May 7, 2004

Via Facsimile (202.727.6072) and Electronic Mail

Chairperson Carol Mitten, Chairman, Zoning Commission District of Columbia
Office of Zoning
Suite 210-S
441 4th Street, N.W.
Washington, D.C. 20001

Attn: Alberto Bastida, Office of Zoning

Re: Zoning Commission Case No. 03-27, A Proposed One-Stage Planned Unit Development with Related Map Amendment at 4600 - 4614 Wisconsin Avenue, NW - Square 1732, Lots 817 and 820

Dear Chairperson Mitten and Members of the Commission:

We're writing to let you know that, in light of the May 5th revisions to the PUD application for 4600 Wisconsin Avenue (ZC 03-27), the Coalition to Stop Tenleytown Overdevelopment (CSTO) would like to comment on the Applicant's revised application in its current form.

In our March 5th letter to you, we argued that it was inappropriate for the Zoning Commission to consider parcel-specific rezoning requests for lots along the upper Wisconsin Avenue corridor before the highly controversial planning process currently underway in that area has been completed. After you declined to set ZC 03-27 down at that time, we met with the developers again and explained our objections. As a result of that discussion, IBG has decided to restructure their PUD so that it is consistent with the current C-2-A zoning and to withdraw their request for a map amendment. We look forward to continuing our meetings with IBG and also hope the Commission will encourage them to continue working with us to give us a project of truly exceptional merit.

That said, CSTO does not yet support this PUD proposal. As currently defined, the project is clearly not one of "exceptional merit and in the best interest of the city or country." What is being proposed is essentially a matter-of-right building with an additional (especially profitable) story tacked on top. In exchange for permission to build that story, the developers are offering to make a few cash contributions and to sell a single ground floor unit at a below-market rate. We think that the relevant legal standard for a PUD project on a parcel this size (less than the 15,000 SF minimum) is much higher and we look forward to working with IBG to create a project for that site which is truly one of exceptional merit.

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Another objection to the revised application is that the amenities package needs to be thoroughly reconsidered. To our knowledge, two of the proposed amenities (Janney's playground and Wilson's cupola) are contributions for projects that have already been completed. Another (the hazmat trailer) represents a donation that, in its current form, may prove unusable if the DCFD lacks (or fails to allocate) the equipment necessary to render the trailer mobile. More generally, CSTO feels strongly that public amenities packages for PUDs should be approved by the relevant ANCs rather than emerge from a series of deals between developers and individuals who have no authority to speak for the community as a whole. We also believe that appropriate levels of amenities should be determined in light of the additional profits likely to be generated as a result of the flexibility requested in the PUD. Attached to this letter is a list of other concerns as well as a tabulation comparing the proposal with the maximum allowed for a matter of right building in C-2-A.

In conclusion, let us reiterate that we feel that IBG has made a major step in the right direction by proposing a PUD that no longer requires a map amendment. The Zoning Commission's decision to withhold setdown on IBG's original PUD application led to negotiations that have considerably narrowed the gap between the community and the developers. CSTO is eager to see a C-2-A project of exceptional merit built at 4600 Wisconsin Avenue, and we feel strongly that the best way for you to foster that result would be to indicate that you take the "exceptional merit" standard very seriously and plan to enforce it. Thus far, this case has provided powerful evidence that when the Zoning Commission expresses its determination to enforce the relevant legal standards, it enhances both the community's ability and the developer's incentive to work together to create projects that truly serve public as well as private interests.

We apologize for the last-minute submission of this letter. We received the applicant's revised application late in the day on Wednesday, May 5, 2004. Thank you for your consideration of these issues.

Respectfully,

Additional concerns with Applicant's Revised Application on Case 03-27

1.) According to the Zoning Regulations, Chapter 24, the Applicant is required to provide a tabulation that includes:

a.) A table with a comparison between what they are asking and MOR. They compared what they are asking with a maximum PUD.
b.) The specific relief they are asking. This is not included or is obscured. For example, the residential recreational space is particularly confusing and misleading
c.) An annotated table on the public amenities as compared with typical development of the type proposed.

The tabulation included in their revised application does not do that. Although we have included herein the comparison with matter of right, we cannot include the other portions that are missing.

2.) The statement in the tabulation of the required parking is incorrect. The developer is using the C-2-B standard of one space for every three units, rather than the C-2-A standard of one space for every two units, so there would be 21 spaces required, not 12 as stated.

