

Testimony of ANC-6D
Before the Zoning Commission of the District of Columbia on
ZC Case # 02-38I 375 & 425 M Street SW, Sq. 542
April 5, 2018

Good evening, Commissioners.

My name is Andy Litsky. I am Vice Chairman of ANC-6D. I am a forty year resident and a founding member of Tiber Island Cooperative Homes, an award-winning 387 unit residential complex with DC historic designation. Tiber Island Cooperative Homes and Tiber Island Condominiums are located directly across the street from 375 M Street, one of the two buildings currently under consideration this evening. Both of these residential complexes are in my ANC Single Member District which includes all of residential buildings on the Southwest Waterfront as well as the homes of 94 liveboards at the Gangplank Marina.

I was also the lead negotiator for our ANC on the original Waterfront Station PUD in 2002 and have testified numerous times before this Commission on various iterations of this particular project as well as many others on behalf of ANC-6D, the busiest Advisory Neighborhood Commission in the District of Columbia. I am coming before you to deliver testimony on behalf of my ANC on which I've served for more than 18 years.

I am here to reiterate that at a regularly scheduled and properly noticed public business meeting on March 19, 2018, with a quorum being present, a quorum being four Commissioners, **Advisory Neighborhood Commission (ANC) 6D voted 5-0-0 for a motion of conditional support in ZC Case 02-38I**, the application of Waterfront 375 M Street, LLC and Waterfront 425 M Street LLC for Second Stage PUD & Modification of Significance to the First Stage PUD @ Square 542, approved under ZC 02-38A, pending the resolution of a number of outstanding issues. The ANC also voted 5-0-0 to authorize Commissioners Fast, Moffatt, Litsky, and Fascett to testify on behalf of the ANC at the Zoning Commission hearings. As such, I will take the lead on behalf of our ANC this evening.

In evaluating the Applicant's requested modification of significance, the ANC gave substantial consideration to the Southwest Neighborhood Small Area Plan ("the Plan"). The Plan calls for a "thriving town center" at Fourth St. SW, between M and I Streets that is a "commercial core that most directly serves the Southwest neighborhood." More specifically, it states:

“Southwest will enjoy Fourth St. SW as a thriving town center and commercial heart of the community, with a range of neighborhood-serving retail options, an active streetscape, a high quality public realm, quality new development and easily accessible transit.”ii

The ANC was also cognizant of the Plan’s statements regarding the commercial office market in Southwest as stated below:

“The Waterfront Station development calls for two additional office towers to be constructed...[T]hese proposed office developments could prove less viable in the near term than residential developments with ground floor retail uses...As a result, the developer should have the flexibility to request a modification to the approved Planned Unit Development to incorporate residential uses within the buildings.”iii

In this context, the ANC negotiated a Community Benefits Agreement (“CBA”) with the Applicant that aims to advance the development of a thriving town center on Fourth St. SW and allows for the incorporation of residential uses in these parcels.

Community Center

As detailed in the Applicant’s submission, the Applicant committed to a lease and build-out of a 6,000 square foot, two-story space for a neighborhood serving Community Center – **at no cost for a period of no less than thirty years**. The ANC believes that the creation of a Southwest Community Center is indispensable to our Southwest Neighborhood and a critical component that led to our support of this project. The SW Community Center will provide an important neighborhood asset that we have long sought and serve an unmet need in the community that will -- over the course of the next ten years -- double in population from the neighborhood that existed when this plan was first introduced by Forest City, Vornado & Bressler and Reiner in 2002.

The SW Community Center’s programs combined with an improved community serving retail and commercial mix that caters to community services will further contribute to pedestrian activation of Waterfront Station and position Waterfront Station to become the vibrant center for our community. The Commissioners will note that in our Report the ANC has attached a letter

in support of this SW Community Center from old civic association, The Southwest Neighborhood Assembly, which has served our neighborhood for more than fifty years.

Traffic Plan & Active Management of the PUD Site

As detailed in the CBA, the Applicant agreed to a substantially improved traffic plan and active management of the PUD site itself. The ANC believes that the improved signage plan will address many of the problems all of our neighbors currently encounter navigating the private streets between Safeway and the Metro Plaza and the streets separating it from the Mill Creek Development on the west and the Waterfront Tower Condominium on the east. We believe that the addition of inside turn-arounds for both buildings will relieve major congestion points, especially on the private road for 375 M, close to the Waterfront Tower condominium.

