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October 2, 2001

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The Honorable Carol J. Mitten
Chairperson
Zoning Commission of the District of Columbia
One Judiciary Square, Suite 200
441 Fourth Street, NW
Washington, D.C. 20001

Re: Status of Petition to Zoning Commission to Initiate Case to Amend Zoning Map for Portions of Square 37 to Resolve Inconsistency between Principles of the Comprehensive Plan and Present Zoning, and with D.C. Code (Lots 810, 811, 831, 836, 837 and 855)

Dear Madam Chairperson and Members of the Commission:

By the time your Commission holds its October meeting later this month, on the 15th, exactly one year and five days one will have elapsed since this firm filed a petition, on behalf of James Pedas on October 10, 2000 identifying "consistency" issues between the zoning then and still applied to portions of Square 37 and the provisions of the Comprehensive Plan, requesting that you take steps to conform the zoning to the Plan.

Mr. Pedas was then, and still is, one of four private owners of land within the southern half of Square 37 in the "West End." He has retained this firm to represent his interests in that Square, which is bounded by 24th Street, 23rd Street, L Street, and M Street, all in the Northwest sector of the District of Columbia. He owns Lot 855, the

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15

ZONING COMMISSION
District of Columbia
CASE NO.00-27
EXHIBIT NO.15

largest of four privately owned lots in the southern portion of that Square 37.[1] Two other lots, Lots 836 and 837, that are owned by the Government of the District of Columbia. These six lots (the "Subject Area") occupy all of the land south of an unnamed east-west public alley located mid-block in the Square. The four privately held lots are now zoned R-5-B; the lots owned by the District Government are commonly thought to be zoned R-5-B as well – but are quite likely to be unzoned.

Our client sought, and still does, a hearing to revise the zoning so as to *cure current inconsistencies with* ***enacted*** *policies of the Land Use Element of the Comprehensive Plan.* We also recommended that zoning apply to all, not just a portion of the southern half, specifically seeking to establish zoning, if analysis determines it lacks it at this time, on the two District-owned parcels.

Enclosed you will find a copy of our original petition. A year ago, your staff timely and properly advised the public via the ***DC Register*** and referred the application to the Office of Planning. While we now understand that that Office expects to provide you with its recommendations within a month, i.e. more than a year later, we feel it is essential to ask ***you*** *to bring the status of their recommendation* with them *when you meet on October 17* and to declare that absent a recommendation, which is sought but not required after a referral is made, the Commission could and would act on its own at its November meeting.

Our original petition and the Notices appearing in the ***DC Register*** suggested that the rezoning discussion be broadly framed so as to allow a full range of options, specifically considering on alternatives as permissive as C-2-C and CR, zones that are mapped on adjacent parcels and Squares under identical Comprehensive Plan precepts. Whether you will ultimately determine either is appropriate for the entire southern half remains to be seen, but nothing can be decided or considered without a hearing.

At the time we filed, and thereafter, we have done our best to make sure that the affected Advisory Neighborhood Commission (2-B) and community organizations know what we are seeking and why. They appear to prefer that the issue never be faced as a zoning consistency question. Rather, they feel that change should only occur, if at all, when there is a specific proposal for change such as would occur under a Planned Unit Development process. Our client feels that the first step is to establish base zoning that is consistent with the Comprehensive Plan and for market forces to operate thereafter, with the benefits of certainty flowing to both the current property owners, the immediate community, and the overall public served by the Government of the District of Columbia. They also voice concerns about cherished public facilities, e.g., the West End Library.

We look at creative arrangements such as the complete rebuilding of Oyster Elementary School with an apartment house addition as a possible prototype. This resulted in a complete razing of a deteriorated but fully enrolled public elementary school

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[1] The legal owners of Lot 855 are James Pedas, 50 percent, and Pedas Children's Trust, James Pedas, Trustee, 50 percent, as tenants in common.

and a completely new public school building – at no cost to the District Government. Agreements such as that cannot occur without zoning – *appropriate zoning* – being in place. Our client contends that other issues can and should be addressed separately and subsequently, rather than asking the zoning process to shoulder all burdens a community and its government face.

Fundamentally, our clients feel that they should enjoy the same rights to petition and seek change as anyone else, particularly when the degree of inconsistency between mapped zoning and the Comprehensive Plan is as substantial as exists in this situation.

Please note that having requested that the case be broadly advertised, our clients do not necessarily conclude that a single zoning classification is necessarily "best" for the *entire* land area at issue. While we believe that most of all of the land area should, as a *matter-of-right*, allow –

- both commercial and residential uses
- density of 6.0, and
- maximum height of ninety feet (90 ft.)

we could, for example, understand why the Commission might, *after study*, determine that either the L or 24th Street *edges*[2] should be evaluated and possibly be limited in terms of use, height, or density. The best way to get answers is to officially set out the questions rather than delaying the questions any further. If such lines need to be drawn, that should occur after a full and open hearing, not on an *a priori* basis.

Thank you for your consideration.

HOLLAND & KNIGHT LLP

Douglas J. Patton

Lindsley Williams
Senior Advisor for Land Use,
Planning, and Zoning

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2 When a specific lot is, or becomes, zoned in more than one zoning district, the Zoning Regulations provide that matter-of-right limits apply to the areas as specifically zoned. However, the Regulations also provide for the Board of Zoning Adjustment to consider, as a Special Exception, extensions of one zone's controls by as much as thirty-five (35 ft.) feet into the adjacent zone. See §2514.2.

Enclosures:

Petition dated October 10, 2000 (w/o its enclosures, already on file)

cc: The Honorable Eric W. Price, Deputy Mayor for Planning and Economic Development
Deputy Chief Financial Officer, Julia Friedman, Ph.D.
Director, Office of Planning (Andrew Altman)
Director, Office of Property Management (Timothy Diamond)
Head Librarian, West End Public Library (Barbara Kubinski)
Commissioner Elizabeth B. Elliott, Chairperson, Advisory Neighborhood Commission 2-A
Commissioner Richard J. Price, Commissioner, Single Member District 2, ANC 2-A
Chairperson, Foggy Bottom Citizen's Association (Jacqueline Lemire, c/o West End Library)
President, West End Citizen's Association (Jack Batham)

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