Advisory Neighborhood Commission 6D

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May 30th, 2003

Chairperson Carol J. Mitten
DC Zoning Commission
441 4th Street, NW • Suite 210 South
Washington, DC 20001

ANC 6D Supplemental Report re: Case No. 02-38, the Southwest Waterfront PUD Application

Dear Chairperson Mitten and Zoning Commission Members:

At a duly noticed public meeting on May 29, 2003, Advisory Neighborhood Commission 6D voted 5-1 (one Commissioner was absent) to formally approve the submission of this report to the Zoning Commission as additional and supplemental information to its earlier reports and testimony. The ANC has seven Commissioners, and four Commissioners comprise a quorum.

ANC 6D received copies of the applicant's filings to the Zoning Commission at 5:42pm on Friday, May 30, 2003. Based on the inadequate responses in those submissions, and the unsubstantiated and spurious "findings of fact" in the applicant's proposed Zoning Commission Order, the ANC remains **adamantly and unequivocally opposed** to the PUD and the application for text and map amendments to rezone the site from C-3-B to C-3-C.

A) Response to the applicant's Post May 12th Hearing Submissions

1. Inclusion of a Grocery Store in the PUD
The ANC shares the concerns expressed by Zoning Commissioners at its May 12th session, and finds the applicant's response entirely inadequate – and typically unresponsive – to the community's short and long term need for a continuous and adequate level of grocery and other retail services. The applicant failed to address concerns brought forward regarding interim parking, pedestrian, and vehicular access to the current *Safeway*. As importantly, there was no response as to how the PUD would incorporate into the long term design space that was clearly built to accommodate a grocery store of the same or greater square footage be easily accessible to vehicular and pedestrian traffic, and be able to expand as the *Safeway* has testified it wishes to do.

   A non-binding and vague promise to "…use *reasonable efforts* to lease the space for grocery store use" is unacceptable to the ANC. Furthermore, the 'escape clause' "should another grocery store be built within a mile and a half of the property" is fraught with issues. While a specialty food store such as a *Traders Joe's* or a *Whole Foods Market* would be a welcome addition to the community, many residents including our senior, handicapped and low income populations rely on a traditional full service grocery store for essential household items not provided by a specialty store. When the CVS lease expires in 2008, this community could be put at great risk of losing access to its most basic and essential needs.

2. Responsibility to Maintain the Public Park North of the Property
Given that the applicant has called what would remain of the park if 4th Street were to be cut through it a public amenity, the term "useful life of the PUD project" is hardly reassuring. It should also be noted that the applicant's current management of the property includes replacing a large window that *their own security shot broke* (by driving into it with a golf cart) with plywood for weeks. Clearly, it is not in the interest of the community to transfer control of the property to the applicant under any matter of right or future PUD scenario until they can demonstrate an ability to maintain their own property at acceptable standards.

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Case.....02-38.....
Exhibit.....115.....

ZONING COMMISSION
District of Columbia
CASE NO.02-38
EXHIBIT NO.115

3 Second Stage Applications Timetable
It remains the opinion of the ANC that the extended timetable – whether the first two second stage applications are consolidated or not – will significantly erode the quality of life of the fourteen thousand people represented by ANC 6D. The noise, traffic and environmental impacts alone of the estimated twenty or more years of construction will drive out nearby residents, impact their property values, and drastically and permanently damage the fabric of adjacent neighborhoods. Both the timetable and the scope of the project under the requested waivers and variances the PUD, especially when considered in the context of other projected large scale construction projects nearby, remain significant reasons for the ANC's opposition to this PUD.

4. Sequencing of Residential and Commercial Components
The ANC has previously stated its belief that the community and the city would be better served by broadening the tax base through the construction of residential units rather than office space, to drive the retail market forces discussed by the Office of Planning in its report in ways that would benefit the local community. Without question, the community would prefer a PUD with a strong residential component, a more feasible scale that would allow for a reasonable timetable, and a Town Center – not office complex - focus.

5. Unaddressed Issues
ANC 6D understands from the its Secretary's report on the March 12th session of the Zoning Commission that additional concerns and questions were brought forward by Zoning Commissioners that were either not addressed or not even mentioned in the applicant's response. The ANC objected to the PUD based on many of those same concerns, including the overall unbalanced trade-off between developer gains and community needs, the amount and type of retail space, the need to create a true Town Center, and concerns over the lack of public amenities called for by the ANC such as construction and long term job opportunities. The ANC's March 14th submission was explicit in stating the **minimum** expectations of the community in regard to public amenities, community involvement and jobs.

