

LT1-5-2010052753-1

RECORD AND RETURN TO:  
REGIONAL TITLE INCORPORATED  
1F STREET, N.W., SUITE 1200  
WASHINGTON D.C. 20036-5605

ATTENTION: 07058PH1

**PUD COVENANT**

THIS COVENANT, made as of this 3rd day of May 2010, by and between THE MISSIONARY SOCIETY OF SAINT PAUL THE APOSTLE, IN THE STATE OF NEW YORK, a New York nonprofit corporation (hereinafter referred to as "Owner"), SP ASSOCIATES I LLC, a Delaware limited liability company (hereinafter referred to as "Purchaser"), EYA DEVELOPMENT, INC., a Virginia corporation (hereinafter referred to as "Developer"), and the DISTRICT OF COLUMBIA, a municipal corporation (hereinafter referred to as the "District"). WITNESSETH:

2010 JUN 10 PM 2:35  
RECEIVED  
D.C. OFFICE OF ZONING

WHEREAS, Owner is the owner of that certain parcel of land located in the District of Columbia now known for purposes of assessment and taxation as Lots 811 and 916 (excluding the area formerly known as Lot 914) in Square 3648, and Purchaser is the owner of that certain parcel of land located in the District of Columbia now known for purposes of assessment and taxation as Lots 813-913 in Square 3648, as illustrated and described in Exhibit A attached hereto and made a part hereof and as described in Zoning Commission Order No. 07-27A (collectively, such property hereinafter referred to as the "Subject Site"); and

ZONING COMMISSION  
District of Columbia  
CASE NO. 07-27  
EXHIBIT NO. 65

WHEREAS, Developer intends to develop the Subject Site for use as a Planned Unit Development (hereinafter referred to as the "Project") under Chapter 24 of the Zoning Regulations of the District of Columbia in accordance with Zoning Commission Order No. 07-27A effective May 8, 2009 in Zoning Commission Case No. 07-27; and

WHEREAS, said Chapter 24 and Zoning Commission Case No. 07-27 further require that Owner, Purchaser, and Developer enter into this Covenant with the District of Columbia assuring Owner's, Purchaser's, and Developer's (and their respective successors in title) development and operation of the Project as approved by the Zoning Commission of the District

THIS IS TO CERTIFY THAT THIS IS A TRUE COPY

*[Handwritten Signature]*  
Recorder of Deeds  
JUN 8 2010

LT2-0-0-44

ZONING COMMISSION  
District of Columbia  
CASE NO. 07-27  
EXHIBIT NO. 65

DCDOCS\030336.1

JUN 08 2010

of Columbia (hereinafter referred to as the "Zoning Commission") in Order No. 07-27A and all modifications, alterations or amendments thereto.

NOW, THEREFORE, in consideration of the foregoing recitals, which are a material part hereof, it is agreed among the parties hereto as follows:

1. Recitals. The above recitals are incorporated herein.

2. Approved Plans. The terms and conditions of the Zoning Commission's approval of the Planned Unit Development under Order No. 07-27A effective May 8, 2009, in Zoning Commission Case No. 07-27 (as the same may be amended and/or modified from time to time, the "Order"), are incorporated herein by reference and made a part hereof as Exhibit B attached hereto and shall be considered a part of this Covenant. The Subject Site will be developed and used in accordance with the plans approved by said Order and in accordance with conditions and restrictions contained in said Order, subject to such changes thereto as the Zoning Commission and/or the Zoning Administrator of the District of Columbia may authorize pursuant to 11 DCMR §§ 2409.6 and 2409.9, respectively. Owner, Purchaser, and Developer covenant that they will use the Subject Site only in accordance with the terms of the Order, as the same may be further amended and/or modified from time to time, subject to the terms and conditions contained herein and the provisions of Chapter 24 of the Zoning Regulations.

3. Additional Time to Construct Planned Unit Development. If Developer or Purchaser or Owner should fail to file for a building permit and to commence construction of the approved Planned Unit Development, specified in Sections 2408.8 and 2408.9 of the Zoning Regulations and the Order, the Zoning Commission may duly consider an application for an extension of time for good cause shown.

4. Default. In the event that Developer or Purchaser or Owner fails to file for a building

permit and to commence construction of the approved Planned Unit Development within the time specified in Sections 2408.8 and 2408.9 of the Zoning Regulations and the Order or within any extension of time granted by the Zoning Commission for good cause shown, the benefits granted by the Order shall terminate pursuant to Section 2408.14 of the Zoning Regulations.

5. Future Conveyance. Owner, Purchaser, and Developer covenant that if any conveyance of all or any part of the Subject Site takes place before completion of the Planned Unit Development in accordance with the approvals of the Zoning Commission as aforesaid, such conveyance shall contain a specific covenant binding the grantee, its successors and assigns to develop and use the Subject Site in accordance with the terms and conditions of this Covenant.

6. Successors and Assigns. The covenants and restrictions contained herein shall be deemed real covenants running with the land, and shall bind the parties hereto, their successors and assigns and shall inure to the benefit of the parties hereto, their successors and assigns. Such covenants are not binding upon any party who no longer has a property interest in the Subject Site. The District shall have the right to enforce all covenants, conditions and restrictions contained herein.

7. Recordation. Developer shall record this Covenant, as fully executed by the parties hereto, among the Land Records of the District of Columbia, and shall file a certified copy of this Covenant with the Zoning Administrator and the Zoning Commission.

8. Counterparts. This Covenant may be executed in counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

9. Rescission/Alteration of Chapter 24 Covenant. The covenants hereby created may not be extinguished without the prior written consent of the District. In the event any

amendment, modification, rescission or alteration of the Order is adopted or authorized by the Zoning Commission, or in the event of a lapse of said Order by its terms, the District shall, upon the request of Developer or Purchaser or Owner, execute an instrument, in recordable form, evidencing such action or lapse, which instrument shall amend, modify, rescind, nullify or alter this Covenant, as the case may be.

SIGNATURE OF OWNER

IN WITNESS WHEREOF, THE MISSIONARY SOCIETY OF SAINT PAUL THE APOSTLE, IN THE STATE OF NEW YORK, a New York nonprofit corporation, has, as of the day and year first above written, caused this Covenant to be signed with its corporate name by Francis DeSiano, First Consultor, and does hereby appoint the said Francis DeSiano to be its attorney-in-fact, and in its name to acknowledge and deliver this Covenant according to law.

ATTEST:

John Behnke, C.S.P.  
By: John Behnke, C.S.P.  
CONSULTOR

THE MISSIONARY SOCIETY OF SAINT PAUL  
THE APOSTLE, IN THE STATE OF NEW YORK,  
a New York Nonprofit Corporation

By: Francis DeSiano

Francis DeSiano  
First Consultor

District of Columbia, ss:

I, Julien H. Nam, a Notary Public in and for the jurisdiction aforesaid, do hereby certify that Francis DeSiano, First Consultor of The Missionary Society of Saint Paul the Apostle, in The State of New York, party to the foregoing Covenant, the said Francis DeSiano being named as attorney-in-fact for said organization in the foregoing and annexed Covenant, personally appeared before me therein and, being personally well known to me as such attorney-in-fact, acknowledged said Covenant to be the act and deed of said organization and that he delivered the same as such.

GIVEN under my hand and seal this 3<sup>rd</sup> day of May, 2010.

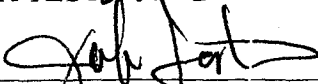
Julien H. Nam  
Notary Public

My commission expires: Julien H. Nam  
Notary Public, District of Columbia  
My Commission Expires 07-14-2010

SIGNATURE OF PURCHASER

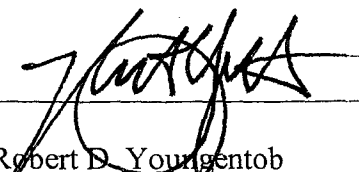
IN WITNESS WHEREOF, SP ASSOCIATES I LLC, a Delaware limited liability company, has, as of the day and year first above written, caused this Covenant to be signed with its corporate name by Robert D. Youngentob, President of EYA SP Manager LLC, manager of SP Associates I LLC, and does hereby appoint the said Robert D. Youngentob to be its attorney-in-fact, and in its name to acknowledge and deliver this Covenant according to law.

~~ATTEST~~ WITNESS:

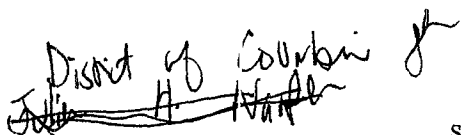
  
\_\_\_\_\_

SP ASSOCIATES I LLC  
a Delaware limited liability company

By: EYA SP Manager LLC  
a Delaware limited liability company  
Manager

By:   
\_\_\_\_\_

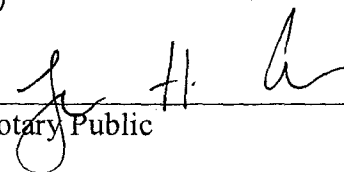
Robert D. Youngentob  
President



I, Julien H. Nam, ss:

Julien H. Nam, a Notary Public in and for the jurisdiction aforesaid, do hereby certify that Robert Youngentob, president of EYA SP Manager LLC, manager of SP Associates I LLC, a Delaware limited liability company, the said Robert Youngentob being named as attorney-in-fact for said organization in the foregoing and annexed Covenant, personally appeared before me and, being personally well known to me as such attorney-in-fact, acknowledged said Covenant to be the act and deed of said organization and that he delivered the same as such,

GIVEN under my hand and seal this day of May 3, 2010.

  
\_\_\_\_\_

Julien H. Nam  
Notary Public, District of Columbia  
My Commission Expires 07-14-2010

My commission expires: \_\_\_\_\_

SIGNATURE OF DEVELOPER

IN WITNESS WHEREOF, EYA DEVELOPMENT, INC., a Virginia corporation, has, as of the day and year first above written, caused this Covenant to be signed with its corporate name by Robert D. Youngentob, President of EYA Development, Inc., and does hereby appoint the said Robert D. Youngentob to be its attorney-in-fact, and in its name to acknowledge and deliver this Covenant according to law.

ATTEST:

*[Signature]*

By: *Frank R. Connors*

EYA DEVELOPMENT, INC.,  
a Virginia corporation

By: *[Signature]*

Robert D. Youngentob  
President

District of Columbia, ss:

I, Julien H. Nam, a Notary Public in and for the jurisdiction aforesaid, do hereby certify that Robert D. Youngentob, President of EYA Development, Inc., party to the foregoing Covenant, the said Robert D. Youngentob being named as attorney-in-fact for said organization in the foregoing and annexed Covenant, personally appeared before me therein and, being personally well known to me as such attorney-in-fact, acknowledged said Covenant to be the act and deed of said organization and that he delivered the same as such.

GIVEN under my hand and seal this 3<sup>rd</sup> day of May, 2010.

