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May 23, 2002

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Zoning Commission of the District of Columbia

Re: Zoning Amendment for Waterside Mall - Case No. 01-35
Requested by the Office of Planning and the Kaemper Company, Inc.

Dear Commissioners:

Thank you for the opportunity to fully express my views at the May 2, 2002 hearing on the above matter. This written statement and exhibits supplements my oral testimony on the above matter which was held on May 2, 2002.

I am opposed to the zoning amendment in its present form. I am opposed to the zoning amendment - not in concept for what it would permit this developer to do at this time to expedite the development of Waterside Mall into Waterfront Town Center, but because of its language and the potential effect of that language. Many residents of Southwest, including myself, could care less about loading dock requirements and building setbacks for the existing buildings if the one block - one unit property - were treated as two separate units if a public street or roadway was constructed in the middle of Waterside Mall. Our concern goes deeper - we are concerned about the construction of the public street itself through the middle of the Mall.

During my oral testimony, I suggested adoption by the Zoning Commission of an amendment to the wording of the proposed zoning amendment, if it is approved, which would eliminate the words "a roadway or" which precede the words "a public thoroughfare". The main purpose of this amendment is to preclude the D.C. Office of Planning and the developers of the Waterside Mall/ Waterfront Town Center (the developer's new name for the site) from arguing that the Zoning Commission has already "approved" the concept of a public street or roadway if this current zoning amendment is approved. The concept of considering and approving the "roadway" as a part of the developer's plans should be aired and addressed and considered by the community in the upcoming PUD process that the developer will be submitting for this site shortly in June 2002. The Zoning Commission's approval of the zoning amendment at issue, with its

ZONING COMMISSION
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Exhibit 28

ZONING COMMISSION
District of Columbia
CASE NO.01-35
EXHIBIT NO.28

current language, is prejudicial and premature.

In response to a question, I answered that the words "a public thoroughfare" were broad enough to take into account a "public street or roadway". Upon further reflection and after rereading the proposed zoning amendment, I wish to change my view on this question. Since the zoning amendment as proposed already refers to "a roadway" as opposed to a "public thoroughfare," the elimination of the words "roadway" would also eliminate that meaning from being included in the term "public thoroughfare." Thus, if my proposed amendment were adopted, the zoning amendment would not cover a "roadway" in the form of a public street, which is what the zoning amendment intended in the use of the term "roadway."

In my opinion, the term "public thoroughfare" means the following - what we have at the Mall today:

(1) A pedestrian-only walkway or area or mall that is open to the general public, including both areas open to the air or covered by a roof or second or higher floor building structures;
(2) A privately-owned and privately operated parking area, including both surface parking and underground parking which is open to the public at reasonable hours for access to or through retail shops, offices and other facilities or parks which are open to the general public; and
(3) Parks, publicly owned or privately owned, with walkways, streets, paths, bike paths or roadways open to the general public at reasonable hours that permit access through or to other facilities.

My objection to the present zoning amendment goes to the core issue. How will the new "open area" - which will be created between the East and West Towers when the three story "Mall" structure between these towers is demolished - be used. The Office of Planning and the developers want a "roadway" in this area. (See Exhibit "A"). Others, including Mr. Gene Solon, another witness before the Commission on May 2, 2002, want a "pedestrian only thoroughfare". I prefer the present Mall concept of a mixed use of pedestrian walkways and surface parking for cars. For over thirty years, cars in a parking area and pedestrian walkways have co-existed and been served by the Mall's retail stores. What has worked for over thirty years should be continued. What we have not had for over thirty years is a "public street", and the "local community shopping area" needed by Southwest does not need a new street down the

middle of it to enhance and encourage Southwest residents to use the new Waterfront Town Center shopping area envisioned by the developers. What it needs is more surface parking and better underground parking.

The basic problem with the proposed zoning amendment is that it refers to "a roadway," which a great number of Southwest residents, including myself, do not want constructed through the Waterside Mall. As I mentioned at the hearing, there are other more suitable alternative "roadways" that can be constructed to meet the City's perceived needs for reconnecting 4th Street. I show such an alternative, the one I presented orally at the hearing, in the attached exhibits. (See Exhibits "B" and "C" showing the route of a proposed "4th - 6th Street Waterfront Mall Bypass.") Starting from north of the Waterside Mall, at the intersection of 4th and I Streets, SW, the proposed alternative calls for construction of a two lane roadway to go south and curve to the west from the intersection of 4th and I Streets, SW to meet with and follow the one-block long portion of K Street, SW further to the west to the intersection of 6th and K Streets, SW. From that intersection, the roadway would be designed to permit vehicles to go directly onto 6th Street, SW in a southerly direction and one block further south, where vehicles would be at the existing intersection (with a stoplight) of 6th and M Streets, SW.

