

Holland & Knight

800 17th Street, NW, Suite 1100 | Washington, DC 20006 | T 202.955.3000 | F 202.955.5564
Holland & Knight LLP | www.hklaw.com

Leila Jackson Batties
202.457.7167
leila.batties@hklaw.com

Dennis R. Hughes
202.419.2448
dennis.hughes@hklaw.com

Christopher S. Cohen
202.469.5127
christopher.cohen@hklaw.com

September 30, 2022

VIA IZIS

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

**Re: Z.C. Case No. 22-06
Application for Consolidated PUD and Related Map Amendment
Applicant's Response to Opposition**

Dear Members of the Commission:

On behalf of 801 Maine Ave SW PJV, LLC (the “Applicant”), we hereby submit this response to the various claims expressed by opposition to the above-referenced application (herein referred to as the “Opposition”). To date, the Opposition's filings consist of three (3) requests for party status¹ and 12 letters objecting to the Applicant's proposal.² The issues and concerns raised in the Opposition's filings more or less overlap and relate to the following: (i) size and density; (ii) consistency with the Southwest Neighborhood Plan; (iii) traffic impacts; (iv) reduced light and air; (v) affordable housing; (vi) construction activity; and (vii) economic and social impacts. The Applicant summarizes its position on each issue below.

1. Size and Density

The massing of the building has been carefully configured to achieve maximum compatibility with the surrounding context. **Ultimately, the Applicant is pursuing the MU-9A zone solely to shift height and density away from the abutting townhome community;** not to construct a “high-rise, high-density” project that would overwhelm the neighborhood, as is alleged.

¹ See Ex. 22, 33, and 39.

² See Ex. 23, 26-28, 30-32, 34, 36, 40-43.

As detailed in the Applicant's prior filings and as reflected in the most updated set of plans submitted with the Applicant's Supplemental Prehearing Statement, the proposed building heights have been adjusted to address the Opposition's concerns. The height at the northern portion of the building has been lowered to 90 feet; and the height of the southern portion of the building (fronting on Maine Avenue) has been increased to 130 feet, with a section at the southeast corner remaining at 120 feet.

In addition, the Opposition's claims regarding height and density overlook applicable recommendations in the Comprehensive Plan (the "CP") and the Southwest Neighborhood Plan (the "SW Plan"). The FLUM designates the PUD site as Medium Density Commercial. The SW Plan, the applicable Small Area Plan adopted by the D.C. Council in 2015, cites to the 2006 FLUM, which also identifies the PUD site as Medium Density Commercial. Thus, the use and intensity envisioned for the PUD site has been established for an extended period of time.

The CP's Framework Element identifies the MU-8 and MU-10 zone districts as being generally consistent with the Medium Density Commercial category, although other zones may also apply.³ The table below compares the permitted density and height of these zones with the Applicant's proposal:

ZR16 Permissions for Zones Contemplated by the FLUM		
	<i>Density</i>	<i>Height</i>
	PUD (w/ IZ)	PUD (w/ IZ)
MU-8	7.2 FAR	90 ft.
MU-10	8.64 FAR	110 ft.
PUD Proposal		
	<i>Density</i>	<i>Height</i>
MU-9A	7.99 FAR	90 ft. (G Street) 120 ft. (Maine Ave. – southeast portion) 130 ft. (Maine Ave. – southwest portion)

As demonstrated above, the project is fully consistent with the medium-density zones designation of the FLUM. **The density proposed for the PUD falls squarely within the ranges contemplated under the CP for a Medium Density Commercial site.** As such, the Applicant's proposal does not constitute a "high density" development that would undermine "reasonable expectations for zoning stability" in the neighborhood, as claimed by the Opposition.

Furthermore, the proposed map amendment to the MU-9A zone enables the Applicant to "sculpt" the building in a way that appropriately contextualizes with Maine Avenue and The Wharf development to the south, and the townhouses and school to the north and east, respectively. The height limitations of the MU-8 and MU-10 zones do not offer such flexibility and hinder the Applicant's ability to shape a building – at a prominent gateway location, nonetheless – that adequately responds to the surrounding context and addresses neighborhood concerns. This flexibility is consistent with language in the Framework Element that states: "[t]he goal of a PUD is to permit development flexibility greater than specified by matter-of-right zoning, such as

³ 10-A DCMR § 227.12 (emphasis added).

increased building height or density, provided that the project offers a commendable number or quality of public benefits, and protects and advances the public health, safety, welfare, and convenience.”⁴ **The requested map amendment to MU-9A therefore aligns with the spirit and intent of the PUD process.**

2. Consistency with the Southwest Neighborhood Plan

Contrary to the Opposition’s assertions, **the PUD is not inconsistent with the SW Plan, as it furthers the seven (7) core concepts and the eight (8) design guidelines under the SW Plan's "Modernist Gem" concept.** Particularly supported the following design strategies of the Applicant that further the goals of the SW Plan:

- The varied height and massing on the site, as it focuses the massing away from the townhomes on G Street towards Maine Avenue where it is more consistent with the Wharf development.
- Use of materials consistent with the newer development patterns on the Wharf buildings.
- The proposal for landscaped and art-infused courtyards for residents and neighbors, which would enhance the pedestrian experience along the perimeter of the site.

