

Chairman Hood and Members of the Commission
August 27, 2009
Page 1 of 2

RECEIVED
OFFICE OF ZONING

2009 AUG 27 PM 3:28

Philip Montalto
3321 Idaho Ave., NW
Washington, DC 20016

August 27, 2009

Mr. Anthony Hood, Chairperson
D.C. Zoning Commission
Office of Zoning
441 4th Street NW, Suite 210
Washington, DC 20001
Fax: 202-727-6072

Re: Answer to Applicant's Motion to Reconsider Condition 16, ZC
Case 08-15

Dear Chairperson Hood and Members of the Commission

This letter constitutes 3300 Idaho Party's Answer to the Applicant's Motion to Reconsider Condition 16, ZC Case 08-15.

The applicant feels that the Zoning Commission's Condition 16 is vague and would be difficult to apply. The condition is short and simple:

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.

There are promises and commitments in many of the 82 items the Zoning Commission identified in the Findings of Facts that it intends for the applicant to fulfill. The applicant provides no evidence why it believes this poses a problem to comply. There is no support for the claim that the Zoning Administrator would have a problem complying. It appears to us that the Findings of Facts provide further guidance to assess the compliance and provides valuable context to the objectives of the order conditions.

While we have not found any evidence that suggests that the Applicant's motion to reconsider is simply an attempt to pull back on the numerous promises and commitments made in the last year and half, we are surprised that the Applicant when ordered in Condition 16 to "fulfill any other commitment or promise it made as referenced in the findings of facts", raises an objection. The Applicant should understand this does not build any trust.

The Zoning Commission has relied so much on the Applicant's representations, assurances and forecasts (ie: loading dock location, truck counts, parking, traffic, noise levels, Idaho not residential in character, etc...), that we are concerned that the Applicant may be tempted to move away rather than towards fulfilling those expectations and faithfully executing on their plan.

CASE NO.

EXHIBIT NO.

OFFICE OF ZONING
DISTRICT OF COLUMBIA
CASE NO. 08-15
EXHIBIT NO. 286

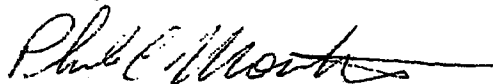
Chairman Hood and Members of the Commission
August 27, 2009
Page 2 of 2

Finally, we feel it would be a major dilution of the order if the order is limited to a summary of 17 decisions rather than the promises and commitments (implied and specifically stated) in the Findings of Facts.

We respectfully request that the Commission not revise the condition as requested by the Applicant.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Philip Montalto", with a long horizontal flourish extending to the right.

Philip Montalto
For 3300 Idaho