

Docket Item #7
SPECIAL USE PERMIT #2003-0124

Planning Commission Meeting
March 2, 2004

ISSUE: Consideration of a request to extend the exiting umbrella special use permit by twenty years.

APPLICANT: ProLogis Trust
by M. Catharine Puskar, attorney

LOCATION: 5150, 5200, 5230 Eisenhower Avenue
Eisenhower Industrial Center

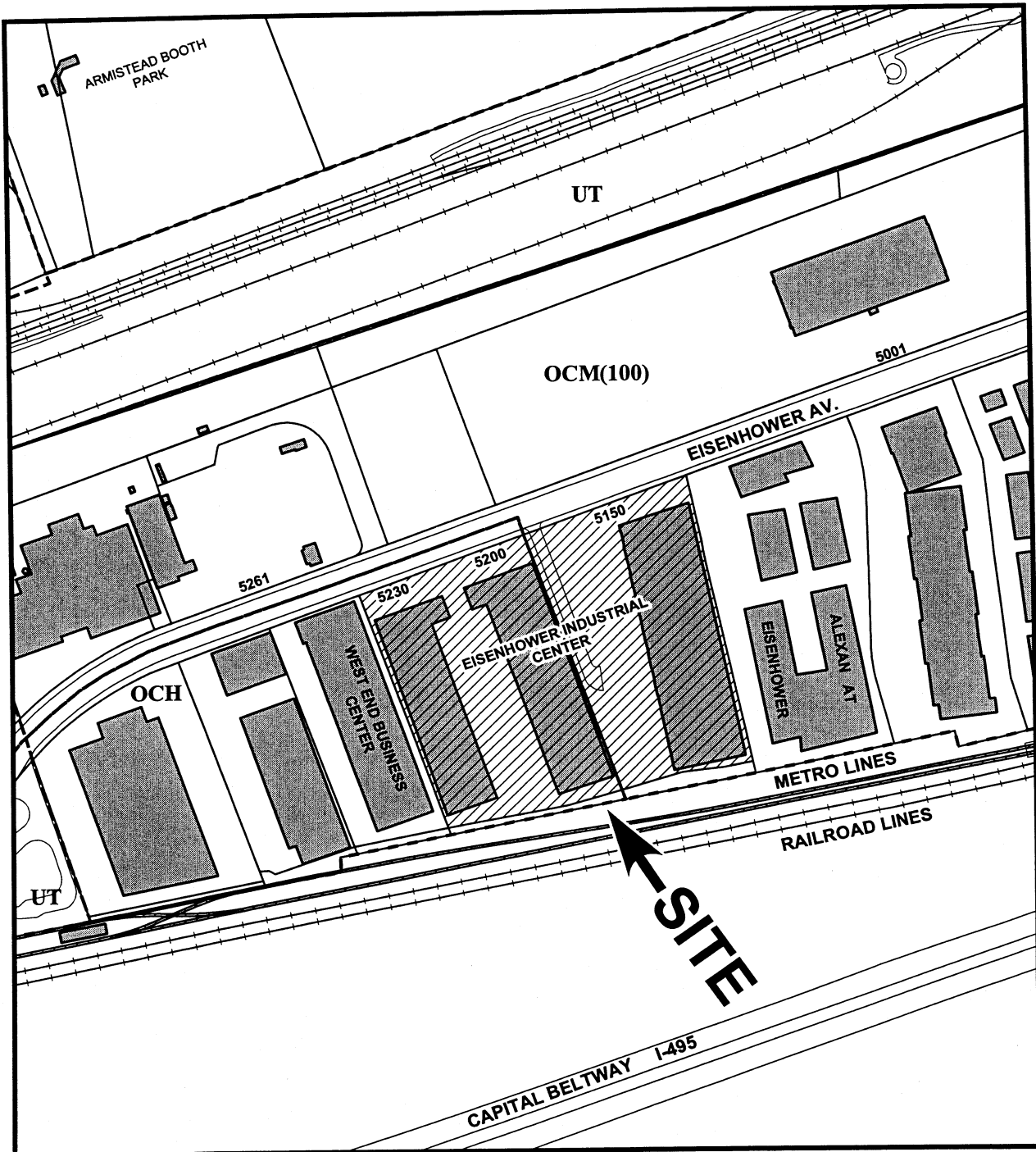
ZONE: OCM-100/Office Commercial Medium, and
OCH-100/Office Commercial High

