

April 27, 2007

To: Zoning Commission of the
District of Columbia

From: Residents of Square 752

Re: Capitol Place PUD
ZC Case No. 05-37

RECEIVED
D.C. OFFICE OF ZONING
2007 APR 27 PM 12:25

Last week several residents on Square 752 submitted requests for Party Status on the referenced project. The residents on Square 752, both individually and collectively, have specific concerns that are not applicable to the broader community. It is the residents of the century-old, R-4-zoned rowhouses on Square 752 that will have to live side-by side with the proposed project. It is our quality of life that will be most affected by the proposed project.

On April 5, 2007 the attached document was submitted to the Applicant and the Office of Planning. That memorandum indicated areas of support for the project, but also identified various issues of specific interest and importance to the residents of square 752. Because many of these issues are specific to residents of Square 752, they are generally not reflected in the positions and recommendations of other organizations and individuals.

To date, there has been no response by the Applicant or the Office of Planning to the April 5, 2007 memorandum by the residents of Square 752. We maintain that this reinforces the necessity of Party Status for residents of Square 752. As a preliminary motion to the consideration of Party Status by individuals on Square 752 we will request consideration of Square 752 Residents as a designated party. This will allow persons so inclined to withdraw their individual requests for Party Status.

ZONING COMMISSION
District of Columbia

CASE NO. 05-37

EXHIBIT NO. 68 (Rox)

ZONING COMMISSION
District of Columbia
CASE NO.05-37
EXHIBIT NO.68

April 5, 2007

To: Harriet Tregoning, Director DC Office of Planning
Travis Parker, DC Office of Planning
Bob Braunohler, Dreyfus Property Group

From: Representatives of Square 752

Re: Capitol Place Proposed PUD

On Sunday, March 25, 2007 many of the residents of Square 752 met to review the project proposal in advance of a meeting with Louis Dreyfus Property Group (Applicant) on Tuesday, March 27, 2007. The objective was to build a "sense of the square" by the residents who will be most directly affected by this proposal.

General Summary

The residents believe the 400,000+ sq. ft. building proposed by the Applicant imposes an excessive burden on the rowhouse residents of this square. The residents most affected are at the northern section of Third St., NE where the C3C zoning to construct an 11-story building has been requested. Considerable FAR is transferred from the proposed C-3-C zone to increase the FAR in the C-2-A zone. We reject any additional upzoning behind the R-4 properties on Third St. as described further below.

We do not reject the project in its entirety and recognize the merits of a "smart growth" project near Union Station. However, substantial alterations are required to protect the existing century old rowhouses that represent an irreplaceable element in the City of Washington.

Any PUD approval must have a genuine and enforceable time limit. The pattern of locking in development rights only to warehouse property and return later to "amend" and extend an approved PUD is detrimental to the neighborhood and the recovery of H Street. The Stuart project in the 300 Block of H stalled upon approval; as has Cohen's PUD in the 200 block of K Street, NE more times than the community can remember; as did the PUD at 4th & I, NE. We understand that the PUD at 4th & I has filed a request to amend and expand the approved PUD. The community supported the H Street Overlay because we were assured that this was required in order to "jump start" development. Instead, it has led primarily to speculation in development rights, inflation of property values, and proposals that seek to even further expand the building envelope. The Applicant of the Capitol Place PUD has insisted on a 400,000+ Sq. Ft. project. Within the context of achieving that building envelope, the Applicant has been receptive to suggestions by the community, however no serious discussion of reducing the scale of the project has been entertained. The Applicant should be reminded that the zoning envelope and development rights are not determined by the price they paid for the parcels subject to this PUD application.

Urban Design, Neighborhood Planning, & Subdivision Issues

The Applicant has claimed that there are no issues related to the subdivision process for lot consolidation. We request that the Office of Planning address the nexus between subdivision and zoning. If there is none, this represents a serious oversight and we strongly urge the Office of Planning to institute a review process for the assembly of large parcels resulting in out-of-scale projects against the community's desire to encourage development of an appropriate scale.

