GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning

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MEMORANDUM

To: Office of Documents and Administrative Issuance (via-email)

From: Sharon S. Schellin
Secretary to the Zoning Commission

Date: August 10, 2009

Re: Publication for the Office of Zoning

Please publish the following in the *D.C. Register* on August 14, 2009:

1. Z.C. Order No. 03-12G/03-13G (Case No. 03-12G/13G); and
2. Z.C. Order No. 08-15 ([redacted]).

Attachment

ZONING COMMISSION
District of Columbia
CASE NO. 08-15
EXHIBIT NO. 281

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ZONING COMMISSION
District of Columbia
CASE NO.08-15
EXHIBIT NO.281

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 08-15
Z.C. Case No. 08-15
(Consolidated Planned Unit Development and Related Zoning Map Amendment)
Friendship-Macomb SC, Inc. – Square 1920, Lot 831 and Square 1920-N, Lots 1 and 2
July 13, 2009

Pursuant to proper notice, the Zoning Commission for the District of Columbia (the "Commission") held a public hearing on February 19, April 6, April 23, May 4, and May 20, 2009 to consider an application by Friendship-Macomb SC, Inc. (the "Applicant") for consolidated review and approval of a planned unit development ("PUD") and related amendment to the Zoning Map of the District of Columbia from MW/C-1 and R-5-A to C-2-A for Square 1920, Lot 831 and Square 1920-N, Lots 1 and 2 (the "Application"). The Commission considered the application pursuant to Chapters 24 and 30 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR"). The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. The Commission approves the Application, subject to the conditions below.

FINDINGS OF FACT

The Application, Parties, and Hearing

1. The project site consists of Square 1920, Lot 831 and Square 1920-N, Lots 1 and 2 (the "Property") and is bounded by Wisconsin Avenue, N.W. on the east, Idaho Avenue, N.W. on the west, and property fronting Macomb Street, N.W. to the south.

2. On May 16, 2008, Friendship-Macomb SC, Inc. filed an application for consolidated review and approval of a PUD and related Zoning Map Amendment from MW/C-1 and R-5-A to C-2-A. (Exhibit 3.) The Applicant supplemented the Application with revised plans and drawings on July 21, 2008, which depicted, among other changes, a relocated entrance to the grocery loading area and improvements to the building design. (Exhibit 12.)

3. During its public meeting on July 28, 2008, the Commission unanimously voted to set down Case No. 08-15 for a hearing. Notice of the public hearing, including a description of the subject property and the proposed development, was published in the *D.C. Register* ("DCR") on November 21, 2008, 55 *DCR* 12040, and on January 2, 2009, 56 *DCR* 55,[1] and was mailed to owners of all property within 200 feet of the subject property and to Advisory Neighborhood Commission ("ANC") 3C. (Exhibits 30, 32.)

4. On July 31, 2008, the Commission received a request for reconsideration of its vote to set down the case for public hearing. (Exhibit 14.) On September 3, 2008, the Applicant filed a response to the request. (Exhibit 15.) The Commission considered the correspondence at its September 8, 2008 public meeting and declined to reconsider its vote, since the matters

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[1] The notice was republished to correct a typographical error that had listed an incorrect lot number for Square 1920 in the initial notice. The hearing notice was otherwise unchanged.

raised in the correspondence would be more appropriately considered during the public hearing. (Tr. Sept. 8, 2009 at 55.)

5. The Application was further updated by pre-hearing submissions filed on October 27, 2008 and January 30, 2009 as well as the Applicant's presentations on its direct and rebuttal testimony. (Exhibits 20, 46, 156, 164, 236, and 256.)

6. Parties in this proceeding are the Applicant; ANC 3C; the Advocates for Wisconsin Avenue Renewal ("AWARE"), a party in support of the Application; and five parties in opposition to the Application, the Cleveland Park Citizens Association, the Wisconsin-Newark Neighborhood Coalition, the 3300 Idaho Neighbors ("Idaho Neighbors"), the Ordway Street Neighbors Association ("Ordway Neighbors"), and the Immediate Macomb Street Neighbors ("Macomb Neighbors"). During the public hearing, the Commission heard testimony and received evidence from the Applicant, ANC 3C, the parties in support and opposition, the D.C. Office of Planning ("OP"), and the District Department of Transportation ("DDOT"), as well as from persons and organizations in support of or in opposition to the Application.

7. As a preliminary matter, the Commission qualified the Applicant's master planner and architect, traffic engineer, civil engineer, noise consultant, and sustainability consultant as experts in their respective fields. (Tr. Feb. 19, 2009 at 40.)

8. Also as a preliminary matter, on July 24, 2008, WNNC filed a "memorandum of law" arguing that the Commission lacked the authority to rezone the Property and remove it from the Macomb-Wisconsin ("MW") Overlay, and that the MW Overlay required special exception review of a large-scale development by the D.C. Board of Zoning Adjustment ("BZA"). (Exhibit 13.) WNNC filed a similar petition on September 24, 2008, that continued to argue that the Commission lacked the authority to review the Application under the PUD regulations, and requested that the Commission refer the case to the BZA. (Exhibit 16.) The Applicant filed its opposition to the petition on October 16, 2008, and moved to dismiss the petition based on the Commission's clear jurisdiction under its established regulations. (Exhibit 17.) WNNC filed additional correspondence on November 14, 2008 and January 12, 2009 reiterating these concerns. (Exhibits 23, 37.) The Applicant filed a supplemental response to WNNC's legal arguments on January 26, 2009. (Exhibit 45.) Based on the reasons set forth in the Conclusions of Law, the Commission denies WNNC's petition.

9. On April 23, the Idaho Neighbors filed a request to conduct further cross-examination of DDOT. (Exhibit 186.) The Commission voted to deny the request, but offered the Idaho Neighbors an opportunity to respond in writing to the supplementary report. (Tr. Apr. 23, 2009 at 9-10.) The Idaho Neighbors filed their response on May 4, 2009. (Exhibit 214.) In the response, the Idaho Neighbors requested an independent and comprehensive evaluation of the transportation issues surrounding the PUD. Given the evidence in the

record regarding DDOT's discussions with the community and multiple submissions regarding the PUD, the Commission finds that DDOT has conducted a satisfactory independent evaluation of the transportation issues surrounding the PUD. (Exhibit 184.)

10. On May 19, 2009, WNNC filed a letter challenging the Commission's authority to adjust the amount and location of parking in a PUD. The Applicant filed its opposition to the memorandum on May 20, 2009. The Commission addresses the issue in its Conclusions of Law.

11. At the May 20, 2009 public hearing, the parties in opposition requested an opportunity to offer a sur-rebuttal to the Applicant's written rebuttal testimony. The Commission denied the request based on its established rules of procedure. (Tr. May 20, 2009 at 97-98.)

12. At a public meeting on June 8, 2009, the Commission took proposed action with conditions.

13. The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") pursuant to the District of Columbia Home Rule Act. NCPC, by action dated July 9, 2009, found the proposed PUD would not affect the federal interests in the National Capital, and would not be inconsistent with the Comprehensive Plan for the National Capital.

14. The Commission took final action to approve the Application in Case No. 08-15 on July 13, 2009.

Government Agency Reports

15. OP, by report dated February 19, 2009 and by testimony at the public hearing on April 6, 2009, recommended approval of the PUD. (Exhibits 104, 168.) OP testified that the PUD would provide numerous benefits and amenities, including improved neighborhood-serving retail and office uses as well as a state-of-the-art supermarket, and concluded that the PUD would benefit the District and the neighborhood since it would considerably improve existing conditions. (Exhibits 104 at 10-11, 20.) OP also testified that its Historic Preservation Office was actively involved in advising the Applicant on the scale, arrangement, choice of materials, and other design features of the PUD based on its design expertise on neighborhood character, and that the Applicant's revised design, submitted in Exhibit 12, responded to many of their recommendations. (Tr. Apr. 6, 2009 at 66, 129.) OP testified that the traffic, parking, loading, environmental, and noise impacts of the PUD would not be unacceptable. (Exhibit 104 at 5-6, 8-9.) OP supported the Applicant's proposed rezoning, which would remove the Property from the MW Overlay, and also testified that the PUD was consistent with the Overlay. (Exhibit 104 at 3, 10; Tr. Apr. 6, 2009 at 131.) OP concluded that the proffered benefits and amenities were acceptable given the flexibility requested in the application, and therefore OP recommended approval of the PUD and related Map Amendment. (Exhibit 168 at 13; Tr. Apr. 6, 2009 at 18-19.)

16. In its testimony, OP noted that the anticipated service area for the grocery store would be approximately one mile, based on the presence of multiple other grocery stores near a one-mile radius around the store. (Exhibit 168 at 9; Tr. Apr. 6, 2009 at 13-14.[2]) OP also testified that the Project's scale would be compatible with its location and surrounding development, and noted that the PUD Site is surrounded by multiple buildings ranging from five to nine stories along Wisconsin Avenue, Idaho Avenue, and Macomb Street. (Exhibit 168 at 10; Tr. Apr. 6, 2009 at 14-16.) OP testified that the proposed PUD constituted transit-oriented development based on its location along a premium transportation corridor with multiple bus lines serving the Property. (Tr. Apr. 6, 2009 at 16-17.) Finally, OP noted that the proposed C-2-A Zone District was specifically identified as a zone category consistent with the Property's Low-Density Commercial Land Use category designation. Based on the foregoing testimony as well as a detailed written analysis of the PUD's conformance with numerous elements of the Comprehensive Plan, OP found that the PUD was not inconsistent with the Plan, including its Future Land Use Map and Generalized Policy Map designations. (Exhibit 104 at 14-19; Exhibit 168 at 2-9; Tr. Apr. 6, 2009 at 13.)