PLANNING COMMISSION ACTION, MARCH 2, 2004: By unanimous consent, the Planning Commission recommended approval of the request, subject to compliance with all applicable codes, ordinances and staff recommendations.

Reason: The Planning Commission agreed with staff's analysis.

Speakers: None

STAFF RECOMMENDATION: Staff recommends **approval** subject to compliance with all applicable codes and ordinances and the permit conditions found in Section III of this report.



SUP #2003-0124

03/02/04



I. DISCUSSION

REQUEST

The applicant, ProLogis Trust, requests approval of a 20-year extension of the special use permit allowing a variety of noncomplying and special uses at the Eisenhower Industrial Center at 5150-5230 Eisenhower Avenue.

SITE DESCRIPTION

The subject property contains two lots of record with a total of 732 feet of frontage along Eisenhower Avenue, a depth of approximately 340 feet, and a total area of 9.5 acres. Three one-story concrete masonry buildings have been constructed on the site. The buildings, which total 196,315 square feet, are subdivided into 15 units occupied by a variety of light industrial and warehouse uses. The railroad abuts the property to the south. Across Eisenhower Avenue is the City's waste-to-energy facility. Ingress and egress is available from Eisenhower Avenue. The site contains a total of 241 parking spaces.

REQUEST DESCRIPTION

Condition # 8 of SUP #95-0180 required a review of the use permit by City Council in February, 2006. The applicant has some vacant space as well as some leases that are about to expire on the property. In order to lease the vacant space and extend existing leases, the applicant needs to extend the use permit to ensure that the uses set forth therein will remain permitted uses on the property beyond the current 2006 review period. Therefore, the applicant proposes to extend the use permit by twenty years to permit the continuation of the existing businesses and occupancy by any new businesses interested in leasing space in the Eisenhower Industrial Center.

SUP HISTORY

Uses allowed under the umbrella special use permit are derived from three mechanisms: noncomplying uses that have existed since prior to June, 1992, I/Industrial zone uses, and OCH/Office Commercial High special uses.

Based on occupancy as of June 24, 1992, the following noncomplying uses are permitted to continue to occupy the following amount of space in the Center, by zone, without a special use permit:

OCM(100)

Storage	22,940 sq. ft.
Manufacturing and assembly	13,695 sq. ft.

OCH

Storage	18,000 sq. ft.
Research and testing	6,644 sq. ft.
Manufacturing and assembly	90,400 sq. ft.
Printing	<u>6,000 sq. ft.</u>

Total Area

157,679 sq. ft.

Besides the right to the specific uses above, the existence of noncomplying uses also carries with it the right to change those uses to other ones pursuant to Section 12-302(B)(2) of the Zoning Ordinance. This provision states that a noncomplying use may be changed, with a special use permit, to any use allowed in the zone in which such noncomplying use is first listed in the ordinance.

The relevant noncomplying uses first appear in the Zoning Ordinance in the I/Industrial zone. Therefore, under the above provision, the applicant may apply for any use in the I/Industrial zone with a special use permit, at least for 157,679 square feet of space.

Finally, under the current OCM(100) and OCH zone, the applicant has available to it certain uses with approval of a special use permit.