The promise of active site management – which has heretofore been seriously lacking by the Applicant as the lead partner in management of this superblock – should significantly enhance pedestrian safety, prevent inappropriate vehicular traffic, and improve the area overall.

We appreciate the thought given by the Applicant to pedestrian plans on Fourth Street itself especially as people exit the Metro Station. With many thousands of additional pedestrians using that Metro Plaza -- between new residents, visitors to The Wharf and as one of only two Metro stops serving the new 21,000 seat Audi Stadium -- how Fourth Street is managed will be absolutely critical to public safety. All the more important it is for us to ensure that DDOT is fully engaged and maintains their critical gaze on this series of very private streets.

Retail Strategy and Implementation

The ANC believes that the execution of a compelling retail strategy is absolutely essential to the creation of a thriving town center in Southwest. Mr. Chairman, having worked at the EPA during the hey-day of Waterside Mall, you well know that Southwest once had more than 25 retail establishments that served our neighborhood and its adjacent workforce. However, in the new development, we retained a grocery store (that we had to fight tooth and nail with the Applicant to keep in the project), a CVS that held a long term lease, and we replaced one drycleaner with another. What did we gain? Two restaurants, a sub shop and a hamburger joint. It was only last year that any truly locally business on the street with a dentist office. Oh, yeah. And an Enterprise Car Rental. But we're still waiting for The Elliot – a building that is completely under the Applicant's control -- to fulfill their promise of new retail. The C of O was more than a year

ago and not a single retail space has been rented. The ANC wants to see exciting, neighborhood-serving retail that draws pedestrian traffic, encourages engagement with the storefronts, and provides offerings otherwise unavailable in the neighborhood.

And we should expect nothing less from Forest City. After all, they are a Big Board company with major projects nationwide. We expect that the Applicant will, by virtue of this PUD, now legally commit to implementing such a strategy and regularly meet with the ANC to discuss the retail strategy and implementation plan. Southwest will no longer accept being Forest City's ugly stepchild while it lavishes attention on The Yards.. We support this PUD with the expectation that the Applicant will use their national corporate expertise and find retailers who can transform Fourth Street into the thriving town center that they have promised the District that they would create when they purchased those 11 acres from the City for a paltry \$47 million more than a dozen years ago. It's Southwest's time now. And we expect the Applicant's full attention.

As such, the ANC is very encouraged by OP's support of a plan that will require the Applicant to more or less "use it or lose it" on their retail space, ensuring that unleased space after a certain period of time will be required to become pop-up space to enable small and local merchants to provide goods and services. It seems that OP -- now that they are tenants on Fourth Street -- also have learned what a disappointment the paucity of retail services at Waterfront Station means for them as well as their SW neighbors.

Inclusivity

ANC 6D has been and remains an advocate for affordable housing and for affordable units with more than two bedrooms. The commitment in this application meets the current requirement for Inclusionary Zoning and also includes five three-bedroom units affordable at 60% of Area Median Income. (Note: The Applicant is providing these larger units at the ANC's specific request.) The ANC also believes that the inclusion of the Community Center and neighborhood-serving commercial are contributions that will address essential needs of residents in every economic stratum.

Improvements to the Public Realm

Regarding the public space plan, the ANC is pleased that even though this case does not include the public space use around the Metro Waterfront Station, the Applicant agreed to work with other owners at Waterfront Station to enhance the Waterfront Metro Plaza area by adding

element(s) that create a sense of arrival to a vibrant, thriving waterfront neighborhood. These elements could include public art, incorporate way-finding features, and enhance the existing features of the Waterfront Metro plaza area.

Building Massing

The ANC appreciates that a residential building design requires a lower FAR that lessens density, moving the development more in line with the open space design of Southwest. The ANC believes that the residential massing is much more appealing than the massing that would have been used for commercial buildings on these parcels. This newest design will have a significant positive visual impact on the communities of Tiber Island and Carrollsburg located across the street. Instead of creating K St. NW on M St. SW, which is something that would have come about had we embraced commercial office structures, these new buildings will fit well into the quality of central Southwest and provide a distinct statement that we are, above all, a residential community.

The ANC believes that these benefits, when coupled with plans for enhanced ground floor community serving retail and second floor commercial space, will do much to create the thriving town center for which we have long advocated. Thus, ANC 6D believes that the Applicant's plan addresses the ANC's concerns for activation, traffic control, and neighborhood requirements related to a change from an approved commercial development to one whose major content is residential.

