

VIA EMAIL (zcsubmissions@dc.gov)

Anthony J. Hood, Chairman
District of Columbia Zoning Commission
1100 4th Street, SW, Suite E650
Washington, DC 20024

Re: Capitol Square Homeowners Association Final Response to ZC 22-06

Dear Chairman Hood and Members of the DC Zoning Commission:

Thank you for the approval of our extension to submit this report. We recognize your limited time and attempt to make this update as succinct as possible, but admit it is fairly lengthy. This is due in no small part to our passion and sense of urgency as we potentially face unmitigated negative impact on our homes and community. We thank you in advance for your attention to all points made herein.

On the subject of our most pressing concern described in our Post-Hearing Statement (Exhibit 113), the cut through traffic onto our privately owned and maintained streets, we used the extension time to discuss options in our committee and research costs associated with mitigating the negative impact on our community that would be caused by the rezoning of 899 Maine from MU-12 to MU-9A. We sent an email on December 1 to the Applicant **countering their offer** of \$100,000 (which we only learned about when we read their own Post-Hearing Statement, as they refused to make such offer to us directly prior to the November 21 deadline) to fund mitigation in our community. We unfortunately have to report here that not much has changed from our previous statements because in an email sent this morning, December 5, 2022, **the Applicant declined to accept or discuss our counter proposal** described below (the email exchange is Attachment 1, and the budget is Attachment 2). We find their offer ignores our concerns and is inadequate to mitigate the cut through traffic generated by their project and puts an undue burden on our members to shoulder the increased cost and repair to repair and replace infrastructure that will ONLY be necessary because of their proposed building. We discuss this in depth below. **The negative impacts on our community in regard to cut through traffic have not been mitigated.**

To reiterate, several months ago we requested that the Applicant fund a consultant to provide an adequate proposal to study cut through traffic and recommend best options for mitigation. It was our intention that that study include or be used as a scope/performance work statement to request proposals from vendors to complete the work. However **due to the Applicant's inaction and unwillingness to commit** such funds prior to the November 21st report deadline, our lack of expertise/experience in these matters, and our difficulty in soliciting proposals for such a study, we had to move forward with figuring it out our own. Note, this is substantial volunteer labor (200+ hours) we, the members of the Capitol Square HOA committee, are doing to protect our homes and neighbors. However, our free labor would also ultimately be to the benefit of the Applicant if they agreed to fund identified mitigations adequately because the Zoning Commission could then consider it to effectively mitigate this negative impact. As the entity that is proposing to disrupt our community, this is all work **the Applicant should have included from day one and paid to have done by professionals** prior to the October 6th public hearing. Instead, the Applicant ignored repeated requests and

pushed the burden onto our volunteer group of homeowners to identify strategies and cost estimates to mitigate their impacts.

Our committee researched cut through traffic mitigation using resources such as the U.S. Department of Transportation and National Association of City Transportation Officials. **We identified access gates, signs/asphalt markings, and speed tables as measures to protect our residents and property.** Our committee resolved that it is fair to require the Applicant to fund the measures as well as associated costs of project management/design, contribution our reserves for maintenance of the gates and asphalt for a period of time, and due to the hold up in getting new proposals, a contingency amount. At the same time, we were doing this work, unbeknownst to us the Applicant decided to finally direct their traffic consultant, Gorove Slade, to study our community. Again, we asked this of them in the very first meeting over a year ago, on November 2, 2021, and at every meeting with them afterwards. Until ordering this memo, they always declined, stating that they were not *required* to include us in any of their traffic studies so they *wouldn't*. If they had presented this memo to us a year ago, we could've had contracts for firm fixed price to implement in hand. **This was just one of many ways the Applicant has not shown any interest in truly understanding the issue or being a good neighbor to us.**

