



## **ADVISORY NEIGHBORHOOD COMMISSION 3E**

**TENLEYTOWN**

**AMERICAN UNIVERSITY PARK**

**FRIENDSHIP HEIGHTS**

**CHEVY CHASE**

**WAKEFIELD**

**FORT GAINES**

c/o Lisner-Louise-Dickson-Hurt Home 5425 Western Avenue, NW Washington, DC 20015

<https://anc3e.org>

### **RESOLUTION OF SUPPORT IN ZC #96-13A, 5333 WISCONSIN AVE, NW**

#### **WHEREAS:**

1. Street Retail, LLC, a subsidiary of Federal Realty Investment Trust (“Applicant” or “the Applicant”), seeks to build a 12-story mixed-use development (“Project”) at 5333 Wisconsin Ave, NW (“Property”).

2. The Applicant has applied for a map amendment and a modification of significance to enable it to build the Project utilizing the Planned Unit Development (PUD) process. The proposed map amendment asks the Zoning Commission (“ZC”) to change the zoning for the entire property from C-3-B to MU-9A. The applicant is also requesting flexibility to create a non-compliant side yard.

3. Although the requested map amendment sought for the Project allows additional density above what can be built by right, the Property is on the same block as a Metrorail station and is situated within a Mixed-Use Residential High density / Commercial High Density Development designation on the Comprehensive Plan’s Future Land Use Map (“FLUM”).

4. The applicant presented at the following properly noticed and public ANC 3E meetings:

- March 9, 2022
- April 21, 2022
- May 12, 2022
- June 14, 2022
- October 12, 2022
- November 16, 2022

5. While ANC 3E has reservations regarding the Project (discussed below) as proposed, it features numerous benefits and amenities beyond what would be provided for a matter-of-right project and that will advance policies of the Comprehensive Plan including the following:

- a. Provide 15% of the residential gross floor area for Inclusionary Zoning (IZ) which is more than the 8% required by law, including 2 units available to residents making no more than 30% of the area median income (AMI), 50% of the units available only to residents earning no more than 60% of AMI and the balance of

the units available to residents earning no more than 50% of AMI, as well as two additional units at 60% AMI.

- b. 2 fully accessible units built to ANSI (ADA) standards, one of which will be an IZ unit
- c. A retail agreement featuring:
  - i. Restrictions on the retail use which include prohibitions on:
    - I. Sexually oriented business establishments
    - II. A check cashing establishment
    - III. A bail-bond establishment
    - IV. Pawnbroker
    - V. Marijuana dispensary
    - VI. Mattress Store
    - VII. Head/smoke/vape shop
- d. No more than one bank or financial institution may lease space in the project and its street frontage on Wisconsin Avenue will be limited to 33 feet
- e. The developer will make an effort to market to and recruit local, minority, and woman owned businesses to the retail space and will offer a tenant improvement allowance of up to \$40 per square foot to assist in build-out costs to such businesses
- f. Street scape improvements including:
  - i. Enlarging 9 tree pits and planting 9 new street trees on the east side of the 5300 block of Wisconsin Avenue beyond the Project's frontage
  - ii. Removing invasive and dead plants, trees, and bushes adjacent to Chevy Chase Park between the fence and sidewalk along the Western Avenue and 41<sup>st</sup> Street frontages and installing new landscaping and maintaining it for 3 years
- g. The building itself shall provide above what is currently required by law:
  - i. Achieve LEED Gold certification
  - ii. Feature 10 electric vehicle charging stations, 2 of which are available to the public
  - iii. Include 10 bicycle parking spaces on the ground floor

6. The developer shall pay for and manage installation of a solar array, including a new roof and any needed structural improvements necessary to support the solar array on the roof of Iona Senior Services and hand over the system to Iona which will benefit from a significant reduction in its electrical costs and from selling the Solar Renewable Energy Credits.

