

D.C. OFFICE OF ZONING
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**Statement and Prehearing Statement
in Support of
Application for
Zoning Map Amendment for**

**Square 5228, Lot 44
Square 5229, Lots 3 and 4
Square 5253, Lots 23, 811, 813, 814
Square 5262, Lots 14 and 824
Square 5263, Lots 5, 6, 7, 9, 10, 40, 41, 809
Square 5264, Lot 807
Square 5265, Lot 805**

Beulah Baptist Church of Deanwood Heights, Inc.

February 14, 2008

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**ZONING COMMISSION
District of Columbia**

CASE NO. 08-03
EXHIBIT NO. 5
**ZONING COMMISSION
District of Columbia
CASE NO. 08-03
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**CERTIFICATION OF COMPLIANCE WITH
SECTION 3013 OF THE ZONING REGULATIONS**

The undersigned hereby certifies that, in accordance with Section 3013 of the Zoning Regulations, twenty (20) copies of the following items were filed with the Zoning Commission on February 14, 2008, and, in accordance with Section 3013 of the Zoning Regulations, the application is complete.

<u>Subsection</u>	<u>Description</u>	<u>Page/Exhibit</u>
3013.1(b)	List of witnesses prepared to testify on the Applicant's behalf	Exhibit H
3013.1(c)	Summary of testimony of witnesses or reports and area of expertise	Exhibits I-K
3013.1(f)	List of maps, plans, or other documents readily available that will be offered into evidence	Exhibit L
3013.1(g)	Estimated time required for presentation of Applicant's case	Exhibit H
3013.3	Name and Address of Owner of Property Proposed to be Rezoned	Exhibit M
3013.6(a)	Names and addresses of all property owners within 200 feet of the subject property	Exhibit N

Respectfully submitted,

HOLLAND & KNIGHT LLP

Leila Batties

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I.
INTRODUCTION

This statement and the attached documents are submitted by Beulah Baptist Church of Deanwood Heights, Inc. (the "Applicant") in support of its application to the Zoning Commission for the District of Columbia to amend the Zoning Map of the District of Columbia (the "Zoning Map") in order to change the zoning of the following lots from C-1 to C-2-A: Lots 23, 811, 813, 814 in Square 5253; and to change the zoning of the following lots from R-2 to C-2-A: Lot 44 in Square 5228; Lots 3 and 4 in Square 5229; Lots 14 and 824 in Square 5262; Lots 5-7, 9, 10, 40, 41 and 809 in Square 5263; Lot 807 in Square 5264; and Lot 805 in Square 5265.

The Applicant owns all the lots covered under this Application. The lots total approximately 141,659 square feet and, generally, are located on the north and south sides of Dix Street, N.E., between N.E. 56th and N.E. 60th Streets (the "Property"). The majority of the Property was among the properties covered under the District of Columbia Comprehensive Plan Amendment Act of 2006 (D.C. Act 16-637), which was adopted on December 28, 2006. Said legislation changed the land use designation for the north and south sides of Dix Street, N.E., between 57th and 60th Streets, N.E., from Low Density Residential to mixed use Moderate Density Residential and Low Density Commercial. The Moderate Density Residential land use category defines the District's row house neighborhoods as well as its low-rise garden apartment complexes. It also applies to areas characterized by a mix of single family homes, 2-4 unit buildings, row houses, and low-rise apartment buildings. § 2-33, ¶ 225.4. The Low Density Commercial land use category defines shopping and service areas that are generally low in scale and character. Retail office and service businesses are the predominant uses. Areas within this designation range from small business districts that draw primarily from the surrounding

neighborhoods to larger business districts uses that draw from a broader market area. Their common feature is that they are comprised primarily of one – to three-story commercial buildings. §2-34, ¶ 225.8.

The Property is designated as a Neighborhood Conservation Area on the District of Columbia Comprehensive Development Plan Generalized Policy Map (the "Generalized Policy Map"). The guiding philosophy in Neighborhood Conservation Areas is to conserve and enhance established neighborhoods. Limited development and redevelopment opportunities do exist within these areas but they are small in scale. The diversity of land uses and building types in these areas should be maintained and new development and alterations should be compatible with the existing scale and architectural character of each area. Densities in Neighborhood Conservation Areas are guided by the Future Land Use Map. §2-28; ¶ 223.5.