3.) Recreational space: The developer appears to be listing potential areas for the required 6,725 SF of recreational space: Courtyard (4,600), Community Room (1,000), Roof Terraces (1,750) and Balconies (2,704). They seem to want to include the 1,000 SF "community room" which they state that they might rent to the retail operators for storage. It appears that none of the balconies qualify, and there is no portion of the roof area that seems to qualify. The applicant should be required to amplify their explanation of what square footage they are considering to be recreational space and exactly what flexibility they are requesting.

4.) As we stated in our last letter regarding this case, no light and shade study has been submitted. In our view, it is essential that the light and shade study be completed by the Applicant prior to the hearing. Also an artist's rendering of the proposed building from the properties of the closest residential neighbors would be helpful in this case.

Chapter 24 of the Title 11, Zoning Regulations, states:

2403.11 To assist the Commission in applying the evaluation standards of this section, the application shall prepare and submit to the record of the case an annotated table that shows the following:

(a) The extent to which the proposed development would comply with the standards and requirements that would apply to a matter of right development under the zone district classification of the site at the time the application is filed;

(b) The specific relief that the applicant requests from the matter of right standards and requirements; and

(c) If the applicant requests a map amendment, the extent of compliance with, and the requested relief from, the matter of right standards and requirements of development under conventional zoning.

While the Applicants provided a tabulation comparing the proposal with the maximum allowed for a PUD in C-2-A, they did not submit the required annotated table.

The following table provides a tabulation of the relevant development data, as required in 11 DCMR § 2403.11:

Square: 1731 Lots: 817 and 820
Site Area: 12,661 square feet
Zone: C-2-A

	C-2-A MATTER OF RIGHT	C-2-A PUD GUIDELINES	PROJECT
Minimum Area		15,000 sq.f.t	12,661 sq.ft.
Gross Floor Area	maximum total: 31,652.5 sq. ft residential: 31,652.5 sq. ft. other permitted use: 18,991.5	maximum total: 37,983 sq. ft residential: 37,983 sq. ft. other permitted use: 25,32218,991.5	total: 37,980 sq. ft. retail: 1,627 sq. ft.
FAR	maximum total: 2.5 residential: 2.5 other permitted use: 1.5 11 DCMR §771.2	maximum total: 3.0 residential: 3.0 other permitted use: 2.0 11 DCMR §2405.2	3.0
Height	50 feet 11 DCMR §770.1	65 feet 11 DCMR §2405.1	65 feet
Lot Occupancy	60% 11 DCMR §772.1	60% 11 DCMR §2405.4	60%
Parking	Residential: 21 one for each two dwelling units Retail: None one for each 300 sq. ft. over 3,000 sq. ft. 11 DCMR §2101.1	Residential: 21 one for each two dwelling units * Retail: None one for each 300 sq. ft. over 3,000 sq. ft. 11 DCMR §24-5.6	42 residential 2 retail

Penthouse Height	18' 6"	18' 6"	12' 0"
Penthouse Setback	Set back from all exterior walls a distance at least equal to its height above the roof upon which it is located 11 DCMR §770.6b	Set back from all exterior walls a distance at least equal to its height above the roof upon which it is located 11 DCMR §770.6b	1:1 setback
Loading	For Apartment Buildings with less than 50 units and between 30,000 and 100,000 gross sq ft 1 loading berth at 30 feet deep 1 loading platform at 100 sq. ft. 1 service/delivery space at 20 feet deep 11 DCMR §2201.1 at page 22-7	For Apartment Buildings with less than 50 units and between 30,000 and 100,000 gross sq ft 1 loading berth at 30 feet deep 1 loading platform at 100 sq. ft. 1 service/delivery space at 20 feet deep 11 DCMR §2201.1 at page 22-7	none
Rear Yard	15 feet 11 DCMR §774.1	15 feet	32 feet
Residential Recreation Space	20% or 6,725 sq ft	20% or 6,725 sq ft	Flexibility Requested Project: 4,600-5,600 sq ft [See notes] Courtyard:4,600 SF Community Rm: 1,000 SF, only if not used for retail storage. Balconies: 2,704 sf, accessible only from individual units. ** Roof Terraces: 1,750 SF, each area having a dimension less than 25 feet.***

Notes to Tabulation:

* While the PUD Guidelines require one space for each two dwelling units, the Zoning Commission in comparable locations has required 1 fully accessible parking space per unit.

** The area of a balcony shall not be counted to satisfy the residential recreation space requirement of a building where the balcony or a portion of it adjoins an individual residential unit and is accessible only from that unit. 11 DCMR §773.5

*** If any portion of a roof is to be used for residential recreation space, the roof area shall have no dimension less than twenty-five feet (25 ft.). 11 DCMR §773.

4341 Ellicott St NW

4117 Brandywine St. NW

5332 42nd St NW
(20015)