

Testimony of Ellen M. McCarthy

Zoning Commission Case Number 09-15

Planned Unit Development at 1412 Chapin Street, NW

April 1, 2010

Good evening Chairman Hood and members of the Commission. My name is Ellen McCarthy. I am the Director of Planning and Land Use at Arent Fox, LLP, and I am here today to testify on the planning and zoning issues involved in this case, a request by the G.K.D. 1412 Chapin Street, LLC and Dantes Partners for approval of a planned unit development at 1412 Chapin Street, NW. The project proposes a map change from R-5-B to C-2-B with a waiver of the minimum lot size for a PUD, and relief from requirements for rear and side yard distances, lot occupancy and loading, in order to construct a forty-four unit apartment building that is 100% affordable to families earning at or below 60% of the area median income (AMI).

In terms of my qualifications, I have over thirty-five years of planning experience, including five years spent at the DC Office of Planning as the Deputy Director for Development Review and Historic Preservation, and two years as the Director of that office, in addition to more than 10 years as a zoning consultant. I live in the District, and my office is at 1050 Connecticut Avenue, NW.

The Site

The site is located just west of the intersection of 14th and Chapin Streets, NW, between the U Street area and Columbia Heights. At 9,000 sf, it is 60% of the 15,000 sf minimum size for PUDs. The lot has been vacant since the original building was destroyed in a fire touched off by lightning. It features a substantial slope from northwest to southeast, and is bounded on the

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south and east by twenty-foot alleys. On the east is the former Nehemiah strip shopping center, which is currently vacant; the Commission approved a large PUD for this site for the applicant Level 2, which has not been constructed, and I believe recently received a time extension. To the west of the site, on both sides of Chapin, are 4 – 6 story apartment buildings, with a few smaller row dwellings interspersed. Meridian Hill Park, also known as Malcolm X Park, is located across 15th Street.

Waiver of Minimum Lot Size for a PUD

As previously indicated, the Zoning Regulations (§2401.2) provide for a waiver of up to half the minimum lot size for a PUD based on the prospective zone in the case of a PUD-related map amendment, if two conditions are met – at least 80% of the gross floor area must be devoted to residential uses if the project is outside the Central Employment area, and the project must be of exceptional merit and in the best interest of the city or country. The project clearly meets the first criteria, as it is located outside the Central Employment Area and 100% of the gross floor area is devoted to residential use or facilities supporting residential use, such as a lobby, parking and common areas.

The project is clearly one of exceptional merit, and in the best interest of the city.

Affordable housing remains a critical need in the District. Housing in the Nation's Capital 2009, by the Urban Institute and co-sponsored by Fannie Mae, indicates:

Even with the higher vacancy rates and slow-growth in rents, rents are unaffordable for many low-wage households. For example, the fair-market rent in the District of Columbia is \$1,288. To afford this rent, a household must earn an income of \$51,520 annually, or \$24.77 an hour assuming a 40-

hour workweek and 52 workweeks a year. . . . At these levels, building and grounds maintenance workers, office and administrative staff, and teachers and librarians find that rents in many areas are unaffordable.

The report goes on to note that the affordability issue is likely to continue to be a problem, given that the wage trends they found for the Washington region, and high housing costs, combined with high unemployment, threatens many low and moderate income families with homelessness:

With unemployment increasing, much more is needed to ensure households regionwide remain in stable housing and do not become homeless. Even before the recession, with major cuts in vouchers, loss of public housing stock, and expiring federal subsidy contracts, federally subsidized housing failed to keep pace with rising demand. As of December 2008, approximately 22,800 households received housing vouchers, 10,000 households lived in public housing units, and 28,500 received project-based subsidies region wide 25. Many more—approximately 47,100—lived in affordable Low Income Housing Tax Credit (LIHTC) units. The demand for subsidy far surpasses the supply. In the District, for example, 26,000 people are on the housing authority waiting list, leaving people waiting years to reach the top of the list. Given the size of most housing authority lists, and the scarcity of housing resources, the odds of low-income households receiving assistance are depressingly low. Analysts estimate that only one in four people who qualify for subsidized housing nationally receives some assistance.

