RECEIVED
D.C. OFFICE OF ZONING
2005 MAR 15 PM 3:17

CHR, LLC – THE SHOPS AT PARK VILLAGE
BZA FILING STATEMENT

Background

The property that is the subject of this application is the former Camp Simms Military Reservation, bound by 15th Street, Alabama and Mississippi Avenues, SE, known as Lot 804 in Square 5912 (the "**Property**"). The District of Columbia purchased the Property in 1984 from the Federal Government for mixed-use redevelopment. The Property consists of approximately 25 acres and is located within the C-2-B, R-5-A, and R-3 Zone Districts.

In June of 2003, a Large Tract Review application was filed with the D.C. Office of Planning outlining a proposal for the redevelopment of the Property. CHR, LLC (the "**Contract Purchaser**" or "**Applicant**") intends to construct the Shops at Park Village, a shopping center along Alabama Avenue with retail stores, a building pad site, and a national supermarket chain anchoring the commercial redevelopment. On the remainder of the Property, Smith Camp Simms Residential, LLC intends to develop Asheford Court, a single-family home development on the lower portion of the Property bordering Mississippi Avenue. The Office of Planning approved the Large Tract Review application (LTR Case No.– 03-01) on November 18, 2003, and development of these projects is now moving forward.

The Property is currently vacant and includes varying topographic features. The highest point of the Property is found along Alabama Avenue with an elevation of 190 feet. At the southern end of the Property, along Mississippi Avenue, the elevation is only 100 feet. The Property's most significant topographic feature is a steep slope located in the central portion of

BZA
Case No. 17324
Exhibit No. 4

Board of Zoning Adjustment
District of Columbia
CASE NO. 17324
EXHIBIT NO. 4

the site where the elevation drops from approximately 185 feet to less than 125 feet over a distance of only 150 feet.

Present Application

The present application only involves the proposed commercial development on the Property. As noted above, the Office of Planning approved the proposed subdivision of the Property (LTR Case No. 03-01) to include a 10.58 acre lot along Alabama Avenue for the proposed commercial development. This lot includes area that is zoned C-2-B, as well as the steeply sloped portion of the site discussed above which is located in the R-5-A Zone District.

The proposed Shops at Park Village is intended to serve the commercial needs of the blossoming Congress Heights community. The anchor and centerpiece of this development will be a national supermarket (the Applicant is finalizing lease negotiations with Giant), that will include approximately 63,358 square feet of grocery store use. The other components of the shopping center will be a building pad site (suitable for a 5,000 square foot restaurant) and an expansion of an existing strip center with approximately 40,000 square feet of retail space. The Applicant seeks to include a mix of retailers for the commercial uses, as well as a mix of national and local retailers that may create franchise opportunities for locally based minority entrepreneurs. A site plan depicting the proposed structures on the Property is attached to this statement.

In order to construct the proposed grocery store structure, the Applicant requires special exception relief under Title 11, § 2514 of the D.C. Municipal Regulations in order for the proposed grocery store structure to cross the Zone District boundary into the R-5-A zoned portion of the Property, and variance relief from 11 DCMR § 2514.2(d) which limits the

extension of the grocery store use to only 35 feet into the R-5-A District. The proposed grocery store structure will extend approximately 55 feet into the R-5-A Zone District.

In addition, the Applicant believes that the three separate structures (the grocery store, the building pad site, and the strip center) are permitted to be developed on the Property as a matter-of-right in accordance with 11 DCMR § 3202.3, which states in pertinent part:

> A building permit shall not be issued for the proposed erection, construction, or conversion of any principal structure, or for any addition to any principal structure, unless the land for the proposed erection, construction, or conversion has been divided so that each structure will be on a separate lot of record; . . .
> **Any combination of commercial occupancies separated in their entirety, erected, or maintained in a single ownership shall be considered as one (1) structure.** (emphasis added.)