17. DDOT, by reports dated February 11, 2009 and April 2, 2009, and by testimony at the public hearing on April 6, 2009, supported approval of the Project based on its analysis that any impacts would be mitigated by "ample measures" to be undertaken by the Applicant, including the management plans, traffic signal, traffic signal timing optimization measures, and intersection improvements. (Exhibits 146, 166.) DDOT found that the proposed amount and location of loading was sufficient, and testified that shared loading facilities work well in mixed-use developments. (Tr. Apr. 6, 2009 at 93, 95-96, 98, 221-22.) DDOT concluded that the proposed loading facilities, combined with the features of the Applicant's Truck Management Plan, would minimize the impact of loading and deliveries on the surrounding neighborhood. (Exhibit 146 at 2-3.[3]) DDOT supported the proposed intersection improvements and traffic signal at Wisconsin Avenue and Idaho Avenue, and noted that the modifications that would direct traffic towards primary rather than local roadways. (Id. at 3; Tr. Apr. 6, 2009 at 11-12.) DDOT found that the installation of traffic calming measures in the neighborhood as a condition of the PUD was "premature" and not warranted based on existing conditions, but found that the Applicant's provision of an escrow account to fund future measures if they turned out to be necessary was a positive feature. (Id. at 3-4; Tr. Apr. 6, 2009 at 22, 26.) DDOT found that the proposed amount of residential and commercial parking would be sufficient, and endorsed the use of the South Parcel commercial parking facility as a shared parking resource for the PUD site. (Id. at 4; Tr. Apr. 6, 2009 at 106-07, 114.) DDOT found that the site was well-served by four bus lines and it was likely that some residents and patrons would choose not to drive. (Tr. Apr.

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[2] DDOT also testified that patrons tend to shop at the grocery store closest to home. (Tr. Apr. 6, 2009 at 261.)

[3] DDOT noted that the proposed Truck Management Plan was similar to a plan for another neighborhood grocery store that had proven successful in managing truck deliveries. (Tr. Apr. 6, 2009 at 196.)

6, 2009 at 114.) DDOT concluded that the PUD would not impose a significant burden on the existing neighborhood street network. (Id. at 5.)

18. In a second supplemental report, DDOT indicated that it had independently reviewed the Applicant's transportation analysis for "reasonableness, policy conformance, and technical sufficiency." (Exhibit 184 at 1.) In that report, DDOT also indicated that it had reviewed the truck estimates provided by Precision Systems, Inc. ("PSI"), a traffic expert retained by a party in opposition to the Application, and did not find them credible. To the contrary, DDOT found that, based on the Applicant's estimates and comparable local developments, the Applicant's truck estimates were reasonable and, accordingly, the PUD would not impose significant adverse impacts due to truck traffic and loading activity. (Id. at 2.) DDOT also found that the proposed location of the grocery loading entrance on Idaho Avenue was reasonable because truck turn radii would allow for safer movements and trucks would encounter fewer impediments approaching the loading area. (Id. at 3.)

19. By report dated April 8, 2009, the D.C. Fire and EMS Department indicated that it had reviewed the site plan and had no objection to the PUD provided that construction complied with relevant building code regulations and laws. (Exhibit 172.)

Advisory Neighborhood Commission Report

20. ANC 3C, by letter submitted February 6, 2009 and by testimony at the public hearing on April 23, 2009, indicated that at a regularly noticed and scheduled meeting on January 21, 2009, with a quorum present, the ANC approved a motion to approve the proposed PUD by a unanimous vote, 9-0. The ANC indicated that it had considered the PUD application over the course of two monthly meetings, including a December meeting devoted exclusively to public comment, as well as at two public forums sponsored by OP and DDOT. (Tr. Apr. 23, 2009 at 12.) In its report, the ANC stated that the Applicant had worked with community representatives, including ANC 3C, for over three years to solicit input and address concerns through multiple presentations, meetings, and conversations. The ANC found that the PUD carried out the purposes of the Zoning Regulations and would result in a well-planned development that exceeded what would be achievable under matter-of-right standards. The ANC also found that the character, scale, mix of uses, and design of the PUD were appropriate given the surrounding context, that the height and density would not impose adverse impacts, and that the mix and intensity of uses were appropriate given the site location. The ANC found that the Map Amendment, height, density, and other flexibility was acceptable given the level of benefits and amenities provided in the project. The ANC's recommendation included a series of conditions intended to address concerns raised by neighbors regarding loading, parking, retail space use, and other neighborhood impacts, which were detailed in its report. (Exhibit 69.)

21. By letter submitted April 21, 2009 and by testimony at the public hearing on April 23, 2009, ANC 3C indicated that it had passed a second resolution at a regularly noticed and

scheduled public meeting on April 20, 2009, with a quorum present, in order to clarify that its initial resolution did not intend to permit the MW Overlay to limit the proposed PUD. (Exhibit 180.)

THE MERITS OF THE APPLICATION

Overview of the PUD Site

22. The Property consists of approximately 178,236 square feet of land area bounded by Wisconsin Avenue on the west, Idaho Avenue on the east, and adjacent property fronting Macomb Street to the south. Newark Street, N.W. runs east-west through the center of the site, dividing it into two parcels (the "North Parcel" and the "South Parcel"). Ground-floor retail space with second-story commercial uses above and a surface parking lot are located on the North Parcel. The North Parcel is located entirely in the MW/C-1 Zone District. The existing Giant supermarket, vacant retail space, and a large surface parking lot are located on the South Parcel. The South Parcel is located in the MW/C-1 and R-5-A Zone Districts, but the residentially-zoned portion of the South Parcel is used as the Giant's commercial parking lot and has been used as such since the 1950s. In addition, the grocery store and other retail uses on the South Parcel have historically, since the 1950s, used the residentially zoned surface parking lot for commercial loading activities.

23. The Property is located within the boundaries of ANC 3C in Ward 3, between the McLean Gardens development to the northwest and the Cleveland Park neighborhood to the east. Further to the south and east are the Cathedral Heights, Massachusetts Avenue Heights, Woodland-Normanstone Terrace, and Woodley Park neighborhoods. Surrounding neighborhoods are characterized by a mixture of land uses, heights, and densities. Immediately to the south, fronting on Macomb Street, are a mixture of low-density commercial uses, a six-story apartment building, and low-density residential uses. Immediately to the northwest, across Idaho Avenue, are a police station, a five-story apartment building, and a nine-story residential building with ground-floor retail space. Immediately to the east, across Wisconsin Avenue, are a mixture of multi-story apartment buildings and low-density residential uses that vary from three to nine stories in height. (Tr. Feb. 19 at 54, Apr. 6, 2009 at 14-15.)

24. The Future Land Use Map designates the Property in the Low-Density Commercial and the Low-Density Residential land use categories. Surrounding properties are designated in a variety of categories, including Low-Density Residential and Low-Density Commercial to the south, Local Public Facilities and Mixed-Use Medium-Density Residential and Low-Density Commercial to the west, and Moderate- and Medium-Density Residential to the east.

The PUD Project

25. The Applicant commissioned Street-Works LLC, an urban mixed-use developer and design consultant, to create a comprehensive plan for redeveloping the site. For over two years leading up to the filing of the Application, Street-Works developed and modified the project in response to community comments raised both at open public meetings and smaller forums with neighborhood representatives, including representatives of ANC 3C. (Exhibit 156 at 10.) Following the filing of the Application, the Applicant's team continued to meet with the community. (Id.) OP and DDOT also attended open community forums regarding the PUD. The Applicant also set up a website to keep the community up-to-date on development planning and solicit additional feedback.

26. The Project will replace the existing shopping center with a mixed-use development featuring a new grocery store and new residential and commercial uses. The Project consists of three components.

    - On the North Parcel, the Applicant will construct a new five-story building containing ground-level retail uses and approximately 124 residential units above.

    - On the South Parcel, the Applicant will construct the new grocery store, wrapped by a pair of two-story mixed-use buildings. Along Wisconsin Avenue, the Applicant will construct ground-floor retail space with a second story devoted to commercial "flex" space with neighborhood-oriented retail and office uses. Along Newark Street, the Applicant will construct ground-floor retail space with 14 residential units above.

    - Also on the South Parcel, along Idaho Avenue, the Applicant will construct eight three-story townhouses.

27. Construction of the Project will be phased, as detailed in Condition 15 of the Order.

28. The PUD will provide a total of approximately 535 parking spaces. A below-grade garage on the North Parcel will contain approximately 124 spaces, which will be reserved for use by the residents of the North Parcel. A below-grade garage on the South Parcel will contain approximately 395 parking spaces, which will be used primarily by customers and employees of the Project's commercial components, but will also be available as parking for the residents of the PUD and their visitors, as well as for limited use by the surrounding neighborhood for area commercial establishments and overnight parking. Both parking garages will be accessed from Newark Street. The eight townhouses on the South Parcel will each contain two dedicated parking spaces.

29. The Project will contain three areas for loading activity.

    - The North Parcel will contain a loading area located off Idaho Avenue with two loading berths.

- The primary South Parcel loading area will be located off Idaho Avenue and will contain four loading berths to accommodate grocery deliveries. The loading entrance will be located approximately 140 feet from the southern property line, and the angled entrance of the loading area will require trucks to enter from and exit to the north on Idaho Avenue, away from the residential neighborhood to the south. The loading area was designed to permit trucks to pull in front-first and at grade, turn around on the Applicant's property, and back into an internal, completely enclosed loading berth.

- The secondary South Parcel loading area will contain a loading berth for retail deliveries. This berth will be accessed off of Macomb Street via a 20-foot-wide public alley and will contain space to permit a truck to pull in front-first and then back into the loading area. On rebuttal, the Applicant agreed to construct a connection between the two loading areas on the South Parcel. (Tr. May 20, 2009 at 12-13.)

