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December 28, 2015

VIA IZIS AND HAND-DELIVERY

Mr. Anthony J. Hood, Chairman
Zoning Commission for the District of Columbia
One Judiciary Square
441 4th Street, N.W.
Second Floor
Washington, D.C. 20001

**Re: Applicant's Post-Hearing Submission
Zoning Commission Case No. 14-24
Map Amendment from R-4 to R-5-B
Parking Dimension Variance
Square 2848, Lots 39, 40, 72 and 838**

Dear Chairman Hood and Members of the Commission:

On behalf of 1900 11th Street, N.W. LLC (the "Applicant"), please accept this Post-Hearing Submission providing the information requested by the Commission at the conclusion of the public hearing on Monday, December 7, 2015.

I. Irregularly-Shaped Open Court

At a June 15, 2015 meeting, the Zoning Administrator advised the Applicant's counsel that the highlighted area on the attached Site Plan, **Exhibit A**, was an "irregularly-shaped open court" ("Proposed Open Court"). The Applicant has submitted a request to the Zoning Administrator to confirm his earlier advice in a formal written Zoning Determination letter.

In the meantime, the Applicant provides this information supporting the Proposed Open Court.

1. Z.C. Case No. 14-24 proposes to rezone the Property from R-4 to R-5-B.
2. The Zoning Regulations §199.1 define the following terms:

Court - an unoccupied space, not a court niche, open to the sky, on the same lot with a building, which is bounded on two (2) or more sides by the exterior walls of the

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building or by two (2) or more exterior walls, lot lines, or yards. A court may also be bounded by a single curved wall of a building.

Court niche - an indentation, recess, or decorative architectural treatment of the exterior wall of a building, not a court, which opens onto a street, yard, alley, or court.

Court, open - a court opening onto a street, yard, or an alley not less than ten feet (10 ft.) wide.

Court, width of - the minimum horizontal dimension substantially parallel with the open end of an open court or the lesser horizontal dimension of a closed court; or, in the case of a non-rectangular court, the diameter of the largest circle that may be inscribed in a horizontal plane within the court.

Yard - an exterior space, other than a court, on the same lot with a building or other structure. A yard required by the provisions of this title shall be open to the sky from the ground up, and shall not be occupied by any building or structure, except as specifically provided in this title. No building or structure shall occupy in excess of fifty percent (50%) of a yard required by this title.

Yard, side - a yard between any portion of a building or other structure and the adjacent side lot line, extending for the full depth of the building or structure.

3. The Proposed Open Court shown is a "Court" based on the following features:
 - a. unoccupied space;
 - b. not a court niche;
 - c. open to the sky;
 - d. on the same lot with the proposed building; and
 - e. bounded on four (4) sides by the exterior walls of the building and the lot line
4. The Court is an "open court" because it opens onto a 16 foot wide public alley and rear yard.
5. As defined, "yard" specifically excludes a court. Further, the Proposed Open Court does not meet the definition of side yard because the area between the building and side lot line does not extend for the full depth of the building or structure.

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6. The Proposed Open Court shown complies with the minimum width requirements in §406.1. In the proposed R-5-B zone, an open court width is required to be 4 inches per foot of height of the Court, but not less than 10 feet. In this case, the height of the Proposed Open Court is a maximum of 50 feet which would require an open court width of 16.66. Here, the Proposed Open Court shown is 20'-6" which substantially exceeds the minimum required.

II. Zoning Commission Authorized to Impose Conditions

This is a hybrid case involving both a Map Amendment and a related variance. In both instances, these proceedings are a contested case. 11 DCMR §§3010.2, 3022.1, 3117. The Zoning Commission in a contested case is specifically authorized to impose conditions on the Applicant. 11 DCMR §§ 3202.1, 3204.7, 3205.1. See Zoning Commission Order No. 10-30 (Rezoning from C-M-2 to C-2-C approved with conditions), Zoning Commission Order No. 05-40A (amended Campus Plan approved by special exception with conditions).

III. Zoning Commission Not Authorized to Require Recorded Covenant

The Zoning Commission's authority to require a recorded covenant is limited only to specific enumerated cases, including Planned Unit Developments (§2409.3) and Inclusionary Zoning (§§ 2204, 2607). In this case of a Map Amendment and area variance, there is no established basis in the applicable Zoning Regulations for the Zoning Commission to require the Applicant to provide a recorded covenant for any condition imposed.