The Applicant notes that it will be the owner of each of these structures and will merely lease space to the proposed retailers. Therefore, 11 DCMR § 3202.3 is satisfied. In preliminary discussions with the Office of the Zoning Administrator, the Applicant's Land Use ounsel was informed that §3202.3 of the Zoning Regulations does not apply in this case. The Applicant requests that the Board of Zoning Adjustment ("**BZA**" or "**Board**") make a determination on this issue. In order to allow this issue to be addressed by the Board, the Applicant is requesting, in the alternative, variance relief from §2517 of the Zoning Regulations to allow two or more principal structures to be erected on a single subdivided lot that is located on or within twenty-five (25) feet of a Residence District.

Special Exception Relief

The proposed grocery store structure satisfies the standards for special exception relief from the BZA under 11 DCMR § 2514. The extension of the proposed grocery store structure

into the R-5-A District will have no adverse effect upon the present character and future development of the neighborhood. The proposed site plan for the Shops at Park Village reinforces the existing street and sidewalk plans and will maintain street trees and sidewalks on adjacent streets. A U-shaped, low profile, wrought iron fence and hedge will be introduced parallel to the sidewalk in order to preserve the grass area, control points of entry into the site, and screen parked cars without impeding the views of the new enhanced storefronts. In addition, the proposed Shops at Park Village are entirely consistent with the goals and policies of the District of Columbia Comprehensive Plan, including the construction of a new supermarket in Ward 8.

The Applicant will also create a significant landscape buffer surrounding the proposed supermarket structure that will mitigate any visual impacts that the proposed structure may have on the new single-family homes that will be developed on the southern portion of the Property. The side of the grocery store structure facing these homes will include a minimal amount of lighting and signage so as to minimize any potential impacts on those new residential properties.

Variance Relief

The proposed grocery store structure satisfies the standards for variance relief from the BZA under 11 DCMR § 3103.2 to waive the strict application of 11 DCMR § 2514.2(a) that limits the extension of the proposed grocery store structure into the R-5-A District to only 35 feet. In addition, to the extent applicable, the proposed shopping center satisfies the variance standards to waive the requirements of 11 DCMR § 2517. In order to satisfy the standards for area variance relief, the Applicant will be required to satisfy a three part test. *See Gilmartin v. District of Columbia Bd. of Zoning Adjustment,* 579 A.2d 1164, 1167 (D.C. 1990).

(1) the property must be subject to an extraordinary or exceptional situation or condition;

(2) a practical difficulty will result if the applicant is required to satisfy the strict application of the Zoning Regulations; and

(3) no harm to the public or to the zone plan will occur as a result of the approval of the variance application.

The Applicant meets the test as follows:

1. An extraordinary or exceptional situation or condition is inherent to the Property

As noted above, the Property encompasses a large area (25 acres in total, 10.58 acres for the Shops at Park Village) that includes a significant slope in the area of the Property that serves as the boundary between the C-2-B and R-5-A Zone Districts. This slope is too steep for development and acts as a natural buffer between the proposed commercial and residential uses.

2. A practical difficulty exists in satisfying the strict application of the requirements of the Zoning Regulations

As noted above, the Office of Planning approved a Large Tract Review application to subdivide the Property into the proposed commercial and residential projects. During that process the Applicant informed the Office of Planning that the future homeowner's association of the residential portion of the project would not be able to financially support the costs of maintenance, and the real estate tax burden that was associated with the steeply sloped portion of the Property that is included in the R-5-A District. Therefore, that portion of the Property was included in the area of proposed commercial development, as the commercial operators are better suited to assume those costs. In addition, during the lease negotiations with the proposed supermarket operator, the Applicant was made aware of certain market forces in the grocery store industry that required a larger store footprint than what was originally approved along with

