

Testimony of Ross D. Ain

Presented May 4, 2009 before the Zoning Commission in Case 08-15

My name is Ross Ain. I have lived on Newark Street for the last 32 years, one and a half blocks from the proposed development.

My background has been in government service, private practice of law, and for the last 15 years, in the development of large electric generating projects, particularly renewable energy projects. I have appeared as a project applicant in many parts of the country in front of bodies such as this one tonight.

The proposal before you today is based on fundamentally flawed assumptions:

Let me speak to them:

First, it assumes that the location is in an dense urban setting, next to a Metro Station, where people won't use cars to come and go from the new Giant , stores and residences. In fact, the nearest Metro station is nearly a mile from the Giant. People don't carry grocery bags that far, even if it's down hill. This oversized development should not be permitted so far from a Metro station, creating traffic and parking problems.

Second, the assumption that the oversized Giant and oversized residential development is necessary for the success of this project is not true. There is no economic basis in the record for that conclusion - only superficial, unsupported assertions without financial backup or economic analysis in any expert testimony.

Third, it assumes that traffic congestion and lack of sufficient parking will not

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adversely affect the success of this project. Wrong again – not only will it hurt the new grocery store and new commercial establishments, it will hurt popular established restaurants and stores that will suffer from lack of parking and traffic congestion.

Fourth, the assumption that the neighborhood supports the project is wrong – the neighborhood is deeply divided and concerned with all of these issues. Witness the highly conditional support of ANC and opposition of Cleveland Park Citizens Association.

Fifth, the assumption that new amenities justifies the project's adverse impact on the community is wrong. The project is woefully short on new amenities to overcome traffic congestion and other adverse impacts on an essentially low-density neighborhood. Moreover, the project takes away a major current neighborhood amenity – the parking lots at the Giant and across the street at the bank.

Sixth, the assumption that the project has incorporated green standards in building, HVAC systems, and other energy-consuming and pollution causing systems is wrong. The Office of Planning has apparently abdicated its responsibility in this regard, not insisting on any thorough degree of compliance with green building and energy use standards - truly a lost opportunity to reduce greenhouse gases and ground level pollution in NW Washington, DC.

Conclusion:

The project proponent has a burden to show benefits when it asks for approval of a non-conforming project such as this, particularly when the hardship being claimed

is self-created by its shameful current use of the existing site . And the Commission has a responsibility to find the plans feasible, desirable, and providing additional benefits beyond plans a developer may propose as of right . The builder has not met that burden – unsupported assertions without factual support in the record do not do that.

Therefore, the Commission has no choice based upon this record but to deny this request for approval of this poorly thought out proposal.

Thank you for your kind attention to my remarks and of course, I would be pleased to respond to any questions you may have.