*[Signature]*  
Notary Public

Julien H. Nam  
Notary Public, District of Columbia  
My Commission Expires 07-14-2010

My commission expires: \_\_\_\_\_

SIGNATURE OF THE DISTRICT OF COLUMBIA

IN WITNESS WHEREOF, the Mayor of the DISTRICT OF COLUMBIA, having first considered and approved the foregoing Covenant, has directed the execution thereof in the name of said DISTRICT OF COLUMBIA, by the Secretary, D.C., who has hereunto set her hand and affixed the seal of the District of Columbia hereto under authority of the Act of Congress entitled "An Act to Relieve the Commissioners of the District of Columbia of Certain Ministerial Duties," approved February 11, 1932.

WITNESS:

Tabatha Braxton

BY:

DISTRICT OF COLUMBIA,  
a Municipal Corporation

Stephanie D Scott

Secretary, D.C. (Corporate Seal)

DISTRICT OF COLOMMBIA, ss:

I, Tabatha Braxton Notary Public in and for the District of Columbia, do hereby certify that Dr. Stephanie Scott who is personally well known to me as the person named as Secretary of the DISTRICT OF COLUMBIA in the foregoing PUD Covenant hereunto annexed, personally appeared before me in said District and as Secretary of the DISTRICT OF COLUMBIA aforesaid, and by virtue of the authority in her vested, acknowledged the same to be the act and deed of the Mayor of the DISTRICT OF COLUMBIA.

GIVEN under my hand and seal this day of June 4 2010.

Tabatha Braxton  
Notary Public

My commission expires: \_\_\_\_\_

**TABATHA BRAXTON**  
**Notary Public District of Columbia**  
**My Commission Expires May 14, 2012**



APPROVED AS TO LEGAL SUFFICIENCY:

Alan Beystem

Chief, Land Use Section  
D.C. Office of the Attorney General

APPROVED AS TO FORM AND CONTENT:

Matthew ZR GAF 5/28/10

Zoning Administrator of the District of Columbia

## **EXHIBIT A**

ILLUSTRATIONS AND METES AND BOUNDS DESCRIPTIONS OF LOTS 811, 813-913,  
AND 916 (LESS AND EXCEPT LOT 914), SQUARE 3648



PHASE III

MAY 03, 2010  
 DESCRIPTION OF ALL OF LOT 811  
 BEING FORMERLY A PORTION OF LOT 809  
 SQUARE 3648  
 WASHINGTON, D.C.

Being all of Lot 811 in Square 3648, being formerly a portion of Lot 809 in Square 3648, said Lot 811 also being a portion of the theoretical sites as shown on a Plat of Computation recorded in Survey Book 204 at Page 209 among the records of the Office of the Surveyor for the District of Columbia, and being more particularly described as follows:

Beginning for the same at a point being the following two (2) bearings and distances from a point marking the southwesterly corner of Lot 1 in Square 3645, as recorded in Subdivision Book 152 at Page 44 among the aforesaid records, said southwesterly corner of Lot 1 in Square 3645 also marking the southerly end of the Due South, 633.32 foot line as shown on the aforesaid Plat of Computation; thence running with a portion of the outline of said Plat of Computation

Due East, 86.49 feet to a point; thence

South 58° 08' 00" West, 500.81 feet to the true point of beginning; thence continuing to run with said outline of the aforesaid Plat of Computation, the following two (2) courses and distances

- 1.) South 58° 08' 00" West, 437.66 feet to a point; thence
- 2.) North 38° 21' 00" West, 200.82 feet to a point marking the southerly corner of Lot 915 in Square 3648, said point also marking the northwesterly corner of the aforesaid Lot 811 in Square 3648; thence leaving the aforesaid outline of the Plat of Computation and running with the outline of said Lot 915 in Square 3648, the following six (6) courses and distances
- 3.) North 06° 17' 59" East, 120.52 feet to a point; thence
- 4.) North 73° 58' 44" East, 78.13 feet to a point; thence
- 5.) South 89° 57' 43" East, 117.26 feet to a point; thence
- 6.) 106.52 feet along the arc of a non-tangent curve to the right having a radius of 80.00 feet and a chord bearing and distance of North 51° 53' 40" East, 98.82 feet to a point; thence
- 7.) South 89° 57' 43" East, 141.76 feet to a point; thence

**VIKA, Incorporated**

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- 8.) 98.27 feet along the arc of a tangent curve to the left having a radius of 280.00 feet and a chord bearing and distance of North 79° 59' 00" East, 97.77 feet to a point marking the northeasterly corner of the aforesaid Lot 811 in Square 3648, said point also marking a southwesterly corner of Lot 916 in Square 3648; thence leaving the aforesaid outline of Lot 915 in Square 3648 and running with the outline of said Lot 916 in Square 3648 the following six (6) courses and distances
- 9.) South 31° 52' 00" East, 31.41 feet to a point; thence
- 10.) South 58° 08' 00" West, 10.17 feet to a point; thence
- 11.) South 02° 35' 51" East, 13.08 feet to a point; thence
- 12.) South 31° 52' 00" East, 30.44 feet to a point; thence
- 13.) South 58° 08' 00" West, 58.49 to a point; thence
- 15.) South 00° 01' 21" West, 43.76 feet to the point of beginning containing 113,628 square feet or 2.60854 acres of land.



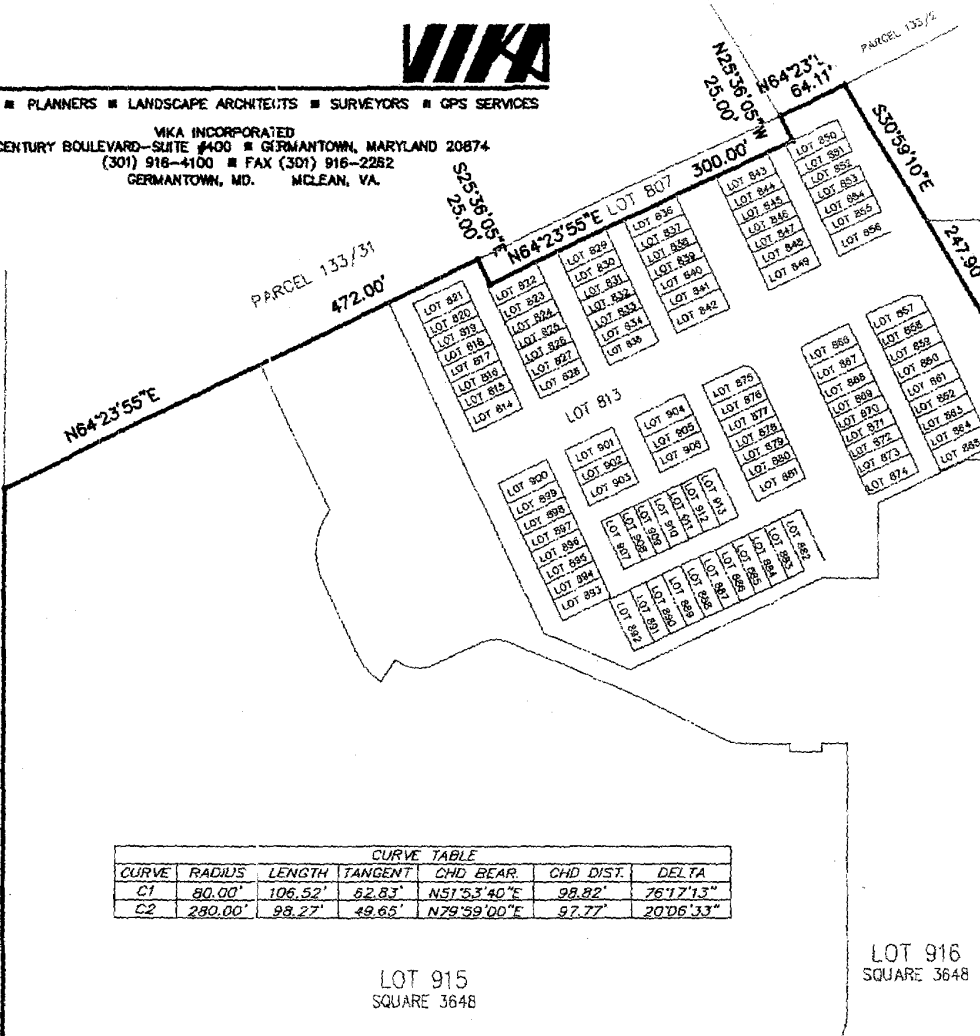


ENGINEERS ■ PLANNERS ■ LANDSCAPE ARCHITECTS ■ SURVEYORS ■ GPS SERVICES

VIA INCORPORATED  
20251 CENTURY BOULEVARD—SUITE #400 ■ GERMANTOWN, MARYLAND 20874  
(301) 918-4100 ■ FAX (301) 916-2282  
GERMANTOWN, MD. MCLEAN, VA.

4TH STREET, N.E.

DUE NORTH 753.51'



CURVE TABLE						
CURVE	RADIUS	LENGTH	TANGENT	CHD. BEAR.	CHD. DIST.	DELTA
C1	80.00'	106.52'	62.83'	N51°53'40"E	98.82'	76°17'13"
C2	280.00'	98.27'	49.63'	N79°39'00"E	97.77'	20°06'33"

LOT 915  
SQUARE 3648

LOT 916  
SQUARE 3648

LOT 811  
113,628 SQ.FT.  
OR 2.60854 ACRES

HAMLIN STREET, N.E.

6TH STREET N.E.

5TH STREET N.E.

SKETCH SHOWING ALL OF  
LOT 811  
(BEING FORMERLY A PORTION OF LOT 809)  
SQUARE 3648

WASHINGTON, D.C.  
SCALE: 1" = 150' APRIL 2010  
REV. 05/03/2010



PHASE I

APRIL 30, 2010  
 DESCRIPTION OF ALL OF  
 LOTS 813 THROUGH 913  
 BEING FORMERLY A PORTION OF LOT 809  
 SQUARE 3648  
 WASHINGTON, D.C.

