

BACKGROUND

At the October 6, 2022 hearing for Zoning Case 22-06, the DC Zoning Commission granted party status to the Capitol Square HOA (CS-HOA), an incorporated association representing 93 individual townhomes and HOA-owned and maintained community property and roads located within 200 feet of the proposed development at 899 Maine Ave SW (originally referred to as 801 Maine Ave. in the zoning case).

It was clear in the ZC 22-06 hearing that the PUD request put forth by the Applicant did not adequately address our community's concerns of cut through traffic and negative impact to our HOA-maintained property and roads, shadows caused by excessive height and density, and inconsistencies with the SW Small Area Plan; nor did the Applicant meet the OAG's affordable housing benchmarks.

In the hearing, the Zoning Commission tasked the Applicant, Jair Lynch, to meet again with the Capitol Square HOA, and submit a report to record detailing the outcomes of the meeting by 3PM ET, November 21, 2022.

SUMMARY OF CURRENT STATUS

We met three times with the Applicant and exchanged numerous emails detailed at length in the following report. To date we have not secured any formal commitment from the Applicant to support reasonable actions to mitigate negative impacts to our community such as us meeting with the Applicant and DDOT related to curb cuts, and the Applicant funding the study and implementation of cut-through traffic mitigation methods.

We do still have serious concerns about the building height and affordable housing ratio, and we still advocate for the 22% suggested by the OAG and seconded by our ANC. However, our current urgency and priority is mitigation of dangerous cut-through traffic on our private roads. We are for preservation of Southwest, and for more affordable housing, but our ultimate requirement is protection of our community. We should not have to shoulder the burden of this development, the increased wear and tear of our property due to prohibited use of our roads by the Applicant's tenants, visitors, and contractors, or the danger of injury or death due to speeding cut-through traffic.

RECOMMENDATION

We strongly recommend that the Zoning Commission DISAPPROVE Zoning Case 22-06 as requested. The Applicant has not demonstrated their mitigation of exceptional negative impact to our community¹, nor have they demonstrated significant public benefits such as including a greater number of affordable units than the Inclusionary Zoning requirement². The benefits proffered such as a grocery store, 9th Street improvements, and artwork are not certain due to dependence on DDOT or other parties, and they do not go far enough to rationalize a zoning change that would cause the negative impacts on our community. The zoning change would also be inconsistent with the Comprehensive Plan and the FLUM (i.e. the FLUM says the site is **Medium Density** Commercial, yet the Applicant proposes MU 94, **High Density** Mixed Use), and would make the end result building the tallest building on Maine Ave. with less than adequate affordable housing in exchange.

If a vote to DISAPPROVE the ZC 22-06 at this stage is not possible, we request that the Zoning Commission delay the December 15th vote until February or March, so that the Applicant and the CS-HOA can continue to work on their offer

¹ Subtitle X, Section 304.4(b) "The Zoning Commission shall find that the proposed development...(b) Does not result in unacceptable project impacts on the surrounding area or on the operation of city services and facilities but instead shall be found to be either favorable, capable of being mitigated, or acceptable given the quality of public benefits in the project..."

² Comprehensive Plan Section 1914.14 "Promote a mix of affordable and market rate residential units that better serve community needs in Southwest. Prioritize the creation of a greater number of affordable units than the Inclusionary Zoning requirement or more family-sized units as part of a community benefits agreement for any PUDs..."

to mitigate impact on our community prior to the Zoning Order. We must get data to understand the baseline of cut-through traffic, calculate expected increases, and use this data to propose appropriate mitigations that the Applicant will support financially. Only when mutually agreed upon plans can be outlined and a binding agreement signed between the Applicant and the CS-HOA, would it be appropriate for a Zoning Commission vote.

TIMELINE OF MEETINGS AND EMAILS WITH OUTCOMES

Oct. 18 CS-HOA Meeting with OAG, 2:00 – 3:00 PM ET

- Prior to meeting with the Applicant, CS-HOA had follow-up meetings with the OAG and ANC and our concerns remain fully aligned with these parties regarding the impact the proposed project will have on the SW community. The OAG noted that they are standing with their written assessment that ZC 22-06 project is INCONSISTENT with the Comp Plan and that the added density warrants 30 additional IZ units.

Oct. 24 CS-HOA Meeting with the Applicant, 5:30 -6:30PM ET

Capitol Square presented our concerns with the Applicant for their proposed development in ZC 22-06 and the impacts to our community. Our purpose for the meeting was for the Applicant to hear our community’s concerns and get agreement on what needs to happen for us to come to a mutually agreeable plan. The specific issues we presented at this meeting are detailed below:

A. Excessive building height and density

- The height of the property must be lowered to address the inconsistencies with the Comprehensive Plan and Small Area Plan. The proposed height will make 899 Maine taller than the Wharf buildings.
- Shadow study showed that the 110’ height at Maine is causing most of the shadow.
- The 90’ height on G is an abrupt wall in our SW community and discordant with the look and plan for SW neighborhood.
- We want to see a revised design with the height reduced. Reduced height could mean fewer total units, but few total units is a positive for the developer because it would alter the ratio of market rate and affordable housing and help to address the OAG’s concerns about the inadequate number of IZ units.

