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August 15, 2005

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VIA HAND DELIVERY

District of Columbia
CASE NO. 04-18
EXHIBIT NO. 26

D.C. Zoning Commission
Suite 210
441 4th Street, N.W.
Washington D.C. 20001

RECEIVED
D.C. ZONING COMMISSION
2005 AUG 15 PM 12:39

Re: Zoning Commission Case No. 04-18
Mount Vernon Triangle District

Dear Members of the Commission:

At the public hearing held on June 30, 2005, Guy T. Steuart, III, and Steven E. Sher, Director of Zoning and Land Use Services for Holland & Knight, LLP, testified on behalf of the Steuart Investment Company ("Steuart") in support of the proposed text amendments. Steuart is the owner of all of Square 483, the block bounded by 5th, 6th and K Streets and New York Avenue, N.W., and the great majority of the property in Square N-515, the triangular block bounded by 4th and L Streets and New York Avenue, N.W. Square 483 includes the northwest corner of the intersection of 5th and K Streets, which the Office of Planning ("OP") has defined as the principal intersection in the Mount Vernon Triangle.

In its testimony, Steuart supported the proposed rezoning of Square 483 from C-3-C to DD/C-3-C, as recommended by OP. Steuart further supported the proposed Mount Vernon Triangle District on the understanding that the design and setback requirements to be imposed were not intended to reduce or limit the total density otherwise allowed by the DD/C-3-C District.

The standards set forth in the proposed Mount Vernon Triangle District are very precise as to use and design requirements; e.g., the creation of the seventy-two foot square area with four quadrants, clear floor-to-ceiling heights, etc. Steuart does not presently have a project designed against which to test those parameters. Steuart's concern is that a better project may result if there is some flexibility allowed; e.g., if the Principal Intersection Area could have some dimensions other than seventy-two feet square.

Steuart recommends that the Commission include in the new regulations a provision allowing for modification of the standards in the case of minor deviations with the concurrence of the Director of the Office of Planning and, otherwise, by special exception. In the absence of a special exception, any deviation from the specific standards of the overlay would have to be considered as a variance, requiring an applicant to demonstrate compliance with the three-part test for a variance. Similar special exception provisions are contained in many of the other overlay Districts, including the Arts Overlay (§1906), the Neighborhood Commercial Overlay (§1304), the Reed-Cooke Overlay (§1403) and the Tree and Slope Protection Overlay (§1515). We have drafted

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a proposed provision addressing both of the above issues, attached hereto, for the Commission's consideration.

We appreciate the Commission's consideration of our comments and urge the Commission to adopt the rezoning to DD/C-3-C for Square 483consistent with the recommendation and testimony of the OP and to include the special exception language as we have proposed.

Sincerely,

Norman M. Glasgow, Jr.

Steven E. Sher

Steven E. Sher
Director of Zoning and Land Use Services

Attachment

cc: Stephen Cochran, D.C. Office of Planning
Guy T. Steuart, Steuart Investment Company

Proposed Special Exception
For Exception to the Provisions of the Mount Vernon Triangle District

1734 EXCEPTIONS TO THE REQUIREMENTS OF THE MOUNT VERNON TRIANGLE DISTRICT (DD/MVT)

1734.1 Subject to the concurrence of the Director of the Office of Planning, the dimensional requirements of the Mount Vernon Triangle District may be increased or decreased by no more than 5%.

1734.2 Exceptions from the requirements of the Mount Vernon Triangle District (DD/MVT) shall be permitted only as a special exception, if approved by the Board of Zoning Adjustment after public hearing, in accordance with §3104, and subject to the following requirements:

(a) The excepted use, building or feature, at the size, intensity and location proposed, will substantially advance the stated purposes of the DD/MVT District, and will not adversely affect neighboring property, nor be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity;

(b) Exceptional circumstances affecting the property make compliance with the requirements of the DD/MVT District difficult or impossible or the development provides alternative public benefits in lieu of the excepted uses or features that are of comparable value to the public in achieving the purposes of the DD/MVT District and of the Comprehensive Plan;

(c) The architectural design concept of the project will enhance the urban design features of the immediate vicinity in which it is located;

(d) Vehicular access and egress are located and designed so as to minimize conflict with pedestrian ways, to function efficiently and to create no dangerous or otherwise objectionable traffic conditions;

(e) The Board shall refer the application to the Office of Planning for review and report on the consistency of the application with the standards of this section; and

(f) The Board may impose requirements pertaining to design, appearance, signs, landscaping and other such requirements as it deems necessary to protect neighboring property and to achieve the purposes of the DD/MVT District.

Note: The Commission may wish to consider whether this provision covers the exceptions otherwise authorized by proposed §§1730.5 and 1731.6, relating to driveways.