

MISREPRESENTATIONS AND FALSEHOODS IN THE PUD APPLICATION

Executive Summary

The PUD application, particularly Exhibit 2, includes a great number of misrepresentations and outright falsehoods, as well as numerous questionable assertions that are not supported by facts or evidence. This paper lists a number of such points, which are additional to many misrepresentations set out in other evidence submitted, particularly Exhibit 33, Section X.

Disturbingly, the application repeatedly misquotes and misrepresents language in Southwest Small Area Plan. At various points the application states erroneously that the Plan calls for the adaptive reuse of the site; claims wrongly there has been a pattern of redevelopment of institutional properties in Southwest; and asserts incorrectly that the Small Area Plan changed the land use of other nearby properties.

The application misrepresents that most of the traffic and activity around the buildings would be to the south and east, although the loading docks and the only vehicle entrance are to the northwest, where they will be most disruptive to neighbors. It falsely states that one of the adjacent streets is 100 feet wide, while it is in fact much narrower. The application purports wrongly that the project's five story buildings would not cast shadows larger than a three story matter-of-right development. The application misrepresents the number of row house that could be built on the site by matter-of-right, and uses its erroneous figures for comparative calculations, despite the developer having been provided evidence to the contrary.

The application's claims that several aspects of the project should be considered community benefits are not supported by evidence; in a number of instances the aspect in question would have negative impacts on the community. For example, despite several redesigns the project does not feature superior design and architecture, nor does it meet the design guidelines of the Small Area Plan. While environmental aspect of the PUD are touted as a community benefit, the project would have no setbacks from the property line, virtually no green space, and no trees.

The PUD application states erroneously that a low density commercial use would be "consistent with surrounding uses," when in fact the site is in a residential area with no surrounding commercial uses. The application also includes a number of other misrepresentations. **End Summary**

MISREPRESENTATIONS AND FALSEHOODS IN THE PUD APPLICATION

1. The PUD submission repeatedly misrepresents the SW Small Area Plan's recommendation for the site. The first example is the proposal's statement that "the Southwest Small Area Plan calls for the adaptive reuse of the property..." (Exhibit 2, page 2). This is a falsehood; there is no such assertion in the Small Area Plan. Instead, the Plan supports "the adaptive reuse of existing buildings in Southwest to promote the preservation of the community's architectural character." (Small Area Plan, MG.3, pp. 80 and 123, emphasis added¹). In this instance the developers demolished the existing building in order to pursue a PUD, rather than adapting it for reuse, doing the exact opposite of what the Small Area Plan recommended. The only other reference in the Small Area Plan to "adaptive reuse" relates to the Plan's goal of "conserving current neighborhood character" (p. 79), which certainly would not be a result of the PUD.
2. The PUD submission states that "one common development pattern within Southwest has been the redevelopment and adaptive reuse of institutional properties with a mix of institutional or cultural as well as new residential uses" (Exhibit 2, page 5). This is not the case. None of the many redeveloped properties in Southwest was designated as institutional on the Future Land Use Map (FLUM) or the Generalized Policy Map. The proposed PUD site at 501 I Street is the only site in all of SW that is designated as institutional on the FLUM.
3. The PUD submission states in regard to its two proposed buildings that "The use and design of both structures focuses the bulk of activity to the south and east, away from the residential townhouses to the north and west." (Exhibit 2, page 7). This is a misrepresentation. The only vehicle entrance to the proposed development would be at its northwest corner, meaning that all garbage trucks, moving vans, delivery vehicles, automobile, motorcycle, and bicycle traffic would be centered at the very point most disruptive to the neighboring row houses. The delivery bay is at the north end of the building and is configured so that all trucks will need to back into and out of the bay, ensuring maximum disruption to the neighbors from truck back-up alarms. Moreover, the PUD proposal requests flexibility of the loading configuration, which if granted could lead to an even worse result. In addition, the main pedestrian entrance to the "annex" building is at the far north of the property, situated so residents and visitors to the annex would exit at the northwest corner of the property.
4. The PUD submission states that "Furthermore, 6th Street is 100 feet wide, which creates ample distance and separation between the Project and the townhouses across 6th Street and further mitigates the scale of the Project." (Exhibit 2, page 8). This is false. In fact, 6th Street is just 42 feet wide. Even if existing building setbacks are taken into account,