But the affordable housing problem is not just a District of Columbia issue. It affects the entire metropolitan area. **Beltway Burden: The Combined Cost of Housing and Transportation in the Greater Washington DC Metropolitan Area**, a report produced for the Terwilliger Center for Workforce Housing by the Center for Housing Policy and the Center for Neighborhood Technology, focuses on a critical nexus for the region – the connection between affordable housing and transportation congestion and cost. Low and moderate income households had traditionally engaged in the ritual known among real estate agents as “drive till you qualify.” In order to find affordable housing, families were moving to the outer reaches of the metropolitan area. However, the dramatic increase in fuel prices began to make the true costs of this strategy

more evident. When those households factor in transportation costs, the housing is no longer affordable:

Region-wide, households spend an average of nearly \$23,000 per year on housing and \$13,000 on transportation. **Combined, these costs represent almost 47 percent of the median household income.** These cost burdens vary significantly across the 22 jurisdictions. In some areas where households spend more on housing, they tend to spend less on transportation and vice versa. Across the metropolitan area, however, there are neighborhoods where households are saddled with both high housing and high transportation cost burdens.

Looking at the combined costs make it apparent why this project is so important, and so easily meets the criteria of not only being of exceptional merit, but also in the best interest of the city. **Beltway Burden** goes on to document how the lack of affordable housing close in, and accessible to transit, makes a major contribution to the region's congestion problem:

Washington, DC, metro area congestion consistently ranks in the top five in the nation. Drivers spend an average of 60 hours per year sitting in traffic. Region-wide, this adds up to an estimated 127 million hours of wasted time plus nearly 91 million gallons of wasted fuel.¹ While well aware of traffic problems, many residents may not be aware that one of the root causes is the shortage of affordable workforce housing in close-in locations near job centers and public transit stops.

Further documentation of the size of the potential market for this building comes from **Priced Out: Persistence of the Workforce Housing Gap in the Washington DC Metro** by the well-regarded economic analysis firm RCLCO (the Robert Charles Lesser Company) for the Urban Land Institute. The report concludes, based on Census data, that 29% of all households in the DC metropolitan area have incomes at or below 60% of the area medium income.

This table from the report shows the official figures for annual incomes of households at the 60% AMI level, by household size:

Size of Household	Maximum Income for 60% AMI
1-Person Household	\$43,140
2-Person Household	\$49,320
3-Person Household	\$55,440
4-Person Household	\$61,620
5-Person Household	\$66,540

RCLCO points out the irony that the presence of a high level of transit service in the central area, and the desirability of the transit-oriented development that has been created over the last decade has driven up the cost of land in transit-accessible locations, making it increasingly difficult to locate workforce housing close to transit and employment centers, and further fueling sprawl.

Nearly a quarter of households in the metro area have incomes between 60 and 100 percent of AMI. Despite the recent housing market downturn, the high cost of housing near major employment cores and in transit-rich locations remains prohibitive for workforce households—particularly those with three or more people. The resulting jobs/housing imbalance has created or exacerbated a number of undesirable conditions.

Addressing the housing needs of workforce households near major employment cores and in transit-accessible locations will help to create a jobs/housing balance, and is aligned with the goals and visions of many local jurisdictions. These goals include:

- Reduce congestion and traffic;
- Reduce the amount of public spending on car-oriented infrastructure, improvements, and repairs;
- Create true mixed-income communities and provide housing opportunities for local employees; and
- Reduce overall environmental degradation

In short, if there is any doubt about whether the proposed project is in the best interest of the city, the report explains the benefits clearly:

Creating viable housing options for these households will give a considerable pool of residents and employees the opportunity to live closer to their workplaces and other important services. Creating these housing opportunities can reduce the overall carbon footprint of the metro area, reduce congestion, allow easier access to transit, and improve the competitiveness of the Washington, D.C., metro area as an attractive place in which to work and live. It will also make the metro area's employment cores more competitively positioned for future growth.

In fact, President Obama, in remarks at the White House on July 13, 2009, explained how creating projects like this one, that provide affordable housing close to employment and transit are in the best interest of the country as a whole:

When it comes to development - housing, transportation, energy efficiency - these things aren't mutually exclusive; they go hand in hand. And that means making sure that affordable housing exists in close proximity to jobs and transportation. That means encouraging shorter travel times and lower travel costs. It means safer, greener, more livable communities.

Therefore, as the project is outside the Central Employment Area, has 100% of its square footage used for housing or housing-related purposes, is of exceptional merit, in both its use as workforce housing as well its high quality design and exemplary transportation demand management features, and is clearly in the best interest of the city, the region and the country, I would submit that the project meets all the requirements for a waiver of the minimum PUD area.

Map Amendment

A. Standards Governing Map Amendments

Section 6-421.01 of the D.C. Code indicates that the purposes of the Zoning Regulations are to “promote the health, safety, morals, convenience, order, prosperity or general welfare of the District of Columbia and its planning and orderly development as the national capital.” It requires that the zoning maps “shall not be inconsistent” with the Comprehensive Plan.