Being all of Lots 813 through 913 in Square 3648, said lots being formerly a portion of Lot 809 in Square 3648, said lots also being a portion of the theoretical sites as shown on a Plat of Computation as recorded in Survey Book 204 at Page 209 among the records of the Office of the Surveyor of the District of Columbia, and being more particularly described as follows:

Beginning for the same at a point marking the northwesterly corner of Lot 19 in Square 3651 as recorded in County Book 8 at Page 2 among the aforesaid Records, said point also marking the northwesterly end of the South 30°59'10" East, 247.90 foot plat line as shown on the aforesaid Plat of Computation; thence running with a portion of the outline of said Plat of Computation the following three (3) courses and distances

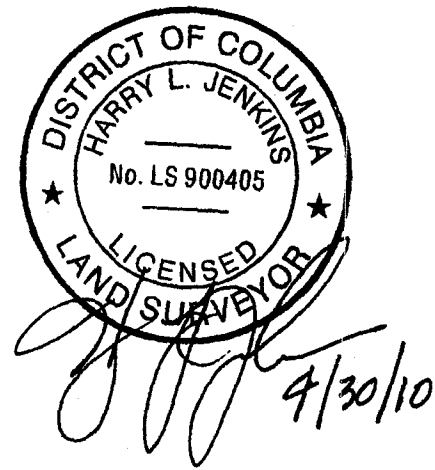
- 1.) South 30° 59' 10" East, 247.90 feet to a point; thence
- 2.) Due East, 8.09 feet to a point; thence
- 3.) Due South, 123.22 feet to a point marking the southeasterly corner of the aforesaid Lot 813 in Square 3648, said point also marking the northeasterly corner of Lot 916 in Square 3648; thence leaving the outline of the aforesaid Plat of Computation and running with the outline of said Lot 916 in Square 3648 the following seven (7) courses and distances
- 4.) Due West, 24.89 feet to a point; thence
- 5.) South 64° 23' 55" West, 88.10 feet to a point; thence
- 6.) Due South, 68.21 feet to a point; thence
- 7.) South 89° 59' 11" West, 50.75 feet to a point; thence
- 8.) South 64° 24' 09" West, 189.28 feet to a point; thence
- 9.) North 67° 04' 27" West, 84.42 feet to a point; thence

**VIKA, Incorporated**

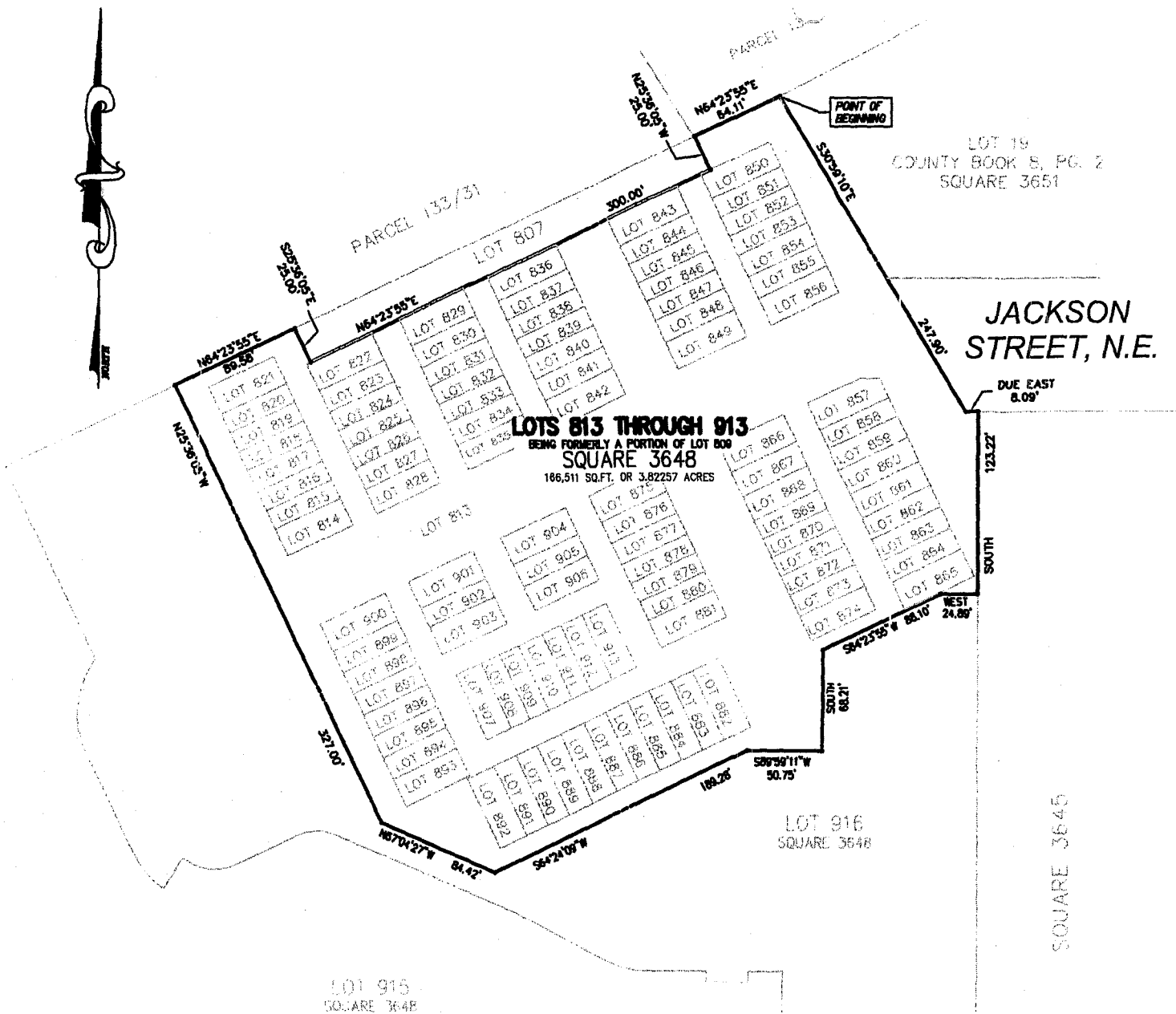
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 8180 Greensboro Drive, Suite 200 ♦ McLean, Virginia 22102 ♦ 703.442.7800 Fax 703.761.2787

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- 10.) North 25° 36' 05" West, 327.00 feet to a point marking the northwesterly corner of the aforesaid Lot 813 in Square 3648, said point also marking the northerly corner of the aforesaid Lot 916 in Square 3648, said point also lying on the outline of the aforesaid Plat of Computation; thence leaving the aforesaid outline of Lot 916 in Square 3648 and running with a portion of the outline of said Plat of Computation the following five (5) courses and distances
- 11.) North 64° 23' 55" East, 89.56 feet to a point; thence
- 12.) South 25° 36' 05" East, 25.00 feet to a point; thence
- 13.) North 64° 23' 55" East, 300.00 feet to a point; thence
- 14.) North 25° 36' 05" West, 25.00 feet to a point; thence
- 15.) North 64° 23' 55" East, 64.11 feet to the point of beginning containing 166,511 square feet or 3.82257 acres of land.







SKETCH SHOWING ALL OF  
 LOTS 813 THROUGH 913  
 (BEING FORMERLY A PORTION OF LOT 809)

**SQUARE 3648**

WASHINGTON, D.C.  
 SCALE: 1" = 100' APRIL 2010  
 REV. 4/30/2010



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 GERMANTOWN, MD. MCLEAN, VA.



LOT 916 WITH S&E OF LOT 914

MAY 05, 2010  
 DESCRIPTION OF A PORTION OF LOT 916  
 BEING FORMERLY A PORTION OF LOT 809  
 SQUARE 3648  
 WASHINGTON, D.C.

Being all of Lot 916 in Square 3648, being formerly a portion of Lot 809 in Square 3648, said Lot 916 also being a portion of the theoretical sites as shown on a Plat of Computation as recorded in Survey Book 204 at Page 209 among the records of the Office of the Surveyor of the District of Columbia, and being more particularly described as follows:

Beginning for the same at a point marking the southwesterly corner of Lot 1 in Square 3645, as recorded in Subdivision Book 152 at Page 44 among the aforesaid records, said point also marking the southerly end of the Due South, 633.32 foot line as shown on the aforesaid Plat of Computation; thence running with a portion of the outline of the aforesaid Plat of Computation the following two (2) courses and distances

- 1.) Due East, 86.49 feet to a point; thence
- 2.) South 58° 08' 00" West, 500.81 feet to a point marking the southeasterly corner of Lot 811 in Square 3648, said point also marking the southerly corner of the aforesaid Lot 916 in Square 3648; thence running with a portion of the outline of said Lot 811, the following six (6) courses and distances
- 3.) North 00° 01' 21" East, 43.76 feet to a point; thence
- 4.) North 58° 08' 00" East, 58.49 feet to a point; thence
- 5.) North 31° 52' 00" West, 30.44 feet to a point; thence
- 6.) North 02° 35' 51" West, 13.08 feet to a point; thence
- 7.) North 58° 08' 00" East, 10.17 feet to a point; thence
- 8.) North 31° 52' 00" West, 31.41 feet to a point marking the common corner of the aforesaid Lot 811, Lot 916 and 915 in Square 3648; thence leaving said outline of Lot 811 and running with the outline of said Lot 915 in Square 3648, the following twenty-one (21) courses and distances
- 9.) 57.64 feet along the arc of a non-tangent curve to the left having a radius of 280.00 feet and a chord bearing and distance of North 64° 01' 49" East, 57.54 feet to a point; thence
- 10.) North 58° 08' 00" East, 126.60 feet to a point; thence

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- 11.) 50.73 feet along the arc of a tangent curve to the left having a radius of 50.00 feet and a chord bearing and distance of North 29° 04' 00" East, 48.58 feet to a point; thence
- 12.) Due North, 239.95 feet to a point; thence
- 13.) South 89° 59' 05" West, 23.35 feet to a point; thence
- 14.) South 00° 00' 55" East, 7.50 feet to a point; thence
- 15.) South 89° 59' 05" West, 28.50 feet to a point; thence
- 16.) North 00° 00' 55" West, 7.50 feet to a point; thence
- 17.) South 89° 59' 05" West, 40.83 feet to a point; thence
- 18.) 24.15 feet along the arc of a tangent curve to the right having a radius of 50.00 feet and a chord bearing and distance of North 76° 10' 47" West, 23.91 feet to a point; thence
- 19.) North 62° 20' 38" West, 56.27 feet to a point; thence
- 20.) 24.56 feet along the arc of a tangent curve to the left having a radius of 297.50 feet and a chord bearing and distance of North 64° 42' 33" West, 24.55 feet to a point; thence
- 21.) North 67° 04' 27" West, 126.04 feet to a point; thence
- 22.) 25.77 feet along the arc of a tangent curve to the left having a radius of 30.50 feet and a chord bearing and distance of South 88° 43' 05" West, 25.01 feet to a point; thence
- 23.) South 64° 30' 37" West, 45.34 feet to a point; thence
- 24.) 38.76 feet along the arc of a tangent curve to the right having a radius of 35.00 feet and a chord bearing and distance of North 83° 45' 59" West, 36.81 feet to a point; thence
- 25.) South 33° 28' 39" West, 23.83 feet to a point; thence
- 26.) 32.50 feet along the arc of a non-tangent curve to the right having a radius of 60.00 feet and a chord bearing and distance of North 41° 00' 22" West, 32.10 feet to a point; thence
- 27.) North 25° 20' 49" West, 79.38 feet to a point; thence
- 28.) 61.22 feet along the arc of a non-tangent curve to the right having a radius of 60.50 feet and a chord bearing and distance of North 08° 07' 57" East, 58.64 feet to a point; thence
- 29.) North 25° 36' 05" West, 143.88 feet to a point marking northeasterly corner of the aforesaid Lot 915 in Square 3648, said point also marking the northwesterly corner of said Lot 916 in Square 3648, said point also lying on the outline of the aforesaid Plat of Computation; thence leaving said outline of Lot 915 and running with a portion of the outline of said Plat of Computation
- 30.) North 64° 23' 55" East, 127.16 feet to a point marking the northwesterly corner of Lot 813 in Square 3648, said point also marking a northerly corner of the aforesaid Lot 916 in Square 3648; thence leaving the aforesaid outline of the Plat of Computation and running with the outline of said Lot 813, the following seven (7) courses and distances



- 31.) South 25° 36' 05" East, 327.00 feet to a point; thence
- 32.) South 67° 04' 27" East, 84.42 feet to a point; thence
- 33.) North 64° 24' 09" East, 189.28 feet to a point; thence
- 34.) North 89° 59' 11" East, 50.75 feet to a point; thence
- 35.) Due North, 68.21 feet to a point; thence
- 36.) North 64° 23' 55" East, 88.10 feet to a point; thence
- 37.) Due East, 24.89 feet to a point marking the southeasterly corner of said Lot 813 in Square 3648, said point also marking a northeasterly corner of the aforesaid Lot 916 in Square 3648; thence leaving said outline of Lot 813 and running with a portion of the outline of said Lot 916
- 38.) Due South, 510.10 feet to the point of beginning containing 166,240 square feet or 3.81635 acres of land.