30. The Project includes a number of improvements to the streetscape. Specific features include the creation of public gathering spaces, the planting of street trees of significant size around both blocks, the location of storefronts along each commercial street edge, well-located parking garages and vertical circulation cores, and clear separation of the major loading functions for vehicular and pedestrian pathways.

31. The total gross floor area included in the PUD will be approximately 354,820 square feet. The building heights will vary: the North Parcel building will be approximately 61 feet, the South Parcel building will be approximately 37 feet, and the townhouses will be 40 to 43 feet high (measured from the curb to the top of roof). The Project will have an overall lot occupancy of approximately 69%. The total floor area ratio ("FAR") of the project, at 1.99, will be less than what is permitted under the proposed C-2-A and R-5-A zoning under the PUD guidelines (a maximum blended density of 2.72 FAR).

Zoning Map Amendment

32. The Property is located in the MW/C-1 and R-5-A Zone Districts.[4] The maximum height allowed in the MW/C-1 zone district is 40 feet and three stories, and the maximum density is 1.0 FAR. The maximum height permitted in the R-5-A Zone District is 40 feet, and the maximum density is 0.9 FAR. The zones surrounding the Property permit a mix of development. Immediately to the south are properties located in the MW/C-1, R-5-B, and R-1-B Zone Districts. To the northwest across Idaho Avenue is a police station, which is also zoned R-5-A. Also immediately to the northwest across Idaho Avenue are a five-story office building and nine-story apartment building constructed under a PUD that rezoned the site to the C-2-B Zone District. To the east, across Wisconsin Avenue, are properties located in the R-5-A, R-5-B, and R-5-D Zone Districts.

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[4] Approximately 83,603 square feet of land area on the South Parcel is currently zoned MW/C-1, and approximately 53,493 square feet of land area is zoned R-5-A.

33. The Applicant requested a PUD-related Zoning Map amendment for the North Parcel and a portion of the South Parcel to the C-2-A Zone District[5] to permit the structures to reach the requested height and density. The maximum building height permitted in the C-2-A Zone District under the PUD guidelines is 65 feet, and the maximum density permitted is 3.0 FAR. The maximum height permitted in the R-5-A Zone District under the PUD guidelines is 60 feet, and the maximum density permitted is 1.0 FAR. The Applicant stated that it was necessary to rezone the Property to C-2-A to allow the construction of the Project and redevelop the neighborhood shopping center.

34. The Applicant's requested map amendment included a request to remove the MW Overlay for purposes of the PUD, so as to permit the mix of uses and densities needed for a vibrant urban neighborhood center. Under existing zoning, no additional eating establishments would likely be permitted within the boundaries of the Property, due to a limitation on the number of linear feet devoted to such establishments. Absent the map amendment, the PUD would not be permitted to devote ground-floor commercial space to additional restaurants, prepared food shops (including ice cream shops, coffee shops, and sandwich shops), and fast food establishments.

PUD Flexibility Sought

35. The Applicant requested approval to construct multiple buildings to a maximum height of approximately 61 feet and density of 1.99 FAR, which are within the PUD standards set forth in 11 DCMR § 2405, as well as a PUD-related Zoning Map amendment for the Property to the C-2-A Zone District. The Applicant also requested flexibility from the lot occupancy, roof structure, parking, loading, and lot control regulations, as well as special exception approval for rowhouses in the R-5-A Zone District, as detailed in the Applicant's written submissions and the OP Report.

Impact of Project

Traffic

36. The Project will not cause unacceptable traffic impacts, as demonstrated by the Applicant's traffic studies, the testimony presented by the Applicant's traffic consultant, and the DDOT reports and testimony discussed above.

37. The Applicant will implement and maintain a Transportation Management Plan ("TMP") under which the Applicant will provide initiatives, information, and incentives to promote the use of public transportation. (Exhibit 20.) The PUD Site features extensive public transportation access through the regional Metrobus system, which provides over 500 trips a day and connects the site to nearby Metrorail stations through downtown and crosstown

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[5] Approximately 111,720 square feet of the South Parcel will be zoned C-2-A, and approximately 25,388 square feet of land area will remain in the R-5-A Zone District.

service. (Exhibit 236; Tr. May 4, 2009 (Applicant's Rebuttal).) The Applicant will also provide dedicated spaces for car-sharing services as well as bicycle parking spaces.

38. The Commission does not agree with WNNC that the Applicant's traffic studies were inconsistent with other traffic data and made misassumptions regarding use of public transportation and other alternative means of transportation. Applicant's traffic analyses, methodology, and conclusions, which were independently reviewed by DDOT. The Commission does not find the traffic data prepared by Roadway Data Systems ("RDS") and cited by WNNC to be credible, and notes that RDS did not produce a formal written analysis or provide a representative at the hearing to present its findings and defend them upon cross-examination.

39. As a result of these conclusions, the Commission does accept WNNC's view that the PUD Regulations and Comprehensive Plan required the Applicant to provide traffic calming measures as a part of the PUD. Rather, the Commission agrees with the conclusion of the Applicant and DDOT that traffic calming mitigation is not likely to be needed as a result of the PUD (Exhibit 20), but notes that the Applicant will provide an escrow account to pay for potential traffic calming measures, if needed.

Truck traffic and loading

40. The Project will not generate unacceptable impacts due to truck traffic or loading activity. The Applicant provided detailed testimony that the proposed number and location of berths will accommodate the anticipated truck traffic. The Applicant also proposed a Truck Management Plan, which will require the use of the loading facilities by requiring all deliveries and trash disposal services to occur within the loading dock facilities only. In addition, the Applicant will provide a loading dock coordinator to help facilitate deliveries and trash disposal services, and will direct all deliveries and trash disposal services to use a recommended truck circulation route. The Applicant will direct commercial tenants to comply with the Truck Management Plan through a lease provision or similar mechanism. The Commission credits the testimony of the Applicant's architectural and transportation experts that the location and design of the loading berths as well as the anticipated volume of truck activity will not be unacceptable.

41. In this regard, the Commission does not accept the opinion of PSI, an expert in the field of traffic engineering presented by the Idaho Neighbors. PSI conducted a peer review of the Applicant's traffic studies. (Exhibits 176, 207.) In its report and testimony, PSI primarily challenged the Applicant's truck generation rate and the ability of the proposed number of loading berths to accommodate truck deliveries, particularly the loading berth off Macomb Street. PSI offered a number of other observations regarding the use of Idaho Avenue for truck traffic and the impact of truck traffic on Idaho Avenue. PSI also challenged the Applicant's estimates for parking demand. PSI also observed a difference in one traffic link count on Newark Street, though the Applicant noted that the link count was conducted

two blocks away from the Applicant's count location. (Exhibit 236.) The Idaho Neighbors filed supplemental comments regarding DDOT's analysis on May 4, 2009, maintaining that its estimate regarding truck deliveries to the secondary South Parcel loading area off Macomb Street, which was based on ITE data, was reasonable. (Exhibits 214, 246, 252.)

42. The Commission agrees with the Applicant that the data relied on by the Idaho Neighbors and their traffic expert to estimate the commercial parking demand is not credible, because it exceeds industry standards and fails to consider the particular circumstances that affect parking demand at the PUD site, including the likelihood of shared parking synergy and means of travel to the PUD site other than private passenger vehicle. (Exhibit 236.) Indeed, the PSI's estimate of 6.03 spaces per 1,000 square feet for retail parking demand and 7.97 spaces per 1,000 square feet for office parking are approximately double and five times the requirements for these uses respectively in the Zoning Regulations for the C-2-A Zone District.

43. The Idaho Neighbors, composed of residents who live on Idaho Avenue immediately southwest of the PUD Site, objected to the proposed scale and location of the grocery loading area on Idaho Avenue, and proposed relocating the loading area further to the northeast. (Exhibit 206.) The Idaho Neighbors also raised concerns regarding the impacts of the secondary loading area on the South Parcel located off Macomb Street. (Id.)

44. The Commission finds that the scale and location of the primary loading area for the grocery store, located on the South Parcel on Idaho Avenue, is not unacceptable. The proposed grocery loading dock will provide an improvement over existing conditions, because it will relocate loading activity from an open surface area to an enclosed series of berths and will separate truck traffic from other vehicular and pedestrian traffic.

    a. The Commission credits the testimony of OP and finds that Idaho Avenue southwest of its intersection with Newark Street currently lacks a residential character notwithstanding its residential zoning designation, due to the existing commercial parking and loading activity on its east side and the police station on its west side. (Tr. Apr. 6, 2009 at 158-59.)

    b. The Commission credits the Applicant's testimony that it is infeasible to locate the loading docks further to the north because of operational and physical constraints. On rebuttal, the Applicant's representative testified that the proposed entrance was located on Idaho Avenue for operational reasons: (1) loading for the grocery store needed to be located at the rear of the grocery store, (2) the introduction of a vehicular and pedestrian entrance from 38th Street required the loading to be located on the second level of the parking garage, and (3) the slope of the site would make it impossible for trucks to maneuver into the loading berth from a location further north on Idaho Avenue or on Newark Street. (Tr. May 20, 2009 at 14-18.) In addition, trucks would have difficulty navigating the Newark Street/Idaho Avenue intersection if the loading

entrance were located further to the north, and would conflict with increased pedestrian activity along Newark Street. (Id; Tr. Apr. 6, 2009 at 202-03.)

c. The Commission finds that the Applicant designed the dock in order to minimize its impacts through installation of a 20-foot sound wall, a berm and trees, which will provide visual and noise buffering. In response to community concerns, the Applicant modified the design by twice, moving the location of the entrance to this loading area further away from residential property to the south. (Exhibits 12, 46.) The Applicant also angled the loading entrance and proposed a truck routing plan that will prohibit its trucks from approaching the grocery loading area from the residential neighborhood to the south.

d. The Commission credits the testimony of the Applicant regarding the estimated number of trucks that will serve the grocery store at this location, based on data provided by Giant and available data at comparable urban grocery stores. (Exhibits 3, 20, 236.) The Commission notes that the data provided by PSI is consistent with this data.

e. The Commission credits the testimony of the Applicant and DDOT that Idaho Avenue can accommodate two-way traffic, including truck traffic, that such use of local streets for truck deliveries is not uncommon in an urban setting, and that the Applicant's proposed modification of the Wisconsin Avenue/Idaho Avenue intersection will adequately accommodate truck turn movements. (Exhibit 236; Tr. Apr. 6, 2009 at 207, 230.)

