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November 21, 2007

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Ms. Sharon S. Schellin
Secretary to the Zoning Commission
Office of Zoning
441 4th Street, NW
Suite 220- South
Washington, DC 20001

Re: Z.C. Case No. 07-25

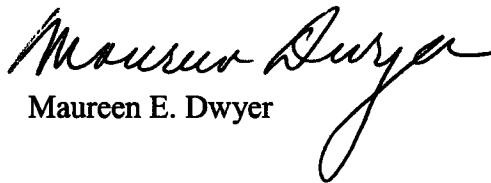
Dear Ms. Schellin:

Enclosed are twenty copies of Petitioners' Prehearing Submission for the above-referenced case.

If you have any questions, please do not hesitate to contact the undersigned.

Thank you.

Sincerely yours,


Maureen E. Dwyer

MED/mm

Enclosures

ZONING COMMISSION
District of Columbia

CASE NO. 07-25

EXHIBIT NO. 15

PRE-HEARING STATEMENT
ZC Case No. 07-25

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I. INTRODUCTION

A. Summary of Requested Action

This is a petition pursuant to 11 DCMR Section 3021 to the Zoning Commission to rezone property located in Square 2794, Lots 18, 19, 877, 879, 895, 899, 2001-2047 (“**Subject Property**”) from the R-5-A Zone District to the R-5-C Zone District. This petition is being brought by the owners of the Subject Property (“**Petitioners**”). The Subject Property is located in the 16th Street Heights neighborhood of Ward 4 and consists of approximately 203,502 square feet of land. The Subject Property is located in the R-5-A Zone District, but in the medium-density residential category of the Comprehensive Plan. As discussed in greater detail below, rezoning the Subject Property to a higher density will bring it into compliance with its Comprehensive Plan designation. Sanborn plats of the Subject Property are attached as Exhibit A, a Surveyor’s Plat is attached as Exhibit B, a portion of the Zoning Map is attached as Exhibit C, and a portion of the Comprehensive Plan is attached as Exhibit D.

The Subject Property is improved with a series of apartment houses that were constructed before the adoption of the Zoning Regulations in 1958. See photographs attached as Exhibit E. Of the six buildings on the Subject Property, only two seem to satisfy the R-5-A requirements. The R-5-A Zone District permits a maximum height of 40 feet (three stories) and a maximum FAR of .9. The existing apartment buildings range from three stories in height to five stories. The floor area ratio (“**FAR**”) for the buildings has a similar range with one building having a

.8 FAR and at the other end of the scale, one with a 1.5 FAR. Thus, at least four of the six structures are non-conforming under the Zoning Regulations.

The Subject Property presumably was designated as a part of the R-5-A Zone District because of the houses on Nicholson Street, on the south side of Square 2794. Nicholson Street is lined with two story rowhouses, which is consistent with the R-5-A Zone District. See photographs of Nicholson Street attached as Exhibit F. Though the Zoning Map does not distinguish between the existing densities on Square 2794, the Generalized Land Use Map of the “Comprehensive Plan Amendment Act of 2006” (“**Generalized Land Use Map**”) does. The Comprehensive Plan categorizes the Subject Property as appropriate for Medium Density Residential development while the south side of the Square is appropriate for only Moderate Density Residential. These designations are appropriate in light of the existing uses on Square 2794. The blanket R-5-A zoning designation; however, is not.

B. The Petitioners

There are fifty-one property owners involved with this petition. Forty-six of the owners own condominiums at 1320 and 1322 Missouri Avenue and are represented by their condominium association in this matter. The other petitioners include 1330 Missouri Avenue, LLC, Giorgis Negusse, Lynwood Apartment Associates, and Concord Apartments Association which own property at 1330 Missouri Avenue, 1326 Missouri Avenue, 1336 Missouri Avenue, 5811 14th Street, and 5821 14th Street, respectively. See letters of support attached as Exhibit G.

In the event this petition to rezone the Subject Property is approved, the property owner of 1330 Missouri Avenue, which is the only undeveloped lot in the square, will develop the

vacant site with a twenty-unit apartment building. This lot is approximately 8,800 square feet in size. There are no plans at this time to redevelop any of the other properties in the square.

