

September 13, 2018

VIA IZIS

Anthony Hood, Chairman
D.C. Zoning Commission
441 4th Street NW, Suite 200 South
Washington, DC 20001

Re: Square 3629, Lots 7, 813, and 814 ("Property"): Motion to Extinguish Planned
Unit Development Established by Order No. 15-16

Dear Chairman Hood and Members of the Commission:

Pursuant to Section X-310.2(b), B&R Associates and MRP 600 RI, LLC, property owners of the above-referenced property (collectively, "Applicant"), file this motion to extinguish the PUD approved for the Property in Case No. 15-16. On July 14, 2015, the Applicant filed an application for review and approval of a mixed-use PUD on 13 acres of land located near the Rhode Island Metro station. The PUD included multiple phases of development over approximately ten years. The first phase (Buildings 1A, 1B and 5B) was approved as a consolidated PUD. The remaining phases (Buildings 2A, 2B, 3, 4, 5A and 6) were approved as a first-stage PUD. The Zoning Commission took final action to approve the PUD at its public meeting on October 17, 2016, and the order was published in the D.C. Register on December 9, 2016.

The PUD was appealed to the D.C. Court of Appeals by the Ward 5 Alliance for Equity on January 4, 2017; the appeal is still pending before the Court. Construction of the approved PUD is at the Applicant's own risk until the appeal is resolved. In light of this risk, the Applicant is not moving forward with the PUD development and its development timeline cannot absorb the delay caused by the appeal, or the market risk, interest rate risk, and cost of construction risks associated with the delay. Accordingly, the Applicant explored matter-of-right development options for the Property.

On April 11, 2017, the Applicant filed a large tract review ("LTR") application with the Office of Planning for review of a similar, but distinct development. The development proposed in the LTR application embraced a similar site plan, with 9 buildings lining a central spine known as Bryant Street:



Site Plan – LTR Submission – Sheet L1.01

While the matter-of-right project resembles the PUD that was approved, it is a different and distinct project as it no longer benefits from the flexibility afforded by the PUD process, namely with respect to height, parking, loading or the lot requirements. The project now has a maximum height of 65 feet, rather than the 90 feet that was approved through the PUD process, and it will comply with all parking, loading and lot requirements, whereas, the PUD granted relief from those requirements. Additional refinements were made as the plans were adjusted to accommodate matter-of-right zoning standards. Nevertheless, the LTR project still includes the majority of the benefits and amenities approved during the PUD process.

The Office of Planning referred the LTR application to Department of Housing and Community Development, Department of Energy and the Environment, Department of Transportation, Fire and Emergency Medical Services Department, and DC Public Schools for review and comment. The Office of Planning also referred the application to ANC 5E and it extended the deadline for review at the request of the ANC and Ward 5 Alliance for Equity. The Office of Planning issued its final report on July 31, 2017, finding that the project satisfies the goals and objectives of the LTR process.

The grant of a PUD prohibits any construction on the Property that is not authorized in Order No. 15-16 until either the order expires or the Zoning Commission extinguishes the PUD.¹

¹ The PUD would otherwise expire on December 9, 2018; however, Section 2408.13 extends the expiration of the PUD until the Court of Appeals resolves the pending appeal.

The Applicant files this motion to request that the Zoning Commission extinguish the PUD approved in Order No. 15-16 to enable the Applicant to proceed with matter-of-right development as soon as possible. To deny this motion will require the Applicant to simply wait for the appeal to resolve and the Order to expire; allowing the Property to sit underutilized and nearly vacant for an extended period of time does not serve the community or the District and it exacerbates community safety concerns. Further, precluding development on the Property is at odds with the Comprehensive Plan, including the Future Land Use Map designation, the Area Element and the Small Area Plan (see Paragraph 77 (a) – (g) in Order No. 15-16). In order to most expeditiously meet the goals and objectives of these plans and studies, the Applicant asks that the PUD be extinguished so that matter-of-right development be permitted to proceed. The PUD application did not include a PUD-related map amendment, accordingly, the Property will remain in the MU-7 Zone District.²

We appreciate the Commission's consideration of this motion and ask that the Commission extinguish the PUD approved in Case No. 15-16 at its public meeting on October 22, 2018.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Christine Roddy" followed by a small flourish.

Christine Roddy

Enclosure

² No PUD Covenant has been recorded against the Property.

Certificate of Service

The undersigned hereby certifies that copies of the foregoing document was delivered by first-class mail, electronic mail or hand delivery to the following addresses on September 13, 2018.

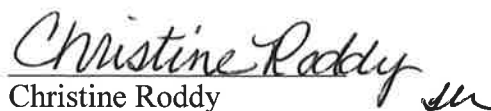
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