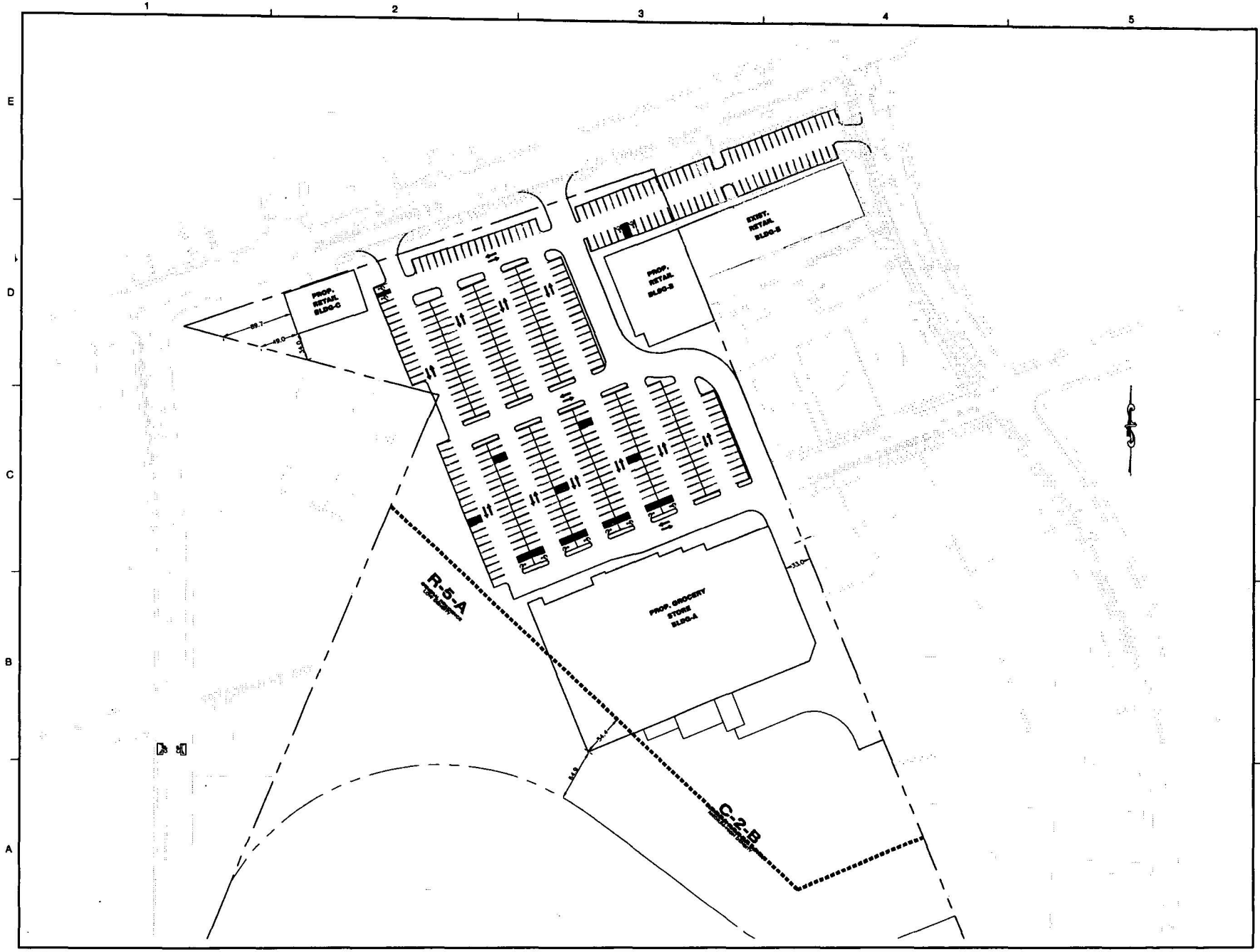
a large requirement for parking spaces. The confluence of these factors have created a practical difficulty that prevents the Applicant from satisfying the strict application of the Zoning Regulations that limits the proposed grocery store structure to a location within 35 feet of the C-2-B/R-5-A Zone boundary line.

3. No harm to the public good or to the zoning plan will occur as a result of the approval of the variance application

The requested variance(s) will not result in substantial detriment to the public good, nor will it substantially impair the intent or integrity of the Zoning Regulations and Zoning Map. The proposed grocery store structure will be appropriately buffered from neighboring residential properties and will include minimal lighting and signage to mitigate any potential adverse impacts. The proposed shopping center will bring much needed retail and employment opportunities to this neighborhood, while strengthening and improving the physical character of the surrounding neighborhood. The proposed shopping center fulfills many goals and satisfies many policies of the District of Columbia Comprehensive Plan.