What we came up with on our own ended up being partially supported in the Applicant's later submission of a memo by Gorove Slade (Exhibit 112F, see Options 1-2) as part of their Post Hearing Summary. **Their options suggest a combination of signage, pavement markings, and gates would be effective.** We note that we find that memo lacking because it leaves out other mitigation methods such as speed tables¹ and suggests things like one way traffic patterns and closure of our exits (listed as Options 3-5) that are either entirely unenforceable on private property, limit individual owners' access to their own garages, and/or essentially trap our residents into our community (including in emergencies or evacuation scenarios). It also makes no recognition of the wear and tear costs of such mitigations, including gate arm replacements and asphalt replacement. **It is worth noting that the Applicant, or their consultant, did not contact us for our input into their cut through traffic memo or to walk the property with us, which we have repeatedly offered to do in order to help them.**

To reiterate and quantify our concerns about the Applicant's proposed zoning impact on cut through traffic, some elements based on the zoning case exhibits.

- Over **1,244** car trips were expected to come and go from the proposed ~500 residential units and retail each day (Exhibit 44, page 8).
- Per their Comprehensive Traffic Review (Exhibit 25A, pages 56-57) at least **40%** of their inbound residential traffic is expected to come from the north and east (7th street, I-695, G Street SW), where we have seen and know many cars will cut through our streets from our 7th Street entrance to exit on 9th Street and circle around to their G Street entrance (see the orange pattern on Attachment 3).
- In addition, **40%** of their outbound residential trips are destined for the west and north (I-395, Maine Ave westbound, 12th Street, and 14th Street, etc.) and for which our G Street curb cut to 9th Street curb cut (purple pattern on Attachment 3) will provide an undeniable enticement.
- Even if we reduce the number of trips to account for reduced demand from a less-than grocery store retail use to 1,000 cars, that could mean **400 cars per day** driving near our community's entrances. If

¹ <https://nacto.org/publication/urban-street-design-guide/street-design-elements/vertical-speed-control-elements/speed-table/>

just half of them cut through (a modest estimate, especially as even a Commissioner themselves commented in the public hearing that they, law abiding as they are, would probably cut through our property if they lived in 899 Maine Ave), that's an **additional 200 cars per day on our roads**.

- Our HOA includes 93 homes, and we would expect a maximum 200 vehicles for our own residents, deliveries, service providers, etc. daily.
- Note: we also requested the Applicant include baseline cut through and road use patterns in our requested study to better provide data to estimate their impact on our community, another thing they refused to consider.
- This means without adequate mitigation **twice** the number of cars could be using our private roads once 899 Maine is occupied.
- **Those cars will use these two patterns even when the Applicant's curb cut is moved to the west** (see the green pattern in Attachment 3; as well as Applicant's Exhibit 112 D and E) to bypass the much longer "legal" route involving 7th Street to Maine Ave. (the blue route on Attachment 3 to this memo).
- Again, these percentages hold true even with the reduced demand of the retail if the Applicant ends up putting a prepared food shop or bodega in their retail, since they are just referencing the residential traffic on the pages cited.

In their Post-Hearing Summary (Exhibit 112) the Applicant claims "...shifting the curb cut 50 feet to the west will significantly deter drivers cutting through Capitol Square Place to get to the PUD. The HOA has not provided any evidence to the contrary." They again said this in an email sent to us declining to discuss our counter proposal on December 5th, 2022 (Attachment 1). **We refute these falsehoods** (see above and Attachment 3) and point to our committee member Gustavo Pinto's presentation on October 6 (Exhibit 63A2) which contained a map of the multiple cut through patterns. This map was improved for readability and included in Capitol Square's Post-Hearing Summary submitted November 21 (Exhibit 113), and again here as Attachment 3. Furthermore, a version of this map was shared via Zoom/Teams at our first meeting with the Applicant November 2, 2021, and the multiple cut through patterns were referred to often in additional meetings with them. The Applicant's continued insistence that their one change solves all the cut through issues is one of many illustrations of how **they have not actually listened to all our concerns or done anything beyond the minimum.**