B) Response to the applicant's Proposed Zoning Commission Order

After reviewing the applicant's proposed *Zoning Commission Order No. 02-38*, ANC 6D disagrees with numerous 'findings of fact' as well as the proposed decisions. Following are specifics from the applicant's proposal that we find to be erroneous or unsubstantiated.

In Section 3 of The Application, Parties and Hearing the applicant states that all property owners within 200 foot of the subject property received notice in the mail. The reality is that many town home owners have stated that they did not receive notice. No mention of the denial of party status to the Tiber Island Cooperative Homes was made in Section 5.

The applicant states in Section 12 of The Site that a large number of office employees will aid in supporting retail that will serve the surrounding community. The ANC vehemently disagrees with this assessment and its reports and testimony have consistently demonstrated that the combination of limited retail space and thousands of additional office workers will in fact have a negative impact on community orientated retail. In Section 16, the applicant fails to address the proposed expansion of Arena Stage and the SW Waterfront development that will include the closing of Water Street and the elimination both of on-street parking and the parking lots between Maine Avenue and Water Street, all of which is planned to take place concurrent with the extended timeline of the PUD.

In Section 22 of The PUD Project the applicant refers to "wide sidewalks" when they are in fact proposed to be built to the minimum width of typical urban sidewalks, and may not conform to the requirements of a Public Space Permit for uses such as sidewalk cafes. Section 23 cites the proposed public park as a "major public amenity" when in fact it will be a paved area that will have a negative impact on access to the grocery store. Section 28 cites the D.C. Department of Transportation study as finding that the anticipated traffic impacts would be less under the PUD than a matter-of-right scenario. However, as ANC 6D has contended that matter-of-right scenario is based on the entirely unrealistic presumption that [illegible] space would be built if the PUD is denied. We challenge them to build that amount of retail space.

While Section 29, paragraphs a-i, of Public Benefits of the PUD is clearly written to put the PUD in the most favorable light, there are numerous statements presented that are clearly only the applicant's opinion. They include the statement that the existing building will deteriorate and cause blight in the surrounding neighborhoods if the PUD is not approved, when in fact it is the applicant's current lack of proper maintenance, inability to reach an agreement to expand or extend *Safeway's* lease, and decision to put other merchants on month-to-month leases that are the major factors in the current deterioration of the Mall. The applicant states that the reopened 4th Street will be safer for pedestrians. That assertion flies in the face of reality. No vehicular roadway can be as safe for pedestrians as a pedestrian walkway. The applicant also states that there will be no adverse effect on the neighborhood but fails to mention the twenty or more years of construction, and the reduction in retail square footage from when the existing towers were occupied, nor is there an explanation of how less retail space will be able to accommodate more office workers and the residents of 400 more apartments.

Section 33, the Report of Advisory Neighborhood Commission 6D only includes concerns brought forth in the initial report, and fails to address other concerns and additional information presented in later testimony and the ANC's April 14th report – copies of which were sent to the applicant.

Section 34, Testimony in Support does not mention that virtually all citizens testifying in support of the PUD also expressed some or all of the concerns brought forward by the ANC and community residents testifying in opposition.

Under Conclusions of Law, ANC 6D trusts that the Zoning Commission will rely on D.C. Corporation Counsel and its own good judgment to determine the lack of validity of the purported facts that the Conclusions of Law are based on. The ANC disagrees with all the conclusions as regards the issues brought forward in Section 7, paragraphs a-e.

Based on the above errors of fact, the conclusions based on those errors and assumptions, and the reports and testimony provided by ANC 6D to the Zoning Commission expressing the will of the community, we believe the proposed Decisions, even as amended on May 23rd by the applicant, should be disregarded.

C) Conclusion

Despite numerous and recent offers from the ANC to meet and discuss the PUD, the applicant has failed to respond since a single meeting held prior to the February 13th Zoning Commission hearing. As ANC Chair Ahmed Assalaam stated in the ANC's testimony that evening, the ANC is "committed to improving the quality of life for the people we represent, and we are ready, willing, and able to work with the developers, citizens and other stakeholders to achieve that goal."

Because the applicant has failed to meet or address community concerns, failed to comply with the Comprehensive Plan's call to "ensure businesses will service the adjacent residential neighborhood," failed to demonstrate the viability of its plans in any way that justifies a request for an extended timetable, failed to ensure the continuance of grocery service, and failed to provide equitable public amenities as called for in the PUD process, ANC 6D firmly requests that you deny approval of the PUD.

Sincerely,

Ahmed Assalaam

Commissioner Ahmed Assalaam
Chairman, Advisory Neighborhood Commission 6D