

**BEFORE THE ZONING COMMISSION
FOR THE
DISTRICT OF COLUMBIA**

**STATEMENT OF GEORGE AND DIMITRI MALLIOS IN SUPPORT OF
AN APPLICATION FOR A MAP AMENDMENT
FROM THE
DC/R-5-B DISTRICT
TO THE
DC/C-2-B DISTRICT
FOR
PROPERTY LOCATED AT 1622 Q STREET, N.W.
(SQUARE 180, LOT 30)**

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**ZONING COMMISSION
District of Columbia**

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CASE NO. _____

09-12

EXHIBIT NO. _____

**ZONING COMMISSION
District of Columbia
CASE NO. 09-12
EXHIBIT NO. 5**

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I.
INTRODUCTION

George and Dimitri Mallios (the "Applicant"), through undersigned counsel, submit this statement in support of their application to amend the Zoning Map of the District of Columbia (the "Zoning Map") to rezone the property at 1622 Q Street, N.W., from the DC/R-5-B District to the DC/C-2-B District. The map amendment will allow the property to re-establish and continue its historic commercial uses and permit the expansion of the adjacent restaurant use into the property. The requested map amendment is not inconsistent with the Comprehensive Plan, would not create any adverse impacts on surrounding properties, and would result in a number of important benefits to the surrounding community and the District of Columbia as a whole. Indeed, the proposed map amendment is necessary to ensure that the zoning designation for the property is consistent with the site's designation on the Future Land Use Map of the Comprehensive Plan.

II.
DESCRIPTION OF THE SUBJECT PROPERTY AND SURROUNDING AREA

The property that is the subject of this application (the "Property") includes a single record lot located at 1622 Q Street, N.W., known as Lot 30 in Square 180. The Property is situated within the R-5-B District and contains a total of 2,033 square feet of land area. The site is also located within the Dupont Circle ("DC") Overlay District and therefore has a zoning designation of DC/R-5-B. The Property, which is also located in the Dupont Circle Historic District, is currently improved with a contributing historic structure built circa 1877 originally as a row dwelling. In the late 1920s, however, the ground floor was converted to commercial uses. Over the years, it has housed a number of commercial uses, including a meat market, a tailor shop, a commercial laundry, and most recently an artist studio. The building has also been used

for residential purposes. When the building was converted into a commercial laundry, half of the first-floor ceiling was removed, creating a mezzanine level on the second floor. Because of that structural modification, the lower levels of the building are no longer suited for residential uses. The artist studio was established through special exception approval in 1973 by the Board of Zoning Adjustment ("BZA" or the "Board"), which allowed the lawfully existing nonconforming cleaning establishment to be converted to the new use. See BZA Order No. 11441 (October 19, 1973). A copy of the Certificate of Occupancy authorizing the artist studio is attached as Exhibit D.

The Future Land Use Map of the Comprehensive Plan, the relevant portion of which is attached hereto as Exhibit E, designates the Property for mixed-use development including low-density commercial and medium-density residential land uses. The Property is also designated as a Neighborhood Conservation Area on the Generalized Policy Map, the relevant portion of which is attached hereto as Exhibit F.

Square 180 was originally bisected by Church Street, formerly known as Madison Street, in an east-west direction between 16th and 17th Streets. In the early 1950s, a portion of Church Street measuring approximately 200 feet in length through the middle of the square was closed to allow the establishment of Stead Park, now known as the Stead Recreation Center. The recreation center contains approximately 69,100 square feet of land area and currently occupies most of the square. The southwest quadrant of Square 180 is occupied by a two-story commercial building and a number of rowhouses along 17th Street, N.W. that have been converted to commercial use. The southeast quadrant of the square is improved with the Foundry United Methodist Church. The northern portion of the square is occupied by commercial uses along 17th Street and apartment buildings along 16th Street. The property

located along the north side of Q Street in Square 179 is improved with a six-story mixed-use building with ground-floor retail on the corner of 17th Street, a three-story apartment building, the twelve-story Cairo apartment building in the middle of the block, and an eight-story apartment building on the corner of 16th Street. Additional commercial uses are located in Square 179 along 17th Street.