As to the mitigation of the remaining two or more cut through patterns, because of the short lead time and the Thanksgiving holiday, we were unable to solicit new proposals for the work we identified as being possibly effective against the cut through traffic. In order to have some kind of factual cost basis, we found past invoices and proposals in our HOA files for similar work, or used publicly available cost citations, and estimated what gates, signs, road markings, and speed tables would cost. We added the additional costs we expect to incur for design or project management, gate and speed table maintenance after installation, and for replacing our asphalt more frequently due to increased traffic because even with the new gates, without DDOT agreeing to make 899 Maine's southern curb cut on Maine Ave right in right out for ALL traffic (not just trucks) we expect some cut through from 899 Maine residents to try to access destinations west on Maine Ave (purple pattern in Attachment 3). On top of these costs we also factored in 1) inflation (where the quotes or invoices on file were several years old) and 2) a contingency based on our confidence that we had budgeted enough without expert consultant/project manager input.

Our total estimate for installing two gates (which will require jackhammering concrete to run electric to the sites as well as curb reconstruction), an allowance for replacement gate arms, installing eight speed tables, signs and asphalt markings, project management, maintenance, and asphalt replacement totals \$363,442.17, more than three times the proposed \$100,000 the Applicant suggests adequate. See Attachment 2 for the spreadsheets of costs (the old invoices and quotes that are the basis for the estimates can be provided at request).

Please also note – the Applicant’s Post Hearing Summaries incorrectly imply our initial request was an ask for a flat \$500,000 (Exhibit 112 page 5). The accurate story is that we, under pressure and trying to secure an adequate source of funding to **mediate negative impacts that are not of our own making** prior to the Commissions vote, suggested “up to” such amount in order to have something to discuss since the Applicant had no proposals to offer us. The “up to” wording is relevant because it indicates **we only want what we need to reduce the danger to our community as much as possible**. This previous estimate was due to the Applicant’s failure to do what they should have done a year ago and study our community and make us offers to mitigate. Under no circumstances should our request that the Applicant pay for all of this necessary mitigation be considered a bribe or a way for us to enrich our Association without need. Remember, **we will have to pay to maintain these measures after a requested period of time** and installing them will **cost us non-monetarily by reducing our own freedom of movement in and out of our own property**.

Again, at the time of sending this memo, we just received the email refusing to accept the counter proposal described above, we must vehemently restate that **the Applicant has NOT mitigated their substantial negative impact on our community**. Our position remains that the Applicant is proposing this huge building on an awkward lot in a complicated streetscape in order to enrich themselves and to advance their company’s portfolio value. We, the Capitol Square HOA, even if our requirements are funded fully and realized, stand only to still be burdened by the impact and ultimately paying the long-term safety and convenience costs as well as the maintenance costs for the necessary mitigation methods. **We should not have to pay anything ourselves in order to mitigate the Applicant’s negative impact to the fullest extent possible.**

Even if they had been able to agree to the fair proposal we submitted, we still remain in adamant opposition to the proposed rezoning to MU-9A for several other reasons. **We respectfully ask the Commission to also recognize the following as additional reasons to NOT vote in favor of the application:**

1. Density/height is at odds with planning documents and the physical logistics of the site.

The building proposed is too high and too dense for the unique circumstances of this site. The Future Land Use Map (FLUM) is clear that this parcel is best utilized by a Medium Density use, hence the current MU-12 zoning. This is aligned with the Comprehensive Plan’s (CP) Generalized Policy Map (GPM) which designates the site as a “Neighborhood Conservation Area.” That document states (emphasis added) “...Where change occurs, it will typically be modest in scale and will consist primarily of infill housing, public facilities, and institutional uses. Major changes in density over current (2017) conditions are not expected but some new development and reuse opportunities are anticipated, and these can support conservation of neighborhood character where guided by Comprehensive Plan policies and the Future Land Use Map...” Furthermore, the GPM states “...new development, redevelopment, and alterations should be compatible with the existing scale, natural features, and character of each area...” The Applicant’s request to zone this site MU-9A, allowing a high density and height more than triple the

current zone, is **at extreme odds with the designations in the FLUM and the CP**. We don't have transcripts of the process that led to these designations, but it is our belief that it is in no small part because the streets surrounding the site include one-ways or highway/tunnel exits, etc. and are **not able to support high density** (i.e., the traffic issues already described). There are also the Metro tunnels underneath as well as the site's adjacency to a middle school and public playing fields that should be protected from shadow. **An MU-10 would be a more appropriate re-zoning adhering to both the FLUM and the CP/GPM.**