As scheduled, the Applicant will submit a draft Findings of Fact and Conclusions of Law and any response required to any Post-Hearing Submission submitted by any other party to this case by no later than January 11, 2016.

Sincerely,



John Patrick Brown



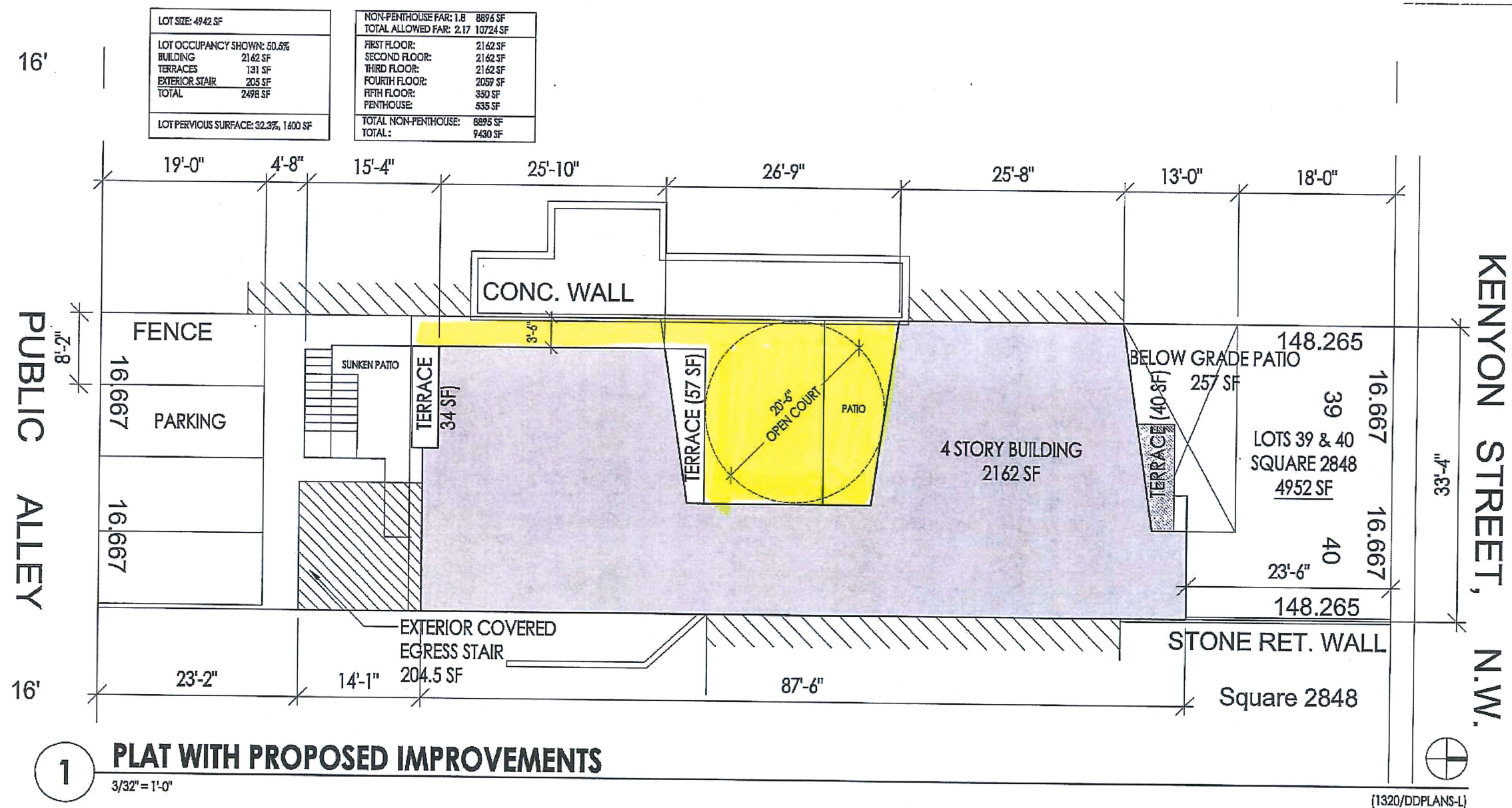
Kate M. Olson

Enclosure

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Electronically

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