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VIA HAND DELIVERY

Zoning Commission of the District of Columbia
One Judiciary Square – Room 210 South
441 Fourth Street, NW
Washington, D.C. 20001

Re: Request for Setting a Date for Hearing in Case 00-27M, A Petition to Rezone Those Portions of Square 37 Whose Present Zoning Is Inconsistent with the Comprehensive Plan

Dear Members of the Commission:

As you may recall, more than three years ago this firm filed a petition on behalf of James Pedas, *et al*, owners of one of six lots within the southern portion of Square 37, to have the Zoning Commission consider a range of options to cure a significant and thus impermissible "inconsistency" between the policies of the Comprehensive Plan and the present zoning within the southern portion of that Square. In a nutshell, the Comprehensive Plan calls for a mix of "high-density residential" along with "medium density" commercial uses for all of Square 37 and much of the surrounding area. While the northern portion of Square 37 is zoned and developed within a clearly consistent C-2-C zone, the southern portion remains zoned R-5-B, a zone district that allows no commercial uses and allows only limited residential development – far less than is encompassed within any reasonable interpretation of "high-density."

The original petition was studied by the Office of Planning, others, and the Zoning Commission itself. More than a year after the petition was filed, another case emerged, namely Case 01-33TA – the High Density Residential Retail ("HDRR") overlay case. That case, which initially included a map component that focused exclusively on the southern portion of Square 37, has since evolved into a pure text case. After two hearings, the record in that case closed earlier this month. This means that the

ZONING COMMISSION
District of Columbia
Case 00-27M
Exhibit 48

ZONING COMMISSION
District of Columbia
CASE NO.00-27
EXHIBIT NO.48

Commission could take "Proposed Action" at its next meeting, currently set for 6:30 p.m., January 12, 2004.

We request that your agenda for that meeting (a) include not only discussion and decision in Case 01-33TA, but also (b) discussion of this letter and (c) setting of a date for a hearing in early 2004 for Case 00-27 to address and resolve the consistency issues inherent in the present zoning of the southern portion of Square 37.[1]

Please note that our original petition included a range of zones that could be deemed consistent with the policies of the Comprehensive Plan – CR, C-2-C, and R-5-E – and you agreed at your meeting in November, 2001, to include these as options when the consistency case was heard. We have since stated that our objectives can be satisfied with R-5-E as it relates to the portion of Square 37 that our client owns. We have also indicated that we feel a pure, high-density residential zone can be viewed as consistent with the mixed use provisions of the Comprehensive Plan inasmuch as the Plan does not typically (and does not here) specify its policies on a lot-for-lot basis. A high-density residential zone applied to at least our client's part of Square 37 would be immediately adjacent to parts of the Square zoned C-2-C, wherein commercial uses are allowed and provided in the present development. We further note that R-5-E zoning already exists along portions of nearby New Hampshire Avenue where the Comprehensive Plan calls for the same mix of high-density residential along with medium-density commercial uses.

Given that you have not yet determined if you will adopt HDRR and, if so, what its final form would be, we are not able to comment at this time on whether it would be consistent with our objectives on our client's land in Square 37.[2] We will advise you of that during any hearing set to address such issues.

Finally, we ask that you formally continue to process Case 00-27 as a "legislative" case and suggest that this also be the same for any case to consider applying the HDRR overlay (if adopted in any form) to any portions of Square 37 where its base zoning becomes either R-5-D or R-5-E.

We stand ready to assist both the Office of Zoning (OZ) and the Office of Planning (OP) in preparation of materials needed for the original "consistency" case, ZC 00-27M to resume, as we did once before. We cannot prepare a sample hearing Notice, however, until you have ruled on the various issues discussed above. However, we note that most of the remaining administrative responsibilities for "consistency cases" are ones that should ordinarily be carried out by either OZ or OP.

We look forward to your discussion of this letter at the upcoming public meeting.

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1 Copies supplied for the Commission's meeting and the case record in ZC 00-27M.

2 Our client's views on the text provisions advertised for the HDRR Overlay Case, 01-33TA, are already within the record of that case.

Thank you.

HOLLAND & KNIGHT LLP

Douglas J. Patton

Douglas J. Patton
Partner

cc: Office of Planning
Advisory Neighborhood Commission 2-A

email cc:
Commissioner Richard Price
Commissioner Dorothy Miller
OP Officials and Staff
Michael Malloy, Tiverton Tenant's Association
Charles Ahlgren
Michael Gluck
William Beckett
Ellie Becker, Foggy Bottom Citizen's Association

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