Southwest residents welcome the renovation of and improvements to the Waterside Mall (one of the worst cluster of retail establishments in the City - a 30 year old Mall which has never been significantly improved before or operated in a professional manner for the benefit of its users and customers during its entire history). I have been a customer of the Mall since February 1975 and have lived in Southwest for over ten years. Even Kaemper Company and Forest City Enterprises, the new developers of the site who have essentially bought out the Bresler family and its prior partners would agree that the current condition of the Mall is very poor and not marketable.

It is not enough to say, as some have suggested, that the Comprehensive Plan already confirms that a public street or roadway shall be built from the intersection of 4th and I Street, SW directly south to the intersection of 4th and M Streets, SW. I differ with that interpretation of the Comprehensive Plan adopted by the DC City Council as it now reads. Nowhere does it explicitly say that a street will be built. The Comprehensive Plan merely refers to and parrots the 1998 ULI Study that was requested by and funded by the Southwest Neighborhood Assembly, Inc. (SWNA) and other local community organizations that wanted the Mall improved. To put it bluntly, the outside experts who prepared the ULI Study came up with the concept of a "roadway" and many

in the community who had asked for and supported the study "were shocked" with that result. That is why there is no record of any organization in Southwest ever taking a "vote" to approve of or agree with the concept of a "roadway' through the Waterside Mall.

In my opinion, the "public street roadway" concept is not a "fait accompli" and a "done deal". The residents of Southwest who asked for the ULI Study never adopted or accepted in any formal way the idea of cutting through the Waterside Mall to create a "public street or roadway". More importantly, that was then and this is now. Even if such explicit language were in the Comprehensive Plan, the Comprehensive Plan can be changed now by the DC City Council if it chooses to so. More importantly, this issue can be properly addressed with citizen input during the upcoming PUD process on the developer's development plans for the Waterfront Town Center.

Moreover, even if the "roadway' were explicitly adopted in the Comprehensive Plan, which it is not, that does not mean that it has to be built. As my friend, Harold Sanders said at the May 1, 2002 Waterside Mall Task Force Meeting before a group of over 20 DC officials, representatives of the developers, and other community leaders, "Just because it is in the Plan does not mean it has to be implemented. Lots of things in the Comprehensive Plan may never be implemented."

For all of the above reasons, I ask that the Zoning Commission deny the proposed zoning amendment. In the alternative, I ask the Commission to adopt the language change I have suggested, eliminate the reference to "a roadway or" and approve the zoning amendment as modified. I also ask the Commission to adopt my meaning of the term "public thoroughfare" which does not include a "public street" for purposes of this zoning amendment (or any subsequent zoning amendment suggested any where else throughout the City in the future).

Thank you again for the opportunity to supplement my testimony in writing.

