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November 21, 1996

Ms. Jerrily R. Kress
Chairperson
Zoning Commission of the District of Columbia
441 4'th Street, NW -- Suite 220
Washington, D.C. 20001

Dear Ms. Kress:

This letter forwards my comments and recommendations concerning the Buzzards Point/Capitol Gateway case (96-3/89-1). I offer them professionally, not on behalf of any affected owner/tenant/party.

Request for Expert Status:

As you know, my background includes formal training in urban planning (University of North Carolina, MRP, August 1966). I have been active in planning and zoning matters in the District of Columbia for over 25 years, including 8 years (1981-1989) as a member of the Commission you chair and as a "rotating" member of the Board of Zoning Adjustment. I have testified in other cases before the Commission, including the hearings you conducted earlier this year on amendments to the "downtown" zoning where the Commission heard a great deal of testimony about "department stores" and "opera houses." In that case, you granted me expert status (in planning an zoning matters). I request you do so for this case, as well.

Comments and Recommendations:

While the purpose of our Zoning Regulations is already set out amply (e.g., the Zoning Act), it is useful to remind ourselves that those establishing the rules (the Zoning Commission) that govern development of land must try to prepare the regulations in a way that, over time, will result in development that provides a favorable return to the owners of the land and improvements, a favorable environment for those who work or live there, and contribute to the vitality of the overall community and region.

Urban land is a scarce commodity. This urban land is of critical import and sensitivity due to its proximity to the Capitol complex and the fact that one of its boundaries is formed by the Anacostia River.

Why the Zoning Commission Should Act:

- **Regulations Inconsistent with Comprehensive Plan: Most of the land in this case is currently zoned in the "M" (or industrial/manufacturing) and "CM" (commercial/manufacturing) series, reflecting uses that were established, in many instances, prior to the 1958 revisions to the Zoning Regulations and, in nearly all instances, prior to the adoption of the Comprehensive Plan and its amendments (late 1970's to present). Zone districts in those series do not permit residential uses. Yet, the Comprehensive Plan calls for residential development to occur. To this extent, at least, the current Zoning Regulations appear to be "inconsistent" with the Comprehensive Plan and could be found deficient on that point.**

- **Inappropriate Development Envelopes under Present Zoning: Current zoning would allow matter of right buildings of differing heights and densities on opposite sides of Potomac Avenue, and other places where the CM/M district zones lie across the street from one another. As**

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presently mapped, the height/density edge is irregular, at best, and could result in highly irregular urban form on what is essentially flat land. There is no continuing planning rationale for these differences at this time, whatever there may have been (if any) when the current zoning was established.

o Current Industrial Uses Are (as they should be) Protected: Drafters of the proposed Zoning Regulations have taken steps to allow current industrial uses to continue indefinitely, and even to expand in a relatively unfettered way (performance standards would apply to the expansion).

Recommendations:

Overall, I recommend that the Commission adopt the changes to the Zoning Regulations that would replace current zoning regulations for the Buzzards Point / Capital Gateway area.

However, the hearing process affords the opportunity to consider refinements and changes. My specific comments follow and are presented, to the extent possible, in the order in which the corresponding provision appears in the Notice of Public Hearing.

1. Clarify and add to the Preamble to the Zone (1600.2):

(a). ~~Assure~~ Foster development ... as generally required by the Comprehensive Plan and recommended by planning studies of the area.

(d). ~~Provide for a reduced height and bulk of~~ Establish appropriate height and bulk for buildings throughout the area and particularly along the Anacostia riverfront ....

(f). Provide additional incentives for those making early investment in development in the area, and additional incentives to those who provide residential uses where residents would live, not where transients would be accommodated.

2. Provide a stronger incentive for "resident" residential uses (1601.3):

A building or a combined lot development that provides residential uses shall earn one square foot of bonus density for each square foot of gross floor area devoted to residential uses associated with transients (e.g., guest room areas of hotels or inns) and two square feet of bonus density for each square foot of gross floor area devoted to residential uses associated with permanent residents (e.g., dwellings, flats, multiple dwellings, apartments, and CBRFs).

