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June 3, 1009

Zoning Commission of
the District of Columbia
441 4th Street, N.W., Suite 200
Washington, D.C. 20001

Re: Case No. 08-15

Dear Commissioners:

As I noted in my letter yesterday, I had a computer problem following several hours of merging different pieces into a single document. In my haste, I failed to notice that two pieces had been lost (in part because somehow they were also stripped out of my "downloads" file). The entire section dealing with traffic impacts, one of the major points of focus of our analysis and testimony, is simply omitted. Again, we don't believe that any party will be prejudiced or disadvantaged by your consideration of these materials, which merely summarize what you heard and saw at the hearings. Further, we do not think that the public interest will be served by an "empty chair" debate on this serious issue. Second, additions to the draft Decision we provided that picked up the points made by Mr. Pickman in his testimony as the basis of resolution of major contested issues were also omitted.

Attached I have provided additional pages numbered sequentially from what you already have to rectify these omissions. Thank you for your consideration. I will, of course, provide you and the other parties with revised complete electronic versions of the documents.

Respectfully,

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John O'Sullivan

On behalf of the Cleveland Park Citizens
Association, the Ordway Street Neighbors
Association, the 3300 Block of Idaho party, and
the Wisconsin-Newark Neighborhood Coalition

Enclosure w/attachments

ZONING COMMISSION
District of Columbia
CASE NO. 08-15
EXHIBIT NO. 264

ADDENDUM TO PROPOSED DECISION

9. To prevent spillover onto residential streets, the Applicant shall develop detailed, comprehensive parking, loading and traffic management plans that provide garage parking for a substantial number of community residents and existing restaurant patrons, control deliveries to all PUD properties, and mitigate impacts of increased traffic including escrow of \$500,000 for mitigation of unanticipated impacts.
10. The Macomb-Wisconsin Overlay shall be retained and applied to the entire commercial zone and the Applicant will be allowed two additional restaurants in the PUD each roughly the size of Café Deluxe today (occupying no more than 100 linear feet of streetfront) by special exception.
11. The Applicant shall develop and implement a plan to attract neighborhood-serving businesses, including long-term affordable rents and appropriately configured spaces to assure that existing and other local businesses will be able to locate in the commercial space when the development is completed.
12. The Applicant shall request DDOT to exclude residents of new PUD apartments from Residential Parking Permit eligibility.

ADDENDUM TO FINDINGS OF FACT

Traffic

279a. The Applicant stated Wisconsin Avenue Giant and adjacent neighborhoods are served by a connected network of arterial, collector, and local streets. This network offers multiple route choices, effectively disperses traffic, and provides sufficient capacity to adequately accommodate existing and future traffic.

279b. The Applicant stated that the PUD site and adjacent neighborhoods also are served by multiple bus which link the site with Metro stations. The Applicant's traffic study states that Metro stations are located beyond convenient walking distance for most people.

279c. The Applicant's traffic report stated that the PUD will add an additional 539 (or 119 percent) more weekday PM peak hour trips, and 550 (or 118 percent) more on Saturday mid-day peak hours. The independent peer review of the Applicant's traffic study concluded that the PUD will generate approximately 4050 additional vehicle trips on neighborhood streets per day. The Applicant did not contest this finding.

279d. The Applicant stated that no traffic calming is needed to address the PUD's impacts, but proposes to escrow \$100,000 to address 16 categories of identified possible traffic calming, pedestrian safety and traffic flow recommendations to be considered after the project is constructed and operational. The ANC recommended that we require a traffic calming escrow of at least \$500,000 to address unforeseen traffic calming needs. The Opponents stated that the Comprehensive Plan requires that mitigation of traffic impact, including traffic calming, be addressed in the PUD order, not deferred. The Opponents state that the Applicant's \$100,000 proposal is inadequate to cover both identified and unforeseen traffic mitigation on seven local, residential street segments as well s collector streets adjacent to the PUD, and support the ANC's condition that such escrow be at least \$500,000 to address unforeseen impacts.

279e. The Applicant stated that following construction of the PUD, all signalized study intersections would operate at an acceptable LOS "D" or better if existing signal timings are optimized. The Applicant stated in its traffic report that it proposes that signal retiming be deferred until after the PUD is fully operational and be funded from the same \$100,000 escrow proposed for traffic calming.

