309.10(d)(3)to give great weight to the affected ANC's recommendation. The Commission has carefully considered the ANC's recommendation for approval and concurs in its recommendation.

11. The application for a PUD will 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.

12. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code §6-623.04) to give great weight to OP's recommendations (as reflected in ¶ 30). The Commission is satisfied that the Applicant has adequately addressed the concerns expressed by OP.

13. Notice of the public hearing was provided in accordance with the Zoning Regulations.

13. The application for a PUD is subject to compliance with D.C. Human Rights Act of 1977 (D.C. Law 2-38, as amended, D.C. Official Code § 2-1401.01 et seq.).

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia orders **APPROVAL** of the application for a PUD for the property located at 1000 F Street, N.W. (Lots 18, 19, 818 - 821 and a small portion of the alley to be closed in Square 347). This approval is subject to the following conditions:

1. The PUD shall be developed in accordance with the plans prepared by Shalom Baranes Associates, dated June 11, 2007 (Exhibit 5), and as amended or supplemented by drawings dated November 2007 and January 24, 2008, marked as Exhibits 21 and 22, and 32, respectively, in the record, and as further modified by the guidelines, conditions, and standards herein.

2. The project shall be a commercial office development consisting of approximately 97,872 square feet of gross floor area. The PUD project shall not exceed an overall density of 8.3 FAR and a maximum height of 120 feet, with setbacks as shown on the plans. The Applicant shall demonstrate the ability to achieve 26 LEED points at a minimum. One space on the first level of the garage shall be reserved for a car-sharing service.

3. Landscaping and improvements to public space along the street elevations of the building shall be in accordance with the plans submitted to the record and subject to approval by the Public Space Committee.

4. Within five years after the effective date of this Order, the Applicant shall relocate and reassemble the Waffle Shop on a new site, consistent with the Preservation Agreement submitted as part of Exhibit 21 to the record.

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

   a. To vary the location and design of all interior components, partitions, structural slabs, doors, hallways, columns, stairways, atrium and mechanical rooms, elevators, escalators, and toilet rooms, provided that the variations do not materially change the exterior configuration of the building;

   b. To make refinements, without reducing the quality of the materials, to exterior materials, details and dimensions, including belt courses, sills, bases, cornices, railings, roof, skylights, architectural embellishments and trim, or any other minor changes to comply with the District of Columbia Code or that are otherwise necessary to obtain a final building permit or any other applicable approvals; and

   c. To make refinements to the garage configuration, including layout, number of parking spaces, and/or other elements, as long as the number of parking spaces does not decrease below the 19 zoning compliant spaces specified.

6. Prior to issuance of the building permit, the Applicant shall develop a construction management plan with representatives of the U.S. National Park Service for the Ford's Theatre NHS to protect the Petersen House during construction of the PUD.

7. Prior to the issuance of the Certificate of Occupancy for the proposed building, the Applicant shall contribute $50,000 to the Housing Production Trust Fund.

8. Prior to issuance of the building permit for the PUD project, the Applicant shall enter into a Memorandum of Understanding with the D.C. Department of Small and Local Business Development in order to achieve, at a minimum, the goal of 35% participation by local, small, and disadvantaged businesses in the contracted development costs in connection with the design, development, construction, maintenance and security for the project to be created as a result of the PUD project.

9. Prior to issuance of the building permit for the PUD project, the Applicant shall enter into a First Source Employment Agreement with the Department of Employment Services (DOES) in order to achieve the goal of utilizing District of Columbia residents for at least 51% of the jobs created by the PUD project.

10. No building permit shall be issued for this PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the owner and the District of Columbia, that is satisfactory to the Office of the Attorney General and

DCRA. Such covenant shall bind the Applicant and all successors in title to construct on and use this property in accordance with this Order or amendment thereof by the Zoning Commission.

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

12. The Applicant is required to comply fully with the provisions the D.C. Human Rights Act of 1977, D.C. Law 2-38, as amended, D.C. Official Code § 2-1401.01 et seq., ("Act"). This Order is conditioned upon full compliance with those provisions. In accordance with the Act, the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, 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 failure or refusal of the Applicant to comply shall furnish grounds for denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this

On February 21, 2008, the Zoning Commission **APPROVED** the application by a vote of **5-0-0** (Gregory N. Jeffries, Curtis L. Etherly, Jr., Anthony J. Hood, Peter G. May, and Michael G. Turnbull to approve).