45. Based on the foregoing, the Commission finds that the proposed location of the grocery loading dock and entrance is not unacceptable. A separate discussion of the impact of noise generating from this activity is discussed under a separate heading.

46. The Commission finds that the secondary South Parcel loading area located off Macomb Street will not impose unacceptable impacts due to number of truck deliveries or other conditions.

a. The Commission agrees with the Applicant and DDOT that the data relied on by the Idaho Neighbors and their traffic expert to estimate the number of trucks generated by the proposed South Parcel retail space is unreliable and fails to account for local conditions or business practices. (Exhibit 236.) Accordingly, the Commission finds that PSI's estimate of 68-83 truck deliveries a day for 32,155 square feet of ground floor retail space and 17,320 square feet of neighborhood office space is not credible.[6]

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[6] Under the Zoning Regulations, a requirement for a second loading berth and a delivery space is triggered by additional retail density between 30,000 and 100,000 square feet. Office space less than 20,000 square feet does not trigger a requirement for loading. The South Parcel will contain 32,155 square feet of retail space. The Commission finds that additional loading space is unnecessary to accommodate the additional 2,155 square feet of

b. The Commission credits the Applicant's estimates regarding truck deliveries, which were based on observations of current activity at the existing site and similar urban sites in the metropolitan area. The Commission also credits DDOT's evaluation and approval of these estimates.

c. The Commission credits the testimony of the Applicant and DDOT that the 20-foot public alley is sufficient to accommodate truck traffic. (Tr. Apr. 6, 2009 at 121.)

d. The Commission credits the Applicant's testimony that, in addition to the South Parcel retail berth, the loading area contains additional space for a second truck to pull in off the alley and wait; and nearby Macomb Street contains two designated curbside loading areas.

Accordingly, the Commission concludes that the PUD will not impose adverse impacts due to number of truck deliveries unloading activity off Macomb Street or elsewhere in the PUD.

Parking

47. PUD will not generate unacceptable impacts due to parking and the Commission rejects WNNC's contentions to the contrary.[7] The Commission makes the following specific findings with regards to parking:

48. Residential Parking. The Project will provide one space per dwelling unit on the North Parcel, which is double the amount required under the Zoning Regulations and is consistent with the average auto ownership in the neighborhood. The Project will provide two spaces per unit for the townhouses and permit all residents of the South Parcel units to park in the South Parcel garage. Guests and visitors of the residents of the PUD will be permitted to park in the South Parcel garage. The ample residential parking will satisfy parking demand generated by the residential portion of the PUD, and will diminish the likelihood that PUD residents will compete for on-street parking spaces.

49. Commercial Parking. The Project will provide approximately 388 spaces for the commercial uses on the Property. The Applicant's traffic consultant testified that the amount of parking was consistent with both industry standards and parking ratios observed at existing stores in the Washington, DC urban area. (Exhibit 20, 236; Tr. May 4, 2009 at 266.) The Applicant's traffic consultant also testified that the Project would not reduce the

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retail space, given the marginal increase above the 30,000 square foot threshold. Similarly, the Commission notes that the North Parcel will contain only 799 square feet of retail space above the 30,000 square foot trigger.

[7] Specifically WNNC claimed that proposed PUD did not failed to provide adequate parking to accommodate the grocery store and other retail uses, including potential new restaurants within the PUD. Nor would the PUD accommodate parking generated by other uses in the area, including neighboring restaurants and a proposed residential development, which had been served by curbside parking that would be eliminated by the PUD.

existing supply of on-street parking. (Id.; Tr. May 4, 2009 at 266-67.) The Applicant's architectural and traffic consultants, as well as DDOT, also testified that the location of parking for the North Parcel's retail uses in the South Parcel garage would be convenient and accessible (Id. at 267; Tr. May 20, 2009 at 10-11; Tr. Apr. 6, 2009 at 241), so that customers of the PUD would be more likely to park in the garage rather than compete for limited on-street parking spaces on neighborhood streets across Wisconsin Avenue. Accordingly, the amount and location of commercial parking will satisfy commercial parking demand generated by the commercial portion of the PUD and will not impose unacceptable impacts.

50. Shared Parking. The Applicant and DDOT both testified regarding the importance of "shared parking" within a mixed-use development to accommodate the different generators of parking demand within the PUD. (Tr. Apr. 6, 2009 at 106-07, 241.) The Commission agrees with the Applicant and DDOT that as a result of the mixed-use nature of the PUD, not all uses will generate peak demand at the same times. Peak demand for the grocery store and many of the neighborhood retail uses will occur during the daytime, while peak demand for residential visitors and restaurant patrons will occur during evening and nighttime hours. Accordingly, a strict cumulative assessment of parking demand is inappropriate, and would result in an oversupply of parking at the site.

51. Transit Use. The PUD Site is a transit-oriented site because of its location along a major multi-modal corridor that can reasonably expect substantial levels of travel by means other than private automobile, such as walking, public transportation, and bicycling. Many of the patrons of the PUD will likely walk to the site, and a significant number of trips will likely to occur by means other than private automobile, which will reduce the demand for parking at the site.

52. Neighborhood Parking Demand. The Applicant is not required to continue to provide parking for patrons of nearby restaurants, although the Applicant currently allows the use of its surface lot and will provide 30 "community parking spaces" as part of the PUD.

53. Representatives for the Ordway Neighbors raised concerns regarding competition for on-street curb parking on Ordway Street and car and truck traffic on Ordway Street, as well as general concerns regarding the scale, uses, and loading activity on the North Parcel. (Exhibits 222, 239.) The Ordway Neighbors proposed that mitigation of traffic impacts could be accomplished through prohibitions on bus and truck traffic on Ordway Street, installation of more permanent traffic control measures on Ordway Street at Idaho Avenue, and directional limitations for traffic moving northeast on Idaho Avenue. (Id.)

54. The Commission finds that the Applicant adequately addressed the Ordway Neighbors' concerns. On rebuttal, the Applicant demonstrated that provision of parking spaces for the North Parcel retail uses in the South Parcel parking garage will be a convenient and accessible location for patrons and employees. The Applicant demonstrated that the

distance between the North Parcel retail uses and the South Parcel garage will be no greater than the distance to Ordway Street and that the South Parcel garage will offer a greater supply of parking than a driver might find by searching for a potential on-street space on Ordway Street. The Applicant and DDOT also indicated that truck and bus traffic would not be permitted to use Ordway Street. (Tr. Apr. 6, 2009 at 239-40.) Finally, the Applicant stated that it would construct permanent curb and gutter improvements on Ordway Street at Idaho Avenue to make the existing temporary traffic control measures permanent. In light of the foregoing, the Commission finds that further measures are not required to address the concerns of the Ordway Street neighbors.

Noise

55. The Project will not generate adverse impacts due to noise. The Commission accepts the conclusion of Applicant's noise expert submitted a detailed report that concluded noise from the PUD. As to the specific concerns raised concerning the noise generated by unloading activity, the Commission agrees with the analysis and methodology utilized by the Applicant's noise consultant, and finds that such noise will be substantially improved over existing conditions, and the that noise generated by truck maneuvering will be below ambient background levels.

Impact of uses

56. The proposed uses in the Project will not generate adverse impacts. The proposed amount and proportion of grocery and other retail uses are consistent with established definitions of neighborhood shopping centers. (Tr. May 20, 2009 at 19-20.) Furthermore, the proposed PUD will not significantly increase the total amount of commercial density on the site; rather, the PUD will primarily adjust the proportion of grocery store to other neighborhood retail. (Id at 29-21.) The Applicant requested flexibility to locate a limited number of restaurants, prepared food shops, and fast food establishments on the Property, which the Applicant stated was necessary to permit a mix of eating establishments typically found in a neighborhood shopping center. (Id. at 21-22.) The number of eating establishments and financial institutions will each be limited to 20% of the PUD's linear commercial frontage, reserving over half of the PUD's frontage for other neighborhood-serving uses.

57. The Commission also finds that the limited number of eating establishments permitted as part of the PUD will not impose unacceptable impacts due to traffic, parking, and loading, because these establishments will represent a small percentage of the overall uses within the PUD. The parking demand generated by the eating establishments on the PUD Site will be accommodated within the South Parcel Parking garage, particularly given that the peak demand for restaurants is likely to occur during the evening hours.

Construction Activities

58. The representative for the Macomb Neighbors raised concerns regarding excavation, environmental and safety impacts of the proposed PUD on property to the south.

59. The District's Construction Code and environmental regulations are intended to control and mitigate the safety and environmental impacts of construction activity. The Commission cannot deny an application because a party thinks more stringent standards should apply.