Outcome: After hearing these set concerns, the Applicant verbally responded that they are drawing a hard line and will not negotiate on the excessive height and density, or their PUD request relative to affordable housing proffer. An implication was made by Applicant’s counsel that the Zoning Commission would not be considering the OAG’s recommendation or that they should not do so.

B. Untenable traffic configuration

- The current traffic study does the bare minimum to meet the submission requirements and fails to acknowledge or address the existing concerns we brought to you previously.
- The G and 9th intersection is a problem now and will be a problem for your tenants and visitors as well. We understand that it is not solely on Jair Lynch to fix the problem, but you must be part of helping us get to a solution and mitigate your impact.

- A whole-of-community solution must be pursued and commitment to identifying this solution is required from you right now, and you must help us in securing the commitment of DDOT, DC Council, the Wharf development, and neighboring homeowners associations.

Outcome: The Applicant repeatedly referred to the traffic problems as existing conditions and their counsel described how they were not responsible for them. They blamed DDOT for not being collaborative. We seem to agree that the curb cut on Maine Ave SW should be right in and right out for all traffic, but the Applicant indicates that they accept DDOT's requirement of trucks only and right in only. No promises or offer to facilitate a meeting with DDOT was made.

C. Prohibited use of Capitol Square private roads and property

- The ZC acknowledged that 899 Maine residents and visitors will likely use CS's private roads and properties to get to and around the area.
- Our private roads and property are maintained through our association dues and your tenants and visitors use will place an undue, unfunded burden to our community through:
 - Increase wear and tear to our roads
 - Accidents and other hazards from increased traffic
 - Debris and nuisance from non-community members
- A full understanding of the potential harm and negative externalities stemming from your development is needed. **Capitol Square must have an assessment conducted to achieve this. We propose this assessment be conducted by a vendor of CS's choosing and be fully funded by Jair Lynch. The assessment will include strategies and options to maintain the safety and security of our property against 899 Maine tenants/visitors and preventing the prohibited use of Capitol Square property. When final the assessment is made about the property, Jair Lynch must commit funding and resources needed to implement the strategy, for the life of the 899 Maine development.**

Outcome: The Applicant again indicated through their counsel they feel the current cut through traffic is an existing problem that is not theirs to fix and brushed off the fact that their project will exponentially increase demand on our roads. They continue to point to their movement of their G Street curb cut as "mitigation" and despite the fact that the CS-HOA did offer it as ONE idea (in addition to other things like making the Maine Ave. SW curb cut right in/right out for all traffic) it does not, in fact, mitigate cut through traffic sufficiently. Vehicles that would have turned in our community to cut across G Street from our curb cut to theirs will now simply continue straight through our community to exit on 9th Street, make two lefts and a right, and enter their curb cut. Furthermore, they refused to recognize that even with moving their curb cut, tenants and visitors leaving their building intending to go west on Maine Ave towards the Tidal Basin, Foggy Bottom, Rock Creek Parkway, etc. will exit their G Street curb cut, make a quick left into ours, drive through our alley north, turn left to our 9th Street curb cut, turn left to 9th, and then be able to turn right on to Maine Ave to proceed west. This is a cut through pattern we do not currently have a lot of issues with, since the building there is vacant – we did notice this pattern often when the USDA had office workers at 800 9th St SW (which is a smaller building). The "legal" trip route would require drivers to circle the entire block and would take at least twice as long. Attachment 1 to this report is an updated map showing that their curb cut movement would not mitigate cut through sufficiently.

Furthermore, we requested that our streets be included in any transportation or traffic analysis they completed at our very first meeting with the Applicant on November 2, 2021. We have repeated this in very interaction and in our ANC and ZC testimony. In each interaction the Applicant's counsel repeatedly stated that the CTR Guidelines don't

require them to do this and so they wouldn't. In refusing to incorporate the intersections with our private roads in their Comprehensive Transportation Study (Capitol Square Pl SW, and our 7th/9th/and G Street alleys with curb cuts) we are burdened by lack of reliable data that could have informed a mitigation plan as early as August 2021.

In this particular meeting they indicated openness to our hiring such a consultant and possibly funding implementation of additional cut through mitigation, however, would not commit to it and did not provide any indication of a budget or process for funding. The CS-HOA followed up immediately that evening with doing market research and finding 6-8 possible vendors and later tasked our HOA-paid property management company with researching additional candidates. However, to date, only one has responded with a proposal (which may be low quality). Others have indicated that such as study is 1) too small for them to take on right now or said 2) we should use Gorove Slade as "that's who does all the traffic analysis in DC." There seems to be a reluctance in those we spoke with to challenge Jair Lynch and jeopardize future business with developers. We feel it is unwise for us to use Gorove Slade for this task due to the conflict of interest (they are the Applicant's consultant on this and other projects).

