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Jerrily R. Kress, Director
Office of Zoning
441 4th Street, N.W.
Washington, D.C. 20001

November 8, 2004

Re: Case No. 04-11 (PUD and Related Map Amendment @ Square 3788, Part of Lot 811- 611 Emerson Street, NE)

Dear Ms. Kress,

I am a law student advocate at the University of the District of Columbia David A. Clarke School of Law, working under the supervision of Professor Laurie Morin. Our law clinic is currently representing the Concerned Citizens of North Michigan Park regarding the application that Rocky Gorge has submitted in request of a consolidated Planned Unit Development and related Map Amendment for a portion of Lot 811 in Square 3788. The Concerned Citizens of North Michigan Park are a group of members of the community, who participate actively in the community, and would like their interests in their community protected, which is why the Concerned Citizens have asked us to represent them in this matter.

Submitted with this letter is a request for this law clinic to appear on behalf of the Concerned Citizens of North Michigan Park at a public hearing (scheduled for November 22, 2004) as a party to Case Number 04-11, on behalf of the community, in opposition to the application.

Please contact the above stated address and telephone number if you have any questions or concerns. Please feel free to contact the supervising attorney, Laurie Morin, at 202-274-7335. Thanks for your attention to this matter.

Sincerely,

Kessela Brown
Law Student Advocate

Caragh Fay
Law Student Advocate

ZONING COMMISSION
District of Columbia
CASE NO. 04-11
EXHIBIT NO. 20

ZONING COMMISSION
District of Columbia
CASE NO.04-11
EXHIBIT NO.20

TO: District of Columbia Zoning Commission

FROM: The Concerned Citizens of North Michigan Park

RE: Case Number 04-11 (PUD and Related Map Amendment at Square 3788, Part of Lot 811- 611 Emerson Street, NE)

DATE: November 8, 2004

Request to Appear and Participate as a Party at the Public Hearing

Pursuant to 11 DCMR 3022, the Concerned Citizens of North Michigan Park (CCNMP) requests to appear and participate as a party in the public hearing for case 04-11, scheduled for public hearing on November 22, 2004. CCNMP is an association of concerned citizens who reside in the North Michigan Park neighborhood, which is in close proximity to the proposed Planned Unit Development (PUD) by Rocky Gorge at 611 Emerson Street, NE. Members of the CCNMP include the following affected persons who own property near the proposed development:

Reginald Webb
706 Decatur Pl, NE
Washington, D.C. 20012
(Within 200 feet of the proposed development)

Joyce Payne
729 Decatur Street
Washington, D.C. 20012
(More than 200 feet, less than 1,000 feet from the proposed development)

Elizabeth Cook
717 Decatur Place
Washington, D.C. 20012
(More than 200 feet, less than 500 feet from the proposed development)

These persons will appear through legal counsel of the University of the District of Columbia, David A. Clarke School of Law, Community Development Law Clinic. The supervising attorney on this case is Laurie Morin. The law student advocates on this case are Caragh Fay and Kessela Brown.

CCNMP's Interests in Being Granted Party Status

Pursuant to 11 DCMR § 3022.3, the Commission will grant party status only if the person requesting party status has clearly demonstrated that the person's interest would likely be more significantly, distinctly, or uniquely affected by the proposed zoning action than other persons in the general public. Members of CCNMP and the affected persons named above have a significant and distinct interest in the decision that the Zoning Commission will make on whether Rocky Gorge will be granted a PUD and Map Amendment to this specific property. Each of the affected persons listed above are owners of homes (some which may be subject to a mortgage) in close proximity to the proposed development.[1] Many members of CCNMP are elderly residents of the community who have lived in this neighborhood for many years.

If the PUD application is granted, members of CCNP will be subjected to higher density, increased traffic, more competition for scarce services, and a likely increase in property taxes. If the population is increased without a corresponding increase in retail, commercial and public services, there will be fewer services available for current residents of the North Michigan Park neighborhood. The interests of current residents in preserving their neighborhood will be affected to a much greater extent than the general public. The letter submitted by the Office of Planning in this case supports the

[1] The distance between the property that is the subject of the application and each of the properties listed above is stated in parentheses.

proposition that current residents, such as the members of CCNMP, should be protected from disruptive uses, and should have input into the development of amenities and benefits, such as the provision of affordable housing, green space, and increased retail and commercial services. CCNMP has requested party status to have the opportunity to testify as to the current unmet needs of the community, burdens that this community will directly experience if the PUD application is approvded, and public benefits that should be required in exchange for the flexibility of the PUD development.

CCNMP's Objections to the Proposed PUD Development

CCNMP has three main objections to the proposed PUD development.

1. The Proposed PUD is Inconsistent with the Ward 5 Comprehensive Plan

The Ward 5 Comprehensive Plan (Plan) provides for few major changes in the North Michigan Park area, aside from the enhancement of gateways, parks and open space to provide a more attractive setting and quiet refuge from daily living. Ward 5 Plan, §1600.3. The Plan also specifically envisions "new and much needed mixed commercial/residential uses" for the area around Fort Totten Metro Station, § 1600.6, "oriented to surrounding communities, as well as to the city." § 1604.1. The Plan states that Ward 5 residents "seek development that will enhance and expand existing businesses, create new ownership opportunities, increase retail services and opportunities for ward residents, and promote the vitality of ward neighborhoods." § 1604.1. Although the Fort Totten Metrorail Station is also designated as a Housing Opportunity Area, § 1609.1, the housing objectives are intended to meet the needs of all the ward's residents, including the elderly and persons with disabilities, § 1608.1, as well as expanded housing for low and moderate income families, § 1609.1.

