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June 6, 2006

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Hand Delivered

Ms. Carol Mitten, Chairperson
District of Columbia Zoning Commission
Office of Zoning
441 4th Street, NW, Room 210
Washington, DC 20001

ZONING COMMISSION
District of Columbia

CASE NO. 06-15

EXHIBIT NO. 16

Re: 2001 New York Avenue, NE

**Zoning Commission Case No. 06-15—Application of Abdo New York
LLC for a Consolidated PUD and Zoning Map Amendment**

Argument in Favor of Consolidated Review

Dear Chairperson Mitten and Members of the Commission:

We appreciate the opportunity to address the Applicant's critical need for the consideration of this application on a consolidated basis. Further, we appreciate the extensive input that the Commission has offered during the two meetings in which this application was considered. The Commission's two hours of discussion on the application at both public meetings has provided the Applicant with an extraordinary level of input that has already influenced the project.

I. Progress since the Zoning Commission's Consideration of the Application
on May 8, 2006 (the "First Meeting")

After the Commission's detailed and insightful discussion of the project at the First Meeting, the Applicant expended considerable effort addressing every issue raised by the Commission. We reviewed the 82-page transcript of the discussion in great detail and considered carefully each of the comments made during the hour-long discussion. The proposed 130-foot height, C-3-C zoning, and massing, particularly in the context of surrounding development, repeatedly emerged as compelling issues that required an immediate and direct design response. Accordingly, our ensuing redesign effort was directed at those issues.

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In addition, we spent considerable time addressing, with specificity, every outstanding issue raised in the Office of Planning report. At the First Meeting, these open questions were cited repeatedly by the Commission, with one of the Commissioners noting that regardless of the level of detail in the drawings, these questions had to be answered to allow for a consolidated review. In our post-meeting submission on May 23, 2006 (the “**post-meeting Submission**”) we did, in fact, answer all of the questions and in many cases, we provided far more detailed information than that typically provided at this initial stage of a PUD, in recognition of the extraordinary scope and potential offered by this project.

In its final comments at the First Meeting, the Commission agreed that a consolidated approval may be appropriate in this instance, noting that the resolution of the first stage versus consolidated issue would turn on the results of the redesign effort. We were specifically advised to “refine the project” and “move the ball up the field” to reach the consolidated PUD goal. May 8, 2006 Transcript, at 81. We purposefully did not explain our specific need for consolidated review because we understood that the revised design was at the heart of the issue. Therefore, in our post-meeting Submission, we provided revised plans to address the consolidated PUD issue.

In connection with the redesign of the project, we first met with the Office of Planning to review the Commission’s input from the First Meeting. We focused on the project’s height, proposed C-3-C zoning, and context relative to existing and proposed development as a direct response to the input that we received. Importantly, neither we nor the Office of Planning believed that the project’s proposed density was an obstacle to consolidated review. Rather, we understood the Commission’s concerns about the PUD’s density to relate to the project’s height, massing, and, most importantly, its relationship to the surrounding infrastructure and development. Accordingly, our redesign effort sought to address those issues. We provided drawings at a level of detail consistent with a consolidated PUD and far more comprehensive and detailed than first stage drawings. Ultimately, we changed the rezoning request, reduced the height, adjusted the massing, and provided both contextual discussions and illustrations of the proposed project. Finally, we answered all of OP’s questions in detail. Accordingly we felt we had followed the Commission’s instructions and met the standards for setdown of this PUD on a consolidated basis.

II. The Need for Consolidated Review

In light of the Commission's action on June 1, 2006, we will now explain the Applicant's request for the consideration of the case on a consolidated basis. First, we will provide a brief overview of the project since it will be possible only with the approval of this application. Second, we will outline the reasons why we are unable to proceed with only a first stage approval.

