

# Arent Fox

January 8, 2010

BY HAND

Anthony Hood, Chair  
Zoning Commission for the District of Columbia  
441 Fourth Street NW  
Washington DC 20001

**Kinley R. Bray**

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Reference Number  
030919.00003

Re: Petition of District of Columbia Public Library  
Zoning Commission Case No. 09-17  
Motion to Re-Open the Record,  
Applicant's Supplemental Statement in Support

Dear Chairman Loud and Members of the Commission:

On behalf of the District of Columbia Public Library (the "Applicant") and pursuant to DCMR § 3024.5, we hereby request that the Commission re-open the record in the above-referenced case to receive the following Supplemental Statement in Support of the Application for Special Exception.

At the conclusion of the public hearing on December 3, 2009, the Commission directed the Office of Zoning staff to refer the matter to the District of Columbia Department of Transportation ("DDOT") for a report on the special exception application, and urged the Applicant to work with DDOT to resolve many of the concerns expressed by the Commissioners on the record at that hearing. The record was left open for the limited purpose of receiving the DDOT report as well as a technical correction of the ANC's report and recommendation.

This Supplemental Statement in Support details the Applicant's outreach efforts with regard to the transportation issues and provides additional support for the special exception relief requested, based on the Commission's concerns at the December 3, 2009 public hearing.

## Transportation issues

In response to questions raised by the Commission at the public hearing, the Library has undertaken several steps to assure that there will be no adverse impact as a result of the requested relief.

## *Enhanced Police Traffic Enforcement*

We spoke to Lieutenant Hodge at the Metropolitan Police Department, who is in charge of PSA 606, in which Francis Gregory Library is located. Lt. Hodge committed to undertake a pedestrian safety initiative to coincide with the opening of the new branch library. He indicated willingness to:

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District of Columbia  
CASE NO. 09-17  
EXHIBIT NO. 40

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1. Provide enhanced on-street enforcement of speeding, failure to yield right of way to a pedestrian and related violations;
2. Arrange for the placement of a sign with flashing lights that indicates that the speed of approaching vehicles, a measure which the Director of the DC Department of Transportation, Mr. Klein, has mentioned at several community forums as effective in reducing speeding; and to
3. Pursue the installation of a speed camera if necessary.

### *Coordination with the DC Department of Transportation*

As noted by the Library's representative at the public hearing, the Applicant met with DDOT early in the planning process to discuss the project in a Preliminary Design Review Meeting ("PDRM") held on May 28, 2009. In fact, as noted below, the Library's initial submission to DDOT occurred before February, 2009.

In addition, a meeting was held with the D.C. Department of Transportation (DDOT) on December 17, 2009 to explore approaches to improve the safety and convenience of pedestrian access to the new library. The meeting included representatives from the Library staff and consultants, and DDOT staff from neighborhood planning, pedestrian safety and development review. The meeting was very productive.

First, Alabama Avenue in the vicinity of the Library is classified by DDOT as only a "minor arterial" based on the relatively low levels of traffic on that segment. As such, current traffic levels on Alabama Avenue and the cross streets at 36<sup>th</sup> and 37<sup>th</sup> Streets, SE are too low to warrant traffic signals or stop signs. In addition, there is no evidence of serious pedestrian safety issues sufficient to call for additional capital investment in safety measures at this point in time.

Both the Applicant and DDOT agree that an enhanced traffic/speed enforcement initiative can be undertaken with the Metropolitan Police Department when the Library opens, to alter driver behavior and perception. This can include police ticketing, a sign which flashes a passing vehicle's current speed, which has the effect of reducing vehicle speed in the vicinity of the sign, as well as speed cameras which automatically issue tickets for speeding.

Additionally, in order to increase the visibility of pedestrians who wish to cross to drivers on Alabama Avenue, DDOT can establish a longer no parking area by the striped cross-walk, so parked cars do not obscure a view of the pedestrian waiting to cross.

If, once the library opens, the Library finds that the situation warrants additional safety measures beyond the MPD enforcement, DDOT recommendations include: (1), installation of curb extensions, also known as "bulb outs", at the intersection of Alabama Avenue and 37<sup>th</sup> Streets, and (2) the installation of a high-intensity, pedestrian activated signal. Curb extensions

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could be installed so that they protrude into Alabama Avenue, increasing the visibility of pedestrians preparing to cross, and reducing the width of open street that the pedestrian would have to navigate. A high-intensity, pedestrian-activated signal would activate a very bright set of LED lights that flash in response to the pedestrian pushing a button. The Applicant indicated its willingness to work cooperatively with DDOT to identify the funding for these additional measures, should such measures be warranted following opening of the library.