With best regards,



Robert E. Mittendorff
A concerned citizen and
Second Vice President of SWNA

Enclosures

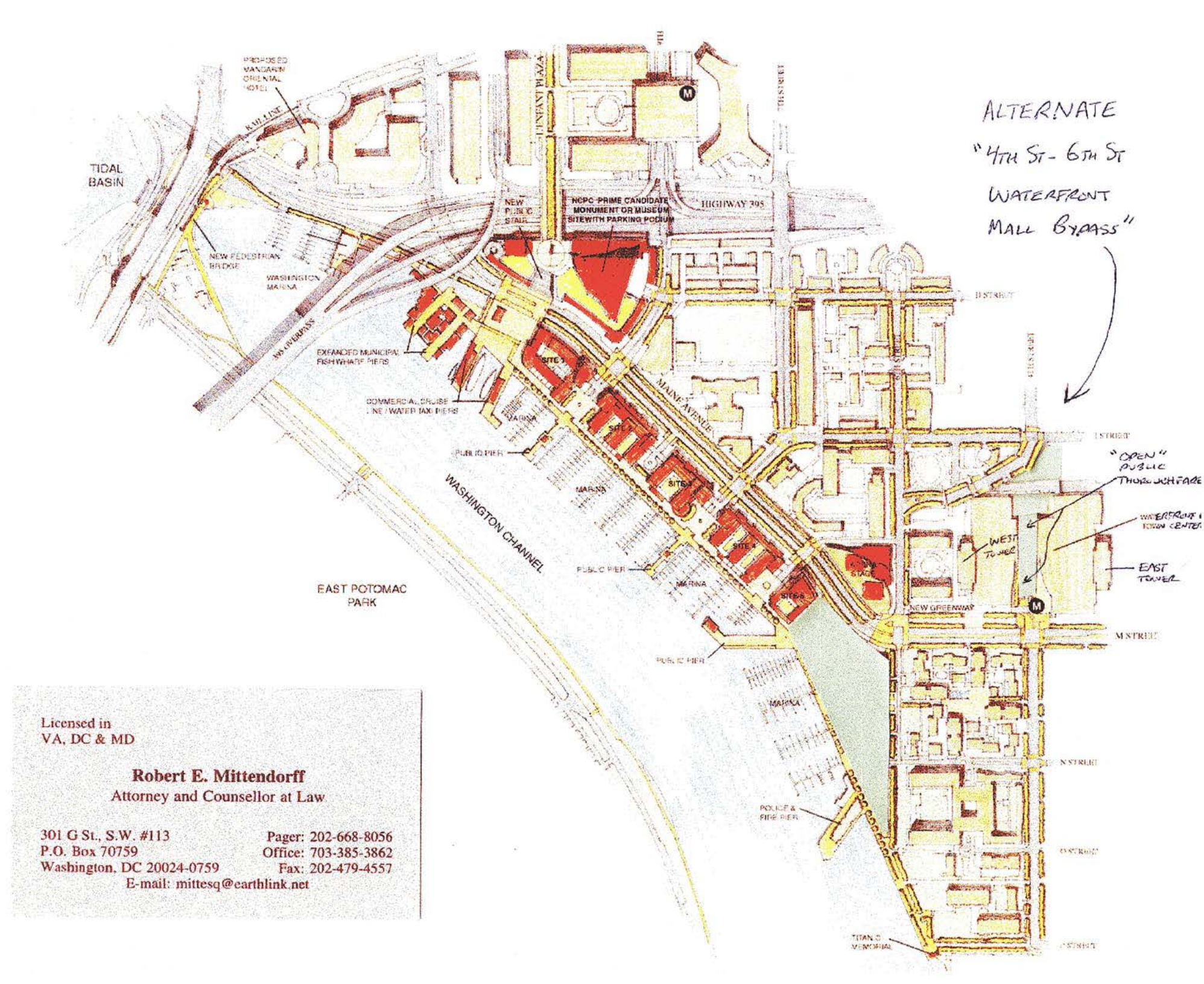
cc: Gene Solon (May 2, 2002 Hearing Witness)
Harold Sanders (May 2, 2002 Hearing Witness)
Renault Hawkins (May 2, 2002 Hearing Witness)
Kaemper Company, Inc. (May 2, 2002 Hearing Witness)
Forest City Enterprises (through Kaemper Company)
Andy Altman, Director, D.C. Office of Planning
Dan Tangherlini, Acting Director, D.C. Department of Transportation

Council Member Sharon Ambrose
Andy Litsky, ANC-2D Chairman
Richard Westbrook, ANC Commissioner (May 2, 2002 Hearing Witness)

Gerard Catus, SWNA President
Margaret Feldman, SWNA First Vice President
Camille Megan Cunningham, SWNA Secretary
Ellen Winship, SWNA Treasurer
Meg Brinkman, SWNA District 3 Representative
Mark Joyce, SWNA District 3 Representative

Dr. Lee Haacker, President, Harbour Square Owners, Inc.
Lawrence Rebel, Harbour Square Board, Vice President
Catherine Eberwein, Harbour Square Board, Secretary
Christine Godson, Harbour Square Board, Treasurer
Julia Sayles, Harbour Square Board, Asst. Secretary
Vivian Perry, Harbour Square Board, Asst. Treasurer
Paul Barnette, Harbour Square Board, Director
George Courtot, Harbour Square Board, Director
Stephen Norton, Harbour Square Board, Director
Isabella Gelletich, Harbour Square, Community Affairs Committee Co- Chair
Michael Bouchard, Harbour Square, Community Affairs Committee Co- Chair


PROPOSED MANDARIN ORIENTAL HOTEL
RAIL LINE
TIDAL BASIN
NEW PEDESTRIAN BRIDGE
WASHINGTON MARINA
L'ENFANT PLAZA
7TH STREET
NEW PUBLIC STAIR
NCPC PRIME CANDIDATE MONUMENT OR MUSEUM SITE WITH PARKING PODIUM
HIGHWAY 395
H STREET
6TH STREET
4TH STREET
I STR
EXPANDED MUNICIPAL FISH WHARF PIERS
SITE 1
MAINE AVENUE SW
COMMERCIAL CRUISE LINE / WATER TAXI PIERS
MARINA
PUBLIC PIER
SITE 2
SITE 3
MARINA
WASHINGTON CHANNEL
SITE 4
PUBLIC PIER
ARMY STAGE
MARINA
SITE 5
NEW GREENWAY
PUBLIC PIER
MARINA
N STREET
POLICE & FIRE PIER
O STREET
TITANIC MEMORIAL
P STREET
EAST POTOMAC PARK
FORT MCNAIR