279f. The Opponents testified neighborhoods surrounding the PUD are already characterized by some of the highest cut-through traffic on residential streets in Northwest Washington. Major arteries connect downtown with Maryland and Northern Virginia suburbs, and that intersecting residential streets carry both essential and cut-through traffic between them. Additionally, many institutional uses draw traffic onto residential streets. Opponents also testified that there are 12 public and independent schools within walking distance of the PUD; most of their approximately 5,000 students and staff come in cars. In addition, the National Cathedral, a major tourist destination, and Fannie Mae, a major employer, are located close to the PUD site. Opponents testified that neither the Applicant nor the Office of Planning and DDOT considered these considered these factors.

279f. The Opponents testified and submitted evidence to show that there are significant disparities between the Applicant's reported traffic counts and those of independent professional traffic counts and publicly-reported DDOT data. The Opponents testified that these disparities raise serious questions about the accuracy of the Applicant's traffic studies, including the Applicant's position that consideration of traffic calming and other mitigation should wait until after the PUD is approved and built.

279g. Opponents presented evidence from two recent, independent traffic counts that, for example, on Newark Street just east of the PUD site, showed daily vehicle volume 117% greater and 62 % greater than the Applicant's highest recorded traffic data for this section of Newark. Opponents testified that, following submission of the independent traffic data to DDOT, DDOT installed 5 speed humps in April 2009 under an emergency work order in the 3400-3600 blocks of Newark, further confirming the validity of the independent data.

279h. The Opponents testified that DDOT's 2005 Upper Wisconsin Corridor Study found that traffic from future development along Wisconsin is expected to rise to almost intolerable D, E, and even F levels of service (LOS) . The Upper Wisconsin Corridor Study assumed that there would no PUD or upzoning at the PUD site. The Applicant did not contest this.

279i. The Opponents testified that the Applicant used other questionable assumptions to minimize the PUD's traffic impact. The Opponents presented evidence to question the Applicant's traffic growth projections for the PUD area. The Applicant used a growth estimate 0.25 percent, for all intersections except one in the Applicant's traffic study area. The Metropolitan Washington Council of Governments traffic model forecasts annual traffic growth in Northwest Washington, D.C. during this decade (2000-2010) at 0.7 percent annually. The independent peer review of the Applicant's traffic study conducted by PSI stated that 1 percent is a standard estimate for the Washington area, and concluded that Applicant's growth estimate is "not reasonable." The Applicant stated that its growth rate was consistent with the Upper Wisconsin Corridor Study.

279j. The Opponents also testified that the Applicant's traffic projections were further called into question by the Applicant's changing in its traffic study an earlier slide showing that the Newark and 34th Street intersection would operate at LOS F after the PUD is built, to LOS C. The Applicant provided no explanation or rebuttal on this point.

279k. The Opponents also testified that the resulting 4050 vehicle trips per day will further strain the capacity of even the Wisconsin Avenue arterial, which is operating at or close to capacity. Opponents cited DDOT's Glover Park Transportation Study (November 2007 draft), which analyzed traffic on Wisconsin Avenue just south of the PUD site, and determined volume-to-capacity ratio (v/c ratio), the ratio of current flow rate to the capacity of an intersection, was at or close to capacity at several Wisconsin Avenue intersections. The Applicant did not contest this.

279l. The Applicant also cites its transportation management plan, under which the Applicant will (1) provide at least 3 dedicated parking spaces for a car-sharing service; (2) provide

information on Metrorail and Metrobus service to customers and tenants, such as maps and schedules; (3) provide initial residential tenants with a \$20 SmarTrip card; (4) participate in a D.C. RideShare program, to the extent that it exists; (5) provide bike storage, and (6) set aside South Block garage parking for the fourteen South block apartments and their visitors. Finally, the Applicant states that these will be “shared” spaces: the same space that will be available for shoppers during the day may be used by restaurant-goers in the evening.

