

Zoning Commission Case No. 20-02

Revised Testimony of Leila Batties, Esq. of Holland & Knight
On Behalf of South Rhode Island Avenue Property owners (ZC Case No. 20-23)

November 16, 2020

Good afternoon, Leila Batties with the law firm of Holland & Knight, which serves as land use and zoning counsel to LDP Acquisitions, LLC and 525 Rhode Island Ave LP, which have assembled nine parcels -- totaling over 122,000 square feet of land along the 600 block of Rhode Island Avenue, NE -- at the Rhode Island Avenue Metro Station that are the subject of Zoning Commission Case No. 20-23. Greater Mt. Calvary Holy Church is the major land owner of this Property.

Greater Mt. Calvary has submitted a letter to the Zoning Commission, which is marked as Exhibit 13 of the record. I've also been asked to testify on behalf of the Church this afternoon because it would be fundamentally unfair for Enhanced IZ if adopted to apply to Greater Mt. Calvary's pending map amendment application for the Property. This is especially the case because the requested map amendment is wholly consistent with the Property's current and proposed designation on the Future Land Use Map and the Rhode Island Avenue Small Area Plan.

The Zoning Map amendment pertaining to the Rhode Island Avenue properties, the subject of Zoning Commission Case No. 20-23, received full ANC and Eckington Civic Association support in June. The Notice of Intent to file was issued on July 16, and the application was filed on September 30. Although filed after set down of the proposed Enhanced IZ regulations, it took a decade for Greater Mt. Calvary to get in the position to file its map amendment application. This includes the Church's investment in the neighborhood, working with District staff and community stakeholders, its engagement of professionals to analyze development programming and financing, and the selection of its development partner.

Greater Mt. Calvary started investing in the neighborhood in 1995, and over the years has provided crucial community services such as a food bank, healthcare services and a community center. The Church has grown to 8,000 active members anchored in the community. In 2011, it actively participated in the Rhode Island Avenue Small Area Plan. The 2012 amendments to the District's

Comprehensive Plan Future Land Use Map designated this section of the Rhode Island Avenue corridor as Mixed Use High Density Residential / Medium Density Commercial. As such, the pending application for a map amendment from PDR-2 to MU-10 is fully consistent with this current land use designation. Lastly, Greater Mt. Calvary has invested a significant amount of resources related to the proposed development of the property in reliance of the current Zoning Regulations.

Therefore, it would be fundamentally unfair to impose more restrictive, new regulations on any property owners at this point if they have a map amendment filed and are going through the zoning approval process. To do so would unduly diminish the Church's efforts over the past decade.

Greater Mt. Calvary supported the Small Area Plan and the subsequent change to the 2012 Comprehensive Plan Future Land Use Map with full clarity understanding of the Inclusionary Zoning Regulations adopted in 2009, and proceeded with assemblage and redevelopment efforts accordingly. The proposed 2016 Comprehensive Plan will not result in increased density for the Property. Therefore, additional regulatory requirements at this point will only jeopardize the redevelopment plans on the south side of Rhode Island Avenue (and possibly Greater Mt. Calvary's redevelopment plans on the north side of Rhode Island Avenue where the sanctuary sits today). The impact is significant. A subsidy of \$150,000 to \$200,000 per unit is required to build and operate additional units at 60% AMI. If Enhanced IZ results in just 50 additional units over IZ, the impact is \$10 million, which will be a direct reduction in value to the Church and its resources to serve the community.

The Office of Planning reports suggest that Enhanced IZ is intended as a tool to capture additional affordable units as part of anticipated upzoning of properties resulting from the **proposed** Future Land Use Map. This is totally appropriate and reasonable. Given that the proposed Future Land Use Map won't be adopted until next year, property owners who, arguably, will benefit from the amendments of the proposed Future Land Use Map will have sufficient time to (i) account for the Enhanced IZ requirements in their development plans and financial modeling and (ii) file their map amendment applications.

But, in the interest of fairness to Greater Mt. Calvary and other applicants similarly situated, we respectfully urge that the Enhanced IZ regulations not be applied to pending Zoning Map

amendment applications where the requested Zoning Map amendment is consistent with the current and proposed Comprehensive Plan Future Land Use Map. As such, we respectfully propose that Sec. 502.2 of the draft Enhanced IZ Regulations be amended to include a fourth exemption – map amendments that “are consistent with the 2012 Comprehensive Plan Future Land Use Map, and filed prior to the effective date of this section.”