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August 31, 2018

City of Fort Lauderdale
City Clerk's Office
Attn: David Soloman
100 N. Andrews Avenue, 7th Floor
Fort Lauderdale, FL 33301

RE: Appeal of Planning & Zoning Board Denial of Rezoning Application Case # Z17009 on August 15, 2018.

Dear Mr. Soloman,

This letter is being submitted pursuant to Section 47.26.B.1. of the City's ULDRs appealing the August 15, 2018 decision of the Planning and Zoning Board denying Case Number Z17009 which is a request for rezoning of the +/- 4.85 acre property generally located on the north side of NW 17th Street, east of NW 6th Avenue, south of NW 17th Court and west of NW 3rd Avenue ("Property") in the City of Fort Lauderdale ("City"). The Property has a future land use designation of Medium Density Residential and is currently zoned Residential Single Family/Medium Density District (RDs-15) and Residential Low Rise Multifamily/Medium High Density District (RML-25). Development 4Life Partners, LP ("Petitioner") submitted application number Z17009 to rezone the Property to the Residential Single Family Cluster Dwellings/Medium Density District (RC-15) ("Rezoning"). The Rezoning would then allow Petitioner to develop the Property with forty six (46) townhouse units ("Project"). Petitioner submitted required application materials and justification statements demonstrating that the Rezoning complies with the review criteria listed in the City's Unified Land Development Regulations ("ULDRs"). City staff reviewed the application and found the Rezoning to be consistent with the City's ULDRs, ultimately recommending approval of the application. On August 15, 2018, the City's Planning & Zoning Board held a public hearing and reviewed the Rezoning application after deferring the hearing following testimony presented at its February 21, 2018 meeting. Although Petitioner provided competent substantial evidence that the Rezoning met the criteria for such applications under Section 47.24.4D of the City's ULDRs, the Rezoning was denied by the City's Planning & Zoning Board. Petitioner is now respectfully appealing the decision of the City's Planning & Zoning Board as there was a departure from the essential requirements of law in the proceedings by the board and as competent substantial evidence does not exist to support the decision.

Section 47-24.4.D of the City's ULDRs states that rezoning applications shall be reviewed in accordance with the following criteria: (1) the zoning district proposed is consistent with the City's Comprehensive Plan; (2) the changes anticipated by the proposed rezoning will not adversely impact the character of development in or near the area under construction; and (3) the character of the area proposed is suitable.

for the uses permitted in the proposed zoning district and is compatible with surrounding districts and uses.

The Staff Report for the Rezoning specifically and expressly states that the Rezoning Application meets all the criteria for the Rezoning. At the August 15, 2018 Planning & Zoning Board hearing on the Rezoning Application, City staff also testified that the Rezoning application met all of the criteria for rezoning. Both Petitioner and City staff presented evidence and materials demonstrating that the Rezoning complies with the above noted criteria. No competent substantial evidence was presented to the Planning & Zoning Board to demonstrate the Rezoning did not comply with these criteria. Notwithstanding the foregoing, members of the Planning & Zoning Board made statements that they would not support the rezoning because the Property was previously rezoned to the RDS district and believe the City should have initiated a rezoning if they felt it was compatible with the surrounding community and the appropriate designation for the Property. City staff noted that City staff would only be able to initiate a rezoning process given direction to do so or upon application by the owner of the Property. As such, there was no basis for denial of the application.

More specifically, Petitioner provided the following evidence to demonstrate compliance with each criteria:

(1) The zoning district proposed is consistent with the City's Comprehensive Plan.

Petitioner submitted a justification statement for the Rezoning application that discussed the Residential Medium High future land use designation that applies to the Property per the City's Comprehensive Plan. A copy of that justification statement is attached hereto as Exhibit "A". Petitioner noted that the densities proposed through the Rezoning are consistent with those permitted under the Residential Medium High land use. Petitioner further detailed how this complies with Objective 1.19 of the City's Comprehensive Plan with indicated that development shall be compatible with present neighborhood density and with specific plans for redevelopment and Policy 1.19.8 stating that it is consistent in scale and manor with the existing neighborhood and surrounding areas. Petitioner also stated that the Project would comply with the recently adopted Neighborhood Development Criteria.