D. Requisite Capitol Square sign-off on construction management plan (CMP)

- G and 9th are heavily used and any modification to sidewalk and road access will have severe impacts on our community.
 - Additionally, the construction will bring a severe dust, noise, debris, and will reduce already scarce street parking
 - Capitol Square must be able to review the draft CMP, provide modifications, and must sign off before it is finalized and included in the final ZC order.
 - Key items that must be addressed are:
 - Time/day for work starting and stopping
 - Limiting all construction equipment and work to within your property line
 - Prohibition of workers from using our sidewalks or property to access the site or on breaks
 - No construction vehicles on G or 9th, must use Maine Ave as main entrance and exit
 - Dust, dirt, and debris abatement
 - Study done on pile driving impact to foundation of CS homes and mitigation plan and actions to address damage to homes/properties
 - Dedicated response line and site POC to address immediate issues

Outcome: Applicant indicated willingness to make us party to the one CMP in the works with Jefferson Middle School and promised to send drafts soon after. We actually did not receive this plan until November 11th and the Board President, Erin Berg, was left off of the distribution email list and so did not have opportunity to review until November 16th. We find the draft sent to be encouraging and are adding community-specific requirements to the draft and having it reviewed by the HOA's attorney (note: while we do have an attorney on retainer – Todd Sinkins with Rees Broome LLC – this type of legal assistance is done at a not-insignificant cost to the HOA, reducing our budget for community maintenance and repair). We hope to have this agreement signed prior to December 15th and will notify the Commissioners if somehow this agreement cannot be made.

3. Request for plan for follow up and next steps

- These are serious concerns and our community, along with the ANC and OAG, will continue to push and do what is needed to ensure we have a plan that maintains the safety and protection of our community and our property.

- We hope there is a way to come to a mutually agreeable plan.
- We want to meet again no later than the week of November 14 and discuss how you have been able to address our concerns.

Outcome: The Applicant said they will review our concerns and come back with their response at a follow up meeting, scheduled for November 9.

Emails between CS-HOA and the Applicant prior to Nov. 9 meeting

In a Nov. 2 email, the Applicant emailed CS-HOA asking to confirm if the following three items summarizes our communities concerns and requests:

1. A supplemental transportation study that includes the private streets interior to the townhomes, including an assessment by a traffic engineer of strategies to prevent cut-through traffic within the townhomes.
2. Work together to identify and address issues at 9th and G streets, as practicable.
3. Adding the HOA as a party to the Construction Management Plan currently being negotiated with the Jefferson MS PTO.

In a Nov. 2 email, CS-HOA responded to the Applicant, and noted that:

- The Applicant forgot to add our concern over building height and density, particularly as the building height relates to the Wharf. Their proposed building is currently taller than the Wharf buildings and will visually be problematic in addition to the proposed density causing maximum demand on the surrounding streets and infrastructure. We would like to see the building height be reduced to solve the visual issue plus a modest reduction on the impact to the traffic/ingress and egress. Or, if the Applicant is seeking to max out the zoning height to triple the current zoned level, we would expect to see a tradeoff in affordable housing rates in excess of the 22%, recommended by OAG. We noted that a height reduction would allow us to affirmatively signal to the Zoning Commission that we felt listened to and that the Applicant would have sought significant compromise to those concerns. CS-HOA also noted that we have several additional concerns/asks that we committed to email Friday after consulting with our community members. The three they had provided are the highest-level concerns, but do not cover all our concerns.

In a Nov. 7 email, CS-HOA laid out our written summary of additional items we are requesting the Applicant to consider:

- While the items presented on October 24th are paramount, here are other concerns/items that our group provided for the Applicant's review. I want to clearly note that even if all of the below are addressed to our satisfaction, if the items we presented on October 24th are not addressed, we ultimately would still not be able to signal affirmatively to the Zoning Commission. To put it another way, these are the "nice to have" items.
- CS-HOA noted we are still waiting on vendor proposals for the impact assessment to our community. While we wait for proposals to study specifically the Capitol Square neighborhood and propose mitigation methods, we would want to see the Applicant's traffic study vendor incorporate into their report analysis that
 1. Includes traffic on weekends and evenings when there are Wharf events (ideally, the DC Holiday Boat Parade on December 3 <https://www.wharfdc.com/upcoming-events/>) or sold-out Anthem events (<https://theanthemdc.com/calendar/> - the November 18 Billy Strings show is sold out; the DC 101nderland December 7th should also cause G Street to show the traffic volumes) and

