



*Southwest / Navy Yard / Buzzard Point*  
Advisory Neighborhood Commission 6D

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September 12, 2022

**OFFICERS**

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*Edward Daniels*  
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Anthony Hood, Chairman  
Commissioners May, Miller, Shapiro, and Imamura  
DC Zoning Commission  
441 4<sup>th</sup> St. NW, Suite 200S  
Washington, DC 20001

**Via email: zcsubmissions@dc.gov**

**RE: Report on ZC Case 22-11, Consolidated PUD 807 Maine Ave., SW  
(Sq. 439S, Lot 15)**

Dear Chair Hood and Commissioners:

**COMMISSIONERS**

SMD 1 *Marjorie Lightman*  
SMD 2 *Jared Weiss*  
SMD 3 *Ronald Collins*  
SMD 4 *Andy Litsky*  
SMD 5 *Fredrica Kramer*  
SMD 6 *Rhonda Hamilton*  
SMD 7 *Edward Daniels*

ANC 6D, at a duly noticed public meeting on September 12, 2022, with a quorum present, a quorum being four Commissioners, **voted 6-0-0 to oppose Case 22-11, the Consolidated PUD for the redevelopment of 807 Maine Ave. SW.** and the construction of a new mixed-use residential development at the corner of 7th Street and Maine Avenue, SW.

Historically, ANC 6D has largely supported such developments and recognizes the economic importance of such projects to our neighborhood and to the District of Columbia. However, such support has always required that an Applicant demonstrate an understanding of the unique character of the Southwest neighborhood, and embrace and incorporate in the design of their project the overall goals of the Community as articulated in the Southwest Small Area Plan (SW SAP). Further, such support would also be expected to include a consequential list of community benefits that have been negotiated with the ANC.

In this case, ANC 6D has found the Applicant's proposal lacking on a number of significant levels to which this report responds. In brief,

1. the Applicant's PUD violates the spirit, intent, and conditions articulated by Southwest community residents and delineated within the Southwest Small Area Plan and thereafter incorporated in the Comprehensive Plan;
2. the Applicant's PUD offers no significant community benefits package to warrant such an extraordinary exception to both the Southwest Small Area Plan and the request to alter the Small Area Plan; and
3. the Applicant's PUD would create conditions detrimental to the community as future parcels develop along both Maine Avenue and M Street, SW, and potentially on other sites within Southwest.

ANC 6D understands that its position is given "great weight" by the Zoning Commission, and assures the Commission that the decision to deny the requested PUD reflects extensive discussions with the Applicant and deliberation on the part of our Commission.

We explain each of our objections below.

### **1. Violations of the Spirit, Intent and Rationale of the SW Small Area Plan**

The District of Columbia has developed an enlightened process of planning for future development that rests on a regularly updated Comprehensive Plan augmented by a group of Small Area Plans.(SAP) Together, they integrate an overall vision of the city with a sensitivity and attention to individual communities and how they function, and acknowledge the variety, character, and individuality that create the quilt of vibrant and diverse neighborhoods comprising the District of Columbia, and which give the city its distinctive character. The Small Area Plans also reflect the community's unique understanding of how its various components function, and assure that future planning reflect that understanding.

ANC 6D, with widespread community engagement, played a leading role in developing a Southwest SAP approved by the Council in 2016. The Southwest Small Area Plan is one of more than a score of small area neighborhood plans developed in concert with the Office of Planning (OP) and hundreds of residents in each neighborhood, which are then adopted by the Council to augment the Comprehensive Plan. Pennsylvania Avenue has a SAP. This past July, Chevy Chase was the latest community to have their SAP approved by the Council and incorporated within the Comp Plan. Congress Heights has just finished review and comments on their SAP. A comprehensive Community Development Model was just released for the eastern end of Ward 7. And North Capitol Crossroads is underway.