The City also entered a staff report prepared by planning experts into the record which supported Petitioner's position that the Rezoning met the required criteria in the ULDRs. A copy of that staff report is attached hereto as Exhibit "B". In the staff report, staff noted that the existing RDs-15 zoning and proposed RC-15 zoning both have a maximum density of fifteen (15) dwelling units per acre. Staff also noted that the portion of the Property that is currently zoned RM-25 would normally allow for more density. However, as the underlying land use still allows for a density of only fifteen (15) dwelling units per acre, rezoning this portion of the Property to the RC-15 zoning district will actually bring this portion of the site into compliance with the underlying land use. Staff also noted that the Rezoning provides for a needed transition between commercial business uses along Andrews Avenue and the single family residential neighborhood.

Within the Comprehensive Plan Consistency section of the staff report, staff reiterated the above referenced points. Staff further noted the Rezoning is also generally consistent with the City's Comprehensive Plan Goals, Objectives and Policies, including the Future Land Use Element, Goal 1, Objective 1.19: continue to evaluate and revise existing zoning in established single family neighborhoods to be consistent with existing density, scale and intensity. Staff noted the Rezoning is consistent with the

existing density, scale and intensity and noted that staff concurs with the assessment from Petitioner's justification statement.

The City's Planning & Zoning Board did not hear or review any evidence to contest the evidence from Petitioner and/or staff that the Rezoning complies with this criterion.

(2) The changes anticipated by the proposed rezoning will not adversely impact the character of development in or near the area under construction.

Petitioner presented evidence of the proposal to redevelop the Property with new two-story townhomes. Petitioner noted that the existing church on the Property is no longer operational and that, through the Rezoning, Petitioner will be able to develop the Property in a manner that will allow for a new Project that will enhance the aesthetics within the community and create a useful enjoyment of the Property. Petitioner also discussed how the redevelopment of residential uses on the Property will help create a sense of community by encouraging the use of the adjacent park which is not used by the current operators of the Property.

City staff further presented evidence that the Project will support targeted redevelopment, which maintaining community character. Staff noted that the requirements of the proposed zoning district and corresponding design standards would be applied at the time of site plan review that will collectively guide the design of the streetscape, open space and compatible building design. Staff also noted the newly adopted Neighborhood Design Criteria which went into effect in June 2017. Staff noted that the amendments incorporate specific design criteria to help address common concerns focused on more positive redevelopment as it relates to two-family, townhouse and cluster residential developments to ensure the design of such projects are compatible. Staff noted that the criteria address such items as the placement of garages, front entries, vehicular areas, pavement and landscaping in a manner that lessens the impact of such aspects in place of greater presence of the residential uses. Staff noted that the Project will be subject to these criteria at the time of site plan review and that through these criteria, the rezoning will not adversely impact the character of development in or near the area under construction.

Once again, the City's Planning & Zoning Board did not hear or review any evidence to contest the evidence from Petitioner and/or staff that the Rezoning complies with this criterion.

(3) The character of the area proposed is suitable for the uses permitted in the proposed zoning district and is compatible with surrounding districts and uses.

Petitioner presented evidence that the RC-15 zoning district is compatible with surrounding zoning districts and uses. More specifically, Petitioner demonstrated that the surrounding zoning districts support a variety of housing types, including townhomes. The RMM-25 zoning district to the north was shown to allow for townhomes, multifamily dwellings and cluster dwellings. The RDS-15 districts to the south and west were demonstrated to allow for duplexes, cluster dwellings and various public purpose facilities. Finally, the RML-25 zoning district to the east was also shown to provide cluster dwellings, townhomes and multifamily dwellings. Petitioner further provided evidence that, consistent with many

areas in the City, the eclectic mix of single family and multi-family uses can create a healthy mix of housing types for existing and future residents.

City staff provided additional evidence in support of this criterion. Staff demonstrated that existing uses adjacent to the property include residential duplexes and multifamily residential buildings to the north, east and west, with single family residential homes to the south. Staff discussed how the Rezoning would allow for townhouse units that will provide for a transition to the higher density area to the north, thereby bringing the lower medium density of single family homes and duplexes to the higher density of multifamily residential areas. The City also provided a use comparison chart which demonstrates that cluster dwellings, two family dwellings and zero-lot-line homes are permitted in the current zoning district and that similar uses are permitted within the RC-15 district with the addition of townhouse units. As such, the uses permitted in the proposed zoning district are compatible with the uses of surrounding zoning districts.