2. Incorporates our streets into their analysis of how vehicles will access the property. The analysis should include discussion of how residents, and in particular, retail visitors would be able to access the building when it is a peak volume during these events; and
 3. A section more clearly demonstrating how the curb cut movement you have proposed (the G Street cut on your property) to move a few feet to the west will prevent cut across access from our G Street curb cut.
- We requested the plans/documents be revised with the following renderings or updated renderings:
 1. New renderings/images in the "Existing and Proposed" section to show 1) View from L'Enfant Promenade (10th street) south towards the Wharf, 2) View from Maine Ave at 7th Street looking West, 3) View from Maine Ave near Fish Market looking East (the latter two seem to be partially included as final views, but not Existing with the Proposed rendered in).
 2. Revise other all other renderings to 1) include only finished buildings (i.e., exclude the proposed ZC 22-11 807 Maine Ave) in the aerial view, and (2) use same methodology to count height for all buildings in aerial view (currently counting only massing height for 899 Maine Ave and total height for surrounding buildings).
 - We requested written assurance that retail use (including, but not limited to, noise caused by deliveries and trash pickup) and residential use (such as, but not limited to, roof deck and balcony use) conform to DC regs on public nuisances (§ 22-1321(d)) but also to change the evening time to begin at no later than 8 p.m. So, in effect no roll up doors crashing or trucks compacting trash earlier than 7 a.m. or later than 8 p.m.; no tenant parties on the roof or their personal balconies (if such are built) after 8 p.m., etc.
 - We want assurance that very visible and accessible scooter and dockless bike parking is available on the public space so they don't leave them near our property.
 - We requested the art selection process for the back wall mural to be made by nearby residents. We suggest you have the artist provide 2-3 options and at a minimum provide a voting site for 1) Jefferson students, 2) members of the Capitol Square HOA, 3) members of the Town Square Towers HOA, and 4) any other resident with a view of the building to choose the final design. The Applicant's plans in this area should also require the artist to engage Jefferson students in the process, if the school desires such, by helping paint the mural, or doing some kind of a workshop for them, etc. Maybe there is a Summer Youth Employment possibility as well?
 - A proactive offer to the Capitol Square community would be if there are common area spaces in 899 Maine that Capitol Square HOA members could be granted use of (such as if a community room is incorporated, we could have free use for HOA board meetings, or if a pool is built, somehow granting Association members passes for occasional pool use, etc).

Nov. 9 CS-HOA Meeting with the Applicant, 5:30 -6:30PM ET

CS-HOA emailed the written agenda for items we would like to discuss on Nov. 9 call, see below. We also emailed the one proposal CS-HOA has received for assessing 899 Maine's negative impact to our community.

- Building Height and Density: Your unwillingness to come back with a revised design with lower height or greater affordable housing units signals you are not willing to compromise with our community. Specifically, my follow up on Nov. 2 to Radhika about reducing height or increasing affordable housing.
 - Point of emphasis. The parcel is not currently zoned for that level; and you are requesting the zoning change. It is wholly within your abilities and power to reduce the height and increase the affordable housing units.
- Traffic configuration: What does JL commit to working with the community, DDOT, DC Council and other stakeholders? What are the specific actions and timeline for these actions?

- Point of emphasis: Existing traffic study is misleading and incomplete. We need a commitment to provide before the December zoning hearing new renderings and study element
- Preventing non-resident use of Capitol Square properties: One proposal for a traffic/mitigation study is attached (we are still working with the vendor on scope but so far it's close, and we are waiting on at least one more proposal). We are asking JL to commit to two things:
 - Funding the study.
 - Funding the mitigation measures identified in the study.
- Point of emphasis: We are not looking for JL to only fund the study. We need your commitment to executing the mitigation measure identified in the study. We think this is a fair and reasonable request considering we are the only adjacent residential community to your development. Our priority is protecting our community and the investments we are making in its maintenance and preservation. We are open to discussing our criteria for what is fair and reasonable action.
- Construction management plan party status: What is the status and timeline of this?
 - Point of emphasis: Whatever is occurring right now between JL and Jefferson should also involve Capitol Square. So if you are in the midst of negotiating with Jefferson, you need to also be negotiating with us. We understand Leila's point that DC Zoning it not the office to enforce construction management, but that is not of relevance. We know that office that enforces it and will be working with them to ensure JL adheres to the commitments in the CMP. Our request is to be a party of the drafting and final sign-off on the CMP.
- Discussion of additional "nice to haves" emailed Nov 7. Have you reviewed it and what is your feedback?

Outcome: The Applicant signaled openness to funding the requested study and some mitigation efforts, in addition to possibly a contribution to our reserve fund for maintenance. No formal agreement was made.

Additionally, the Applicant did agree to provide us with a draft of the Construction Management Agreement by Friday, November 11 (which they did – though they left the CS-HOA Board President, Erin Berg, off of the distribution list by omission). We are currently reviewing that document with our committee and attorney.

Nov. 11 email from the Applicant provided CS-HOA with draft construction management Plan.