The proposed rezoning of the Property from C-1 and R-2 to C-2-A is consistent with the recently adopted Comprehensive Plan Amendment. The C-2-A District permits matter-of-right low density development, including office, retail, and all kinds of residential uses to a maximum lot occupancy of 60% for residential use, a maximum FAR of 2.5 for residential use¹ and 1.5 FAR for other permitted uses, and a maximum height of fifty (50) feet. 11 DCMR § 772.1, 771.2, 770.1. The proposed rezoning is also consistent with the existing C-2-A zoning for that portion of Dix Street between 60th and Eastern Avenue.

¹ Also, under the proposed Inclusionary Zoning regulations, the lot coverage could increase up to 75% and the FAR could increase from 2.5 to 3.0 for residential use.

II.
LIST OF EXHIBITS

<u>Exhibit</u>	<u>Description</u>
A	Plats of lots covered under application
B	A copy of that portion of the Baist Atlas Map showing Property
C	Aerial photograph showing Property and surrounding area
D	A copy of a portion of the Zoning Map of the District of Columbia, effective May 12, 1958, containing amendments through January 1, 2003, showing the Property and the surrounding area
E	A portion of the District of Columbia Comprehensive Plan Future Land Use Map showing the Property and the surrounding area
F	A portion of the District of Columbia Comprehensive Plan Generalized Land Use Policy Map showing the Property and surrounding area
G	District of Columbia Act 16-637, Comprehensive Plan Amendment Act of 2006
H	List of witnesses and estimated time required for presentation of Applicant's case
I	Summary of testimony of Applicant's witnesses
J	Resume of Osborne George, O.R. George Associates
K	Resume of Steven E. Sher, Director of Land Use & Zoning Services, Holland & Knight
L	List of maps, plans or other documents readily available that may be offered into evidence
M	Name and mailing address of the owner of the Property to be rezoned
N	List of names and addresses of all property owners within 200 feet of the Property

III. **DESCRIPTION OF PROPERTY**

The Property consists of lots within Square 5228, 5229, 5262, and 5263 located on the north side of Dix Street, N.E., between 56th and 60th Streets and lots within Squares 5253, 5264, and 5265 located on the south side of Dix Street, N.E., between 57th and 60th Streets. The uses and improvements on the lots vary. Lot 44 in Square 5228 extends from 57th to 58th Street, on the north side of Dix Street, and is currently vacant. Primarily, Lots 5 through 7, 9, 41 and 809 in Square 5263, which extends from 58th to 59th Street comprise the site of Beulah Baptist Church (the "Church"). That portion of the Property located in Square 5262 (Lots 14 and 824) fronts on 59th Street, and is improved with a paved parking lot that serves the Church. On the south side of Dix Street, the lots owned by the Applicant in Square 5253 (23, 811, 813 and 814) are improved with older commercial buildings. The original church building sits on Lot 805, in Square 5265. Many of the other lots are vacant or contain vacant structures.

IV. **DESCRIPTION OF THE SURROUNDING AREA**

Like the Property, the area surrounding the Property contains a mix of uses and structures. At the northeast corner of Dix Street and 57th Street is a vacant lot, and on the southeast corner are older commercial buildings, some of which are vacant. The Church is located at the northwest intersection of Dix Street at 59th Street. Immediately west of the Church, are three detached residential structures; and across from the Church, on the south side of Dix Street, between 58th and 59th Streets are well-maintained attached single family dwellings. Continuing on the south side of Dix Street, between 59th and 60th Streets, are the original site of the Church and single family dwellings, including one that appears to be used for a small church. The north side of Dix Street, between 59th and 60th Streets, contains single family dwellings and

vacant lots. The parking lot to the north serves the Church. The area east of the Property is zoned C-2-A, and contains a mix of commercial uses.

