

DISTRICT OF COLUMBIA ZONING COMMISSION

In the Matter of)
the Southwest Waterfront Redevelopment) **Case No.**
Hoffman-Streuver Waterfront, L.L.C.) **11-03**
Application to the D.C. Zoning Commission)
for a Planned Unit Development)
and Related Map Amendment)

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CLOSING STATEMENT OF PARTY OPPONENTS
SIXTH STREET HOMEOWNERS

I. Issue

- A.** Whether the Hoffman-Streuver Waterfront, L.L.C. (“Developer”) is being opportunistic by tacking on Parcel 11 to the Planned Unit Development (“PUD”) as a means to gain increased value by trying to rezone Parcel 11 as R-5-B through the process of this PUD, rather than use “matter of right” development which would have required the developer to seek a variance for the Church’s current zoning status, which is R-3 residential.
- B.** Whether the award winning design of the homes of the Sixth Street Homeowners, which emphasizes open space, light air, and views is irretrievably damaged by the Developer’s proposal for Parcel 11 because distance between the structures is less than that originally conceived by the architect?

II. Statement of Facts

Square 502 is bounded by Sixth Street, S.W. on the west, M. Street, S.W. on the north, 4th Street, S.W. on the east, and N. Street, S.W. on the south. Square 502 includes the 64 perimeter townhomes known as the “Tiber Condo” townhomes which are located on 6th Street, S.W. (including Sixth Street Homeowners), M. Street, S.W., 4th Street S.W., and N. Street S.W.. The 64 townhomes are zoned R-3. Square 502 also encompasses the apartment towers (zoned R-5-D) and internal townhomes known (zoned R-3) as the Tiber Island Cooperative Homes (“TICH”). The cooperative and the condominium are two separate legal entities with separate property lines.

The “Sixth Street Homeowners” reside in townhomes located at 456 M. Street, S.W., 458 M. Street, S.W., 462 M. Street, S.W., and 468 M. Street, S.W., which are part of the Tiber Island Condominium, located on the west facing side of Square 502. Our structures, which are numbered as 182 in Square 502 are, zoned R-3. The Sixth Street homes front entrances are located on an internal courtyard for which the courtyard

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entrance is on M. Street, S.W..¹ The rear garden entrances for the properties are located on 6th Street, S.W.. All the family rooms, living rooms and master bedrooms, all having window walls with sliding glass doors, are located directly on 6th Street, S.W., and face directly west on 6th Street, S.W. directly across from Parcel 11.

The District of Columbia Office of the Surveyor indicates that Square 502 is bounded by 4th Street, N. Street, M. Street, and Sixth Street. The current width of 4th Street, N.W. from curb to curb is 99.7 feet wide, the width of N. Street, S.W. from curb to curb is 50 feet wide (includes concrete median with trees, and the width of 6th Street, S.W. is 40 feet. On N. Street, S.W., the distance from the wall of the closest Harboursquare Cooperative window on N. Street to the curb is 25 feet and the distance from Tiber Condo windows on N. Street to the curb is 35 feet. Accordingly, on N. street, the closest distance from a Harboursquare window to a Tiber Condominium window is 110 feet (25 feet, 50 feet (street width), 35 feet). Currently, on 6th Street, S.W., the closest wall of St. Augustine's Church (on Parcel 11) is currently 52 feet from the curb of 6th Street, S.W.. The distance from the windows on the rear of the closest 6th Street home to the curb on 6th Street is 41 feet. Accordingly, the distance between the closest wall of St. Augustine's and the windows of the nearest 6th Street home is 133 feet (52 feet, 40 feet (current street width), 41 feet).

Contrary to Holland & Knight's testimony, the majority of the square footage of Parcel 11, which comprises the St. Augustine's Church land, located on Square 473 is zoned R-3. Pursuant to Zoning Commission Case No. 95-15, which relates to the Southwest Comprehensive Zoning Plan, the Zoning Commission issued Zoning Commission Order No. 807 (10/19/98), that expressly states that Lot 0083 of Square 473, 600 M. Street, is zoned R-3. The computerized Zoning Map (as of July 20, 2011), which reflects Z.C. Order No. 807, clearly identifies the environs of St. Augustine's Church as situated within R-3 zoning.

The current DC Summary of Zoning Districts (updated as of November 5, 2010) indicates that the rear yard requirement is 20 feet. See <http://dcoz.dc.gov/info/districts.shtm>.

¹ About ten years ago, Sixth Street homeowners considered petitioning the Tiber Condo Board to change their legal addresses to Sixth Street because but for entering a courtyard on M. Street, the properties are situated on Sixth Street with directly west facing views of open spaces.

III. Analysis

A. The Developer Should Not Be Allowed to Tack the Church onto the PUD to Avoid Seeking a Variance from Matter of Right Development

As previously argued in testimony, the Sixth Street Homeowners maintain that the developer is attempting to bootstrap onto the Church in an opportunistic manner such that both parties significantly profit to the detriment of our property. The Developer is acting in an egregious manner, by first trying to use the PUD to make an “end-run” around R-3 zoning of the Church. Moreover, it is attempting to exceed zoning of R-5-B for Parcel 11 by implementing the partial closure/narrowing of 6th Street, S.W.

At a minimum, if the Zoning Commission allows the Developer to engage in partial closure of 6th Street, the Commission should engage in balancing standards under the PUD. It is suggested that the Developer apply a scale of R-3 to Parcel 11, including 20 foot setback from the curb for the rear of Parcel 11, which would be the 6th Street side of parcel 11. A 20 foot setback on 6th Street side of Parcel 11 would enable the Sixth Street Homeowners to retain some small view corridor around the back corner of the structure to view the river.

