

Concerned Citizens of North Michigan Park
Belinda Bell

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2015 SEP 14 PM 3:00

September 14, 2015

District of Columbia Zoning Commission
441 4th Street, NW, Suite 210S
Washington, DC 20001

Re: Zoning Commission Case No. 15-04
Comstock Sixth Street, LLC - Totten Mews PUD
Concerned Citizens of North Michigan Park Response to Comstock Post Hearing
Submission

Members of the Zoning Commission:

Below is the Concerned Citizens of North Michigan Park's response to the Comstock's September 4, 2015 post hearing submission to provide supplemental information requested at the July 30, 2015 Zoning Commission hearing. This response will include discussion on four subjects: 1) the design of proposed bike/pedestrian path; 2) Rocky Gorge's intent for roadway to connect both parts of 6th Street, NE; 3) Comstock's commitment to nearby homeowners that live outside of Emerson Park; and 4) rejection of Comstock's Conclusion of Fact and Law and Proposed Draft Order, due to inaccuracies.

1. Design of Proposed Pedestrian/Bicycle Path Connection

The Commission requested additional information regarding the design of the proposed pedestrian/bicycle path connecting the private segments of 6th Street, NE, to the south and north of the site. Specifically, the Commission inquired as to the layout, visibility and safety of the path as proposed.

As far back as the 1970's until around 2001, there was a roadway for vehicular traffic that connected the 4700/4800 block of 6th Street, NE with the 4900 block of 6th Street leading to Emerson Street. That road, shaped like the letter "C", is still there, but currently blocked off to cars. Actual photos of the site were taken September 13, 2015. (See entrance from the 4900 block of 6th Street, NE, CCNM 4).

The graphic designs of the proposed bike path in Comstock's September 4, 2015, Tab A submission are a distorted view of the site.

There is an intersection that splits the 4900 Block of 6th Street, NE. There are 4 houses next to site of the proposed bike path. Then there are about 20 homes on the other side that is next to Emerson Street. (See CCNM 2).

At the entrance from the 4700/4800 6th Street entrance, there is an approximate 3 foot dip in the roadway where the 4800 block of 6th Street ends. You have to turn a slight corner before entering the area where the proposed bike path begins. This makes it impossible to see who is on the proposed bike path until you come right in front entrance of it. (See CCNM 3).

The Applicant would own the land on both sides of proposed bike path entrance. All the foliage on both sides and the location, prevents eyes on the road. It is actually like going down into a cave because the left side of the proposed bike path is about 6 feet lower than the ground at the 4700/4800 6th Street entrance of the proposed bike. It was difficult to photograph because its beyond the fence on the bike path. (See CCNM 3A).

On the 4700/4800 6th Street side of the proposed bike path, there is just a wide open space without anything on it. The design and layout of Totten Mews homes will not face the proposed bike path to give additional eyes on the proposed bike path. (See CCNM 3).

2. The Commission asked the Applicant about Rocky Gorge's intention for roadways in the Emerson Park development project, BZ - 04-11.

In the Applicant's response, Comstock answered a different question. We already know that the Commission approved 04-11 because that was what Rocky Gorge submitted first. Rocky Gorge was operating in stages for its development plan of the area.

After the zoning commission hearing, I found notes and handouts from our first meetings with Rocky Gorge before they submitted their application to the Zoning Commission for BZ-04-11.

On August 25, 2003, we met with Rocky Gorge. They wanted to input from the community as to what we wanted to see on the property that at that time was known as 611 Emerson Street, NE. They gave us a copy of site layout. (See CCRM 4), dated August 7, 2003. When told them at that time about our traffic concerns and asked if they could re-open the roadway that connected the 4900 block of 6th Street with the 4700/4800 block of 6th Street, NE.

5 highlight They told us that the stretch of land for the roadway did not belong to them at that time. They said they were interested in that plot also, but since it was owned by two different parties, they would get started with the 611 Emerson project first, and afterwards start the acquisition for the lot that was then owned by Thomas Summerville.

We met with Rocky Gorge again in the Spring of 2004, they showed us a site plan, dated April 4, 2004, (See CCRM 6), also found in Tab B of Applicant's September 4, 2015 submission. The green space around the borders are graphic cosmetics because Rocky Gorge did not have rights to that plot in 2004. We have signed petitions from some of the residents that attended the meetings in 2003/2004 where we had discussions of traffic and opening the roadway to vehicles on 6th Street.

All the actions taken by Rocky Gorge after that point indicate an intent to provide a roadway opening for vehicular traffic. If Rocky Gorge was not interested in opening that roadway to

vehicular traffic, it would have designed Emerson Park to block off that roadway. However, it did not. Instead designed for flow of houses on 6th Street to flow with traffic connecting the 4700/4800/4900 blocks of 6th Streets, together. (See CCRM 6).

On May 26, 2006, Rocky Gorge filed its application for BZ-06-26 to acquire property which included the roadway. In its proposed plan for the site, Rocky Gorge included plans for a roadway for vehicular traffic to flow from 4700/4800/4900 blocks of 6th Streets, NE.

On October 4, 2007, the Zoning Commission approved 06-26 PUD, which included roadway for vehicular traffic. (See 06-26, Exhibit 35 for the Order).

On November 29, 2007 that the builder applied for the permits for the roadways for Emerson Park. (See CCRM 7) Rocky Gorge was planning to complete the roadway when it built the other 35 homes. Why else would they leave that open land paved like that in front of 4939/4941/4943/4945 6th Street, NE? It was because they were intending to open it when they completed the next project.

