

Zoning Case 19-10

Testimony of Troy Kravitz on behalf of ANC3D

Thank you, yet again, for having me officially on behalf of ANC 3D. I'm glad to be here. But, mostly, I'm glad to be almost done with this project. We think we're almost there. As you can tell from our vote count, our Commission didn't appear to have much trouble evaluating the PUD application.

You have our properly-adopted resolution in Exhibit 26. We review the application in light of the PUD Evaluation Standards in DCMR Section 11-2403.

Subsection 2403.3 is about city services and facilities. Balancing the impact of potential increased crowding at our neighborhood schools against expanding the opportunity of high-quality education to more members of the community, we believe this project is at least acceptable and likely favorable in terms of impact on public school facilities. We believe the proposal's impact on transportation to be acceptable as well.

Subsection 2403.4 is about compatibility with the Comprehensive Plan. We find no obvious reason to believe the project is inconsistent with the Comprehensive Plan and we have provided some photos in our submission to show the project in relation to existing buildings in the same commercial area.

For subsections 2403.6 and 2403.7, we list several public benefits and amenities that are superior features to a significantly greater extent than likely under a matter-of-right proposal. We start with the grocery store. This is a significant benefit. The existence of a zoning statute that (a) doesn't apply and (b) defies all reason doesn't change that. The grocery store is proffered under 305.5(q), not 305.5(j), if that even matters. But, regardless, in a city of 68.34 square miles, asserting that a grocery store does not count as a public benefit if there's another one within a 28 square mile area is an argument beyond redemption.

Second is housing, and in particular affordable housing, including exceeding the required amount by at least 10%. Third is funding for a HAWK light to improve pedestrian crossings so that the existing make-shift porosity of the commercial area can be formalized safely. Adding sidewalks, cleaning up the dumpster alleys, LEED Gold certification, outdoor publicly-accessible space, and reduced height and massing facing the neighborhood homes on 48<sup>th</sup> Street are other benefits and amenities.

Per subsection 2403.8, these project amenities and public benefits are judged against the degree of development incentives requested. And now the punchline: **in our evaluation of this proposal, we believe the PUD application in ZC 19-10 should be approved according to the standards of DCMR Section 11-2403.**

But, really, we're glad to be here. It's been challenging, don't get me wrong. You can probably tell, especially when one party testifies before this Commission that "*We've been trying to basically leave no stone unturned to try to figure out reasons to oppose*" the project (ZC 16-23, Jan. 24, 2019, pp. 71-72). That's one way to engage, I guess.

At this point, we've heard everything. The arguments coming before you, they've probably come before us already. We've heard about the grocery store, and how stores really aren't needed anymore, or that we live in a cornucopia of grocery options, at least once you're willing to buckle up and drive through

other communities to someone else's neighborhood store. Heck, we've even heard that CVS could satisfy most of our needs if pressed. And that Target coming a mile away in Tenleytown? The people building out the space snickered when I asked about the "grocery" space. It will be 1,500 square feet of frozen and pre-packaged food.

We've heard about the loss of existing businesses. It's funny, these same lamentations about the loss of businesses, where were they when Wagshal's added their dining restaurant just before 2016? This helped cause Wagshal's nextdoor neighbor, our local neighborhood Thai place, to close up shop. (The space is still vacant.) And just to go fully through the looking glass, I read a few months ago that Wagshal's is looking to expand into other neighborhoods. I have the quote right here: Wagshal's owner said, "*we've decided to move forward into a pretty aggressive growth pattern*" (<https://www.bisnow.com/washington-dc/news/retail/wagshals-deli-a-90-year-old-dc-institution-looks-to-expand-95040>). He didn't reveal how many neighborhoods he wants to enter, but I wish him god speed in doing so and hope none of the residents in those locations – let alone any existing businesses seeking to cordon off "their" turf -- try to keep him out.

And we've heard about adding new residents to our community. You can tell how those private conversations go when opponents testify before you in public about "*unnecessary people*" (ZC 16-23, Jan. 24, 2019, p. 134). I guess that's better than when a 200-footer spoke at our December 2018 ANC meeting, referring to the project and it's "*density of these people*" as a "*pile of manure*" (December 5, 2018 ANC3D meeting, minute 01:43:00).

