

Zoning Commission, May 4, 2009, Case Number 08-15
CPCA Testimony (George Idelson)

I am George Idelson, President of the Cleveland Park Citizens Association. Contrary to misrepresentations spread about our position, we ardently support an improved Giant. When Giant abandoned plans to build a new store, as agreed in 2002, we did more than any other group to bring them back into the game. But we have some serious concerns with this proposal and believed it appropriate, under Commission rules to present them, albeit reluctantly, as opponents:

1. The site of the PUD is defined by the Comprehensive Plan to be low density commercial. The Future Land Use Map says so. That's the law. You can't just ignore it.
2. According to a 2002 contractual agreement signed by Giant, CPCA and OP, the parties should enter meaningful discussions to resolve differences on any new development, and OP should be brokering those meetings. That's a binding legal agreement. It can't just be ignored.
3. CPCA has long been an advocate of the Overlay to ensure a balanced mix of neighborhood serving stores. The Comp Plan says we should have more such overlays. We maintain that an improved new Giant can be achieved without killing the Overlay.

As President, my responsibility is to help preserve the character of our neighborhood. Here's what the Comp Plan says:

"Many District neighborhoods possess... qualities that make them unique and desirable places to live. These qualities can lead to ... redevelopment pressures that threaten the very qualities that make the neighborhood attractive. These pressures must be controlled to ensure that neighborhood character is preserved." (218.1) That's our concern, and that's what the Plan says. You can't just ignore it.

The OP Report says the PUD area is an "*under-utilized* neighborhood center along a *major mixed-use* corridor." These generalizations are misleading, if not outright false. Yes, Giant's part of the South Block is "under-utilized" – but only because Giant has kept all their South Block retail space vacant for 8 years and allowed their store to deteriorate.

Meanwhile, the North Block *is fully utilized* and neighborhood-serving. Judged by very low store turnover, it is prosperous. Further, describing Wisconsin Avenue as a "major mixed-use corridor," surely does not apply to the C1, low density designation of the PUD site. Perhaps OP confused our Friendship Shopping Center with Friendship Heights, which is indeed "mixed use."

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The low-density designation is not a mistake, or an artifact of a bygone era. Nearby, taller residential buildings are consistent with their defined zoning. The Comp Plan especially commends Connecticut Avenue, an exemplar of such low profile commercial next to high-rise apartment buildings. Averaging out the zoning may be superficially appealing, but defeats an important goal of the Comp Plan.

Yes, we have concerns about the PUD as proposed. But we are open to finding common ground and deeply regret that our continued efforts to do so, right up to the Commission's February 19 hearing, were rebuffed by Giant.

George Idelson
President

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**Zoning Commission, April 6, Case Number 08-15
CPCA Testimony (Peter Espenschied) abridged for delivery**

I am Peter Espenschied, Vice President of the Cleveland Park Citizens Association.

This PUD, with support from OP, treats the Comprehensive Plan with contempt. The Plan's Future Land Use Map, with the same legal weight as the Plan text, says that Low Density Commercial is comprised primarily of one- to three-story *commercial* buildings. For the Rock Creek West Element, the Plan says: "Destination retail uses are not appropriate in smaller commercial areas, especially those without Metrorail access." [RCW-1.1.5] The Plan recognizes the use of commercial overlays [LU-2,4] and, indeed, it says, "Consider the creation of additional neighborhood commercial overlay zones ..." [Action RCW-1.1.A] This applicant sees the Overlay as an obstacle to its ambitious plans. However, removal of the Overlay would reverse the direction called for by the Comprehensive Plan. It would also remove the use constraints, which protect the economic viability of the area's low-scale retail and service shops.

The new Plan, like its predecessor, designates the Macomb-Wisconsin strip as low-density neighborhood commercial. The existing C-1 zone, plus the Neighborhood Commercial Overlay, accurately implement this designation. Although C-2-A zoning is arguably consistent with an area designated "low-density neighborhood commercial", especially at a Metrorail station, here the conversion to C-2-A zoning via a PUD would be unlawful because it would be done specifically to facilitate a project that is barred by the Plan. The Zoning Regulations say: "... the PUD process shall not be used to result in action that is inconsistent with the Comprehensive Plan." (Sec. 2400.4) That is reason number one for rejecting this PUD application. The developer would displace the City's own vision for this low-density commercial area, by inserting a mixed-use residential project. A 5-story building that is 80% residential cannot rationally be classified as "low-density commercial".

We support other opposition parties on issues, including parking, traffic, and loading. But we also want to draw attention to the economic climate in which this case is being heard. If you decide to approve this, or any, PUD encompassing both blocks, we urge you to require (a) that the existing grocery store must not be closed until financing for South Block construction has been completely committed, a performance bond executed, and required construction permits issued, and (b) that the new grocery store must be fully operating before any eviction, razing, or excavation is begun on the North Block. Note that it is likely that the 2002 Contract's issues will need to be resolved as a condition of financing.