The Order was **ADOPTED** by the Zoning Commission at its public meeting on April 14, 2008, by a vote of 5-0-0 (Anthony J. Hood, Gregory N. Jeffries, Curtis L. Etherly, Jr., Peter G. May, and Michael G. Turnbull to adopt).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the *D.C. Register*; that is on MAY 16 2008.

DISTRICT OF COLUMBIA GOVERNMENT
OFFICE OF THE SURVEYOR

Washington, D.C., November 23, 2005

Plat for Building Permit of SQUARE 347 LOTS 18,19,818-820 & 821

Scale: 1 inch = 20 feet Recorded in Book 10 Page 10 (Lots 18-19)
Map (Lots 1818-820 & 821)

Receipt No. 24379

Furnished to: FREDA HOBAR

Surveyor, D.C.

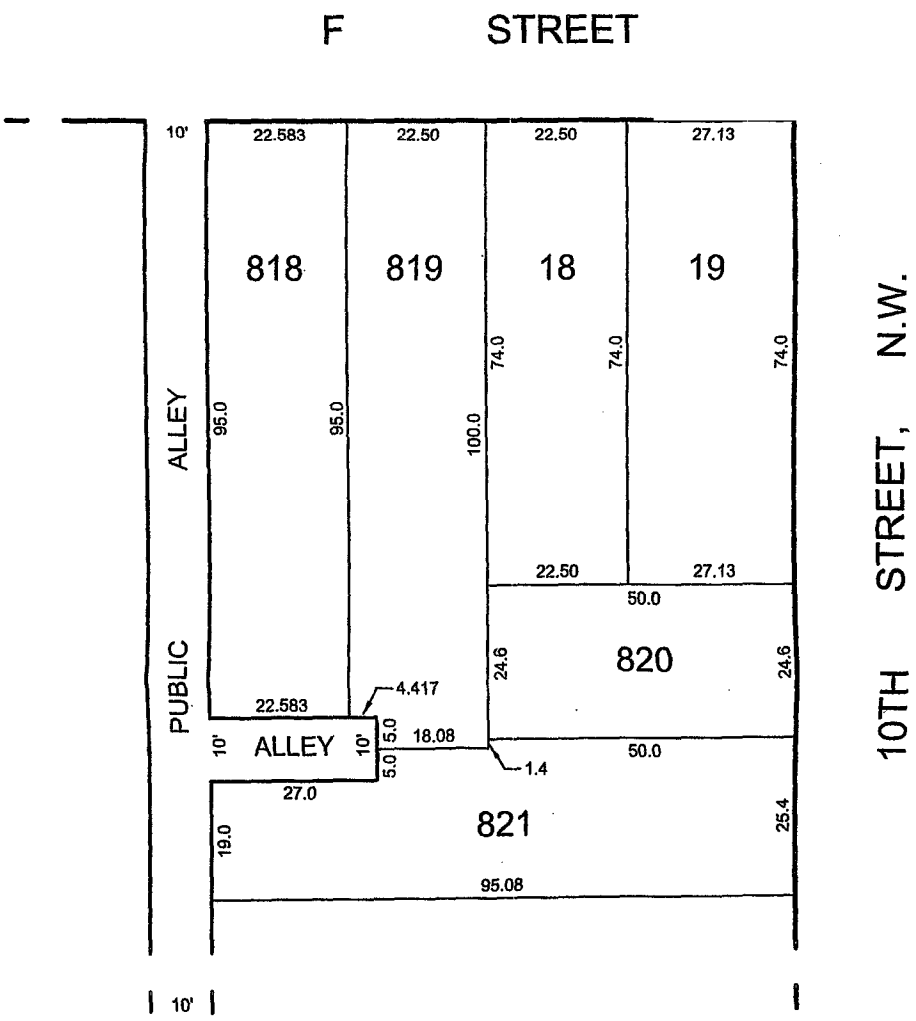
By: L.M.A.

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.



SO-24379(2005)