Not only do we not share those views, we reject them and all their attendant arguments. My children go to a wonderful neighborhood public school. The student population exceeds the programmatic building capacity, just like the other schools nearby. But the right response is not to close our doors. We have a wonderful school and even better community that has worked tirelessly to create the special environment that it is. We need to find ways to expand the opportunity for such an education, the opportunity to become part of such a community. We need to expand them to more people. My children have no more right to those opportunities than my neighbor's child. Getting there first is not a defense for building a wall as soon as you enter. What's next, placing a covenant on the home of every senior in our community who may sell to a young family? (The logic is the same.) Our community has done covenants in the past. Exclusion didn't have a place then, and it sure doesn't have a place now.

So when people talk about renters, you can guess our view. We hope, and we have asked the applicant, to include both units for rent and units for purchase. We believe a diversity of unit types benefits the broader community. We welcome a diverse assortment of unit sizes and affordability levels so that people from a broader socioeconomic demographic can join our community.

There are some things we'd still like to see. We seek the Commission's guidance on the appropriate width of the sidewalks in the alleys. I, personally, have found myself persuaded in both directions on this matter. We didn't suggest to have the alley widened because we don't think it should be. A 30-foot wide street (generally the minimum in our area) with parking has a passageway of 16-17 feet. Such a street usually carries vehicles along it for blocks and blocks. This proposal includes an alley, stretching half a block, that is 20 feet wide.

We remain supportive of limiting the applicant's upward flexibility to increase the number of units by up to 10%. Uncertainty is costly. We get that. And we understand that requesting such flexibility is

practically standard. But we'd like to see the applicant work within their baseline project instead of foisting the uncertainty upon us.

And, lastly, we'd like to see the Zoning Commission grant the applicant flexibility to increase the amount of retail and commercial space at the site. They haven't asked for this, and you may wonder what we're envisioning here, but there are many within the community that would like to see more retail space in the project. Some of them have been parties in opposition in the past, and some still are. We've tried to convince the applicants to increase the retail space. I'm sure they have good reasons for not running with the request, but we'd like to continue lobbying them even after this application has been approved.

Finally, a personal aside, an indulgence if you will for having spent hundreds of hours on this case. This is my opinion and my opinion alone. This case has helped me learn what's working and, more accurately, what's not working with development and community participation throughout the District. It's led me to author ANC resolutions about Inclusionary Zoning (Case 04-331) and new zoning classifications (Case 18-06). I've told everyone who will listen from the Council on down that we, as knowledgeable and experienced participants in the development process, need to fix a few things. First, we need to stop allowing the Comp Plan to be weaponized against development. The Comp Plan is important and it serves a vital role, but it's vagueness has become the go-to crutch of those seeking to oppose anything. Reading it is a bit like reading Dr. Suess in that you never know where you'll end up. The Comp Plan amendment process is still upon us. We, as experienced participants, need to engage with it.

Relatedly, we need to find a way to convince developers to stop buying off neighbors (or non-neighbors in some cases) who aren't acting on behalf of the broader community. Sometimes it's egregious, like when good old payoffs are embraced. Community forget-me-not funds, if that's what you want to call them. The absence of transparency, the lawsuits, these are all signs of so-called community benefits not benefitting the community. More often, hopefully, it is subtler. It is allowing a project for the whole community to suffer death by a thousand cuts to mollify a small, narrow and vocal constituency. Too much money is burnt throughout this process. In both cases, money is burnt, instead of being put to productive use, and the community suffers.

And we need to hold developers more accountable. I want more from them, and I want to make sure they deliver what they promise. Instead of spending hundreds of thousands of dollars trying to ward off opposition and then, when it materializes anyway, fighting off appeals and lawsuits that are practically a foregone conclusion from the start, I want the developers to take this money they would have otherwise burnt and spend some portion of it back on the community. That'll help the whole community benefit from development instead of just a few well-positioned advocates.

We need to be more responsible with how we encourage developers to engage with the community. We. All of us. There's a better path forward, but we (all of us) need to work to build it.

As for this case, you've heard from neighbors and neighborhood groups. You've even heard about the interests of Maryland commuters and the views of Maryland NIMBY organizations. You've heard from the District's Office of Planning, and the District Department of Transportation, and the ANCs, both of them. I believe you have what you need. Now is a good time to stand up and start down that better path.

Thank you.