III. EXISTING AND PROPOSED ZONING

A. Existing Zoning and Proposed Zoning

As illustrated on the Zoning Map attached hereto as Exhibit B, the Property is currently located within the DC/R-5-B District. The DC/C-2-B District along 17th Street, N.W. extends approximately 100 feet into Square 180 for a distance of approximately 330 feet as measured from P Street, N.W., and then narrows to a depth of only 62 feet from that point north to Q Street, N.W. The boundary between the DC/C-2-B District and the DC/R-5-B District is coterminous with the western boundary of the Property. The R-5 Districts are designed to "permit flexibility of design by permitting in a single district ... all types of urban residential development if they conform to the height, density, and area requirements established for these districts ... [and] also permit the construction of those institutional and semi-public buildings that would be compatible with adjoining residential uses and that are excluded from the more restrictive Residence Districts." *See* 11 DCMR § 350.1. The R-5-B District limits construction to a maximum height of 50 feet and a maximum density of 1.8 floor-area ratio ("FAR"). 11 DCMR § 350.2. Within the DC Overlay District, a planned unit development may not exceed the matter-of-right height and density limitations of the underlying zoning district. 11 DCMR § 1503.1.

The Applicant is requesting a map amendment to have the Property rezoned DC/C-2-B. The C-2-B District is a community business center district that is "designated to serve commercial and residential functions similar to the C-2-A District, but with high-density residential and mixed uses." 11 DCMR § 720.6. The C-2-B District permits residential and most commercial uses as a matter of right, but permits residential development at a higher density than commercial development. Within the C-2-B District, "building use may be entirely residential or a mixture of commercial and residential uses." 11 DCMR § 720.8. The height, density, and other area controls applicable under the current and proposed zoning for the Property are presented in the table below.

Requirement / Limitation	Existing: DC/R-5-B District	Proposed: DC/C-2-B District
Maximum Height	50 feet	65 feet
Maximum FAR	1.8	Total: 3.5 Nonresidential: 1.5
Minimum Lot Width	none	none
Minimum Lot Area	none	none
Lot Occupancy	60 percent	Nonresidential: no limit Residential: 80 percent
Rear Yard	4.0 inches of depth per foot of vertical distance between the mean finished grade at the rear of the building and the highest point of the main roof or parapet wall, but not less than fifteen feet	2.5 inches of depth per foot of vertical distance between the mean finished grade at the rear of the building and the highest point of the main roof or parapet wall, but not less than twelve feet
Side Yard	no side yard is required unless the property's side lot line abuts a residence district; if a rear yard is provided, it must be at least three inches in width for each foot of building height, but not less than eight feet	no side yard is required unless the property's side lot line abuts a residence district; if a rear yard is provided, it must be at least three inches in width for each foot of building height, but not less than eight feet

B. Effect of the Proposed Map Amendment

As discussed in more detail below, the proposed map amendment is not inconsistent with the Comprehensive Plan and will further the objectives of the Zoning Act. The requested rezoning of the Property to the DC/C-2-B District satisfies each of the statutory standards applicable to map amendments. Although the proposed map amendment would technically allow an increase in the maximum permitted height for a new building on the Property from 50 feet to 65 feet and would increase the maximum permitted density from 1.8 FAR to 3.5 FAR, the Applicant does not intend to redevelop the Property. Moreover, given its historic status, it is unlikely that the building could be demolished, and any alterations would require review by the D.C. Historic Preservation Review Board and approval by the Mayor's Agent for Historic Preservation.

Rather, the sole purpose of the proposed map amendment is to permit the continued use of the building for commercial purposes by allowing the expansion of the existing restaurant, which is located at 1624 Q Street, N.W., into the Property. The Applicant does not intend to demolish the existing building, nor does it intend to make any significant alterations to the building's exterior features. Under the current DC/R-5-B zoning designation for the site, the Property may be developed only with residential uses and a limited range of institutional uses. In other words, the existing zoning is inconsistent with the Property's designation on the Future Land Use Map of the Comprehensive Plan, which calls for mixed-use development including both low-density commercial and medium-density residential land uses. The approval of the proposed map amendment will allow the use of the existing building's ground floor and mezzanine level as a restaurant and will thus further the policies set forth in the Comprehensive Plan.