The Opponents state that:

i) The PUD site is not Metrorail accessible, since it is approximately one mile from the closest Metrorail stations. The Comprehensive Plan recognizes that $\frac{1}{4}$ to $\frac{1}{2}$ mile is generally used across the country to define the walkable radius around each station. 10 D.C.M.R. §306.8. DDOT testified in this case that it considers Metrorail accessible to mean that there is a Metrorail station is within one-half mile. The Applicant’s traffic study states that Metro stations are located beyond convenient walking distance for most people.

ii) Existing bus service has not been efficient. The Opponents cited in testimony a previous Office of Planning study concluding that in commercial areas that are not close to Metrorail stations, even when served by frequent, multiple bus routes, patrons are more likely to drive to commercial establishments.

iii) The Applicant’s proposals regarding provision of bus schedules, maps and SmarTrip cards, participation in a potential RideShare program and supplying bike storage are generic, not specifically related to the PUD site and its lack of proximity to a Metro rail station, and ineffectual to address the considerable traffic impact of the PUD. The Opponents testified that DDOT recommended the same measures for the Whitman-Walker development and 14th and Swan Streets, N.W., which does not include a 56,000 sq. ft. grocery store, and is situated one block – not one mile – from a Metro station. Opponents also testified that the Applicant’s other proposals, such as replacing faded street signs and re-striping crosswalks simply repeat on-going general safety recommendations from the Upper Wisconsin Corridor Study, which did not envision denser development at this site, do not mitigate traffic, and are to be funded from the same \$100,000 proposed escrow.

279m. The Opponents further testified that Applicant’s inclusion of bicycle racks in its traffic management plan is undercut by DDOT’s Bicycle Master Plan which classifies Wisconsin Avenue near the PUD site and Macomb Street south of the PUD site as having “E” LOS for bikes, meaning that such streets are not considered attractive or comfortable for bicycle users

279n. The Opponents state that the Comprehensive Plan requires assessment and mitigation of the traffic impact before the PUD is approved, not after the PUD is constructed and is operational. Specifically, the Comprehensive Plan provides that:

- “‘Destination’ retail uses are not appropriate in smaller-scale commercial areas, especially those without Metrorail access. Regardless of scale, retail development must be planned and designed to mitigate traffic, parking, and other impacts on adjacent residential areas.” (DC Comprehensive Plan, Ch. 23, RCW 1.1.5).

- New development shall “not unreasonably degrade traffic conditions, and traffic calming measures are required to reduce development impacts. This policy is essential to protect and improve the quality of life and the residential character of the area.” (Id., RCW 1.1.11).
- When Planned Unit Developments are proposed, required traffic studies must identify the mitigation measures that must occur to maintain acceptable transportation service levels—and secure a commitment to implement these measures through transportation management plans.
- Traffic studies and mitigation plans shall “consider not only the impacts of the project under consideration but the cumulative impact of other projects which also may impact the community, as well as the impact of non-resident drivers using local streets.” (Id., R.C.W. 1.1.12). The impact of new development along the Wisconsin Avenue corridor on traffic” must be mitigated to the greatest extent possible.” (Ch. 23, p. 23).

279o. The Ordway Street Neighbors testified as to their concern that traffic, including truck traffic, on Ordway Street will increase because of the PUD. They testified that installing a traffic signal at Idaho and Wisconsin Avenues, as proposed by Applicant and DDOT, will change traffic patterns and encourage traffic to and from the PUD to cross Wisconsin at that location and travel on Ordway Street. They testified that DDOT classifies the 3400-3600 blocks of Ordway as a “local” street, DDOT’s lowest-traffic functional classification. They further testified that the existing intersection of Idaho, Ordway and Wisconsin Avenues is already precarious and dangerous and that DDOT has installed signage and temporary pylons to discourage motorists traveling eastbound on Ordway to access Wisconsin Avenue at that intersection. They further testified that the traffic impact on Ordway will increase by patrons of North Block commerce seeking street parking in front of residents’ homes.