PUBLIC BENEFITS PROFFERED

60. As detailed in Applicant's testimony and written submissions, the proposed PUD will provide the following project amenities and public benefits.

    a. Housing and Affordable Housing. The Project will create new housing opportunities consistent with the Zoning Regulations and Comprehensive Plan as well as District planning policies. The Project will create approximately 138 multi-family units and eight townhouses, with approximately 16,480 square feet (10% of the residential gross floor area) set aside as affordable housing. Half of the affordable units will be set aside as low-income affordable housing, available to households earning less than 50% of the Area Median Income ("AMI"), and the other half of the affordable units will be set aside as moderate-income affordable housing, available to households earning less than 80% of the AMI.

    b. Urban Design, Architecture, and Open Spaces. The urban design attributes of the Project will include the use of high-quality materials in a contextually appropriate design, and attention to all building facades (including side and rear elevations). The Project will also have urban design features intended to improve the pedestrian experience, including well-designed sidewalks with street trees, special paving features along Newark Street, inviting and active storefronts, and clear separation of vehicular and pedestrian pathways. The Project will provide a number of public spaces, including a tree-canopied public space on the north side of Newark Street, an enhanced pedestrian entrance to the Giant grocery store on the south side of Newark Street at its intersection with Wisconsin Avenue, and a public plaza at the intersection of Wisconsin Avenue and Idaho Avenue.

    c. Site Planning, and Efficient and Economical Land Uses. The existing improvements at the PUD Site feature a suburban-style commercial center with large amounts of surface parking, outdoor loading activity, and multiple curb cuts that discourage pedestrian activity. Development of the Project will result in an attractive and well-planned pedestrian-oriented mixed-use development that will enhance the site and will represent an improvement over the existing underutilized and dated shopping center.

d. Efficient and Safe Vehicular and Pedestrian Access. The Project will replace existing surface parking and loading with separate underground parking and internal loading facilities, and will reduce the number of curb cuts on the Property from eight to five, which will enhance pedestrian safety, channel vehicular access, and separate truck traffic from pedestrian and vehicular traffic. The Applicant will adhere to detailed Transportation and Truck Management Plans to manage the movements of trucks and other vehicles and minimize vehicular-pedestrian conflicts.

e. Uses of Special Value—Grocery Store and other Neighborhood Retail. The Applicant will provide a new 56,000-square-foot supermarket, which will provide an expanded and modernized grocery store for the immediate neighborhood. As evidenced by the testimony of many of those both in support of and in opposition to the Application, this represents a key amenity and benefit of the PUD. The Applicant will also provide approximately 80,000 square feet of new space for neighborhood-serving retail and commercial uses.

f. Uses of Special Value—Parking Spaces. The Applicant will set aside at least 30 parking spaces in the South Parcel garage during off-peak hours for use by patrons of neighborhood restaurants and other retail uses. In addition, the Applicant will make available 30 spaces as overnight parking for community residents.

g. Uses of Special Value—Other Public Benefits.

   i. *Traffic Signal at Wisconsin and Idaho Streets.* The Applicant will contribute the full cost of traffic engineering and construction for the signalization of the intersection of Wisconsin Avenue and Idaho Avenue in order to create a safe, signalized crossing across Wisconsin Avenue.

   ii. *Intersection Reconstruction.* The Applicant will contribute the full cost of construction of improvements to the Wisconsin Avenue and Idaho Avenue intersection as well as construction of permanent traffic control improvements at the intersection of Idaho Avenue and Ordway Street.

h. Environmental Benefits. The Applicant will design and construct the PUD to achieve the equivalent of a Silver standard on the Leadership in Energy and Environmental Design ("LEED")-Neighborhood Development ("ND") system. In addition, the Applicant will design and construct the North Parcel building to achieve the equivalent of a Silver standard on the LEED for Homes (Midrise) system or its equivalent. As described in the Applicant's written submissions, the grocery store will, in particular, incorporate energy-efficient sustainable features.

i. Employment and Training Opportunities. In order to further the District's policies relating to the creation of employment and training opportunities, the Applicant will

participate in a First Source Agreement with the District of Columbia Department of Employment Services.

Compliance with PUD Standards

61. In evaluating a PUD application, the Commission must "judge, balance, and reconcile the relative value of project amenities and public benefits offered, the degree of development incentives requested and any potential adverse effects." (11 DCMR § 2403.8.) The Commission finds that the development incentives for the proposed height, density, flexibility, and related rezoning to C-2-A are appropriate and are fully justified by the superior benefits and amenities offered by this Project. The Commission finds that the Applicant has satisfied its burden of proof under the Zoning Regulations regarding the requested flexibility from the Zoning Regulations and satisfaction of the PUD standards and guidelines for the reasons set forth in the Applicant's written rebuttal testimony. (Exhibit 257 at 12-17.)

62. The Commission credits the testimony of the Applicant and its architect and planning consultants, as well as OP and ANC 3C, and finds that the proposed neighborhood retail (including a grocery store), housing and affordable housing, commitment to sustainable design, streetscape improvements, below-grade loading and parking, neighborhood parking spaces, new traffic signal, intersection improvements, revenue for the District, First Source Employment Agreement, and superior architecture and design all constitute project amenities and public benefits. (Exhibit 257 at 16-17.)

63. The Commission finds that the Project is acceptable in all proffered categories of public benefits and project amenities, and is superior in public benefits and project amenities relating to urban design, landscaping and open space, housing and affordable housing, site planning, job training and employment opportunities, transportation measures, environmental benefits and uses of special value to the neighborhood and District as a whole. (Exhibit 257 at 16-17.)

64. The Commission disagrees with the opponents' position that the proposed amenities are insufficient given the requested height, density, zoning, and flexibility. The Commission credits the testimony of the Applicant regarding the collaborative planning effort that guided the development of the Project, and finds that the planning process resulted in proffered amenities that reflect community preferences and priorities. The Commission credits the testimony of numerous organizations and persons in support, as well as OP and ANC 3C, that the PUD provides significant and sufficient public benefits and project amenities.

65. For this reason, the Commission will not consider the series of modifications to the Project proposed by WNNC to make the PUD "acceptable." (Exhibit 225.) It is the burden of an applicant to demonstrate that the PUD meets the applicable standards. If an applicant

succeeds, the PUD must be granted. If it fails, the PUD must be denied. In either case, the Commission may not unilaterally amend an application to cure a deficient application or make a good one better.

66. The Commission finds the Property is a suitable site for the proposed PUD and that the character, scale, mix of uses and design of the Project are appropriate, and finds that the site plan is consistent with the intent and purposes of the PUD process to encourage high quality developments that provide public benefits. Specifically, the Commission credits the testimony of the Applicant's architect and planning consultants that the superior site plan consisting of mixed-use development will create an active pedestrian-oriented environment along the Wisconsin Avenue corridor at one of its commercial nodes.

67. The Commission credits the testimony provided by the Applicant's architect regarding the height of surrounding buildings, and acknowledges the testimony of numerous organizations and persons that the building heights and scale in the proposed PUD are appropriate, including the planned five-story North Parcel building. The Commission finds that the Project's height and massing are appropriate given the existing and proposed building heights surrounding the Property, the surrounding land use and zoning designations, and the Property's location along the Wisconsin Avenue corridor.

68. The Commission finds that the proposed Map Amendment to the C-2-A Zone District is not inconsistent with the Comprehensive Plan or the character of the surrounding area. (Exhibit 257 at 14. The Commission notes that the C-2-A Zone District is noted as one that comports with the Low-Density Commercial designation on the Future Land Use Map. The proposed zoning is consistent with the Property's location at a neighborhood commercial center along Wisconsin Avenue, and is necessary to permit the mix and density of uses appropriate for transit- and pedestrian-oriented development at this strategic site. Further, the rezoning is part of a PUD application, which allows the Commission to review the design, site planning, and provision of public benefits and amenities against the requested zoning flexibility.

69. The Commission also finds that the removal of the MW Overlay designation for purposes of the PUD is not inconsistent with the Comprehensive Plan or the character of the surrounding area. (Exhibit 257 at 15-16.) The proposed PUD will further many of the objectives of the MW Overlay, including the promotion of neighborhood-serving retail and service uses, removal of curb cuts along Wisconsin Avenue, and limitations on financing and eating establishments. Moreover, the PUD public hearing process provided a thorough public review of the PUD. The Commission credits the testimony of the Applicant that the flexibility authorized in the PUD for greater height and linear footage than would be permitted for eating establishments under the MW Overlay is appropriate given the limited impact of the height and uses as well as the numerous benefits and amenities of the PUD. The authority of the Commission to amend the zoning map, as well as other issues

regarding the impact of the MW Overlay on the proposed PUD, are addressed in the Conclusions of Law.

70. The Commission credits the testimony of OP that the Project will provide benefits and amenities of substantial value to the community and the District commensurate with the additional density and height sought through the PUD. Further, the Commission credits OP's testimony that the impact of the PUD on the level of services will not be unacceptable.

71. For the reasons detailed in this Order, the Commission credits the testimony of the Applicant's transportation consultant and finds that the traffic, parking, loading and other transportation impacts of the Project on the surrounding area are capable of being mitigated through the measures, including transportation and truck management plans proposed by the Applicant, and are acceptable given the quality of public benefits in the Project. The Commission was not persuaded by the parties in opposition that the traffic study did not provide a credible showing regarding the PUD's impact. The Commission notes that the PUD standards require a showing that the impacts of the PUD will either be favorable, capable of being mitigated, or offset by the PUD's public benefits. Further, the Commission credits the findings of the Applicant's traffic consultant that any impacts will be mitigated by the proposed TMP, traffic improvements, and truck management measures. The Commission notes that the Applicant has proffered an escrow account for traffic calming measures as a condition of the PUD, which will allow DDOT and ANC 3C to monitor the Project's actual traffic impacts and provide improvements, if necessary.