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

The Zoning Act sets forth a number of criteria that must be applied by the Commission in adopting and amending the Zoning Regulations and Zoning Map. The Zoning Act states that the Zoning Regulations are designed to "promote the health, safety, morals, convenience, order, prosperity, or general welfare of the District of Columbia and its planning and orderly development as the national capital" D.C. Code § 6-641.01 (2001). The Zoning Act further provides that:

[z]oning maps and regulations, and amendments thereto, shall not be inconsistent with the comprehensive plan for the national capital, and 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 of 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 in the supply 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 of land values therein.

D.C. Code § 6-641.02 (2001). The Commission must apply those standards and criteria in determining whether to approve a requested map amendment. As set forth below, the proposed rezoning of the Property from the DC/R-5-B District to the DC/C-2-B District will promote each of the purposes described above.

V.

EVALUATION OF PROPOSED MAP AMENDMENT AND COMPLIANCE WITH STATUTORY STANDARDS

As described in detail below, the proposed map amendment meets each of the specific requirements set forth in the Zoning Act. The Commission should therefore approve the application.

A. The Comprehensive Plan

1. Purposes of the Comprehensive Plan

The D.C. Code provides that the District Elements of the Comprehensive Plan are designed to:

- (a) Define the requirements and aspirations of District residents, and accordingly influence social, economic, and physical development;
- (b) Guide executive and legislative decisions on matters affecting the District and its citizens;
- (c) Promote economic growth and jobs for District residents;
- (d) Guide private and public development in order to achieve District and community goals;
- (e) Maintain and enhance the natural and architectural assets of the District; and
- (f) Assist in the conservation, stabilization, and improvement of each neighborhood and community in the District.

D.C. Code § 1-301.62 (2001). The requested map amendment is consistent with each of the purposes set forth above and will further the District's social, economic, and physical development by promoting a wide range of diverse land uses that foster economic growth and create new jobs for District residents.

2. The Future Land Use Map and the Generalized Policy Map

The Future Land Use Map of the Comprehensive Plan designates the Property for mixed-use development including low-density commercial and medium-density residential land uses. As illustrated on the portion of the Future Land Use Map attached as Exhibit E, the mixed-use designation for the properties located along 17th Street, N.W. extends into Square 180 to a depth

of approximately 100 feet between P Street, N.W. and Q Street, N.W. The eastern boundary of the Property is located approximately 83 feet from 17th Street, N.W. The Framework Element of the Comprehensive Plan provides that a mixed-use designation is appropriate in "[e]stablished, pedestrian-oriented commercial areas which also include substantial amounts of housing, typically on the upper stories of buildings with ground floor retail or office uses." 10 DCMR § 225.18. The Comprehensive Plan provides the following guidance with respect to the proper balance of different uses on properties designated for mixed-use development:

The general density and intensity of development within a given Mixed Use area is determined by the specific mix of uses shown. If the desired outcome is to emphasize one use over the other (for example, ground floor retail with three stories of housing above), the Future Land Use Map may note the dominant use by showing it at a higher density than the other use in the mix (in this case, "Moderate Density Residential / Low Density Commercial).

10 DCMR § 225.19. In this case, the Future Land Use Map has designated the Property for mixed-use development including low-density commercial and medium-density residential land uses. The requested map amendment is consistent with that designation. The zoning proposed for the Property would permit a maximum FAR of 3.5, no more than 1.5 of which may be devoted to commercial uses. The proposed map amendment is therefore consistent with the Property's designation on the Future Land Use Map.

