

THE JBG COMPANIES®

September 11, 2014

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

Re: Comments to Zoning Regulation Rewrite - Vesting Provisions
ZC Case No. 08-06A

Dear Members of the Commission:

This letter is submitted to provide comments relating to the vesting provisions for the proposed Zoning Regulation Rewrite. We request that the Zoning Commission consider vesting provisions for the new Zoning Regulations in addition to a transition period of at least six months from the final adoption of the regulations. Vesting provisions are critical given the time it takes to design and develop a building, and the ZRR does not currently include any proposed applicability or vesting provisions. We recommend that the Commission consider vesting provisions similar to that incorporated in the new Construction Codes. Specifically, buildings and structures under contract for design on the effective date of the new Zoning Regulations, for which no permit applications have been filed, shall be allowed to be filed, processed to issuance of permit, and any work authorized thereby shall be allowed to be carried to completion, under the provisions of the current Zoning Regulations, provided that (1) the applicant files the permit application within one year of the effective date of the new regulations, (2) the applicant includes with the permit application a copy of the design contract, with a notarized affidavit stating that contract was effective prior to the effective date of the new regulations, and (3) a permit be obtained and the permit fee be paid in full within one year after the filing date.

We request that vested rights also be provided to the following types of projects:

- Projects for which an application for a PUD (First-Stage or Consolidated) case or BZA case has been filed prior to the effective date of the new regulations;
- Projects for which an application for design review case under Capitol Gateway Overlay District or the SEFC District has been filed prior to the effective date of the new regulations;
- Projects that have received concept approval from the Historic Preservation Review Board or the Commission of Fine Arts prior to the effective date of the new regulations;
- Projects that have completed the Large Tract Review process prior to the effective date of the new regulations; and
- Projects for which a building permit has been officially accepted by DCRA prior to the effective date of the new regulations.

In addition to this list, we believe that it is important to allow vesting to occur in the following the situation

- **Projects for which an award of a Request for Proposal has been issued by the General Service Administration but for which a building permit application has not yet been filed as of the effective date of the regulations;**

JBG is preparing and submitting proposed development plans in response to Request for Proposals from the General Services Administration. Because the ZRR is continuing to be refined and updated, these development plans are based on the current Zoning Regulations. Accordingly, it is important that if an award is issued for a Request for Proposal prior to the effective date of the new regulations but a building permit application has not been filed (i.e., because a lease is being negotiated), that the award is protected based on the criteria set forth in the current regulations. Therefore, we request inclusion of this protection in the vesting provisions.

Furthermore, this letter reiterates JBG's previous testimony at the November 14, 2013, public hearing relating to the preferred use requirement set forth in Section 602.2 for properties fronting on First Street (a Primary Designated Street Segment) in NoMA. The frontage on First Street for most of these development sites is limited as compared to the frontage on other streets, especially given the long squares on the west side of First Street. As a result, the use requirement of 0.5 FAR for the entire lot which is set forth in Section I 602.2(a) places an undue burden on these properties in complying with the FAR requirement and does not necessarily further the goal of providing preferred uses on First Street.

We support the Office of Planning's recommendation in the alternate text, which was set down by the Zoning Commission on July 10, 2014. In that alternate text, Office of Planning has recommended that Subtitle I (Downtown) be revised to ensure that the retail requirements for NoMA are consistent with the retail requirements for other primary streets. We look forward to the specific proposal for such alternate text as the process moves forward.

We appreciate your consideration of these comments and recommendations. We appreciate the Commission and the Office of Planning's work on the ZRR and look forward to continuing to work with Office of Planning to refine these concepts as the process moves forwards.

Sincerely,

A handwritten signature in dark ink, appearing to read "Rod Lawrence", with a stylized, flowing script.

Rod Lawrence
The JBG Companies