On February 24, 1994, City Council granted SUP#95-0180, the umbrella special use permit to allow a variety of uses without separate special use permit approval for each one. Neither the applicant nor tenants are required to apply for a special use permit each time an individual tenant space is filled with a new use from the following list:

Noncomplying uses:

- Warehouse and storage
- Research and testing
- Manufacturing and assembly
- Printing and publishing facilities

I/Industrial uses:

- Carpenter shop and repair services
- Warehouse and storage
- Building materials storage and sales
- Catering operation
- Manufacturing
- Printing and publishing facilities
- Research and testing
- Retail

Special Uses allowed in both OCM(100) and OCH:

- Light automobile repair
- Wholesale business
- Convenience store
- Motor vehicle parking or storage
- Social service use

OCM(100) Special Uses*:

Catering operation
Research and testing

OCH Special Uses**

Retail, on a lot which does not include an office building.

* These uses are not allowed in the OCH zone.

** Retail allowed in the OCH zone only by Special Use Permit, unless it is located within an office building.

ZONING / MASTER PLAN

The subject property is zoned OCM(100) and OCH. The proposed uses are consistent with the Landmark/Van Dorn Small Area Plan chapter of the Master Plan which designates the property OCM(100) and OCH, or are noncomplying.

II. STAFF ANALYSIS

Staff has no objection to the continued use of the umbrella special use permit #95-0180 for the Eisenhower Industrial Center. Staff is not aware of specific redevelopment proposals for this site.

Staff supports the use of the umbrella SUP in cases such as this one because it allows the owner of an industrial/warehouse building maximum flexibility in leasing its space. On January 8, 2004 staff visited the subject property and found it to be in compliance with the existing SUP.

Aside from the proposed amendment of condition #8, the applicant proposes no additional changes to the center's operation and permitted uses.

Staff concurs with the applicant's proposal and recommends approval of the special use permit.

III. RECOMMENDED PERMIT CONDITIONS

Staff recommends **approval** subject to compliance with all applicable codes and ordinances and the following conditions:

1. The special use permit shall be granted to the applicant only or to any corporation in which the applicant has a controlling interest. (P&Z) (SUP#95-0180)
2. The following uses are permitted on the subject property:

**Uses permitted through noncomplying use provisions
(section 12-302(b)(2):**

Warehouse and storage
Research and testing
Manufacturing and assembly
Printing and publishing facilities
Carpenter shop and repair services
Building materials storage and sales
Catering operation (in OCH zone)
Retail (in OCH zone)

Special Uses allowed in both OCM(100) and OCH:

Light automobile repair
Wholesale business
Convenience store
Social service use

Special Uses allowed only in OCM(100):

Catering operation
Research and testing (P&Z) (SUP#95-0180)

3. No more than 157,679 square feet of building area may be occupied by uses that are only available through the noncomplying use provisions (section 12-302(B)(2)) of the zoning ordinance. (P&Z) (SUP#95-0180)
4. This approval is valid as long as the existing buildings remain unchanged. A "change" of the existing buildings sufficient to invalidate this approval is one that requires a site plan under section 11-403 of the zoning ordinance. (P&Z) (SUP#95-0180)

5. Any motor vehicle repair operation shall comply with the following conditions: (P&Z) (SUP#95-0180)
 - A. All vehicles stored on the property shall be parked in a neat and orderly fashion at all times.
 - B. All repair work shall be done inside the building and none shall be done outside.
 - C. No vehicle parts, tires, or other materials shall be permitted to accumulate outside except in a dumpster or other suitable trash receptacle or enclosure.
 - D. No vehicles shall be displayed, parked, or stored on a public right-of-way.
 - E. The area around the garage shall be kept free of debris and maintained in an orderly and clean condition.
 - F. No vehicles shall be loaded or unloaded on the public right-of-way.
 - G. No debris or vehicle parts shall be discarded on the public right-of-way.
 - H. No amplified sound shall be audible at the property line.
6. Any convenience store operation shall comply with the following conditions:
 - A. No quantity of beer smaller than a six-pack and no fortified wines (any wines with alcohol content of 14 percent or greater) shall be sold.
 - B. The hours of operation shall be limited to between 6:00 A.M. and 11:00 P.M. (P&Z) (SUP#95-0180)
7. No single tenant may occupy more than 25% of the total floor area of the subject building space, or 49,080 square feet, for one of the above uses except warehouse and storage. (P&Z) (SUP#95-0180)
8. **CONDITION AMENDED BY STAFF:** This special use permit shall be reviewed ~~ten~~ twenty years from the date of approval by City Council in ~~February, 2006~~ March, 2024 (P&Z) (SUP#95-0180)
9. **CONDITION ADDED BY STAFF:** Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (T&ES)