V.
EXISTING AND PROPOSED ZONING

The Property is presently split-zoned. As shown on the zoning map attached as Exhibit D, that portion of the Property located within Square 5235, on the south side of Dix Street, between 57th Street and 58th Streets, is in the C-1 District. The C-1 District is the Neighborhood Shopping District, and is designed to provide convenient retail and personal service establishments for the day-to-day needs of a small tributary area, with a minimum impact upon surrounding residential development. 11 DCMR §700.1. In the C-1 District, the permitted maximum building height is 40 feet; the permitted maximum FAR is 1.0; and the permitted maximum lot occupancy is 60%. 11 DCMR, §770-1, 771.2, 772.1. The balance of the Property, on the north and south side of Dix Street, between 57th Street and 60th Streets, is in the R-2 District. The R-2 District consists of those areas that have been developed with one-family, semi-detached dwellings, and is designed to protect them from invasion by denser types of residential development. It shall be expected that these areas will continue to contain some small one-family detached dwellings. 11 DCMR §300.1.

The Applicant proposes to rezone the Property to C-2-A. The C-2-A District is designed to provide facilities for shopping and business needs, housing, and mixed uses for large segments of the District of Columbia outside the central core. 11 DCMR §720.2. This zoning district shall be located in low and medium density residential areas with access to main highways or rapid transit stops, and shall include office employment centers, shopping centers, and medium-bulk mixed use centers. 11 DCMR §720.3. The C-2-A District shall permit development to medium

proportions, and shall accommodate a major portion of existing commercial strip developments.
11 DCMR §720.4, 720.5.

The maximum building height permitted in the C-2-A District is 50 feet. 11 DCMR §770.1. The maximum FAR permitted for an apartment house or other residential use or public school in the C-2-A District is 2.5;² for other permitted uses, the maximum FAR is 1.5. 11 DCMR §771.2. The permitted maximum lot occupancy in the C-2-A District is 60% for that portion of the Property dedicated to residential uses.³ 11 DCMR §772.1. All structures in the C-2-A District are required to have a rear yard with a minimum depth of 15 feet. 11 DCMR §774.1. For one-family attached dwellings, the side yard requirements shall be subject to the requirements of the R-1 District, and a one-family, semi-detached dwelling shall be subject to the requirements of the R-2 District. 11 DCMR §775.2, 775.3. No side yard is required for a hotel, but if one is provided, the width of the side yard shall be 3 inches wide for each foot of height of building, but not less than 8 feet. 11 DCMR §775.4. Side yards are not required for any other structures; but if one is provided, it shall be at least 2 inches wide for each foot of height of building, but not less than 6 feet. 11 DCMR §775.5.

The parking and loading requirements in the C-2-A District are based upon the proposed use of the Property. For example, an apartment house or multiple dwelling use in the C-2-A District requires one parking space for each two dwelling units. 11 DCMR §2101.1. Retail or service establishments, except gasoline service station and repair garage, are required to provide one parking space for each additional 300 square feet of gross floor area and clear floor area in excess of 3,000 square feet. *Id.* Additionally, an apartment house or multiple dwelling with 50

² Under the proposed Inclusionary Zoning regulations, the FAR could increase from 2.5 to 3.0.

³ Under the proposed Inclusionary Zoning regulations, the lot coverage could increase up to 75%.

or more dwelling units is required to provide a loading berth at 55 feet deep, one loading platform at 200 square feet, and one service/delivery space at 20 feet deep. 11 DCMR §2201.1. In the C-2-A District, retail or service establishments, other than grocery store or drug store, with 5,000 to 20,000 square feet of gross floor area are required to provide one loading berth at 30 feet deep and one loading platform at 100 square feet; no service/delivery is required. *Id.*

The proposed change in zoning for the Property would:

- (a) implement the District of Columbia Comprehensive Plan Generalized Future Land Use Map designation of the Property in the mixed-use, Medium Density Residential and Low Density Commercial land use categories;
- (b) permit the development of shopping and business, housing and mixed uses, which is not inconsistent with the District of Columbia Comprehensive Plan Generalized Land Use Policy Map designation of the Subject Property in the Neighborhood Conservation Area; and
- (c) increase supply of residential housing; specifically affordable housing, consistent with the goals and objectives of the Comprehensive Plan.

VI. ZONING HISTORY

The R-2 and C-1 zoning for the Property and adjacent areas were approved in 1958. The section of Dix Street, N.E., between 60th Street and Eastern Avenue, was rezoned from the C-M-1 District to the C-2-A District in 1978, pursuant to Zoning Commission Order 221.