The effect of lot consolidation through subdivision on this project is considerable. The Applicant seeks to gain substantial zoning relief for which no consideration has been given through the subdivision process.

The selection of a measuring point at Third & H applicable to the entire site achieves a full extra floor of height in the C-2-A zone, resulting in a 75' high building above Second Street where the PUD maximum in a C-2-A zone is 65'. The Applicant also claims the centerline of Second Street for the measuring point of the required C-2-A rear yard, thus eliminating the rear yard requirement in the C-2-A zone. We request that the Applicant provide all documents relevant to the District's "Request for Subdivision" so that we can determine if there are any remaining public alleys or other irregularities that would affect the site assembly. The subdivision process to consolidate these parcels into a single record lot may reveal important information that should not be left until there is an approved PUD. The Applicant has unacceptably allowed 222 G Street to languish as a vacant, abandoned property for over two years and until such time as they carve off the side yard to create a 20' alley entrance.

In the much-publicized NOMA Plan, the Office of Planning promised protection for the R-4 neighborhoods against out-of-scale projects. However, the largely positive setback report for Capitol Place may be read as inconsistent with representations made to the community within the NOMA process and exceeds the Office of Planning's own recommendations that resulted in upzoning through the recently enacted H Street Overlay. We hope that the recent statement by the Office of Planning on Page 2 of Revised Setdown Report stating that there are "unresolved issues with the . . . bulk of the building" indicates that the Office of Planning has not yet fully endorse the upzoning and will continue to uphold the representations made to the community in the NOMA process.

The residents of Square 752 understand the "H Street Gateway" concept and suggest that a height variance would accomplish that purpose without the need for the requested upzoning provided the design represented a true gateway to H Street, NE rather than a design that signals a gateway to K Street, NW.

Zoning Summary

The Applicant has been asked to be more forthcoming with regard to the full extent of zoning bonuses they seek. The Applicant has been reluctant to provide a tabulation summarizing the extent of the zoning bonuses already gained through the H Street Overlay or the additional bonuses they seek through the PUD process. Based on information provided by the Applicant we believe the following represents the expansion of the building envelope for the separate parcels that comprise this project since just one year ago:

Matter of Right FAR & Height prior to H Street Overlay (March 2006)

C-2-A: 76,713 Sq. Ft. @2.5 FAR = 191,785 Sq. Ft. with a maximum height of 50'

C-2-A (PUD) @3.0 FAR = 230,139 Sq. Ft. with a maximum height of 65'

We point out that this was the matter of right and PUD development envelopes at the time the Applicant purchased this property. Just over one year ago, the entire area considered under this PUD was zoned C-2-A with the remainder of the square zoned R-4.

Current Matter of Right FAR & Height:

This zoning envelope was a result of the H Street Overlay in which the vacant lot facing H Street was upzoned to C-2-B.

C-2-A: 42,263 Sq. ft. @ 2.5 FAR = 105,657.5 Sq. Ft with a maximum height of 50'

C-2-B: 34,450 Sq. Ft. @3.5 FAR = 120,575.0 Sq. Ft. with a maximum height of 65'

Total matter of Right FAR = 226,233.5 Sq. Ft.

Current PUD FAR & Height under existing Zoning

C-2-A: 42,263 Sq. ft. @ 3.0 FAR = 126,789 Sq. Ft with a maximum height of 65'

C-2-B: 34,450 Sq. Ft. @6.0 FAR = 206,700 Sq. Ft. with a maximum height of 90'

Total PUD FAR with existing zoning = 333,489 Sq. Ft.

Requested FAR with requested zoning and PUD

C-2-A: 37,626 Sq. ft. @ 3.0 FAR = 112,878 Sq. Ft with a maximum height of 65'

C-2-B: 11,190 Sq. Ft. @6.0 FAR = 67,140 Sq. Ft. with a maximum height of 90'

C-3-C: 27,897 Sq. Ft. @8.0FAR = 223,176 Sq. Ft. with a maximum height off 110'

Total PUD FAR with requested zoning = 403,194 Sq. Ft.