The Applicant's September 4, 2015 response to the Commissioners question is deceptive because it says that the Applicant is unaware. While the Applicant may be unaware and not find the language in the 04-11 Order, their attorney Dennis Hughes certainly knows because he also represented Rocky Gorge.

3. Vibration Study and Promises for Homeowners Outside of Emerson Park:

During the Zoning Commission hearing, the Applicant promised the homeowners on the 4700 block of 6th Street that it conduct a vibration study and agree to repair any damages caused by the development. However, they put that language for them in the construction management plan. This is unacceptable and not enforceable. We need you to require Comstock to issue a memorandum of agreement that is signed by them for the vibration study. In addition, 10 selected homes is unacceptable. With the site for the development sitting so high above the other homes, in particular those on 6th Place and even some in Emerson Park, the study should include at least 20 homes.

We ask that the Commission require the developer to issue a signed agreement for the homeowners that addresses rat abatement, dust, and noise, the same assurances that it included in the memorandum of agreement for the Emerson Park Home Owners Association. When the developer starts digging and clearing the land, the rats will run in all directions, not just into Emerson Park.

(See next page)

4. Applicant's Proposed Order:

The Applicant's Proposed Order should be rejected because it includes inaccuracies. The corrections should include:

- a. The Concerned Citizens includes Mr. and Mrs. Moore and Tanya Williams who live right next door to the proposed development site, who certainly have a vested interest.
- b. For the DDOT report, DDOT also said that it would support opening the roadway to vehicular traffic.
- c. For the ANC report, while the ANC approves the homes, it did not take a vote on the roadway portion of the project.

5. Conclusion

As we said above, when Emerson Park was planned, the developer intended to open that roadway to vehicular traffic to connect all of 6th Streets attached to the property. We ask that the Zoning Commission reject Comstock's proposed development plan for 15-04, Totten Mews unless the site plan includes opening the proposed bike path to vehicular traffic.

In the event that the Zoning Commission decides to approve the proposed bike path, we ask that the Zoning Commission require Comstock to double the width of the proposed bike path space so that there are clear site lines from either side of 6th Street. In fact, it would be best if Comstock cleared all the green space on both sides so that people can see clearly and there is no tunnel effect.

We propose that if Comstock agrees to a roadway to vehicular traffic and it can then help Emerson Park residents with surrendering the 4900 block of 6th Street back to the city. Yes, because it was a private roadway given by the city, the homeowners association could release 6th Street back to the city. Comstock could also put money in escrow for five years for the road maintenance until the title of the street is changed.

We also ask the zoning commission reject Comstock's PUD unless it agrees to provide a stronger agreement of its promises to the citizens outside of Emerson Park.

Respectfully submitted,



Belinda Bell and
Concerned Citizens of North Michigan Park

Attachments:

CCNM 1



CCNM-1
4939/4941/4943/4945 6th St
Road way entrance

CCNM²

EMERSON Street
at intersection below
by stop sign
↓

← CCNM 2 →
4960/4961, ... 6th Street, NE
going toward Emerson Street
Entrance

CCNM
3



CCNM 3

4800 Block 6th Street, NE
dip in Road leading to path

CCNM

3A



CCNM
H

C:\PROJECTS\rockygorge\DISTRICT OF COLUMBIA\AW0703-blob.dwg, Model, 8/25/2003 10:31 AM



Rocky Gorge/Emerson & 7th Street Tracts

District of Columbia

Blob Diagram

08.07.03

Note:

No controlled base information was available to perform this diagram. This material has been prepared based on client direction and is for discussion purposes - only.

SCALE



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Engineer
Planner
Surveyor
Landscaper
Architect

(4)

CCN M-4
8/3/2003
Rocky Gorge Handout

CCNM
5



150+/- Units

4 houses here
14939 6th

CCNM 5
circle showing shape
of land Rocky George
Purchased / Part Road

6+/- Units

Gorge/Emerson & 7th Street Tracts
District of Columbia
08/17/13

(5)

CCNM
6

CCNM
A



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St No: 611

St Name: EMERSON

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St Type: ST

Quad Name: NE

5 of 5 75%

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**Address**

St No:	611	St Name:	EMERSON	Suffix:	ST	Quad	NE	Suite:	
Zip:		Square	3788	Suffix:		Lot 1:	815	Lot 2:	
Lot 3:		Lot Ext:		Cluster:		Ward:	5	ANC:	
Parcel Key:		Address:	611 EMERSON ST NE						

Building Permit

Rec Type:	BUILDING	App. Date:		Issued Date	11/29/2007	File Job #:			
Bldg Permit No	112547	Permit Type:	grading and utility	Firs:		Units:		Storage Loc:	
Use Group:				Use:					
Permit Fee:	650	Valuation:	2272400	Filling Fee	2000				
Owner Name:	hovnanian homes							Phone No:	
Agent	ANN BANGERT 240-417-3231							Phone No:	240-417-3231
Address:				City:		State:		Zip:	
Comments:	grading permit to install utilities, storm drain and roads on private property								

Record No:	104710						
Added By		Added Date:		Updated By:		Updated Date:	



Department of Consumer and Regulatory Affairs (DCRA)

CCNM-7
DCRA Building Permit
11/29/2007 for Emerson
Park Roads