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Director
Office of Zoning
Suite 210
441 4th Street, N.W.
Washington, D.C. 20001

2009 FEB -2 AM 10:57

**REQUEST TO APPEAR AND PARTICIPATE AS A PARTY
IN OPPOSITION TO THE APPLICATION**

Re: D.C. Zoning Commission Public Hearing, February 19, 2009

CASE NO. 08-15 (Friendship-Macomb SC Inc.- Consolidated PUD
Approval & Related Map Amendment – Square 1920, Lot 813 and
Square 1920-N, Lots 1 and 2)

Party in Opposition: “Immediate Macomb Street Neighbors”

To Zoning Commission Chairman Anthony J. Hood and Members of the Commission,

This written statement is being provided to you pursuant to the provisions of 11 DCMR Section 3022.3, and pursuant to instructions in the Zoning Commission’s Notice of Public Hearing mailed to me in this case, to **respectfully request party status to participate as a party in opposition to the above cited application.**

(a) My name: Frances A. Sclafani
Address: 3815 Macomb Street, N.W., Washington, D.C. 20016
Daytime phone: (202) 363-2267
***See Attachment 1 for Immediate Macomb Street Neighbors at 3725 Macomb Street**

(b) This is a request to appear and participate as a party, **“Immediate Macomb Street Neighbors.”**

(c) It will be an appearance as **an opponent of the application.**

(d) I am an attorney admitted to practice law in the District of Columbia and the United States District Court for the District of Columbia. Address is cited above.

(e) As owner of the above cited premises of 3815 Macomb Street, N.W. in the District of Columbia, **I will testify as a witness on my own behalf, and address concerns of immediate neighbors at 3725 Macomb Street, N.W. (See Attachment 1).**

(f) A summary of my testimony is stated in written form under section (i) below:

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(g) No other expert witnesses are anticipated to testify.

(h) I respectfully **request 15 minutes to present our case.**

(i) My written statement setting forth why party status should be granted, incorporating a summary of my testimony, is as follows:

(1) My residential property at 3815 Macomb Street, N.W. (Square 1817, Lot 0820), is a single family detached house, which will be affected by the action requested of the Commission. Immediate neighbors (3725 Macomb Street) will be similarly affected.

(2) I am the owner of the 3815 Macomb Street property, and have lived in my house for 22 years. Immediate neighbors at 3725 Macomb are rental tenants. (See Attachment 1)

(3) The distance between my residence and the Giant Supermarket Parking Lot (i.e., the SOUTH PARCEL) is approximately 100 feet. The distance from neighbors at 3725 Macomb Street to the Giant Parking Lot SOUTH PARCEL is approximately 7 feet.

(4) There are serious impacts that are likely to affect me, my family, my residential home and property – and the 3725 Macomb Street neighbors - if the applicant's current application for a change in zoning for the "SOUTH PARCEL", as proposed, is approved.

A summary of my testimony, incorporating the "environmental, economic, social, or other impacts" pursuant to DCMR 3022.3 (f)(5), is as follows:

AS IMMEDIATE NEIGHBORS TO THE GIANT SUPERMARKET AND PARKING LOT PROPERTY – I.E., THE SOUTH PARCEL – MY FAMILY AND I, AS WELL AS IMMEDIATE NEIGHBORS AT 3725 MACOMB, WOULD SUFFER UNLIVEABLE ENVIRONMENTAL AND HEALTH IMPACTS CAUSED BY THE OVERLY MASSIVE CONSTRUCTION PROJECT AND ITS DELITERIOUS AFTERMATH, SHOULD IT BE COMPLETED AS PROPOSED.

THE GIANT IS PROPOSING TO PUT TOO MUCH ON THE SOUTH PARCEL.
The current zoning has been in place for good reason. We live in a residential neighborhood – and the Giant Supermarket SOUTH PARCEL property is surrounded by a residential apartment building at 3725 Macomb Street (with families living within 7 feet of the Giant surface parking lot on Macomb Street on the south side) and single family houses on 2 sides: both Idaho Avenue and Macomb Street.

Any change or exception to the present residential zoning – or approval of an overly undue increase in mass and density by leaps and bounds from the current zoning of the South Parcel – would be unconscionable and inhumane to my family and the immediate neighbors at 3725 Macomb Street who would suffer its very serious and ill effects. Zoning laws are designed and in place to prevent such an occurrence.

