The Rappaport Companies

Developers & Managers of Retail Properties

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October 26, 2004

ZONING COMMISSION
District of Columbia
CASE NO. 04-27
EXHIBIT NO. 3

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D.C. OFFICE OF ZONING
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Ms Carol Mitten, Chair
Zoning Commission of the District of Columbia
441 Fourth Street, N W
Second Floor
Washington, D C 20001

Re H STREET CONNECTION SHOPPING CENTER
Washington, D C
The Proposed H Street Northeast Zoning Overlay District,
Zoning Commission Case No. 04-27

Dear Ms Mitten

I write on behalf of our company, urging the Zoning Commission not to schedule public hearings on the H Street Northeast Overlay proposal until the applicant, the D C Office of Planning, has addressed and resolved the substantial adverse impact that the suggested text will have on our property We have previously communicated our concerns to the staff of the Office of Planning and in testimony before the Council of the District of Columbia

Founded in 1983, The Rappaport Companies is a retail development and management firm that develops, manages, leases and promotes over 5 3 million square feet of primarily retail space in the greater Washington area Our primary interest in H Street, N E is the continuing success of our H Street Connection Shopping Center located on the south side of H Street Northeast between 8th and 10th Streets, on Square 912 The existing land use policy has been instrumental in producing and maintaining the H Street Connection as a thriving retail district Our retail tenants have enjoyed strong support from area residents and are proud to be an H Street success story

Our interest and success on H Street, N E has focused our attention to the future development of the H Street Northeast Corridor, not only for our benefit but also for the benefit of the thousands of area residents and for the retail tenants that the H Street Connection serves To that end, the conclusions and recommendations that we made to the Office of Planning are drawn from substantial development and operating experience

Our company supports the redevelopment of H Street, N E in accord with the proposed redevelopment pattern of the three sub districts (**i.e.,** arts, retail and housing) The housing incentives and the array of uses that are encouraged (and discouraged) seem appropriate However, our enthusiasm for the Office of Planning's proposal is tempered by the realization that despite our previous discussions and testimony, it still makes no accommodation to promote the well being of existing successful businesses, an important objective that finds support in the D C

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Comprehensive Plan Act in Sections 1700 7, 1702 1 and 1720 5 Specifically, there is a need for the Office of Planning's proposed regulations to provide for the grand-fathering of the zoning envelope that currently affects the existing uses on Square 912 by adding a section that ensures that all uses on Square 912 that are existing on the date that these regulations take effect shall be considered as matter-of-right for purposes of use(s), setbacks, location of parking spaces and densities This provision, of course, would allow the H Street Connection to be enlarged and rebuilt, in the event of a calamity, within the zoning envelope that produced its current success "Status Quo" provisions have often been included in new zoning regulations, particularly "overlays" to protect existing developments See, for example, sections 706.1, 701.1(h), 726 1, 743 1, 801 3, 1201 3(a)(1), 1201 3(c)(1), 1401 1(r), 1513 2(a), 1523.1, 1553 1 and 1563 1 of the Zoning Regulations

Indeed, it is the flexibility of the current zoning envelope that has allowed our H Street Connection to be financed, built and to respond effectively to market conditions Zoning policies that are rooted in practice rather than theory most often produce the high level of development that everyone desires

In sum, as a long-term stakeholder, our company has a great interest in the future development of the H Street Northeast Corridor We applaud the Office of Planning for researching and drafting a plan to pursue that objective We generally support the aims of the plan However, in so doing, we urge that the overlay district that is being proposed be designed to provide fewer restrictions on the future operation and revitalization of our development on Square 912 The Zoning Commission should take no action on this application until appropriate text changes are made

Thank you

Sincerely,

Gary D Rappaport, SCSM/SCMD/CLS
President

cc Honorable Sharon Ambrose
Mr William J Barrow III
Mr. Andrew Altman
Jerry A Moore III, Esquire
HST/GAL