¹ This parallels a policy of the Comprehensive Plan's Land Use Element, which advocates rehabilitation over demolition, stating: "In redeveloping areas characterized by vacant, abandoned, and underutilized older buildings, generally encourage rehabilitation and adaptive reuse of existing buildings rather than demolition." (10-A DCMR § 309.9)

6th Street is just 80 feet wide. This misrepresentation undercuts the argument that a wide street mitigates the scale of the project; on the contrary, the narrowness of 6th Street further amplifies the scale of the proposal. The problem would be further exacerbated by the proposed PUD, which would have no setback, in contrast to other buildings on 6th Street.

5. The PUD submission falsely asserts that “Shadow studies included in Exhibit J (pages 2.18 and 2.19) further demonstrate that the Project will not result in adverse impacts on light and air when compared to matter of right development.” (Exhibit 2, page 8). In fact, it is self-evident that five story buildings will cast larger shadows than matter-of-right three story buildings would. Even the applicant’s own shadow studies show the project will have a greater negative impact than matter-of-right on sunlight, with shadows reaching both the row houses north and west of the project and the neighboring elementary school playground, as well as the Amidon Park playing field. (Exhibit 20D5, pp. 2.20, 2.21.) The buildings will block morning sunlight to the row house windows, gardens, and decks, and afternoon sunlight to the elementary school playgrounds, particularly on winter afternoons when sunlight is at a premium.
6. The PUD submission highlights that the project has been the subject of “extensive community discussions for a number of years” (Exhibit 2, p. 9). It fails to mention, however, that at every public meeting that has been open to public comments for the past five years, the attendees were virtually unanimously opposed to the project. The applicants stopped holding public meetings – which were already rare – almost two years ago, apparently to avoid hearing further public expressions of opposition. They have not held a single public meeting to gauge public sentiment to the PUD proposal submitted in 2017 or to the revised version submitted in September 2018.
7. The PUD submission recalls that an earlier proposal was “withdrawn after the Office of Planning expressed concerns about the consistency of the proposed height, density, and zoning with the requirements of the Comprehensive Plan.” (Exhibit 2, p. 9). This language substantially understates the extent to which OP actually recommended against the earlier proposal, saying: “The proposed PUD is inconsistent with the Comprehensive Plan, with respect to both use and density.” (Exhibit 12 of Case 16-04, emphasis added). Although the current PUD proposal has made changes in density, the proposed use is identical to the earlier use that OP found to be inconsistent with the Comprehensive Plan.
8. The PUD submission states erroneously that the “Property would likely yield approximately 12 row houses if developed as a matter of right.” (Exhibit 2, p. 14). This appears to be a deliberate representation. Before the PUD was filed, United Neighbors of Southwest provided the applicants’ attorneys with a development plan showing that up to 20 row houses could be built on the property as a matter-of-right, each with three bedrooms and an in-law apartment (Exhibit still to be submitted). By using the figure 12 instead of 20 row houses, the PUD submission substantially exaggerates the differences

between the PUD and matter-of-right housing, in terms of overall number of units, affordable housing, and three bedroom units.