The City's Planning & Zoning Board did not hear or review any evidence to contest the evidence from Petitioner and/or staff that the Rezoning complies with this criterion.

As previously noted, rezoning applications shall be reviewed in accordance with the three (3) criteria noted in Section 47.24.4.D. Where competent substantial evidence has been provided to demonstrate compliance with those three (3) criteria and in absence of competent substantial evidence that the request fails to meet those criteria, a rezoning application must be approved. During the public hearing before the Planning & Zoning Board for the Rezoning, Petitioner and City staff both presented evidence, supported by the application materials, that the Rezoning met the standards in Section 47.24.4.D. As such, an appeal must be granted as competent substantial evidence does not exist to support the decision of the Planning & Zoning Board. Further, by making decisions based on factors not included within the criteria listed in Section 47.24.4.D, there was a departure from the essential requirements of law in the proceedings. Based on the foregoing, Petitioner respectfully requests that at the next available regularly scheduled meeting for the City Commission to accept this request for an appeal of the Planning & Zoning Board's denial of the Rezoning, and at this same meeting, conduct a de novo hearing and approve the Rezoning.

Sincerely,



Christina Bilenki, Esq.
Dunay, Miskel & Backman, LLP

Cc: Hope Calhoun, Esq.
Karl K. Albertson

Exhibit “A”



Gary Dunay	Ele Zachariades
Bonnie Miskel	Matthew H. Scott
Scott Backman	Christina Bilenki
Hope Calhoun	Heather Jo Allen
Dwayne Dickerson	Adrienne Noto

**REZONING NARRATIVE
ULDR SECTION 47-24.4. D.
D. R. HORTON, INC. (“Applicant”)**

D. R. HORTON (“Applicant”) intends to construct 46 two story townhomes (“Project”) on property generally located at 501 NW 17th Street on the City of Fort Lauderdale (“Property”). The Project will be constructed on a parcel is which previously operated as a church, which has now been closed for many years.

In accordance with the application submitted, the Applicant proposes to rezone the Property from RDS-15 and RML 25 to RC-15. In order to allow for development of the Project. As outlined herein, the rezoning application satisfies all of the requirements of Unified Land Development Regulation (“ULDR”) Section 47-24.4. D. regarding rezoning.

1. THE ZONING DISTRICT PROPOSED IS CONSISTENT WITH THE CITY'S COMPREHENSIVE PLAN.

The proposed RC-15 zoning district is in compliance with the City’s Comprehensive Plan. The City’s Comprehensive Plan – Land Use Map designates the Property as Residential Medium High. **Objective 1.19** of the Comprehensive Plan indicates that development shall be compatible with present neighborhood density and with specific plans for redevelopment. If approved, this rezoning request will result in a Project consistent with the recently adopted Neighborhood Development Criteria. Furthermore, the Project is consistent with **Policy 1.19.8** of the Comprehensive Plan in that it is consistent in scale and manor with the existing neighborhood and surrounding areas. Further given the fact that the Property is currently underutilized the Project will add to the character of existing residential neighborhoods and supports the viability of the Property and the area.

2. SUBSTANTIAL CHANGES IN THE CHARACTER OF DEVELOPMENT IN OR NEAR THE AREA UNDER CONSIDERATION SUPPORTS THE PROPOSED REZONING.

The Applicant proposes to redevelop the Property in order to develop a new residential townhome (2 story) development on the Property. Currently, the Property is not operating. The rezoning contemplated herein will permit the cohesive development of the Property in a manner that will allow for the creation of a Project that will enhance the aesthetic and useful enjoyment of the surrounding neighborhood. Furthermore, by developing residential units on the Property, the Applicant will be able to create a sense of community by encouraging the use of the adjacent park which will improve the sense of community in the area.