10. **CONDITION ADDED BY STAFF:** The applicant shall control cooking odors, smoke and any other air pollution from operations at the site and prevent them from leaving the property or becoming a nuisance to neighboring properties, as determined by the Department of Transportation & Environmental Services. (T&ES)
11. **CONDITION ADDED BY STAFF:** Loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line. (T&ES)
12. **CONDITION ADDED BY STAFF:** All waste products including, but not limited to organic compounds (solvents), motor oil, compressor lubricant and antifreeze shall be disposed of in accordance with all local, state and federal ordinances or regulations and not be discharged to the sanitary or storm sewers, or be discharged onto the ground. (T&ES)
13. **CONDITION ADDED BY STAFF:** The applicant shall comply with the City of Alexandria Best Management Practices Manual for Automotive Related Industries. A copy can be obtained by contacting the Division of Environmental Quality on 703/519-3400, extension 166. (T&ES)
14. **CONDITION ADDED BY STAFF:** No paint or coatings shall be applied outside of a paint spray booth and no material shall be disposed of by venting into the atmosphere. (T&ES)

STAFF: Eileen P. Fogarty, Director, Department of Planning and Zoning;
Barbara Ross, Deputy Director;
Bettina Irps, Urban Planner.

Staff Note: In accordance with section 11-506(c) of the zoning ordinance, construction or operation shall be commenced and diligently and substantially pursued within 18 months of the date of granting of a special use permit by City Council or the special use permit shall become void.

IV. CITY DEPARTMENT COMMENTS

Legend: C - code requirement R - recommendation S - suggestion F - finding

Transportation & Environmental Services:

- C-1 The applicant shall comply with the City of Alexandria's Noise Control Code, Title 11, Chapter 5, which sets the maximum permissible noise level as measured at the property line.
- R-1 Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers.
- R-2 The applicant shall control cooking odors, smoke and any other air pollution from operations at the site and prevent them from leaving the property or becoming a nuisance to neighboring properties, as determined by the Department of Transportation & Environmental Services.
- R-3 Loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line.
- R-4 All waste products including, but not limited to organic compounds (solvents), motor oil, compressor lubricant and antifreeze shall be disposed of in accordance with all local, state and federal ordinances or regulations and not be discharged to the sanitary or storm sewers, or be discharged onto the ground.
- R-5 The applicant shall comply with the City of Alexandria Best Management Practices Manual for Automotive Related Industries. A copy can be obtained by contacting the Division of Environmental Quality on 703/519-3400, extension 166.
- R-6 No paint or coatings shall be applied outside of a paint spray booth and no material shall be disposed of by venting into the atmosphere.

Code Enforcement:

- F-1 No comment.

Health Department:

- C-1 An Alexandria Health Department Permit is required for all regulated facilities.
- C-2 Permits are non-transferable.
- C-3 Permits must be obtained prior to operation.

