

LINDSLEY WILLIAMS3307 HIGHLAND PLACE, NW
WASHINGTON, DC 20008

H (202) 537-4884

M (202) 246-4814

LWILLIAMS@HIS.COM

May 4, 2009

Zoning Commission of the District of Columbia
One Judiciary Square, Suite 210
441 Fourth Street, NW
Washington, DC 20001ZONING COMMISSION
District of Columbia

CASE NO.

08-15

EXHIBIT NO.

217

Re: ZC Case 08-15 (Friendship-Macomb SC Inc. – Square 1920, Lot 813 and Square 1920-N, Lots 1 and 2)

Honorable Members of the Commission:

This letter comments on the above-captioned case, which has been before you in its present incarnation for the past year. You must be keenly aware of the strongly held views that reflect vastly differing conclusions on the merits, and I trust you will form a conclusion that is consistent with the overall record before you.

About This and Other "NC" Overlays:

First, I am aware of some objections to the proposal that decry the removal of the specific Neighborhood Commercial ("NC") overlay, this one being the "Macomb Wisconsin" overlay, that now applies to all of this site and other lots in the commercial area as presently zoned. First, the terms of the PUD can retain whatever controls the Commission finds appropriate and necessary. Second, and perhaps more important, my own conclusion is that the neither commercial areas (nor surrounding residential areas) to which the "NC" overlays were first applied – Woodley Park, Cleveland Park, and Macomb Wisconsin – have not been well served by these regulations, regulations set out in ZC Order 616 dated November 3, 1989, a case in which I participated as a member of the Commission. The Order reflected conditions as then understood and projected. Now, twenty years later, we can look and see if they worked as expected or not. To me, the provisions adopted can best be said to have had limited success. The provisions turned out to be not only quite complex to administer, they also seem to have imposed such a range of limitations on use in particular that the intended "protections" kept certain uses "in check" but also induced, as evident in the area of the proposed PUD and along the Cleveland Park areas commercial frontages, vacant buildings where renewed investment is essential but not yet forthcoming.

The tools of the various NC overlays essentially run to limits on certain uses and further limits on applicable "metrics." I am now concluding that the focus of such regulations, if retained at all, should run to ensuring the "external effects" of uses as well as specific metric limits that come to be established are ones that are not likely to bring about unacceptable ramifications in the abutting areas and that to the extent possible, the standards should be ones an entity ("investor") can project accurately and deal with accordingly. That is precisely what can be found in the proceedings of nearly all PUD applications, including this one. Here, your case record will inform you of adverse results that might occur or are likely to ensue unless guided or limited in some suitable fashion within the four corners of your Order.

Conditions For Consideration:

Likewise, I recommend that any Order of approval set out all the limits of development you approve on a final basis, or as limits for any second-stage review, clearly reflecting not only the "metrics" at hand but also the uses and, as applicable, major accessory uses to each contemplated use. In this regard, I

ZONING COMMISSION
District of Columbia
CASE NO. 08-15
EXHIBIT NO. 217

recommend the Commission specifically declare those uses needed to fulfill the intent of providing parking for uses not located on the site, namely "public garage" or a suitable equivalent term. Otherwise, the Zoning Administrator may not be able to approve plans or later issue a Certificate of Occupancy for a use that has been widely discussed but that needs to find its way into the roster of approved uses.

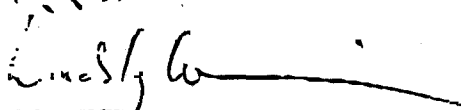
Give Clear Answers to the Motions Not Yet Decided:

Given the long history of debate about the project, I further urge that if your conclusion is one of approval, that the resulting Order will be one that will answer all the questions put forth early in this proceeding (mostly as "motions" on one question or another) and not present, because of an unanswered question, a basis for appeal that could further delay matters. These include a question on the Commission's authority to act on issues otherwise delegated to the Board of Zoning Adjustment.

Summary:

Accordingly, I urge the Commission in the instant case to act to encourage investment and renewal and not perpetuate the limits now in place that "chill" investment to return this commercial area to one that is fully viable and contributing to the well being of its community and the District of Columbia. Its conditions should address issues of consequence and give flexibility wherever possible for maximum adaptability to meet future circumstances as they arise without having the return for modifications of minor provisions.

Respectfully,


Lindsley Williams