### *Coordination with Anne L. Beers Elementary School*

DCPL staff currently has a cooperative relationship with the principal at Anne Beers Elementary School, which is adjacent to the Francis Gregory site, and the staff at the Office of Public Education Facilities Modernization, as they have agreed to provide space for the interim library when the current structure is closed and razed. DCPL will work closely with the school administration as it gets closer to building completion, to coordinate with school crossing guards.

Beers was nominated as one of the "Safe Routes to School" (SRTS) pilot sites, which would fund a variety of pedestrian improvements with 100% federal stimulus money. Although pedestrian conditions were not deemed problematic enough for Beers to be chosen in the initial round of funding, the Applicant will continue to coordinate with the principal at Beers, and follow up on the possible availability of SRTS funding.

### *Loading and handicapped-accessible parking*

As the Commission requested at the December 3, 2009 public hearing in this case, the Applicant also discussed with DDOT the issue of loading and handicapped-accessible parking spaces along Alabama Avenue. As discussed at the public hearing, the Applicant's loading needs are minimal. Books are delivered in small batches, often outside of regular library hours, and trash is wheeled to the curb by library staff for regular city pickup. Trash will be wheeled from a side door on the northwest end of the building through the six-foot wide side yard to the curb. There is a small separation in grade and a retaining wall between the side yard and the adjacent parkland, which is at a higher elevation than the library site.

There is one existing handicapped-accessible space (indicated by signage) on Alabama Avenue in front of the library. The Applicant requested that DDOT assign a loading space for a specified time period at the curb for delivery of books to the library. DDOT agreed to coordinate with DCPL for such a loading space, and for the designation of an additional handicapped space in front of the library, should one be necessary.

DDOT, in its January 6 memorandum to the Zoning Commission, supports the elimination of parking from the proposed library site. Additionally, in a February 6, 2009 memorandum from Karina Ricks, Associate Director for Transportation Planning to DCRA (attached), DDOT notes that the proposed project will have minimal traffic impact on the neighborhood.

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## *Response to DDOT Memo*

Approximately three weeks after the meeting with DDOT, the Library received a copy of a short memo which DDOT sent to the Commission, dated January 6, 2010, which supported the proposed zoning action in its "Recommendation in Brief", stating that DDOT "does not disagree" with the Library's request. Although it only identified the map amendment explicitly in that section, in the next section it characterized the requested reduction in on-site parking spaces as a "laudable action". DDOT suggests the need for "additional safety", and notes that the Library indicated its plan to coordinate with MPD for an enhanced enforcement effort.

While the report states that safety concerns had been voiced by community residents about the existing situation, this was not mentioned at the meeting with DDOT, which included the Ward 7 transportation planner. The only safety issue that DDOT identified explicitly in the memo is that the average speed is higher than the posted speed. While this is a concern, speeding is an issue which can be rectified through increased enforcement. It should be noted that motorists going in either direction have clear sight lines, and that, as DDOT acknowledges, the traffic volumes are low, with few conflicting cross-traffic movements, all generally conditions contributing to pedestrian safety.

DDOT did not disagree with any of the rest of the zoning action, other than to suggest, somewhat vaguely, that DCPL "rethink" its roadway safety strategies. The Library is puzzled by this inconsistency. Previously, DDOT had sent a memo in response to a previous iteration of the plan to reconstruct Francis Gregory Library, which noted favorably that parking was proposed to be reduced, concluding that the project would have "minimal impact" on the neighborhood, and was supported by DDOT. See Attachment A. In addition, DDOT's January 6 memorandum did not even mention that there is a traffic light with a pedestrian signal at the intersection of Alabama and 36<sup>th</sup> Street. Attachment B to this submission contains a number of photos of the vicinity, identifying a variety of conditions favorable to pedestrian safety, none of which were referenced by DDOT in their report to the Commission.

None of the safety concerns mentioned by DDOT relate to the requested relief. The library has been operating at this location since 1959, and seeks to increase its footprint on the site and to eliminate on-site parking. Not only does DDOT agree with the requested reduction in parking, there is no evidence that either the existing library nor the new library will in any way exacerbate the existing traffic conditions on Alabama Avenue, which DDOT has determined are not concerning enough to warrant a traffic signal, a new stop sign, or other improvements funded out of the District's budget for pedestrian safety improvements.

