

June 4, 2019

VIA IZIS

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

Re: **Case Nos. 18-19 and 16-29: Supplemental Submission and Explanation for PUD Extinguishment – Lots 97, 1025-1031, 1036, and 1037 in Square 5860, and Lots 991 and 89 in Square 5861 (the “Property”)**

Dear Chairman Hood and Members of the Commission:

The Petitioner hereby supplements the Map Amendment Petition for the Property to the Northern Howard Road (“NHR”) Zone District and provides an explanation for the Motion to Extinguish. Petitioner would like to address the process of the text and map amendment and clarify the Petitioner’s intent regarding the previous Planned Unit Development (“PUD”) related to a portion of the Property. Petitioner maintains that the Office of Planning’s text amendment and this resulting map amendment are appropriate avenues to encourage development in this area in desperate need for development and economic vitality. Approval of the text amendment and map amendment is a clear and appropriate exercise of the Zoning Commission’s authority.

I. Text and Map Amendment

The text and map amendment are a clear and appropriate exercise of the Commission’s authority. Development in the District can occur in a myriad of ways. Property owners can, of course, develop their properties through matter-of-right development. However, where a matter-of-right development does not provide the opportunity for development consistent with the city’s vision for the best use for the property, owners and the District have a variety of tools to create development more consistent with the city’s vision. Included in this toolbox are PUDs, rezonings to existing Zone Districts, or the creation of new Zone Districts and rezonings of applicable land. This last tool is utilized most frequently in two scenarios – first, where a large property is publicly owned and undergoes a master-planning process for redevelopment prior to disposition; and second, where the city sees a need for specific development parameters often in exchange for increased height and density, for a geographically-limited area. These “Special Purpose Zone Districts” exist under Subtitle K of the Zoning Regulations.

A text and map amendment process are the most appropriate tool to encourage development at the Property and the surrounding area. This area adjacent to the Anacostia Metrorail Station is unique in the District – it is a large, undeveloped swath of land that will be a key location in the economic development of Ward 8. Additionally, its location adjacent to the Anacostia River and in an area in desperate need of additional housing, including affordable housing, makes this area ripe for creative planning tools to encourage development consistent with the Comprehensive Plan. Further, the map amendment is most appropriately considered as a rulemaking, given the broad policy implications of the decision, as detailed in Petitioner’s filing in the record at Exhibit 49.

Because this area is large, owned by multiple property owners, and the current matter-of-right options are not consistent with the city’s vision for the best development at the Property in the Comprehensive Plan, a text amendment to create a new Zone District and a map amendment to effectuate that new Zone present the best tool to encourage development in this area. This is similar to areas like the Capitol Gateway or Southeast Federal Center, where specific development requirements and incentives were instituted for a broad area of land. In fact, the Office of Planning’s text amendment is largely based on the Capitol Gateway Zone District, but specialized for this Northern Howard Road area.

A text and map amendment is the best tool to encourage development at the Property for many reasons. First, it allows the city’s planners at the Office of Planning to determine the best plan for this area generally. Second, it provides strict requirements for increased affordable housing, increased sustainability, and street-activating designs. Third and finally, it protects the many stakeholders input in future development through the Design Review process, which will include the Office of Planning and the Advisory Neighborhood Commissions.

While it is true, as the record states, that some of the requirements in the NHR-1 Zone District mirror those proposed in the PUD, this is to be expected when the Petitioner, the Office of Planning, and the Zoning Commission previously evaluated the Property and determined appropriate requirements consistent with the Comprehensive Plan. Even though the Petitioner and the Office of Planning have determined a different tool in the Commission’s toolbox better serves development at the Property and surrounding area than a PUD, that does not mean the general principles the Commission previously found to be consistent with the Comprehensive Plan cannot be re-utilized in determining the requirements for future development at the Property.

Therefore, for all the reasons stated above, the Office of Planning’s text amendment to create the NHR-1 Zone District and this petition for a map amendment to the newly created zone presents an appropriate opportunity for the Commission to utilize this tool to encourage development in this area of Ward 8.