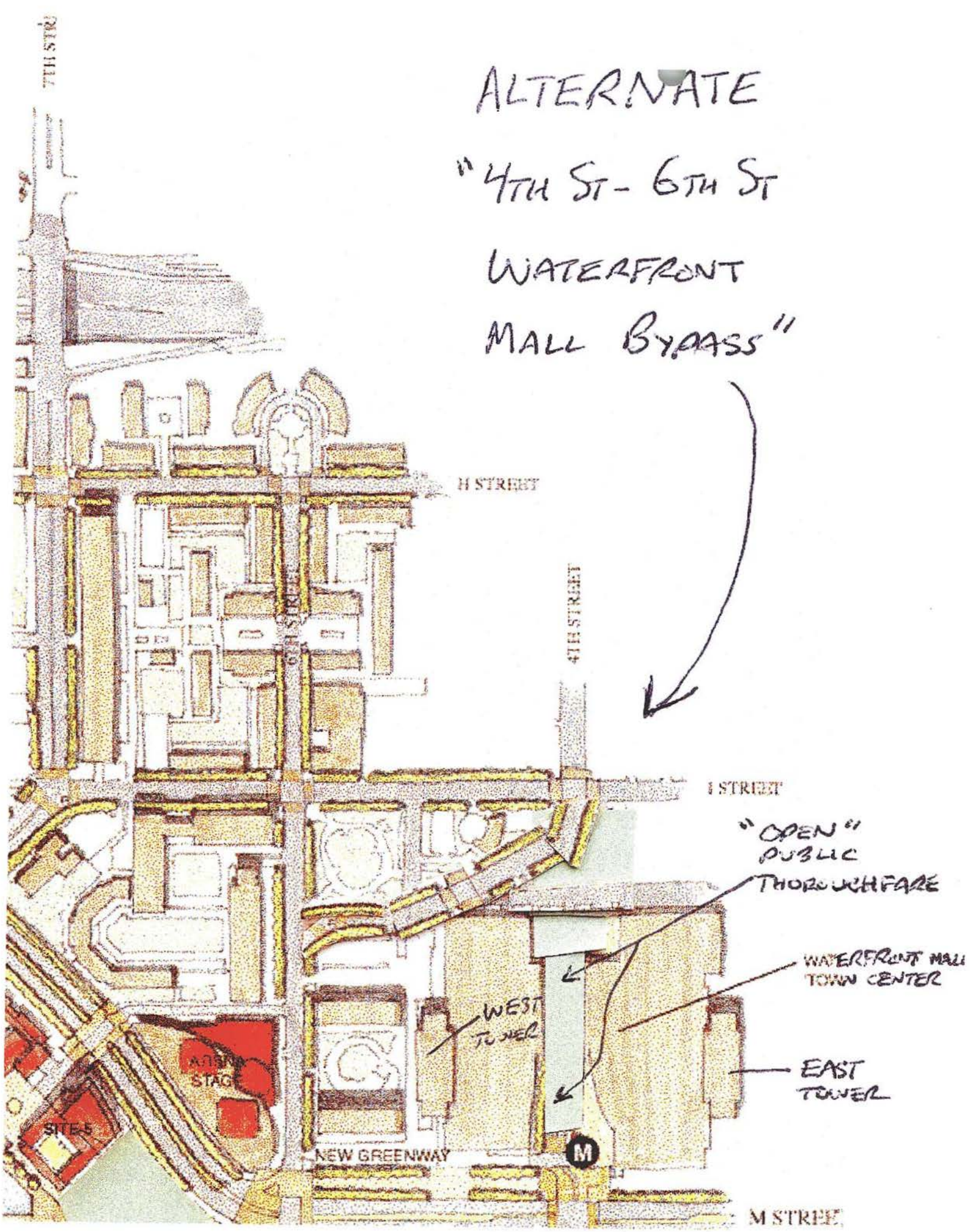
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ALTERNATE
"4TH ST - 6TH ST
WATERFRONT
MALL BYPASS"
7TH STREET
H STREET
6TH STREET
4TH STREET
I STREET
"OPEN"
PUBLIC
THOROUGHFARE
WATERFRONT MALL
TOWN CENTER
WEST
TOWER
EAST
TOWER
SITE 5
NEW GREENWAY
M
M STREET