THE CURRENT APPLICATION SEEKS APPROVAL TO HAVE THE PROPOSED MASSIVE PROJECT FOR THE SOUTH PARCEL CUT THROUGH PRESENTLY ZONED RESIDENTIAL PROPERTY!

The Application further seeks to move the truck entrance and loading docks for the large grocery trailers from their present location at the neighborhood shopping oriented location of Newark Street/Wisconsin Avenue - to the opposite end of the parcel – i.e, the location closest to residential single family houses and residences on Macomb Street and Idaho Avenue– and seeking to excavate a 20-foot deep construction pit for a 2-level underground garage next to these houses and residences in the process.

THE EXCAVATION AND BLASTING ATTENDANT TO THE PROPOSED OVERDEVELOPMENT OF THE SOUTH PARCEL WITH SUCH A MASSIVE DEEP CONSTRUCTION EXCAVATION PIT WILL CAUSE UNLIVABLE ENVIRONMENT AND HEALTH CONDITIONS for me, my family, and other immediate neighbors living in single family houses and at 3725 Macomb, bordering the South Parcel – within 100 feet (some within several feet) of blasting range and the operation of heavy excavation equipment.

*******This high level of unduly heavy, deep and prolonged excavation on the South Parcel in such close proximity, will cause unbearable noise/air pollution levels, heavy vibrations, thudding and jolting throughout my house, that will sear into the bodies of my family and neighboring residents, causing serious health effects.**

A surface construction project is one thing – however, the deep excavation and massive construction excavation pit required for the Applicant's proposal, which will cause the serious health and livability impacts to my family and immediate neighbors, as delineated herein – is exactly what zoning laws and regulations are in existence to prevent.

Such blasting and prolonged, deep/heavy excavation within 100 feet, will cause structural damage to my house and the other single family houses and immediate residences on Macomb Street and Idaho Avenue. CONTINUAL VIBRATION /SHAKING /JOLTING/RATTLING/ etc. of my small detached single family house, and 3725 Macomb, will make for unlivable, unhealthy and uninhabitable conditions.

Any proposed plan must guarantee that no homes will be damaged, or health of the immediate neighbors impaired. To suggest that the Giant will pay for any damage **after the fact is not fair or just to citizens and homeowners currently living under the protection of the present zoning laws and regulations.**

As to **other economic/social/career /professional work impacts on my family:** as an attorney, I perform much of my legal research, writing, teleconferencing, and work from my home. In addition, a family member is a published poet, gospel song writer/lyricist, and church religious writer – who writes and composes from my house at 3815 Macomb Street. **It would be impossible to continue to perform our daily living and work under the circumstances resulting from the proposed project, as delineated herein.** The serious impact on our lives would be unbearable and immeasurable.

The **aftermath** of the **currently proposed** overdevelopment of the SOUTH PARCEL, would result in **unlivable underground vibration and noise from grocery and refrigerated/generator trailers unloading, berthed and docked underground closest to Macomb Street within 100 feet of my house (and 7 feet from 3725 Macomb); air and noise pollution coming from the 2-level underground garage through air circulation vents, etc. (as well as the noise from utility equipment operating from the roof of a hugely oversized grocery store); nighttime excessive lighting for the massive-sized grocery store building, retail stores, restaurants, proposed apartment flats, townhouses, etc., etc. – all proposed to be squeezed onto the South Parcel.**

Such an **oversized and massive plan as proposed** in the current Application would **double or triple the construction time and the severity of the environmental, health and other serious impacts on the immediate neighbors – in contrast to a reasonable construction project that would be in scale with our residential and small neighborhood.**

It is important to keep in mind that through the Application for massive new density: **THE GIANT IS NOT PROPOSING A GROCERY STORE TO SERVICE THE COMMUNITY – IT IS PROPOSING TO CREATE A COMMUNITY TO SERVICE THE PROFITABILITY OF ITS PROPOSED MASSIVE AND OUT OF SCALE GROCERY STORE.**

We are the **small community of Cleveland Park**, much of it a historic district. The South Parcel is **not near a metro train station.**

The South Parcel is literally 2 blocks away from 39th Street which has a “Deer Crossing” sign, as we have deer in the area - the community being bordered by the Glover Park woodland area. **The proposed currently illegal and massive overdevelopment will destroy the ecology and character of the neighborhood, along with the livability of the houses and residences of the immediate neighbors bordering the South Parcel.**

It is clear that the SOUTH PARCEL is not an appropriate site for the massive Planned Unit Development currently proposed by the Applicant in this case.

