

# **DC for Reasonable Development Testimony Re: Zoning Commission Case No. 13-14 May 13, 2014, and as continued to May 27, 2014**

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DC for Reasonable Development has already submitted initial contested issues and concerns regarding the McMillan Park PUD, ZC Case No. 13-14 now before the Zoning Commission, which can be seen on the record as Exhibit #524 and as a series of other exhibits, including #725 through #736.

Today, DC for Reasonable Development submits a review of the concerns, as well demonstrates additional contested issues that have arisen as new information has come from the several hearings prior to May 27, 2014.

We would like to verbally testify to these issues tonight, however we have come to understand that Zoning Commissioners, with the complicity of Office of Zoning staff, have chosen in a most arbitrary way to prevent the public from testifying in person tonight, particularly those who did not happen to sign up at the May 13th hearing. This sad bureaucratic aversion to public input challenges basic open-government processes around what should be open information sharing at such a critical hearing and about such a game-changing project as presented by the PUD application.

The decision to prevent further public input is undemocratic on its face and is an act especially hostile in its lack of notice to those who may have left the May 13th hearing before such an edict was commanded by the Zoning Commission or noticed for anyone in the public who may not have actually been at the May 13th hearing.

Further, tonight during the May 27<sup>th</sup> hearing, the Applicant was allowed to bring “expert” witnesses for rebuttal, but the opposition parties were unfairly prevented from cross-examining these witnesses who appeared for the first time at these hearings on the evening of May 27th.

Limiting public discussion and fact-finding opportunities flies in the face of the DC Comprehensive Plan and the DC Administrative Procedures Act both which call for open hearings, open records, full public disclosure and fair notice of administrative decisions, especially ones that deny open public engagement.

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## **Further Briefing on Contested Issues**

- *This is not a popularity contest; Deeper Cultural, Economic, and Environmental Impact Evaluation Required*

Despite the letters of opposition coming into the zoning record at far greater ratios than those letters in support of the PUD application in ZC Case No. 13-14, the job of the Zoning Commission is not to take straw polls of people in the hearing room. The Zoning Commission must make it a priority to truly examine the studies, reports and full scope of the economic, cultural, environmental impacts that may adversely affect the surrounding community before having the needed information in balancing the equities and making decisions.

Impact review must go much further beyond traffic impacts and job/taxes creation, especially for a project of this magnitude (The Applicant has put a limited study on the record; The Applicant has put a limited fiscal impact study on the record).

Much deeper study and reports must be conducted to determine the full panoply of adverse impacts which fall under zoning and planning review at this decision-making stage. DC Municipal regulations, DC development policies, and City initiatives and programs encourage, and in many cases require a deeper review, analysis and evaluation by the Zoning Commission. Unfortunately the DC Office of Planning has not helped Zoning Commissioners by dismissing their legal duty requiring as such. The time is now for much more deeper analysis of the adverse impacts in this matter.

- *Affordability and Adverse Fiscal Impacts Not Evaluated*

There has been no fiscal impact studies or analysis of how a project of this magnitude and luxury residential and commercial units will have on the surrounding neighborhoods and Wards. The project offers a minimal amount of

“affordable” units, which to our knowledge is not permanent. Department of Housing and Community Development reports and studies have not been prepared and submitted to the record in this matter. These issues show that the PUD application is incomplete. This is unacceptable per the PUD evaluation and review standards.

- *Loss of Public Property Not Evaluated*

There has been no analysis of the loss of this public open-to-the-air vegetative green space will have to the City in terms of its current positive benefits – environmental, cultural, and economic -- to the surrounding communities and to the City. There has been no recent appraisal of the public land value. There has been no analysis of the constitutional impacts of privatizing this space. There has been no efficacy analysis of the so-called nonprofits that will control the park’s amenities. There has been no environmental studies showing how paving over this public space will impact the benefits this park currently provides to the surrounding neighbors and Wards. There is a terrible lack of infrastructure impact study. There has been no analysis of future City needs this space can fulfill, i.e. no examination this project vis-à-vis DC’s Master Facilities plan.

## **Conclusion**

Tonight, DC for Reasonable Development representatives were told they could not testify in person. Secretary Schellin did say we could supply these written comments through IZIS tonight to follow-on submissions we made earlier today, including two letters from residents living in close proximity to the subject site, the historic McMillan-Olmsted park.

DC for Reasonable Development expects at least one thing from this PUD process – a legally founded and much more relevant evaluation of the zoning impacts this project will have on our participants, especially those living in close proximity to the subject site. These impacts go beyond traffic and what fiscal tax gains and low-paying jobs this project will give to the City. Environmental impacts, gentrification impacts, real affordability analysis, loss of public property impact, light and air impacts, noise, air quality, etc. are impacts that thus far have been identified but not given any review and meaningful evaluation, and all without broad inter-agency study and robust review. These facts show an arbitrary and unlawful review by the Applicant, without due diligence by the DC Office of Planning, and is unacceptable for what is supposed to be an transparent and critical administrative process.

Without these studies, evaluation, and public review of the bigger scope of the zoning impacts, the Zoning Commission cannot perform an adequate or lawfully role in reviewing this PUD application, especially the ZC’s primary role in weighing the so-called benefits versus the potential adverse impacts before making any administrative decisions that will permanently injure the people and property interests of the surrounding communities and Wards.

This PUD application must be rejected for these administrative failures.

Submitted this, the 27<sup>th</sup> day of May, 2014 by Chris Otten through the IZIS system as instructed by Secretary Schellin, and on behalf of the DC for Reasonable all-volunteer team.

***Chris Otten, Coordinator***  
**DC for Reasonable Development**