ANC 6C Planning, Zoning, and Economic Development Committee Report

ANC 6C Commission Meeting: November 14, 2018

PZE Meeting Date: November 7, 2018 6:30 pm

Meeting Location: Northeast Library
7th & D Streets NE

Committee Attendees: Mark Eckenwiler (Chair)
Joel Kelty
Bobbi Krengel
Lauren Oswalt
Bill Sisolak
Dru Tallant

Other Commissioners Present: Heather Edelman, 6C06

Agenda Items

1. 2 Patterson St. NE – Update on RFP (request for proposals) for 42,000sf lot. Representative: Patrick Smith, DMPED. (non-voting item)

2. 1200 3rd St. NE (ZC 16-09A) – Application for modification of consequence to previously approved PUD. Representative: Rich McPhillips (Trammell Crow). Hearing date: n/a. [6C06] (Case file)

3. Proposed zoning regulation amendments (ZC 17-03) – Review of proposed amendments to the rules concerning grandfathering (“vesting”) of construction rights with respect to subsequent changes in the zoning map or regulations. Comments due December 3. (Case file)


5. Capitol Crossing/I-395 air-rights project (ZC 08-34) – Informational presentation on contemplated modification to approved first-stage PUD to replace residential use with hotel use. Representative: Christine Shiker, Esq. Hearing date: n/a. [6C02] (Case file for original approved PUD) (non-voting item)

6. 200 K St. NE (ZC 05-36 through 05-36L) – Informational presentation on contemplated modification to approved multi-phase PUD to replace 70-90 out of 525 residential units with hotel use. Representative: Dennis Hughes, Esq. Hearing date: n/a. [6C06] (Case file for original approved PUD) (non-voting item)
Agenda Item #1: Discussion and Recommendations

2 Patterson St. NE – Update on RFP (request for proposals) for 42,000sf lot. Representative: Patrick Smith, DMPED. (non-voting item)

Motion n/a

Key Discussion Points:

1. Patrick Smith advised that six applicants responded to the RFP for development of this DC-owned site.

2. The applicants will present their respective concepts at a DMPED-sponsored hearing on November 28, 6:30-8:30pm, at the Walker-Jones Education Campus, 1125 New Jersey Avenue NW.

3. The PZE will also invite the applicants to present (in groups of three) at its December and January meetings.

4. Details on the RFP and the six applicants may be found at https://dmped.dc.gov/page/2-patterson-street-ne-request-proposals-rfp
Agenda Item #2: Discussion and Recommendations

1200 3rd St. NE (ZC 16-09A) – Application for modification of consequence to previously approved PUD. Representative: Rich McPhillips (Trammell Crow). Hearing date: n/a. [6C06]

Motion  
To recommend support with one condition  
(carried 6-0)

Key Discussion Points:

1. The applicants seeks to revise this previously approved PUD in two respects. First, it seeks to replace the exterior materials on the eastern façade of the hotel tower from wood composite (approved) to glazed terra cotta (proposed). Second, it seeks to modify the underground parking plan to a) allow compact space in groups of less than five and b) allow standard spaces of 9’x18’ in lieu of 9’x19’. (The new parking plan complies with ZR16, but this PUD was approved under ZR58 and thus subject to the older standards.)

2. PZE members had no objection to either requested change and recommend support. However, the drawings for Level B1 appeared to show the exterior door for the garage entrance on M St. being recessed much farther back from the property line. The applicant indicated that any ambiguity in the drawings is an error and that the intent is not to recess the door. The PZE voted to make its recommendation on the door being no further back than as in the original approved drawings.
Agenda Item #3: Discussion and Recommendations

Proposed zoning regulation amendments (ZC 17-03) – Review of proposed amendments to the rules concerning grandfathering (“vesting”) of construction rights with respect to subsequent changes in the zoning map or regulations. Comments due December 3.

Motion  To recommend opposition (see below)
(carried 6-0)

Key Discussion Points:

1. The proposed rulemaking, viewed in a vacuum, addresses a narrow class of cases in which a significant event occurs between an application and permit issuance: a) those in which a proposal to rezone a site is filed after a building permit application, and b) those where the BZA approves a request for relief, but the zoning regulations change before the issuance of a final order granting permission for a permit.