A. *Project Overview*

This project is one of the most significant private assemblages of land in the District of Columbia. This \$1.2 billion investment is an opportunity to replace existing blighted uses with an entirely new Gateway neighborhood, adjacent to the U.S. National Arboretum and along one of the most prominent locations in the District of Columbia. It will allow this neighborhood to experience the type of renaissance that has occurred in other Wards of the city, and it will highlight Ward 5's national treasure, the National Arboretum.

- The project currently features the largest private commitment of affordable housing, with a set aside of over 270,000 square feet.
- The entire project has been designed for and will be marketed as a workforce housing neighborhood. This project will meet a range of housing needs for the City, including home ownership opportunities for local and federal government employees.
- The project has been discussed with and enjoys wide support from all of the surrounding stakeholders, including ANC 5B, the Arboretum Civic Association, the U.S. National Arboretum, the Friends of the Arboretum, and the National Bonzai Foundation. The community stands to benefit from the strong retail presence and critical mass of new residents.
- This project will have a significant economic impact for the City. The project will increase the current taxes generated by the site from \$260,000 to over \$25 million annually, and it will generate thousands of construction jobs and over 400 permanent jobs. The job creation is particularly noteworthy given the developer's historical track record of commitment to LSDBEs.

This will all occur with no public subsidy from the District or federal government. The developer will bear all of the market risk associated with this massive undertaking. If the project is not viable, the Applicant will suffer the consequences.

B. *First Stage Approval Will Not Suffice for this Project*

To realize the benefits outlined above, we must have a consolidated review. Unlike the vast majority of large sites, this is not a single owner tract. Assemblages of this magnitude are so unusual because of the incredibly complex financial and logistical challenges associated with convincing multiple long-time property owners to sell their properties at approximately the same time. In this transaction, the intricate web of contracts involves a total of over a half-dozen unrelated owners and over 30 separate leases and multiple contractual terms. A first stage approval will not constitute the required approval because it will not vest the requested zoning. Without vested zoning, financing for the project is not achievable, and absent financing, the Applicant cannot settle on the contracts. Simply put, first stage approval will not allow the Applicant to meet the contractual deadlines.

Because of the complicated nature of the contracts and the various, unrelated owners, the contracts cannot be extended to allow for the time associated with a first and second stage PUD. The owners' options for the matter of right development of their sites provide little incentive for a long and uncertain zoning contingency. This is an economic reality that cannot be ignored in your deliberation.

In light of the foregoing, it is not surprising that almost every first stage approval granted by this Commission over the past twenty years has involved a single owner or a small group of owners participating in a joint development. The first-stage process is used by owners who wish to explore general development parameters for a large site before they make the substantial investment required for a consolidated PUD. This Applicant, however, has already made that investment because the contractual realities of the market place simply do not allow for the approval of private assemblages through the lengthy two-step approval process. Moreover, the Applicant believes in the immediate need for this project. If this Commission recognizes: (a) the potential of a large private assemblage to transform an entire blighted neighborhood and (b) the time-sensitive nature of this important opportunity, it needs to implement consolidated review because that process accommodates the constraints of the marketplace. First stage approval is not economically realistic or feasible for a private assemblage of this magnitude.

C. *Consolidated Approval is Appropriate*

While market realities must be considered, we are not attempting to use our contractual constraints to justify an inappropriate course of action. We realize that

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economic circumstances should not supplant the Commission's established threshold requirements for consolidated review.

Indeed, our contractual challenges are not the reason why this application should be reviewed on a consolidated basis; rather, the project merits such treatment based on the materials that we have submitted to date. We believe that we have provided a submission that includes every single item required under Sections 2406.11 and 2406.12 of the Zoning Regulations for a consolidated PUD application.

