

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning



Z.C. CASE NOS.: 08-24 & 08-24A/04-25

As Secretary to the Commission, I hereby certify that on **DEC 22 2009** copies of this Z.C. Order No. 08-24/08-24A/04-25 were mailed first class, postage prepaid or sent by inter-office government mail to the following:

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ATTESTED BY: Sharon S. Schellin

Sharon S. Schellin
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Office of Zoning

ZONING COMMISSION
District of Columbia

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission**



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA

ZONING COMMISSION ORDER NO. 08-24/08-24A/04-25

Z.C. Case Nos. 08-24 and 08-24A/04-25

Consolidated Approval for a Planned Unit Development, Zoning Map

Amendment and Campus Plan Amendment

Abdo Development, LLC and The President and Trustees of

The Catholic University of America

(Square 3654, Lots 4, 5, 6, 10, 12, 15, 16, 17, 801, 802, 803, 804, 805,

806, 811; Square 3655, Lot 1; Square 3656, Lot 800; Square 3657,

Lots 805, 821, 826; Square 3831, Lot 818)

December 21, 2009

Pursuant to notice, the Zoning Commission for the District of Columbia ("Commission") held a public hearing on October 5, 2009, to consider an application from Abdo Development, LLC and The President and Trustees of The Catholic University of America ("CUA") (collectively the "Applicant") for consolidated review and approval of a planned unit development, related zoning map amendment, and amendment to an approved Campus Plan. The Zoning Commission considered the application pursuant to Chapters 2, 24, and 30 of the District of Columbia Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations). The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby approves the application.

FINDINGS OF FACT

The Application, Parties, and Hearing

1. The project site consists of Square 3654, Lots 4, 5, 6, 10, 12, 15, 16, 17, 801, 802, 803, 804, 805, 806, 811; Square 3655, Lot 1; Square 3656, Lot 800; Square 3657, Lots 805, 821, 826; and Square 3831, Lot 818 ("Subject Property" or "Property"). The Subject Property is known as CUA's South Campus and is generally bounded by Michigan Avenue, N.E. to the north, Kearny Street, N.E. to the south, the WMATA/CSX train tracks to the east, and the Dominican House of Studies to the west. The Subject Property is located within the boundaries of Advisory Neighborhood Commission ("ANC") 5C and abuts the boundaries of ANC 5A. The Subject Property consists of vacant lots and also includes dormitories for CUA (Conaty, Spalding, and Spellman Halls). The Subject Property consists of approximately 8.9 acres of land area. (Exhibit 4, p. 1; Exhibit 18, p. 1.)
2. The Applicant initially filed its application on September 8, 2008, and subsequently filed modified plans on March 26, 2009. The Commission set the application down for a

public hearing at its April 27, 2009, public meeting. (Exhibits 4, 14; April 27, 2009 Transcript, p. 18.)

3. The Applicant filed a pre-hearing statement on July 10, 2009, and a public hearing was timely scheduled for October 5, 2009. Prior to the public hearing, the Applicant supplemented its application with additional information on September 15, 2009. (Exhibits 18, 26.)
4. A public hearing was held on October 5, 2009. The parties to the case are the Applicant and ANC 5C. Testimony was presented by the Applicant's project team, the Office of Planning ("OP"), and ANC 5C. Additional individuals testified in support and in opposition to the application.
5. The record was otherwise closed at the end of the public hearing. No other individuals or entities requested, or were granted, party status. (11 DCMR § 3024.1.)
6. At its meeting held on November 9, 2009, the Commission took proposed action to approve the application. At the suggestion of the Office of the Attorney General, the Commission ordered the Applicant to submit a final list of the benefits and amenities it was proffering for the consolidated PUD, along with a listing of the conditions it would agree to follow in order to make each and every proffer specific and enforceable by November 16, 2009 and serve that list on the Attorney General, OP, and ANC 5C. The Commission instructed OAG and OP to complete any dialogue they felt was necessary with respect to any perceived deficiencies in the Applicant's proposed conditions by November 23, 2009, and for the Applicant to serve OAG, OP, and the parties with a revised list of conditions by November 30, 2009. The Commission further instructed that by December 7, 2009, OAG, OP, and the parties must file any responses to the revised conditions, with OAG's response to be treated as a privileged attorney-client communication.
7. By letter dated November 16, 2009, the Applicant submitted a table identifying its final proffer of benefits and amenities, and the conditions it believed would make the proffer enforceable. OAG and OP discussed the proposed conditions with the Applicant, and on November 30, 2009, the Applicant submitted a revised list of conditions. On December 7, 2009, OP and OAG submitted their comments to the revised conditions.
8. The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") pursuant to the District of Columbia Home Rule Act. NCPC, by action dated December 3, 2009, found the proposed PUD would not affect the federal interests in the National Capital, and would not be inconsistent with the Comprehensive Plan for the National Capital.
9. At a public meeting on December 14, 2009, the Commission deferred taking final action and requested the Applicant to provide a draft condition that stated its proffer with the

artist studio spaces in Block C with greater specificity. On December 16, 2009, the Applicant submitted a letter responding to this request.

10. The Commission took final action to approve the application in Case Nos. 08-24 and 08-24A/04-25 on December 21, 2009.

The Subject Property and Surrounding Area

11. The PUD consists of five parcels of land that are labeled Blocks A-E. Blocks A1 and A2 of the Subject Property are currently improved with the Spellman, Conaty, and Spalding dormitories. Blocks A1 and A2 are bounded by Monroe Street, 7th Street, and Kearny Street. Block B is currently vacant property, but was previously the location of CUA's St. Bonaventure Hall. Block B is bounded by Michigan Avenue, 7th Street, and Monroe Street. Block C is currently vacant, but previously included a hotel. Block C is bounded by Michigan Avenue, the WMATA/CSX train tracks, and Monroe Street. The area between Block B and Block C, which includes a building that currently houses the Bennett School of Beauty and a building that was formerly a Pizza Hut restaurant, is not owned by CUA and is not included in this PUD and Zoning Map Amendment application. Blocks D and E are also currently vacant properties. Block D is bounded by Monroe Street and the WMATA/CSX train tracks. Block E is bound by Monroe Street, 8th Street, Lawrence Street, and 7th Street. (Exhibit 18, p. 7.)
12. CUA's main campus is located to the north of the Subject Property across Michigan Avenue. The Basilica of the National Shrine of the Immaculate Conception is located to the northwest of the Subject Property, also across Michigan Avenue. Immediately to the west of the Subject Property is the Dominican House of Studies. Further to the west, adjacent to the Dominican House of Studies along Michigan Avenue, is Theological College, the Oblates of St. Francis deSales, and Trinity University. (Exhibit 18, p. 6.)
13. The Edgewood neighborhood to the south of the Subject Property includes single family detached homes, row homes, apartment buildings, and various religious institutional uses. This area is generally zoned R-4 and R-5-A. The properties along 8th Street, south of Monroe Street, include numerous industrial and arts uses, such as Lee's Body and Repair Shop, the Brookland Studios, and Dance Place. These properties are zoned C-M-1. (Exhibit 18, p. 6.)
14. The Brookland neighborhood is located to the east of the WMATA/CSX train tracks and the Subject Property. Brookland consists primarily of single family detached homes and small garden apartment buildings, but also includes a small commercial strip along 12th Street north of Monroe Street. (Exhibit 18, pp. 6-7.)

Campus Plan Amendment

15. CUA's existing Campus Plan is valid through May 22, 2012, as approved by Zoning Commission Order No. 02-20 and amended by Zoning Commission Orders No. 04-25A, 06-39, and 08-10. (Exhibit 18, p. 5.)
16. One of the goals of the CUA Campus Plan is to consolidate university uses on the main campus. The proposed demolition of the existing dormitories on the Subject Property and the removal of the Subject Property from the jurisdiction of the CUA Campus Plan was anticipated in the Commission's approval of the Campus Plan as noted below:
 - 2002 Campus Plan – Section 4.2 - Overview p. 25 – “The south campus, because of its separation from the main campus by Michigan Avenue, will continue to be slowly phased out as a student housing area, and reserved for cooperative ventures between the University and other appropriate organizations.”
 - 2002 Campus Plan – Section 4.3 – Building Demolitions p. 26 -- “Proposed building demolitions include St. Bonaventure, Conaty, Spellman, ...”

“St. Bonaventure currently houses academic programs and student life offices. Given its location on the south side of Michigan Avenue, the University prefers to relocate those functions to the main campus.”

“Conaty, Spellman and Spalding Halls are existing residence halls located in the south campus area. All three were identified for demolition in the previous Campus Plan as a means of advancing the University's goal for consolidation of academic and residential facilities to the main campus.”

(Exhibit 18, p. 5.)
17. The removal of the land area of the Subject Property from the CUA Campus Plan results in a minor change to the floor area ration (“FAR”) of the Campus Plan. The previous FAR of the CUA campus was 0.34; it will be 0.36 with the removal of the Subject Property. The proposed removal of the Subject Property from the CUA Campus Plan is consistent with the goals and objectives of CUA's approved Campus Plan. (Exhibit 18, pp. 5-6.)

Existing and Proposed Zoning

18. Blocks A1, A2, and B are currently located in the R-5-A Zone District; Block C is located in the C-M-1 and C-1 Zone Districts; Block D is located in the C-M-1 Zone District and Block E is located in the R-4 Zone District. Blocks A1, B, C, and E will be rezoned through a PUD-related map amendment to the C-2-B Zone District; Block A2

will be rezoned to the R-5-B Zone District through a PUD-related map amendment, and Block D will remain in the C-M-1 Zone District. (Exhibit 16, p. 4; Exhibit 18, p. 30.)