A PUD is supposed to provide results that are superior to what could be done as a matter of right. This application turns that formula on its head. The South Block plan provides the needed large grocery store, but with such over-reaching baggage as to create a host of serious and completely avoidable problems. The North Block plan is patently unlawful.

TESTIMONY BEFORE ZONING COMMISSION
OF THE DISTRICT OF COLUMBIA

CASE NO. 08-15

May 4, 2009

Mr. Chairman, members of the Commission, good evening. I am Dorn C. McGrath, Jr., FAICP, testifying as an unpaid, volunteer, expert witness for the Cleveland Park Citizens Association. I am a Fellow of the American Institute of Certified Planners, now a Professor Emeritus of Urban and Regional Planning at The George Washington University. I served for seven years as Chairman of the Committee of 100 on the Federal City.

The proposed PUD is NOT consistent with the adopted Comprehensive Plan for the Wisconsin Avenue area. I know quite a lot about the Comprehensive Plan, having worked on it for more than twenty years. The application presented by Giant Friendship-Macomb SC, Inc., fails to show that it cannot build the project sought by the corporation under existing zoning.

The current Comprehensive Plan, adopted by the City Council in 2006, is the law. The Plan became effective on March 8, 2007. The Home Rule Act provided that the Mayor should prepare and implement a Comprehensive Plan for the city and required that zoning should not be "inconsistent with the Comprehensive Plan." It supports the concept of the overlay and cites it as a model for other neighborhoods. The Office of Planning should NOT be playing "fast and loose" with the approved Comprehensive Plan.

Since 1985, when a Land Use Element was added to the Comprehensive Plan, the Macomb/ Wisconsin commercial area has been designated as a Low-Density, Local Neighborhood Shopping Center. Amendments to the Comprehensive Plan have not changed that designation. It remains a low-density shopping center, certainly not a mixed-use, moderate-density center appropriate for some Metrorail-served areas.

This Commission, in 1989, changed the previous C-2A zoning to C-1 and adopted the neighborhood overlay zone regulation. Recognizing that the 1989 rezoning could lead to large-scale redevelopment inconsistent with the Comprehensive Plan, the Commission also adopted §§1308.2-1308.3 to provide for review of large developments, including their scale and massing, “to ensure compatibility with and enhancement of the primary neighborhood retail function of the commercial area.” Now, with its proposed PUD development, the applicant seeks to overturn these wise decisions by the Zoning Commission.

In effect, PUD regulations do not tolerate, and should not tolerate, PUD developments that would be used “to circumvent the intent and purposes of the zoning regulations nor to result in actions inconsistent with the Comprehensive Plan” (§2004.4). The PUD proposed here is indeed the camel’s nose under the tent.

The proposed PUD backs up brutally against existing commercial and residential uses on Macomb Street. All of these are inadequately served by loading docks. This may not be the applicant’s specific problem, but it forces the public to tolerate air and noise pollution from idling heavy vehicles, illegal parking and alley usage, and associated traffic congestion. How many of you have actually seen this alley? [Pictures] Note the two industrial-strength dumpsters, the five commercial-size supercans, the three residential-size supercans, and several empty milk crates. They also limit the size of truck that can access the alley. The proposed PUD, with its very inadequate loading dock solutions, would only compound an existing problem.

The Zoning Commission is required to promulgate regulations “in accordance with a Comprehensive Plan to lessen congestion in the street ... and efficiency in provision of public services.” By approving the proposed PUD, the Zoning Commission would be violating its own mandate.

I was surprised to learn from a DDOT study only five years old that the traffic from further development along the Wisconsin Avenue Corridor is expected to rise to almost-

intolerable Levels C, D, and E. Under the full PUD development proposal, traffic at Level F, or failure, is forecast for the Wisconsin Avenue Corridor for the entire segment from Fessenden to Whitehaven Streets, both northbound and southbound. How can this have been overlooked by the OP?

The Office of Planning report also fails to mention, anywhere, the residual parking, loading, trash collection and congestion problems on Macomb Street. It also seems to ignore the findings of DDOT. The Comprehensive Plan is still the law in the District, and ruling the proposed PUD to be “not inconsistent” with the law would make a mockery of the Comprehensive Plan. That the OP would “Recommend Approval” of the fundamentally flawed PUD is almost a “directed verdict” from the Office of Planning to the Zoning Commission. This is wrong.