- C-4 Five sets of plans are to be submitted to and approved by this department prior to construction of any facility regulated by the health department.
- C-5 Plans for food facilities must comply with the Alexandria City Code, Title 11, Chapter 2, Food and Food Establishments. There is a \$135.00 fee for review of plans for food facilities.
- C-6 Pool plans must comply with Title 11, Chapter 11, Swimming Pools. Tourist establishment pools must have six (6) sets of plans submitted.
- C-7 Personal grooming facilities must comply with Title 11, Chapter 7, Personal Grooming Establishments.
- C-8 Tanning Salons must meet State Code Title 59.1, Chapter 24.1, Tanning Facilities.
- C-9 Massage facility plans must comply with Title 11, Chapter 4.2, Massage Regulations. All massage therapists must possess a current massage therapist certification, issued by the Commonwealth of Virginia in accordance with the Code of Virginia Chapter 599, § 54.1-3029 and must possess an Alexandria Massage permit in accordance with Alexandria City Code Title 11, Chapter 4.2 prior to engaging in any massage activity.
- C-10 Coin-operated dry cleaning facility plans must comply with Title 9, Chapter 4, Coin operated Dry Cleaning Establishments.
- C-11 Coin-operated laundry plans must comply with Title 9, Chapter 5, Coin Operated Laundries.
- C-12 Hotels/Motels must comply with State Code 35.1, Hotels, Restaurants, Summer Camps, and Campgrounds.
- C-13 Marina plans must comply with the provisions of Section 32.1-246 of the Code of Virginia. Information to be included in the plans submittal is to be as required by the Code of Virginia.
- C-14 Provide a menu or list of foods to be handled at this facility to the Health Department prior to opening.
- C-15 Food must be protected to the point of service at any outdoor dining facility.

Police Department:

- F-1 No objections.

APPLICATION for SPECIAL USE PERMIT # 2003-0124

[] Change of Ownership or [x] Minor Amendment

[must use black ink or type]

PROPERTY LOCATION: 5150, 5200, 5230 Eisenhower Avenue

TAX MAP REFERENCE: 68.03-01-23 & 25 ZONE: OCM-100 & OCH

APPLICANT Name: ProLogis Trust (formerly known as Security Capital Industrial Trust)

Address: 5200 Eisenhower Ave., Suite 200, Alexandria, VA 22304

PROPERTY OWNER Name: ProLogis Trust (formerly known as Security Capital Industrial Trust)

Address: 5200 Eisenhower Avenue, Suite 200, Alexandria, VA 22304

SITE USE: Special Use Permit Amendment to amend Condition #8 to extend the

Use Permit to February 2004

- [] THE UNDERSIGNED hereby applies for a Special Use Permit for Change in Ownership, in accordance with the provisions of Article XI, Division A, Section 11-503 (5)(f) of the 1992 Zoning Ordinance of City of Alexandria, Virginia. THE UNDERSIGNED, having read and received a copy of the special use permit, hereby agrees to comply with all conditions of the current special use permit, including all other applicable City codes and ordinances.
- [x] THE UNDERSIGNED hereby applies for a Special Use Permit for Minor Amendment, in accordance with the provisions of Article XI, Division A, Section 11-509 and 11-511 of the 1992 Zoning Ordinance of City of Alexandria, Virginia.

THE UNDERSIGNED, having obtained permission from the property owner, hereby requests this special use permit. The undersigned also attests that all of the information herein required to be furnished by the applicant are true, correct and accurate to the best of their knowledge and belief.

ProLogis Trust

By: M. Catharine Puskar, Agent/Attorney

Print Name of Applicant or Agent

M Catharine Puskar
Signature

Walsh, Colucci, Lubeley, Emrich & Terpak, PC

2200 Clarendon Blvd., 13th Floor

(703) 528-4700

(703) 525-3197

Mailing/Street Address

Telephone #

Fax #

Arlington, VA 22201

December 23, 2003

City and State

Zip Code

Date

DO NOT WRITE BELOW THIS LINE - OFFICE USE ONLY

Application Received: _____ Date & Fee Paid: _____ \$ _____
Legal Advertisement: _____

ADMINISTRATIVE ACTION: _____

Date

11

Director, Planning & Zoning

The following information must be furnished to the Department of Planning and Zoning to determine if the current use conducted on the premises complies with the special use permit provisions and all other applicable codes and ordinances.