The Applicant noted that they are agreeing to make Capitol Square HOA a party to the Construction Management Plan, in addition to Jefferson Middle School PTO. The Applicant also included the G Street curb cut overlay plan that was shared in our meeting for reference.

Outcome: We are currently reviewing that document with our committee and attorney.

Nov. 16 email from CS-HOA to the Applicant and their response

To prepare for the Nov 21 response deadline next week, we asked for the following from Applicant:

1. A written response to the issues/concerns we have shared since our first post-Zoning hearing meeting. This includes what we shared as agendas and in follow ups. (See next section for their responses)
2. We formally propose the following due to the delays in getting cut-through study quotes: Jair Lynch will agree to pay the HOA up to \$100,000 for the study (including the primary consultant and any subcontractors they need to engage to do the various analysis) and will pay up to \$400,000 for combined costs of 1) implementation of

mitigations (depending on what the consultant says is useful, feasible, safe, and/or legal) as well as 2) a reasonable contribution to our reserve funds to maintain whatever structures or physical barriers are added and/or to replace things like our asphalt, signage, and speed bumps more frequently due to increased traffic driven by 899 Maine Ave. We would want that specifically in writing to be reviewed by our attorney, and then signed by an authorized signatory similar to the CMP as well as being explicit the PUD/Zoning order.

3. We want confirmation that while the funding of the cut-through study and mitigation will go into the Zoning Commission order specifically, it should not be counted as public benefits. Subtitle X Section 305 indicates that mitigation to potential adverse impacts of the PUD shall not be considered benefits.

To address our request for a written response to our issues/concerns to date, the Applicant provided the written response highlighted in yellow below:

Primary Concerns

1. Building Height and Density: Your unwillingness to come back with a revised design with lower height or greater affordable housing units signals you are not willing to compromise with our community. Specifically, my follow up on Nov. 2 to Radhika about reducing height or increasing affordable housing. **The height of the project was already reduced from 110 feet to 90 feet along G Street in response to the community concerns. We are considering adjustments to the affordable housing proffer, which should be confirmed by the time our post hearing submission is due on November 21.**
 - Point of emphasis. The parcel is not currently zoned for that level; and you are requesting the zoning change. It is wholly within your abilities and power to reduce the height and increase the affordable housing units.
2. Traffic configuration: What does JL commit to working with the community, DDOT, DC Council and other stakeholders? What are the specific actions and timeline for these actions? **We have agreed to fund the signal warrant analysis for the intersection of 9th and G St. SW through DDOT. The findings of the study will guide discussions with FHWA regarding the signalization for that intersection.**
 - Point of emphasis: Existing traffic study is misleading and incomplete. We need a commitment to provide before the December zoning hearing new renderings and study element.
3. Preventing non-resident use of Capitol Square properties: One proposal for a traffic/mitigation study is attached (we are still working with the vendor on scope but so far it's close, and we are waiting on at least one more proposal). We are asking JL to commit to two things:
 1. Funding the study. **Need more time to discuss**
 2. Funding the mitigation measures identified in the study. **Need more time to discuss**
 - Point of emphasis: We are not looking for JL to only fund the study. We need your commitment to executing the mitigation measure identified in the study. We think this is a fair and reasonable request considering we are the only adjacent residential community to your development. Our priority is protecting our community and the investments we are making in its maintenance and preservation. We are open to discussing our criteria for what is fair and reasonable action. **Any funding would be in the form of a lump sum payment to the HOA. Based on our prior discussions with the HOA and the ANC, it was determined that one strategy to discourage cars cutting through the Capitol Square community was to shift the curb cut on G Street west, as far as possible. The purpose of the offset is to make it more difficult for vehicles to maneuver from the Capitol Square Place community. This change will be reflected on the plans filed with the Zoning Commission on November 21st. DDOT has indicated that they are supportive of this modification.**

4. Construction management plan party status: What is the status and timeline of this? **A draft of the CMP, including the HOA as a party, was shared on 11/11 for HOA review.**
 - o Point of emphasis: Whatever is occurring right now between JL and Jefferson should also involve Capitol Square. So if you are in the midst of negotiating with Jefferson, you need to also be negotiating with us. We understand Leila's point that DC Zoning it not the office to enforce construction management, but that is not of relevance. We know that office that enforces it and will be working with them to ensure JL adheres to the commitments in the CMP. Our request is to be a party of the drafting and final sign-off on the CMP.