7. The applicant has agreed to a construction management program above what is required by DOB including a commitment to:

- a. Provide pre-construction surveys to interested homeowners immediately adjacent to the project

- b. Prohibit contractors and subcontractors from parking on residential streets
8. The applicant has agreed to make safety improvements at the intersection of 43<sup>rd</sup> and Military including:
  - a. Adding a new north-south crosswalk on the west side of the intersection
  - b. Adding bulb outs
  - c. Adding Raised crosswalks
9. The Applicant has embodied the foregoing promises and others in a Memorandum of Understanding (MOU) executed contemporaneously with this resolution (attached hereto) and has agreed to ask the ZC to embody the terms of the MOU in any ZC order regarding this matter.
10. Taken together, we believe the amenities proffered by Applicant justify the relief sought given the Project's location in a High Density FLUM designation
11. Nevertheless, we believe this project, like every project, has room to be better. First, although we are grateful for the IZ units the project will provide, we believe the current housing crisis, and especially the dearth of affordable units Nevertheless, we believe this project, like every project, has room to be better. First, although we are grateful for the IZ units the project will provide, we believe the current housing crisis, and especially the dearth of affordable units in our neighborhood, requires the ANC, applicants and the ZC to always seek as high a number of IZ units as is economically viable and we urge the Zoning Commission join ANC 3E in always pressing applicants for maximal IZ.
12. Second, we are disappointed by how little retail space the Applicant is offering. We understand that cavernous mall retail no longer attracts many patrons in this area, but we believe ample street retail is vital to Friendship Heights' revitalization. For years developers and smart growth advocates, including some of us on this Commission, argued that what retail needed to succeed was more residential density. With this project, at least two others nearby in progress, and likely additional projects appearing in the near future, we will finally have the density to support great retail.
13. Yet, the Applicant here has told the ANC and the public that it will build only 15,000 square feet of retail space, and the Applicant has asked in filings for flexibility to build as little as 9000 square feet of retail space (the Applicant has subsequently offered to commit to a minimum of 10,500 square feet). We believe this a missed opportunity.
14. Third, the Project contains considerably more parking than is required by zoning for a building so close to a Metro station and there is ample excess parking available in the same complex. We believe this will unnecessarily incentivize driving and car ownership and that the current retail space that is being converted to parking could have been better put to other uses particularly since that space has unusually high ceilings
15. A final concern we have grappled with is the Applicant's decision to move forward with the project before the Wisconsin Avenue Development Framework. Given the value of getting some buildings built as soon as possible, we accept the Applicant's decision to

proceed now, but we note that our concerns above might have been addressed in the completed Development Framework.<sup>1</sup>

16. In spite of the foregoing, we believe the provision of both market-rate and affordable housing and the other amenities enumerated above outweigh our concerns and the Project merits support.

**NOW THEREFORE BE IT RESOLVED:**

1. In our view, despite the concerns noted above, the height and density sought for the Project are appropriate *if* the Applicant provides the above listed amenities which ANC 3E believes are commensurate with the Project's scope.

2. In reliance on the promises contained in the attached MOU and materials submitted in connection with the above-referenced application, ANC 3E supports the application, and respectfully joins the Applicant in asking the ZC to incorporate each and every provision in the MOU in any order issued in connection with the above-referenced application.

3. ANC 3E authorizes Commissioners Jonathan Bender and Tom Quinn to testify for the ANC at any proceedings connected to the above-referenced application.

The resolution passed by a vote of \_\_\_-\_\_\_-\_\_\_ at a properly noticed meeting held on December 1, 2022, at which a quorum was present, with Commissioners Bender, Gianinno, Hall, and Quinn in attendance.

ANC 3E

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by Jonathan Bender  
Chairperson

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<sup>1</sup> We understand, however, that the Office of Attorney General may file papers in this matter contending that the zoning regulations do not permit the Project to move forward ahead of the Wisconsin Avenue Development Framework. We take no position on legality, but note that nothing we say here should be construed to suggest the ANC supports violations of any zoning regulations.