- We have engaged the Office of Planning in a constructive dialogue over the past six months to ensure that the project meets the intent and purposes of the consolidated PUD process.
- We have assembled a design team that has prepared and made extensive revisions to the plans in response to the input from the Office of Planning and this Commission as part of its commitment to keep this project on a consolidated approval track.
- We have expended an extraordinary amount of time and effort to produce a highly refined set of drawings. The detailed site plans and elevations provide far more information than is required for a first stage approval. This level of detail is critical to the Commission's consideration of height and massing and makes the consolidated approach the best approach for the Commission as well as the Applicant.
- We have provided answers to each and every question that has been raised by the Commission and Office of Planning. Again, the level of detail provided in these responses meets or exceeds the requirements for consolidated review at this point in the PUD process.
- We have met with all stakeholders, including community representatives in ANC 5B, the Arboretum Civic Association and adjacent neighborhoods, and the National Arboretum, to obtain their input and incorporate their suggestions into our PUD package. There is a broad base of community support for this project.
- Finally, the developers, Abdo Development and Broadway Capitol, have highly relevant experience. They have successfully pursued large-scale residential projects that have transformed neighborhoods. They have secured PUD approvals on a consolidated basis and are committed to providing the level of detail and specificity required for consolidated approval.

Most importantly, we believe that the existing outstanding issues will be best addressed through the constructive dialogue and discussion provided by a public hearing.

III. Additional Revisions

This PUD offers an unparalleled opportunity for a new neighborhood in a blighted area. While the commitment to affordable housing is unprecedented, it is equally significant that the entire project will accommodate a segment of the housing market that is not being served by the current supply of housing. The ability to maintain the proposed pricing structure is critical to the Applicant's vision for the project and to the viability of a new community at this location. Further it is an integral part of the project's ability to attract a critical mass of new residents.

Since the 16-acre site is currently blighted and underutilized, the new neighborhood created by the PUD will have sizable infrastructure costs that can be supported only by a level of density that will offset these costs. However, this density is not just needed for the economic viability of the project. It is essential to achieve the critical mass of residents that will allow for the creation of a safe and livable neighborhood. Moreover, it is essential to support the important project amenities such as the retail uses and the shuttle bus service. Finally, it is essential to the creation of a workforce housing community that, until now, has been priced out of the housing market in the city.

We will reduce the gross floor area so that it does not exceed the 5.3 FAR cited in the original request. In reducing the gross floor area by approximately 60,000 square feet, we will concentrate on the New York Avenue facades to address concerns about scale. We will make every effort to address each of the concerns raised at the Zoning Commission's second meeting on June 1. We request the opportunity to demonstrate in a public hearing that the proposed density is not only acceptable, but also necessary and desirable for this PUD in this location.

In addition, our proposal remains well below the limits of the requested CR zoning in terms of density and lot occupancy. Under CR zoning, the maximum permitted density for a PUD is 8.0 or an overall gross floor area of 5.7 million square feet. We are seeking almost 2 million less square feet. Indeed, we even fall below the matter-of-right FAR limitation of 6.0 which would allow almost 500,000 square feet more than we will provide. Further, while the CR Zone permits a lot occupancy of 75% for residential uses and the existing zoning allows 100% lot occupancy, our entire project's lot occupancy is only 61.5 %—a demonstration of the Applicant's commitment to green space. In short, this project was not designed to maximize density, but to create a livable neighborhood for working families.

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We appreciate the time the Zoning Commission has spent to this point in the process and the comments which have been provided to ensure a successful project. We also thank the Commission for its willingness to allow us to present, in writing, our reasons for a consolidated review of this proposal. We look forward to the opportunity to work with you, in a spirit of cooperation and believe that with a shared sense of vision, we can rebuild a blighted neighborhood. We also believe this new urban village will benefit the residents of Ward 5 and the District as a whole. To achieve that goal, we are proposing to provide a critical mass of units, pricing that will attract a wide range of residents who are not being served by new projects, new retail to serve the existing Ward 5 communities as well as our new residents, and a safe environment with open space dedicated for both public and private use.

Again, we thank you for the time you have committed to this proposal, and greatly appreciate your consideration of this matter.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Allison C. Prince".

Allison C. Prince

cc: OP
ANC 5B