II. Petition Procedure

This case is being brought as a rulemaking case pursuant to Sections 3010.5(c)(1) and 3021 of the District of Columbia Zoning Regulations, which provides that rulemaking cases may include proposals initiated by private persons to amend the zoning map where the petitioner does not own all of the property proposed to be rezoned. By definition, rulemaking cases are legislative in nature and involve an issue affecting more than one person or property. As stated above, there are multiple owners included in this petition and the total land area of the affected area is nearly 5 acres in size.

A similar case was filed with the Zoning Commission in May 2007, regarding the rezoning of the Brentwood Shopping Center. A copy of the hearing notice is attached as Exhibit H. During its public meeting on May 14, 2007, the Zoning Commission acknowledged its jurisdiction to hear the petition but was concerned that the petition was focused on a single property, rather than a greater area of land. The Office of Planning (“OP”) proposed expanding the area to include adjacent properties that are not consistent with their zoning designation. OP noted that rezoning the properties would make them consistent with the Generalized Land Use Map. The instant case presents a similar fact pattern in that multiple property owners are faced with the issue of owning improvements that are non-conforming with the Zoning Regulations because their property is underzoned. As a consequence, their ability to renovate their property is limited.

III. COMPLIANCE WITH THE COMPREHENSIVE PLAN

This petition is consistent with and fosters the goals and policies enumerated in the newly-adopted District of Columbia Comprehensive Plan, ("**Comprehensive Plan**"). The existing zoning of the Subject Property allows moderate-density residential uses, which is not consistent with the property's Comprehensive Plan designation of medium-density residential use. Pursuant to the Comprehensive Plan's own definitions, the R-5-C Zone District is more appropriate for the Subject Property than the R-5-A Zone District. Further, the rezoning significantly advances the purposes of the Comprehensive Plan by furthering the social and economic development of the District by providing an opportunity to create additional residential units.

A. Compliance with Citywide Elements

The petition satisfies the Citywide Elements enumerated in the Comprehensive Plan and is consistent with these Elements as follows:

1. Land Use

The Comprehensive Plan includes the following goals with regard to the Land Use element:

Policy LU-2.1.3: Conserving, Revitalizing and Enhancing Neighborhoods – Recognize the importance of balancing goals to increase the housing supply and expand neighborhood commerce with parallel goals to protect neighborhood character, preserve historic resources and restore the environment. The overarching goal to “create successful neighborhoods” in all parts of the city requires an emphasis on conservation in some neighborhoods and revitalization in others. 309.8

Policy LU-2.1.10: Multi-Family Neighborhoods – Maintain the multi-family residential character of the District's medium- and high-density areas. Limit the encroachment of large scale, incompatible uses into these areas, and make these areas more attractive, pedestrian-friendly and transit accessible. 309.14

The current uses of the property included in this petition consist of 3, 4, and 5 story apartment buildings and have floor area ratios (“FAR”) of over 1.0, which is inconsistent with the R-5-A zoning designation. Rezoning the Subject Property will make the existing structures conforming and will help preserve the apartment house character of the community. All of the existing buildings included in this petition were built before 1958 and are in need of revitalization. Rezoning this site will provide an opportunity to finance the capital improvements that will be necessary to make the community more attractive and consequently, more successful.

2. Transportation

The Comprehensive Plan includes the following action with regard to the Transportation element:

Action T-1.3-A: Regional Jobs/Housing Balance – Continue efforts to ensure that concepts of infill, mixed-use, and transit-oriented development are promoted at the regional level; to design transportation systems that connect District residents to local jobs; and to provide opportunities for non-resident workers to also live in D.C. 405.16

A bus stop is located at the corner of 14th Street and Missouri Avenue, which is the northwest corner of the Subject Property. Thus, the site is ideally located near public transportation which simplifies residents’ commutes to work and encourages use of the bus system. Even though the site exceeds the zoning parameters for the R-5-A Zone District, it is still underutilized in some respects. The few units that may be added should not detrimentally affect area traffic since the site has easy access to the bus system and thus, Metro.

3. Housing

The Comprehensive Plan includes the following policies with regard to the production of new housing:

Policy H-1.1.1: Private Sector Support - Encourage the private sector to provide new housing to meet the needs of present and future District residents at locations consistent with District land use policies and objectives. 503.2

Policy H-1.1.3: Balanced Growth - Strongly encourage the development of new housing on surplus, vacant and underutilized land in all parts of the city. Ensure that a sufficient supply of land is planned and zoned to enable the city to meet its long-term housing needs, including the need for low- and moderate-density single family homes as well as the need for higher-density housing. 503.4

Policy H-2.1.3: Avoiding Displacement - Maintain programs to minimize displacement resulting from the conversion or renovation of affordable rental housing to more costly forms of housing. 509.7

Rezoning the Subject Property will provide opportunities to increase the number of residential units in the city. Portions of the Subject Property are underutilized; making the property's zoning consistent with its Comprehensive Plan designation will enable limited residential growth on-site and help the city meet its housing needs. Increasing the permitted density will also help offset the cost of providing affordable units for that portion of the property that are redeveloped in the future.