The Generalized Policy Map designates the Property as a Neighborhood Conservation Area (see portion of the Generalized Policy Map attached as Exhibit F). The Framework Element of the Comprehensive Plan provides that the "guiding philosophy in Neighborhood Conservation Areas is to conserve and enhance established neighborhoods." 10 DCMR § 223.5. In accordance with that philosophy, the Comprehensive Plan further provides that 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."

Id. As discussed above, the existing building has a long history of commercial use, and the proposed map amendment will allow the maintenance of the Property's historically mixed-use character. Because the Applicant does not intend to make any significant exterior changes to the existing building, the proposed map amendment will be compatible with the existing scale and architectural character of the surrounding neighborhood. In short, the proposed map amendment will help implement the policies embodied in the Generalized Policy Map.

The proposed map amendment will also be compatible with the land use designations for the properties located in the surrounding area. The properties in the vicinity of the Property are designated on the Future Land Use Map for a range of commercial and residential uses, and are currently improved with uses that are consistent with that designation. The proposed map amendment will permit future development on the Property that is consistent with the character of the surrounding neighborhood.

3. Compliance with the Citywide Elements of the Comprehensive Plan

The proposed map amendment is consistent with the citywide elements of the Comprehensive Plan and will advance a number of their stated goals and policies.

a. Land Use Element (Chapter 3)

The Comprehensive Plan provides that "[b]ecause the Land Use Element integrates the policies and objectives of all the other District Elements, it should be given greater weight than the other elements as competing policies in different elements are balanced." 10 DCMR § 300.2.

The underlying goal of the Land Use Element is to:

[e]nsure the efficient use of land resources to meet the long-term neighborhood, citywide, and regional needs; to help foster other District goals; to protect the health, safety, and welfare of District residents and businesses; to sustain, restore, or improve the character and stability of neighborhoods in all parts of the city; and to effectively balance the competing demands for land to support the many activities that take place within District boundaries.

10 DCMR § 302.1. The proposed map amendment will advance this important goal by complying with the policies set forth in the Land Use Element of the Comprehensive Plan.

Policy LU-2.1.3: Conserving, Enhancing, and Revitalizing Neighborhoods: Recognize the importance of balancing goals to increase the housing supply and expand neighborhood commerce with parallel goals to protect neighborhood character, preserve historic resources, and restore the environment. The overarching goal to "create successful neighborhoods" in all parts of the city requires an emphasis on conservation in some neighborhoods and revitalization in others. 10 DCMR § 309.8.

The proposed map amendment will further the objectives of Policy LU-2.1.3 by implementing the mixed-use designation for the Property on the Future Land Use Map while also protecting neighborhood character and preserving the historic features of the existing building. The proposed map amendment will contribute to the livability of the surrounding neighborhood.

Policy LU-2.4.6: Scale and Design of New Commercial Uses: Ensure that new uses within commercial districts are developed at a height, mass, scale and design that is appropriate and compatible with surrounding areas. 10 DCMR § 312.10.

As noted above, the sole purpose of the proposed map amendment is to allow the expansion of an adjacent restaurant into the existing building on the Property. The Applicant does not intend to make any significant alterations to the building, and any such alterations would require the prior review and approval by the D.C. Historic Preservation Review Board and the Mayor's Agent for Historic Preservation. Because the existing building is compatible with the height, massing, scale, and design of other nearby properties, the proposed map amendment is consistent with the objectives of Policy LU-2.4.6.

b. Transportation Element (Chapter 4)

The stated goal of the Transportation Element of the Comprehensive Plan is to "[c]reate a safe, sustainable, efficient multi-modal transportation system that meets the access and mobility needs of District residents, the regional workforce, and visitors; supports local and regional

economic prosperity; and enhances the quality of life for District residents." 10 DCMR § 401.1. The proposed map amendment is consistent with the general policies set forth in the Transportation Element of the Comprehensive Plan. Most importantly, the map amendment will allow both commercial and residential uses in close proximity to the Dupont Circle Metrorail station.

c. Housing Element (Chapter 5)

The overarching goal of the Housing Element is to "[d]evelop and maintain a safe, decent, and affordable supply of housing for all current and future residents of the District of Columbia." 10 DCMR § 501.1. The proposed project will help achieve this goal by advancing the policies discussed below.