There is a continued reference by the Applicant to the proposed site as a "transition zone" from the taller and denser area of the Wharf, but such designation is not supported in planning documents which indicate the northern side of Maine Ave. is fully part of the Southwest neighborhood and should be conserved as such. Furthermore, it's been mentioned ad nauseum how **this building would be taller than the Wharf** and as dense, causing an "urban canyon" effect on Maine Ave. and loom over Jefferson Academy (especially if ZC 22-11 is built to the proposed 110'). The Wharf is a distinct planning zone "Regional Center" that had a number of its own PUDs and an incredibly high number of tradeoff benefits in terms of the public space and amenities, and the measly list of proffers in this case cannot compare. We further disagree with the concept that the approximate effective heights of 150' (their Maine Ave side) to 100' (the G Street side) to 45' (our homes) is a true transition, especially when the buildings across the street at the Wharf are shorter at approximately an effective 110'-130' in height. Remember, the applicant originally conceptualized a flat 110' building, and the concession they claim to have made in reference to our homes' heights was recouped in their making the front side taller and maintain their profits.

Finally, in their latest submissions the Applicant references **ZC 20-06**, a.k.a. 1333 M Street as a precedent for this case. We find this confusing because **the site is substantially different** than this one, including having no/little other residential adjacent (and therefore no parties in opposition), no school or park next door, and having two-way streets surrounding the site. If we are reading correctly, it was high density commercial in zoning or on the GPM but medium density on the FLUM, so that discrepancy *did* warrant a consideration of going with the high-density zoning. The case file indicates that the Applicant had ANC and community support for the most part, and it offered very significant public benefits of funding an adult day care study as well as some affordable housing (though it could be argued that they could've done better on that for what they stand to gain). It is *good* for the Zoning Commission to decide that a rezoning from a mixed/contentious density designation to a high density one in many sites that can physically sustain it, such as with ZC 20-06. We maintain that THIS case (22-06) is not similar in these ways so the **reference to the case is not relevant.**

2. Proffers and benefits are insufficient to warrant requested zoning.

First and foremost, the affordable housing proffer is inadequate. We understand there is some interagency debate on the role of the Office of the Attorney General's equation that we don't quite understand, but we hope the Commission can focus on the fact that the Applicant is requesting near-unprecedented variance that will allow them to **triple the current zoning height** and build the tallest building on Maine Ave. (and with effective heights, likely all of Southwest). **They are not in turn providing an equally unprecedented offer of affordable housing.** The Comprehensive Plan, the sections of the Plan covering Near Southwest, and the Southwest Small Area Plan (SAP) all emphasize housing as an equity lever and insist that zoning to a higher density should come with affordable housing well above what is required. This proposed building, while adding at least some affordable housing (especially those 3-bedroom units)

in a site where there is currently none, maybe approaches that balance but is **too short** given the benefit and profit the Applicant will gain if approved. Furthermore, it caught our notice that in their Updated IZ Plan (Exhibit 112G), the Applicant does not intend to locate any of the affordable units on floors 11, 12, 13 or the Penthouse. We wonder with disdain if maybe this allows them to charge even more for these market rate units, many of which will be on floors taller than the Wharf and allow for unobstructed water, monument, Capitol, and other luxury views. Perhaps this is what will allow them to make up the money they will lose due to their one minor recent concession in making a couple of the 15% units more affordable at a lower MFI.