19. The Property is located in a Land Use Change Area, a Neighborhood Conservation Area, and Institutional Area under the District of Columbia Generalized Land Use Map. The Future Land Use Map indicates that moderate-density mixed-use residential and commercial, moderate-density residential, institutional, and production and technical employment uses are appropriate for the Subject Property. (Exhibit 16, p. 8.)

Description of the PUD Project

20. The PUD creates a retail and residential project with a significant arts component. The development establishes a unique mixed-use development that will help connect the portions of the Edgewood and Brookland communities that are currently separated by the WMATA/CSX train tracks. (Exhibit 18, pp. 1-2.)
21. Approximately 75,000-85,000 square feet of ground floor retail will line Monroe Street, starting at the intersection of Monroe Street and Michigan Avenue and continuing to the Monroe Street Bridge, with residential uses provided above. The residential component of the PUD project consists of approximately 725-825 residential units. Approximately 63,000 square feet of the residential square footage will be reserved for workforce affordable housing units. In addition, approximately 45 townhouses will be developed on a portion of the Subject Property bounded by a future extension of Kearny Street to the south, 7th Street to the east, a future extension of Lawrence Street to the north, and the Dominican House of Studies to the west, known as Block A2. (Exhibit 18, p. 2.)
22. The parcels of land will be developed as follows: Public Square and Block A: The western entrance to the Subject Property will be announced by a large public square -- a community gathering place that will include a clock tower, fountain, benches, café seating, moveable chairs, and ample space for people to enjoy outdoor passive recreational activities. Located at the intersection of Monroe Street and Michigan Avenue, this public square will cover approximately 1,000 square feet. The central fountain will animate the square and act in conjunction with the clock tower as a gateway into the development. The square will be bordered with trees that will provide shade yet allow for open views to and from the CUA campus. Seating will be accommodated by benches, moveable furniture, steps up to the fountain, and low planter walls edging the Square. The planter walls also will provide seasonal color and soften the edges of the square. (Exhibit 18, p. 10.)
23. The building located on Block A1 will have approximately 30,130 square feet of retail use and will include residential units on the upper floors. The building will be four and five stories tall. The residential uses will include approximately 293,160 square feet and approximately 308 units. A two level below-grade parking garage will be created underneath this building and accessed off of 7th Street. The parking garage in Block A1

will include approximately 204 parking spaces reserved for the residential units in this building and 190 spaces for all of the retail uses in the PUD. (Exhibit 18, p. 11.)

24. Parking spaces will be made available for car-sharing service vehicles inside the public retail garage. In addition, approximately 100 bike parking spaces, 50 for retail and an additional 50 for residential, will be provided inside the A1 garage. The loading platform for this building will also be accessed from 7th Street, adjacent to the entrance to the parking garage. (Exhibit 18, pp. 11-12.)
25. The Applicant noted that the townhouses on Block A2 will create an appropriate transition from the taller and more dense structures on Monroe Street to the lower scale residences to the south of the Subject Property. The townhouses will be three to four stories (approximately 39-54 feet) in height and will include garage or surface parking spaces for each unit. (Exhibit 18, p. 13.)
26. Block B – The “Flatiron” Building: This building will be six stories tall and will have a building height of approximately 70 feet. This building will include approximately 106,980 square feet of residential use and approximately 140 residential units. Approximately 16,390 square feet of retail will be provided along the ground floor of the Michigan Avenue and Monroe Street frontages of this building. A parking garage for the owners of the residential units in this building will be accessed off of 7th Street, and loading will also be accessed from 7th Street. Building B will include 112 parking spaces for the residential units and 20 bicycle spaces. (Exhibit 18, p. 14; Exhibit 19, p. 13.)
27. Block C – Arts Walk: The Applicant proposes the transformation of the very challenging Block C, a block which abuts the WMATA/CSX train tracks and the Michigan Avenue viaduct, into one of the signature features of this project, the Arts Walk. The Arts Walk will establish a newly created pedestrian-only 8th Street running from Monroe Street north to the Michigan Avenue viaduct and the Brookland/CUA Metro station. The ground floor of the Arts Walk will include approximately 27 artist studio spaces totaling approximately 15,000 square feet. These studio spaces will feature glass roll-up doors that will allow the artists to open their studios directly to the outdoors while they work and to set up outdoor display areas as weather permits. These work spaces will be rented to artists at a significantly reduced rate. The Applicant has executed a Memorandum of Understanding with Cultural Development Corporation (“CuDC”) for CuDC to program and potentially operate and manage the studio spaces and the other arts functions within the project. (Exhibit 18, p. 16.)
28. The Arts Walk will culminate at a public piazza that will include open space, trees, bike parking (including space available for a District Department of Transportation (“DDOT”) SmartBike station), flexible market kiosks, and a stage/fountain. The public piazza will be focused on the stage with a vegetative green wall backdrop that covers the Michigan Avenue viaduct. The public piazza will be located at the end of the underpass that runs from the Brookland/CUA Metro station to the Edgewood community that is located south

of Michigan Avenue and west of the WMATA/CSX train tracks. As part of the PUD project, the Applicant will work with DDOT to illuminate and enhance the underpass so that it provides a safe and welcoming environment to those accessing the Metro station. (Exhibit 18, p. 16-17.)

29. Two new five-story buildings will flank the Arts Walk. These buildings include approximately 140,800 square feet of residential space (approximately 152 units), approximately 13,450 square feet of retail space at the southern end of the buildings along Monroe Street, and approximately 15,100 square feet of artist studios. A single parking garage satisfying the residential parking demand for both buildings will be located on Block C and will include 91 spaces. This parking garage and the required loading docks will be accessed via a private alley off of Monroe Street and Bunker Hill Road. (Exhibit 19, p.14.)
30. Block D – Arts Flex Space Building: At the southeast corner of the intersection of 8th and Monroe Streets, the Arts Flex Space Building will be constructed. This building will be made available for use by community and arts groups, as well as groups and organizations from CUA and others for performance, exhibit, and meeting space. There will be no charge to the two local ANCs (5A and 5C) for the monthly meetings or for community groups. Other organizations will be charged a nominal fee for the use of this space, in order to cover maintenance and staffing costs. The space will be available for rent by other users on a priority basis at published rates. (Exhibit 18, pp. 18-19.)
31. Four surface parking spaces and the service facilities will be provided on the south end of the building. The entire building will consist of approximately 3,000 square feet and will have a building height of 36 feet. (Exhibit 18, p. 19.)
32. Block E: The building on Block E will continue the ground floor retail uses along Monroe Street and includes residential uses above. This building will have six stories along Monroe Street, but will provide ceiling heights ranging from 17 feet to 23 feet on the ground floor retail level. The building will step down to four stories as it moves south along 7th Street to Lawrence Street and the nearby lower scale residential structures. (Exhibit 18, p. 19 and Exhibit 58 [Applicant's post-hearing submission dated October 26, 2009].)
33. The building will include approximately 162,270 square feet of residential use (approximately 156 units) and approximately 23,000 square feet of retail uses. Two levels of below-grade parking, including approximately 171 parking spaces, will be provided for the residential owners of this building. (Exhibit 19, p. 17.)

Transportation Infrastructure Improvements

34. The public square adjacent to Block A1 will be bounded by a reconfigured "T" intersection of Monroe Street and Michigan Avenue that will remove the current "high-

speed right turn” from Michigan Avenue onto Monroe Street. The reconfiguration of this intersection will provide significant traffic calming benefits for Monroe Street and will create a much safer condition for pedestrians crossing Michigan Avenue to and from the CUA campus. (Exhibit 18, pp. 10-11.)

35. The Applicant will realign the intersection of 7th Street and Michigan Avenue to create a four-legged intersection with the entrance to CUA. This new intersection will create a significantly safer pedestrian environment for those crossing Michigan Avenue. The plans for this new intersection include striped pedestrian crosswalks on Michigan Avenue on the east and west sides of the reconfigured intersection. (Exhibit 18, p. 15.)
36. Block C will incorporate a portion of the Metropolitan Branch Bike Trail that will run alongside the public piazza and the eastern building adjacent to the train tracks on the Subject Property.
37. The total cost of the proposed infrastructure improvements that will be undertaken as a result of this project is approximately \$800,000: \$777,776 for the construction and signaling of the reconfigured intersections and \$23,500 for the construction of the Metropolitan Branch Trail extension. (Exhibit 58.)

Density Proposed and Flexibility Requested

38. The total gross floor area included in the proposed PUD is approximately 917,722 square feet for approximately 2.31 FAR. (Exhibit 58.)
39. The PUD is granted the flexibility to locate the required parking spaces for all of the retail uses and bicycle spaces in a single parking structure in Building A1. It is also granted flexibility from the amount of parking spaces required for the Arts Flex Space Building. The Zoning Commission has the authority to grant this flexibility pursuant to § 2405.6 of the Zoning Regulations. (Exhibit 18, p. 22.)
40. More than one building will be constructed on a single record lot on Blocks A2 and C and relief from §§ 2516 and 2517 is required. The Commission has the authority to grant this flexibility pursuant to § 2405.7 of the Zoning Regulations. (Exhibit 18, p. 22.)
41. The PUD is granted flexibility from the strict application of the roof structure requirements of the Zoning Regulations in order to allow roof structures on the buildings on Blocks A1, B, C, and E that do not satisfy the requirements that roof structures be enclosed in a single structure of equal height and set back from all exterior walls at a ratio of 1:1. The Commission has the authority to grant this flexibility pursuant to § 2405.7. (Exhibit 18, p. 22.)
42. The PUD will be designed to satisfy LEED certification. Building designs will include sustainable features such as cool roofs, efficient fixtures, collection of rain-water for

irrigation, permanent erosion control, management of stormwater run-off from roofs, and use of pre-fabricated wood trusses. (Exhibit 18, p. 32.)