Policy H-1.1.4: Mixed Use Development: Promote mixed use development, including housing, on commercially zoned land, particularly in neighborhood commercial centers, along Main Street mixed use corridors, and around appropriate Metrorail Stations. 10 DCMR § 503.5.

The proposed map amendment will allow mixed-use development adjacent to a Main Street Mixed Use Corridor approximately three blocks from a Metrorail station entrance. The requested extension of the DC/C-2-B District will permit precisely the type of mixed-use development contemplated by Policy H-1.1.4.

d. Economic Development Element (Chapter 7)

The Comprehensive Plan provides that the goal of the Economic Development Element is to:

[s]trengthen the District's economy by sustaining its core industries, attracting new and diverse industries, accommodating future job growth, fostering the success of small businesses, revitalizing neighborhood commercial centers, improving resident job skills, and helping a greater number of District residents find and keep jobs in the Washington regional economy.

10 DCMR § 701.1. In addition to furthering the general goal of economic development by permitting commercial uses on the Property that will create new jobs and tax revenues for the District, the proposed map amendment will also advance a number of the specific objectives and policies described in the Economic Development Element.

Policy ED-2.2.1: Expanding the Retail Sector: Pursue a retail strategy that will allow the District to fully capitalize on the spending power of residents, workers and visitors, and that will meet the retail needs of underserved areas. 10 DCMR § 708.4.

The proposed map amendment will further the objectives of Policy ED-2.2.1 by permitting retail uses on the Property and allowing the expansion of the adjacent restaurant into the existing building. All of the properties between the Property and 17th Street, N.W. are currently devoted to neighborhood-serving retail uses. The proposed map amendment would provide a significant benefit to the neighborhood by allowing the Property to be linked to the adjacent C-2-B District.

Policy ED-3.1.1: Neighborhood Commercial Vitality: Promote the vitality and diversity of Washington's neighborhood commercial areas by retaining existing businesses, attracting new businesses, and improving the mix of goods and services available to residents. 10 DCMR § 713.5.

Because it will allow the expansion of the adjacent restaurant into the existing building on the Property, the proposed map amendment will help achieve the goals of Policy ED-3.1.1 by promoting the vitality and diversity of the surrounding neighborhood.

Policy ED-3.2.1: Small Business Retention and Growth: Encourage the retention, development, and growth of small and minority businesses through a range of District-sponsored technical and financial assistance programs. 10 DCMR § 714.6.

The adjacent restaurant to the west is a small business and a neighborhood institution, and its current space can no longer accommodate the needs of its customers. By allowing the

expansion of the restaurant into the existing building on the Property, the proposed map amendment will further the objectives of Policy ED-3.2.1.

e. Urban Design Element (Chapter 9)

The goal of the Comprehensive Plan's Urban Design Element is to:

[e]nhance the beauty and livability of the city by protecting its historic design legacy, reinforcing the identity of its neighborhoods, harmoniously integrating new construction with existing buildings and the natural environment, and improving the vitality, appearance, and security of streets and public spaces.

10 DCMR § 901.1. In keeping with this objective, the proposed map amendment will improve the vitality and livability of the surrounding neighborhood and will also further the specific policies set forth in the Urban Design Element.

Policy UD-2.2.2: Areas of Strong Architectural Character: Preserve the architectural continuity and integrity of historic districts and other areas of strong architectural character. New development within such areas does not need to replicate prevailing architectural styles exactly but should be complementary in form, height, and bulk. 10 DCMR § 910.7.

The proposed map amendment will allow the use of the existing building on the Property for commercial use while preserving its architectural character and integrity. Because the building is a contributing structure in the Dupont Circle Historic District, any demolition or alterations to the existing building, or any new construction on the Property, would require the approval of the D.C. Historic Preservation Review Board and the Mayor's Agent for Historic Preservation.

f. Historic Preservation Element (Chapter 10)

The underlying goal of the Historic Preservation Element of the Comprehensive Plan is described as follows:

Preserve and enhance the unique cultural heritage, beauty, and identity of the District of Columbia by respecting the historic physical form of the city and the enduring value of its historic structures and places, recognizing their importance

to the citizens of the District and the nation, and sharing mutual responsibilities for their protection and stewardship.

