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Citizens Aware Block Organization
c/o Gwen Vample, President
305 Quackenbos Street, N.E.
Washington, D.C. 20011

July 11, 2008

D.C. Zoning Commission
One Judiciary Square
441 4th Street NW, Suite 210S
Washington, DC 20001

RE: Request for Extension of Time, Zoning Commission Order No. 05-30 (Consolidated Planned Unit Development — 5000 New Hampshire Ave., N.E.)

To Whom It May Concern:

The Citizens Aware Block Organization is a party to the proceedings regarding Zoning Commission Order No. 05-30.

On June 13, the Applicant to this order filed a "Request for Extension of Time" for the Zoning Commission to consider at its July 14 meeting. Under this request, the Applicant is seeking a two-year extension of the final order, so that an application for the PUD's building permit is filed no later than Jan. 19, 2011, and construction to begin no later than Jan. 19, 2012.

Pertinent Background

In support of the request, the Applicant cited the following:

1) A lawsuit was filed after the PUD was approved "regarding the purchase, development and sale of the subject property," which led the Applicant to "unexpectedly" suspend all development work pending its resolution via a November 2007 settlement. As a result, the Applicant had reduced time to effectively seek financing.

2) The current residential market has rendered it difficult for the Applicant to obtain sufficient financing for the project, despite its good faith efforts. More specifically:

- A D.C. based investment firm that had committed to provide up to \$50 million of equity to build moderately priced residential communities in D.C. — to include this project — stopped all funding requests for new projects in the fall of 2007 until market conditions improved.
- In May 2008, the project's lender refused to grant further extensions on the land loan, which expired in June. Because of declining value, potential banks are willing to provide less debt; the owners must cover the difference and seek the extension to await market stabilization.

ZONING COMMISSION
District of Columbia

CASE NO. 05-30A

EXHIBIT NO. 3

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Most significantly, as per Section 2408.12 of the zoning regulations, the Applicant noted that a public hearing on an extension's validity is necessary only if "there is a material factual conflict that has been generated by the parties" to the PUD regarding the extension criteria. To that end, the Applicant noted that the parties, Citizens Aware and Advisory Neighborhood Commission 4B, were served a copy of the request and:

There is no dispute to the facts that: (1) the subject property has been subject to litigation; (2) the inability of the Applicant to secure financing for the project ...

The Applicant further added:

Moreover, Applicant has had multiple communications with neighbors of the subject property, and had indicated the Applicant's desire to complete both the horizontal and vertical development at one time, as opposed to only being able to fund one portion of construction and having to wait an unspecified amount of time to secure funding in order to proceed with the project.

Accordingly, the Applicant stated that the extension is in the best interest of the community "environmentally and aesthetically for the site to remain as-is" until funding is secured.

The Concerns

Subsequent to receiving a copy of the extension, we sent a June 23, 2008, letter to the Applicant pointing out the following concerns:

1) ***The subject property has been subject to litigation.*** We noted that was never shared with the community that a lawsuit caused a construction delay; and just learned of this via this extension request. We further noted that in light of how it affected the community by delaying the project — and how inquiries were made about the project's status by community members — we felt this silence was ill-advised.

2) ***The inability of the Applicant to secure financing for the project.*** Despite the fact that community members asked several times about the project's status, we told the Applicant that it never informed us it was having *specific* funding problems, and could only surmise such when the Applicant unexpectedly leased the building to a charter school. Again, we noted that such silence was ill-advised.

We further added that discrepancies pointed to a deterioration of community outreach compared to when the Applicant was trying to secure support for the PUD. In another example, the Applicant indicated that it "has had multiple communications with neighbors of the subject property." However, it was primarily by word of mouth and observation that the community at large learned that the Applicant leased the land — which we had expected to soon be redeveloped — to the charter school.

Furthermore, we noted that while the Applicant indicated its desire to the neighbors to complete the property, the consistent message was not to complete “both the horizontal and vertical development at one time.” Rather, we also heard that the Applicant would start excavation and other types of construction around the charter school.

We also pointed out concerns about how the delays, and now this proposed extension — which could push back the permitting process to 2011 — could adversely impact a \$150,000 community benefits package that is tied to the permitting process and based upon a one- to two-year-window after the PUD was first approved. Accordingly, we noted the problems should have been communicated to the community well before this extension request was made.

Finally, while the Applicant indicated that the extension is best so that “environmentally and aesthetically” the site can remain “as is,” we pointed out another matter of concern regarding two vacant houses on the otherwise well-kept property that we expected to be demolished by now.

The Request

Based upon our concerns we asked the Applicant to provide us, by July 1, with the detailed material it will submit to the Zoning Commission in support of the extension request, to include: (1) evidence that will corroborate the existence of litigation; and (2) evidence that will corroborate the specific funding problems.

We added that we would like to discuss with the Applicant how as “good neighbors” it can, in the future, avoid communication problems.

The Applicant’s Response to Citizens Aware

On June 25, Stan Voudrie, one of the property owners, called Citizens Aware President Gwen Vample in response to the letter. He verbally confirmed the existence of the litigation and indicated that while under the settlement agreement he could not discuss specifics of the case, it was public record and he could get her a case number. Although for privacy reasons he declined to name the specific investment firm, he did provide more explanation of that situation. He clarified that while the attorneys who wrote the letter may have overreached by using the term “multiple communications,” they had been in communication with individual neighbors and the Lamond-Riggs Action Group (LRAG), and attended a LRAG meeting to announce their intent regarding the extension a few days before its filing. (Vample independently confirmed this with a LRAG officer, who said the owners had been “good neighbors.”) Voudrie also noted that the status of the abandoned housing was the result of discussions with adjacent neighbors. He expressed the commitment to do the PUD and also offered to attend a Citizens Aware meeting, which was scheduled for July 9.

In a June 25 e-mail, Voudrie provided his contact information and in a June 26 e-mail provided a case number (06-008142) for the lawsuit, which Vample then confirmed via a search at dc.gov. Vample offered an open invitation for the owners to attend Citizens Aware meeting, and invited him to sign up for our list-serv, which he did.

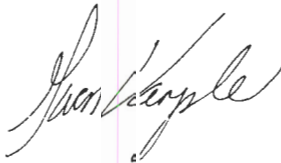
On July 9, Voudrie, along with two West Group partners Bill Jarvis and Ernie Jarvis, met with Citizens Aware and other community representatives to explain the background behind the extension and answer questions.

Citizens Aware Response to Zoning

As noted above, Section 2408.12 of the zoning regulations provide that a public hearing on an extension's validity is necessary only if "there is a material factual conflict that has been generated by the parties" to the PUD regarding the extension criteria, which in this instance is: (1) the subject property has been subject to litigation; and (2) the inability of the Applicant to secure financing for the project. We have confirmed the existence of the lawsuit, and are well-aware of the conditions in today's real estate market. Therefore, we are not requesting a public hearing on this matter.

Generally, we hope and expect this process results in more improved communications between the Applicant and the community.

Cordially,



Gwen Vample

President, Citizens Aware Block Organization

Cc: Muriel Bowser, Ward 4 Councilmember
Douglas Sloan, ANC 4B Commissioner
Yvonne Jefferson, ANC 4B08 Commissioner
Rodney Foxworth, President, Lamond-Riggs Citizens Association
Ma laika Abernathy, Ward 4 Neighborhood Planning Coordinator, Office of Planning