43. The Applicant requested that the PUD approval be valid for a period of three years from the effective date of Zoning Commission Order No. 08-24 and 08-24A/04-25. Within such time, an application must be filed for a building permit for the construction of Block B, C, or D; the filing of the building permit application will vest the Commission Order. An application for the final building permit completing the development of the approved PUD project must be filed within 10 years of the issuance of the final certificate of occupancy for the first building. Block E will be utilized as an interim surface parking lot until the retail parking spaces located in Block A1 are created. Access to the interim lot proposed for Block E will occur via existing curb cuts or curb cuts proposed in connection with the development of Block E. (Exhibit 26, p. 2; Exhibit 43, p. 4.)

Public Benefits and Amenities

44. The Applicant, in its written submissions and testimony before the Commission, noted that the following benefits and amenities will be created as a result of the Project, in satisfaction of the enumerated PUD standards in 11 DCMR § 2403.
 - a. Housing and Affordable Housing: Pursuant to § 2403.9(f) of the Zoning Regulations, the PUD guidelines state that the production of housing and affordable housing is a public benefit that the PUD process is designed to encourage. This project will create approximately 725-825 residential units and approximately 63,000 square feet of workforce affordable housing (8% of the total amount of residential square footage in the project) for households earning up to 80% of the Area Median Income ("AMI"). The affordable housing units will be located in all of the multi-family buildings, and will be distributed throughout these buildings (except for the upper two stories of each building). In addition, three townhouses will be reserved for households earning up to 80% of AMI. The three affordable townhouses will be distributed evenly throughout the 21-unit townhouse string along Kearny Street. (Exhibit 18, pp. 33-34 and Exhibit 58; Transcript, pp. 79-80.)
 - b. Urban Design, Architecture, Landscaping, or Creation of Open Spaces: Section 2403.9(a) lists urban design and architecture as categories of public benefits and project amenities for a PUD. The Project exhibits all of the characteristics of exemplary urban design and architecture. The open spaces created in this project (the public square, the Arts Walk, and the public piazza at the northern end of the Arts Walk) will be signature components of the project and will create neighborhood destinations and gathering spots. The clock tower and fountain at the public square, along with the canopy of trees and low planter walls with seasonal plantings, will mark the entrance to the Brookland and Edgewood neighborhoods. The proposed streetscape along Monroe Street, with wide tree planting and café zones, will create a lively tree-lined shopping and dining experience. Finally, the Arts Walk and the

public piazza will create a community arts environment that does not currently exist anywhere else in the District of Columbia.

The massing, height, and articulation of all the buildings have been refined, in particular the massing and height of the Block E building. While the project provides significant housing and retail opportunities at a transit-oriented location, it also provides for an appropriate transition with the buildings and uses in the surrounding neighborhood. Massing studies show that the proposed height and density of the buildings in the PUD project will not have significant adverse impacts on neighborhood views of the Shrine or other important structures and landmarks in the community. (Exhibit 18, pp. 34-35; Exhibit 58.)

- c. Site Planning, and Efficient and Economical Land Uses: Pursuant to § 2403.9(b) of the Zoning Regulations, “site planning, and efficient and economical land utilization” are public benefits and project amenities to be evaluated by the Zoning Commission. The creation of a mixed-use, transit-oriented development on the Subject Property, on vacant or underutilized land in close proximity to a Metro Station, is an example of appropriate site planning and efficient and economical land use as a project amenity. Given the Subject Property’s proximity to the Brookland/CUA Metro station, it is appropriate to have medium density uses as proposed in this PUD project. The creation of large civic and public spaces at the western and eastern edges of the Subject Property (the public square and the public piazza), the re-establishment of the street grid (through the reconstruction of 8th Street (the Arts Walk) and the extension of Lawrence and Kearny Streets west of 7th Street), and the realignment of the Monroe Street/Michigan Avenue and 7th Street/Michigan Avenue intersections are examples of appropriate site planning and efficient and economical land uses that constitute public benefits and project amenities. (Exhibit 18, p. 35.)
- d. Effective and Safe Vehicular and Pedestrian Access: The Zoning Regulations, pursuant to § 2403.9(c), state that “effective and safe vehicular and pedestrian access” can be considered public benefits and project amenities. The Applicant will pay for the reconfiguration and reconstruction of two intersections that currently create a dangerous vehicular and pedestrian traffic situation. The reconfiguration of the intersection of Michigan Avenue and Monroe Street will remove the current high speed right turn onto Monroe Street and will reduce the overall speed of traffic along Monroe Street. This reconfiguration will also allow for a significantly safer pedestrian experience in crossing Michigan Avenue. The Applicant will also reconfigure the intersection of 7th Street and Michigan Avenue to align with the entrance to CUA. The creation of a true four-legged intersection at 7th Street and Michigan Avenue will create a safer pedestrian and vehicular traffic pattern for the entire area. The Applicant has also agreed to provide appropriate cross-walk striping at these reconfigured intersections. As part of its modification of the 7th Street and

Michigan Avenue intersection, the Applicant will also allocate space along 7th Street as potential drop-off space for shuttle buses.

The design minimizes the number of curb cuts along Monroe Street. Underground parking for the proposed residential and retail development in Blocks A, B, and E will be accessed by entrances off 7th and 8th Streets rather than Monroe Street. All of the public parking spaces for the retail uses on Monroe Street will be provided in a single parking garage located in the building on Block A1, which is accessed from 7th Street. This single parking garage will enhance traffic flow along Monroe Street and will reduce pedestrian and vehicular conflicts, as patrons of the retail uses along Monroe Street will be directed to a single dedicated parking garage, rather than having to search for available parking spaces in each of the buildings along Monroe Street.

The PUD project incorporates numerous elements that will reduce the anticipated number of vehicles that will come to the Subject Property. Dedicated parking spaces will be made available for car-sharing vehicles in the public parking area of the parking garage in the building on Block A1. A portion of the Metropolitan Branch Trail has been incorporated into the design of the building on Block C. Along this trail, the proposed project will provide bike parking spaces as well as available space for DDOT's SmartBike program. Dedicated bike parking spaces will also be provided in each residential building.

The Applicant submitted a Transportation Impact Study into the record of this case which concluded that the impact of the proposed PUD may be mitigated by a number of traffic improvements and the implementation of a Transportation Demand Management ("TDM") program. The TDM program includes significant measures to reduce the number of single-occupant vehicle trips including, but not limited to: designation of a Transportation Management Coordinator; provision for SmartTrip cards for new residents at the time of initial sales/lease, availability of parking spaces in the public garage for a potential car sharing service, and available space for a SmartBike location in the public piazza at the end of the Arts Walk.

In order to mitigate any effects of the loading practices for Block C, the Applicant has agreed to make a formal written request to DDOT to establish a permanent 55-foot loading space on the north side of Monroe Street, in front of Block C. It will also provide signage at the entrances to the alley adjacent to Block C prohibiting trucks larger than 30 feet from entering the alley. (Exhibit 43.)

The Applicant will also incorporate loading operations into the Rules and Regulations provided to all tenants of Block C. The Rules and Regulations for the loading operations will inform tenants that all trucks larger than 30 feet are prohibited from using the alley and are required to use the dedicated loading space on Monroe Street. The Applicant will designate a member of the on-site staff as the freight manager,

who will be responsible for enforcing the Rules and Regulations regarding loading operations in Block C. (Exhibit 43.)

- e. Uses of Special Value: According to Section 2403.9(i), “uses of special value to the neighborhood or the District of Columbia as a whole” are deemed to be public benefits and project amenities. The Applicant has agreed to provide the following community benefits as a result of this project:
- Arts Flex Space Building – The Arts Flex Space Building will create a venue for community groups and organizations, arts groups, and university groups/organizations to hold meetings, recitals, performances, and receptions.
 - Significant Arts Component – The proposed Arts Walk will provide work space to artists at below-market rents, while also creating a dynamic and active experience along pedestrian-only 8th Street.
 - Transportation Infrastructure Improvements – The project provides for the construction and signalization of reconfigured intersections at Monroe Street/Michigan Avenue and 7th Street/Michigan Avenue, the construction of the Metropolitan Branch Trail on Block C, and aesthetic improvements to the Monroe Street Bridge.
- f. Revenue for the District: Section 2403.9(i) states that “uses of special value to the neighborhood or the District of Columbia as a whole” are deemed to be public benefits and project amenities. The creation of approximately 725-825 new households and approximately 75,000-85,000 square feet of retail space on land that is currently not subject to real estate taxes will result in the generation of significant additional tax revenues in the form of real estate, recordation, transfer, income, sales, use, and employment taxes for the District.
- g. First Source Employment Program: According to § 2403.9(e), “employment and training opportunities” are representative public benefits and project amenities. The Applicant has agreed to 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.
- h. Comprehensive Plan: According to § 2403.9(j), public benefits and project amenities include “other ways in which the proposed planned unit development substantially advances the major themes and other policies and objectives of any of the elements of the Comprehensive Plan.” The PUD project furthers the goals and policies of the Brookland Small Area Plan and many elements and goals of the Comprehensive Plan.
- i. Public Benefits of the Project: Sections 2403.12 and 2403.13 require the Applicant to show how the public benefits offered are superior in quality and quantity to typical

development of the type proposed. The Applicant proposes a community amenities package that includes the following elements:

- **Monroe Street Bridge Improvements:** The Applicant shall make a financial contribution of \$50,000 to fund aesthetic improvements to the Monroe Street Bridge. The contribution shall be made prior to the issuance of a certificate of occupancy for the Block E building.
- **12th Street Retail Façade Improvement Grant:** The Applicant shall make a financial contribution of \$25,000 to the existing 12th Street retail façade program currently administered by DC Department of Small and Local Business Development (“DSLBD”). The contribution shall be made prior to the issuance of above-grade building permits for the first building to be constructed on the Subject Property.
- **Brookland-Edgewood Retail Strategy Study:** The Applicant shall make a financial contribution of \$25,000 to engage a reputable third-party retail consultant to study and prepare a report on the retail needs for the Brookland and Edgewood communities and recommend the appropriate allocation of retail uses among 4th Street (Edgewood), 12th Street (Brookland), and the retail on the portion of Monroe Street within the Subject Property. The report shall be completed and submitted to the Office of Planning, ANC 5A, ANC 5C, and the Edgewood Civic Association prior to receipt of above-grade building permits for Block A1.
- **Ward 5 Scholarships:** The Applicant shall make a financial contribution of \$35,000 to Trinity College and \$40,000 to The Catholic University of America for scholarships for academically qualified Ward 5 residents. The contributions shall be made prior to receipt of the certificate of occupancy for Block E.
- **Dance Place:** The Applicant shall install a “sprung floor” in the Arts Flex Building (Block D) to accommodate dance classes and recitals (estimated cost \$40,000) and provide a \$15,000 financial contribution to the Next Generation Youth Program. The sprung floor shall be completed prior to receipt of the certificate of occupancy for Block D building. The \$15,000 monetary contribution shall be made prior to receipt of the first above-grade building permit for the Subject Property.
- **Fatherhood/Career Development Program at Luke C. Moore Academy:** The Applicant shall provide a financial contribution of \$45,000 to the HELP Foundation (or the relevant administering organization) in support of the fatherhood/career development program administered at the Luke C. Moore Academy located at 1001 Monroe Street, N.E. The financial contribution shall be

made prior to receipt of the first above-grade building permit for the Subject Property.

- The Commission will require those organizations receiving a monetary contribution to present evidence to the Office of Zoning's Compliance Review Manager demonstrating that the money has been applied to the designated use within six months of receiving the contribution. If the money has not been applied to the designated use within six months, the recipient must provide a reasonable explanation to the Office of Zoning's Compliance Review Manager as to why not and must present evidence to the Office of Zoning's Compliance Review Manager within one year indicating that the contribution has been properly allocated.

Comprehensive Plan

45. The Comprehensive Plan includes the following action item: "Prepare a Small Area Plan for the Brookland Metro Station area to provide guidance on the future use of vacant land, buffering of existing development, upgrading of pedestrian connections to Catholic University and 12th Street, urban design and transportation improvements, and the provision of additional open space and community facilities in the area." (Action UNE-2.6.A). (Exhibit 18, p. 25.)
46. On March 3, 2009, the Council of the District of Columbia approved the Brookland/CUA Metro Station Small Area Plan (the "Small Area Plan"). The PUD project satisfies and furthers the goals of the Small Area Plan. (Exhibit 18, p. 26.)
47. The Small Area Plan divides the areas under review into four sub-areas. The Subject Property is located in the Monroe Street Sub-Area. The Guiding Principles for the Monroe Street Sub-Area include: (Exhibit 18, p. 26.)
 - **Land Use and Neighborhood Character** – "Monroe Street is envisioned as a tree-lined mixed-use street, with neighborhood-serving retail, restaurants, arts, and cultural uses on the ground floor, and residential above.

Components of Catholic University's arts programs, as well as neighborhood organizations such as Dance Place could become cultural features of Monroe Street, potentially establishing a Brookland Arts District."

- **Economic Development and Neighborhood Amenities** – "The Small Area Plan proposes new mixed-use and residential development to bring people to the neighborhood, and to provide needed neighborhood retail, amenities, and services.

Monroe Street will be lined with a mix of uses, including retail, restaurants, arts and cultural uses on the ground floor, and residential above stores west of the tracks,”

- **Transportation, Connectivity, Walkability** – “The Small Area Plan proposes strategies to create better and more efficient pedestrian and vehicular connectivity and linkages to neighborhood destinations. Reestablishing the fabric and grid of streets and blocks through street extensions and realignments wherever possible will reconnect the neighborhood by allowing for better circulation around the neighborhood and better pedestrian connectivity.

The Small Area Plan also proposes improved east-west connectivity across the neighborhood...primarily along a revitalized Monroe Street. It includes the integration of the Metropolitan Branch Trail on the west side of the CSX/Metro Tracks along 8th Street and John McCormack Road.”

“The draft plan supports connectivity between Monroe Street, Michigan Avenue, and 8th Street. That connectivity can take many forms. The conceptual plan shows an extended 8th Street that connects Monroe and Michigan Avenue; an extended 8th Street could accommodate vehicles or be limited to pedestrians. The connection could also be made via the Metropolitan Branch Trail.”

- **Open Space and Environment** – “New public spaces, open spaces, additional pocket parks and civic plazas are envisioned for the Metro Station area and along Monroe Street.

Sidewalks should include open space potentially in the form of continuous tree and planting areas. Improved streetscape including paving, lighting and trees should be implemented with all new development.”

48. The Applicant proposed that the PUD project fully achieves the goals outlined in the Small Area Plan’s Guiding Principles and Framework Plan for the Monroe Street Sub-Area. The public square, the Arts Walk and the public piazza, and the Arts Flex Space Building create a civic and arts infrastructure for this area and a true Brookland Arts District. The eclectic mix of ground floor community-serving retail uses, with residential uses above, will create the “Main Street” that the Small Area Plan envisions for Monroe Street and exemplifies all of the attributes of transit-oriented development. The large public square, with its significant landscaping and clocktower, will create the desired gateway opportunity at Michigan Avenue and Monroe Street and begins the strong east-west connection along Monroe Street that continues to the railroad tracks with the Arts Flex Space Building. The streetscape along Monroe Street, which will include a six foot planting strip, an eight foot sidewalk, and a four-to-eighteen foot café zone between the curb and the face of the buildings, is entirely consistent with the Green Space, Open

Space and Environment Guiding Principle of the Small Area Plan. (Exhibit 18, pp. 27-28.)

49. The Applicant also noted that the Small Area Plan's Guiding Principles related to Transportation, Connectivity, and Walkability are also fully supported in this PUD. The pedestrian-only Arts Walk will achieve the goal of extending the grid while creating an environment conducive to neighborhood connectivity, walkability, and bikability and is fully consistent with the Small Area Plan. By maintaining 8th Street at its existing grade (and not connecting directly to the Michigan Avenue Bridge some 30 feet higher), the Applicant is able to maintain a connection to the western Metro Station entrance and provide for the incorporation of the Metropolitan Branch Trail (with the Applicant contributing private land) into Block C of the project. As recommended in the Small Area Plan, the intersections of Monroe Street at Michigan Avenue and 7th Street at Michigan Avenue will be realigned to provide a safer environment for pedestrians crossing Michigan Avenue and the extensions of Kearny and Lawrence Streets will foster additional connectivity between CUA and the surrounding community. In addition, the enhancements to the pedestrian underpass that connects the public piazza to the Brookland/CUA Metro Station will also further connectivity and walkability within the surrounding communities. (Exhibit 18, p. 28.)
50. The proposed building heights in the project are fully consistent with the Small Area Plan's recommendations for maximum building heights of 70 feet and six stories along Monroe Street, west of the WMATA/CSX train tracks. The proposed 725-825 units are consistent with the 750-900 units proposed for Monroe Street (between Michigan Avenue and 12th Street). The 75,000-85,000 square feet of retail proposed in the project is consistent with the 80,000-100,000 square feet of retail (for Monroe Street between Michigan Avenue and 12th Street) envisioned in the Small Area Plan. The proposed building heights and massing will not have a negative impact on views of the National Shrine of the Immaculate Conception (Exhibit 18, p. 29.)

Applicant's Post-Hearing Submission

51. In its post-hearing submission, dated October 26, 2009, the Applicant provided the following information requested by the Commission:
 - Plans, sections, and elevations depicting a reduction in the height, massing and scale of the south end of the building on Block E, along Lawrence Street;
 - Plans depicting enhanced landscaping along the east-west wall of the building in Block E, updated photo simulations of the appearance of the building on Block E and its relationship to the adjacent structures on Lawrence Street, and dimensioned site plans and elevations depicting the distance between the Block E building and the immediately adjacent property on Lawrence Street;

- Elevations of the rear of the rowhouses including proposed materials, a perspective of the courtyard in Block A2, and information on the distribution of the affordable housing units in Block A2;
- Truck-turning diagrams for Block C and examples of successful projects that have buildings of a similar size fronting on streets of a similar width to the proposed Arts Walk;
- An analysis of the additional density achieved and flexibility granted through the PUD process compared to the amenities created by the PUD project. The entire amenities package for the Project is valued at approximately \$4,475,000;
- Enhanced details on the materials used for the rooftop structures and their general appearance;
- An analysis of the appropriateness of the amount of parking spaces provided in the project;
- An update on the dialogue with representatives of the Fire and Emergency and Medical Services (“FEMS”) regarding issues raised in the FEMS report dated September 15, 2009; and
- Information on the additional dialogue that occurred with representatives of the Brookland Neighborhood Civic Association regarding the Applicant’s community amenities package.