10 DCMR § 1001.1. As discussed below, the proposed map amendment will further a number of the specific policies outlined in the Historic Preservation Element of the Comprehensive Plan.

Policy HP-2.4.2: Adaptation of Historic Properties for Current Use: Maintain historic properties in their original use to the greatest extent possible. If this is no longer feasible, encourage appropriate adaptive uses consistent with the character of the property. 10 DCMR § 1011.7.

As discussed above, the ground floor and mezzanine level of the existing building on the Property has a long history of commercial use. The proposed map amendment is consistent with the Property's mixed-use designation on the Future Land Use Map and will allow the building's adaptation for current use. The requested map amendment is therefore consistent with the objectives of Policy HP-2.4.2.

4. Compliance with the Area Elements of the Comprehensive Plan

In addition to the citywide elements, the Comprehensive Plan includes ten geographically based "area elements." The Property is located within the Dupont Circle Policy Focus Area within the Near Northwest area. As discussed below, the proposed map amendment is consistent with the objectives and policies set forth in the Near Northwest Area Element.

Policy NNW-1.1.3: Enhancing Stable Commercial Areas: Sustain and enhance the neighborhood, community, and regional shopping areas of Near Northwest, including M Street, P Street, Wisconsin Avenue, Connecticut Avenue, Florida Avenue, 18th Street NW, 17th Street NW, and 14th Street NW. Sustain these areas as diverse, unique, pedestrian-oriented shopping streets that meet the needs of areas residents, workers, and visitors. 10 DCMR § 2108.4.

The proposed map amendment will help enhance the 17th Street, N.W. commercial corridor by allowing the expansion of the adjacent restaurant to the west into the existing building on the Property. As discussed above, the ground floor and mezzanine level of the

existing building has a long history of commercial use, and the proposed map amendment will not create any adverse impacts on the surrounding neighborhood.

B. Health, Safety, and General Welfare

The proposed map amendment would further the public health, safety, and general welfare of the District of Columbia. The requested rezoning to the DC/C-2-B District will ensure that the Property is developed in a consistent manner and does not result in future conflicts between incompatible land uses. By permitting a compatible mix of low-intensity commercial and residential uses on the Property, the proposed map amendment will protect the health and safety of District residents. The map amendment will also promote the general welfare by allowing the expansion of the adjacent restaurant into the existing building on the Property, thus generating new jobs for District residents and significant tax revenues for the District government.

C. No Adverse Consequences

The proposed map amendment will not result in the overcrowding of land or the undue concentration of population, nor will it have any significant adverse impacts on traffic congestion in the surrounding area. The existing building on the Property has been devoted to a range of commercial and residential uses since its construction, and the proposed map amendment will simply allow the continuation of its mixed-use character. The map amendment will not generate any negative external effects.

D. Development under the DC/C-2-B District Would Create Favorable Conditions

As discussed above, the proposed map amendment will further a number of the policies embodied in the District's Comprehensive Plan. The rezoning will allow the Property to be devoted to a mix of commercial and residential uses as contemplated on the Future Land Use

Map of the Comprehensive Plan, while protecting the existing building's architectural character and integrity.

VI.
CONCLUSION

For all of the reasons stated herein, the Applicant submits that the proposed rezoning of the Property from the DC/R-5-B District to the DC/C-2-B District meets all of the requirements for an amendment to the Zoning Map. The proposed map amendment is consistent with the District's policies for this property and for the development of the surrounding area. Furthermore, the proposed rezoning is not inconsistent with the Comprehensive Plan. Finally, the requested rezoning will further each of the specific objectives set forth in the Zoning Act. Accordingly, the Applicant respectfully requests that the Commission schedule a public hearing on this application and grant the requested map amendment as expeditiously as possible.

Respectfully submitted:

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