Testimony to Zoning Commission
September 8, 2014

Re. Subtitles G, J, H, and K of Draft Zoning Regulations
Zoning Rewrite (Case 08-06A)

Comments Concerning D.C. Office of Planning's Proposed
Special Exception Requirement for Large Format Retail Stores
(aka Big-Box Retail Stores)
by Andrea Rosen, resident of Ward 4

Thank you, Chairman Hood and Commissioners, for giving me a chance to comment on the D C Office of Planning's proposed Special Exception Requirement for Large Format Retail stores.

First I wish to convey my gratitude to Chairman Hood and the Commission for your responsiveness to the many people who testified and wrote to the Commission last autumn proposing that the Zoning Code require approval of a special exception for "Big Box" stores (renamed Large Format Retail Stores in the Office of Planning's proposed text). And I thank OP for drafting a special exception for this use With the addition of the requirement that a developer or tenant secure a special exception for Large Format Retail Store uses, the District will join other jurisdictions in its metropolitan area in allowing the public to comment on big-box development and subjecting it to administrative review (by the BZA)

Because I do not want to run out of time to make a central point, I will address it first Section 206 9 of the proposed text for the Large Format Retail special exception <u>exempts</u> *Large Format Retail uses that would occupy projects approved under the Large Tract Review regulations for a development of 50,000 square feet or more* Since virtually all Large Format Retail projects qualify for Large Tract Review (LTR), this exemption, if allowed to remain in the text, would in practice nullify the special exception Then we would be back where we started, with an internal permitting procedure conducted by the Office of Planning devoid of input from residents and business owners. OP has stated that if the special exception is passed, they will strike this exemption I urge you to make sure that they follow through with this modification

I would like to suggest two minor edits to the definition of Large Format Retail that would close holes that a Large Format retailer might manage to drive a semi-trailer truck through:

- The definition states, *the use shall include warehouse club stores with or without paid memberships, discount retailers, and similar uses* After the phrase *the use shall include*, I urge you to insert the phrase "but not be limited to." With *warehouse club stores* and *discount retailers* comprising the only explicit examples, someone could argue that a Large Format retailer that does not follow the warehouse club model or one that advertises "everyday low prices," rather than discounts, is not a similar use

- The definition continues, *a large format retailer may include grocery sales as a secondary use but a grocery store shall not be considered a large format retail use* I suggest a modification that quantifies the difference between a grocery store and a Large Format Retailer For example, a Large Format Retailer receives not more than 50 percent of its receipts from, or devotes not more than 50 percent of its selling floor space to, the sale of produce, meat, poultry, fish, and other food products

I also urge the Zoning Commission and Office of Planning to alter the text so that Large Format Retail is treated as a special exception in all zones Section 206 of the text includes Subtitle K, but the list of zones in 206.1 does not mention it. More puzzling and potentially egregious, OP states under Discussion that the text *is not proposed to be applicable in the Downtown zones.* Especially because the Zoning Regulations Rewrite proposes to triple the size of what is zoned Downtown, I can see no justification for exempting great swaths of the urban core from the Large Format Retail special exception.

My umbrella concern regards the efficacy of the proposed special exception for Large Format Retail, touched upon, above, with my request that the exemption from the special exception requirement for projects subject to Large Tract Review be eliminated My concern is heightened by language in the Discussion column of OP's text *The text sets forth design guidelines, and reflects similar site and performance standards as the LTR process* Together with the exemption at Section 206 9, this suggests that OP does not envision the function of the special exception for Large Format Retail as differing markedly from that of the LTR

This worries me because, for one example, the Large Tract Review conducted for the Walmart on Georgia Avenue, NW, that opened last December looked at traffic and parking but DDoT, which participated, did not consider the needs of existing small merchants across Georgia Avenue from the Walmart when it eliminated their life-giving curbside parking Inexplicably, DDoT redrew the traffic lanes on that stretch of Georgia Avenue to allow one lane for standing on the Walmart side of Georgia; no lane for standing on the opposite side of Georgia, the one lined by small businesses; and no parking at all on either side of the avenue. The loss of easy access by customers to the small shops has magnified the negative impact of a big box store that competes with those shops in almost every retailing category, but with buying and pricing power they can never match. While Walmart agreed to allow customers of the small businesses to park in its underground garage, that funnels shoppers through the big-box store so that by the time they arrive at a small retailer across the street—if they do—they've fulfilled many of their needs.[1]

Nor did the LTR protect the neighborhood from heavy traffic on narrow residential side streets, indeed the entrance to the garage is on Peabody Street, a street that also provides entrée to a police station On the days leading up the Christmas, the street was often impassable

The special exception language as currently written is all about *development standards and design guidelines* of the physical buildings These are crucial aspects of development, but the special exemption does not address the need, detailed by many people in their testimony last November, for our city, in its planning and zoning, to take into account the special economic impacts of Large Format Retail As predicted—(based on the experiences of other towns and cities), with the arrival of Walmart, "Most businesses along Georgia Avenue [in the vicinity of the Large Format retailer] have taken a hit to their profit margins—ranging anywhere from 20% to 40%. Some have been forced to decrease their workforce, and some business owners . . . cited potential pay cuts as well as scheduling changes to decrease worker hours Small businesses on Georgia Avenue are struggling to stay afloat alongside the new Walmart Supercenter "[2]

Thank you very much for considering these comments

Andrea Rosen, Ward 4, 3266 Worthington St., NW, Washington, DC 20015, aerie@rcn

[1] Ward 4 Thrives, Respect DC, DC Jobs With Justice: *Walmart's Small Business Impact Georgia Avenue, Testimony and Stories from the Small Business Owners* (2014, unpublished draft)
[2] ibid