### **Posting of the property**

As the Commissioners will recall, the Applicant requested waiver of the notice provisions under the Commission's rules to allow the case to go forward despite a late posting in this matter. Following the public hearing, and in response to the Commission's concerns regarding

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the late posting of the property, the Library staff modified the posting to indicate that public comments could be submitted to the Office of Zoning and that the Commission postponed taking action on this matter until January 11. The Applicant also filed an additional affidavit of maintenance with the Office of Zoning staff on December 23, 2010, stating that the sign has been maintained, and will continue to be maintained, until the Commission takes action on this matter. As we indicated at the Commission meeting, we feel quite confident that the neighborhood was aware of the proposed project and the zoning case, but we were pleased to make this additional effort to assure that any concerned citizens had the opportunity to provide their comments to the Commission.

### **Compliance with the standards for granting special exceptions**

A special exception may be granted upon finding that:

(1) The proposed use is in harmony with the general purpose and intent of the Zoning Regulations and Zone Maps; and

(2) The proposed use is not likely to adversely affect the use of neighboring property,

subject to the specific conditions specified in the Zoning Regulations for that particular special exception use. 11 DCMR § 3104.1. The Commission's discretion in reviewing an application for special exception is limited to a determination of whether the applicant has complied with requirements enumerated in the specific section of the Zoning Regulations pursuant to which the applicant is seeking the special exception. If the applicant meets this burden, the Commission must ordinarily grant the application. *First Baptist Church of Washington v. District of Columbia Board of Zoning Adjustment*, 432 A.2d 695, 698 (D.C. 1981); *Stewart v. District of Columbia Board of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973). In this particular case, pursuant to the zoning text amendment approved by the Zoning Commission on December 3, 2009, the special exception is reviewed solely on the basis of its compliance with Section 3104 of the Zoning Regulations, which is enumerated above.

The Applicant has demonstrated that the proposed use is in harmony with the general purpose and intent of the Zoning Regulations and Zone Maps. On December 3, 2009, the Commission approved a Map Amendment classifying the property, on which an existing library sits but which was previously unzoned, into the R-5-A Zone. Libraries are permitted as a matter of right in the R-5-A Zone District. The property is located in a neighborhood characterized by low-density residential development and institutional uses, and is surrounded on three sides by federal park land. The proposed use of the property is in harmony with the purpose and intent of the Zoning Regulations and Zone Maps, as it will result in an enhanced and updated neighborhood library branch. Neighborhood libraries are designed to serve the communities in which they are located, and it is anticipated that the vast majority of library patrons should be able to walk to the branch situated in their local community. The relief requested in the instant application would allow the reduction of parking spaces, which DDOT lauded in its January 6, 2010 memorandum to the Commission, and is consistent with the requirement for LEED Silver

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Certification under the District of Columbia Green Buildings Act. Similarly, the requested increase in lot occupancy will enhance, rather than hinder, the character of the neighborhood and is consistent with the purposes and integrity of the Zoning Regulations and Zone Maps.

The proposed use is not likely to adversely impact the use of neighboring property, as it will not result in the development of additional park land. The land adjacent to the side yards and rear yard of the Subject Property will remain part of the National Park Service system. The perceived impact of additional lot occupancy will be minimal, if not imperceptible. Since a significant number of on-street parking spaces are available on both sides of Alabama Avenue in the vicinity of the Subject Property, the requested reduction in on-site parking will not have a detrimental impact on the use of surrounding properties. Moreover, DDOT has indicated that the reduction in parking is not objectionable.

We respectfully submit that the Applicant has met its burden of proof in this case, and that the requested special exception relief should be granted. We appreciate the opportunity to provide this additional material, and look forward to the Commission's decision on January 11, 2010.

Sincerely,



Kinley R. Bray

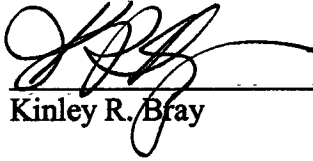
### Attachment

Cc: Ginnie Cooper, Chief Librarian, DCPL (via e-mail)  
Jeff Bonvechio, DCPL (via e-mail)  
Lisa Deanes, DCPL (via e-mail)  
Jennifer Steingasser, Office of Planning (via e-mail and U.S. Mail)  
Joel Lawson, Office of Planning (via e-mail and U.S. Mail)  
Maxine Brown-Roberts, Office of Planning (via e-mail and U.S. Mail)  
Scott Knudson, Wiencek + Associates (via e-mail)  
Hal Zaslow, Wiencek + Associates (via e-mail)  
Austin Harris, Adjaye & Associates (via e-mail)  
Andrew Spencer, Jair Lynch Companies (via e-mail)  
Ellen McCarthy  
Advisory Neighborhood Commission 7B (via e-mail and U.S. Mail)

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing was mailed, first-class, postage-prepaid, on this 8<sup>th</sup> day of January, 2010 to the following:

Advisory Neighborhood Commission 7B  
3200 S Street, SE  
Washington, DC 20020



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Kinley R. Bray