

Laura M. Richards
3524 Carpenter Street, SE, Washington, DC 20020
202-583-3524 ♦ lmrichards@gmail.com

Mr. Anthony Hood, Chairman
District of Columbia Zoning Commission
441 4th Street, N.W., Suite 200-S
Washington, D.C. 20001

Re: *ZC Case 17-17 Map Amendment to 1401 22nd Street, SE*
ANC 8A's Opposition to Request to Postpone Hearing

Advisory Neighborhood Commission 8A strongly objects to the request of PAL DC Storage, LLC ("Palatine") to postpone the February 15, 2018 hearing in map amendment case ZC 17-17. Palatine has stated no colorable reasons for the delay it seeks.

1. Palatine seeks a delay to meet with the community but refuses to say why it wants to meet.

Palatine has given no reason for its request to open a dialogue with the community. On Friday, February 2, 2018 and again on Monday, February 5, 2018, Palatine, through counsel, contacted Holly Muhammad, SMD 8A01, to request a meeting with the community. Palatine stated that while its building permit for a mini-storage area is vested and that its plans will not be affected by the rezoning, there are "always gray areas" to discuss. When pressed for more specific reasons to meet, Palatine was no more forthcoming. While the Zoning Commission commendably facilitates dialogue among participants in a zoning proceeding, there must first be a basis for dialogue. Palatine says it wants a pre-hearing dialogue, but it won't say why. Therefore, to the extent that the request to postpone is based on Palatine's desire for a pre-hearing meeting with the ANC, it must be denied.

2. Palatine's assertion that it only recently became aware of the pending petition to rezone the property is not plausible.

Palatine states that it purchased the property in August 2017 and became aware of the rezoning petition in January 2018. The community's interest in rezoning the property has been under discussion since at least 2016. It was raised on the public record in proceedings before the Public Space Committee (DDOT Tracking No. 202701) in a letter from the Fairlawn Citizens Association dated May 24, 2016 and in an ANC resolution dated June 6, 2016. The ANC initially approached the Office of Planning requesting an emergency change of zoning on March 9, 2017. The zoning change was under discussion in the public arena long before the ANC's formal request was filed in September 2017.

Palatine knew or should have known before January 2018 about the community's pursuit of rezoning. Palatine states that it bought the property in August 2017, at which point it acquired the owner's duty of due diligence. The property proposed to be rezoned changed hands several times during the past two years, at a range of prices, before being acquired by Palatine.

ANC 8A is not in a position to know if changes in the owner of record reflected changes in the real party in interest or whether there was privity between parties to the various transactions. ANC8A has dealt with one individual who purported to be or to represent the owner before and after Palatine's acquisition date. If there was privity between Palatine and prior owners, Palatine should have known about the rezoning through them; and if Palatine was an arms-length purchaser, its seller should have disclosed the community's pursuit of rezoning. Notice of the rezoning was published in the December 8, 2017 issue of the D.C. Register and the property was duly posted. Finally, if Palatine wanted to "open a dialogue" with the community, it could have done so at any time during the last five months. For these reasons, Palatine's assertions of ignorance about this proceeding cannot be the basis for granting its request for postponement.

3. ANC 8A will suffer significant prejudice from the postponement.

The ANC has announced and noticed the hearing date to the community and urged neighbors to save the date. The hearing is the culmination of a two-year effort. It will unduly and unnecessarily burden the ANC and the community as a whole to give notice of the change of date, to rearrange travel plans and to maintain momentum. In addition, the ANC must respond to other regulatory bodies involved in the non-zoning aspects of the development of this property as well as dealing with the numerous other matters within its purview. Changing the date of the hearing will disrupt its operation, and the plans of multiple neighbors, for the convenience of a single entity.

4. Palatine will suffer no prejudice by having a hearing on February 15.

Palatine states its understanding that its building permit is vested and will not be affected by the outcome of the hearing. Palatine states further that it is headquartered in Miami and will incur "significant travel expense, including flights and hotels, in order to be present at the hearing on February 15, 2018." Palatine will incur those travel and hotel expenses no matter when the hearing is held. Palatine acknowledges that it learned about the hearing in January, meaning that it had a minimum of 16 days to book a plane and a hotel. ANC 8A should not bear the burden of accommodating Palatine's apparent desire to economize on its travel expenses by delaying its departure date. In addition, while Palatine is headquartered in Miami, it has a local presence through PAL DC Storage, LLC and has retained local counsel.

Conclusion

For the foregoing reasons, ANC 8A asks the Commission to deny the request for postponement. ANC will be present at the Commission's February 8, 2018 meeting in the event that the Commission wants argument on the motion.

Sincerely,



Laura M. Richards

Zoning Consultant to ANC 8A

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of February, 2018, a copy of the foregoing ANC 8A's Opposition to Request to Postpone Hearing was served via electronic mail, on the following:

D.C. Office of Planning c/o Jennifer Steingasser, Deputy Director
1100 4th Street SW, Suite E650 Washington, DC 20024
Jennifer.steingasser@dc.gov

D.C. Department of Transportation c/o Jim Sebastian
55 M Street, SE, Suite 400 Washington, DC 20003
Jim.sebastian@dc.gov

Meridith H. Moldenhauer, Esq.
Cozen O'Connor
1200 19th Street, NW Washington, DC 20036
mmoldenhauer@cozen.com



Laura M. Richard