VII.
STANDARDS APPLICABLE TO AN APPLICATION
FOR A ZONING MAP AMENDMENT

The Zoning Act (D.C. Code, Section 6-601 *et seq.*) sets forth the criteria which the Zoning Commission must apply in adopting and amending the Zoning Map of the District of Columbia. Section 6-641.02 provides that "[z]oning maps and regulations, and amendments thereto, shall not be inconsistent with the comprehensive plan for the national capital." Moreover, Section 6-641.02 further requires that zoning regulations:

Shall be designed to lessen congestion in the street, to secure safety from fire, panic, and other dangers, to promote health and the general welfare, to provide adequate light and air, to prevent the undue concentration of population and the overcrowding of land, and to promote such distribution of population and the uses of land as would tend to create conditions favorable to health, safety, transportation, prosperity, protection of property, civic activity, and recreational, educational, and cultural opportunities, and as would tend to further economy and efficiency of public services. Such regulations shall be made with reasonable consideration, among other things, of the character of the respective districts and their suitability for the uses provided in the regulations, and with a view to encouraging stability of districts and land values therein.

The Zoning Commission must apply the same standards and criteria in determining whether to approve a request to amend the Zoning Map.

VIII.
EVALUATION OF PROPOSED MAP AMENDMENT
AND COMPLIANCE WITH STATUTORY STANDARDS

The proposed rezoning of the Property from C-1 and R-2 to C-2-A meets the standards for approval.

A. The Comprehensive Plan

1. The Generalized Policy Map

The map amendment is not inconsistent with the Property's designation as a Neighborhood Conservation Area on the Generalized Policy Map. The guiding philosophy in

Neighborhood Conservation Areas is to conserve and enhance established neighborhoods. Limited development and redevelopment opportunities do exist within these areas, but they are small in scale. The diversity of land uses and building types in these areas should be maintained and new development and alterations should be compatible with the existing scale and architectural character of each area. Densities in Neighborhood Conservation Areas are guided by the Future Land Use Map. § 2-28, ¶ 223.5.

2. Future Land Use Map

The Property is designated mixed use Moderate Density Residential and Low Density Commercial on the District of Columbia Comprehensive Plan Future Land Use Map. The Moderate Density Residential land use category defines the District's row house neighborhoods as well as its low-rise garden apartment complexes. It also applies to areas characterized by a mix of single family homes, 2 to 4 unit buildings, row houses, and low-rise apartment buildings. § 2-33, ¶ 225.4. The Low Density Commercial land use category defines shopping and service areas that are generally low in scale and character. Retail, office and service businesses are the predominant uses. Areas range from small business districts that draw primarily from the surrounding neighborhoods to larger business districts uses that draw from a broader market area. Their common feature is that they are comprised primarily of one – to three-story commercial buildings. The corresponding zone districts are generally C-1 and C-2-A, although other districts may apply. § 2-34, ¶ 225.8.

3. Land Use Element

The development of the Property under the C-2-A District supports the following principles and policies of the Comprehensive Plan Land Use Element:

LU-1.4. Neighborhood Infill Development. The Land Use Element of the Comprehensive Plan strongly supports infill development on vacant lots, provided that such development is compatible in scale with its surroundings and consistent with environmental protection and public safety objectives. In residential areas, infill sites present some of the best opportunities in the city for "family" housing and low to moderate density development. In commercial areas, infill development can fill gaps in the streetwall and create more cohesive and attractive neighborhood centers. § 3-22, ¶ 307.2.

LU-2.1.3: Conserving, Enhancing, and Revitalizing Neighborhoods. Recognize the importance of balancing goals to increase housing supply and expand neighborhood commerce with parallel goals to protect neighborhood character, preserve historic resources, and restore the environment. § 3-25, ¶ 309.8.

Policy LU-2.2.3: Restoration or Removal of Vacant and Abandoned Buildings. Reduce the number of vacant and abandoned buildings in the city through renovation, rehabilitation, and where necessary, demolition. § 3-28, ¶ 310.4.