3. **THE CHARACTER OF THE AREA PROPOSED IS SUITABLE FOR THE USES PERMITTED IN THE PROPOSED ZONING DISTRICT AND IS COMPATIBLE WITH SURROUNDING DISTRICTS AND USES.**

The proposed RC-15 zoning district is compatible with surrounding zoning districts and uses. Specifically, the surrounding zoning districts support the development of a variety of housing types including townhomes. Specifically, north of the Property is zoned RMM-25, which allows townhomes, multifamily dwellings and cluster dwellings. South and west of the Property are zoned RDS-15 which permits duplexes, cluster dwellings, and various public purpose facilities. Lastly, the area to the east is currently zoned RML-25 which permits cluster dwellings, townhomes, and multifamily dwellings. Consistent with many areas in the City of Fort Lauderdale, the eclectic mix of single family, and multifamily uses creates a healthy mix of housing types which leads to a variety of existing and future residents. If permitted, the rezoning will allow for the appropriate development of a currently underutilized parcel.

As I result of the forgoing, the Applicant respectfully requests the approval of the rezoning request. Thank you.

Hope W. Calhoun

Exhibit “B”



REQUEST: Rezoning from Residential Single Family / Medium Density District (RDs-15) and Residential Low Rise Multifamily/Medium High Density District (RML-25) to Residential Single Family Cluster Dwellings/Medium Density District (RC-15)

Case Number	Z17009		
Applicant	Development 4Life Partners, LP.		
General Location	501 NW 17 th Street		
Property Size	211,421 square feet / 4.85 acres		
Existing Zoning	Residential Single Family / Medium Density District (RDs-15) and Residential Low Rise Multifamily/Medium High Density District (RML-25)		
Proposed Zoning	Residential Single Family Cluster Dwellings/Medium Density District (RC-15)		
Existing Use	Vacant Church		
Proposed Use	Townhouse Development		
Future Land Use Designation	Medium Density Residential		
Applicable ULDR Sections	Section 47-5.14. - List of permitted and conditional uses, RC-15 Residential Single Family / Cluster Dwellings / Low Medium Density District Section 47-24.4 Rezoning Criteria		
Notification Requirements	Section 47-27.4 Public Participation Section 47-27.6 Sign Notice 15 days prior to meeting Section 47-27.6 Mail Notice (300 foot radius), 10 days prior to meeting		
	Required (RDs-15) Single Family	Required (RML-25) Townhouse	Proposed (RC-15) Townhouse
Lot Size	6,000 square feet	7,500 square feet	7,500 square feet
Density	15 du/net acre	25 du/net acre	15 du/net acre
Building Height	35 feet	35 feet	35 feet
Structure Length	Not Applicable	200 feet	200 feet
Floor Area	700 square feet	750 square feet per dwelling unit	750 square feet per dwelling unit
Parking	2/dwelling unit	2/dwelling unit and 0.25 guest parking	2/dwelling unit and 0.25 guest parking
Setbacks/Yards	Required (RDs-15) Single Family	Required (RML-25) Townhouse	Proposed (RC-15) Townhouse
Front	25 feet	25 feet	25 feet
Side	5 feet	10 feet	10 feet
Rear	15 feet	20 feet	20 feet
Project Planner	Nicholas Kalargyros, Planner II		<i>ngk el.</i>

PROJECT DESCRIPTION:

The applicant is requesting to rezone approximately 4.85 acres of land located on the north side of NW 17th Street, east of NW 6th Avenue, south of NW 17th Court and west of NW 3rd Avenue from Residential Single Family / Medium Density District (RDs-15) and Residential Low Rise Multifamily/Medium High Density District (RML-25) to Residential Single Family Cluster Dwellings/Medium Density District (RC-15) in order to allow for a future townhouse development. A site plan proposing townhouses may not be reviewed by staff until the site is rezoned to a

district which allows townhouses as a permitted use. Any proposed development on the site would be reviewed as part of the site plan review process. The Planning and Zoning Board application and a sketch and legal description of the property proposed to be rezoned is attached as Exhibit 1. The applicant is processing a concurrent plat application, which is also scheduled on the August 15, 2018 agenda as Item 3, Case Number PL17007.

PRIOR REVIEWS:

The project was originally reviewed by the Planning and Zoning Board (PZB) on February 21, 2018. A motion to defer the application was approved by a vote of 6-0 so the applicant could obtain additional public input. The PZB Minutes from February 21, 2018 are provided as Exhibit 2.