We believe the near-doubling of the building size is unwarranted and inappropriate on a square with numerous century old rowhouses. This neighborhood supported the H Street Overlay largely upon the recommendation of the Office of Planning's H Street Strategic Plan. It is disappointing and disheartening to find that barely one year after the enactment of the H Street Overlay that a project of an even greater scale is being considered. The Applicant seeks an FAR increase of 78.2% above the current matter of right and a 110.2% increase above the matter of right that existed at the time they purchased the property.

Design

In recent weeks the Applicant has begun a dialog focusing on the design of this project with representatives of ANC6C, ANC6A, SPNA, CHRS, and others in the community. The residents of Square 752 support that effort and hope that the community and the Applicant will agree on a building design that makes a positive contribution to H Street, NE and is in full compliance with the H Street Design Requirements and Design Guidelines. We will rely on that effort, but are especially concerned with the view at the interior of the block because this directly affects our quality of life and enjoyment of our residences. We offer the following concepts that we hope will guide the design:

1. The building should be more "contextual" and reflect the historic architecture of the neighborhood. The current building design seems more an extension of the large scale commercial buildings found in NW, DC rather than a transition to an R-4 rowhouse neighborhood and neighborhood commercial district.
2. The large footprint, 11-story building at Second & H Streets imposes a serious deleterious burden on the northern half of the Third Street on Square 752. The footprint of this 11-story building must be reduced and/or the height lowered if the Applicant's claim of "sensitivity and compatibility" is to have any meaning.
3. If the H Street Gateway concept is supported by the larger community, this could be better accomplished by a height variance and/or a drastic reduction in the area upzoned. There is no need to upzone 36.4% of the site to accomplish this urban design goal. The Applicant has rationalized this large upzoning in order to increase the amount of building area, not to accomplish an urban design objective.
4. The project should utilize every opportunity to push the mass of the structure inclusive of penthouses and projecting bays toward both Second Street and H Street. We would support an application to DDOT for additional construction within the unused and curious maintenance easement adjacent to the H Street bridge provided this resulted in a better overall design and improved the transition to the R-4 neighborhood.
5. The interior of the block should include substantial landscape elements to help screen the residential properties and soften the view of the proposed project.

6. The architectural "luggage rack" at the top of the building is an unfortunate architectural device more commonly found on contemporary commercial properties (see, for example, many of the new buildings built on K St., NW since 2000) rather than a residential property that claims to be a transitional design.
7. The large amount of glass at the interior is inconsistent with the remaining historic architectural fabric. We believe the amount of glass should be reduced and all glass should be non-reflective.

Amenities & Mitigation

The project includes scant amenities for a project of this scale and the degree of zoning bonuses the Applicant requests. As mitigation for the demolition of 14 potentially eligible historic structures (something specifically discouraged in the H Street Overlay) the Applicant has offered to fund a survey of the unprotected residential properties between F and H from Second to 14th St., NE. We support this mitigation and request that it be funded upon approval of any agreed-upon PUD. We point out that this is in the interests of both the community and the Applicant. The community has expressed a desire for expansion of the Capitol Hill Historic District. The Applicant will benefit from improvements in the adjacent neighborhood and promotion of the sale of high-end condos that enjoy views of an historic, low-scale neighborhood.

Other amenities of direct benefit to the residents of Square 752 include the correction of the fire and public safety issues associated with a substandard alley. However, the provision of an easement to create a 20' alley is inadequate. The property required to create a 20' alley must be donated to the District to create a true public 20' alley.

