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February 26, 2007

Ms. Andrea Walker
Eckington Citizens for Responsible Development
1937 Summit Place, NE
Washington, D.C. 20002

Dear Andrea:

RE :Z.C. Case #05-39

The Eckington Citizens for Responsible Development have asked me to provide expert planning and zoning advice and opinion concerning D.C. Zoning Commission Case No. 05-39, a proposed Planned Unit Development and Zoning Map Amendment at 116 T Street, N.E. zoned R-4.

In particular the question posed deals with my opinion regarding the appropriateness of re-zoning Square 3531, Lots 114 & 115, from R-4 to R-5-B, as may be provided for in the DC Elements of the Comprehensive Plan for the National Capital (Comp. Plan).

The current Comp. Plan Land Use Map designates Sq. 3531 in a "moderate density" residential land use category. A field survey of the squares around the subject property indicates the predominant existing uses to be Row Houses.

The term "**moderate density**" is defined on the Map as "Row houses and garden apartments are the predominant uses; may also include low density housing". The Text of the Comp. Plan, Section 1103.2 states "**The moderate density residential land use category includes row houses and garden apartments as the predominant uses and may also include, as appropriate uses, low density**".

The Comp. Plan does not recommend the Eckington area or any of its squares for a zoning change, in order for the area no to be inconsistent with the Comp. Plan. The area now is consistent with the land use designation.

The area is not designated a housing opportunity area, nor is there an adopted small area plan which proposes any changes which would involve Sq. 3531.

Section 1102 "Objectives for Residential Neighborhoods" of the Comp. Plan provides the general planning guidance for the Eckington neighborhood, namely 1102.1 (a), "To conserve and enhance the essentially satisfactory qualities of the many stable residential neighborhoods including those qualities that make them unique; and

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In addition the more specific Comp. Plan policies for Ward 5, Section 1607.5, indicate "In-fill housing and housing rehabilitation are a pressing concern in...Eckington". This implies that any in-fill housing or new housing should conform to the **existing R-4 zoning**.

There are several general theme policies in the Comp. Plan some of which include Urban Design, Housing Quality, Affordability, Non-profit Involvement, which support the proposed project. However, in my analysis, the Ward 5 "in-fill housing" and the "Objectives for Residential Neighborhoods" should be the guidance with respect to Plan conformance. **Therefore, I do not find the proposal to comply with the more specific Comp. Plan policies cited above.**

Furthermore, Section 330.3 of the D.C. Zoning Regulations stipulates that "The R-4 (maximum height of 40 feet) shall not be an apartment house district as contemplated under the General Residence (R-5) Districts, since the conversion of existing structures shall be controlled by a minimum lot area per family requirement". Therefore, re-zoning the site to R-5-B, as requested in the PUD, violates Section 2400.5 of the Regulations which states that "...the PUD process shall not be used to circumvent the intent and purpose of the title, or to result in action that is inconsistent with the Comprehensive Plan". (Section 330.1).

You have also asked for some explanation regarding the terms "medium and moderate" height and density as used in the Regulations and in the Comp. Plan. I find no mention of the term "medium or moderate" in the R-4 District General Provisions. The District "is designed to include those areas now developed primarily with row dwellings..."

The more intense R-5 Districts are subdivided into R-5-A, R-5-B, R-5-C, R-5-D and R-5-E Districts. In R-5-A Districts only a low height and density shall be permitted; **in R-5-B a moderate height and density shall be permitted**; in R-5-C a medium height and density shall be permitted; and in R-5-D and R-5-E, a relatively high height and medium-high density shall be permitted. (Regulations Section 350.2). Before the R-5-E classification was created, R-5-B was considered medium height and density in Section 350.2 of the 1991 Regulations.

The use of these Regulation terms is not directly comparable to the Comp. Plan Land use designations, which also use "moderate and medium". The Generalized Land Use Map in the Comp. Plan is not a zoning map and its land use categories do not directly translate into the Regulations zoning classifications. This explains why there may be confusion.

From my analysis of the proposed PUD and map amendment, a 55 foot high, 178-181 unit apartment house (measured from Todd Place), would not be appropriate in the midst of the existing surrounding predominantly 2-story row houses designated as “moderate land use category”.

In my opinion, the map change is requested primarily for greater height and bulk, which is contrary to the intent and purpose of the existing R-4 zone, and the PUD proposal is contrary to specific Comp. Plan policies for the Eckington neighborhood. Furthermore, the map change has no small area planning basis or rational.

There is no evidence that the two acre site cannot be developed within the matter-of-right R-4 zoning classification. R-4 standards can provide for a PUD FAR of 1.0 and a maximum height of 60 feet (Section 2405.1 and Section 2405.2).

I hope that the above planning expert analysis will be helpful in clarifying the Eckington Citizens for Responsible Development position before the D.C. Zoning Commission.

Sincerely,

A handwritten signature in black ink, appearing to read "George H. F. Oberlander". The signature is fluid and cursive, with the first name "George" being the most prominent.

George H. F. Oberlander, AICP
(Qualified as Expert Witness in several recent D.C. Zoning Commission Cases)