Further guidance is provided in §101.2 of the Zoning Regulations:

The regulations in this title and the Zoning Maps are designed with consideration of the:

- (a) Character of the respective districts;
- (b) Suitability of each district for the uses permitted in each district under this title; and
- (c) Encouragement of the stability of districts and of land values in those districts.

B. Proposed Zoning

This application proposes to amend the zoning map to classify the site as C-2-B. This zone is clearly appropriate for this location. Section 720 of the Zoning Regulations describes the C-2 districts as “community-business center” districts, and indeed, this project is immediately adjacent to the 14th Street corridor. The C-2-B district is described as similar to C-2-A, in terms of encompassing commercial and residential functions, but at a higher density. The existing zoning is R-5-B, a zone which is typically considered more appropriate to moderate density residential.

1. The Map Amendment Meets the Purposes of Zoning

Adopting this proposed amendment to apply the C-2-B classification to the subject site is necessary to permit the construction of new housing affordable to families in the 60% AMI category. This is clearly consistent with requirement in the DC Code to promote the “general

welfare”, since workforce housing is an important neighborhood land use that improves the quality of life for the residents and provides a valuable balance to what has otherwise been the construction of a largely upper income set of housing projects. The C-2-B classification is completely consistent with the scale and character of development in the neighboring area, and the Future Land Use Map of the 2006 Comprehensive Plan. The C-2-B zone district permits a residential use similar to what was originally on the site, and a use and density quite consistent with the Future Land Use designation of the site as “Medium Density Residential”. It is also quite suitable to the rest of the neighborhood, which definitely contributes to stability and maintaining or improving property values.

2. The Map Amendment Is Not Inconsistent with the Comprehensive Plan

As stated above, the site is currently zoned R-5-B, which is generally considered “moderate density residential”. The Future Land Use Map classifies the site as “medium density residential”, and shows it as immediately adjacent to a mixed use, medium density residential/medium density commercial corridor. The Policy Map classifies it as immediately adjacent to a “Main Street” area.

It is adjacent to the Level 2 PUD at the former Nehemiah site, at the corner of 14th and V Streets, NW, which is zoned C-2-B. The proposed zone for the subject site is C-2-B as well, which is also considered a medium density zone. While the applicant is not proposing a commercial use on the site, all the C zones are suitable for residential as well; in fact, the zones are designed to promote residential use by providing a higher density for residential uses than for commercial. The proposed new building essentially replicates the previous scale and massing of the previous structure on the site, which was destroyed by a fire caused by lightning. The C-2-B zone more closely approximates that structure, though it should be noted that the proposed

structure not utilize the full C-2-B PUD envelope, which is 6.0 FAR. The proposed design calls for a maximum FAR of 5.36 out of a possible 6.0, with a height of 57 feet in a 60 foot maximum zone. It creates an effective transition between the medium and moderate scale residential buildings to the west and the Level 2 PUD, which is 90 feet tall, with a density of 6.0 FAR. As the Comprehensive Plan Framework Section notes, the Future Land Use Map is not the sole determinant of what is the appropriate zone – one must interpret that map “in conjunction with the text of the Comprehensive Plan, including the citywide elements and the area elements, as well as approved Small Area Plans. The selections from the Comprehensive Plan citywide elements and the Mid-City element that were provided in the PUD application were quite consistent with the proposed project, as infill close to a Metro station, providing affordable housing – it embodies the underlying theme of the Comp Plan – “Growing an Inclusive City.”

The Project Meets the Standards for Approval as a Planned Unit Development

As explained in the original application, in addition to seeking a PUD-related map amendment, the applicant also is seeking relief from the lot occupancy restriction. Under the C-2-B zone, the maximum lot occupancy for commercial uses is 100%, and for residential uses it is 80%. The previous structure on the site was a 100% lot occupancy. Because of the extremely narrow site, it is not possible to even have double-loaded corridors. It is necessary to cover 100% of the lot at the ground floor, in order to accommodate the lobby and common area, in addition to the apartments. Above the first floor, however, the building is set back around a court; at that level, the lot occupancy is 86.6%, just 6.6% over what would be required as a matter of right. In as much as 100% lot occupancy would have been permitted at the ground level for commercial purposes, and as the previous building occupied virtually the same lot

occupancy, and most of the building comes within a few percentage points of the required lot occupancy, we maintain that this relief can be granted with no harm to the integrity of the zone plan and map.