72. The Commission agrees with DDOT's conclusion that the Applicant has fully addressed traffic, parking, loading, and other transportation issues associated with the proposed development. The Commission credits DDOT's testimony, including its evaluation of issues raised by the parties in opposition, that the traffic impacts of the Project will be mitigated by specific measures, including the TMP, a new traffic signal and traffic signal optimization measures, intersection reconstruction, and a truck management plan. The Commission also credits DDOT's testimony that the proposed amount of parking will be sufficient to accommodate the anticipated parking demand generated by the PUD. The Commission concurs with DDOT that the provision of a traffic calming escrow account report will ensure that the Project's traffic impacts will be fully mitigated. The Commission also credits DDOT's testimony regarding the acceptability of the Applicant's proposed future mitigation measures, provided that the Applicant obtains final approval from DDOT for the new signal, necessary signal timing adjustments, and intersection reconstruction.

73. The Commission finds that the PUD's Truck Management Plan as well as all aspects of the Project's operation can be monitored and enforced by the District of Columbia based on a consideration of the facts and circumstances regarding any alleged violation.

Not Inconsistent with the Comprehensive Plan

74. The Commission credits the testimony of the Applicant and OP regarding the Property's designations as Low-Density Commercial and Low-Density Residential on the Future Land Use Map of the Comprehensive Plan. The Framework Element lays out "interpretation guidelines" for the Future Land Use map, and many of these guidelines are reprinted on the map itself. The Interpretation Guidelines state that the Future Land Use Map is not a zoning map and does not specify allowable uses or dimensional standards. The Guidelines also indicate that the typical building heights and densities included in the land use category simply describe the "general character" of the area, and state that the "granting of density bonuses [through PUDs] may result in heights that exceed the typical ranges cited here." Finally, the Guidelines indicate that the Future Land Use map designations are not parcel-specific and should be interpreted in conjunction with the text of the Plan.

    a. The Comprehensive Plan describes the Low-Density Commercial category as primarily one- to three-story buildings, with retail, office, and service businesses as the predominant uses. The Plan does not require, however, that each block strictly correspond with the general description. (Tr. Apr. 23, 2009 at 260, 270, 274-75.) The Plan also specifically states that housing is explicitly permitted in the commercial land use categories, and permits height and density beyond the typical range of one to three stories through the use of the PUD process. (Tr. Apr. 23, 2009 at 260-61.) The Plan states that corresponding zone districts are C-1 and C-2-A. (Tr. Apr. 23, 2009 at 258, 268-9, 273.)

    b. The Plan describes the Low-Density Residential category as neighborhoods with detached and semi-detached one-family housing units, and notes that "other zones may apply" in addition to the typical R-1 and R-2 Zone Districts.

    c. The proposed C-2-A zoning of the PUD is not inconsistent with the 2006 Comprehensive Plan's Future Land Use Map designation, given the language in the Plan and description of the C-2-A Zone District in the Regulations as intended to serve "low and medium density residential areas".

75. The Commission credits the testimony of the Applicant and OP regarding the interpretation of the PUD's designation as a Neighborhood Commercial Center on the Generalized Policy Map. Neighborhood Commercial Centers are intended to meet the daily needs of residents and workers in adjacent neighborhoods, and include grocery stores, restaurants, and other basic retail and service establishments as typical uses.

76. The Commission does not agree with the parties in opposition that the absence of a mixed-use designation on the Future Land Use map precludes mixed-use development. The text of the Plan is clear that housing is permitted in all commercial areas, and that mixed-use striping is used only where the mixing of land uses is "strongly encouraged." Moreover, the Commission does not agree with the parties in opposition that the lack of a "mixed use"

designation precludes a mixed-use commercial center. The Mixed-Use Main Street Corridor category was added in 2006 to supplement existing commercial categories (such as Neighborhood Commercial), with a new commercial category intended to identify pedestrian-oriented shopping districts. The Neighborhood Commercial Center continues to permit mixed-use, pedestrian-oriented development, but also permits larger-scale, auto-oriented commercial development.

77. The Commission finds that the PUD and Map Amendment are not inconsistent with the Comprehensive Plan's designation of the site in the Low-Density Commercial and Low-Density Residential land use categories or as a Neighborhood Commercial Center, based on the descriptions and interpretation of those categories in conjunction with the Project's compatibility with numerous elements, goals and policies of the Comprehensive Plan.

    a. The proposed five-story building on the North Parcel and two-story building on the South Parcel will not be inconsistent with the Low-Density Commercial Land Use category. The commercial area will continue to be primarily two- and three-story buildings.

    b. The proposed townhouses and entrance to the grocery loading area will not be inconsistent with the Low-Density Residential designation of the western portion of the Property. The Guidelines state that the land-use designations are not "parcel-specific" and are intended to be interpreted broadly, in concert with text of the Plan. This portion of the Property, as well as the property across Idaho Avenue from the Property, is currently used for nonresidential purposes, as a commercial parking and loading area for the existing grocery store and as a police station. The proposed loading entrance will be consistent with the current use of the site, and the proposed townhouses will introduce residential uses consistent with the residential land use designation.

    c. The proposed rezoning to C-2-A is not inconsistent with the Comprehensive Plan, which states that the C-2-A Zone District corresponds with the Low-Density Commercial land use category.

78. The Commission credits the testimony of the Applicant and OP that the PUD is not inconsistent with the Land Use Element of the Plan. The Land Use Element calls for denser development on commercially zoned properties along transit-oriented corridors as well as near Metrorail stations. The Land Use Element also includes specific policies for Neighborhood Commercial Centers that encourage the continued growth and expansion of these centers, particularly as pedestrian-oriented nodes of commercial development at key locations along major corridors. Finally, the Land Use Element notes that the height, mass, and scale of development at these nodes should be appropriate and compatible with surrounding areas and not unreasonably impact surrounding residential areas.

79. The Commission finds that the PUD is not inconsistent with the Land Use Element of the Comprehensive Plan. Given the PUD's location at a commercial center along Wisconsin

Avenue, substantial levels of bus service along this stretch of Wisconsin Avenue, and extensive testimony regarding the need for growth of the center to meet the surrounding community's daily needs, the Property is appropriate for denser redevelopment as a pedestrian-oriented commercial node along the Wisconsin Avenue corridor. The Commission also finds that the PUD is compatible with the character of surrounding buildings, which include four- to nine-story residential buildings, a five-story office building, and a police station. Finally, for the reasons described throughout this Order, the Commission finds that the proposed Project will not unreasonably impact surrounding residential properties. The Commission notes again that the use of the PUD process permits the Commission to impose conditions that will accomplish this goal, which is a clear advantage over matter-of-right development.

80. The Commission credits the testimony of the Applicant and OP that the Project is also consistent with many of the Comprehensive Plan's major elements, including the Housing, Transportation, Urban Design, and Economic Development elements. The Commission also concurs that the PUD will not conflict with the policies of the Rock Creek West Area Element; in fact, the PUD will promote provisions that call for infill development of commercially zoned sites along Wisconsin Avenue. (Tr. Apr. 23, 2009 at 259, 260.) The Commission agrees with the Applicant that the PUD is not inconsistent with the other provisions of the Comprehensive Plan cited by the parties in opposition, for the reasons cited in the Applicant's rebuttal brief. (Exhibit 257 at 7-12.)

81. The Commission gives "great weight" to the issues and concerns raised by ANC 3C. The ANC commented favorably on the Application, including that the PUD will further the purposes of the Zoning Regulations and utilize the PUD process to provide a more efficient and attractive project than would be attainable under matter-of-right standards; that the Project's height and density will not be unacceptable given the height and density of surrounding buildings and the location of the PUD along a major multi-modal corridor; and that the proposed map amendment, height, density, and other flexibility are acceptable given the proffered amenities and benefits. The Commission applauds the ANC's effort to resolve the loading, traffic, parking, and other issues in the PUD, and agrees that many of the conditions proposed by ANC 3C are reasonable and appropriate.

82. The Commission was not persuaded by ANC 3C that there is a need for commercial parking on the North Parcel. The Commission credits the testimony of the Applicant and DDOT that the proposed amount of commercial parking provided by the PUD will be sufficient, and the location of the commercial parking on the South Parcel will be convenient and accessible. The Commission also disagrees with ANC 3C regarding the request to limit the ability of PUD residents to secure residential permit parking. The Commission credits the testimony of the Applicant that the proposed PUD will provide an ample amount of off-street residential parking given the type of units and location of the PUD.

CONCLUSIONS OF LAW

Procedural Issues

Appropriateness of PUD Zoning Mechanism and PUD-related Rezoning

The Commission finds no merit in the claim that the Commission may not, as part of a PUD proceeding, grant a map amendment that would remove an overlay designation.

The Commission has the authority to rezone the Property to C-2-A and remove the MW Overlay for purposes of the PUD through a PUD-related amendment to the Zoning Map. The regulations that govern PUDs explicitly permit related map amendments, and do not distinguish overlay zones from base zone districts. Both types of zones are applied through a map amendment, and both types of zones may be removed through a map amendment. Nothing in the Regulations suggest that a PUD-related zoning map amendment somehow precludes rezonings into, or out of, overlay districts. The Commission has exercised its authority to remove a neighborhood commercial overlay district through a PUD-related map amendment. (*See* Z.C. Order No. 05-37; *cf.* Z.C. Order No. 06-11/06-12; 06-17; 06-27 (approving PUDs and related map amendments within the boundaries of an approved campus plan as valid exercises of the Commission's authority under the PUD Regulations).)

Furthermore, the proposed PUD-related map amendment does not threaten the integrity of the MW Overlay District, or circumvent the intent and purposes of the Zoning Regulations, because the Commission is able to evaluate the map amendment in the context of a specific development and condition its approval. In fact, the PUD process supplements and enhances the protections afforded by the MW Overlay: the consolidated PUD review process provides for detailed design review as well as review of the project's proposed height, density, and use, and offers substantial project amenities and public benefits in exchange for a higher overall height and density and design flexibility. As OP testified during the hearing, the MW Overlay will still exist on the Property, but is conditionally removed by the PUD only if the Applicant complies with the terms and conditions of the PUD Order. A PUD-related map amendment is a conditional change to existing zoning that does not begin until a PUD covenant is recorded, expires if the PUD is not built, and ends once the PUD use terminates.