***It is important to state here that ANC 3C Resolution No. 2009-01 is **INCORRECT** in stating “the scale and design of the proposed PUD are appropriate” or “compatible with surrounding properties.” It is clearly **NOT THE CASE WITH RESPECT TO THE SOUTH PARCEL, WHICH IS SURROUNDED BY RESIDENTIAL FAMILY HOUSES AND DWELLINGS ON BOTH MACOMB STREET AND IDAHO AVENUE.**

The ANC 3C Resolution makes no mention of the residential family houses on Macomb Street – one of which is my own residence. And the Resolution is further in **SERIOUS ERROR** in stating that “the proposed height and density will not cause an adverse effect on nearby properties.” This written statement has delineated herein many of the serious adverse effects of the proposed project on the immediate neighbors of the SOUTH PARCEL.

***In fact, there has been much **dissention among the ANC Commissioners** concerning their Resolution. At their recent meeting, outgoing ANC Chair Nancy Macwood **stated that: “Putting a loading dock next to people’s houses is sort of a non-starter.”**

In view of the above, it is respectfully requested that the Zoning Commission **modify** the current Application to:

- **Scale back the proposed massive overdevelopment: Giant can modify their project to conform with current zoning regulations for the South Parcel** - i.e., a Giant grocery store that is twice (or more) the size of the current store along with some retail shops (all which can fit **within the footprint** of the current Giant/Murphy store, and beautifully enhance the neighborhood by being in scale with our residential community).

- **Move the proposed grocery truck/trailer entrance and loading docks back to the Newark Street side of the South Parcel,** where they are currently - keeping them **away from the single family houses and residences on Macomb Street and Idaho Avenue.**

- **Not approve apartment flats along Newark Street, as they are not needed and will “over-saturate” the South Parcel.** This elimination will allow for the loading docks to be kept on the Newark Street side.

- A 2-level underground parking garage is excessive and unneeded under a **new modified/scaled down plan for the South Parcel.** – As proposed, its construction and aftermath would cause the damage and ill effects to the immediate surrounding houses and *immediate* neighborhood residents, as outlined above.

*It should also be noted that at a Community Meeting on the Giant's proposal held on June 11, 2008, an elderly neighbor stated that at 20 feet underground the Giant would hit water, as there is an underground body of water. In fact, recent drilling by the Giant in their supermarket parking lot on the South Parcel confirmed that they hit water at 20 feet underground.

-Elderly and disabled neighbors walking up Macomb Street with canes and medical walkers need to be accommodated by maintaining a surface parking lot and entry to the Giant supermarket from Macomb Street – as they have balance issues and cannot negotiate the underground garage, the elevators and “inclinators” proposed by this massive and unnecessary overdevelopment in our residential neighborhood.

*It should be noted here, that the new proposed Safeway a short distance up Wisconsin Avenue north of Georgetown, is **maintaining their surface parking lot** as part of their new design.

-Safeguard the rights, health and well-being of the residents of the immediate neighboring apartment building at 3725 Macomb Street - as they live within 7 feet of the South Parcel Giant Supermarket parking lot. At the June 11, 2008 Community Meeting, one of the residents of that building stated that the residents would be “walled in” by the proposed Giant building, and that a fire truck could not get behind the building with hoses to rescue residents in the rear of their building, under the current plan. Many of the residents at 3725 Macomb Street are minority and non-English speaking families, who work nighttime hours and cannot attend evening meetings.

*****In addition, with the Applicant's proposed new loading dock to be placed in the *very small* alley a few feet from the side of their building off Macomb Street, a resident expressed that there would be no place for their DC issued trash cans or pick-up!

*****It is important to note here that ANC 3C Resolution takes into no consideration the plight of the residents and families living in the residential apartment building at 3725 Macomb Street. The ANC 3C Resolution is inaccurate in its first paragraph as characterizing this residential apartment building as a “commercial” building – and “lumping” it together in a parenthesis with 2 restaurants. The deleterious environmental and health impacts on these residential immediate neighbors will be, unbearable and unlivable, as delineated above.

*****Further, in this regard, a **“SHADOW STUDY” should be required to ascertain important impacts on these immediate neighbors living in the residential building at 3725 Macomb Street – just feet away from the present Giant surface parking lot.**

- Provide **SAFEGUARDS to prevent any noise (HVAC, fans, etc) and air/exhaust pollution from any equipment operating from the roof of any newly constructed building on the South Parcel.** Such equipment operation **would make livability impossible** for the residents of 3725 Macomb Street, as well as for my family and immediate neighbors.