2. PZE members expressed substantial concern over two aspects of the rulemaking. First, the change to section A-301.5(a) inserts new text requiring that an application be “officially accepted as complete and under review” as a condition of being vested in the re-zoning scenario. However, several other current vesting provisions (e.g., A 301.14) refer only to applications being “accepted as complete,” and the rulemaking does not amend them. Failing to conform these other provisions would imply that the standard for vesting there is lower, i.e., that such applications need not be “under review.”

3. In addition, PZE members were troubled by the new text in A 301.5(a)(2). On its face, that language would allow vesting even where an application later undergoes material changes/revisions, so long as the later changes bring the application into greater conformity by correcting zoning errors.

4. This language is doubly troubling. First, it creates a perverse incentive for applicants to overreach and include zoning nonconformities in applications, given that any such violations—no matter how significant or extensive—may be cured later with no penalty.

5. Second, several other parallel provisions of section A 301 (e.g., A 301.14 and 301.15) condition vesting on an application not being “substantially changed” after filing. The new section A 301.5(a)(2) is likely to be treated by DCRA as defining “substantial change,” thereby expanding the availability of vesting to bad-faith applications in numerous other circumstances.
**Agenda Item #4: Discussion and Recommendations**


**Motion**  
*To recommend support*  
(carried 6-0)

**Key Discussion Points:**

1. ANC 6C previously voted to support, with some revisions, OP’s proposed changes to the Framework Element of the Comp Plan.

2. Since then, OP submitted an August 24 report to the Council suggesting additional language for the Framework Element. Most of the new language consists of additional narrative detailing the increase in DC housing costs over the past decade and the lack of adequate affordable housing. OP’s supplemental report also suggests that the standards for PUDs be amended to make the production of new affordable units, and the prevention of displacement of current residents, “high-priority public benefits” in the weighing of a PUD application. PZE members endorsed this additional language.
Agenda Item #5: Discussion and Recommendations

Capitol Crossing/I-395 air-rights project (ZC 08-34) – Informational presentation on contemplated modification to approved first-stage PUD to replace residential use with hotel use. Representative: Christine Shiker, Esq. Hearing date: n/a. [6C02] (non-voting item)

Motion n/a

Key Discussion Points:

1. As part of the earlier approved PUD, this applicant received Stage 1 approval for a building in the Center Block with ground-floor retail and 150 residential units (~150K sf). Of the latter, 50 units/50K sf was to be dedicated to affordable housing at 80% AMI.

2. The applicant is considering filing an application to change the building from residential to hotel use. To offset the loss of affordable housing, the applicant proposes to create 100 units (85 at 50% AMI, 15 at 30% AMI) in southwest DC near Buzzard Point.

3. PZE members expressed substantial disapproval of the proposal. Grounds for objection included the relocation of affordable units outside ANC 6C; the clustering of affordable units in an all-affordable building (rather than integrated into a market-rate building); and the lack of clarity over how the proposed 100 new units would compare in terms of square footage relative to the approved PUD. PZE members noted the desirable increase in levels of affordability, but were disinclined to view this as a sufficient offset.

4. Several Ward 6 residents in attendance spoke in opposition, expressing concern about the potential for further segregating DC residents by class and race.
Agenda Item #6: Discussion and Recommendations

200 K St. NE (ZC 05-36 through 05-36L) – Informational presentation on contemplated modification to approved multi-phase PUD to replace 70-90 out of 525 residential units with hotel use. Representative: Dennis Hughes, Esq. Hearing date: n/a. [6C06] (non-voting item)

Motion  n/a

Key Discussion Points:

1. As in the previous item, this applicant is considering filing a request to change the use of part of a previously approved PUD. Here, the applicant expressed a desire to seek permission to change up to 17% of the approved residential units to “lodging” (hotel) use.

2. PZE members and the public expressed dislike for the suggested change, both because it would remove additional housing units and because of the likelihood of increasing motor-vehicle trips along K St.