In every community SAPs are the framework, the foundation documents, upon which ANCs, neighborhood associations, District agencies and property owners alike establish an agreed upon roadmap upon which development can proceed. Incorporated into the Comp Plan, they constitute a legal and moral basis upon which DC residents can rely for fairness, equity, and accountability in the the development process. However, the moral and legal integrity of SAPs are challenged each time a developer seeks a PUD. Residents across the District watch and ask whether or not the SAP will provide its promised safeguards. Will the developer have to meet the standard of sufficient "significant community benefit" worthy of violating the community endorsed SAP?

The Zoning Commission has a special role in mediating multiple and oftentimes conflicting interests around specific projects that have an impact on the built environment and on the lives of residents. Nor are future results of the Zoning Commissions present actions always clear. Latent, unforeseen, consequences are a constant possibility. In uncertain circumstances, prudence and respect for well recognized rules, standards, and practices are the best guides from the past into the future. The SAPs are just such guides. Contravening the guidelines of any one SAP without irrefutable benefit to the community, however, erodes the legitimacy of all. In contrast, adhering to the guidelines of the SW SAP with regard to height and density for this PUD offers the Zoning Commission an opportunity to affirm the compact encoded into law between the city and its citizens. It reinforces the legitimacy and integrity of all SAPs approved by the Council, which in conjunction with the Comprehensive Plan, represent the most enlightened approach to guide the future of the District.

In the current case, ZC 20-11, the developer seeks to construct a 110 foot building, plus 20 feet of penthouse and and mechanical a space. In addition the developer seeks a FAR of 87%. The north side of Maine Avenue and all of 7th St. SW are part of the neighborhood covered by SW SAP and it is currently zoned for 45 feet with an IZ of 50 feet and 15 feet of mechanical and penthouse space and with a FAR of 80%.

The developer's justification for the requested height and density references The Wharf buildings on the south side of Maine Avenue and outside the SW SAP. The justification is specious. As this Commission well knows, The Wharf was a special circumstance. It is the largest private development in the District of Columbia; was the culmination of years of discussion within the Southwest Community; is the result of no fewer than eight related PUDs; and required three separate Acts of Congress to complete. Recognizing its special circumstances, it specifically was *not* included by OP within the SW SAP and, as such, this Applicant should not be provided the allowances that The Wharf accrued as a result.

Nowhere along the north side of Maine Avenue within the SW SAP are there any buildings of height comparable to the Wharf or to the proposed PUD. On the corner of Maine Avenue and 7<sup>th</sup> Street directly across from the proposed building is Riverside Baptist Church. Between the Church and Arena Stage at the 6<sup>th</sup> Street intersection are a cluster of two-story rental and rent-controlled town houses, part of the Waterside complex built during the modernist reconstruction in the early 1960s. In the opposite direction, between 7<sup>th</sup> and 9<sup>th</sup> streets, is Thomas Jefferson Academy Middle School, a red-brick Federal style building set in ample surrounding open space, including several playing fields and new wings created in the recent school modernization that complement and preserve its distinctive architecture.

Along 7<sup>th</sup> Street, across from Jefferson, on the east side of the Street is the 700 7<sup>th</sup> Street condominium, a gem of mid-century architecture also originally part of the modernist reconstruction in the early 1960s and less than 100 feet high. Also on 7<sup>th</sup> Street, behind the Baptist Church and across the street from the proposed site, is The Banks. Built five years ago with a PUD support by ANC 6D, The Banks building assured the financial future of the Church, which has a history of offering important services to vulnerable community residents for nearly 100 years.

The area within the SW SAP has maintained much of what made SW unique when the community undertook with gusto the development of a SAP a decade ago. It was, and is, a

landscape with intentional variations and limitation in height and density, open spaces, and racial and economic diversity. Jefferson Middle School draws students from public housing, rent controlled middle-income complexes, and town houses approaching the million-dollar mark. Townhouses nestle comfortably amidst established greenery and 8 and 9-story apartment houses surrounded by gardens. Residents with walkers and wheelchairs mingle with children watching the ducks at the Duck Pond, and at church services and community events Southwesterners are a visible testament to demographic diversity and strikingly successful social integration.