Nice-to-Have Items

5. While we wait for proposals to study specifically the Capitol Square neighborhood and propose mitigation methods, we would want to see your traffic study vendor incorporate into their report analysis that 1) includes traffic on weekends and evenings when there are Wharf events (ideally, the DC Holiday Boat Parade on December 3 <https://www.wharfdc.com/upcoming-events/>) or sold out Anthem events (<https://theanthemdc.com/calendar/> - the November 18 Billy Strings show is sold out; the DC 101nderland December 7th should also cause G Street to show the traffic volumes) and 2) incorporate our streets into their analysis of how vehicles will access the property. The analysis should include discussion of how residents, and in particular, retail visitors would be able to access the building when it is a peak volume during these events; and also a section more clearly demonstrating how the curb cut movement you have proposed (the G Street cut on your property) to move a few feet to the west will prevent cut across access from our G Street curb cut. **This does not meet DDOTs criteria for reviewing project related traffic. We do not agree to this additional study.**
6. We want the plans/documents be revised with the following renderings or updated renderings:
 - a. New renderings/images in the "Existing and Proposed" section to show 1) View from L'Enfant Promenade (10th street) south towards the Wharf, 2) View from Maine Ave at 7th Street looking West, 3) View from Maine Ave near Fish Market looking East (the latter two seem to be partially included as final views, but not Existing with the Proposed rendered in). **All renderings requested by OP and the Zoning Commission in support of the application have been submitted into the record. No additional renderings are being produced.**
 - b. Revise other all other renderings to 1) include only finished buildings (i.e., exclude the proposed ZC 22-11 807 Maine Ave) in the aerial view, and (2) use same methodology to count height for all buildings in aerial view (currently counting only massing height for 899 Maine Ave and total height for surrounding buildings). **All renderings requested by OP and the Zoning Commission in support of the application have been submitted into the record. No additional renderings are being produced.**
7. We would want written assurance that retail use (including, but not limited to, noise caused by deliveries and trash pickup) and residential use (such as, but not limited to, roof deck and balcony use) conform to DC regs on public nuisances (§ 22-1321(d)) but also to change the evening time to begin at no later than 8 p.m. So, in effect no roll up doors crashing or trucks compacting trash earlier than 7 a.m. or later than 8 p.m.; no tenant parties on the roof or their personal balconies (if such are built) after 8 p.m, etc. **We agree that the project will comply with DC regulations.**
8. We want to ensure that very visible and accessible scooter and dockless bike parking is available on the public space so they don't leave them near our property. **We agree to will work with DDOT and the design team to locate an area to incorporate.**

9. We want the art selection process for the back wall mural to be made by nearby residents. We suggest you have the artist provide 2-3 options and at a minimum provide a voting site for 1) Jefferson students, 2) members of the Capitol Square HOA, 3) members of the Town Square Towers HOA, and 4) any other resident with a view of the building to choose the final design. Your plans in this area should also require the artist to engage Jefferson students in the process, if the school desires such, by helping paint the mural, or doing some kind of a workshop for them, etc. Maybe there is a Summer Youth Employment possibility as well? **We think it's a great idea to include Jefferson Middle School students in the process and will endeavor to include them.**
10. A proactive offer to the Capitol Square community would be if there are common area spaces in 899 Maine that Capitol Square HOA members could be granted use of (such as if a community room is incorporated, we could have free use for HOA board meetings, or if a pool is built, somehow granting Association members passes for occasional pool use, etc). **This request cannot be accommodated at this time.**

Outcome: The CS-HOA requested "up to" \$100,000 and \$400,000 for study and implementation measures respectively due to timing and the uncertainty of costs at this point. It is not necessarily our desire to receive that amount or a lump sum, because methods could cost substantially more if any unforeseen issues arise during their construction; and because we do not want more money from the Applicant than necessary for mitigation and maintenance. Because we don't have data from the Applicant's CTR to use (again, we requested this repeatedly, but they declined to study our community or at non-standard points of the day) we do not have a baseline for cut through traffic in order to make educated estimates of how it will be increased. Because we have struggled to get consultants interested in our project or to understand the scope, we also don't currently have an educated recommendation of feasible mitigation methods or their costs.

We still require and insist the Applicant help us obtain data (baseline, expected increase) and mitigation recommendations from a mutually agreed upon engineering or traffic consultant. In the interim, to get a better concept of costs, we drafted a list of hypothetical mitigation methods that we have learned about through our own hours of research on best practices to reduce cut through traffic. We will start using our HOA-funded property management company to source quotes for some such as 1) Installing more speed bumps, signage, stop signs, etc.; 2) Replacing our asphalt more frequently due to wear from increased traffic; 3) Implementing larger investment changes like gates, chokers, medians, speed feedback devices; 4) Considering a very drastic change to open up one additional curb cut that our original developer did not pursue for some reason (on G Street near the 7th Street intersection) which would let us more safely gate the 9th Street exit with some kind of a swing arm gate and disincentivize cut through traffic from 7th to 9th, as well the cut through traffic as from 899 into our community to access south bound 9th Street (See Attachment 1). ***Note: most of the larger investment changes come with SIGNIFICANT negative impact on our community, such as closing us off and making our own access nearby streets more difficult.

