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April 4, 1996

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OFFICE OF ZONING
DISTRICT OF COLUMBIA

BY HAND

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

Re: Proposed Buzzard Point Overlay District

Dear Members of the Commission:

The Office of Planning has submitted to the Zoning Commission a report, dated March 29, 1996, recommending that the Commission schedule a public hearing on rezoning of the Buzzard Point area from C-M-2 and M to CR and W-2 with a new Buzzard Point (BP) overlay district. We hereby request that the Zoning Commission advertise an additional provision to the language recommended by the Office of Planning to protect certain rights of the Tauber Realty Corporation (Tauber).

Tauber owns two existing office buildings, at 2100 2nd Street, S.W., and 1900 Half Street, S.W., within the area to be rezoned to CR and W-2 and to be designated with the new BP overlay district. The two buildings were constructed in the mid-1970s under the height and density provisions of the M District, which allowed a maximum height of ninety feet and a maximum floor area ratio of 6.0. Both buildings exceed the height and density proposed under the BP/W-2 District, which would partially apply to both sites.

Both buildings have been continuously occupied by offices of government agencies under leases with the General Services Administration. The proposed assessed value for Tax Year 1997 (as of January 1, 1996) of the two properties is over $62 million.

These two properties were improved at a time when the District Government was encouraging the development of office space to serve Federal agencies, as a means of retaining jobs in the central city. The buildings were "pioneers," in the sense that they were the only new commercial construction in an area which was otherwise predominantly devoted to heavy commercial and light industrial uses and they were the forerunners of what was projected to be the gradual

ZONING COMMISSION
District of Columbia
CASE NO.96-3
EXHIBIT NO.4

94-3/89
4

4/4/96

of the area to commercial use. The buildings are still the largest existing developments in the area.

The proposed BP overlay district, when mapped in combination with the CR and W-2 Districts, is intended to respond to the present Comprehensive Plan guidance. The Generalized Land Use Map designates this area for mixed-use, in a combination of medium-high density commercial, high-density residential and production and technical employment. The two existing office buildings would be consistent with the commercial element of that mix. However, the W-2 District as applied to those properties would render them nonconforming structures.

Experience over the years has demonstrated that a nonconforming status is not advantageous to a property owner. The difficulties associated with financing, insurance and renovations, even for a nonconforming structure devoted to a conforming use, have been presented to the Commission in other cases. Given the investment in place, the status of these buildings, their continuation over time and the need to be able to modernize and update the buildings to reflect changing regulations and changing tenancies, Tauber should not be penalized by a nonconforming status. This is especially true given that the proposed BP overlay district contains a special provision to protect the rights of existing industrial uses.

Accordingly, we would request that the Zoning Commission advertise an additional provision to be included in the BP overlay district. That language would revise proposed Section 1605 to read as follows:

1605 EXISTING ~~INDUSTRIAL~~ USES

1605.1 ...

1605.2 An office building that is in existence with a valid Certificate of Occupancy and which is built to more than eighty percent of the height or floor area ratio of the zoning in effect prior to the inclusion of the site in the BP overlay shall be considered a conforming structure. Such a building may be renovated, altered, maintained and continued.

(Note: new text to be added shown **bold and double-underlined**; existing text to be deleted shown ~~struck-through~~)

We believe that the proposed language would recognize the vested rights of the two existing buildings and would not be inconsistent with the overall thrust of the proposed zoning package for Buzzard Point. We will be preparing further evidence and testimony on this issue to be presented at the public hearing, so that the Commission can determine how to apply the new regulations to these buildings. Accordingly, we request that the Commission include the above-stated language in the notice of public hearing.

Sincerely,

Norman M. Glasgow, Jr.

cc: Jill C. Dennis, Office of Planning
Nate Gross, Office of Planning