The Applicant has offered to install new brick sidewalks and curbs along Third Street. We question the value of this amenity and believe this public improvement is a District responsibility. If the District desires to have this Applicant install new brick sidewalks on Third St., that work should be undertaken upon approval of the PUD. The Applicant promised to replace the brick sidewalks on G Street as part of their Station Place PUD some 4-5 years ago. Those sidewalks have not yet been replaced. The brick sidewalks in the 700 Block of Third are badly in need of repair; they should be replaced in the existing (and historically appropriate) herringbone pattern as soon as possible because their condition represents a significant liability issue. The replacement of the sidewalks should not await completion of the Capitol Place project.

The proposed grant program might be of value to residents on Square 752 provided the funds are in fact a grant and not a loan. To be of any real value, the funds must be sufficient to encourage substantial improvements to both the front and rear of the property. A properly designed and dedicated 20' public alley would be of benefit to existing residents and the proposed new construction on Square 752. Many of residents along Third St. in Square 752 would be interested in constructing garages and/or carriage houses that would block much of the eye level view of the proposed project. In order to accomplish this mitigation, the grant program must be of sufficient magnitude to encourage such construction. The use of an expanded grant program funded upon PUD approval to construct carriage houses of intermediate height would create a visual buffer between the existing residences and the much larger building the Applicant proposes. Carriage houses would help retain a sense of rear yard privacy that is of particular interest to the existing residents of Square 752 and could provide a far more acceptable view for the residents of Capitol Place.

We ask the Office of Planning to provide examples of other projects in the District where R-4 rowhouses have had 11 story structures imposed upon them through a PUD process and what mitigation measures were required.

The residents of Square 752 have proposed several mechanisms that would promote social interaction between the existing residents and those in Capitol Place Condos. These have included access to the pool

and fitness facilities, access to the courtyard, representation on the condo board, and use of the parking garage. The Applicant has thus far rejected any mechanism that might promote social interaction except for the possibility to buy or lease unused parking spaces at market rates.

Numerous minor issues should be agreed to in writing prior to the PUD hearing so as to not continue to detract from more significant PUD issues. These include the sale of 222 G Street as a private residential dwelling, application for a three-way stop sign at the dangerous intersection of Second & G Streets, and maintenance of the to-be-demolished structures.

Construction Management

The Proposed Construction Management Plan is silent on many of the construction issues most important to residents on Square 752. A "Preconstruction Survey" and installation of vibration monitors is insufficient. The Applicant must be required to install telltales and crack monitors on the adjacent structures. The burden of proof must be upon the Applicant to prove that no damage and no movement occurred as a result of their activity rather than burdening the residents to prove damage. We are aware that large quantities of ground water were pumped as a result of construction at Senate Square and Phase III of Station Place. We are further informed that significant settlement resulted at Senate Square. Some residents on Square 752 believe they have already suffered damage from those projects and are seeking compensation.

The "Foundation Piles" paragraph states "all deep foundation piles will be pre-bored and/or vibrated". This is unacceptable and contrary to the Applicant's assurances that all piles would be drilled; in numerous meetings the Applicant stated that the foundation piles would be drilled; they would not be driven or vibrated into place.

The "Alley Construction Logistics" needs to be far more specific. The location of protective fencing, prohibitions against contractor parking in the 20' alleyway, prohibitions against use of the 20' alley for construction staging, etc. needs to be clearly stated. Continued use of the alley for access, public safety, and public services such as trash collection needs to be specified.

The Construction Management Plan is silent on use and maintenance of the existing structures until such time as construction is begun. The demolition process, inclusive of dust and rodent abatement, needs to be specified.

Party Status

The existing residents of Square 752 feel they have no choice but to request Party Status in Opposition before the Zoning Commission in order to protect our particular interests. We commend the ANCs and other groups who are also working on this project, but feel there are substantive issues that directly affect only the residents on Square 752. We will coordinate our response and make every effort not to duplicate or contradict the concerns of other groups or parties in opposition.

Conclusion

The residents of Square 752 remain committed to working with the Applicant in achieving a project that meets as many of their goals as possible, but not at the expense of diminishing our own quality of life. There are areas, both large and small, where the residents of Square 752 and the Applicant could come to an agreement provided the project meets our overall goal of compatibility in terms of scale and design.