The 9th Street redesign, while helpful in straightening the street and adding bike lanes, **does little to reduce traffic demand** in the intersection, and ultimately **that is the issue on 9th Street**. The frequent accidents are due to the confusing 4 lane stop sign where the 395 exit meets the 9th Street tunnel both heading south, not as much traffic coming from Maine Ave towards the north – which is the direction that will be most improved by the proposed redesign. As was demonstrated in the public hearing, we have a front row view to how traffic and accidents arrive to the intersection and provided evidence (Exhibit 63, 63A1, 63A2) as to how the proposed plan would not reduce this. We are concerned for the future residents and visitors of 899 Maine Ave who drive, as they will be frequently trapped in the garage by traffic back ups even after the redesign.

Also on the traffic related proffers, the community has spoken in the hearings and in written testimony against the warrant signal study – the basis for such seems tenuous based on the unlikely approval of the National Highway Transportation Administration, and homeowners living on 9th Street where the signal would theoretically be installed are against it. Furthermore, **we have consistently asked to be included in meetings the Applicant has had with DDOT, so we can advocate for the Maine Ave curb cut on the south side site**, and for making that right-in, right-out for ALL traffic so as to decrease demand on our streets. If they had accommodated that, we may have been able to accept a lower amount to fund our mitigation efforts, as this change might *truly* reduce the cut through demand that will generated uniquely by their building after it is occupied. With this second curb cut, combined with gates, speed tables, and the maintenance **fully funded by the Applicant**, we could possibly consider the cut through traffic issue matter closed.

The public art, planters, bike/scooter parking proffer is all welcomed and interesting but seems to be de rigueur for new developments and **not “exceptional.”** It is “low hanging fruit” so to speak. We would point out that it is such a default to offer artwork, it was not until we suggested it that the Applicant thought to make it weightier by promising to involve Jefferson Academy students in the design and painting. Our request for the Capitol Square HOA to also be given some kind of role in selection (given that two dozen or more of our homeowners will stare at the mural on their northeast façade every time they look out their living room windows) was unfortunately rebuffed. The LEED status of the building is also interesting, but again, calling it an exceptional public benefit when the Applicant gains as much from being able to include such in their portfolio is debatable.

The donation to Jefferson Academy is also welcomed, but again, it seems like the least the Applicant could do given how disruptive the construction will be to the students. This is as well as the **large shadows** their 150' elevation (including penthouses and elevation gain) from Maine Ave will cast on the Jefferson playing

fields when students are in physical education or sports practices in the spring and fall afternoons (see Exhibit 144, page 12). It's worth noting that students as well as other community members use those fields at winter solstice as well, albeit less frequently, when the shadows will be even more prominent in the last hours of already limited daylight (Exhibit 144 page 10).

3. The Applicant has not adequately addressed community concerns and does not have adequate community support.

Last but not least, the adjacent communities (particularly Capitol Square and our neighbors at Town Square Towers (TST) at 700 7th St. SW) are, by and large, **united in opposition** against the proposed zoning changes and the proposed building. We note with curiosity how differently a case for which TST requested party status (ZC 22-11, 870 Maine Ave SW) has proceeded and though they were denied party status, TST was able to work with the Applicant to revise the design and last we heard, obtain funding for TST property improvements. While the Applicant in this ZC 22-06 has attempted to show some kind of community support through their solicitation of auto-forwarded messages labeled "Letter of Support" from the now defunct www.899maine.com (see Exhibit 88A) it is only one of many tactics they have undertaken to obscure the **inadequacy of their community engagement** and the opposition that does exist. Several of their supposed support letters come from Jair Lynch employees and people that appear to have made up names and addresses.

Furthermore, and perhaps even more relevant, our **ANC 6D, which represents the community as a whole and whose report should be given "great weight" in this decision, remains opposed** for many of the reasons shared above (Exhibit 116). In particular they highlight that the **building is too high** and too dense, and the density will pose **significant traffic and safety challenges**, the building does not offer green space consistent with the Southwest SAP, and the affordable housing **offer does little to advance the racial, social, and economic diversity** requirements of the CP and SAP.