It is pitiful to see so many good people caught up in this corporate contrivance to make money on a land deal. The deal is aggravated by an artificially imposed delay in construction, for which many have fallen – including some journalists – out of sheer impatience. AWARE is a primary example of this phenomenon. The proposed PUD has also involved sloppy work by both the OP and DDOT.

My final question is: Will the Zoning Commission be led into approving this artificially contrived proposal to exploit the Wisconsin Avenue corridor, or will the law prevail?

Thank you for this opportunity to present my views.

Cleveland Park Citizens Association

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RESOLUTION 090202—GIANT FOOD STORE REDEVELOPMENT (Adopted at a membership meeting on Sunday, February 15, 2009.)

Whereas, the Cleveland Park Citizens Association (CPCA) has represented the interests of the Cleveland Park neighborhood since 1911, and

Whereas, in May 2002, CPCA signed a contractual Agreement with Giant Food governing the character of any future construction on the site of the Giant Food store on Wisconsin Avenue, and

Whereas, the contract calls for, among other things, a new, modern enlarged grocery store, and a lively retail streetscape on Wisconsin Avenue in place of a blank wall forming the back of the store, and

Whereas, for more than three years after the contract was signed, and Wisconsin Avenue retail establishments had already been evicted, Giant failed to proceed with building a new grocery store, and

Whereas CPCA consistently encouraged Giant to restart its long dormant store replacement, and has seized every opportunity to confer with Giant to further the project, and

Whereas, Giant now proposes, in a combined 2-block Planned Unit Development, to replace the current 18,000 sf Giant with a 56,000 sf store on the South Block plus ground floor retail and second floor mixed use on Wisconsin Avenue and Newark Street, and a 5-story mixed-use development on the North Block, and

Whereas, the current proposal seeks to eliminate the Macomb-Wisconsin Neighborhood Commercial Overlay from the PUD area, which would then allow as many as seven large new restaurants, and

Whereas the part of the Macomb-Wisconsin Overlay District not in the PUD area is now largely made up of restaurants on Wisconsin Avenue and Macomb Street, consuming close to the 25% of the street frontage allowed by the Overlay, and

Whereas the lack of commercial parking in the North Block garage will create the potential for restaurant and other retail patrons to park on neighborhood streets, especially if space in the South Block garage proves to be inadequate, and

Whereas the PUD application is inconsistent with the Comprehensive Plan for these two parcels, by transforming the low-density commercial area into a higher density mixed-use area, and

Whereas, the current PUD proposal offers no reason, as required by zoning law, why it cannot achieve its goal to build a large new grocery store as a matter of right, as contemplated by the 2002 Agreement, and without removing the Overlay from the PUD, and

Whereas this applicant has previously evicted commercial tenants without being prepared to go forward with construction of the new store, and, in the current economic climate, there is a basis for concern that the project may be initiated and not completed;

Therefore, be it resolved that (a) the applicant must be required to certify that financing for the South Block project is completely committed before the present grocery store is closed, and (b) the new grocery store must be open and operating, and the applicant must be required to certify that financing for the North Block project is completely committed, before any excavation, razing, or eviction on the North Block is begun; and

Be it further resolved that CPCA, while strongly favoring a new supermarket and restored retail on Wisconsin Avenue, disapproves the PUD application in its current form for the above reasons, and authorizes its president and/or his designee to testify before the Zoning Commission in support of this resolution.

**OVERLAY
REMAINDER
CURRENTLY
CLOSE TO
25% ALLOWED
FOR RESTAURANTS
AND BARS**

PUD

OVERLAY FRONTAGE

IDAHO AVENUE NW

WISCONSIN AVENUE NW

(1) SITE PLAN
1" = 80'-0"

0 40 80 160

Project:



Wisconsin Avenue Giant
Giant Food
3338 Wisconsin Avenue, NW
Washington, DC 20016
Phone: 244-5823

Applicant / Owner:
Giant of Maryland LLC
1886 Hancock Street
Quincy, MA 02169

Master Planner:
Street-Works, LLC
30 Glenn Street
White Plains, NY 10608
914-949-6505

Architect of Record:
kennethpark architects
360 Lexington Avenue, 7th Floor
New York, NY 10017
212-399-0044

Civil Engineer:
Bohler Engineering
22630 Davis Drive, Suite 200
Sterling, VA 20164
703-706-9600

Traffic Engineer:
Wells & Associates
1420 Spring Hill Road, Suite 600
McLean, VA 22102
703-917-6600

DATE	REVISION
06/15/06	PUD SUBMISSION

SHEET TITLE:

SITE PLAN

PROJECT NO. 06-3801
SCALE: 1" = 80'-0"
DATE: May 15, 2006
DRAWN BY: KPA
REVIEWED BY: RJM
SHEET NO.

S102