(Exhibit 58.)

52. In response to the Commission’s request at the December 14, 2009 public meeting, the Applicant submitted a letter dated December 16, 2009 that included a revised condition that addressed the proposed lease rental rate for the artist studio spaces in Block C of the project.

Government Agency Reports and District Government

53. By reports dated April 17, 2009 and September 25, 2009, and by testimony at the public hearing, OP recommended approval of the application. In its September 25, 2009 report, OP stated that the Project, “would not be inconsistent with the Comprehensive Plan, including the Brookland/CUA Metro Station Small Area Plan. The project would redevelop vacant and underutilized land near a metro station at a height contemplated by the planning for this area. The design also extends the street grid and the applicant would improve the alignment of existing intersections. The proposed amenities are commensurate with the amount of flexibility sought in the campus plan which foresaw

the removal of all university uses from this land and the property's eventual redevelopment." (Exhibit 30, p. 1)

54. In testimony at the public hearing and as noted in its September 25, 2009 report, OP conditioned its recommendation of approval on the Applicant addressing the following pertinent issues:

- Distribution of the three affordable rowhouses throughout Block A2;
- A reduction in the parking ratios on Blocks B and E;
- Provision of truck turning diagrams for both loading docks on Block C; and
- Additional information regarding the appearance and visibility of the rooftop structures on Blocks B and C.

(Exhibit 30, Attachment 1.)

55. The Commission notes that the overall parking ratio for the Property is appropriate for a transit-oriented development. The Commission accepts higher parking ratios for Blocks B and E because the overall ratio for the PUD will remain less than 1:1. The Commission acknowledges that the demand for a parking space is greater for a for-sale product rather than rental units. The Applicant has clarified its application to address the other concerns expressed by OP.
56. OP recommended that the Commission prospectively grant relief to certain lots within Block A2 to allow the Applicant or future homeowners to construct detached garages without pursuing additional zoning relief. The lots in question would be Lots 7-15, 24-30, and 41-45 and would be subject to certain criteria regarding maximum width, depth, footprint, height, location, materials, and total lot occupancy. (Exhibit 30, p. 14.)
57. OP concluded that the benefits and amenities provided by the Applicant "are commensurate with the amount of relief and flexibility proposed by the application." OP further concluded that "the proffered amenities are acceptable in all categories listed in § 2403.9 and [are] superior in many." (Exhibit 30, p. 17.)
58. OP recommended approval of the CUA Campus Plan Amendment application, noting that the, "the campus plan amendment is in keeping with the existing and past versions of the campus plan which foresaw the removal of all university uses from this land and the property's eventual redevelopment." (Exhibit 30, p. 1.)
59. By its report dated October 1, 2009, DDOT recommended conditional support of the PUD. DDOT agreed that the Project would not have significant transportation impacts. It determined that the Applicant would need to establish a transportation demand

management program and it noted some concerns with loading in Block C and the number of parking spaces included in the Project. (Exhibit 34, p. 2.)

60. The Applicant's testimony at the public hearing addressed DDOT's comments and concerns. Specifically, the Applicant committed to adopting a transportation demand management program and to taking proactive steps to minimize impacts from loading on Block C.
61. The D.C. Water and Sewer Authority prepared comments on the case and noted that sewer capacity is sufficient to serve the property. (Exhibit 30, Attachment 4.)
62. The Department of Housing and Community Development prepared comments on the application and recommended approval of the Project. (Exhibit 30, Attachment 4.)
63. FEMS initially noted concerns regarding access to the project. The Applicant responded to each of FEMS' concerns in a submission dated October 16, 2009. (Exhibit 30, Attachment 4; Exhibit 58, Exhibit F [Applicant's Post-Hearing Submission dated October 26, 2009].)

ANC 5C Report

64. ANC 5C submitted a letter in support of the application on October 5, 2009. The letter stated that the ANC voted unanimously in support of the application at its properly noticed public meeting on September 29, 2009. (Exhibit 38.)
65. ANC 5C Chairperson Bonds submitted a letter into the record authorizing ANC 5C10 Commissioner Timothy Day to testify on the ANC's behalf at the public hearing. (Exhibit 40.) Commissioner Day testified in support of the PUD, specifically its amenities package, at the public hearing.
66. The Commission asked the ANC to supplement its report with a letter confirming that a quorum was present at its public meeting on September 29, 2009. On October 19, 2009, ANC 5C submitted a supplemental report stating that a quorum was present at its September public meeting. The supplemental ANC report satisfied all technical requirements enabling the Commission to grant the ANC's recommendation of approval great weight. (Exhibit 57.)

Persons in Support

67. Cheryl Cort with the Coalition for Smarter Growth; Thomas Lavash, a resident of Michigan Park; Theodora Brown with the H.E.L.P. Foundation; Todd Zirkle with the H.E.L.P. Foundation; and Anne Corbett with the Cultural Development Corporation testified in support of the application. (Exhibits 44, 46, 47, 48.)

68. Those testifying in support of the application noted the Project's consistency with transit-oriented development principles, the opportunity for better quality retail in the neighborhood, and the PUD's efforts to improve pedestrian safety.
69. The Bennett Corporation, owner of the property located at 700 Monroe Street, N.E., and John Swagart, Trustee for the William Basiliko Trust, the owner of the property located at 701 Michigan Avenue, submitted letters in support of the application. These are the owners of the properties that are adjacent to Blocks B and C along Monroe Street. (Exhibits 28, 39.)
70. Leyla Phelan of Perry Street, Jessica and William Hanff of Perry Street, and Dance Place submitted letters in support of the application. (Exhibits 31, 33, 56.)
71. The Commission acknowledges those individuals who testified in opposition to the Application, particularly those who live in the immediate vicinity of Block E. Nevertheless, the Commission believes that the density, height, and scale of the development are appropriate. The Commission notes that the Applicant made numerous changes to the design of Building E over the course of the application to accommodate neighboring property owners. The final design is consistent with good urban planning principles and transit-oriented design and will not have a detrimental effect on neighboring properties.

Party Status Request and Withdrawal

72. The Dominican House of Studies and College of the Immaculate Conception filed a request for party status on September 22, 2009. They subsequently withdrew their request for party status. (Exhibits 27 and 29.)
73. No other entities or individuals requested party status.

Persons in Opposition

74. Jerome Peloquin, Joseph Yahr (on behalf of Linda Yahr), Edward Johnson, John Feeley (ANC 5A06 Commissioner), Phil Blair (ANC 5A10 Commissioner), M.J. McGroarty, Caroline Petti, Richard Houghton, and Sureia Ahmed testified in opposition to the application. (Exhibit 44.)
75. Individuals testifying in opposition to the application cited objections with the Small Area Plan, lack of green space, and concerns regarding the amenities package. (Exhibits 49, 50, 51, 52, 53, 54.)
76. Jerome Peloquin, Linda Yahr, and Sureia Ahmed testified specifically in opposition to the development proposed for Block E, citing the massing and height of the building as

out of context with the single-family houses on the same block. They noted concerns with preserving their views of the Shrine as well as their privacy. (Exhibit 49.)

Satisfaction of the PUD and Zoning Map Amendment Approval Standards

77. In evaluating a PUD application, the Commission must, “judge, balance, and reconcile the relative value of project amenities and public benefits offered, the degree of development incentives requested and any potential adverse effects.” (11 DCMR § 2403.8.) The Applicant’s post-hearing submission noted that the total value of the project and community amenities provided in this project was approximately \$4,475,000. Given the significant amount and quality of the project amenities and public benefits included in this PUD and Zoning Map Amendment application, the Commission finds that the development incentives to be granted for the Project and the related rezoning are appropriate. The Commission also finds that the requested areas of flexibility from the requirements are consistent with the purpose and evaluation standards of Chapter 24 of the Zoning Regulations and are fully justified by the superior benefits and amenities offered by this Project.
78. The Commission finds that the Project is acceptable in all proffered categories of public benefits and project amenities and is superior in public benefits and project amenities relating to urban design, landscaping and open space, site planning, job training and employment opportunities, transportation measures, environmental benefits, and uses of special value to the neighborhood and District as a whole.
79. The Commission credits the written submissions and testimony of the Applicant, OP, and the ANC that the proposed PUD and rezoning to the C-2-B and R-5-B Zone Districts are appropriate and that the proffered amenities and benefits are acceptable. The Commission also credits the testimony of the Applicant and OP that the proposed Project and rezoning are not inconsistent with the Comprehensive Plan, including the Brookland/CUA Metro Station Small Area Plan.
80. The requested rezoning to the C-2-B and R-5-B Zone Districts is part of a PUD application, which allows the Commission to review the design, site planning, and provision of public spaces and amenities against the requested zoning relief. In Zoning Commission Order No. 921, a PUD and Zoning Map amendment case, the Commission clearly articulated the legal standard for reviewing PUD-related Zoning Map amendments:

A PUD Map amendment is thus a temporary change to existing zoning, that does not begin until a PUD Covenant is recorded, ceases if the PUD is not built and ends once the PUD use terminates. This being the case, the Commission may grant PUD related map amendments in circumstances where it might reject permanent rezoning.