- Allow for an underground garage on the **NORTH PARCEL**, to accommodate the facilities for a **SCALED DOWN PROJECT**, in keeping with the neighborhood.

(i)(5) Explanation of how the person’s interests as identified in response to (4) above would likely be more significantly, distinctively, or uniquely affected in character or kind by the proposed zoning action than that of other persons in the general public:

Due to the close proximity of the **Immediate Macomb Street Neighbors** to the **SOUTH PARCEL** of the Giant Grocery Store property, I and my family at 3815 Macomb Street, and the residents of 3725 Macomb Street, **would suffer immeasurable harm, as delineated and outlined in detail in (4) above,** from the proposed project.

As explained in detail above, the Immediate Macomb Street Neighbors would be **more significantly, distinctively, and uniquely affected in character and kind by the proposed zoning action than those of other persons in the general public.** Any other members of the community who are not *immediate surrounding neighbors of the SOUTH PARCEL*, **would not suffer** the environmental, health, livability, and many other harmful and dangerous effects of the proposed project, as detailed herein.

Our location and situation on the 3700 and 3800 blocks of the north side of Macomb Street is **unique**. We sympathize with the neighbors on Idaho Avenue, who are concerned with trailer truck entrances and loading docks – we share their concern. Yet, we will be **even more severely – and uniquely affected – (i.e., serious environmental, health, safety, livability, and other impacts),** than the Idaho Avenue neighbors, as we have clearly demonstrated by **explanation in (4) above.**

*It is also important to note here that both the 3700 and 3800 blocks of Macomb Street currently are clogged with traffic – cars, trucks, police vehicles, etc. –

with bumper-to-bumper traffic up to the traffic light at Macomb Street and Wisconsin Avenue. It sometimes takes over 10 minutes to exit my own driveway at 3815 Macomb. Macomb is a heavily trafficked residential cross street between Massachusetts Avenue and Wisconsin Avenue. This is not the case with the much less-traveled Idaho Avenue.

*Any additional traffic/delivery trucks, etc., would totally “smother” the 3725 Macomb Street neighbors. It would also **severely impact the ability of police, fire and emergency vehicles to get through** Macomb Street on a “normal” day – let alone a disaster situation.

Our zoning laws and regulations are in place to prevent the many serious harms outlined above. No matter how popular a proposed project may be to community members living blocks away, a Planned Unit Development **cannot do harm** to the **immediate neighbors**. And, our zoning laws and regulations must be enforced to protect against the harms stated above. That is what a “government of laws” is designed to do.

The nature of a PUD is **not to change the character of an existing neighborhood, nor can it cause harmful adverse effects to the immediate surrounding neighbors**. The Applicant’s current PUD proposal for massive, dense overdevelopment of the **SOUTH PARCEL**, would deliver both ills.

The Applicant – the Giant – is proposing to make legal what is currently illegal. The **Immediate Macomb Street Neighbors are presently protected from the above stated harms by the current zoning laws and regulations for the SOUTH PARCEL**. Those zoning laws and regulations should **remain in place**.

It is respectfully requested that this written statement be make part of the Zoning Commission record in this case, in addition to my oral testimony at the Commission hearing on February 19, 2009.

Chairman Hood and Members of the Commission, thank you for the opportunity to submit this written statement in request of party status, and to be able to testify at the Commission hearing on February 19th.

Sincerely,

 2-2-09
Frances A. Sclafani

ZC Case No. 08-15
Written Statement of Frances A. Sclafani

ATTACHMENT 1

IMMEDIATE MACOMB STREET NEIGHBORS AT 3725 MACOMB STREET:

Victor Haskins and Family
3725 Macomb Street , N.W.
Washington, D.C. 20016
(202) 244-2875

Apartment 212
Rear apartment **approximately 7 feet from the South Parcel Giant
Grocery Store surface parking lot.**
Tenant resident for over 10 years.

John Patton
3725 Macomb Street, N.W.
Washington, D.C. 20016
(202) 669-7414

Apartment 112
Rear apartment **approximately 7 feet from the South Parcel Giant
Grocery Store parking lot.**
Tenant resident for over 20 years

Virgine Diouf
3725 Macomb Street, N.W.
Washington, D.C. 20016
(202)701-5558

Apartment 511
Tenant resident for over 8 years.

Additional immediate neighbors at 3725 Macomb Street:

- Tracey Pierre
- Helena Rene