The Applicant also seeks relief from the rear yard and roof structure requirements. Regarding the rear yard, the Commission has the authority, under §2404.5, to approve relief “depending on the exact circumstances of the particular project.” In this case, the site is separated from the next property in the rear by a 20 foot public alley, so privacy is not impaired, and, as the subject property is to the north, there are no adverse light and air impacts. The size of the site is so constrained, at 9,000 that complying with the rear yard requirement would result in the loss of 10 units and four parking spaces, which would make the project economically impossible.

The roof structure relief, which is for multiple roof structures, is available as a special exception. It is clear that, in order to provide a second means of egress from the rooftop, which includes a “green” landscape to absorb water and provide an amenity to the tenants, a second stair tower is necessary. Compliance with the single structure requirement would be unduly restrictive and not reasonable for this project.

Public Benefits and Amenities

The PUD guidelines define public benefits as “superior features of a proposed planned unit development that benefit the surrounding neighborhood or the public in general to a significantly greater extent than would likely occur under the matter of right provisions.” 11 DCMR§2403.6.

The Commission is required, under the PUD regulations, to balance the relative value of the public benefits and amenities proffered against the extent of the relief sought.

As we've seen, the relief sought is relatively minor. The map amendment enables the project to go from a maximum of 3.0 as a PUD in R-5-B (or 1.8 FAR as a matter of right) to 6.0 FAR. The applicant is seeking an FAR of 5.36, but 8,000 sf of that density is consumed for the parking, which is partly above grade because of the steep slope of the site. The additional relief, as discussed above is modest, a lot occupancy 6.6% more than would be permitted as a matter of right, a reduction in the rear yard and an additional roof structure.

The public benefits and amenities being offered far outweigh this relief.

1. Affordable Housing

As documented in the earlier section of my testimony, the need for housing within close proximity to transit and to employment is serious. The RCLCO study documented a deficit of more than 40,000 units. While these 44 units are only a small portion of this amount, each contribution is significant. It is important to keep in mind that the project is providing 44 units affordable to those earning 60% of the Area Median Income, with no subsidy from the District Government. This is extremely significant, because, although the need for affordable housing is great, the District's resources are extremely constrained. The applicant will be seeking a designation by the District so that they can sell Low-Income Housing Tax Credits to investors, in order to raise sufficient equity to proceed with the project. While that is a competitive process, the competition is based on providing a quality project, and comes at no cost to the District.

It is important to note that the 44 units being provided are significantly more affordable housing than would be required under mandatory inclusionary zoning, nearly 20 times the gross floor area that would be required if developed under the existing R-5-B zoning, and nearly 15 times the amount that would be required under the C-2-B zoning as a matter of right.

It is also extremely significant that this housing is in an area of town that has seen huge amounts of luxury development, given its attractive environment, convenient location and access to transit.

2. Environmental Benefits and Transportation Demand Management

As you heard previously from Mr. Goins, the project has an outstanding number of features which increase the sustainability of the development, including a lushly landscaped roof garden, special roof coating to reduce heat island effects, reduced parking and many others. The environmental actions committed to are the equivalent of LEED Silver.

The Transportation Demand Management package is one of the strongest I have ever seen, and really remarkable for a small, affordable housing project. Not only will the building be providing more than 30 bike parking spaces indoors, but it will also provide a complementary \$50.00 Smart Trip far card, as well as a \$40 subsidy for either the Smart Bike program or membership in Zipcar.

3. First Source Employment Opportunities and Use of Local Small Business

The Applicant will work with the Department of Employment Services to execute a First Source Employment Agreement. It is also entering into a Memorandum of Understanding with the

District to achieve at least 35% participation of local, small and disadvantaged businesses. The Applicant's commitment to the use of local small businesses is evident in the team assembled before you, all of whom are certified business enterprises.

4. Mentoring Works2, Inc.

Mentoring Works is an outstanding local community-based 501(c)3 working with at-risk, inner-city youth, assisting them with a mentoring program that matches trained adult mentors with youth in need of such adult guidance. I believe you have a letter in your package providing more information about the program. The applicant has made a personal commitment to foster relationships with the MW2 youths, and involve them in the project, to expose them to various facets of the development.

5. Superior Urban Design and Architecture

As you can see, the design proffered today is attractive, with high-quality materials. The architectural team listened closely to your suggestions, particularly with regard to better articulation of both the east and west facades of the building. We think that the design and materials are exemplary, particularly for an all-affordable building.

Conclusion

In conclusion, Mr. Chair and members of the Commission, the project is consistent with the Comprehensive Plan, is exemplary and in the best interest of the city, provides superior public benefits and amenities, and meets all the standards for the granting of the Application.