Government of the District of Columbia
Office of Zoning

Z.C. CASE NO.: 02-23

As Secretary to the Zoning Commission, I herby certify that on JUL - 9 2002 copies of Order No. 02-23 were mailed first class, postage prepaid or sent by inter-office government mail to the following:

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3. Office of Advisory Neighborhood Commissions
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   1350 Pennsylvania Avenue
   Washington, D.C. 20004

4. Councilmember Jack Evans (Ward 2)

5. Office of Planning (Ellen McCarthy)

6. Zoning Administrator

7. Alan Bergstein, Office of Corporation Counsel

ATTESTED BY: Alberto P. Bastida

Alberto P. Bastida, AICP
Secretary to the Zoning Commission

ZONING COMMISSION
District of Columbia
Case 02-23
Exhibit 5

ZONING COMMISSION
District of Columbia
CASE NO.02-23
EXHIBIT NO.5

Government of the District of Columbia
ZONING COMMISSION

ZONING COMMISSION ORDER NO. 02-23
Case No. 02-23/00-33C
(Minor Modification to the Consolidated Planned Unit Development for Jemal's Cayre Woodies, LLC)
June 10, 2002

Pursuant to notice, a public meeting of the Zoning Commission for the District of Columbia was held on June 10, 2002. At the meeting, the Zoning Commission approved an application from Jemal's Cayre Woodies, LLC (the "Applicant") for a minor modification to an approved planned unit development ("PUD") for property located at 1025 F Street, N.W., Square 346, lot 805, pursuant to Chapters 1 and 24 of the District of Columbia Zoning Regulations. Because the modification was deemed minor, a public hearing was not conducted.

The Commission determined that this modification request was properly before it under the provisions of §§ 2409.9 and 3030 of the Zoning Regulations.

FINDINGS OF FACT

By Z.C. Order No. 940, dated April 16, 2001, the Commission approved a PUD for property located at 1025 F Street, N.W., comprising all of Square 346, lot 805. The Order approved the re-use and further development of the former Woodward and Lothrop Department Store building, under the DD/C-4 District. As part of the approval of the PUD, the Commission imposed conditions in the Order requiring the Applicant to undertake residential developments in Square 517, bounded by 4th, 5th, H, and I Streets and Massachusetts Avenue, N.W., and Square 377, bounded by 9th, 10th, E, and F Streets, N.W.

With regard to the Square 377 project, Condition No. 8(b) required the Applicant to "apply for building permits for the residential construction within one year of the effective date of this Order," or by May 11, 2002. The application for permits for the Square 377 project was actually filed on May 16, 2002. The Applicant, therefore, requested that the filing date be retroactively extended by five days.

The plans for the proposed building on lot 805 in Square 346 have been in preparation since the PUD was approved. The design evolved over time and is very complicated, involving the preservation in full of the historic low-rise structures at the front of the site and the construction of a high-rise residential tower at the rear. Because of the difficulties in working with the site, the property has been before the Board of Zoning Adjustment twice, once when it was being considered

as a hotel and once for the apartment house design. The project has also been reviewed and approved by the Historic Preservation Review Board. The complexities and reviews involved precluded the architects from completing the plans in sufficient detail to file a permit application by the deadline. Inasmuch as May 11, 2002, was a Saturday, the plans were filed on May 16, 2002, only three (3) working days after the plans would have been due on Monday, May 13, 2002.

The plans have been filed, assigned File No. 859AA, and will be processed by the District. Unless the Zoning Commission modifies Order No. 940 to extend the period to cover the date on which the plans were filed, the project will forever be in non-compliance with the Order. All of the other requirements of the Order have been met, including the proposed major residential development on Square 517.

The requested minor modification will not affect any conditions of the approved PUD other than to specify a new date for the filing of the plans for the Square 377 development.

There was no opposition to this minor modification request. Advisory Neighborhood Commission ("ANC") 2C did not submit a written report to the Commission, but the Chairman of the ANC advised the Commission's staff by telephone that the ANC had no objection to the modification. The Office of Planning ("OP") was not requested to and did not submit a written report to the Commission. At the meeting at which the Commission considered the proposed modification, the Deputy Director of OP advised the Commission that OP had been working with the Applicant on both residential projects and supported the modification to allow the project to continue.

On June 10, 2002, at its regular monthly meeting, the Zoning Commission reviewed the application as a Consent Calendar matter and granted approval of the minor modification to the approved PUD.

The Zoning Commission concurs with the Applicant that approving the modification is appropriate and not inconsistent with the intent of 11 DCMR §§ 2409.9 and 3030.

The Zoning Commission further concludes that its decision is in the best interest of the District of Columbia and is consistent with the intent and purpose of the Zoning Regulations and Zoning Act.

CONCLUSIONS OF LAW

Upon consideration of the record in this application, the Zoning Commission finds that the proposed modification is minor and consistent with the intent of the previously approved Zoning Commission Order No. 940. Further, the Commission concludes that its decision is in the best interest of the District of Columbia and is consistent with the intent and purpose of the Zoning Regulations.

The approval of the modification is not inconsistent with the Comprehensive Plan. Further, the proposed modification does not impact any physical aspect of the PUD and only changes the date by which certain plans must be filed by five days. No other conditions of the approved PUD will be affected. The material facts relied on by the Commission in approving the PUD have not changed. The modification is so minor that consideration as a Consent Calendar item without a public hearing is appropriate.

DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission for the District of Columbia hereby orders **APPROVAL** of the application for a minor modification of an approved PUD. Condition No. 8(b) of Order No. 940 is hereby revised to read, "The Applicant shall apply for building permits for the residential construction by May 16, 2002."

This order was **adopted** by the Zoning Commission at its public meeting on June 10, 2002, by a vote of 5-0-0 (John Parsons, Carol Mitten, Anthony Hood, Peter May, and James Hannaham).

In accordance with the provisions of 11 DCMR §3028.8, this order shall become final and effective upon publication in the D.C. Register; that is, on JUL - 5 2002.

Carol J. Mitten

CAROL J. MITTEN
Chairman
Zoning Commission

JERRILY R. KRESS, FAIA
Director
Office of Zoning