In our "nice to have list" we requested additional renderings and traffic information from the Applicant, in order to further demonstrate the obstructive nature of the building – which will likely be the tallest building on Maine Ave. SW if it is approved and built to the height in the current presentation (150' including penthouses, taller than that in appearance at Maine Ave due to measurement from G Street). As you can see, they declined.

We also had a few smaller items that had come in from our Association members via surveys; we added them just in case the Applicant wanted to extend a small olive branch, but apparently none of those are acceptable to the Applicant save our recommendation that Jefferson students be involved in the art selection.

Nov. 16 CS-HOA Meeting with the Applicant, 5:30 -6:30PM ET

Rough agenda for the call was to walk through the written responses, and discussion focused on the cut-through traffic mitigation question.

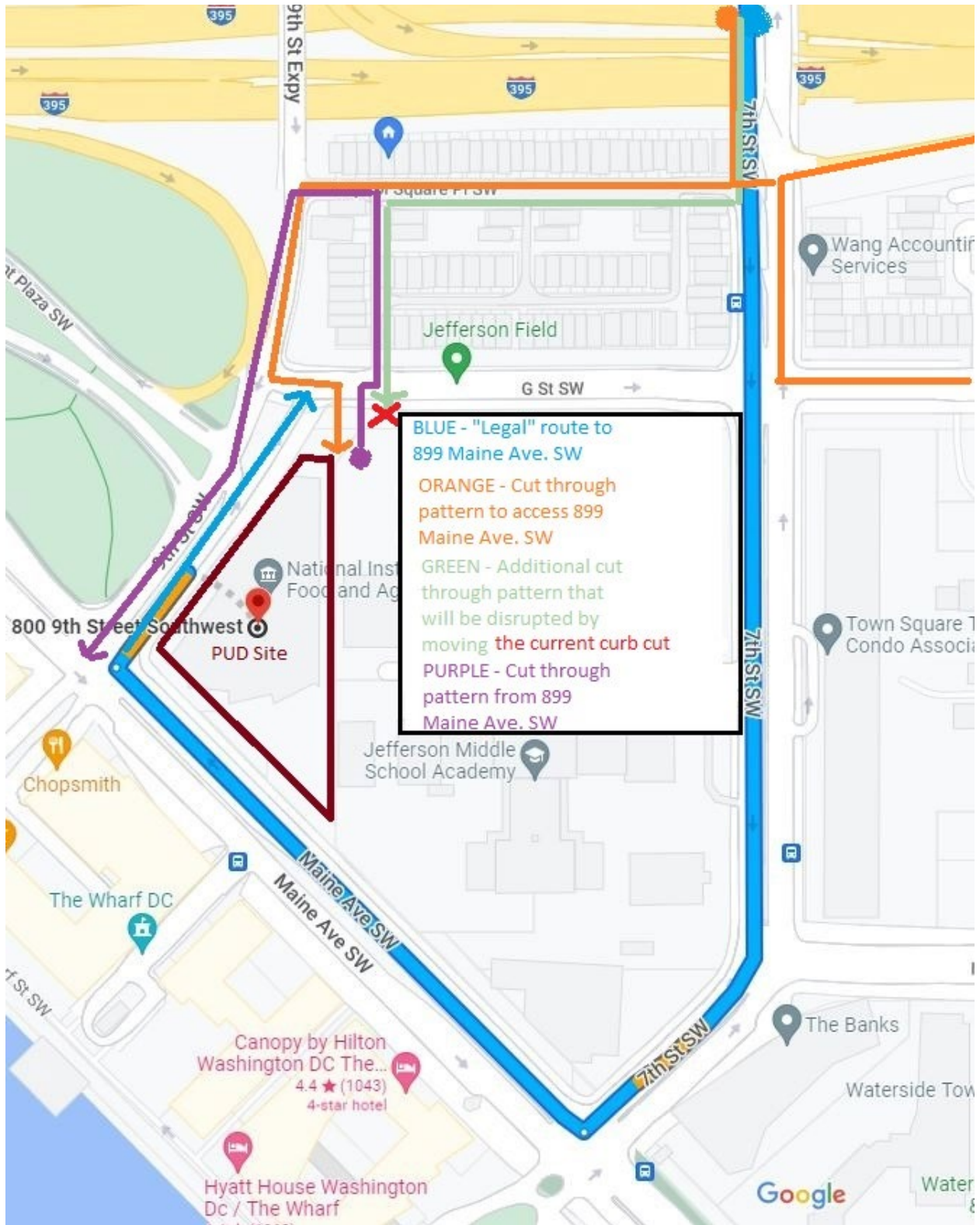
Outcome: CS-HOA and the Applicant went back and forth about the potential cost of the study on people cutting through our property. The maximum budget range we suggested was questioned by the Applicant as being too high. We emphasized that we added “up to” a specific amount because we are still waiting on proposals and are uncertain of what a reasonable cost should be. We also emphasized that we had to put an UPPER limit of cost due to the lack of data. We noted that it is likely lower but have put flexibility in the language in case there is a range. The Applicant and their counsel agreed with us that they should have included our community in their analyses from the start.

