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September 25, 2015

Zoning Commission
for the District of Columbia
441 4th Street, N.W.
2nd Floor South
Washington, D.C. 20001

Re: Final DCBIA Comments in ZC Case No. 08-06A

Dear Members of the Commission:

This letter is submitted by the District of Columbia Building Industry Association ("DCBIA") to provide our final comments in ZC Case No. 08-06A. DCBIA's members want to acknowledge the significant effort that has been undertaken by the Zoning Commission, the Office of Zoning, the Office of Planning, the Office of the Attorney General, and the Office of the Zoning Administrator in bringing these new Zoning Regulations to fruition. We would like to use this opportunity to focus attention on one final and critical element of the new Zoning Regulations, their effective date and the vesting of prior approvals.

As noted in our October 28, 2013 submission to the Zoning Commission, the effective date of the proposed Zoning Regulations is largely unknown, which provides a great deal of anxiety for DCBIA members as they contemplate new projects. We appreciate the proposed language in Subtitle A §102.3 which outlines the rights that will be vested in development projects that were approved by the Zoning Commission, the Board of Zoning Adjustment, the Historic Preservation Review Board, the Commission of Fine Arts, and the Office of Planning (for Large Tract Review projects). However, we believe that projects should also be able to vest their rights in two additional ways: (i) the filing of a foundation to grade permit; and (ii) the transfer of Combined Lot Development Rights (CLDs) or Transferrable Development Rights (TDRs) to a property. We believe that adding these two additional areas of vested rights are entirely appropriate and are consistent with the intent of proposed Subtitle A §§ 102.2 and 102.3.

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ZONING COMMISSION
District of Columbia
CASE NO. 08-06A
EXHIBIT NO. 998

We note that while Subtitle A §102.3 addresses the vesting of projects that have gone through some form of review process with District of Columbia government agencies, we also believe that it is important to allow the development community a sense of certainty as to the applicability of the current Zoning Regulations or the new Zoning Regulations to “matter-of-right” projects. Therefore, we propose an appropriate “phase-in” period for the new Zoning Regulations. This phase-in period, which we believe should be at least 6 months, will allow projects to opt in to the new Zoning Regulations or continue to be subject to the previous Zoning Regulations. We also believe that it is critical that the Zoning Commission provide a specific and certain date as to when the phase-in period will commence, rather than tying the phase-in period to the publication of the new Zoning Regulations in the DC Register. This concept of a phase-in period is consistent with provisions of the DC Building Code which are followed when the District of Columbia periodically adopts updated national and international building codes.

On behalf of all DCBIA members, we appreciate your review and consideration of these final comments and proposals regarding the effective date of the new Zoning Regulations and the vesting of prior approvals.

Sincerely,

A handwritten signature in cursive script, reading "Lisa Maria Mallory". The signature is written in dark ink and is positioned below the word "Sincerely,".

Lisa María Mallory