4. Urban Design Development

The Comprehensive Plan includes the following policies with regard to the Urban Design Element:

Policy UD-2.2.1: Neighborhood Character and Identity - Strengthen the defining visual qualities of Washington's neighborhoods. This should be achieved in part by relating the scale of infill development, alterations, renovations, and additions to existing neighborhood context. 910.6

Policy UD-2.2.5: Creating Attractive Facades - Create visual interest through well-designed building facades, storefront windows, and attractive signage and lighting. Avoid monolithic or box-like building forms, or long blank walls which detract from the human quality of the street. 910.12

Again, rezoning the property will enable one lot in the Subject Property to be developed with a twenty-unit residential apartment building. This lot is currently vacant. The rezoning will

improve the physical appearance of the neighborhood by affording the opportunity to eliminate a vacant lot that disrupts the fabric of the community.

5. Rock Creek East Area Element

The proposed rezoning is consistent with the goals and policies of the Rock Creek East Area Element (Section 2200). While the Rock Creek East Area Element focuses largely on improving the potential of certain corridors for commercial use, the rezoning will “protect and enhance the stable neighborhoods for which the area is known” and will help achieve the goal to provide “a variety of housing choices.” In addition, approval of this petition will satisfy the following:

Policy RCE 1.1.5: Housing Renovation – Strongly encourage the rehabilitation or renovation of existing housing in Rock Creek East, taking steps to ensure that housing remains affordable for current and future residents.

Increasing the permissible density at this site and making it consistent with the existing structures will afford Owners the opportunity to make the necessary investments to improve the condition of their buildings. The cost of the capital improvements will be offset by adding additional units, where possible.

6. Generalized Land Use Map

As previously mentioned, the recently-revised and adopted Generalized Land Use Map includes the Subject Property in the Medium Density Residential Land Use Category. This land use category is most compatible with development in the R-5-C Zone District. The current R-5-A zoning designation for the property is inconsistent with the Comprehensive Plan designation as well as with the existing structures on the property. The proposed R-5-C Zone District is more appropriate given that the site is suitable for medium density residential use.

IV. COMMUNITY INPUT

The Petitioners presented their rezoning request to Advisory Neighborhood Commission 4A on two occasions. At its regularly scheduled public meeting on November 6, 2007, ANC 4A voted to support the rezoning from R-5-A to R-5-C. A copy of that letter is attached as Exhibit I.

V. WITNESSES

The Petitioners will present one witness at the public hearing – George Mavrikes – and the presentation will be completed in fifteen (15) minutes.

VI. EXHIBITS

<u>DESCRIPTION</u>	<u>EXHIBIT</u>
Sanborn Plat of Property	A
Surveyor's Plat	B
Copy of the Zoning Map showing Subject Site in Red	C
Portion of Generalized Land Use Map	D
Photographs of Property	E
Photographs of Buildings along Nicholson St.	F
Letters in Support of Rezoning	G
Notice of Public Hearing for ZC Case No. 07-14A	H
ANC 4A Letter of Support	I
Names and Addresses of the Owners of All Property Proposed to be Rezoned	J

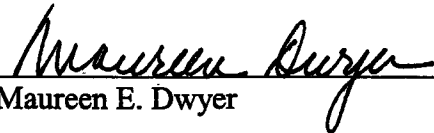
VII. CONCLUSION

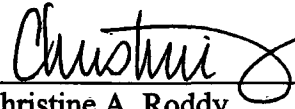
For the foregoing reasons, the Petitioners submit that the rezoning request satisfies the procedural requirements of 11 DCMR Section 3010. This petition further demonstrates that

rezoning the site will make the Subject Property consistent with its Comprehensive Plan designation of medium density residential. Accordingly, the Petitioners respectfully request that the Commission rezone the site to the R-5-C Zone District.

Respectfully submitted,

PILLSBURY WINTHROP SHAW PITTMAN, LLP


Maureen E. Dwyer


Christine A. Roddy