

DISTRICT OF COLUMBIA ZONING COMMISSION
441 4th Street NW, Suite 200 South
Washington, DC 20009

Motion in Support of Friends of McMillan Park Request for Deferment
ZONING COMMISSION REHEARING, ZC CASE NO. 13-14

Pursuant to 11 DCMR 3020.1(d) or 11 DCMR Z-407.5, DC for Reasonable Development (“DC4RD”) submits this Motion in Support of Friends of McMillan Park Request for Deferment.

DC4RD is a Petitioner in DC Court of Appeals Case Nos. 15-AA-0493, 15-AA-0525, 15-AA-0536, 15-AA-0572, and 15-AA-1008. These cases were collectively adjudicated on December 8, 2016, in favor of the Petitioners, vacating wholly Zoning Commission Order No. 13-14. More to the point, the DC Court of Appeals panel of judges reference, *Ait-Ghezala v. District of Columbia Bd. of Zoning Adjustment* (D.C. Nov. 10, 2016), in suggesting that additional zoning hearings may result in the Commission "reaching a different result" from the first set of hearings in 2014.

As it is, there have been no submissions to the agency record and no zoning hearings held on this matter in nearly three years. Now comes the Applicant, just a mere ten days before a new set of hearings are to begin on March 23, 2017, with the submission of documentation consisting of more than three-hundred pages stretching across at least seventeen submitted exhibits. Exhibits 895, 896A-896P on the agency record.

The Applicant's response in opposition to FOMP's request for deferment dated March 16, 2017 (Exhibit 901) demonstrates the unnecessary pressure the Applicant wants

to insert into these new hearings, thus jeopardizing the standing and due process of FOMP, DC4RD, and the public in review of the Applicant's voluminous new material that may serve as basis for any new decision of the Commission.

To summarize, the Applicant is relying on at least three-hundred pages of new information to pursue re-approval of a high-density zoning application and project at McMillan Park. Under normal circumstances and a typical zoning application process, a significant volume of documents like those just entered into the record by the Applicant would have been available at least several weeks before any hearing was scheduled. Time for review of application materials is especially important in a contested case with opposition parties. As such, FOMP is heavily prejudiced by the current rehearing timeline and review process, and as well, DC4RD members and the public are surprised too.

Per 11 DCMR Z-401.10, DC4RD strongly supports FOMP's request to defer the scheduled rehearing in ZC Case No. 13-14, currently set for March 23, 2017, to at least 30 days out, preferably more than 45 days, so to provide the due process and time needed for opposition parties to fairly prepare arguments and evidence that may help the Commission reach a different conclusion about the case as suggested by the Court. *Ait-Ghezala v. District of Columbia Bd. of Zoning Adjustment* (D.C. Nov. 10, 2016),

Moreover, by and of this motion, DC4RD in no way acquiesces our serious concern that the "limited-scope" posture presented to the public by the Zoning Commission and the Office of Attorney General is not at all appropriate or fair given how inter-connected the facts are with the policies of the DC Comprehensive Plan regarding

one of DC's biggest PUD cases centered on one of the last remaining large open public green spaces left in our city, McMillan Park.

For DC for Reasonable Development, I submit this Motion on the 16th day of March, 2017, and ask the Commission to grant FOMP's request for deferment to allow a fair review of the aforementioned stacks of new information just recently submitted to the zoning record in ZC Case No. 13-14.

Submitted by,

/s/n Chris Otten

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Motion in Support of Friends of McMillan Park Request for Deferment was served to the following parties on March 16, 2017, by email to:

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Signed,

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