1. Please describe prior special use permit approval for the subject use.

Most recent Special Use Permit # 95-0180

Date approved: 02 / 24 / 1996
month day year

Name of applicant on most recent special use permit Security Capital Industrial Trust

Use Variety of uses as set forth in umbrella SUP 95-0180

2. Describe below the nature of the existing operation in detail so that the Department of Planning and Zoning can understand the nature of the change in operation; include information regarding type of operation, number of patrons served, number of employees, parking availability, etc. (Attach additional sheets if necessary)

N/A

3. Describe any proposed changes to the business from what was represented to the Planning Commission and City Council during the special use permit approval process, including any proposed changes in the nature of the activity, the number and type of patrons, the number of employees, the hours, how parking is to be provided for employees and patrons, any noise emitted by the use, etc. (Attach additional sheets if necessary)

N/A

4. Is the use currently open for business? ____ Yes ☒ No

If the use is closed, provide the date closed. ____ / ____ / ____
month day year

5. Describe any proposed changes to the conditions of the special use permit:

See attached Statement of Justification

6. Are the hours of operation proposed to change? ____ Yes ____ No
If yes, list the current hours and proposed hours:

Current Hours:

N/A

Proposed Hours:

7. Will the number of employees remain the same? ____ Yes ____ No
If no, list the current number of employees and the proposed number.

Current Number of Employees:

N/A

Proposed Number of Employees:

8. Will there be any renovations or new equipment for the business? ____ Yes ____ No
If yes, describe the type of renovations and/or list any new equipment proposed.

N/A

9. Are you proposing any change in the sales or service of alcoholic beverages? ____ Yes ____ No
If yes, describe proposed changes:

N/A

10. Is off-street parking provided for your employees? ☐ Yes ☐ No
If yes, how many spaces, and where are they located?

N/A

11. Is off-street parking provided for your customers? ☐ Yes ☐ No
If yes, how many spaces, and where are they located?

N/A

12. Is there a proposed increase in the number of seats or patrons served? ☐ Yes ☐ No
If yes, describe the current number of seats or patrons served and the proposed number of seats and patrons served. For restaurants, list the number of seats by type (i.e. bar stools, seats at tables, etc.)

Current:

N/A

Proposed:

13. Are physical changes to the structure or interior space requested? ☐ Yes ☐ No
If yes, attach drawings showing existing and proposed layouts. In both cases, include the floor area devoted to uses, i.e. storage area, customer service area, and/or office spaces.

14. Is there a proposed increase in the building area devoted to the business? ☐ Yes ☐ No
If yes, describe the existing amount of building area and the proposed amount of building area.

Current:

N/A

Proposed:

15. The applicant is the (check one) ☒ Property owner ☐ Lessee
____ other, please describe: _____

16. The applicant is the (check one) ☒ Current business owner ☐ Prospective business owner
____ other, please describe: _____

17. Each application shall contain a clear and concise statement identifying the applicant, including the name and address of each person owning an interest in the applicant and the extent of such ownership interest. If the applicant, or one of such persons holding an ownership interest in the applicant is a corporation, each person owning an interest in excess of ten percent (10%) in the corporation and the extent of interest shall be identified by name and address. For the purpose of this section, the term "ownership interest" shall include any legal or equitable interest held in the subject real estate at the time of the application. If a nonprofit corporation, the name of the registered agent must be provided.

Please provide ownership information here:

ProLogis Trust is publicly traded.

STATEMENT OF JUSTIFICATION

The Applicant, ProLogis Trust (formerly known as Security Capital Industrial Trust) is requesting an amendment to Condition #8 of Special Use Permit (SUP) 95-0180 to permit the Use Permit for the Eisenhower Industrial Center located at 5150, 5200 and 5230 Eisenhower Avenue (the "Property") to continue as is, with a review in twenty years (February 2024).