Conclusion

As demonstrated above, the application meets the criteria set forth in 11 DCMR § 2514 for special exception approval and 11 DCMR § 3103.2 for variance relief. In compliance with 11 DCMR § 3104.1 of the Zoning Regulations, the Applicant has demonstrated that the relief sought is in harmony with the general purposes and intent of the Zoning Regulations and will not adversely affect neighboring properties. The Applicant respectfully requests that the BZA approve this application.



Dewberry

Dewberry & Davis LLC
8401 Patty Parkway
Gaithersburg, MD 20877
TEL: (301) 548-9000
FAX: (301) 258-7037

OWNER
CHR , LLC c/o WILLIAM C. SMITH & CO, INC.
1100 NEW JERSEY AVE SE, SUITE 1000
WASHINGTON, D.C. 20003
202.862.3480

CAMP SIMMS
WASHINGTON, DC

COMMERCIAL DEVELOPMENT
SITE PLAN
LOT 804 SQUARE 5911

SEAL

KEY PLAN

SCALE
0 50 100
SCALE 1"=50'

No.	DATE	BY	Description

REVISIONS

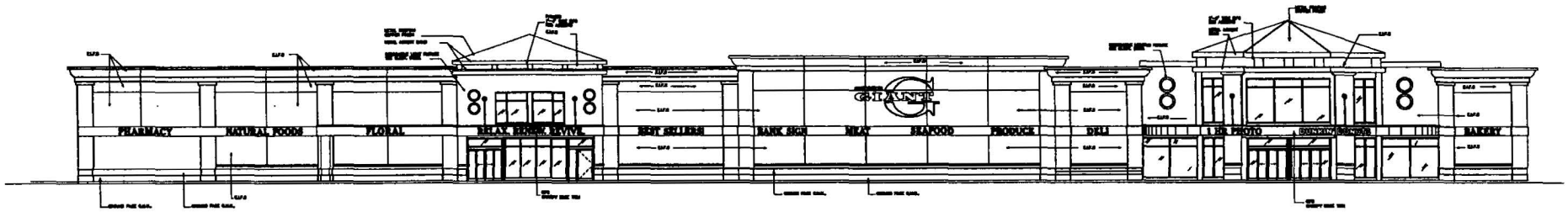
DRAWN BY CPO
APPROVED BY
CHECKED BY
DATE 1/19/05

TITLE
COMMERCIAL CENTER SITE PLAN

PROJECT NO. 85285

SHEET NO. 1 OF 1

320' FRONTAGE





INDIVIDUAL CHANNEL LETTERS

PHARMACY

NATURAL FOODS

FLORAL

RELAX. RENEW. REVIVE.

BEST SELLERS!

MEAT

SEAFOOD

PRODUCE

DELI

1 HR PHOTO

DUNKIN' DONUTS

BAKERY

BANK SIGN

1/4" THICK ROUTED ALUM. LETTERS PAINTED MATTE BLACK, PINNED OUT FROM BUILDING 1/2"

AGNOLI SIGN COMPANY, INC. • 723 WORTHINGTON STREET, SPRINGFIELD, MA 01105 • TEL. (413) 732-5111 • FAX (413) 747-2169

ELEVATION	SIZE		ELEVATION	SIZE	SQUARE FEET	ELEVATION	SIZE	SQUARE FEET
FRONT			FRONT			FRONT		
FRONT			FRONT					
FRONT			FRONT					
FRONT			FRONT					
FRONT			FRONT					
FRONT			FRONT					
FRONT			FRONT					

CUSTOMER: SUPER STOP & SHOP, HANCOCK ST, QUINCY, MA

STORE: GIANT, MODIFIED STORE, 320' FRONTAGE

SALESPERSON: C. MOREAU

DRAWN BY: M. GIBERSEN

6-25-04 | 6-28-04 | 0-0-04 | 3/16" - 1' - 0"

DRAWING CODE: GIANT320 / STRIP / STANDARD
GIANT - USING 3M ELEVATIONS / STRIP / STANDARD

THIS DESIGN IS THE EXCLUSIVE PROPERTY OF AGNOLI SIGN COMPANY, INC. AND SHALL NOT BE USED OR REPRODUCED IN ANY MANNER WITHOUT PERMISSION.