Our Ward 6 Council Member, Charles Allen, is also opposed to ZC 22-06 on many shared reasons listed above, and at the time of submission may have sent a letter to the case file describing such (included here at Attachment 4 in case there are any deadline issues with the submission). The zoning case file also contains at least 24 **legitimately generated** (i.e. the person submitted the letter on purpose to the zoning case file, not through a misleading website that does not link to any building plans) letters of opposition from Southwest residents and a copy of a petition (which did link to the zoning case file for signers to review before deciding to support or oppose) with over **200** signatures (Exhibit 90) opposes the building as currently proposed in the application. Since the October 6 hearing the number of signatures in the petition² has increased to **340**, showing the overwhelming opposition from the Southwest community to the project. Of note – this petition was circulated on social media groups that contain members from all parts of Southwest; the Applicant's website was sent, according to their counsel, to just 8 apartment buildings, not including our community (we do have a number of non-owner residents that rent) and they also left out several local affordable and public housing communities.

During the October 6 hearing we and the ANC objected to additional misleading tactics used by the Applicant in an attempt to manufacture community support for the project, particularly the promise of a "grocery store" at the building. Since the hearing we and the ANC have repeatedly asked for clarity from

² <https://www.change.org/p/community-members-against-the-899-maine-ave-sw-and-807-maine-ave-sw-projects>

the Applicant about what kind of “grocery store” they were planning for the location, given that the minimum square footage of 6,000 sq ft for the store fell considerably short of the space typically required by grocery stores. This point was also raised by the Vice Chairperson of the Zoning Commission at the October 6 hearing, asking whether the Applicant would be willing to make the grocery store a condition of the order. **The Applicant has never been able to give us any meaningful information about the planned grocery store.** It is worth noting that while we have asked for clarification and expressed concern, we never officially opposed the grocery store. We just wanted to make sure that the Applicant would consider the additional traffic on our driveways and adopt mitigating measures accordingly. However, the Applicant has failed to accomplish what they proposed, and now they are reducing the minimum square footage of the store to 3,000 sq ft and trying to present this as a concession to our community. Again, we believe the Applicant is being misleading since we never asked them to reduce the square footage of the store. It seems clear that **the Applicant tried to garner community support for the building based on false pretenses** of a grocery store that will now fail to materialize.

Assuming the Commissioners have not given up on this long report, we end it with this discussion. In her closing rebuttal on October 6, the Applicant’s counsel cited a letter from a nearby resident (Exhibit 82). It read “It saddens me that my some of my wealthiest neighbors, many who live in affluent low density single-family homes, continue to use their financial and political resources to block new housing, especially when inflation is making it harder and harder for working people to live in the city and our neighborhood.”

The author of that letter greatly misunderstands our motivations and values. **Our committee has never advocated for anything other than wanting to see housing, particularly affordable housing, added to the District on the site where 899 Maine Ave is proposed**, albeit in a shorter, less dense building. We wish the site was structured to support more density, but it is not. If it was a differently structured site, and the impact was not so negative on our community and Southwest as a whole, **we could have supported this PUD like our HOA did in 2011 for Hoffman-Madison’s the Wharf³**. However, we find the suggestion that we have financial and political resources to oppose this case laughable, given how the individuals on our committee have had to spend many hours unpaid personal time learning the zoning process, reading plans and regulations, attending meetings, and writing reports and testimony – all alongside working full time, caring for our young children and aging parents, and other responsibilities.

The decision to use this letter to critique their opposition is very ironic, because compared to the Applicant (see Exhibit 3 which states “Currently, Jair Lynch has over \$2.8 billion of assets under management.”), who stands to profit in the millions of dollars from this project and therefore can afford to retain their counsel, consultants, and pay other parties to assist with all of this process, our HOA found it difficult to find funds in our relatively small budget to pay for a few hours of our attorney’s time to advise on a few documents. We wonder what would have happened if our community had been, in fact, lesser resourced – this process is difficult and burdensome, and this application may have already been approved due to less community capacity to push back. The Applicant has asserted that it would not be economically feasible for them to build anything other than MU-9A, the sheer maximum possible building on the site, with the barest minimum of IZ housing. They also pleaded poverty in regard to our request that they fully fund the true scope of mitigation needed to protect our property from their residents’ cut through traffic. We ultimately reject this concept that the Zoning Commission would include what ultimately **may have been a bad business decision** by the

³ Zoning Case 11-03A, Exhibit 47 <https://app.dcoz.dc.gov/CaseReport/ViewExhibit.aspx?exhibitId=15418>

Applicant in their consideration, as well as their assertion that the site is appropriate for the zoning change requested at all. We hope that the Zoning Commissioners reject the entire application.