279p. The Ordway Street Neighbors requested that the Commission include traffic mitigation measures in any PUD order, including (a) that traffic on Idaho going northeast towards Wisconsin Avenue from the project site be required to turn either left or right onto Wisconsin and not go directly across Wisconsin to Idaho and Ordway Street; (b) that the existing temporary pylon barrier be redesigned and upgraded to be permanent and to prevent access from traffic on Wisconsin or Idaho to access Ordway Street; and (c) require measures to prohibit trucks and buses from using Ordway Street. On May 20, 2009 Applicant offered to pay for the costs of making permanent the existing pylon barrier that discourages eastbound traffic at Ordway from accessing Wisconsin Avenue (without charging it against the \$100,000). However, under Applicant’s proposal, traffic traveling from the PUD site would still be able to access Ordway Street.

279q. The Opponents testified that Macomb St both east and west of Wisconsin Ave is already congested, particularly since it is the only street linking Massachusetts Ave., Wisconsin Ave., 34th St., and Connecticut Ave. They testified that the PUD will add to the use of Macomb Street, through the proposed 38th Street garage entrance and South Block retail dock in the Macomb

Street alley may make traffic impassable on this collector street. Stephen Ives, a resident of Macomb, testified that the existing Macomb traffic problem is acute, and that the PUD's impact will make the existing problem worse. The Opponents further testified that Macomb is among the narrower area streets, and more vehicles will not only make the street more impassable but will encourage through traffic to use nearby local streets as cut-through routes.

279r. By letter to the Commission on May 20, 2009 a number of residents in the 3400-3600 blocks of Newark Street, N.W., stated that the PUD site will have a serious, negative traffic impact in the 3400-3600 blocks of Newark Street, N.W., where existing traffic volume is already significantly higher than DDOT's traffic calming guidelines state is appropriate for a street with a functional classification as a "local" street. They cited independent data in the record before the Commission showing that currently the average daily traffic volume on this section of Newark ranges from approximately 2000 to 2600 vehicles per day, with the highest daily volume over 2800 vehicles. They also stated that the case record shows that the Giant PUD will significantly impact future traffic levels: (i) the independent review of Applicant's concluded that that the PUD will result in over 4,000 additional vehicle trips per day on the surrounding streets, a finding not disputed by Applicant; (ii) Applicant's conclusion that the PUD will generate more than 550 additional trips in the Saturday peak hour alone; and (iii) Applicant's statements reported in the *Northwest Current* that PUD site traffic will double compared to current levels. The Opponents testified that, using the Applicant's traffic distribution assumptions, the resulting impact could be as much as 400 additional vehicle trips per day in the 3400-3600 blocks of Newark. The Newark neighbors stated that the annualized impact on Newark could be over 125,000 additional vehicle trips. The Newark neighbors further stated that traffic impact of the PUD was likely to be greater, given Newark's location between the Wisconsin Avenue and 34th Street/Reno Road arterials; its location directly east of the Giant PUD's central spine where the primary entrances to both the north and south block garages would be located; and Applicant's references to Newark as the PUD's "zipper" and highlighting of east-west access to the PUD site from Newark.

279s. Opponents also stated that Applicant failed to consider the additional traffic impact from the development of 100 new residences at the former nursing home site directly across from the PUD, which the Comprehensive Plan requires be taken into account in assessing the PUD's impact.

279t. The Newark neighbors and the Opponents requested that the Commission include in any PUD order requirements and conditions to address future traffic volume, similar to relief that the residents of the 3500-3600 blocks of Ordway Street have requested from the Commission, by (i) prohibiting truck and bus access onto the 3400-3600 blocks of Newark Street; (ii) discouraging traffic to and from the Giant PUD site at Wisconsin Avenue from going directly east and west across Wisconsin Avenue into Newark Street (similar to the diverter constructed at Wisconsin Avenue and Jennifer Street in Friendship Heights – east side or the light configuration and barrier at Wisconsin Avenue and Upton Street in North Cleveland Park – east side); (iii) utilizing other D.C. traffic calming program measures as may be necessary to address volume, including but not limited to Seattle circles, bulb-outs and raised crosswalks; and (iv) a traffic calming escrow of at least \$500,000 to address unforeseen impacts on surrounding streets, which is one of the conditions to ANC 3-C's conditional support of the project.

279u. Alice Powers, a resident of 38th Street, testified about the PUD's traffic impact on 38th Street, also a local street, which would inappropriately become a connector between the south entrance of the main garage and Massachusetts Avenue, and, together with Macomb Street and Woodley Road, will bear the brunt of traffic traveling to the PUD from the south and the west.