3. Traffic Impacts

The Opposition claims that the PUD would increase congestion and adversely impact the surrounding traffic network. As detailed in the Applicant's prior filings and will be demonstrated through expert testimony at the public hearing, **the anticipated impacts to transportation are capable of being mitigated and/or acceptable given the quality of public benefits of the PUD.**

The Applicant has carefully studied existing traffic patterns and has proposed a circulation plan that will not have a detrimental impact to the surrounding traffic network. In configuring the access for the PUD, the Applicant balanced DDOT standards and priorities with the community's concerns about adding congestion to G street. The Applicant also had to remain cognizant of the proposed development program and its needs. As further detailed below, the proposed circulation accommodates all of these considerations.

The Applicant's transportation expert determined the most favorable circulation pattern involves the construction of a private driveway, which will have two-way operations from G Street to the 67' loading berth, and one-way operations (northbound) from the 67' loading berth to a new curb cut on Maine Avenue. Because no vehicles can exit onto Maine Avenue, **this configuration responds to the Opposition's concerns about potential cut-through traffic** through the townhome community (north of G Street). Turning analyses also indicated that the most efficient circulation for grocer trucks involves ingress via Maine Avenue and egress via G Street. Moreover, these alternative access points only accommodate right-in/right-out maneuvers. Thus, the design of the private driveway will discourage undesirable driving maneuvers, limit redundant trips, and minimize potential conflicts with pedestrians and cyclists.

⁴ 10-A DCMR § 224.7.

The Opposition has raised particular concern about additional congestion on G Street, but the Applicant has taken measures to minimize potential impacts resulting from this point of ingress and egress (e.g., shifting G Street curb cut as far west as possible). The Opposition also has requested “that traffic be redirected back out of Maine Street” and that the driveway is reconfigured for one-way travel. Accommodating this request is plainly infeasible and doing so would likely create major safety issues. As shown on the Proposed Circulation Plan, the design of the driveway is intended to accommodate vehicle circulation, including large grocer trucks, and bicycle circulation. A one-way driveway is likely to generate more congestion and create more conflicts between motorists and bicyclists. Furthermore, DDOT will not support additional traffic flow/egress via the Maine Street curb cut. When granting conceptual approval of the Maine Avenue curb cut, the Public Space Committee requested that DDOT and the Applicant determine restrictions on the Maine Avenue driveway during zoning review.

Ultimately, any traffic impacts will be mitigated by measures that are suitable for the proposal. DDOT found the Applicant's TDM plan to be “sufficiently robust to support non-automobile ownership lifestyles and mitigate identified traffic impacts[.]” **In addition, the proposed reconfiguration of 9th Street, coupled with the associated streetscape and landscaping improvements, are a major benefit of the PUD.** The anticipated cost of the proposed 9th Street improvements, including site work and within the roadway, is over \$750,000.

4. Light and Air

The proposed massing and height articulation are intended to reduce the overall impact to available sunlight and potential impacts to the townhomes along G Street.

The Opposition has concerns about the building design, claiming that “[i]t needs to be reduced down as it approaches G Street in order to integrate better with the townhome nature of the Association community and rest of the neighborhood.” The Opposition also raises issue with the Applicant's shadow studies and the potential impacts to light and air.

The building is designed to be compatible with the overall neighborhood, with the maximum height and the majority of the density focused toward The Wharf. The height of the building is reduced down to 90 feet where it confronts the G Street townhouses to the north, which have a height of 50 feet. The height at the rear is intended to reduce shadows onto the Jefferson Recreation Field, while placing the bulk of the height away from the lower-scaled residential townhomes, north side of G Street, thereby relating the bulk of development with the 130-foot buildings at the south side of Maine Avenue.

Overall, the Opposition's claims about resulting impacts to light and air are exaggerated, especially given the substantial distance between the townhouses and the northern edge of the building (110 feet).

5. Affordable Housing

The Opposition has called into question the project's contribution to the District's affordable housing supply. However, **the PUD's affordable housing commitment is significant and advances several District objectives, as it will help to create a mixed-income community on a site that is in close proximity to public transit and desirable outdoor and service amenities and yet offers no housing currently.**

The Applicant will set aside 15% of the residential gross floor area (“GFA”) of the project, or approximately 65,171 square feet of GFA, for affordable units reserved for households earning no more than 60% of the Median Family Income (“MFI”). The Applicant also will set aside an amount of GFA equal to 15% of any penthouse habitable space devoted to dwelling units to households earning no more than 50% MFI. Thus, of the 498 new residential units to be constructed as part of the project, approximately 75 units will be set aside as affordable. As part of this affordable housing commitment, and at the request of the community, the project will include eight (8) affordable three-bedroom units to accommodate family-sized households. The PUD will provide more than three times the affordable housing that would be required under a matter-of-right development with the site's current MU-12 zoning.