Zoning Commission Order No. 921 at 15 (COL 5). The Commission added:

A map amendment granted as part of a PUD establishes no precedent for zoning cases involving permanent zoning map amendments. A PUD map amendment is tied to the PUD use. The PUD use is constrained by covenant. Therefore, the merits of such amendments are usually analyzed in the narrow context of the PUD use requested.

Id. at 17 (COL 13). Finally, the Commission observed:

A PUD applicant seeking a related map amendment must still demonstrate that public health, safety, and general welfare goals of the zoning regulations would be served by the amendment.

Id. at 16 (COL 6).

81. In this case, the Commission finds that the proposed PUD-related map amendment of the Property to the C-2-B and R-5-B Zone Districts is appropriate given the superior features of the Project, particularly when compared to the existing uses of the Property and the Property's proximity to public transportation. The Commission's conclusion is consistent with OP's and ANC 5C's recommendations to approve the Project and the PUD-related Zoning Map amendment.
82. The Commission concludes that the Applicant's post-hearing submission adequately addressed the issues raised by OP and DDOT in their written submissions and in OP's testimony at the public hearing. The Commission agrees with the Applicant's position that the amount of parking proposed in the Project is appropriate and that the TDM program included in this application will achieve the goals of OP and DDOT in encouraging the use of mass transit and other non-auto modes of transportation. The Commission concludes that the Applicant's proposed conditions regarding the limitations on the size of trucks that can utilize the loading docks in Block C and the proposal to apply for a permanent loading zone along Monroe Street adjacent to Block C appropriately address DDOT's issues regarding loading operations and Block C.
83. The Commission acknowledges the testimony provided by neighboring property owners who argued that the southern portion of the building proposed for Block E was out of scale with the neighboring structures. The Commission finds that the reduction in the height and massing of the building on Block E appropriately addresses the issues raised by these property owners, as well as the issues raised by the Commissioners at the public hearing. The Commission finds that the materials provided by the Applicant in its post-hearing submission show that the appearance, mass, and height of the building on Block E have been thoughtfully reviewed and will not adversely impact neighboring properties.

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process provides a means for creating a "well-planned development." The objectives of the PUD process are to promote "sound project planning, efficient and economical land utilization, attractive urban design and the provision of desired public spaces and other amenities." (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. (11 DCMR § 2402.5.) The Commission may impose development conditions, guidelines, and standards that may exceed or be less than the matter-of-right standards identified for height, density, lot occupancy, parking, loading, yards, and courts. The Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment. (11 DCMR § 2405).
3. The development of the Project will implement the purposes of Chapter 24 of the Zoning Regulations to encourage well-planned developments that will offer a variety of building types with more attractive and efficient overall planning and design and that would not be available under matter-of-right development.
4. The application meets the minimum area requirements of § 2401.1 of the Zoning Regulations.
5. The application meets the contiguity requirements of § 2401.3.
6. The proposed height and density of the buildings in the Project will not cause a significant adverse effect on any nearby properties and do, in fact, comport with District goals for development of the Monroe Street sub-area of the Brookland/CUA Metro Station Small Area Plan and transit-oriented development principles. Any impact of the Project on the surrounding area is not unacceptable. As demonstrated in the Traffic Study submitted by the Applicant and supported by DDOT, the Project will not cause adverse traffic impacts.
7. The application can be approved with conditions to ensure that any potential adverse effects on the surrounding area from the Project will be properly mitigated.
8. The benefits and amenities provided by the Project are truly significant, thus granting the development incentives proposed in this application is appropriate.

9. The application seeks a PUD-related Zoning Map amendment to the C-2-B and R-5-B Zone Districts. The application also seeks limited flexibility from the Zoning Regulations regarding its vehicular and bicycle parking, roof structures, building lot controls, and prospective flexibility for detached garages in Block A2.
10. Approval of the PUD and change in zoning is not inconsistent with the Comprehensive Plan. The Commission finds that rezoning the site is consistent with the Comprehensive Plan, specifically the CUA/Brookland Metro Station Small Area Plan, and with the surrounding uses.
11. The PUD is fully consistent with and fosters the goals and policies stated in the elements of the Comprehensive Plan. The Project is consistent with the major themes and city-wide elements of the Comprehensive Plan, as well as the goals and policies of the CUA/Brookland Metro Station Small Area Plan.
12. The Commission has judged, balanced, and reconciled the relative value of the project amenities and public benefits offered, the degree of development incentives requested, and any potential adverse effects, and concludes the project amenities and public benefits are a reasonable trade-off for the development incentives and potential adverse effects.
13. The Commission is required under § 3 of the Comprehensive Advisory Neighborhood Commissions Reform Amendment Act of 2000, effective June 27, 2000 (D.C. Law 13-135; D.C. Official Code § 1-309.10(d)) to give “great weight” to the issues and concerns of the affected ANC. As is reflected in Findings of Fact 62 to 64, ANC 5C voted to support the application and the Commission gives this recommendation great weight.
14. The Commission is also 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 the recommendations of OP. The Commission gives OP’s recommendation to approve the PUD great weight and concurs with its conclusions.
15. The PUD, rezoning of the Property, and amendment to the Campus Plan will promote orderly development of the Property in conformance with the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.
16. The Commission finds that the Campus Plan amendment application, which seeks to remove the Subject Property from the boundaries and jurisdiction of the CUA Campus Plan, is entirely consistent with the intent of previously approved CUA Campus Plans and the existing CUA Campus Plan.
17. The applications for a PUD, related Zoning Map amendment, and amendment to an approved Campus Plan are subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of this application for consolidated review of a planned unit development, related Zoning Map amendment, and amendment to an approved Campus Plan for the Subject Property (Square 3654, Lots 4, 5, 6, 10, 12, 15, 16, 17, 801, 802, 803, 804, 805, 806, 811; Square 3655, Lot 1; Square 3656, Lot 800; Square 3657, Lots 805, 821, 826; and Square 3831, Lot 818). CUA's existing Campus Plan, as approved by Zoning Commission Order No. 02-20, and amended by Zoning Commission Orders No. 04-25A, 06-39, and 08-10, is amended by removing the Subject Property from the Plan. For the purposes of the following conditions, the term "Applicant" shall be the person owning a fee simple title to the property or their agent. The approval of this PUD is subject to the following conditions:

1. The PUD project shall be developed in accordance with the plans and materials submitted by the Applicant marked as Exhibit 71 of the record, as modified by the guidelines, conditions and standards of this order.
2. The Applicant shall make the following financial contributions within the specified time period:
 - **Monroe Street Bridge Improvements:** The Applicant shall make a financial contribution of \$50,000 to fund aesthetic improvements to the Monroe Street Bridge. The contribution shall be made prior to the issuance of a certificate of occupancy for the Block E building.
 - **12th Street Retail Façade Improvement Grant:** The Applicant shall make a financial contribution of \$25,000 to the existing 12th Street retail façade program currently administered by DC Department of Small and Local Business Development ("DSLBD"). The contribution shall be made prior to the issuance of above-grade building permits for the first building to be constructed on the Subject Property.
 - **Brookland-Edgewood Retail Strategy Study:** The Applicant shall make a financial contribution of \$25,000 to engage a reputable third-party retail consultant to study and prepare a report on the retail needs for the Brookland and Edgewood communities and recommend the appropriate allocation of retail uses among 4th Street (Edgewood), 12th Street (Brookland), and the proposed retail on Monroe Street. The report shall be completed and submitted to the Office of Planning, ANC 5A, ANC 5C, and the Edgewood Civic Association prior to receipt of above-grade building permits for Block A1.
 - **Ward 5 Scholarships:** The Applicant shall make a financial contribution of \$35,000 to Trinity College and \$40,000 to The Catholic University of America for

scholarships for academically qualified Ward 5 residents. The contributions shall be made prior to receipt of the certificate of occupancy for Block E.

- **Dance Place:** The Applicant shall install a “sprung floor” in the Arts Flex Building (Block D) to accommodate dance classes and recitals (estimated cost \$40,000) and provide a \$15,000 financial contribution to the Next Generation Youth Program. The sprung floor shall be completed prior to receipt of the certificate of occupancy for the Block D building. The \$15,000 monetary contribution shall be made prior to receipt of the first above-grade building permit for the Subject Property.
 - **Fatherhood/Career Development Program at Luke C. Moore Academy:** The Applicant shall provide a financial contribution of \$45,000 to the HELP Foundation (or the relevant administering organization) in support of the fatherhood/career development program administered at the Luke C. Moore Academy located at 1001 Monroe Street, N.E. The financial contribution shall be made prior to receipt of the first above-grade building permit for the Subject Property.
3. Once the financial contribution is paid to the organization within the specified time period, there is no further obligation on the part of the Applicant. The Commission will require those organizations receiving a monetary contribution to present evidence to the Office of Zoning’s Compliance Review Manager demonstrating that the money has been applied to the designated use within six months of receiving the contribution. If the money has not been applied to the designated use within six months, the recipient must provide a reasonable explanation to the Office of Zoning’s Compliance Review Manager as to why not and must present evidence to the Office of Zoning’s Compliance Review Manager within one year indicating that the contribution has been properly allocated.
4. The Applicant shall establish a transportation demand management program that includes the following:
- Coordination with a local car-sharing vehicle service to reserve parking spaces, provided there is interest from said service in locating car-sharing vehicles at this site;
 - Providing all initial residents, upon move-in, a SmarTrip card (a cost of \$5 per card to the Applicant) to encourage the use of mass transit;
 - Allocating a space on the Subject Property for a SmartBike station to be provided by DDOT; and
 - Designating a transportation management coordinator.
5. The Applicant will make a formal written request to DDOT to establish a permanent 55-foot loading space on the north side of Monroe Street, in front of Block C.

