

PHYSIS

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January 20, 2014

Ms. Judy Daniel
Department Director
Planning and Development Department
The City of Asheville
70 Court Plaza
Asheville, NC 28801

re: conditional zoning for 287 and 291 E. Chestnut St.

Dear Judy:

Physis, LLC was formed in 2011 to develop urban infill properties in Asheville. In December 2012 we began efforts to rezone our parcels at 287 and 291 E. Chestnut Street with three goals: sustainability, affordability, and modern architecture.

Our rezoning efforts have received considerable opposition and drawn unreasonable appeals from neighbors. Neighborhood opponents seem disinterested in a clear understanding of how our plans work with the UDO to benefit our community. The Preservation Society of Asheville and Buncombe County has encouraged the filing of protest petitions. Worse, speaking to the opposition of development in general, the PSABC has stated "We'd like to do more of this, especially in inner-ring neighborhoods that face the most development pressure". Such special interest groups can and do obstruct the development process, sometimes limiting opportunity for our community.

The unpredictability of the development process, minimal qualifications required for protest petitions, and the potential for further delays present risks that small developers such as Physis can ill afford. Enough is enough. Regrettably, we are withdrawing our rezoning application and will develop the sites as currently zoned.

It is noteworthy that Physis is owned by architects. We absorb the cost of substantial delays incurred through the development process, costs rarely affordable by developers employing design professionals to navigate the UDO. Why is a developer seeking to affordably and sustainably develop infill sites presented with obstacles at every turn? How can members of the Planning and Zoning Commission, while representing Council, oppose a development in contradiction to both the UDO and stated Council vision?

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Please consider the following recommendations:

1. Our targeted density could have been achieved through RM-16 zoning with density bonuses. However, higher densities can require increased setbacks, necessitating a variance by the Board of Adjustment. Density bonuses are special conditions and uses by right subject to special conditions may not be varied. There is no option except to seek conditional zoning. Consider modifying our UDO, permitting developers to seek variances from the BOA of uses by right subject to special conditions.
2. Currently, qualifying for a protest petition is unfairly easy. This creates undue hardships for developers. Some regulations governing protest petitions are established by State statute and others are codified by the UDO. Consider both lobbying the General Assembly to modify relevant statutes and modifying our UDO to create a more equitable balance between neighborhood concerns and city development goals.
3. The development process would be served by limiting community input both for and against a project to a specific juncture, ideally early on. Let's listen carefully, respond thoughtfully, and proceed.

Our experience with both City Council and City staff has been rewarding and professional. We appreciate the efforts made by both to address this issue, and look forward to future infill development opportunities. In the meantime we remain hopeful that Council will consider improving our development process for all concerned.

Sincerely,
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A handwritten signature in black ink, consisting of a horizontal line with a small dot above it, and a vertical line intersecting it from below.

Richard Fort, AIA LEED AP

A handwritten signature in black ink, featuring a stylized, cursive 'C' followed by 'SR' and a long horizontal line extending to the right.

Chad Roberson, AIA LEED BD+C

cc: Asheville City Council

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