The applicant met with the South Middle River Civic Association on March 14, 2018, May 9, 2018 and June 26, 2018 to obtain additional public input and revised their submittal based on comments received from the Board, the public, and staff. The applicant reconfigured the plat to allow space between buildings as retention areas and changed the plat note restriction to read: "This plat is restricted to 46 townhouse units" from "This plat is restricted to 49 townhouse units."

The South Middle River Civic Association voted in favor of the proposed plat at their June 26, 2018 general membership meeting.

REVIEW CRITERIA:

As per Section 47-24.4.D of the City's Unified Land Development Regulations (ULDR), a rezoning application shall be reviewed in accordance with the following criteria:

1. The zoning district proposed is consistent with the City's Comprehensive Plan;
The existing zoning RDs-15 and proposed zoning district of RC-15 both have a maximum density of 15 dwelling units per acre. Although the majority of the site is zoned RDs-15, a small portion is zoned RML-25; however, the underlying land use remains the same with medium density residential land use, which has a maximum density of 15 units per acre. The proposed rezoning will bring this portion of the site into compliance with the underlying land use. Furthermore, the proposed rezoning provides for a transition between the commercial business uses along Andrews Avenue and the single family residential within the neighborhood. Please refer to the Comprehensive Plan Consistency section herein for additional analysis.
2. The changes anticipated by the proposed rezoning will not adversely impact the character of development in or near the area under consideration;
The proposed rezoning will support targeted redevelopment, while maintaining community character. The proposed use is consistent with the underlying land use and neighboring zoning districts. The proposed zoning district requirements and design standards will be applied at time of site plan review that will collectively guide the design of the streetscape, open space, and compatible building design.

In addition, the City recently adopted amendments to the ULDR, commonly known as Neighborhood Design Criteria Revisions (NDCR), which went into effect in June of 2017. The amendments incorporate specific design criteria to help address common concerns focused on more positive redevelopment as it relates to two-family/duplex, townhouse and cluster residential developments to ensure the design of such projects are compatible. The criteria addresses the placement of garages, front entries, vehicular area, pavement and landscaping in a manner that lessens the impact of such aspects in place of greater presence of the residential uses. For example, garages are limited in the amount of area they can occupy on the front portion of the lot in order to create stronger front entrances and a positive public realm experience. The residential uses subject to these requirements are listed below. As noted, townhouse projects, such as the applicant's, will be subject to these criteria at time of site plan review.

3. The character of the area proposed is suitable for the uses permitted in the proposed zoning district and is compatible with surrounding districts and uses.

The surrounding properties have a land use designation of Medium Density Residential to the north, east, south, and west of the property, a Medium-High Density Residential designation to the northeast, and Parks designation to the northwest of the property. The zoning classifications to the north, south and west of the property is RDs-15, to the east of the property is Residential Mid Rise Multifamily/Medium High Density (RML-25) and Residential Single Family / Medium Density District (RDs-15), and to the northeast of the property is and Park (P). Adjacent uses include existing residential duplexes and multifamily residential buildings to the north, east and west of the property and single family residential homes to the south.

The proposed rezoning introduces townhouses, which is a permitted use in the RC-15 zoning district, in order to provide for a transition to the higher density areas to the north, thereby bridging the lower medium density of single family homes and duplexes to the higher density of multifamily residential uses. Additional permitted uses include new cluster dwellings, zero-lot-line dwellings, and two family/duplex dwellings. The applicant has indicated that a townhouse project is anticipated to be developed on the site and the concurrent plat application contains a restrictive note for 46 townhouse units. A comparison of permitted and proposed uses in each district is listed below in Table 1.