6. The Applicant will provide signage at the entrances to the alley adjacent to Block C prohibiting trucks larger than 30 feet from entering the alley.
7. The Applicant will incorporate loading operations into the Rules and Regulations provided to all tenants of Block C. The Rules and Regulations for the loading operations will inform tenants that all trucks larger than 30 feet are prohibited from using the alley and are required to use the dedicated loading space on Monroe Street.
8. The Applicant will designate a member of the on-site staff as the freight manager, who will be responsible for enforcing the Rules and Regulations regarding loading operations in Block C.
9. The project shall reserve a total of 63,000 square feet of gross floor area as affordable housing to households having an income not exceeding 80% of Area Median Income for the Washington, D.C. Metropolitan Statistical Area (adjusted for family size). A proportionate amount of affordable housing will be provided in each Phase of the PUD's development and will be distributed throughout each of the multi-family buildings, except for the two upper stories of each building. The affordable housing unit types shall be comparable to the market rate mix of unit types in each building. The calculation of the 63,000 square feet of affordable gross floor area includes three 14-foot-wide townhouses that will be distributed evenly throughout the 21-unit townhouse string along Kearny Street.
10. The Applicant shall enter into a First Source Employment Agreement with the Department of Employment Services ("DOES") in substantial conformance with the First Source Agreement submitted as Exhibit F of Exhibit 18 of the record. A fully signed First Source Employment Agreement between the Applicant and DOES must be filed with the Office of Zoning prior to the issuance of the first above-grade building permit for the Subject Property.
11. The Project shall be designed to satisfy LEED certification but it shall not be required to be LEED certified.
12. The Applicant shall realign the intersection of 7th Street and Michigan Avenue to create a four-legged intersection with the entrance of CUA, as provided for in the approved plans. The Applicant shall coordinate the final design and construction of the intersection, including all pedestrian facilities, with DDOT staff and all plans and construction shall be consistent with DDOT standards. This intersection realignment will be undertaken at the same time or prior to the construction of Block B.
13. The Applicant shall reconfigure the intersection of Michigan Avenue and Monroe Street to establish a "T" intersection, as provided for in the approved plans. The Applicant shall coordinate the final design and construction of the intersection, including all pedestrian facilities, with DDOT staff and all plans and construction shall be consistent with DDOT

standards. This intersection realignment will occur at the same time as or prior to the construction of Block A1.

14. The Applicant shall incorporate the Metropolitan Branch Trail on Block C, as provided for in the approved plans. The Applicant shall coordinate the final design and construction of the Metropolitan Branch Trail with DDOT staff and all plans and construction shall be consistent with DDOT standards. The Metropolitan Branch Trail extension on Block C will be undertaken at the same time as the construction of the buildings on Block C.
15. The Applicant shall provide space for a shuttle bus drop-off area on the west side of 7th Street between Michigan Avenue and Monroe Street that will be available to a limited number of private shuttles accessing the Metrorail station from the west side of the railroad tracks and shall be eliminated at such time as the existing shuttle buses serving the hospitals along Michigan Avenue are consolidated through a circulator bus or consolidated shuttle bus service.
16. The Applicant shall provide the artist studio spaces in Block C at lease rates below the average rent for all retail on the Subject Property for the life of the improvements on Block C. Each occupied artist studio in Block C shall be rented at a dollar/sf net monthly lease rate not to exceed 50% of the average dollar/sf net monthly rent charged to occupied retail space in the project along Monroe Street at the time of lease execution for each artists studio. Notwithstanding the foregoing, this condition shall not require the artist studios to be rented at a monthly net rate less than \$1.50 per net leasable square foot, said rate being escalated by the CPI-U factor commencing with the date of this Order.
17. The Applicant shall permit ANC 5A, ANC 5C, and the Edgewood Civic Association to use the Arts Flex Building on Block D for their scheduled monthly meetings without charge. Other community groups that have a duly elected board, hold tax-exempt status, and have a membership, the majority of which live within one mile of the Subject Property, can use the Arts Flex Building for a nominal fee, in order to cover maintenance and staffing costs.
18. 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, elevators, 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;
 - 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;

- To allow the Applicant or future homeowners to construct detached garages on lots 7-15, 24-30, and 41-45 in Block A2. If constructed, the garages are limited to a maximum gross floor area of 450 square feet, a 15 foot (1 story) height, can be up to 25 feet in depth; and extend to the rear and side property lines. The garage, in combination with the house, cannot exceed a lot occupancy of more than 80%; and
 - To use Block E as a surface parking lot until such time that retail parking spaces are established in Block A1. Access to the interim parking lot on Block E must occur via existing curb cuts or curb cuts proposed in connection with the development of Block E.
19. No building permit shall be issued for the PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the Applicant and the District of Columbia, which 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 Applicant and all successors in title to construct and use the Subject 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.
20. The change of zoning from the R-4, R-5-A, C-1, and C-M-1 Zone Districts to the C-2-B and R-5-B Zone Districts shall be effective upon the recordation of the covenant discussed in Condition No. 19, pursuant to 11 DCMR § 3028.9.
21. The PUD shall be valid for a period of three years from the effective date of Zoning Commission Order No. 08-24 and 08-24A/04-25. Within such time, an application must be filed for a building permit for the construction of Blocks B, C, or D as specified in 11 DCMR § 2409.1; the filing of the building permit application will vest the Zoning Commission Order. An application for the final building permit completing the development of the approved PUD project must be filed within 10 years of the issuance of the final certificate of occupancy for the first building.
22. The Applicant is 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, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination, which is also prohibited by the act. In

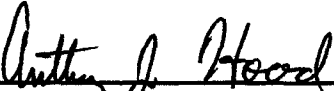
addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The failure or refusal of the applicant to comply shall furnish grounds for denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this order.

23. CUA's existing Campus Plan, as approved by Zoning Commission Order No. 02-20, and amended by Zoning Commission Orders No. 04-25A, 06-39, and 08-10, is amended by removing the Subject Property from the Plan.


On November 9, 2009, upon the motion of Chairman Hood, as seconded by Vice Chairman Keating, the Zoning Commission **APPROVED** the application for the PUD and related map amendment by a vote of **5-0-0** (Anthony J. Hood, William W. Keating, III, Konrad W. Schlater, Michael G. Turnbull, and Peter G. May to approve.)

On December 21, 2009, upon the motion of Vice Chairman Hood as seconded by Vice Chairman Keating, the Zoning Commission **ADOPTED** this Order to approve the PUD, related Zoning Map amendment, and amendment to the Campus Plan by a vote of **5-0-0** (Anthony J. Hood, William W. Keating, III, and Michael G. Turnbull to adopt; Konrad W. Schlater and Peter G. May to adopt by absentee ballot.)

In accordance with the provisions of 11 DCMR § 2038, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on December 25, 2009.



ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



JAMISON L. WEINBAUM
DIRECTOR
OFFICE OF ZONING

Washington, D.C., [REDACTED]

Plat for Building Permit of SQUARE 3654 LOTS 3-6, 10, 12, 15-17,
801-806, 808-811

Scale: 1 inch = 40 feet Recorded in Book Co. 8 Page 120,
Book 39 Page 101, Book 63 Page 130,
A & T Book Pages 482, 738, 1188, 1934, 3180-B

Receipt No. 14688

Furnished by: SHAW-PITTMAN

ME F L
For Surveyor DC 7/24/79

and are correctly plotted; that all proposed buildings or construction, or parts thereof, including covered porches, are correctly dimensioned and plotted and agree with plans accompanying the application; that the foundation plans as shown hereon are drawn, and dimensioned accurately to the same scale as the property lines shown on this plat and that by reason of the proposed improvements to be erected as shown hereon the site of any adjoining lot or premises is not decreased to an area less than is required by the Zoning Regulations for light and ventilation; and it is further certified and agreed that accessible parking area where required by the Zoning Regulations will be reserved in accordance with the Zoning Regulations, and that this area has been correctly drawn and dimensioned hereon. It is further agreed that the elevation of the accessible parking area with respect to the Highway Department approved curb and alley grade will not result in a rate of grade along centerline of driveway at any point on private property in excess of 20% for single-family dwellings or lots, or in excess of 12% at any point for other buildings. (The policy of the Highway Department permits a maximum driveway grade of 12% across the public parking and the private restricted property.)