The ANC, however, is withholding its full support pending specific resolution of a number of outstanding issues. The ANC would like to resolve these open questions with the Applicant as soon as possible and will update its report upon resolution. We strongly urge this Commission to withhold voting on this PUD until such time as these items are resolved – in writing.

1) Community Center Selection & Operations: Upon further review, ANC 6D believes that the ANC should have the full authority – not shared with the Applicant – to select the operator of the Community Center and expects the CBA to be amended accordingly. The ANC also believes that the Applicant has reneged on a commitment made during negotiations when the Applicant *clearly* agreed that the Community Center would be “**free for 30-years**” (And free means free ... including electricity and HVAC serving that space).

The Applicant's claim made during a subsequent negotiating session that the requirement for paying utilities is imposed on all lessees is well-appreciated in the context of promoting energy conservation. However, the back-tracking on costs to be borne by what had been proffered as free caught the ANC by surprise and, since it was presented to only half of the ANC's negotiating team at a meeting just before the ANC Business meeting, (Commissioners Litsky and Fast were out of the country) it seems like a tactic used by the Applicant in the past to promise and then not deliver.

The ANC wants the final order to reflect that the Community Center will be free, as was presented not only to the Commission's full negotiating team but the entire Southwest community at the ANC's March business meeting immediately prior to the ANC's vote of conditional support. To reiterate, the ANC expects that the Southwest Community Center proffered by Forest City -- as a consequence of ANC-6D support -- will be provided free for thirty years. Period. No equivocation. No backtracking.

2) Public Space Improvement Element: In advance of any Zoning approval, ANC 6D wants to see precisely what element(s) the Applicant will be installing in the public space of the Metro plaza that they have promised will create "a sense of arrival" to the project that a decade ago they grandly named Waterfront Station. The ANC made the mistake of taking the Applicant at their word during the first PUD process that they would install a water feature. What they delivered was a series of occasionally gushing garden hoses that in no way reflects positively on their grandly named project, let alone on the Metro Station it sits astride or as the center of the vibrant waterfront neighborhood it is supposed to represent.

3) Enhanced Traffic and Site Plan for Fourth & M Streets SW: Currently, the juncture of Fourth and M Streets is one of the most difficult corners in Southwest. DDOT continues to struggle with the crossing patterns at that intersection and that complexity will be will be further complicated by the arrival of two buildings on each of the major corners.

a. Left Turn Lane: ANC 6D understands that there has been more than simple discussion about reinstating a left, eastward turn from Fourth Street onto M Street, SW. While the Gorove /Slade plan ostensibly speaks to "typical" use of that street as it usually does, they have only analyzed what exists now. They have not acknowledged the significant additional

traffic that we know will come with the growth of Buzzard Point, **nor** the rebuilding of Greenleaf one block to the east with nearly 2000 units of housing, **nor** the fully operational Wharf I and Wharf II, **nor** and the opening of 21,000 seat Audi Field in just twelve weeks. Cute trick. And we fall for this every time. Commissioners – Please let's plan for what we *know* will occur.

The ANC is especially concerned that DDOT – **without conducting their own study** -- stated in their own report on this project that “The CTR demonstrated that re-introducing the southbound left-turn movement at Fourth Street and M Street SW would have minimal impacts on level of service at nearby intersections but could improve overall circulation.” We know that DDOT and the Applicant have stated that they will conduct a study at some point in the future, but that is insufficient if a roadway has already been approved by the Zoning Commission and is already under construction. ANC 6D insists that the Applicant be required, **in advance of a decision**, to present plans allowing for an adjusted streetscape and traffic plan to accommodate that left turn.

A left turn will require the reconfiguration of the existing roadway pattern on this very narrow street. We already have trouble getting fire trucks and EMS vehicles through on Fourth. We need to know **now** -- not after 475 is under construction – precisely how this new street will operate. We also need to know from DDOT how the re-imposition of left turn on M will impact the pedestrian crossing modes, which currently allow north/south crossing on both sides of Fourth Street from both Carrollsburg and Tiber Island sides of M Street. We have asked for their input on this for years. Now it appears that they are willing to go with the Applicant's consultant's recommendation.