Southwest's diversity puts it among the most successful communities in the City. It already has achieved what the Zoning Commission is now implementing as the requirement for racial equity analysis as part of all zoning actions, and its residents look to the Zoning Commission to respect all dimensions of the compact in all its dimensions between City and community, as articulated in the SW SAP, that has made it successful.

## **2. Lack of Meaningful Community Benefits**

The Zoning process for the District incorporates flexibility. It permits increased "height and bulk in exchange for public benefits [not afforded in] a matter of right development." ANC 6D has concluded that this proposed project offers no public benefits that meet this standard.

- The Applicant has offered to establish a landscaped street along its perimeter on Maine Avenue. The offer is deceptive. The 25 feet between the sidewalk and the property line of the proposed building designated for landscaped space is already public green space. The proposed building will not expand the greened space, it will only plant it differently. Moreover, it will add walkways through the space to access new ground floor storefronts on the Maine Ave. side of the new building, which the current building on the site does not have—that is, there will be a little less public greenspace in the new construction.
- The ANC requested – and the Applicant has incorporated in this PUD -- several spots for Pick Up and Drop Off (PUDO) along Maine Avenue near the corner of 7th St. They would serve as perfect places for hired cars to pick up and deposit patrons. The need for a PUDO is only made more imperative by the increased traffic resulting from the large mixed-use building proposed. The developer, however, has no dominion over public space, and cannot command that DDOT create a PUDO nor therefore offer prospectively a PUDO as a community benefit.
- The Applicant proposes to aid in the construction of protected bike lanes. Other than picking up some of the tab, an undisclosed amount of money, for a protected bike lane on one side of 7th St., protected bicycle lanes have long been proposed by DDOT at 7th St., SW, and will happen whether or not a new building is constructed at this intersection. This is not an additional community benefit, a byproduct of the proposed construction.
- The Applicant has offered a donation to the SWBID in further support of the BID's recently received multi-million dollar grant from the US Department of Transportation to make SW a model micro-transportation site. The SWBID is an important group in the community. Their

“ambassadors” not only keep the streets clean but have become valued helpers to residents faced with a variety of daunting challenges. ANC 6D greatly appreciates the work of the SWBID.

However, ANC 6D has no details about how this multi-million-dollar transportation grant is to be configured. Neither the ANC nor the Southwest Neighborhood Assembly (our local civic association), nor, we observe, has the Zoning Commission been offered the details on any aspects of a project in which this neighborhood is to be the beneficiary. Hence, neither our ANC nor any other community entity can assess that the proffer of a contribution toward a study of e-tricycles is substantially additive to the overall effort.

Moreover, the SWBID is a membership organization composed of businesses and local developers of which the Applicant is a member. There is no representation on its board of any community interest other than development and local businesses. The donation does not represent widespread community interest, but rather, one developer supporting its fellow members. And ANC 6D, as much as we love our SWBID, must call it for what it is.

- The Applicant has offered a gift of \$100,000 cash to the Jefferson Middle School Academy.

The proposed PUD is entirely privately financed. To secure private financing, the developer must have demonstrated to the bankers that the investment is sufficiently risk-free and profitable. A project of this size would have to have an expected return on investment of many millions, of which the gift to the school is insignificant in the whole. In the context of the lack of any other community benefit, this is a small payoff among a broader set of deep and potentially lasting assaults to the community, as detailed above, and does not justify an extraordinary exception to the SW SAP.

- ANC6D rejects the contention that the developer's offer of 17% of the building space for affordable housing is a substantial community benefit. The offer leaves 83% of the proposed development for market level housing and commercial space.

The ANC6D reminds the Zoning Commission that there is no lack of empty commercial space or available market level housing in the area covered by the SW SAP. As noted above, there is empty commercial space along Maine Avenue within the SW SAP. We agree with the recommendation of OP in its report for increasing the number and level of affordability. ANC6D considers the ratio of affordable units to market level units disproportionate to the future economic diversity of the community, a threat to the continued social integration of the neighborhood, and a threat to the stated goals of both the SW SAP and the Zoning Commission.