3. Determine if there is a need for an incentive for "pioneer" development.

If so, consider a means to permit early investment to be free of (or have reduced requirements for) residential development, but maintaining "uniformity" across the entire BP overlay district. At a minimum, there should be some design review, akin to antenna tower process, but focusing on design and construction issues. Relief/incentives for pioneers might also be approached by requiring them to file a special exception case before the BZA, demonstrating the lack of market for residential uses, the contributions the proposed development would make to the BP overlay district, quality of design and construction, and that its approval would not hinder the overall attainment of the objectives of the BP overlay district. If any such a system for relief is established, it might also be time limited (see comments relative to §1605).

4. Clarify responsibilities and improve enforcement in Combined Lot Development (1602).

Provide that DCRA may consider an application for a building permit when combined lot development is contemplated provided that the conditions of §1602.3 are met (legally sufficient instrument). Provide that DCRA may also approve on that basis.

Specifically state who is responsible for filing the "document" with the Recorder of Deeds, e.g.:

> **The owner(s) or contract purchaser(s) of all lots involved in the transfer shall record the document in the Office of the Recorder of Deeds (1602.5).**

And, add the enforcement insurance clause:

> **The Zoning Administrator will not issue any Certificate of Occupancy for lots where such a transfer document has been recorded until the owner provides the Zoning Administratory with a certified copy from the Office of the Recorder of Deeds for the Zoning Administrator to evaluate relative to the use(s) whose approval is sought in the request forthe Certificate of Occupancy.**

5. **Evaluate need for clarification, and possible extension, of proposed "M Street" setback regulations, and clarify "ground floor" use regulations:**

"Streetwall of each new building" would not necessarily apply to additions to existing buildings. This does not appear to be the intent. Consider revising as in:

> **All walls shall be set back five feet (5') or more from the property line along M Street [in the BP overlay district] from South Capitol Street to 4'th Street, S.E.**

Moreover, if justified, to create an even setback on both east and west sides of M Street from South Capitol Street, consider extending the setback requirement to the proposed R-4 and C-2-C districts as well:

> ***** ... from 1'st Street,[1] S.W. to 4'th Street, S.E.**

By employing the defined term "ground floor," the result may not be what is intended. My sense is that the use of any floor entered directly from M Street should be governed in the manner proposed, whether it is the zoning administrator's determination it is the ground floor or not. Thus, consider text such as:

> **Each ~~new~~ building ~~that fronts on~~ located along M Street, S.E., between North Capitol Street and 4'th Street, S.E., must provide a pedestrian entrance to its M Street front or side and shall devote no less than 50 percent (50%) of the gross floor area of the ~~ground floor~~ floor having one or more such entrances to retail, service, entertainment, or arts uses ....**

6. **Establish Time Limit (Extend Later, if Warranted); Apply Performance Standards for Uses that Expand:**

> **A commercial of industrial use that is first permitted in the CM or M zone and that is in existence with a valid Certificate of Occupancy as of date,**
>
> **(a) shall be deemed a conforming use, and**
>
> **(b) shall, until 15 years from date,[2] be entitled to expand as a matter of right up to the commercial floor area ratio and height limits of the underlying zone district; Provided, that the performance standards of sections 804 and 805 of the CM district or**

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[1] The segment of the R-4 district to the West of 1'st Street, S.W., is public land where a setback requirement may not be essential, but this segment could be added as well with appropriate metrics, as in "200 feet west of 1'st Street, S.W."

[2] Extend this deadline, later, if conditions continue to warrant doing so.

secions 825 and 826 of the M district applicable to the use shall apply to ~~any expansion~~ the entire use as expanded.

Thank you for considering my testimony in this case.

Lindsley Williams