We have already three pedestrians hit at that intersection -- one of those resulting in a death! **Vision Zero cannot be implemented with Zero Vision.**

b. Metrobus Stop: There is a 74 Metrobus stop in front of what will be 375 M St. That stop had been moved from Fourth Street diagonally across the street more than four years ago. At that time, the bus shelter was also removed and never replaced in the new site. Our ANC has long fought for the replacement of that bus shelter to no avail. While Metro builds them, they are supported by advertising contracts administered by DDOT which has refused to weigh in on this at all. Our Commission wants to be assured that the proposed building and streetscape at 375 M and nothing in the Applicant's street design will not inhibit the replacement of that shelter on

M Street. If we are to encourage more public transport, we must make it attractive. There will be no more standing in the rain waiting for a bus in the very heart of our Community. That is unacceptable.

c. SW Circulator Stop: After a five-year absence, the Circulator will finally return to Southwest this July. The placement of the Circulator's Southwest stop is not to be an afterthought and should be included in the plan for this new development – both in final and while under construction. ANC 6D requires that DDOT and the Applicant arrive at a solution for the bus stop placement prior to a vote at Zoning. We would find it completely unacceptable were the Applicant to claim that the placement of a Circulator Stop in front of 375 or 425 M Street will somehow detract from their ability to encourage ground floor retail.

4) Logistics & Operations –ANC-6D has a number of logistical and operational concerns that need to be addressed more completely.

a. Construction Management Plan - The ANC needs the Applicant to provide a written commitment to develop and enforce a construction management plan that appropriately mitigates construction impacts on adjacent neighbors.

b. RPP Restrictions - The ANC wants the Applicant to provide written assurances as a consequence of our approval that the residential buildings will not be eligible to apply for DDOT's Residential Parking Program, that they will include such language in any leases and/or sales documents.

c. Interior Loading and Deliveries - The ANC wants the Applicant to provide language ensuring that all deliveries, including trash, FedEx, UPS, and retailer deliveries will occur within the loading dock bay in both their buildings.

d. Detailed Plan for Programmed Open Space - The ANC wants greater detail on how the public realm and plaza areas will be programmed and maintained upon the completion of construction.

Finally, the ANC would like to note that, as recommended in the Southwest Neighborhood Small Area Plan, the Fourth Street parcels are currently programmed by the Applicant and the Southwest BID for temporary community uses – a farmer’s market, gathering spaces, pop-up events, etc. Indeed, it was ANC 6D – not the applicant -- that recognized that these temporary uses were needed in the Community and mandated such use as a condition of maintaining their PUD that the Applicant activate these spaces at all.

ANC 6D recognizes that these spaces have become very popular in the community as we knew that they would. The ANC expects the Applicant to maintain this programming until the commencement of construction at each site. We especially appreciate that the Applicant has agreed to allow the DCPL to locate a trailer which will house the Southwest Library on the 475 site until such time as construction is completed on our new Southwest Library.

While we anticipate that the 375 building will go under construction first, we want a written assurance that the 475 space will also be maintained as open space for community until such time as ground is to be broken on *that* plot of land – as per the PUD extension agreement. We will find it unacceptable for Forest City to use this space for a staging area for construction of their 475 building or for parking of their own or other vehicles aside from occasional use required by the agreed upon use of that space as activated community space.

Separately, the ANC recognizes the importance of these open spaces and believes strongly that Southwest should be the “green oasis” as described in the SW Small Area Plan. We also recognize that there are two open park spaces at the north end of Fourth Street on both the east and west sides in front of both Westminster Presbyterian and Christ United Methodist Churches. As the open space on the south side of Fourth Street is foreclosed, these northernmost Fourth Street (and Eye) undergo development, we encourage Office of Planning, DMPED, DCPR, the Zoning Commission and members of the Southwest Community to recognize that these northern spaces must be retained for open community use as new development occurs on the opposite side of that superblock where temporary open space exists now.

ANC-6D also affirms its commitment to supporting and enhancing the Southwest Duck Pond and advocating for significant improvements to Lansburgh Park and Randall Recreation Center (which six years ago the ANC helped save from absorption by a charter school) as outlined in the Small Area Plan so that the community has continued access to revitalized outdoor spaces for gathering and recreation.

In conclusion, I have more than once had the opportunity to address this Commission about my concern that with all of the effort we put into crafting PUD in our Community, there is really no method in place for an Applicant to be held responsible for what they have or have not done. What are we going to do – make them take down the building?

But we have an opportunity now. We've had more than a decade of experience with this Applicant at this site. We know what they promised. We know that they delivered. And we know what they are promising now.

All the more reason why we need to ensure right now that every item that DDOT, the Office of Planning, this ANC and this Zoning Commission has asked is included in recorded in writing and included in the Zoning Order to make it abundantly clear what expectations the Applicant or their successor must meet going forward.

Thank you for the opportunity to testify.