Additionally, regarding the siting of the Church, it obscures view corridor down M. Street to the river. Despite the Developer’s CAD depiction, dated August 26, 2011, the siting of the Church still encroaches and blocks any view of the river from the corner of 6th Street (456 6th Street, S.W.).

B. The Developer’s Proposal Negatively Impacts the Design of Open Space by Narrowing Sixth Street and Positioning the Proposed Solid Structure Significantly Closer to Our Homes than Originally Conceived by the Tiber Island Condo Design.

Currently, both the Sixth Street homes and the Church are zoned R-3. The proposed rezoning of Parcel 11 from R-3 to R-5-B will adversely impact the architectural integrity of our whole community not just our individual homes. It overwhelms our scale, looming over a proposed narrowed street, such that it will destroy elements of the design that built around open spaces, a significant view corridor, unobstructed waterfront views from even as low as our second floors of monuments, big sky vistas and sunsets, and sunlight. Those views encompass seeing the following monuments at night in the leafless months: Washington monument, Jefferson Monument, Arlington Cemetery Lee Mansion, Airforce Memorial, and Crystal City and Roslyn Skylines. The Condominium will appear “choked off” by the entirety of the PUD. As proposed, additional views will be lost to Parcel 10, which the Sixth Street Homeowners do not even challenge.

Foremost, the Sixth Street Homeowner's argument concerns our loss of open space, not just views because the Developer's proposed structure will lessen the distance from the wall of the nearest proposed structure to the windows of the Sixth Street Homes by thirty feet.

The Developer's proposal to build a structure it alleges will only be 100 feet from the nearest Tiber Island Condo Sixth Street window is contrary to Tiber Island's original design. As indicated in the Statement of Facts, the current distance from the nearest wall of the Church to the nearest window of a Sixth Street Homeowner is 133 feet. As originally designed, the closest structure from any wall of a building to a window of a Tiber Island Condominium home is located on N. Street, S.W. and is 110 feet. As specifically indicated, on N. Street, S.W. the distance from the wall of the closest Harboursquare Cooperative window on N. Street to the curb is 25 feet, the width of the street from curb to curb is 50 feet, and the distance from Tiber Condo windows on N. Street to the curb is 35 feet. Making the closest distance ever conceived by the Tiber Condo architect between the windows of a Tiber Island Condo window and any other structure's wall across a street to be 110 feet. The minimum distance the original architect conceived another structure would be from a Tiber Island Condo is 110 feet. The developer's proposal to locate its closest wall on Parcel within an alleged 100 feet from a Sixth Street Home's window is damaging to Tiber Island Condo's original design. Considering these townhomes as originally designed had an unobstructed view corridor of over four monuments and the river, this lessened distance to a wall is unacceptable.

Notably, we maintain that the additional CAD slide (August 26, 2011) that allegedly shows the river from 6th Street is not accurate because it is a direct southerly perspective taken from our gates which are twenty feet further out towards the curb than our living room windows. The view from the gates is different than the view from the living room windows because one can see around the back of Parcel 11 from the rear gates but not from the living room windows. The CAD drawing is misleading.

Under the PUD standards it is unreasonable that part of Sixth Street is closed to benefit the developer in excess of its requested zoning. The current R-3 code provides for 20 foot setback for the rear of an R-3 property. At a minimum, the Commission should require the Developer to push the perimeter of the property back on the side of the building that abuts the Sixth Street Homeowners. Homeowner could then retain some small view corridor looking southwest down the river.

Additionally, the Developer's August 26, 2011 submission does not address the traffic issues regarding the narrowing of the street and the inconvenience of having to enter a traffic circle. Due to our proximity of less than 50 feet from the PUD, the expected significant traffic, we maintain that DDOT should not defer mitigation be allowed to be determined in Stage 2 of the PUD. The DDOT report expressly notes

inadequacies in the developer's traffic study regarding the volume of traffic and the impact of the proposed traffic circle.

Currently, when stadium traffic stalls on M. Street, Sixth Street Homeowners can access their homes from both directions on 6th Street, thereby avoiding having to sit in M. Street traffic. When the stadium is in session, the already slow rush hour traffic is increased by twenty minutes. Thus, under the proposal, Sixth Street Homeowners will unnecessarily sit in traffic within blocks of their homes.

We are disturbed by the potential adverse impact (noise and air pollution) of a new Metro entrance tentatively proposed for 6th Street. Taking into consideration such impacts of an additional traffic upon the Sixth Street Homeowners, the Commission should request additional mitigating measures by the Developer regarding its proposed property line on Sixth Street for Parcel 11.

We also ask the Zoning Commission to take into account that other matter of right development high density development (zoned R-5-D and C-3-C) is already scheduled to be built directly opposite other Tiber Condominium homes on M. Street.² Notably, the R-5-D zoned structure is to be built directly in front of the I.M. Pei designed Marina View Towers. Thus the M. Street Tiber Condo townhomes will, in the near future, no longer have views of an I.M. Pei structure or be said to abut such a structure.

As it stands now the developer receives over 3.0 million square feet of property to develop. Such development need not be wholly damaging to existing award winning properties. Some balancing and fairness are required.

CONCLUSION

We respectfully request that the Commission apply balancing standards regarding the Developer's proposal for Parcel 11.

Dated 9/21/11

SUBMITTED:

/s Leslie Randolph
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² Sadly matter of right development, zoned R-5-D, will place a high density building directly next the I.M. Pei designed Marina View Towers.