Finally, we wish to inform to the Zoning Commissioners that we still do not have an executed Construction Management Plan (CMP) or agreement with the Applicant. We and our attorney made comments on a draft provided, but have not yet been able to meet with the Applicant to finalize. We must share that while we understand the Commission does not necessarily include or enforce the CMPs, not having one signed before you vote on the PUD December 15th gives us some trepidation. That CMP is essential to our well being if this PUD is approved, and we wish it to be on record that it is still unfulfilled.

Thank you kindly for your attention, and to your service to the District,

/s/ Erin Berg, President, Capitol Square HOA Board of Directors
with

Savin Ven Johnson, Member at Large, Capitol Square HOA Board of Directors and Committee Chair
Gustavo Pinto, Committee Member, Capitol Square HOA
Patricia Giorno, Committee Member and Architect/Expert Witness, Capitol Square HOA
Corinne Carroll, Committee Member, Capitol Square HOA
Christopher Jamieson, Committee Member, Capitol Square HOA

CERTIFICATE OF SERVICE

I certify that on the 5th of December, 2022 I emailed a true copy of the foregoing Capitol Square Response to Advisory Neighborhood Commissions 6D (6d@anc.dc.gov), as well as the counsel for the Applicant Christopher Cohen (Christopher.Cohen@hklaw.com) and Leila Batties (Leila.Batties@hklaw.com)

/s/ Erin Berg, President, Capitol Square Homeowners Association Dated: December 5, 2022



Erin B <eringberg@gmail.com>

Cut Through Traffic Mitigation Budget

Radhika C. Mohan <RCM@jairlynch.com>

Mon, Dec 5, 2022 at 9:16 AM

To: Erin B <eringberg@gmail.com>

Cc: Savin Ven Johnson <savin.venjohnson@gmail.com>, Gustavo Pinto <gumathias@gmail.com>, Patricia Giorno <patgiorno@gmail.com>, Corinne Carroll <wcarr37882@aol.com>, Chris Jamieson <jamieson@alum.wpi.edu>, Gail Fast <fasthgail@gmail.com>, Malcolm Haith <mnh@jairlynch.com>, "Cohen, Christopher S (WAS - X75127)" <christopher.cohen@hklaw.com>, "Batties, Leila M J (WAS - X72583)" <leila.batties@hklaw.com>, "ANC 6D Office (ANC 6D)" <6d@anc.dc.gov>, Ruth Hoang <ruh@jairlynch.com>

Erin,

Thank you for your note. We appreciate that the Capitol Square Place currently experiences high levels of cut through traffic. You have indicated that the cost to install two gates is approximately \$67,000, which means that the proposed contribution of \$100,000 will allow the HOA to significantly mitigate the existing traffic conditions. We believe it is unreasonable to request that we fund any maintenance of the improvements at Capitol Square Place as suggested below.

The concern about cut-through traffic generated by the project is sufficiently mitigated by the shift in the G Street curb cut approximately 36 feet west of its current location. We agree to design the curb cut and/or implement measures to further discourage traffic cutting through Capitol Square Place to access the PUD. These measures, coupled with the transit and pedestrian oriented nature of the PUD, should assuage concerns about increased cut-through traffic generated by the project.

Finally, in response to the HOA's concerns about traffic from the proposed grocery store use, we are now considering a small, neighborhood-serving grocer, market, bodega or prepared food shop. The PUD proffer was revised accordingly.