**SAVING AND EXCEPTING** the following part;

Being a portion of Lot 916 in Square 3648, said portion being formerly known as Lot 914 in Square 3648, said Lot 914 being formerly a portion of Lot 810 in Square 3648 as shown on the aforesaid Plat of Computation recorded in Survey Book 204 at Page 209, and being more particularly described as follows:

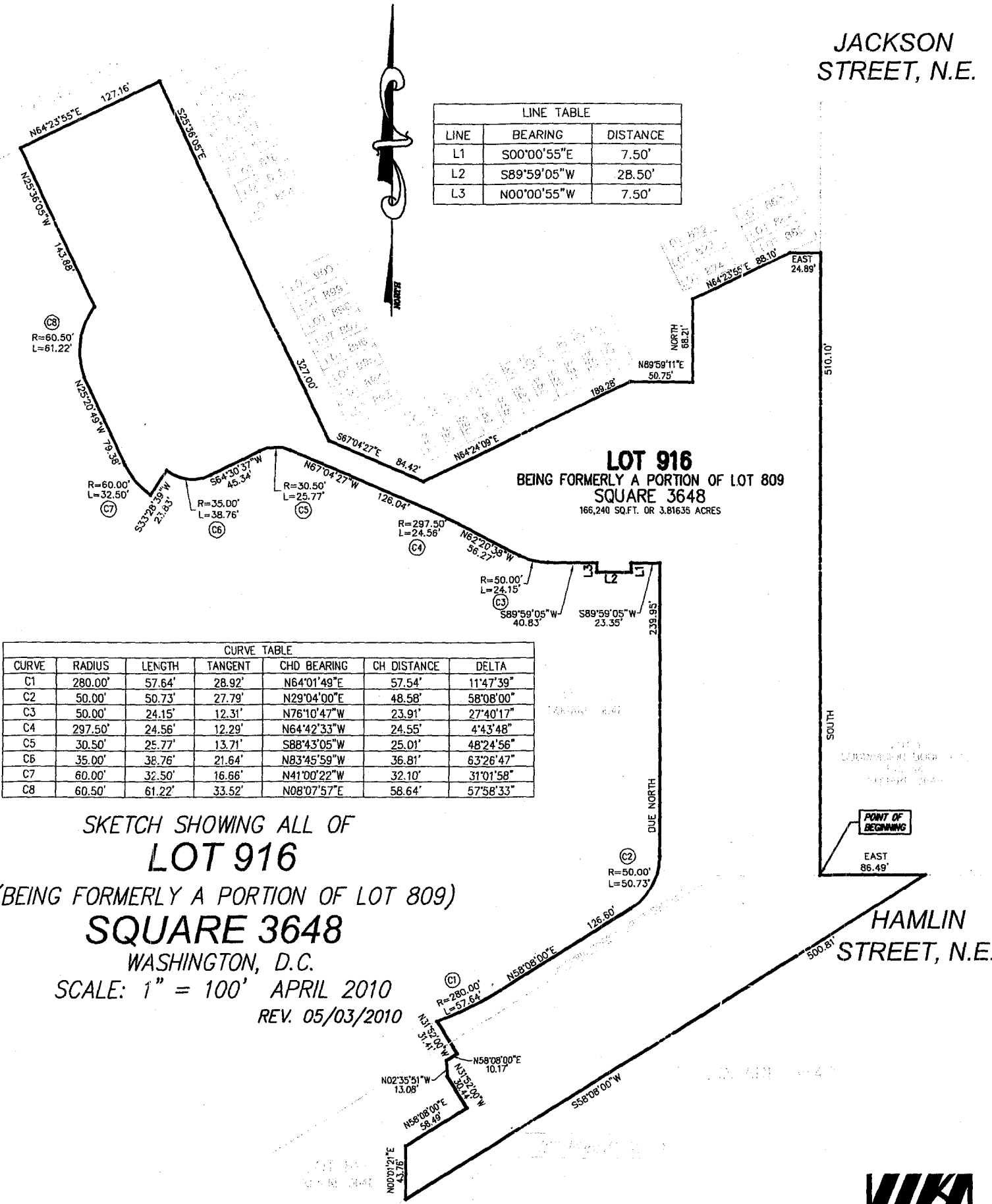
Beginning for the same at a point marking the southwesterly end of the aforesaid thirteenth (13) or South 89° 59' 05" West, 23.35 foot line of Lot 916 in Square 3648; thence running with a portion of the outline of said Lot 916 in Square 3648 the following three (3) courses and distances

- 1.) South 00° 00' 55" East, 7.50 feet to a point; thence
- 2.) South 89° 59' 05" West, 28.50 feet to a point; thence
- 3.) North 00° 00' 55" West, 7.50 feet to a point marking the northeasterly end of the aforesaid seventeenth (17) or South 89° 59' 05" West, 40.83 foot line of Lot 916 in Square 3648; thence leaving the aforesaid outline of Lot 916 in Square 3648 and running so as to cross and include a portion of said Lot 916
- 4.) North 89° 59' 05" East, 28.50 feet to the point of beginning containing 214 square feet or 0.00491 acres of land.



JACKSON STREET, N.E.

LINE TABLE		
LINE	BEARING	DISTANCE
L1	S00°00'55"E	7.50'
L2	S89°59'05"W	28.50'
L3	N00°00'55"W	7.50'



**LOT 916**  
 BEING FORMERLY A PORTION OF LOT 809  
 SQUARE 3648  
 166,240 SQ.FT. OR 3.81635 ACRES

CURVE TABLE						
CURVE	RADIUS	LENGTH	TANGENT	CHD BEARING	CH DISTANCE	DELTA
C1	280.00'	57.64'	28.92'	N64°01'49"E	57.54'	11°47'39"
C2	50.00'	50.73'	27.79'	N29°04'00"E	48.58'	58°08'00"
C3	50.00'	24.15'	12.31'	N76°10'47"W	23.91'	27°40'17"
C4	297.50'	24.56'	12.29'	N64°42'33"W	24.55'	4°43'48"
C5	30.50'	25.77'	13.71'	S88°43'05"W	25.01'	48°24'56"
C6	35.00'	38.76'	21.64'	N83°45'59"W	36.81'	63°26'47"
C7	60.00'	32.50'	16.66'	N41°00'22"W	32.10'	31°01'58"
C8	60.50'	61.22'	33.52'	N08°07'57"E	58.64'	57°58'33"

SKETCH SHOWING ALL OF  
**LOT 916**  
 (BEING FORMERLY A PORTION OF LOT 809)  
**SQUARE 3648**  
 WASHINGTON, D.C.  
 SCALE: 1" = 100' APRIL 2010  
 REV. 05/03/2010

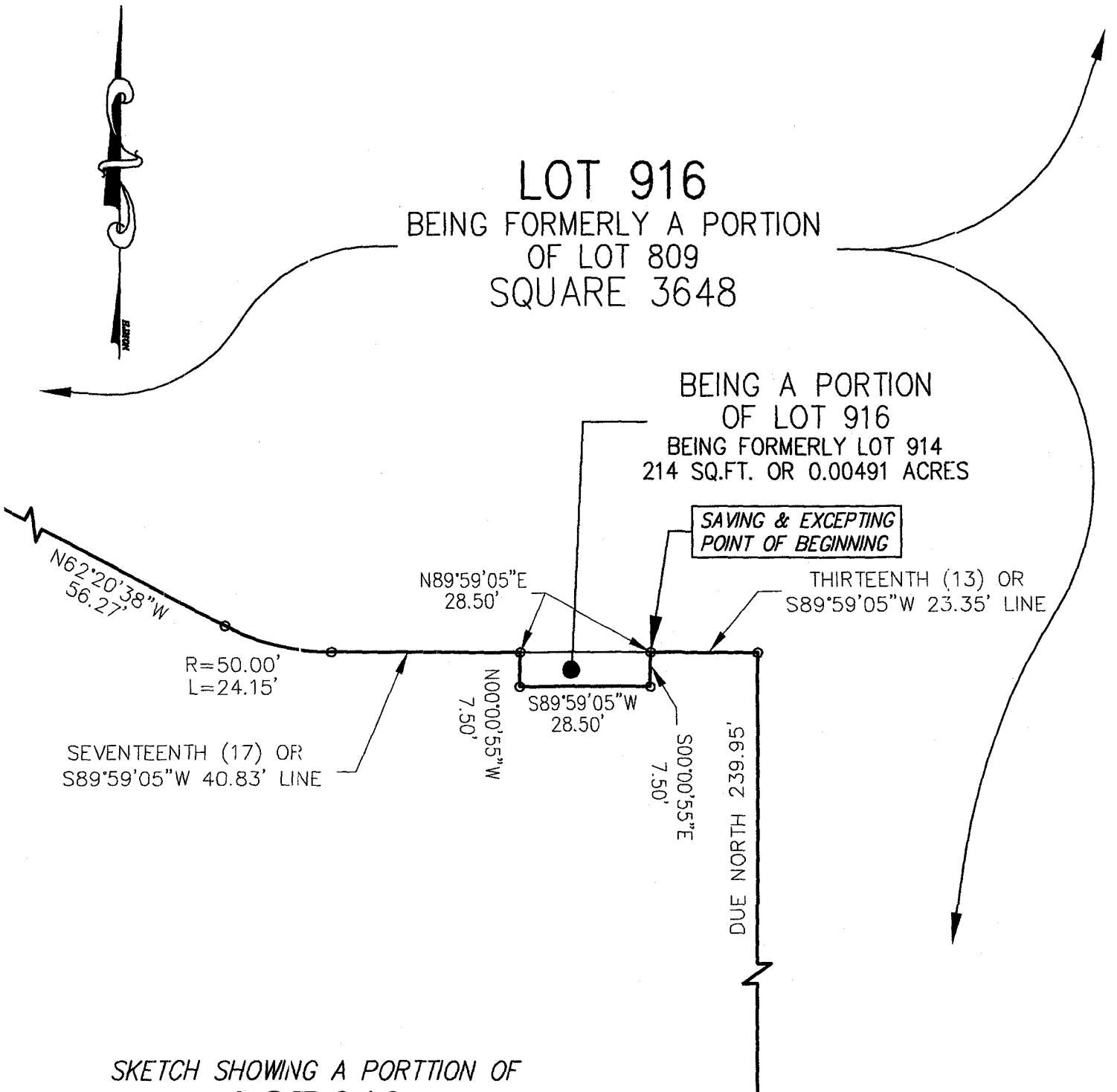
ENGINEERS ■ PLANNERS ■ LANDSCAPE ARCHITECTS ■ SURVEYORS ■ GPS SERVICES

VIKA INCORPORATED  
 20251 CENTURY BOULEVARD—SUITE #400 ■ GERMANTOWN, MARYLAND 20874  
 (301) 916-4100 ■ FAX (301) 916-2282  
 GERMANTOWN, MD. MCLEAN, VA.