9. The PUD submission boasted that the development would have “superior urban design and architecture” and “exemplary urban design.” (Exhibit 2, p. 16.) Yet both the Office of Planning and the ANC sharply criticized the proposed architecture and design as inappropriate for the site (Exhibits 11, 15, and 18). The applicant’s Prehearing Submission includes many changes to the design and architecture, and no longer claims superior urban design and architecture as an attribute, although this claim remains in the Statement of Support and in the list of project benefits. (Exhibit 2A.) However, a number of the changed design elements have made the project worse or increased its negative impact, including especially enlarging the footprint of the buildings to cover 79% of the property, having no setbacks from the sidewalk at any point on 6th or I Streets, encroaching on and over public space more than the previous design, eliminating three bedroom apartments, reducing the affordable housing component, and removing the only open public space provided in the previous version: a small courtyard featuring interactive pedestrian spaces and a water feature.
10. The PUD proposal states that “The Project also features exceptional architectural design that modulates the height and mass of the building through differing building height” (Pages 16-17). In fact, there is virtually no height modulation in the project. Both buildings are virtually the same height throughout, with the exception of the required penthouse setback and a small setback to part of the 6th street portion of the main building’s fourth floor. Both buildings are within a few feet of the same overall height. The “annex” building is shaped like a shoebox. Neither the massing nor the site plan is consistent with the Southwest Small Area Plan’s design guidelines, which stress Southwest’s modernist heritage of varying heights and significant open space. (Small Area Plan, pp. 81-84.)
11. The PUD submission highlights the environmental aspects of the project as a community benefit (Exhibit 2, p. 18), but its specifications show that it will include only the minimum required green area ratio (Exhibit 2A, page 2). It will have no permeable paving (Exhibit 20D6, p. 4.7). In addition, the plans show that some 95% of the anticipated plantings will be on the roof, where they cannot be enjoyed by the community (Exhibit 20D6, p. 4.7). Moreover, although multiple illustrations in the PUD application show a copious number of trees of various sizes along the property perimeter (Exhibit 20D4, pp. 2.8, 2.10, 2.13; Exhibit 20D6, pp. 4.1, 4.2, 4.3, 4.4, 4.5; and others), the application states that no trees of any size will be planted (Exhibit 20D6, p. 4.7).
12. The PUD submission states that the project will provide 39 parking space and 15 off-site parking spaces. (Exhibit 2, p. 12.) However, this contravenes a written agreement that the Shakespeare Theatre Company entered into with the Southwest Neighborhood Assembly in September 2014, pledging that it would include a minimum of 70 off-street parking places in any development at the site. The proposed number of parking spaces not only flouts the agreement, but raises issues about the good faith and reliability of the

applicants. Moreover, the same agreement stated that “residents of the development shall not be entitled to participate in any existing or future Residential Permit Parking Program available to ANC 6D residents” but this provision is not included in the PUD proposal.

13. The PUD submission makes the sweeping assertion that the proposed PUD project “is fully consistent with the goals and policies of the Comprehensive Plan.” (Exhibit 2, p. 12.) As detailed in Exhibit 33, this is far from true.
14. The PUD submission misleadingly states that “The Commission has previously approved the rezoning of land in the Institutional land use category based on the consistency of the proposed zoning with surrounding uses and other goals of the Plan” (Exhibit 2, p. 21). The example provided is not applicable, however, since the site in the example retained its institutional land designation as part of the Zoning Commission’s decision. Moreover, the case related to a site on the George Washington University campus that was approved for redevelopment as part of a long-term campus plan, a far different context from the current PUD proposal.
15. The PUD submission states falsely that “other nearby redevelopment sites along the south side of I Street were changed in the Small Area Plan to Mixed Use Medium Density Residential/Low Density Commercial land use” (page 22). In fact, the Small Area Plan did not change the designations of these sites, it simply made a recommendation for a possible future change that might be accomplished through the PUD process. (Small Area Plan, page 104.) In stark contrast, the SW Small Area Plan said explicitly that it “is not making a recommendation for a land use designation change” for the proposed development site at 501 I St. SW (page 97).
16. The PUD submission states erroneously that “Low Density Commercial land use for the Property...is consistent with surrounding uses...” (Exhibit 2, p. 22). In fact, there are no commercial uses surrounding the site. The site is bounded on all sides by properties zoned as residential.
17. The PUD proposal includes a long list of “uses of special value” as community benefits in the fields of education and the arts (Exhibit 2A, pp. 6-7). The proposal fails to mention, however, that Shakespeare Theatre Company is already committed through its written agreement of September 2014 with the Southwest Neighborhood Assembly to provide all but one of the listed benefits to the SW community. (Exhibit 34.) The items listed in PUD Exhibit 2A, therefore, have existed for almost five years and cannot be regarded as new community benefits. They derive not from the PUD, but are benefits that Shakespeare Theatre Company pledged to undertake in return for SWNA withdrawing its plan to file for historical designation of the building formerly on the site. Moreover, under the written agreement, many of these undertakings were to have begun in 2014 and continued thereafter, but have not, again raising serious questions as to the good faith of the Theatre Company in committing to community benefits.