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June 22, 2016

VIA IZIS

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

Re: **Applicant's Opposition to "Motion for Leave to File & Motion to Reconsider ZC Order 15-22"**

Dear Members of the Commission:

On behalf of 301 FL Manager, LLC (the "Applicant") we hereby oppose the Motion for Leave to File & Motion to Reconsider ZC Order 15-22 (the "Motion") filed by the Union Market Neighbors ("UMN") on June 17, 2016. UMN's Motion should be denied because it does not meet the clear requirements of Sections 3029.5 and 3029.6 of the Zoning Regulations.

Section 3029.5 of the Zoning Regulations states the following:

A motion for reconsideration, rehearing, or re-argument of a final order in a contested case under § 3022 *may be filed by a party* within ten (10) days of the order having become final. The motion shall be served upon all other parties. The Commission shall not receive or consider any motion for reconsideration, rehearing, or re-argument of a final order in a contested case proceeding that is filed prior to the order having become final.

See Section 3029.5 (emphasis added). In this case, UMN was not a party to the Zoning Commission case and UMN did not participate in the Commission proceedings at all. Moreover, as shown on the radius map attached hereto as Exhibit A, none of the individuals who signed the documents attached to the Motion live within 200 feet of the PUD Site. Indeed, most of the individuals live over 500 feet from the PUD Site. Moreover, the Motion does not include any statements indicating how UMN's interests would likely be more significantly, distinctively, or uniquely affected in character or kind by the proposed zoning action than those of other persons in the general public. *See* Section 3022.3(f)(5).

Assuming UMN is requesting a waiver from Section 3029.5 via its reference to Section 3000.8 of the Zoning Regulations in the first paragraph of the Motion, UMN has not presented any "good cause" for waiving the party requirement of Section 3029.5. Pursuant to Section 3000.8, "[t]he Commission may, for good cause shown, waive any of

the provisions of [Chapter 30] if, in the judgment of the Commission, the waiver will not prejudice the rights of any party and is not otherwise prohibited by law.” In this case, UMN has not provided any basis for waiving the provisions of Section 3029.5. Moreover, granting a waiver of Section 3029.5 would prejudice the Applicant by reopening the record to a non-party to file documents after the application was thoroughly reviewed by the D.C. Office of Planning, the District Department of Transportation, the Metropolitan Police Department, Advisory Neighborhood Commission 6C, and the Zoning Commission.

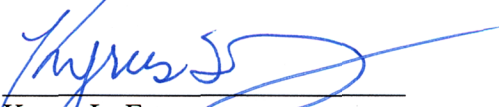
Finally, the Motion should also be denied because it does not meet the requirements of Section 3029.6 of the Zoning Regulations, which states that:

A motion for reconsideration, rehearing, or re-argument shall state specifically the respects in which the final order is claimed to be erroneous, the grounds of the motion, and the relief sought. No request for rehearing shall be considered by the Commission unless new evidence is submitted that could not reasonably have been presented at the original hearing. If a rehearing is granted, notice shall be given as in the case of an original hearing.

See Section 3029.6 (emphasis added). UMN has not submitted any new evidence that could not have been presented at the public hearing. Without citing any evidence whatsoever, UMN’s request to reopen the record is based on its view that (i) the project does not include enough affordable housing; (ii) the Order does not adequately address the Comprehensive Plan’s designations for the PUD Site; and (iii) the Zoning Commission did not evaluate how the PUD will impact existing infrastructure and emergency services. However, the record in this case clearly demonstrates that (i) the application exceeds the affordable housing required for the project (see Finding of Fact Nos. 41, 54 and 57); (ii) the PUD and Zoning Map amendment are not inconsistent with the Future Land Use Map, and that the approved height and density will not negatively affect surrounding uses (see Finding of Fact Nos. 62 and 66-68); and (iii) that pedestrian infrastructure and public spaces will be improved as part of the PUD, including construction of significant public space improvements (see Finding of Fact No. 60). Thus, the record in this case clearly demonstrates that the Order is based upon substantial evidence that supports the Zoning Commission’s decision.

In conclusion, UMN was not a party in the underlying Zoning Commission case, has not shown good cause for waiving the party requirement of Section 3029.5, and has not submitted any new evidence that could not reasonably have been presented at the original hearing. Therefore, the Applicant respectfully requests that the Zoning Commission deny the Motion.

Sincerely,



Kyrus L. Freeman
Jessica R. Bloomfield

CERTIFICATE OF SERVICE

I hereby certify that on June 22, 2016, a copy of the Applicant's Opposition to Motion for Leave to File and Motion to Reconsider in Z.C. Case No. 15-22 was served via first class mail to the following:

Advisory Neighborhood Commission 6C
P.O. Box 77876
Washington, DC 20013-7787

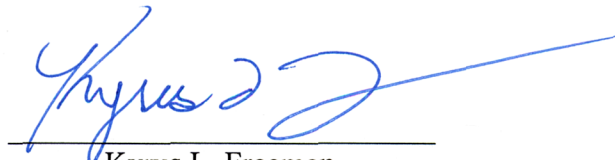
And by email to:

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