**LOT 916**  
 BEING FORMERLY A PORTION  
 OF LOT 809  
 SQUARE 3648

BEING A PORTION  
 OF LOT 916  
 BEING FORMERLY LOT 914  
 214 SQ.FT. OR 0.00491 ACRES

SAVING & EXCEPTING  
 POINT OF BEGINNING



SKETCH SHOWING A PORTION OF  
**LOT 916**  
 (BEING FORMERLY LOT 814)  
**SQUARE 3648**  
 WASHINGTON, D.C.  
 SCALE: 1" = 30' MAY 5, 2010



ENGINEERS ■ PLANNERS ■ LANDSCAPE ARCHITECTS ■ SURVEYORS ■ GPS SERVICES

VIKA INCORPORATED  
 20251 CENTURY BOULEVARD-SUITE #400 ■ GERMANTOWN, MARYLAND 20874  
 (301) 916-4100 ■ FAX (301) 916-2252  
 GERMANTOWN, MD. MCLEAN, VA.

**EXHIBIT B**

ZONING COMMISSION ORDER NO. 07-27A

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Office of Zoning



MEMORANDUM

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*I attest and certify that I am the Director of the District of Columbia Office of Zoning, and that attached hereto, and bearing my initials in red ink in the lower right corner of each page is a true copy of Exhibit No. 64 submitted in ZC Case No. 07-27A. The original record is in my custody and possession in my official capacity.*

*Jamison L. Weinbaum*

JAMISON L. WEINBAUM

Director

Office of Zoning

Signed and sworn to before me this 26<sup>th</sup> day of October,  
2009.

*Sharon S. Schellin*

SHARON S. SCHELLIN

NOTARY PUBLIC, D.C.

*My Commission expires on JANUARY 1, 2014*



GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
ZONING COMMISSION CORRECTED<sup>1</sup> ORDER NO. 07-27A

Z.C. Case No. 07-27

EYA, LLC and St. Paul's College

(Consolidated Planned Unit Development and Related Zoning Map Amendment)

November 10, 2008

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held a public hearing on July 17, 2008 to consider an application for EYA, LLC and the Missionary Society of Saint Paul the Apostle, for the consolidated review and approval of a planned unit development ("PUD") and a PUD-related amendment to the Zoning Map from the R-5-A Zone District to the R-5-B Zone District for a portion of the property known as Square 3648, Lot 808, pursuant to an Assessment and Taxation subdivision that portion is now known as Lot 809 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.

At its public meeting on September 29, 2008, the Commission took proposed action to approve the application and plans that were submitted into the record.

The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") pursuant to § 492 of the Home Rule Act. The NCPC Executive Director, through a Delegated Action dated October 7, 2008, found that the proposed PUD and related map amendment to change the zoning from R-5-A to R-5-B is not inconsistent with the Comprehensive Plan for the National Capital, nor would it adversely affect any federal interests.

The Commission took final action to approve the application on November 10, 2008.

**FINDINGS OF FACT**

**PROCEDURAL HISTORY**

1. The property that is the subject of this application is an irregularly-shaped portion of Lot 808 in Square 3648 bounded by 5<sup>th</sup> Street N.E. and 6<sup>th</sup> Street N.E. to the south, Hamlin

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<sup>1</sup> On September 14, 2009, the Commission granted the Applicant's request for a minor modification and technical corrections to Order 07-27 ("Original Order") as published in the March 8, 2009 edition of the *D.C. Register*. At the time of the publication of the Original Order, the PUD site was part of a larger lot and, therefore, its boundary could only be described through metes and bounds as depicted on a plat. Now that the lot has been subdivided, the Applicant requested that the Original Order be modified to reference the new lot that will comprise the PUD site. In addition, the Applicant asked that the Commission correct a mistake in the Decision section of the Order which referenced an incorrect record Exhibit number. Except for necessary conforming revisions, no other changes have been made to the Original Order.

Street N.E. and Jackson Street N.E. to the east, the campus of St. Paul's College to the west, and the United States Conference of Catholic Bishops to the north (the "Subject Property" or "Property"). The PUD is located in the Brookland/Edgewood neighborhood in Ward 5. The Property consists of approximately 10.2 acres or 444,312 square feet. The Property is located in the R-5-A Zone District.

2. EYA, LLC ("EYA") is a residential developer based in Bethesda, Maryland, and the Missionary Society of Saint Paul the Apostle ("St. Paul's College") is a Catholic Paulist seminary (collectively, the "Applicant"). St. Paul's College is the current owner of the Property. EYA is a contract purchaser of the Property and developer of the PUD project.
3. The Applicant seeks to construct a 237-unit townhome development consisting of three sizes of single-family townhomes (14-foot, 16-foot, and 18-foot-wide models). (Exhibit 16, pp. 4-5.)
4. The Commission set the case down for a public hearing at its November 19, 2007 public meeting. At that meeting, the Commission members and the Office of Planning ("OP") expressed the following concerns and/or requested additional information: density of the project, adequacy of green space, traffic circulation, amount of surface parking, type and amount of affordable housing units, extent of environmental impacts, extent of public improvements, types of streetscape improvements, and extent of community participation. (November 19, 2007 Transcript, pp. 76-87.)
5. In its Pre-Hearing submission, dated April 18, 2008, the Applicant addressed and submitted information on the above-mentioned issues. In addition, the Applicant made other modifications to the plans, including:
  - A reduction in the number of townhomes from 251 to 237;
  - Elimination of the largest unit types that sealed off open spaces;
  - A reduction in the variety of floor plans;
  - A reduction in the number of off-street parking spaces from 542 to 403;
  - A four percent increase in overall green space from 107,000 square feet (24%) to 126,504 square feet (28%);
  - Expansion of the central green park area to 14,200 square feet; and
  - Improved vehicular circulation patterns and street configuration. (Exhibit 16.)
6. The Applicant filed a supplemental submission on June 30, 2008, which included the following: a revised site plan illustrating the locations of the affordable units; an illustration of the elevations of the rear of the townhouses; an illustration of private green spaces in the development; an updated explanation of community benefits; and resumes of proposed expert witnesses. (Exhibit 25.)

7. The Commission held a public hearing on the above-mentioned application on July 17, 2008, which was conducted in accordance with the provisions of 11 DCMR § 3022.
8. At the July 17, 2008 public hearing, the Commission recognized Jack McLaurin of Lessard Group, Inc. as an expert in architecture, Jami Milanovich of Wells & Associates, LLC as an expert in traffic engineering and transportation planning, and Mark Morelock of VIKA as an expert in engineering. (July 17, 2008 Transcript, pp. 9-10.)
9. At the July 17, 2008 public hearing, the Commission requested the following additional information from the Applicant:
  - Details of the amenities package;
  - Reconsideration of the size affordable housing units in response to the OP's position;
  - A site plan better illustrating the relationship between the private streets and the neighborhood streets;
  - Three-dimensional views of the project to depict how an observer will view the project;
  - Volumetric study and perspective of a typical courtyard;
  - Photographs of the surrounding neighborhood; and
  - Detailed color renderings of the houses including the downspouts. (July 17, 2008 Transcript, pp. 259-262.)
10. The Applicant filed a post-hearing submission on August 15, 2008, which included the following responses to the Commission's requests: photographs of the surrounding neighborhood; a depiction of the project's relationship to the neighborhood; a vignette of views into the project; a volumetric study of the courtyard; detailed color renderings with roof line variety; graphic depictions of traffic circulation patterns; and a checklist of LEED commitments. (Exhibit 44.) The Applicant filed a supplemental post-hearing submission on September 25, 2008. The submission stated the Applicant had continued its discussions with ANC 5C but the parties were unable to reach a mutually agreeable resolution. The submission also proffered enhancements to the amenities package. (Exhibit 50.) The Applicant filed a second supplemental post-hearing filing on October 25, 2008 proffering a Construction Management Plan for the PUD project.

#### PUD SITE AND SURROUNDING AREA

11. The Property is located in Ward 5 and is composed of approximately 10.2 vacant acres or 444,312 square feet. It is an irregularly shaped parcel bounded by 5<sup>th</sup> Street N.E. and 6<sup>th</sup> Street N.E. to the south, Hamlin Street N.E. and Jackson Street N.E. to the east, 4<sup>th</sup> Street N.E. and the campus of St. Paul's College to the west, and the United States Conference of Catholic Bishops to the north. (Exhibit 4, Exhibit A.)

12. The subject site is part of the 19.68-acre St. Paul's College campus. The subject site occupies approximately one-half of the College campus and will be under separate ownership. (Exhibit 4, p. 1, Exhibit A.)
13. The Property has significant grade changes, with the St. Paul's College building being located at the high point. The Property slopes downward from the College's main building to the subject site. Open fields interspersed with large, mature trees dominate most of the subject site. The site is bordered mainly by moderate-density residential development to the south and to the east and institutional uses to the north and west. (Exhibit 16, p. 4; Exhibit 4, Exhibit B.)
14. The project will leave the College's Main Building unchanged. (Exhibit 16, Exhibit B.)

#### DESCRIPTION OF THE PUD PROJECT

15. The proposed 237-unit townhouse development will provide a variety of housing options for individuals and families seeking homeownership opportunities in Ward 5. The various unit types have been interspersed throughout the Property. The proposed density of the PUD project (1.27 FAR) is significantly lower than the matter-of-right density limitation (1.8 FAR) and the proposed building heights (38-48 feet) are also lower than the maximum matter-of-right building height (50 feet) in the R-5-B Zone District. (Exhibit 16, p. 6.)
16. The 14-foot-wide townhomes will include approximately 2,022 square feet of living area; the 16-foot-wide townhomes will include approximately 2,318 square feet of living area; and the 18-foot-wide townhomes will include approximately 2,586 square feet of living area. These homes are comparable in size to typical single family detached homes located in an R-5-B Zone District. Each single family townhome will be three or four stories with varying layouts. All of the single-family townhome units will have garages on the first floor and two or three bedrooms on the upper floors. All of the townhomes will have optional rooftop terraces. (Exhibit 16, Exhibit B; Exhibit 17.)
17. The Project will provide a significant amount of open and green space. Open space accounts for 126,504 square feet (2.9 acres) or 28% of the site area. The overall building lot occupancy (which includes decks) is 31%. (Exhibit 16, Exhibit B, p. C-48.)
18. The central open space provided in the project is the large Corner Park, which includes a total of 14,000 square feet, is intended for non-organized, passive and active recreational use. The southeast corner of the Corner Park will include a plaza with stadium style seating. The park will be a mostly level expanse of lawn punctuated by shade trees and surrounded by masonry seat walls and retaining walls, benches, and mixed border plantings (Exhibit 16, p. 16).