All that § 2406.2 does is to provide that a, "PUD application may be filed in conjunction with a change in zoning for the property involved." The filing of a PUD application does not in any way limit the type of map amendment that may be filed. In essence, all that § 2406 does is to allows for an automatic consolidation of map amendment and PUD proceedings. Since even under the opposition's theory the Applicant could have still filed separate applications for the PUD and the map amendment, accepting the opposition's view would add nothing more than inefficiency and confusion to the PUD process.

Authority of the Commission to Consider the PUD Application

Having determined to approve a PUD-related zoning map amendment that would result in the provisions of the WM Overlay no longer being applied to the property, the Commission need not consider whether the BZA should review the project under § 1308.3 of that Overlay. Nor was the Commission obliged to make such a referral before making its decision.

As with many other prerequisites to its authority to hear a PUD, such as minimum land area and the maximum amount of density and height that can be granted, the Commission analyzes a PUD application as if the map amendment had been granted. To have done otherwise here would have required the Applicant to present a project to the BZA that was not consistent with the matter-of-right standards of its existing zoning. The Applicant would be unlikely to seek variance relief because it could still participate in the PUD process after the BZA review. Thus, the BZA would be in the untenable position of reviewing plans that depended upon zoning relief that might never be granted.

Even if the provisions of the MW Overlay remained during the pendency of this case, the Commission still retains the authority to review the proposed development plan through the PUD process. The Commission has the authority to approve, in a PUD, any use that is permitted as a special exception and would otherwise require the approval of the BZA. (11 DCMR § 2407.5.) Approval of the BZA is not required for any use approved by the Commission under § 2405.7 and the Commission is not required to apply the special exception standards normally applied by the BZA. (11 DCMR § 2405.8.)

Based on the foregoing, the Commission grants the Applicant's request to dismiss the WNNC petition to refer the Application to the BZA.

Enforcement of a Private Agreement

The Cleveland Park Citizens Association ("CPCA") requested that the Commission withhold its decision on the PUD pending resolution of issues related to the 2002 agreement. CPCA's expert in the field of planning testified that the 2002 agreement is a private memorandum of understanding tied to a prior development plan for the site. The Commission's jurisdiction is limited to the powers enumerated in the Zoning Act, *see* D.C. Code § 6-641.01 *et seq.*, and it lacks the authority to enforce a private document among parties. (*Cf. Spring Valley Wesley Heights Citizens Ass'n v. D.C. Bd. Of Zoning Adjustment*, 644 A.2d 434, 436-37 (upholding BZA determination that it lacked authority to prohibit valid matter-of-right construction of law school, even if private agreement allegedly prohibited proposed law school location).) The Applicant, as the owner of the PUD Site, filed a valid application for a consolidated PUD and related Zoning Map amendment, and the Commission voted to consider the application under Chapters 24 and 30 of the Zoning Regulations. The Commission concludes that it is not necessary to postpone its decision on the PUD based on the 2002 agreement.

The Merits of the Application

Compliance with PUD Regulations

The development of this PUD project will carry out the purposes of Chapter 24 of the Zoning Regulations to encourage well-planned developments that will offer a variety of building types with more efficient and attractive overall planning and design not achievable under matter-of-right development. The character, scale, mixture of uses and design of uses in the proposed PUD are appropriate, and the proposed development is compatible with the citywide and area plans of the District of Columbia as detailed below.

The Application meets the minimum area requirements of § 2401.1 and the contiguity requirements of § 2401.3 of the Zoning Regulations.

The PUD is within the applicable height and bulk standards of the Zoning Regulations. The proposed height and density will not cause an adverse effect on nearby properties, are consistent with the height and density of surrounding properties, and are appropriate given the location along a major commercial corridor. The mix of residential and retail uses is appropriate for the site, which is located at a neighborhood commercial node at the nexus of multiple residential neighborhoods and communities.

The impact of the proposed PUD on the surrounding area and upon the operation of city services and facilities will be acceptable. As demonstrated in the traffic studies submitted by the Applicant and the reports and testimony of DDOT, the Project will not cause adverse traffic impacts and the Property is well served by major arterial streets and numerous bus lines. Further, the Application can be approved with conditions to ensure that any potential adverse effects on the surrounding area from the Project will be mitigated.

The PUD Regulations permit the Commission to reduce or increase the amount of off-street parking spaces and loading facilities depending on the uses within the PUD and the location of the Project. The proposed increase in residential parking and decrease in commercial parking on the North Parcel are appropriate given the importance to the nearby community of providing adequate residential off-street parking and the ability to better accommodate and manage commercial demand in a shared facility on the South Parcel. The proposed reductions in the number and size of the loading berths on both the North and South Parcel are appropriate given the relatively small size of the retail space in each building as well as the Applicant's ability to manage residential and retail demand through shared use of the berths.

The Application seeks a PUD-related Zoning Map amendment to the C-2-A Zone District, and an increase in height and density as permitted under the PUD guidelines, with flexibility from the lot occupancy, roof structure, parking, loading, and lot control requirements, as well as approval of the townhouses planned for the South Parcel. The benefits and amenities provided by the Project, particularly the provision of housing and affordable housing, exemplary architecture, significant public open spaces and streetscape improvements, neighborhood parking spaces,

below-grade parking and loading, grocery store and other neighborhood-serving retail, and sustainable design commitments, are reasonable for the development incentives proposed in this Application. The PUD and rezoning for the Property will promote orderly development of the Property in conformance with the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.

The Comprehensive Plan

Approval of the PUD and related change in zoning are not inconsistent with the Comprehensive Plan, including the designation of the Property as Low-Density Commercial and Low-Density Residential, based on the consistency of the proposed height, density, and rezoning to C-2-A with the land use category descriptions, guidelines for interpretation, surrounding land uses and heights, and other provisions of the Comprehensive Plan. The PUD and related rezoning are not inconsistent with the designation of the Property as a Neighborhood Commercial Center based on similar reasons.

The PUD is fully consistent with and fosters the goals and policies stated in the elements of the Comprehensive Plan, including:

- Land Use. The transit-oriented, mixed-use development will satisfy District goals for development on commercial nodes along major corridors with compatible mixes of uses, appropriate densities, good pedestrian and vehicular circulation, appropriate combinations of public and private action, and the promotion of appropriate commercial development, to serve the economic needs of the District and its neighborhoods.
- Housing. Through the construction of approximately 138 multi-family units and eight townhouse units, as well as the proposal to set aside 10% of the residential gross floor area as affordable housing, the Project will provide new housing to meet various levels of need and demand.
- Transportation: The proposed mixed-use, pedestrian-oriented development will be strategically located on a major transportation corridor and capitalize on investment in public transportation along that corridor.
- Urban Design. The Project's significant retail component and streetscape improvements at a neighborhood commercial center will provide a functionally active commercial center within the District, create active use during both the day and evening hours, and create aesthetically pleasing physical concentrations of activity and development.
- Economic Development. The PUD will promote the development of a new grocery store and other neighborhood shopping and local-serving office space to better serve the needs of the surrounding community.

Finally, the Project is consistent with the objectives of the Rock Creek Area Element, including multiple provisions that call for compatible infill development of additional housing with retail and office space on underutilized commercial sites along Wisconsin Avenue.

ANC "Great Weight"

The Commission is required under D.C. Code § 1-308.10(d) (2001) to give "great weight" to the issues and concerns raised in the report of the affected ANC. The Commission has considered the position of ANC 3C and accords it the great weight to which it is entitled. The Commission concurs with ANC 3C that the PUD will provide a more efficient and attractive project than would be attainable under matter-of-right standards. The Commission also concurs with ANC 3C that the Project's height and density are not unacceptable based on the site location and surrounding context. The Commission also concurs with ANC 3C that the proposed map amendment, height, density, and other flexibility are acceptable given the proffered amenities and benefits.

As set forth above in the Findings of Fact, the Commission finds the majority of the conditions proposed in the ANC Resolution are persuasive and that the Applicant has complied with those conditions. The Commission disagrees with ANC 3C; however, regarding the need for additional commercial parking on the North Parcel. The Commission is not persuaded that additional commercial parking is needed on the North Parcel because the commercial parking on the South Parcel will be sufficient, and will be convenient and accessible for patrons of the North Parcel retail. The Commission also disagrees with ANC 3C regarding the request to limit the ability of PUD residents to secure residential permit parking. The proposed PUD will provide an ample amount of off-street residential parking given the type of units and location of the PUD.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia orders APPROVAL of an application for consolidated review and approval of a planned unit development ("PUD") and related Zoning Map Amendment for property consisting of Square 1920, Lot 831 and Square 1920-N, Lots 1 and 2 (the "Property"). This approval is subject to the following guidelines, conditions, and standards:

1. This PUD shall be developed in accordance with the plans prepared by Street-Works, LLC marked as Exhibit 20 in the record and modified by Exhibits 46, 156, 164, and 256, as modified by guidelines, conditions, and standards herein.

2. The Property shall be rezoned from MW/C-1 and R-5-A to C-2-A as shown on Tab B of Exhibit 3.

3. The Applicant[8] is permitted to construct townhouses on the remaining R-5-A portion of the Property and is also permitted to use the R-5-A portion of the Property for commercial access to the primary South Parcel loading facility as shown on Exhibit 20 of the record and modified by Exhibits 46, 156, 164, and 256.

4. The Applicant shall have flexibility from the lot occupancy, roof structure, parking, loading, and theoretical lot provisions of the Zoning Regulations, as shown on the plans marked as Exhibits 20, 46, 156, 164, and 256.