On February 24, 1995, City Council approved Umbrella SUP 95-0180 to permit a variety of light industrial and warehouse uses on the Property without requiring each tenant to obtain an individual SUP for those uses set forth in Condition #2. Condition #8 required a review of the Use Permit by City Council in February, 2006. The Applicant has some vacant space as well as some leases that are about to expire on the Property. For your reference, I have enclosed a list of existing tenants in the Center. In order to lease the vacant space and extend existing leases, the Applicant needs to extend the Use Permit to ensure that the uses set forth therein will remain permitted uses on the Property beyond the current 2006 review period. As such, the Applicant would like to extend the Use Permit by twenty years to permit the continuation of the existing businesses and occupancy by any new businesses interested in leasing space in the Eisenhower Industrial Center.

J:\PROLOGIS\4628.2 Zoning Analysis\statement.doc

SPEAKER'S FORM

DOCKET ITEM NO. 5

**PLEASE COMPLETE THIS FORM AND GIVE IT TO THE CITY CLERK
BEFORE YOU SPEAK ON A DOCKET ITEM.**

PLEASE ANNOUNCE THE INFORMATION SPECIFIED BELOW PRIOR TO SPEAKING.

1. NAME: M Catharine Puskar
2. ADDRESS: 2200 Clarendon Blvd Ste 1300
TELEPHONE NO. 703-528-4700 E-MAIL ADDRESS: _____
3. WHOM DO YOU REPRESENT, IF OTHER THAN YOURSELF? _____
Prologis Trust
4. WHAT IS YOUR POSITION ON THE ITEM?
FOR: X AGAINST: _____ OTHER: _____
5. NATURE OF YOUR INTEREST IN ITEM (PROPERTY OWNER, ATTORNEY, LOBBYIST,
CIVIC INTEREST, ETC.):
Attorney
6. ARE YOU RECEIVING COMPENSATION FOR THIS APPEARANCE BEFORE COUNCIL?
YES X NO _____

This form shall be kept as a part of the permanent record in those instances where financial interest or compensation is indicated by the speaker.

A maximum of three minutes will be allowed for your presentation. If you have a prepared statement, please leave a copy with the Clerk.

Additional time not to exceed 15 minutes may be obtained with the consent of the majority of the council present; provided notice requesting additional time with reasons stated is filed with the City Clerk in writing before 5:00 p.m. of the day preceding the meeting.

The public normally may speak on docket items only at public hearing meetings, and not at regular legislative meetings. Public hearing meetings are usually held on the Saturday following the second Tuesday in each month; regular legislative meetings on the second and fourth Tuesdays in each month. The rule with respect to when a person may speak to a docket item at a legislative meeting can be waived by a majority vote of council members present but such a waiver is not normal practice. When a speaker is recognized, the rules of procedures for speakers at public hearing meetings shall apply. If an item is docketed *for public hearing* at a regular legislative meeting, the public may speak to that item, and the rules of procedures for speakers at public hearing meetings shall apply.

In addition, the public may speak on matters which are not on the docket during the Public Discussion Period at public hearing meetings. The Mayor may grant permission to a person, who is unable to participate in public discussion at a public hearing meeting for medical, religious, family emergency or other similarly substantial reasons, to speak at a regular legislative meeting. When such permission is granted, the rules of procedures for public discussion at public hearing meetings shall apply.

Guidelines for the Public Discussion Period

- (a) All speaker request forms for the public discussion period must be submitted by the time the item is called by the City Clerk.
- (b) No speaker will be allowed more than three minutes.
- (c) If more speakers are signed up than would be allotted for in 30 minutes, the Mayor will organize speaker requests by subject or position, and allocate appropriate times, trying to ensure that speakers on unrelated subjects will also be allowed to speak during the 30 minute public discussion period.
- (d) If speakers seeking to address council on the same subject cannot agree on a particular order or method that they would like the speakers to be called on, the speakers shall be called in the chronological order of their request forms' submission.
- (e) Any speakers not called during the public discussion period will have the option to speak at the conclusion of the meeting, after all docketed items have been heard.