

May 19, 2009

OFFICE OF ZONING
2009 MAY 29 PM 4:16

Mr. Anthony Hood
Chair
D.C. Zoning Commission
441 4th Street, N.W.
Suite 200 South
Washington, D.C. 20001

Re: ZC Case #08-15

Dear Chairman Hood,

Throughout the hearings on the Giant PUD application, ZC #08-15, there have been questions raised about when StreetWorks, as Stop & Shop's agent, knew about various community requests. Since I was involved in all the meetings, both small and community-wide, since 2005 and many of the meetings since the May 2008 submission, I would like to tell you what I know.

Reaction to Early Proposal

At a community meeting in December 2006 StreetWorks unveiled a site plan, which I have attached, that received general acceptance. You will note the open spaces, where the loading docks are and that there are two floors of housing in the North Block. The neighborhood questioned the need for housing but most comments focused on the retention of valued stores and the possibility of restoring second floor office space for current tenants who couldn't afford ground level rents.

StreetWorks responded to the community's overwhelming support for a new store and interest in maintaining the current North Block configuration by designing a second story facing Wisconsin Avenue on the South Block for lower rent tenants. They described this as "flex space." In compensation for that addition to the project StreetWorks added a floor of housing on the North Block. They also said that they hadn't initially included a second story for the South Block because the grocery store walls wouldn't allow rear windows for any second floor spaces, but that the flex space needs could be accommodated without windows. It was many months before the neighborhood was generally aware of these additions.

Requests for Affordable Housing and Environmental Design/Operation

Periodically, a small group made up of the ANC commissioners representing the areas surrounding the store, the CPCA President, and occasionally other residents would meet with StreetWorks to look at the evolving site plans. Two issues were repeatedly mentioned in the small group meetings: affordable housing and a cutting edge environmental design and operation. We have many schools, several fire stations, and a district police station in proximity to this site. Since housing was a questionable addition to this site for many people we urged that workforce housing was a need and that many residents would embrace some housing if it was dedicated to that use. For a long time we got no response other than polite listening. Eventually, StreetWorks added 14 apartments on the South Block and said they would be affordable. Again, as compensation they added another floor of housing on the North Block. There was never any response to the requests for a progressive environmental project. Many of us were not schooled in sustainable design and energy efficient operations at the time, but we knew enough to request geothermal heating and cooling which had been installed at both Sidwell Friends School and the Cathedral Dean's house. (Since then there are additional examples of geothermal in the neighborhood.)

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Promises

As this project evolved and grew in size and complexity, two promises were made to the community at public meetings. The second story flex space offered at reduced rents to accommodate the current second story tenants and others was one. The other was a commitment to offer preferential rents to some ground floor tenants, like Sullivan's Toys, so that they could continue to operate. Many people in the neighborhood understood that redevelopment meant higher rents that many of our valued businesses (Sullivans, the barber, the laundry) would not be able to afford. There was a big conflict between wanting a better grocery store and not wanting to see all our successful, but modest, businesses disappear.

Those promises may seem inconsequential to the Zoning Commission, but they represent a strong desire to maintain the relevance of this commercial area to the neighborhood it serves. The May PUD submission mentioned the flex space and the possibility of structuring some lower rents for current tenants. The October submission describes the likelihood that the flex space will become retail space and thus, it was counted for parking requirement purposes as retail. There is a brief mention about current tenants that doesn't include lower rents but only states that the applicant might retain some of them. It seems that these promises that many residents believe are part of the PUD will not be fulfilled.

Overlay

The concern about retaining the overlay has emerged for some groups as collateral to maintaining the neighborhood quality of the retail and services. Residents are becoming more resigned that we may lose our valued businesses but there is a deep divide between those who view retail as many restaurant selections and those who want to walk to the laundry, hairdresser, or art store. StreetWorks has consistently said that they have nothing against the overlay but only want to lease space to one or two restaurants. There is no quarrel with agreeing to two more restaurants. Many of us worked for several years with the Office of Planning and the Zoning Commission on redefining restaurants within the context of the overlay so that establishments that don't bring traffic and parking problems, but basically serve the neighborhood, could locate without impact on the overlay. That flexibility is available to this PUD and the applicant knows that all the opponents would agree to a limited number of additional restaurants as part of the order. All this can be accomplished within the overlay. The Office of Planning is not correct that this PUD cannot be built within the overlay. All the Zoning Commission needs to do is add C-2-A to the description and put a condition in the order that notwithstanding the overlay X number of restaurants and other restricted uses like bars can locate within PUD area.