Table 1: Permitted Uses Comparison

Existing Zoning		Proposed Zoning
RDs-15 Residential Single Family/ Medium Density District	RML-25 Residential Low Rise Multifamily/ Medium High Density District	RC-15 Residential Single Family Cluster Dwellings/Medium Density District
<ul style="list-style-type: none"> - One (1) Single Family Dwelling, Standard - Existing Cluster Dwellings - Existing Two Family/Duplex Dwelling - Existing Zero-lot-line Dwelling 	<ul style="list-style-type: none"> - One (1) Single Family Dwelling, Standard - Cluster Dwellings - Zero-lot-line Dwelling - Two Family/Duplex Dwellings - Townhouses - Coach Home - Multifamily Dwelling 	<ul style="list-style-type: none"> - One (1) Single Family Dwelling, Standard - Cluster Dwellings - Zero-lot-line Dwelling - Two Family/Duplex Dwellings - Townhouses - Existing Dwelling Units

COMPREHENSIVE PLAN CONSISTENCY:

The City's Future Land Use Map indicates that the property has a land use designation of Medium Density Residential, maximum density of 15 dwelling units per acre. . The proposed zoning district, RC-15, is consistent with the underlying land use. The existing zoning RDs-15 and proposed zoning district of RC-15 both have a maximum density of 15 dwelling units per acre. Although the majority of the site is zoned RDs-15, a small portion is zoned RML-25; however, the underlying land use remains the same with medium density residential land use, which has a maximum density of 15 units per acre. The proposed rezoning will bring this portion of the site into compliance with the underlying land use. Furthermore, the proposed rezoning provides for a transition between the commercial business uses along Andrews Avenue and the single family residential within the neighborhood.

The rezoning is also generally consistent with the City's Comprehensive Plan Goals, Objectives and Policies, including the Future Land Use Element, Goal 1, Objective 1.19: continue to evaluate and revise existing zoning in established single family neighborhoods to be consistent with existing density, scale and intensity. The proposed zoning district is consistent with the existing density, scale and intensity in that the proposed district maintains the same density, scale and intensity as the current zoning district.

The applicant has provided narrative responses to all criteria, which are attached to the plan sets as part of Exhibit 3. Staff concurs with applicant's assessment.

Public Participation

The rezoning request is subject to the public participation requirements established in ULDR Section 47-27.4. According to the applicant, public participation meetings were held during the South Middle River Civic Association monthly meetings on April 25th 2017 and October 24th, 2017, providing neighbors an opportunity to learn about the proposed project. The property owner hosted a meeting at the site on November 8th, 2017 to present changes based on neighborhood input. Subsequent to the deferral at the PZB meeting on February 21, 2018, the applicant met with the South Middle River Civic Association three additional times on March 14, 2018, May 9, 2018 and June 26, 2018 to obtain additional public participation. During the most recent meeting the South Middle River Civic Association voted in favor of supporting the proposed rezoning. The public participation meeting summary and affidavit as well as the letter of support from South Middle River Civic Association are provided as Exhibit 4.

In addition, this request is subject to sign notification requirements established in ULDR Section 47-27.4. The applicant has installed a total of five signs on the property and has submitted a sign affidavit indicating proper sign notification was provided. Exhibit 5 contains the affidavit and pictures of the posted signs.

On Monday, August 6, 2018, the City received a letter from Steve Kantner with a petition signed by residents of the South Middle River neighborhood opposing the rezoning request. The letter and petition is attached as Exhibit 6.

STAFF FINDINGS:

Staff recommends the Board approve this request consistent with:

- ULDR Section 47-5.14, List of permitted and conditional uses, RC-15 Residential Single Family/Cluster Dwellings/Low Medium Density District; and,
- ULDR Section 47-24.4, Rezoning Criteria

PLANNING AND ZONING BOARD REVIEW OPTIONS:

If the Planning and Zoning Board determines that the application meets the criteria as provided in this section, the Planning and Zoning Board shall recommend that the rezoning be approved or recommend a rezoning to a more restrictive zoning district than that requested in the application if necessary to ensure compliance with the criteria for the rezoning and if consented to by the applicant.

If the Planning and Zoning Board determines that the application does not meet the criteria provided for rezoning or if the applicant does not consent to a more restrictive zoning district, the Planning and Zoning Board shall deny the application and an appeal to the City Commission may be filed by the applicant in accordance with Section 47-26.B, Appeals.

EXHIBITS:

1. Application, Location, Sketch and Legal of Property
2. Planning and Zoning Board Meeting Minutes for February 21, 2018
3. Applicant's Narrative Responses
4. Applicant's Summary of Public Participation Meetings and South Middle River Civic Association Letter of Support
5. Public Notice Sign Photos and Affidavit
6. South Middle River Neighborhood Letter and Petition