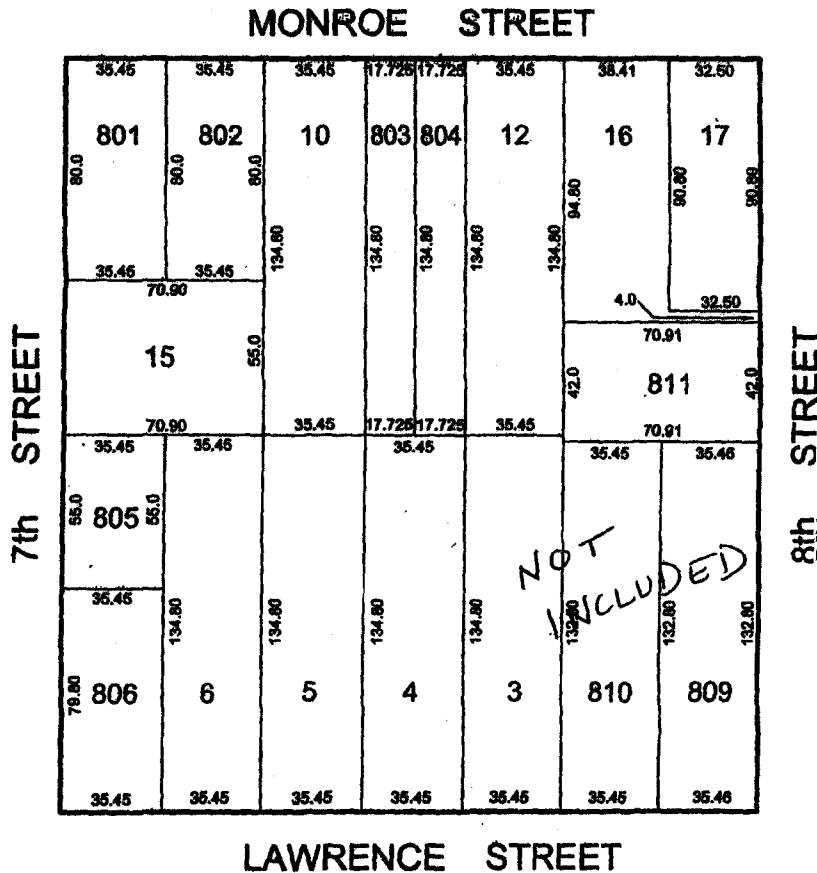
Date: _____

[Signature]
Surveyor, D.C.
By: L.E.S. *[Signature]*

(Signature of owner or his authorized agent)

NOTE: Data shown for Assessment and Taxation Lots or Parcels are in accordance with the records of the Department of Finance and Revenue, Assessment Administration, and do not necessarily agree with deed description.

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Z.C. ORDER NO. 08-24/08-24A/04-25
Z.C. CASE NOS. 08-24 & 08-24A/04-25
PAGE 32

DISTRICT OF COLUMBIA GOVERNMENT
OFFICE OF THE SURVEYOR

Washington, D.C., October 19, 2001


Plat for Building Permit of SQUARE 3656 LOT 800

Scale: 1 inch = 50 feet Recorded in A & T Book Page 3693-E

Receipt No. 005878

Furnished to: SHAW PITTMAN


Surveyor, D.C.

By: L.E.S. 

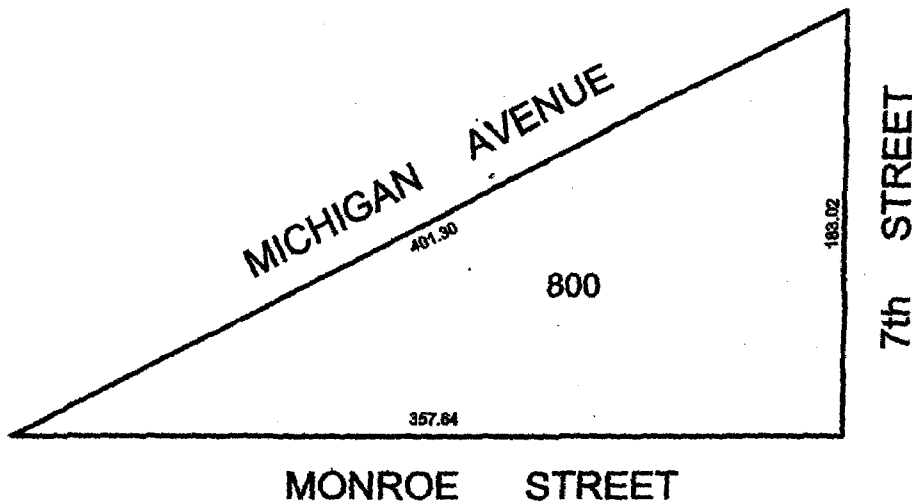
I hereby certify that all existing improvements shown hereon, are completely dimensioned, and are correctly plotted; that all proposed buildings or construction, or parts thereof, including covered porches, are correctly dimensioned and plotted and agree with plans accompanying the application; that the foundation plans as shown hereon in detail, and dimensioned accurately to the same scale as the property lines shown on this plat; that by reason of the proposed improvements to be erected as shown hereon the size of any adjoining lot or premises is not decreased to an area less than is required by the Zoning Regulations for light and ventilation; and it is further certified and agreed that accessible parking area where required by the Zoning Regulations will be reserved in accordance with the Zoning Regulations, and that this area has been carefully drawn and dimensioned hereon. It is further agreed that the elevation of the accessible parking area with respect to the Highway Department approved curb and alley grade will not result in a rise of grade along centerline of driveway at any point on private property in excess of 20% for single-family dwellings or less, or in excess of 12% at any point for other buildings. (The policy of the Highway Department permits a maximum driveway grade of 12% across the public pricing and the private restricted property.)

Date: _____

(Signature of owner or his authorized agent)

NOTE: Data shown for Assessment and Taxation Lots or Parcels are in accordance with the records of the Department of Finance and Revenue, Assessment Administration, and do not necessarily agree with deed description.

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Z.C. ORDER NO. 08-24/08-24A/04-25
Z.C. CASE NOS. 08-24 & 08-24A/04-25
PAGE 34

DISTRICT OF COLUMBIA GOVERNMENT
OFFICE OF THE SURVEYOR

Washington, D.C., July 3, 2008

Plat for Building Permit of SQUARE 3831 LOT 818

Scale: 1 inch = 20 feet Recorded in A&T Book Page 3610-P

Receipt No. 06209

Furnished to: PWSP


Surveyor, D.C.

I hereby certify that all existing improvements shown hereon, are completely dimensioned, and are correctly plotted; that all proposed buildings or construction, or parts thereof, including covered porches, are correctly dimensioned and plotted and agree with plans accompanying the application; that the foundation plans as shown hereon is drawn, and dimensioned accurately to the same scale as the property lines shown on this plat and that by reason of the proposed improvements to be erected as shown hereon the size of any adjoining lot or premises is not decreased to an area less than is required by the Zoning Regulations for light and ventilation; and it is further certified and agreed that accessible parking area where required by the Zoning Regulations will be reserved in accordance with the Zoning Regulations, and that this area has been correctly drawn and dimensioned hereon. It is further agreed that the elevation of the accessible parking area with respect to the Highway Department approved curb and alley grade will not result in a rate of grade along centerline of driveway at any point on private property in excess of 20% for single-family dwellings or lots, or in excess of 12% at any point for other buildings. (The policy of the Highway Department permits a maximum driveway grade of 12% across the public parking and the private restricted property.)

Date: _____

By: D.M.

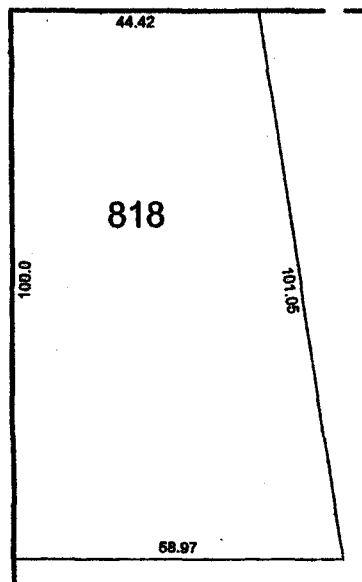
(Signature of owner or his authorized agent)

NOTE: Data shown for Assessment and Taxation Lots or Parcels are in accordance with the records of the Department of Finance and Revenue, Assessment Administration, and do not necessarily agree with deed description.

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2008 SEP 12 PM 4:42

MONROE STREET, N.E.

8TH STREET, N.E.



Z.C. ORDER NO. 08-24/08-24A/04-25
Z.C. CASE NOS. 08-24 & 08-24A/04-25
PAGE 35

DISTRICT OF COLUMBIA GOVERNMENT
OFFICE OF THE SURVEYOR

Washington, D.C., October 18, 2001

Plat for Building Permit of SQUARE 3657 LOTS 805, 821, 826


Scale: 1 inch = 40 feet Recorded in A & T Book Page 133 (LOT 805)
A & T Book Page 2005 (LOT 821)
A & T Book Page 2416 (LOT 826)

Receipt No. 005876

Furnished to: SHAW PITTMAN

I hereby certify that all existing improvements shown herein, are completely dimensioned, and are correctly situated; that all proposed buildings or construction, or parts thereof, including covered porches, are correctly dimensioned and plotted and agree with plans accompanying the application; that the foundation plans as shown herein to shown, and dimensioned accurately to the same scale as the property lines shown on this plat; and that by reason of the proposed improvements to be created as shown herein the area of any existing lot or premises is not decreased to an area less than is required by the Zoning Regulations for light and ventilation; and it is further certified and agreed that accessible parking area where required by the Zoning Regulations will be reserved in accordance with the Zoning Regulations, and that this area has been correctly shown and dimensioned herein. It is further agreed that the elevation of the accessible parking area with respect to the Highway Department approved curb and alley grade will not exceed a slope of grade along centerline of driveway at any point on private property in excess of 20% for single-family dwellings or lots, or in excess of 12% at any point for other buildings. (The policy of the Highway Department permits a maximum driveway grade of 12% across the public parking area and the private involved property.)

Date: _____


Surveyor, D.C.
By: L.E.S. J.M.

(Signature of owner or his authorized agent)

NOTE: Data shown for Assessment and Taxation Lots or Parcels are in accordance with the records of the Department of Finance and Revenue, Assessment Administration, and do not necessarily agree with deed description.