The Rocky Gorge proposal, which sits on one of the few potential parcels available for development around the Fort Totten Metro Station, does not meet any of these objectives. While it will provide 75 units of housing, they are aimed toward upper-income individuals and families. None of the units are targeted for the elderly, people with disabilities, or low to moderate income families. While the proposed development contains some green space and landscaping, it is oriented toward the interior of the development rather than toward the existing homes in the neighborhood and public space. Moreover, the proposed housing units will increase demand for restaurants, retail and other commercial development without providing any increase in availability of these services, and without increasing retail services and opportunities for current ward residents.

2. The Proposed PUD Does Not Provide Adequate Public Benefits

The proposed PUD development also does not provide a sufficient number of quality of public benefits and does not protect and advance the public health, safety, welfare, and convenience as required by PUD regulations, 11 DCMR § 2400 *et seq.* Section 2400.2 of the PUD regulations expresses that the "overall goal is to permit flexibility of development and other incentives, ... provided that the project offers a commendable number or quality of public benefits and that it protects and advances the public health, safety, welfare, and convenience. 11 DCMR 2400.2 "[T]he PUD process insures that such a project is in keeping with the general character of, and not detrimental to, surrounding properties, and to the District and its Zone Plan as a whole."[2]

The only public benefit provided in the proposed development plan is improvement to the trails leading to the Fort Totten Metro Station, an improvement that

[2] Quoted from the Rocky Gorge proposal submitted to the Zoning Commission

will primarily benefit residents of the new development. Similarly, as discussed above, the green space and urban landscaping proposed by the developers is in the interior of the development, primarily for the benefit of new residents. The proposed PUD is planned more like a closed, gated community, with the planned green spaces facing toward the center of the development rather than toward the surrounding neighborhood.

The proposed development fails to provide any public benefit with respect to most of the categories enumerated in 11 DCMR §2403. There are no plans for mitigation of adverse traffic impacts; historical preservation; employment and training opportunities; affordable housing; social services and facilities; environmental benefits; or any other uses of special value to the neighborhood. The surrounding community currently needs restoration and maintenance, which would not be provided or assisted by this PUD development.

In fact, CCNMP believes that the proposed development will be harmful to the health, safety, welfare and convenience of the community in several important respects. The PUD will create more traffic, more pedestrians, and higher population in an already high density neighborhood. Seventy-five units of high-income housing are likely to increase property values in the neighborhood and create higher real estate taxes on surrounding homes owned by members of CCNMP, without creating corresponding benefits. The proposed PUD will also bring more children and other persons to the neighborhood, who will need access to parks, recreation centers, child care centers or other amenities not provided by the project. As noted above, there are very few retail and commercial services in this specific area, and CCNMP believes that a mixed residential/commercial development would be more appropriate to the site.

CCNMP is concerned that if Rocky Gorge's request for a PUD development is granted without the provision of additional public benefits, private interests will benefit at the expense of the community. CCNMP has requested party status to testify as to the needs of the community and its proposals for additional public benefits that should be required in exchange for the flexibility of this PUD development.

3. There Was Inadequate Community Input in the Proposed PUD Process

Pursuant to Section 107 of the District's Comprehensive Plan, the community should have continuous input into every phase of development of the Plan, from conception to adoption to implementation. CCNMP believes that there has been inadequate community input into this PUD proposal. Although the local Advisory Neighborhood Commission (ANC) held three or four meetings on the issue, members of CCNMP who attended do not believe that their interests were heard or acted upon. Thus, CCNMP does not believe that the ANC will accurately and effectively represent the interests and ideas of this community, because every attempt to do so has not been successful.

CCNMP's Proposed Witnesses

If the Zoning Commission determines to recognize the Concerned Citizens of North Michigan Park as a party in this proceeding, legal counsel representing the Concerned Citizens will call the following witnesses to testify:

1) Reginald Webb will testify as to how he will be affected personally if this PUD and Map Amendment is granted and will review alternatives and amenities and benefits that the neighborhood he lives in is in need of. Mr. Webb owns property within two hundred feet of the property that is subject to this application, is very active in

community affairs, and can testify as to the needs of many elderly residents in the neighborhood.

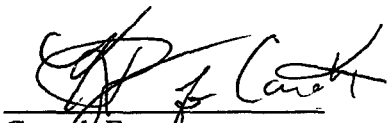
2) Joyce Payne will testify as to the efforts she and the community have made in getting information and working with the local ANC and Rocky Gorge in trying to get more amenities and benefits for this community. Ms. Payne is a long-time resident of the community who owns a home which is within 900 feet of the proposed PUD development. Ms. Payne will also testify about the traffic impact of the proposed development. She commutes to work and picks up and drops off grandchildren at school every morning and night. Ms. Payne has first hand knowledge of how bad the traffic in this neighborhood has been getting due to increase housing in this area. She will also testify as to the community's needs for public amenities, especially with respect to children and the elderly.

3) CCNMP is attempting to procure an architect, urban development planner, and/or traffic consultant to testify about the impact of the proposed development and the need for corresponding public benefits. At this time, we do not have specific information on the person(s) who will testify on these subjects.

If this request for appearance as a party to this case is granted, legal counsel will cross-examine the developer's witnesses, and will request thirty (30) minutes to present its case. CCNP also requests permission to submit written testimony and Findings of Fact and Conclusions of Law.

Thank you for you attention to this matter.

Sincerely,



Caragh Fay
Law Student Advocate
UDC- DCSL