6. Construction Activity

The Applicant is cognizant of potential impacts to the surrounding area that may result from future development of the PUD site. The Applicant has agreed to enter into a construction management plan (“CMP”) with the Jefferson Middle School Academy Parent-Teacher Organization to mitigate impacts from construction, like noise and dust.

7. Economic and Social Impacts

The Applicant has thoroughly evaluated the impacts of the PUD and submits that any resulting impacts are favorable, capable of being mitigated, or acceptable given the quality of public benefits in the project in accordance with Subtitle X § 304.4(b). In light of certain concerns raised by the Opposition, the Applicant offers additional analysis regarding the potential economic and social impacts of the proposed PUD, both of which are favorable.

- Economic. The Opposition contends that the proposed development “would negatively impact the values of the townhomes with the Association” and “would make the neighborhood less attractive to potential purchasers.”

The Applicant disagrees with these claims. The PUD site is presently improved with an office building. This does not result in the most efficient and economical utilization of the land, particularly when considering the “remote-work” environment that has evolved since the COVID-19 pandemic, coupled with the land uses envisioned for the site, as reflected in the CP FLUM. **The PUD will result in the redevelopment of an underutilized site in a transit-oriented location that also is well-positioned to complement uses within the immediate area.** An influx of residents will support the diverse range of existing commercial and retail uses of

The Wharf development and further establish the Southwest Waterfront as a preeminent community in the city.

Additionally, the PUD will include anchor retail, including a viable grocer, which will lead to new employment opportunities and additional tax revenues for the District. This development's location could bring **diverse job opportunities** for future employees who may live within the neighborhood or the proposed development.

- **Social.** The Opposition claims the Applicant has failed “to adequately address crosswalks and sidewalks” and “how to accommodate better pedestrian access.” **But the proposed redesign of 9th Street and associated streetscape and landscaping improvements are intended to address these very concerns.** The proposed reconfiguration will create approximately 4,800 square feet of pedestrian-oriented area along 9th Street, thus enhancing the street-level experience and the walkability of the PUD site. The 9th Street improvements will also serve to calm vehicular traffic and foster a safer environment for pedestrians and cyclists.

The positive social impacts of the project go beyond enhancing the pedestrian environment. The Applicant’s proposal includes efforts intended to **acknowledge, celebrate, and accentuate the identity of the Southwest Waterfront**, such as the artistic rendering on the east-facing façade, and the \$75,000 proffer toward the design and installation of public art along Maine Avenue. Furthermore, the project aligns with the District’s racial equity goals, as it will provide increased opportunities to housing and affordable housing and new neighborhood-serving retail in a desirable, high-opportunity area. In light of these benefits, the PUD is likely to positively contribute to the social and cultural wellness of the surrounding neighborhood and the District as a whole.

The Applicant is prepared to provide additional detail at the public hearing to address the issues raised by the Opposition.

Respectfully submitted,

HOLLAND & KNIGHT LLP

By: *Leila Batties*

Leila M. Jackson Batties

Dennis R. Hughes

Christopher S. Cohen

CERTIFICATE OF SERVICE

I hereby certify that on September 30, 2022, a copy of the foregoing correspondence to the Zoning Commission was served on the following via the means noted below:

1. **D.C. Office of Planning** VIA E-MAIL
Ms. Jennifer Steingasser
jennifer.steingasser@dc.gov
Mr. Joel Lawson
joel.lawson@dc.gov
Ms. Karen Thomas
karen.thomas@dc.gov

2. **Advisory Neighborhood Commission 6D** VIA E-MAIL
c/o Commissioner Edward Daniels, Chair
6D@anc.dc.gov
6D07@anc.dc.gov

3. **Dr. Marjorie Lightman** VIA E-MAIL
Single-Member District Representative
ANC 6D-01
465 M Street, SW
Washington, DC 20024
6D01@anc.dc.gov

4. **Commissioner Andy Litsky** VIA E-MAIL
ANC 6D04
429 N Street, SW
Washington, DC 20024
6D04@anc.dc.gov

5. **Commissioner Fredrica Kramer** VIA E-MAIL
ANC 6D05
387 O Street, SW
Washington, DC 20024
6D05@anc.dc.gov

6. **District Department of Transportation** VIA E-MAIL
Mr. Jonathan Rogers
jonathan.rogers2@dc.gov
Mr. Aaron Zimmerman
aaron.zimmerman@dc.gov
Ms. Emma Blondin
emma.blondin@dc.gov


Christopher S. Cohen
Holland & Knight LLP