4. Housing Element

The Housing Element of the Comprehensive Plan describes the importance of housing to neighborhood quality in the District of Columbia and the importance of providing housing opportunities for all segments of the population. § 5-1, ¶ 500.1. The conceptual development of the Property under the C-2-A District support the following principles and policies of the Housing Element:

H-1.1: Expanding Housing Supply. Expanding the housing supply is a key part of the District vision to create successful neighborhoods. Along with improved transportation and shopping, better neighborhood schools and parks, preservation of historic resources, and

improved design and identity, the production of housing is essential to the future of our neighborhoods. It is also a key to improving the city's fiscal health. The first step toward meeting this goal is to ensure that an adequate supply of appropriately zoned land is available to meet expected housing needs. § 5-8, ¶ 503.1.

Policy H-1.1.3: Balanced Growth. Strongly encourage the development of new housing on surplus, vacant and underutilized land in all parts of the city. Ensure that a sufficient supply of land is planned and zoned to enable the city to meet its long-term housing needs, including the need for low- and moderate-density single family homes as well as the need for higher-density housing. § 5-8, ¶ 503.4.

5. Far Northeast & Southeast Area Element

The Property is within the Far Northeast and Southeast Area Element of the District of Columbia Comprehensive Plan, which is generally defined as the 8.3 square miles located east of I-295 and north of Naylor Road, S.E. § 17-1, ¶ 1700.1. Specifically, the Property is within Focus Area 2.3, known as the Capitol View/Northeast Boundary.

As noted in the Comprehensive Plan, Dix Street can support infill commercial and residential development, providing needed services to the adjacent Northeast Boundary neighborhood. § 17-19, ¶ 1713.2. The proposed rezoning of the Property to C-2-A, and the future development of the Property under the C-2-A District promotes the following policies within this Area Element:

Policy FNS-2.3.1: Northeast Boundary Neighborhood. Leverage the development of Capitol Gateway Estates to achieve additional reinvestment in the Northeast Boundary neighborhood, particularly the rehabilitation of existing housing and the development of new mixed income family housing on vacant lots. § 17-20, ¶ 1713.4.

Policy FNS – 2.3.2: Land Acquisition at 61st and Dix. Improve the commercial area along Dix Street between 60th and Eastern Avenue, encouraging new retail businesses and services that benefit the adjacent community. § 17-20, ¶ 1713.7.

B. Health, Safety and General Welfare

The proposed map amendment from C-1 and R-2 to C-2-A would further the health, safety and general welfare of the District of Columbia. The rezoning would be consistent with sound planning and zoning principles, and development under the C-2-A zoning would not have an adverse impact on surrounding property. Development that could occur under the C-2-A zoning would be compatible and consistent with the height, bulk and uses that exists in proximity to the Property. Finally, the development of new residential and commercial uses on the Property would also enhance the general welfare by replacing vacant parcels or vacant and/or underutilized buildings with new development that could provide for additional housing, employment and tax revenue at a location entirely suited to the permitted uses.

C. Adverse Consequences

Rezoning of the Property to C-2-A would not result in overcrowding of land or undue concentration of population, nor would it result in greater congestion in the streets.

D. Development Under C-2-A Would Create Favorable Conditions

The Comprehensive Plan designates the Property in the mixed-use, Moderate Density Residential and Low Density Commercial land use category. The C-2-A District is intended to serve low density development, including office, retail, and all kinds of residential uses to a maximum lot occupancy of 60% for residential use, a maximum FAR of 2.5 for residential use and 1.5 FAR for other permitted uses, and a maximum height of 50 feet. New development on

the Property under the proposed C-2-A zoning would also serve as a catalyst for further redevelopment in the area.

IX.
CONCLUSION

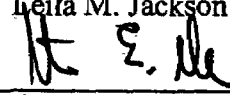
For all the reasons stated herein, the Applicant submits that the proposed rezoning of the Property from C-1 and R-2 to C-2-A meets all of the requirements for an amendment to the Zoning Map. The new residential and commercial uses that could be developed on the Property under the C-2-A regulations are consistent with the Comprehensive Plan; the current zoning is inconsistent with the Comprehensive Plan. Accordingly, the Applicant requests the Zoning Commission schedule a public hearing on the proposed amendment and grant the requested Zoning Map amendment.

Respectfully submitted,

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