The Applicant also repeatedly stressed what they consider adequate mitigation in the form of the move of their G Street curb cut to the west (See Attachment 1 the “green pattern”). We do appreciate that work, but unfortunately since we did not have any data during the discussion, it was not clear that the cut-through traffic wouldn’t instead just use our 9th Street curb cut, make a couple of left turns, and then a quick right to access 899 Maine’s parking garage (See Attachment 1 the “orange pattern”). Furthermore, it does not prevent cars leaving 899 Maine intending to access Maine Ave to the west from exiting right out of that moved curb cut, proceeding to immediately turn left into our G Street curb cut, then speeding north on our alley to turn left and exit the community via our 9th Street curb cut, which would let them head south on 9th to more quickly head west on Maine (See Attachment 1 – the “purple pattern”).

And, for the record, the Applicant stressed in this meeting that their “step down” redesign was also a concession to us on the concern of building height. We told them back in 2021 and we will mention it now – the step down to 90’ is not nearly far enough to be a transition to our 45’ homes. Furthermore, they increased their height on their larger side of the site in order to recoup the lost housing units, which caused the north side of the building to exceed 130’ feet (taller than the Wharf) and cast even more shadow on Jefferson Field and our G Street homeowners.

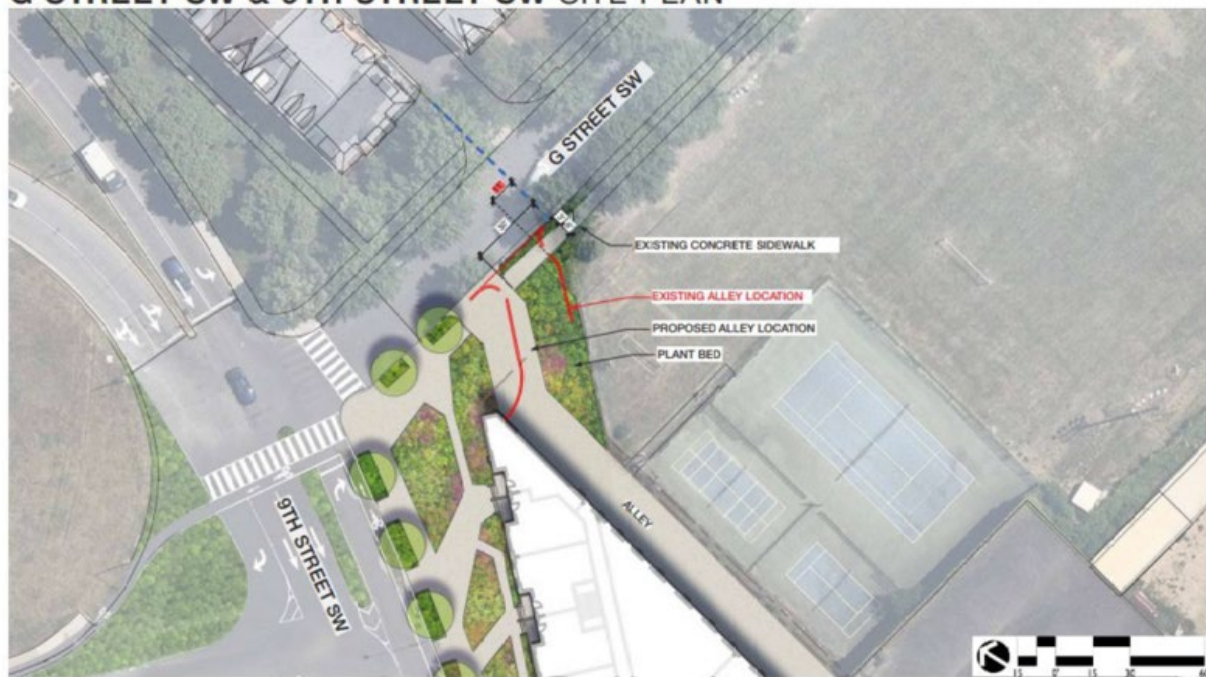
Ultimately, we reached a point in the meeting where there was not much discussion to be had further. We requested that the Applicant send us their counteroffer on the study and implementation of mitigations no later than noon, November 21, 2022, so that we could consider it in the development of this report, but they declined. Therefore, as of the writing of this report, we are still unable to affirm that the Applicant heard our concerns and has an adequate plan to mitigate them as required by the Zoning Procedures.

Attachment 1 – Cut Through Traffic Map vs. Applicant Site Plan



Below shows the relocation of the curb cut (from the Applicant's presentation) that we are happy about as it prevents a direct cut across from our G Street curb cut shown in the light green pattern; however, it would mostly just force drivers to use the orange pattern instead

G STREET SW & 9TH STREET SW SITE PLAN



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