II. Extinguishment of the PUD

The Petitioner, who also was the Applicant in the 16-29 PUD before the Zoning Commission, filed for an extinguishment of the PUD. At the public meeting on May 2, 2019, Commissioner May stated that he was “okay with going this process [the text and map amendment] and I’m okay with continuing with the PUD . . . but I’m not okay with doing both at

the same time.” (5/2 Transcript at 23.) Commissioner May further noted that “I think if the Applicant were to withdraw the PUD and simply go with this [the map amendment], then we can have this out and make a decision relatively quickly.” (*Id.*) The other Commissioners indicated agreement with Commissioner May at the meeting and the Office of Zoning staff outlined the next steps the Petitioner could take. In response, the Petitioner moved to extinguish the PUD the next day recognizing the Commission’s discomfort moving forward with the map amendment while the PUD Order was still technically valid.

Ever since the PUD was appealed to the DC Court of Appeals and the project lagged in the myriad of delays associated with the appeal, the Petitioner began exploring alternative ways the Property and this general area near the Anacostia Metrorail Station, could be developed. Of course, as detailed in part above, there are multiple avenues for development in the District; the city’s built environment is not solely determined by PUDs. First, the PUD is not the appropriate planning tool for development for this Property. The PUD approach only viewed a portion of the Property through a narrow lens specific to that site and that property owner. However, because the PUD site sat within a larger area in need for development whose existing zoning is not consistent with the Comprehensive Plan, a larger view is needed for this area. Therefore, in conversations with the Office of Planning, the Petitioner agreed to pursue the map amendment associated with the new Zone District proposed by the Office of Planning.

While the PUD appeal has been voluntarily dismissed on a motion by the Appellant, for multiple reasons, the PUD is still no longer a valid option for development for the Property. First and foremost, because the Property is so large and the entire area is in need for redevelopment, a PUD on such a scale creates significant time barriers. For example, under the 16-29 PUD, the Petitioner expected to go through five subsequent second-stage PUDs. Each second-stage PUD would prolong the development process further, and each second-stage PUD could be subject to appeal, which makes the PUD timing largely unworkable. For an area, as detailed above, where development and revitalization is key, such a long-delayed process would be detrimental to the success of development.

Additionally, the Petitioner’s goal for the Property includes a large government tenant to provide a large number of jobs for this area. In order to secure such a tenant, a firm and predictable timeline, like through a Design Review case, is necessary. Such a timeline will give comfort to such risk-averse tenants. This area east of the river is ripe for development with a significant number of office jobs and state-of-the-art housing facilities. The PUD would not provide this kind of timeline and would jeopardize the ability to secure such an important tenant. Instead, based upon the set down in Cases 18-18 and 18-19, Petitioner has diligently pursued a large federal tenant(s), entailing extensive pre-design work, and engaged significantly with the community, including the Advisory Neighborhood Commissions and CARE, regarding the text and map amendment process.

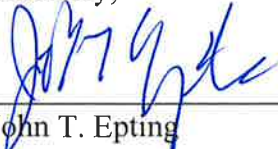
Finally, the PUD precedent for this area with a vast area of vacant land ready for development would present the possibility of disjointed future development based on each individual PUD for a large swath of land. Instead, the text and map amendment standards and the Design Review process required in the future, allows this area to be developed in a uniform manner. Through the creation of the Northern Howard Road concept, the Commission would set a precedent for a process to create options for development in the area that prioritizes even

planning principles, provides for affordable housing and sustainability priorities, and gives the community, Office of Planning, and Zoning Commission input into future development through Design Review.

III. Conclusion

For the foregoing reasons, the Petitioner believes the rezoning is an appropriate action for the Zoning Commission and requests the Commission approve the rulemaking map amendment in case 18-19 and extinguish the PUD in case 16-29. Please feel free to contact John at (202) 721-1108 or Meghan at (202) 721-1138 if you have any questions regarding the above. We look forward to the Commission's consideration of this matter at the June 6th public hearing.

Sincerely,



John T. Epting



Meghan Hottel-Cox

Certificate of Service

The undersigned hereby certifies that copies of the foregoing document will be sent by first-class mail or hand delivery to the following addresses on June 4, 2019.

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