### 3. Future Consequences

The proposed building has foreseeable and detrimental consequences for the immediate surrounding neighborhood and the community as a whole. Currently, the ANC is facing several serious traffic issues in the Southeast, and the combination of new bike lanes and high rise apartment buildings that have created these issues portend future issues for 7<sup>th</sup> and Maine. The site is at an already complicated corner, which will only get more complicated with the introduction of a large new building.

- The proposed building will change the visibility for right hand turns from 7<sup>th</sup> Street onto Maine Avenue. It will cause traffic to stop on 7<sup>th</sup> Street in order for trucks and cars to exit the garage. It will add building delivery traffic, especially on 7<sup>th</sup> Street, which will have to cross two protected bike lanes expected in the very near future, which will have reduced the number of traffic lanes and, in addition, limited access to the curbs.
- A project of this size, which will significantly add to the traffic and congestion that Southwest is experiencing, must include a restriction on Residential Parking Permits (RPPs) in its leasing agreements in the Zoning Commission's Final Order.

However, forbidding neighborhood special parking rights to new neighbors does not diminish challenges to traffic further complicated by a private street to the immediate north of the building's garage entrance that serves vehicles accessing Jefferson MS, adding to in and out traffic on 7<sup>th</sup> St. On the other side of 7<sup>th</sup> Street, a major childcare center generates its own traffic problems as it receives gaggles of young people crossing 7<sup>th</sup> Street, cars stopping to pick up and deliver children, and strollers taking up sidewalk space and mixing with pedestrians and scooters sharing the space.

The problem is not just traffic. The Applicant plans for commercial space on the ground floor, but has offered no evidence to indicate what sort of commercial space on the north side of Maine Avenue is viable.

Since the space is adjacent to a school, it is unlikely that ABRA will approve a liquor license, which eliminates the possibility for the most popular use of space on the Wharf side of the avenue. The only other commercial space on the south side of Maine Avenue, also designed and constructed by the Applicant five years ago, is at the intersection of 6th and Maine; that space has *never* been occupied. In addition, in the years since 2012 when the first part of the Wharf on the south side of Maine Avenue between 7<sup>th</sup> and 9<sup>th</sup> streets was completed, the community has learned that neighborhood-serving retail—every developer's siren call to woo the community, has been a largely empty promise.

Without identifying what businesses it plans to attempt to engage and how it will overcome the difficulties that continue to be encountered in the area by other developers, the viability of the Applicant's plans is particularly uncertain.

ANC 6D has worked hard over several months with the Applicant and the project has improved as it has evolved. Our Commission would look forward to continuing discussions with the Applicant to address the substantive issues raised, and to develop changes to the plan to better adhere to the goals of the SW Small Area Plan, properly negotiate a significantly expanded list of community benefits, and allay concerns that the approval of such a project may impose upon future parcels developed on Maine Avenue and further along M Street in Southwest.


We add one final objection on process.

ANC 6D objects to the proceeding on insufficiency of notice. As per Exhibit #5 in the filings, the Applicant has noticed ONLY the VIO Condominium Board of Directors -- not each impacted property owner living at VIO. While a condominium board of directors may be entitled to act by corporate documents on behalf of their co-owners in a proceeding such as this, ANC-6D contends that ought not to provide a shortcut for an Applicant to avoid the requirement that notification process in a Zoning Proceeding for *property owners* to be notified. In this instance, the Applicant has demonstrated in it's filing that the property owners were definitely not notified -- just the Board of Directors.

While this applicant has taken many liberties, ANC -6D believes that there should be no shortcuts taken when it comes to following procedures regarding notification of property owners. And ANC 6D asks the Zoning Commissioners to note this in their deliberation.

As by law, ANC 6D requests that its positions in this matter be given Great Weight in your considerations of this application.

Sincerely,

A handwritten signature in dark ink, appearing to read "Edward Daniels", written in a cursive style.

Edward Daniels, Chair  
ANC 6D