19. Many of the townhomes will open onto shared courtyards of varying widths and lengths. These courtyards will feature outdoor seating and panels of lawn surrounded by flowers, evergreen shrubs and ornamental grasses. In addition, smaller open spaces and lawns will weave throughout the development, particularly on the sides of some of the buildings and along the perimeter of the subject site. Many townhomes will have lawns in their rear and side yards, and one-third of the townhomes will have private yards. (Exhibit 16, p. 15.)
20. The front façades and sides of most the buildings will be predominantly brick. Siding will be used on the loft levels and on the alley façades. The homes located near the existing St. Paul's College will have a more complimentary architectural style with stone veneer. (Exhibit 16, p. 5.)
21. All units will have one or two garage parking spaces accessed from the rear of the units via alleys. The 14-foot-wide and 16-foot-wide units will have a single parking space in the garage with the option of an additional tandem parking space, while the 18-foot-wide units will have two side-by-side parking spaces in the garage. In addition, 85 additional guest parking spaces will be made available throughout the site on the interior private street system. (Exhibit 16, pp. 5-6; Exhibit 17, pp. A-100, A-104, A-120.)
22. The Applicant requests a PUD-related amendment to the Zoning Map, from the R-5-A to the R-5-B Zone District, in order to accommodate all of the specifications and goals of the project. (Exhibit 4, p. 8.)
23. Pursuant to 11 DCMR Chapter 24, the Applicant also requests relief from the rear and side yard requirements (§§ 2516.5(b), 404 and 405) and to allow more than one principal structure on a single lot (§ 2516.1). This flexibility requested to the R-5-B Zone District will have no impact on the surrounding properties. (Exhibit 16, p. 6.)

#### SATISFACTION OF PUD EVALUATION STANDARDS

24. Through written submissions and testimony to the Commission, the Applicant and its representatives noted that the application will provide high-quality residential development on the Subject Property with significant public benefits to the neighborhood and the District as a whole.
25. The goal of this project to create high quality homeownership opportunities and an attractive community that would be an integral part of the larger Brookland/Edgewood neighborhood. This project will be integrated with the neighborhood and will benefit the community as a whole. Neighborhood residents will be able to enjoy the large Corner Park. (Exhibit 16, pp. 7-8.)
26. At the hearing, the Applicant's representative, Jack Lester, noted that the amenities package had been thoroughly vetted with the ANC-5C Single Member District

Commissioner and that the Applicant would continue to work with the ANC and community to satisfy its commitments (July 17, 2008 Transcript, pp. 45-48.)

- 27. The Applicant's architect, Jack McLaurin, admitted as an expert in architecture, testified that the project's design showed a strong sense of neighborhood compatibility by taking into account the streets, the nearby institutions, the neighborhood houses and the public spaces. Mr. Lester noted that the community will not be gated and will be directly accessible from several streets: 5<sup>th</sup> Street N.E., 6<sup>th</sup> Street N.E., Hamlin Street N.E., and Jackson Street N.E. to connect the project to the surrounding street grid. Mr. Lester also noted the importance of open space in the project. (July 17, 2008 Transcript, pp. 21-24.)
- 28. Urban Design and Architecture: The proposed townhomes are designed to complement and elevate the level of architectural quality and design in this area of the District. The proposed design connects the homes to the public streets and courtyards, incorporates the entire development into the existing neighborhood, and enhances the walkability of the entire project. The façades of most of the townhomes have been designed in a traditional brick front-porch style that is common in the neighborhood. A variety of color schemes will be used create a varied streetscape. Townhomes near, and facing, St. Paul's College have been designed in a complementing architectural style in order to provide a transition from the College's Main Building to the more traditional townhomes. The proposed landscape plan and treatment of the Corner Park, the courtyards and the private open spaces will provide active and passive recreation opportunities for residents of the project and their guests. (Exhibit 16, p. 7; July 17, 2008 Transcript, pp. 25-34; Exhibit 44, Exhibit F.)
- 29. Site Planning The site plan for the proposed project makes efficient use of an undeveloped site that sits in the center of a developing neighborhood. The site is laid out in a general pattern of orthogonal streets and blocks. The design of the residential complex intersperses street-oriented, rear-loaded townhomes in an efficient and economical manner appropriate for the R-5-B Zone District. The plan seamlessly ties the new development with the existing neighborhood in a fashion that encourages pedestrian activity. (Exhibit 16, p. 8.)
- 30. Effective and Safe Vehicular and Pedestrian Access: The Project provides four means of vehicular access: 5<sup>th</sup>, 6<sup>th</sup>, Hamlin, and Jackson Streets N.E. The connections to the surrounding street allow pedestrians and vehicular traffic to enter and exit the development safely and efficiently. The new internal road system allow for two way traffic. Safe and ample sidewalks will be created along the surrounding public streets and throughout the site to encourage pedestrian activity and also mitigate any pedestrian/vehicular conflicts. The PUD will provide residents with 403 parking spaces and 85 spaces designated for guests. (Exhibit 16, p. 8.)
- 31. The Applicant's traffic and parking expert provided written documentation and testimony that analyzes the Subject Property and the neighborhood as recommended by the District

of Columbia Department of Transportation (“DDOT”). (Exhibit 4, Exhibit C; July 17, 2008 Transcript, pp. 40-41.)

32. The private roadway improvements recommended by the traffic and parking expert and proposed by the Applicant include:
- Adjustments to the green light times during the AM and PM peak hours at the Michigan Avenue/Harewood Road intersection;
  - Adjustments to the green light times during the AM peak hour at the Michigan Avenue/4th Street intersection;
  - Adjustments to the green light times during the PM peak hour at the 7th Street/Monroe Street intersection;
  - Install signs to help lower speed and update pavement markings on Franklin Street; and
  - Provide incentives for new residents to use public transit. (Exhibit 4, Exhibit C, p. 36.)
33. Housing: In addition to providing a significant amount of market rate housing units, the project will also set aside 28 affordable units. The sale of the affordable units will be targeted buyers with annual household incomes (four person family size) at or below 50% of the Washington Metropolitan Area Median Income (“AMI”) and to those with annual household incomes at or below 80% of the Washington Metropolitan AMI. The 28 affordable units will be divided equally between both income distributions (14 units for 50% AMI and 14 units for 80% AMI). All affordable units will be the 14-foot-wide model. The gross floor area for this unit type is approximately 2,022 square feet and these homes contain two or three bedrooms and two or three bathrooms. Each unit has a one car garage and an optional second tandem space. The Affordable Housing Program will commence on the date that the first building including an affordable unit has received a certificate of occupancy and will run for 20 years. Upon expiration of the 20 year term, these units may be sold at market rates. (Exhibit 22, p. 19.)
34. First Source Employment Program: The Applicant will enter into an agreement to participate in the Department of Employment Services (“DOES”) First Source Employment Program to promote and encourage the hiring of District of Columbia residents during the development and construction process. (Exhibit 16, p. 9.)
35. Environmental Benefits: The construction of this project will have no adverse environmental impact. The Applicant stated that it is committed to building a community that meets LEED – ND certification, which includes low energy appliances and low-e glass. In addition, the project includes a Low Impact Development strategy that will reduce and treat stormwater runoff; this will include bioretention facilities, a rain garden, bioswales, interconnected water mains, separate storm water and sewer systems, and new

9/22

storm drains on some streets. The Applicant also will minimize the number of trees that it must remove. (Exhibit 4, pp. 9-10, 15; Exhibit 16, p. 12.)

36. Uses of Special Value to the Neighborhood: The Applicant is providing the following public benefits and amenities. The total value of the community amenities package is at least \$1.58 million:

- Affordable Dwelling Units – 28 units, as described above, will be set aside as affordable dwelling units.
- The Triangle Park – The Applicant will make \$315,000 in improvements to the District of Columbia Department of Parks and Recreation’s “Triangle Park” bounded by 4<sup>th</sup> Street, Lincoln Road, and Franklin Street N.E. This park is within 150 feet of the Subject Property. The Applicant will make this improvement upon completion of one half of the townhomes (unit 119). The Applicant will plant trees; install sidewalks, lights, and outdoor furniture; construct a cast iron fence around the perimeter; and create stone dust paths through the park in accordance with the plan approved by the Department of Parks and Recreation. The Applicant will maintain the park for three years after completion with a maintenance cost of approximately \$35,000.00. (Exhibit 50.)
- Improvements to Public Infrastructure – Prior to the issuance of a Certificate of Occupancy for this PUD project, the Owner will spend approximately \$340,000 to improve the existing infrastructure for 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, and Hamlin Streets above and beyond what would be required for the project. Such improvements shall include sidewalks, street trees, new curbs and gutters, water mains, storm sewers. (Exhibit 50.)
- Local College Scholarship Fund – The Applicant will provide \$60,000 to a fund for the purpose of granting college scholarships to deserving District of Columbia Public School high school seniors residing within ANC 5C. This contribution will be made in single lump sum at the time of the settlement of the first home to the Community Foundation for the National Capital Region, which has a specific administrative infrastructure in place to manage this fund. (Exhibit 50.)
- Homeownership Training – The Applicant will sponsor training for people interested in purchasing the affordable for sale homes in the new community. Specifically, prior to releasing the affordable homes for sale, the Applicant will organize and sponsor informational sessions to meet the various needs of potential purchasers as described in Exhibit 50 of the record.
- Improvements to Shaed Elementary School – Representatives from EYA inspected the school with its head custodian on May 28, 2008 and compiled a detailed list of improvements to be made. EYA completed the list of improvements, including electrical repairs, tile replacement, masonry and concrete repairs, painting, and landscaping, prior to the start of the 2009 school year. The improvements have a value of \$35,000. (Exhibit 50.)



- Mass Transit Incentives – The Applicant will provide each new homeowner with a Transit Welcome Package, which will be intended to educate new residents on the many options available for transit usage. This package will include a \$20.00 Metro SmartCard (\$25), Metro map, bus schedules and routes, and information concerning retailers and service providers within walking distance of the site. (Exhibit 50.)

The Applicant will also make an application for a ZipCar location on the site and will pay the application fee (currently \$25) for each homeowner to become a ZipCar member.

Prior to the issuance of a Certificate of Occupancy for this PUD project, the Applicant will also install a SmartBike kiosk at the site's property line at Hamlin Street N.E.