5. The Property shall be used for residential, commercial, and commercial parking uses, as shown on the plans marked as Exhibits 20 and 156 of the record, provided:

   a. No more than 20% of the ground-level gross floor area along Wisconsin Avenue and Newark Street shall be devoted to banks, loan offices, other financial institutions, and tax preparation establishments; and

   b. Restaurants, prepared food shops, and fast food establishments are permitted, but shall occupy no more than 20% of the commercial linear street frontage within the PUD site.

6. The Applicant shall set aside approximately 10% of the residential gross floor area as affordable housing, with 50% of the units set aside for low-income households and 50% set aside for moderate-income households, exclusive of the townhouses planned on the Idaho Avenue property line. The affordable housing units shall be distributed as generally shown on the plans marked A104-A105 in Exhibit 20 of the record.

7. The Applicant shall design the project as a whole to achieve the equivalent of a Silver rating under the LEED for Neighborhood Development (LEED-ND) rating system. The Applicant shall design the North Parcel residential component to achieve the equivalent of a Silver rating under the LEED for Homes Mid-Rise rating system.

8. The Project shall include commercial parking facilities as shown on the plans referenced above; provided:

   a. The Applicant shall permit use of the South Parcel garage by residents of the PUD and their guests;

   b. The Project shall make at least 30 spaces in the South Parcel garage available during off-peak hours for users of existing neighborhood restaurants and overnight parking for the surrounding community; and

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[8] Compliance with these conditions run with the land and is therefore the obligation of any person or entity who owns all or part of the PUD site for so long as they remain owner.

c. The Applicant may restrict the use of the North Parcel garage for private use by residents and guests of the Project.

9. The Project shall provide off-street loading consistent with the approved plans. The Applicant shall abide by the Truck Management Plan included in Exhibit 20 of the Record; provided

   a. No loading activity shall be permitted between 9:00 PM and 7:00 AM; and

   b. Commercial tenants shall be required to abide by the terms of the Truck Management Plan through a lease provision or similar mechanism.

10. The Applicant shall comply with the Transportation Management Plan included in Exhibit 20 in the Record.

11. Prior to the issuance of a base building permit, the Applicant shall undertake the following actions:

   a. Contribute 100% of the traffic engineering and construction costs of the signalization of the intersection of Wisconsin Avenue and Idaho Avenue;

   b. Contribute 100% of the construction costs to install curb and gutter improvements that make permanent existing temporary traffic control measures at Ordway Street and Idaho Avenue; and

   c. Place $100,000 into an escrow fund to provide for unanticipated traffic calming measures caused by impacts from the PUD in accordance with terms and conditions acceptable to DDOT.

12. The Applicant shall have flexibility with the design of the PUD in the following areas:

   a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, elevators, and toilet rooms, provided that the variations do not change the exterior configuration or appearance of the structures;

   b. To vary final selection of the exterior materials within the color ranges and materials types as proposed based on availability at the time of construction;

   c. To make minor refinements to exterior details and dimensions, including balcony enclosures, belts, courses, sills, bases, cornices, railings, and trim, or any other changes to comply with Construction Codes or that are otherwise necessary to obtain a final building permit;

d. To vary the exact location of the affordable units, as shown on the plans, provided they are located on the same floor as shown on the plans;

e. To vary the size and location of retail entrances to accommodate the needs of specific retail tenants and storefront design; and

f. To make alterations to the design of the underground parking garages and the townhouse parking spaces, provided that the North Parcel parking garage contains approximately 124 spaces, the South Parcel garage contains approximately 395 spaces, and the townhouses contain approximately 16 spaces, which requirement may be satisfied with any combination of compact and full-sized spaces.

13. The Applicant shall enter into a First Source Employment Agreement with the Department of Employment Services.

14. No building permit shall be issued for this PUD until the Applicant has recorded a covenant among the land records of the District of Columbia between the owners and the District of Columbia that is satisfactory to the Office of the Attorney General and the Zoning Division of the Department of Consumer and Regulatory Affairs. Such covenant shall bind the Applicant and all successors in title to construct on or use the Property in accordance with this Order and any amendment thereof by the Zoning Commission.

15. The PUD approved by the Commission shall be valid for a period of two (2) years from the effective date of this Order. Within such time, an application must be filed for building permit for Phase 1 (defined below) as specified in 11 DCMR § 2409.1. The Applicant shall have the flexibility to construct the Project in two phases.

    a. Phase 1 shall consist of the South Parcel improvements. Within three (3) years of the receipt of a certificate of occupancy for the grocery store, the Applicant shall file for a building permit for the Phase 2 improvements (defined below);

    b. Phase 2 shall consist of the North Parcel improvements; and

    c. The Applicant shall have flexibility to construct the South Parcel townhouses during Phase 1 or Phase 2.

16. The Applicant shall also fulfill any other commitment or promise it made as referenced in the findings of facts above, even if not specifically stated in one of the above conditions.

17. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this Order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01, et seq. (Act). The District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex,

age, marital status, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income or place of residence or business. Sexual harassment is a form of sex discrimination, which is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The failure or refusal of the Applicant to comply shall furnish grounds for the denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this Order.

On June 8, 2009, upon motion of Chairman Hood, as seconded by Vice Chairman Keating, the Zoning Commission APPROVED this Application at its public meeting by a vote of 4-0-1 (Anthony J. Hood, William W. Keating, III, Peter G. May, and Michael G. Turnbull to approve; Konrad Schlater, not having participated, not voting).

On July 13, 2009, upon Motion of Chairman Hood, as seconded by Vice Chairman Keating, the Zoning Commission ADOPTED this Order at its public meeting by a vote of 4-0-1 (Anthony J. Hood and William W. Keating, III to adopt; Peter G. May and Michael G. Turnbull to adopt by absentee ballot; Konrad Schlater, not having participated, not voting).

In accordance with the provisions of 11 DCMR § 2038, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on August 14, 2009.

DISTRICT OF COLUMBIA GOVERNMENT
OFFICE OF THE SURVEYOR

Washington, D.C., March 7, 2008

Plat for Building Permit of SQUARE N-1920 LOTS 1 & 2

Scale: 1 inch = 40 feet Recorded in Book 141 Page 23

Receipt No. 02950

Furnished to: PWSP

Surveyor, D.C.

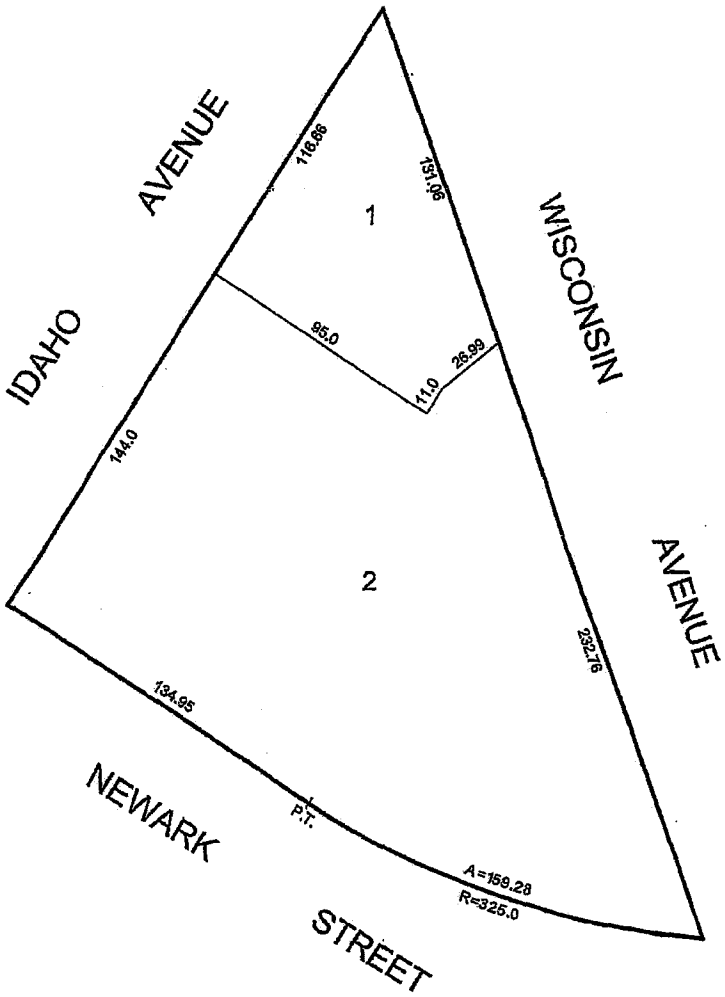
By: D.M.

I hereby certify that all existing improvements shown hereon, are completely dimensioned, and are correctly platted; that all proposed buildings or construction, or parts thereof, including covered porches, are correctly dimensioned and platted and agree with plans accompanying the application; that the foundation plans as shown hereon is drawn, and dimensioned accurately to the same scale as the property lines shown on this plat;and that by reason of the proposed improvements to be erected as shown hereon the size of any adjoining lot or premises is not decreased to an area less than is required by the Zoning Regulations for light and ventilation; and it is further certified and agreed that accessible parking area where required by the Zoning Regulations will be reserved in accordance with the Zoning Regulations, and that this area has been correctly drawn and dimensioned hereon. It is further agreed that the elevation of the accessible parking area with respect to the Highway Department approved curb and alley grade will not result in a rate of grade along centerline of driveway at any point on private property in excess of 20% for single-family dwellings or flats or in excess of 12% at any point for other buildings. (The policy of the Highway Department permits a maximum driveway grade of 12% across the public parking and the private restricted property.)

Date: _____

_____
(Signature of owner or his authorized agent)

NOTE: Data shown for Assessment and Taxation Lots or Parcels are in accordance with the records of the Department of Finance and Revenue, Assessment Administration, and do not necessarily agree with deed description.



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