279v. We find that the Rock Creek West element of the Comprehensive Plan requires that mitigation of the PUD's traffic impact be committed to and conditioned in any PUD order, including traffic calming measures to reduce the development's impacts, and not left to assessment in the future after the PUD is built and fully operational.

279w. We find that traffic studies and mitigation plans shall "consider not only the impacts of the project under consideration but the cumulative impact of other projects which also may impact the community, as well as the impact of non-resident drivers using local streets." (*Id.*, R.C.W. 1.1.12). We further find that there is significant question as to whether the Applicant considered the impact of non-resident drivers using local streets in the area surrounding the PUD and the cumulative traffic impact of the matter-of-right development of 100 residences at Wisconsin and Newark across from the PUD site.

279x. It is uncontroverted that the PUD will add an additional 539 (or 119 percent) more weekday PM peak hour trips, and 550 (or 118 percent) more on Saturday mid-day peak hours; and that the PUD will generate approximately 4050 additional vehicle trips on neighborhood streets per day.

279y. We find that the PUD is likely to have a significant traffic impact on various local streets that are adjacent to the PUD site, including Idaho Avenue, Macomb Street, Newark Street, Ordway Street and 38th Street.

279z. We find that there evidence that the Wisconsin Avenue arterial adjacent to the PUD site is at or near capacity and that the side streets surrounding the PUD carry significant existing traffic before the additional impact of the PUD is considered.

279aa. We find that the Applicant has not offered a plan demonstrating how the PUD's traffic impact can be effectively mitigated and that Applicant's application therefore should be denied until Applicant has submitted such a plan that, among other things, addresses traffic mitigation and traffic calming on Idaho Avenue, Macomb Street, Newark Street, Ordway Street, 38th Street and other streets adjacent to the PUD site.

279bb. We find that the Applicant's suggested escrow of \$100,000 may well be inadequate to fund all of the 16 traffic mitigation measures that the Applicant has identified in its traffic study and the additional unforeseen traffic impact of the PUD, and therefore require that the escrow be at least \$500,000 as ANC 3-C has stipulated.

279cc. We find the proximity of the North Block building to Ordway Street and changing traffic patterns as the result of the installation of a traffic signal at Idaho and Wisconsin Avenues will

result in a significant traffic impact to the 3400-3600 blocks of Ordway Street. We further require (i) that traffic on Idaho going northeast towards Wisconsin Avenue from the project site be required to turn either left or right onto Wisconsin and not go directly across Wisconsin to Idaho and Ordway Street; (ii) that the existing temporary pylon barrier be redesigned and upgraded to be permanent and to prevent access from traffic on Wisconsin or Idaho to access Ordway Street; and (iii) measures to prohibit trucks and buses from using Ordway Street, and that Applicant provide funding for the same.

279dd. We find that the location of the operation of a 56,000 s.f. supermarket at Wisconsin and Newark, together with other commercial space and approximately 145 residences having a principal parking garage access from Newark Street, will result in a significant traffic impact to the 3400-3600 blocks of Newark Street directly east of the PUD site. We further require (i) measures to prohibit truck and bus access onto the 3400-3600 blocks of Newark Street; (ii) traffic calming measures to discourage traffic to and from the Giant PUD site at Wisconsin Avenue from going directly east and west across Wisconsin Avenue into Newark Street (similar to the diverter constructed at Wisconsin Avenue and Jennifer Street in Friendship Heights – east side or the light configuration and barrier at Wisconsin Avenue and Upton Street in North Cleveland Park – east side); and (iii) the installation of such other D.C. traffic calming program measures as may be necessary to address volume, including but not limited to Seattle circles, bulb-outs and raised crosswalks, and that the Applicant provide funding for the same.

FACSIMILE TO ZONING COMMISSION

TO **Attn: Ms. Sharon Schellin @ Fax Number (202) 727-6072**

FROM: **CPCA, WNNC,**
 3300 Block of Idaho Party, Ordway Street Neighbors Association.

DATE: **June 3, 2009**

RE: **Case No. 08-15**

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