- Small Business Grants – The Applicant will make a \$55,000 contribution to the Ward 5 Business Council to fund grants and training to small businesses within ANC 5C. EYA's contribution will be made in single lump sum at the time of the settlement of the first home. (Exhibit 50.)
- Contribution to Edgewood Civic Association – Prior to the issuance of a Certificate of Occupancy for this PUD project, the Applicant will provide \$15,000 for equipment and services for the benefit of Edgewood Civic Association. EYA will purchase a laptop and printer for the Association so that it may further its membership goals. Any funds remaining from the purchase of the referenced equipment will be used pay legal fees for establishing the Association as a non-profit 501(c)(3) and to prepay printing costs of the Association. (Exhibit 50.)

37. Comprehensive Plan: The PUD is consistent with many Major Elements of the Comprehensive Plan, including; the Land Use Element, the Transportation Element, the Housing Element, the Environmental Protection Element, the Parks, Recreation, the Open Space Element, the Urban Design Element, the Generalized Land Use Map, and portions of the Upper Northeast Element.

- Land Use Element: The proposed development is consistent with the land use provisions of the Comprehensive Plan since it is an infill development within one-half mile of a Metro station. The proposed project will be complementary to the surrounding neighborhood and will create a walkable community with usable green space.
- Housing Element: The proposed development is consistent with the housing provisions of the Comprehensive Plan since it creates 237 new townhomes. The Housing Element of the Plan seeks to ensure housing affordability; foster housing production, promote home ownership, and limit displacement. The Property is located in a residential and institutional neighborhood. A new development of townhomes in this neighborhood will not be disruptive, and in fact provides a new type of residential opportunity for existing residents of the neighborhood. No displacement of residents will occur as a result of this application. The proposed project will create new homes in a community with significant for-sale housing needs

on property that is currently vacant. The proposed high-quality residential community will serve as an anchor that strengthens and enhances the surrounding residential neighborhood.

- Transportation Element: The proposed development is consistent with the Transportation element because of its proximity to the Brookland-CUA Metrorail Station. This site is also well served by the Metrobus service. These transit options will encourage people to live within the District and utilize public transportation resulting in a decrease in automobile traffic. The Plan promotes smart growth as a regional solution of promoting infill and transit-oriented development. In addition, the Applicant will enhance the existing road network of the District by creating an effective and safe internal street system. Further, the sidewalks of the proposed development will be connected to the existing sidewalk system on 5<sup>th</sup>, 6<sup>th</sup>, Hamlin and Jackson Streets N.E. The sidewalks on these streets will be safer and more user-friendly with the integration of a complete pedestrian sidewalk system for the surrounding neighborhood.
- Urban Design Element: The proposed development will reflect the beneficial architectural qualities of the surrounding neighborhood, including St. Paul's College. In site planning and architectural detailing, the Project will emphasize and help strengthen a neighborhood identity for this area while still creating a new development that is in harmony with the strong architectural character of St. Paul's College. The Project proposes an appropriate number and density of residential units, while allowing for sufficient private and public open space for the residents.
- Parks, Recreation, and Open Space Element: The proposed project will offer new parks and public open space for residents of the new community and the surrounding neighborhood. Many of the townhomes will open onto shared courtyards of varying width and length. These courtyards will feature outdoor seating areas and panels of lawn surrounded by lush and diverse plantings of flowering and evergreen shrubs, herbaceous perennials and ornamental grasses. The Project will have a primary public open space: a 14,000 square foot park with a relatively level expanse of lawn punctuated by shade trees and surrounded by masonry seat walls and retaining walls, benches and mixed border plantings of ornamental trees, shrubs, herbaceous perennials, and ornamental grasses. The park will be suitable for both active and passive recreational activities and will include a paved plaza to serve as a community gathering place.

In addition, one of the public amenities, as discussed above, is the improvement of the existing public Triangle Park located a short distance away.

- Environmental Protection Element: The proposed project incorporates an extensive landscape plan providing for abundant trees and for comprehensive and creative stormwater treatment. The Low Impact Development ("LID") strategy included in this project will both reduce stormwater runoff and help treat stormwater prior to it leaving the Property. In addition, the Project will promote environmental

sustainability by complying with the U.S. Environmental Protection Agency and the U.S. Department of Energy's Energy Star Program for new homes and the equivalent of the LEED – ND certification from the U.S. Green Building Council.

- Generalized Land Use Map: The Comprehensive Plan Generalized Land Use Map includes the Subject Property in the Institutional land use category. The Institutional land use category envisions multiple-unit housing as well as low and moderate density housing such as row houses. The proposed project is entirely consistent with the Generalized Land Use Map designation of this site.
- Upper Northeast Element: The project is consistent with the area element calling for the capitalization on the presence of Metro stations. The creation of 237 new townhouses so close to the Brookland – CUA Metrorail station will capitalize on the presence of this Metro station and will improve transit ridership on both Metrorail and Metrobus.

The project is also consistent with the area element recognizing the importance of institutional open space. Accordingly, the development's primary public open space will be a 14,000 square foot on-site park. In addition, the Applicant is proposing to make improvements to the landscaping of the nearby, off-site Triangle Park.

#### GOVERNMENT REPORTS

38. In its July 7, 2008 report, OP recommended that the Commission approve the project. OP determined that the project is consistent with the goals and objectives of the Comprehensive Plan by increasing the range of housing options within Edgewood/Brookland. OP noted although the Property is designated as Institutional on the Generalized Land Use Map, this project would not be inconsistent with this designation. OP also noted that the project supports several Smart Growth principles. (Exhibit 28, p. 5.)
39. The July 7, 2008 OP report included the following:
  - A recommendation that the affordable units be distributed among all sizes (14-, 16-, and 18-foot widths);
  - More information about some of the community amenities, such as the scholarship, the contribution to the Edgewood Civic Association, the homeownership training, the improvements to Shaed Elementary School, and the contents of the Transit Welcome Package;
  - Installation of a SmartBike kiosk along the 7<sup>th</sup> Street frontage;
  - Dedicate 2-3 ZipCar parking spaces on-site; and
  - Copies of the First Source Employment Program contract be placed in public record before any permits are issued. (Exhibit 28, pp. 4, 12, 13.)

ADVISORY NEIGHBORHOOD COMMISSION REPORT

40. Silas Grant, ANC Commissioner of 5C09, testified on behalf of concerns expressed from citizens in the community. He noted first that EYA has done a good job in engaging the community and in designing the project. He then stated that many citizens are concerned that the project will decrease the availability of on-street parking in the neighborhood and that traffic (both from residents and from construction) will adversely impact the neighborhood. He also expressed that the amenities should be refined to reflect the needs of the community most directly impacted by this project (July 17, 2008 Transcript, p. 200-209).
41. By resolution dated September 16, 2008, ANC 5C voted to oppose the PUD because the community and the Applicant could not agree on the components or value of the community benefits package and because the residents continued to have concerns about construction traffic and commuter traffic on the proposed ingress and egress streets. (Exhibit 41.)

PARTIES AND PERSONS IN SUPPORT

42. Victoria Leonard Chambers, Senior Policy Analyst, testified in support of the project on behalf of Ward 5 Councilmember Harry Thomas, Jr. She noted the importance of building housing in the area and praised EYA for its engagement of the community. In addition, she commented on how EYA, the community, and Councilmember Thomas worked closely to design the community amenities package. (July 17, 2008 Transcript, p. 58.)
43. Deborah Smith, a nearby resident, testified in support of the project but with reservations. She testified that the community should have more input concerning the community amenities package and that the number of amenities should be increased. She also noted that the additional traffic should be considered more. (July 17, 2008 Transcript, pp. 223-230.)
44. Linda Yahr, a nearby resident, testified in support of the project but with reservations. She testified that she was pleased with the development and that it would be an asset to the community. However, she also stated that the community amenities being offered are insufficient for the impact that the project will have on the neighborhood, so she requested an increase in the amenities. She noted that more green space should be provided. (July 17, 2008 Transcript, pp. 233-239.)

PARTIES AND PERSONS IN OPPOSITION

45. Other than ANC 5C, which was automatically a party and whose opposition is discussed above, no parties testified in opposition to the project.

46. By letter dated July 3, 2008, the Dominican House of Studies and College of the Immaculate Conception (the "Dominicans") requested to participate as a party in opposition to the project. The Dominicans withdrew their request prior to the hearing.
47. Carol Parks, a nearby resident, testified as a person in opposition to the project. She noted that she does not oppose the project but that she opposes the parking scheme. She stated that the project does not provide a sufficient amount of off-street parking. (July 17, 2008 Transcript, pp. 240-243.)

#### DECISION MEETING

48. At the September 29, 2008 decision meeting, the Commission asked the Applicant to provide a Construction Management Plan including the study of the use of 4<sup>th</sup> Street N.E. for construction traffic and a clarification on the Applicant's proposed benefits package. (September 29, 2008 Transcript, pp. 35-51.)
49. In its post-hearing supplementary filing, dated October 20, 2008, the Applicant addressed and submitted information on the preceding requests of the Commission. This filing provided a detailed Construction Management Plan, including construction vehicle routing, work hours, parking, deliveries, site management, and cleanliness. The filing also included greater explanation of the amenities package. (Exhibit 56, Exhibits 1, 2.)

#### CONCLUSIONS OF LAW

1. 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.)
2. Under the PUD process, 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. In this application, the Commission finds that the requested relief from the rear and side requirements and to allow more than one principal structure on a single lot can be granted with no detriment to surrounding properties and without detriment to the zone plan or map.
3. The development of this PUD project carries out the purposes of Chapter 24 of the Zoning Regulations to encourage well planned developments which will offer a variety of building types with more attractive and efficient overall planning and design not achievable under matter-of-right development.

4. The Commission agrees with the written submissions and testimony of the Applicant's representatives that the project will provide superior features that benefit the surrounding neighborhood to a significantly greater extent than a matter-of-right project on the Subject Property would provide. The Commission finds that the mix of residential unit sizes, the harmonious architecture and design, the extensive green spaces, the pedestrian-friendly streets, the orientation of the residential units to front on courtyards or private streets, and the transportation oriented design are significant project amenities and exemplify superior features of urban design and architecture and site planning.
5. The Commission determines that the provision of 28 14-foot-wide affordable units made available to purchasers at or below 50% AMI (14 units) and to purchasers at or below 80% AMI (14 units) is a significant project amenity. The Commission also concludes that the proposed community amenities package will provide appropriate benefits to members of the surrounding area and the District as a whole.
6. The Commission finds that the proposed low impact development strategy proposed by the Applicant is an environmentally sensitive approach to development on the Property and is a public benefit and project amenity. The Commission believes that the landscape elements of the project add to the attractiveness of the immediate area and the comfort of the residents of the project and their guests and are therefore deemed to be another amenity of the project.
7. The Commission agrees with the testimony and written submissions of the Applicant and its experts, as well as the recommendations of OP, that approval of the proposed project is not inconsistent with the Comprehensive Plan. The Commission finds that the project is consistent with and promotes numerous elements and policies of the Comprehensive Plan. Specifically, the Commission believes that the project furthers the elements of: land use by creating an infill and transit-adjacent project; transportation by capitalizing on its proximity to the Brookland – CUA Metro station; housing by providing more neighborhood housing; environmental protection through its stormwater runoff plan; parks, recreation, and open space by offering extensive green space; and urban design by providing a harmonious and pedestrian-friendly design. The Commission also finds that the proposed PUD is also consistent with policies from the Upper Northeast Area Element.
8. The Commission agrees with the conclusions of the Applicant's traffic and parking expert and DDOT that the proposed project will have negligible adverse traffic or parking impacts on the surrounding community. The Commission believes that the proposed traffic signal adjustments at the identified intersections and that signs and pavement markings on Franklin Street are important in reducing any traffic impacts.
9. The impact of the project on the surrounding area and the operation of city services and facilities is acceptable given the quality of the public benefits in the project.