Meetings with OP and DDOT

It's important for the Zoning Commission to realize that the details of this PUD were not revealed until the filing in May 2008. But issues had emerged earlier, namely the housing density, the architecture, and traffic. In 2007 a group of ANC commissioners and residents met with DDOT to request their help in shaping the project so that we could minimize traffic and parking issues in the design phase. DDOT said they could only work with the applicant if they requested it. We made that known to applicant and encouraged them to contact DDOT. It didn't happen. In early spring 2008 a similar group met with Office of Planning to discuss density and other issues; the initial reaction from the Office of Planning was that we should continue to discuss how to reduce the density. Once the application was filed OP argued that density was not a problem for them. DDOT tried to persuade the neighborhood that traffic and parking demand would indeed reach a crescendo and then gradually it would subside as people refused to come to the neighborhood. Like OP, DDOT initially wanted to solve problems like the inadequacy of the temporary barrier at the Wisconsin Avenue/Ordway Street/Idaho Avenue intersection, but that was replaced with a

“wait and see” approach that left the potentially impacted residents feeling let down by the agencies charged with representing their interests.

Each gap or mistake in the May submission, and there were significant problems, was brought immediately to OP and DDOT’s attention. This was done so that the submission could be quickly corrected or improved and moved forward at the pace the neighborhood expected. OP staff on more than one occasion stated that the problems with the application would not “kill the project.” This has been a recurring theme and it misstates the legitimate interest in achieving a better grocery store at the same time as preserving the character and quality of life of the neighborhood. At the setdown hearing the problems with the application were understated and the status of resolution of the problems was overstated, and so once again the concerned residents felt that another opportunity to force the applicant to improve the project was lost.

During the summer 2008 DDOT acknowledged that there were unanswered traffic issues and loading gaps that they hadn’t identified. At a meeting in July, DDOT instructed the applicant to do additional studies, correct the parking numbers, and address the lack of loading dock connection to the retail and housing in the South Block. We agreed to meet in 30 days but the applicant’s consultant didn’t respond until almost 90 days later. The loading issue was partially corrected by proposing an awkward dock at the end of a small, well used alley from Macomb St., which still doesn’t connect to the Newark St. uses. This along with parking remains a key issue.

There was an expectation in the neighborhood, fostered by ANC commissioners, that DDOT and OP would be helpful and that it was important to work with them and not wait until the Zoning Commission hearing to present problems with the PUD. That was done with less than satisfactory results. Both agencies denied that this PUD presented any problems even though it represented a tripling of the current commercial square footage and numerous requests for zoning relief that many residents believe will create significant negative impacts.

Attempts to Negotiate

At the invitation of Tony Colavolpe, I met with him in July to explain how our cooperative process had devolved into the screaming session he observed when StreetWorks unveiled the application at a public meeting in June 2008. He said he had not been involved for some time and he asked how we could get the project back on track so that the neighborhood would support it. I gave him specifics and assured him that we could resolve these issues if Stop & Shop would return to the level of project originally presented to the neighborhood. After OP issued its report recommending setdown, Mr. Colavolpe no longer expressed interest in working on issues.

The neighborhood continued to appeal to the applicant through StreetWorks despite the lack of interest from the city agencies. Finally, the neighbors who had taken the serious step of motioning the Zoning Commission to become parties in opposition agreed to ask StreetWorks to meet with them. This meeting took place in mid-January 2009. The parties explained with documentation why they had concerns and asked StreetWorks and the applicant’s lawyer to negotiate solutions. StreetWorks representative took several issues off the table and agreed to discuss the overlay issue and a proposed relocation of the Idaho Avenue loading dock after consulting with the applicant. But there was no response. The day after the first Zoning Commission hearing the StreetWorks representative said that they had no intention of negotiating.

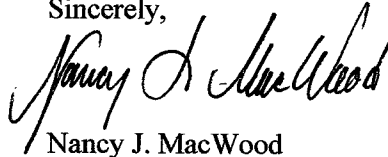
After hearing encouragement from the Zoning Commission that opponents should continue to reach out to the applicant, the parties did just that. Through a letter to the applicant’s counsel

shortly after the May 6, 2009 hearing the opposition parties sought a meeting and a new attempt at negotiation. That overture was rebuffed.

While there may have been mistakes made along the way, the overriding motivation in reaction to this PUD has been to take only actions that would not jeopardize the grocery store. That is a very weak bargaining position especially when the city agencies won't step in. It was thought that with painstaking cooperation over a number of years that the applicant would not overreach and present an impossible scenario to neighborhood residents. The attempts to work within the system to ensure a reasonable project that could be supported didn't work. Frustration levels are high, and lessons learned are all the wrong lessons. Even the Zoning Commission proceeding has suggested to many who have been observing each hearing that the opponents are not welcome participants and their issues are not interesting or relevant to the decision making process.

As an ANC commissioner who has been deeply invested in getting a better grocery store and facilitating the development of this project, I want to make sure that the Zoning Commission understands the efforts that were made. If I and others have done a poor job in conveying that there are no new issues and that the applicant has been well aware of the issues I hope this letter corrects that.

Sincerely,

A handwritten signature in black ink, appearing to read "Nancy J. MacWood", written in a cursive style.

Nancy J. MacWood