10. Judging, balancing, and reconciling the project amenities and public benefits offered, the degree of development incentives requested and the potential adverse affects of the project, the Commission concludes that the Application warrants approval.
11. In accordance with D.C. Official Code §1-309.10(d), the Commission must give great weight to the issues and concerns of the affected ANC raised in its written recommendation. ANC 5C stated in its resolution that it opposed the application because the community and the Applicant could not agree on the components or value of the amenities package and because the residents had ongoing concerns about construction and commuter traffic on the streets proposed as entrances/exits to the project. In particular, the Applicant and the ANC 5C09 Commissioner could not agree on the amount of money to be allocated to each of the particular amenities and whether certain amenities held value for the community. While the Commission acknowledges the ANC's concerns, it concludes that the Applicant's benefits and amenities are comprehensive, complete and in keeping with the requirements of the Zoning Regulations and § 2403.9. Further, the Commission concludes that it credits the Applicant's traffic expert and DDOT that the PUD will not create adverse impacts on neighboring property or the neighborhood due to an increase in vehicular traffic.
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 recommendations. For the reasons stated above, the Commission agrees with the OP recommendation for approval and accords those recommendations the great weight to which they are entitled.
13. Approval of the application will promote the orderly development of the Property in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Zoning Map of the District of Columbia.
14. Notice of the public hearing was provided in accordance with the Zoning Regulations.
15. The proposed PUD meets the minimum area requirements of 11 DCMR § 2401.1.
16. The Applicant is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.
17. The Commission concludes that the requests made in the Applicant's September 3, 2009 filing are technical in nature and can be granted on the Zoning Commission's Consent Calendar pursuant to 11 DCMR § 3030.

### DECISION

In consideration of the Finding of Fact and Conclusions of Law contained in this order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the application for

consolidated review of a planned unit development and related Zoning Map amendment application from the R-5-A Zone District to the R-5-B Zone District for a portion of Lot 808, now known as Lot 809, in Square 3648 as shown on Exhibit 4. The approval of this PUD and related Zoning Map amendment is subject to the following guidelines, conditions, and standards of this Order.

Except where otherwise noted, compliance with the following conditions shall be the sole responsibility of the Owner, although the Owner may authorize others to perform on its behalf. For the purposes of these conditions, the term "Owner" shall mean the person or entity then holding title to the subject property. If there is more than one owner, the obligations under this order shall be joint and several. If a person or entity no longer holds title to the Subject Property, that party shall have no further obligations under this Order, however that party remains liable for any violation of these conditions that occurred while an Owner. Reference to the Applicant shall refer to EYA, LLC and any successor in interest.

1. The PUD project shall be developed in accordance with the plans and materials submitted by the Applicant marked as Exhibits 16, 17, 25, and 44 of the record, as modified by the guidelines, conditions, and standards of this Order.
2. Twenty-eight of the residential units shall be reserved as affordable housing dwellings. Fourteen of the affordable units will be available to purchasers with annual household incomes at or below 50% of the Washington Metropolitan Area Median Income and 14 of the units will be available to purchasers at or below 80% of the Washington Metropolitan Area Median Income. The 28 affordable housing units offered will be the 14-foot-wide units and will be dispersed evenly throughout the project in accordance with the plan submitted by the Applicant.
3. Upon completion of one half of the townhomes, the Owner shall make \$315,000 in improvements to the District of Columbia Department of Parks and Recreation's "Triangle Park" bounded by 4<sup>th</sup> Street, Lincoln Road, and Franklin Street N.E. The improvements shall include, but not be limited to planting trees; installing sidewalks, lights, and outdoor furniture; constructing a cast iron fence around the perimeter; and creating stone dust paths through the park in accordance with the plan approved by the Department of Parks and Recreation. The Owner shall maintain the park for three years after completion of these improvements
4. Prior to the issuance of a Certificate of Occupancy for this PUD project, the Owner shall improve the existing infrastructure for 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, and Hamlin Streets in accordance with the plans contained in Exhibit 16 of the record.
5. On or before the settlement date of the first home, the Owner shall provide \$60,000 to a fund that will grant college scholarships to deserving District of Columbia Public School high school seniors residing within ANC 5C. The funds shall be deposited with the Community Foundation for the National Capital Region, which will administer the fund.



6. Prior to the release of the affordable homes for sale, the Owner shall organize and sponsor informational sessions to meet the various needs of potential purchasers as described in Exhibit 50 of the record.
7. The Owner shall provide each new homeowner with a Transit Welcome Package to educate new residents on the options available for transit usage. This package shall include a \$20.00 Metro SmartCard, Metro map, bus schedules and routes, and information concerning retailers and service providers within walking distance of the site.
8. The Owner shall apply for a ZipCar location on the site and pay the application fee for each homeowner to become a ZipCar member.
9. Prior to the issuance of a Certificate of Occupancy for this PUD project, the Owner shall install a SmartBike kiosk at the site's property line at Hamlin Street N.E.
10. The Owner shall make a \$55,000 lump sum contribution to the Ward 5 Business Council to fund grants and training to small businesses within ANC 5C on or before the time of the settlement of the first home.
11. Prior to the issuance of a Certificate of Occupancy for this PUD project, the Owner will provide \$15,000 for equipment and services for the benefit of Edgewood Civic Association. The contribution will be conditioned upon the use of the money for a laptop and printer and that any remaining may only be used to pay legal fees for establishing the Association as a non-profit organization recognized as exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code.
12. The Project shall include the low-impact development features specified in Exhibit 16 of the record, including the following features:
  - Four underground storm water management facilities, which will have integral sediment traps, will provide water filtration, and will reduce peak flows;
  - A rain garden to treat the runoff from the roof and paved parking areas of some buildings;
  - Bioswales along the roadways to filter the runoff;
  - Existing water mains will be looped and interconnected throughout the site to improve the water system;
  - Separate storm water and sewer systems;
  - New storm drains on Hamlin Street, Jackson Street, and 5th Street to accommodate runoff from the project;
  - Compliance with the Energy Star Program for new homes; and
  - Compliance with LEED – ND standards of the U.S. Green Building Council.

13. Prior to the issuance of a building permit for the PUD project, the Applicant shall enter into a First Source Employment Agreement with the Department of Employment Services. In addition, the Applicant shall provide information session for relevant Ward 5 businesses about the type of subcontractors needed for the project and the qualifications for completing the work.
14. The Applicant shall abide by the Construction Management Plan in Exhibit 56 of the record.
15. The Applicant shall have flexibility with the design of the PUD in the following areas:
  - To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, and toilet rooms, provided that the variations do not change the exterior configuration of the structures;
  - To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction without reducing the quality of the materials;
  - To vary the exact location of the affordable units, as show on the plans, provided they are so located in the same townhome building units or in the townhome building across from a common open space as shown on the plans; and
  - To make minor refinements to exterior details and dimensions, including balcony enclosures, belt courses, sills, bases, cornices, railings and trim, or any other changes to comply with Construction Codes or that are otherwise necessary to obtain a final building permit.
16. The PUD shall be valid for a period of two (2) years from May 8, 2009, the effective date of the Original Order. Within such time, an application must be filed for a building permit as specified in 11 DCMR § 2409.1, the filing of the building permit application will vest the Zoning Commission Order. Construction of the PUD project must start within three (3) years of the date of the effective date of this order.
17. No building permit shall be issued for the PUD until a covenant has been recorded 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 the Zoning Division of the Department of Consumer and Regulatory Affairs ("DCRA"). Such covenant shall bind the Owner and all successors in title to constrict and use the Property in accordance with this order, or amendment thereof by the Zoning Commission. The Applicant shall file a certified copy of the covenant with the records of the Office of Zoning.
18. The PUD related map amendment shall be effective upon the recordation of the covenant discussed in Condition No. 20, pursuant to 11 DCMR § 3028.9.

19. The Applicant and Owner are required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., (Act) the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, familial status, family responsibilities, matriculation, political affiliation, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination, which is also prohibited by the act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The failure or refusal of the applicant to comply shall furnish grounds for denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this order.

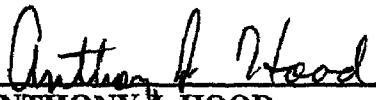
For these reasons above, the Commission concludes that the applicant has met the burden, it is thereby ORDERED that the application is GRANTED.


On September 29, 2008, upon the motion of Chairman Hood, as seconded by Commissioner Turnbull, the Zoning Commission **APPROVED** the Application by a vote of 4-1-0 (Anthony J. Hood, Curtis L. Etherly, Jr., Michael G. Turnbull to approve; Gregory N. Jeffries to approve by absentee ballot; Peter G. May to oppose).

On November 10, 2008, upon the motion of Chairman Hood, as seconded by Commissioner Turnbull, the Order was **ADOPTED** by the Zoning Commission at its public meeting by a vote of 3-1-1 (Anthony J. Hood, Michael G. Turnbull to adopt; Gregory N. Jeffries to adopt by absentee ballot; Peter G. May to oppose; Third Mayoral Appointee seat vacant, not voting).

On September 14, 2009 upon the motion of Chairman Hood, as seconded by Commissioner Schlater, the Commission granted the Applicant's request for a minor modification and technical correction to the Original Order at its public meeting by a vote of 4-0-1 (Anthony J. Hood, Konrad W. Schlater, Peter G. May, Michael G. Turnbull to adopt; William W. Keating, III, not present, not voting).

In accordance with the provisions of 11 DCMR § 3028, this Corrected Order became final and effective upon its publication in the *D.C. Register* on May 8, 2009.

  
\_\_\_\_\_  
ANTHONY J. HOOD  
Chairman  
Zoning Commission

  
\_\_\_\_\_  
JAMISON L. WEINBAUM  
Director  
Office of Zoning


GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Office of Zoning



Z.C. CASE NO.: 07-27

As Secretary to the Commission, I hereby certify that on OCT - 2 2008 copies of this Z.C. Corrected Order No. 07-27A were mailed first class, postage prepaid or sent by inter-office government mail to the following:

1. *D.C. Register*
2. Phil Feola, Esq.  
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ATTESTED BY:   
**Sharon S. Schellin**  
**Secretary to the Zoning Commission**  
**Office of Zoning**

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44

JLL