We trust that the HOA finds the foregoing a reasonable approach to addressing the current traffic experienced by the HOA and any assumed potential impacts by the PUD. As always, we are happy to discuss with you in more detail.

Best,

Radhika

RADHIKA MOHAN, AICPDevelopment Associate
Jair Lynch Real Estate Partners

C 612.202.9849 | O 202.370.1328

From: Erin B <eringberg@gmail.com>**Sent:** Friday, December 2, 2022 3:52 PM**To:** Malcolm Haith <mnh@jairlynch.com>; Radhika C. Mohan <RCM@jairlynch.com>; Cohen, Christopher S (WAS - X75127) <christopher.cohen@hklaw.com>; Batties, Leila M J (WAS - X72583) <leila.batties@hklaw.com>; ANC 6D Office (ANC 6D) <6d@anc.dc.gov>**Cc:** Savin Ven Johnson <savin.venjohnson@gmail.com>; Gustavo Pinto <gumathias@gmail.com>; Patricia Giorno <patgiorno@gmail.com>; Corinne Carroll <wcarr37882@aol.com>; Chris Jamieson <jamieson@alum.wpi.edu>; Gail Fast <fasthgail@gmail.com>**Subject:** Re: Cut Through Traffic Mitigation Budget

External Email: Use caution

Hello,

Checking on receipt of this. I see I left the H&K folks off by accident. Please confirm you have received and are considering a response.

CC to our ANC for awareness.

Thank you,

Erin

On Thu, Dec 1, 2022 at 10:33 PM Erin B <eringberg@gmail.com> wrote:

Dear Malcolm and team,

We saw your \$100,000 budget for cut through traffic in the APHS, which is quite a bit less than the "up to" amounts we suggested. We also saw the memo from Gorove Slade, and Option 1 and 2 are relatively similar to what we came up with on our own. We still wish you had 1) done this study of our streets in November 2021 when we told you it would be essential for understanding the traffic issues and 2) communicated with us that you were ordering the study to be done recently, as we would've happily made members of our committee available to walk the property with the consultant and talk through the options. Having us actually be a part of the study could've avoided the excessive discussion of some measures, such as full blocking of entrances or making streets one way, that are entirely not feasible or fair to our residents. We do not find trapping our residents into our development or making unenforceable one-way traffic rules that hinder residents' access to their own homes to be "mitigation" to the impact of the development of 899 Maine. It's trading one awful situation for another.

We counter the \$100,000 suggested with the attached estimate for **\$363,442.17**. We based this estimate on old proposals and actual previous work done that was similar. Unfortunately the holiday precluded us obtaining current dollar amounts or getting multiple proposals (we usually solicit at least 2 per project) so we had to base costs on what we had. We accounted for the old estimates by adjusting for inflation and adding a 15-30% contingency per project depending on how certain we were that the estimates would hold true in the next year or two.

The measures here are supported in the Gorove Slade analysis or based on our own research (particularly the US Department of Transportation and the National Association of City Transportation Officials websites).

The attached budget:

1. Would contribute funds toward a consultant and/or project manager for the work.
2. Allows us to gate our 9th Street curb cut to be "resident exit only" with remote controls so that the incentive for cut through traffic is reduced, but would allow us to still exit our own community using 9th Street to head west on Maine Ave. Another gate would be installed on the G Street curb cut with a proximity sensor to allow two way traffic and let out delivery drivers and such from our homes, but with the visual effect of a gate to reduce the "new" cut through uniquely generated by your property by those residents wishing to leave 899 and head west on Maine Ave. Both installations would require not just the hardware, but would also necessitate use of an electrical contractor to run power from (theoretically) our streetlights or other access points. The 9th Street gate would also need to involve a redesigned and narrowed curb cut, to ensure any vehicles waiting to exit are not blocking driveways of the home(s) closest to 9th Street - hence the need for the project manager.
3. Allows for replacement arms for the gates at a very conservative 2 per year per gate, for the period of 20 years.
4. Allows for new signs to communicate the no through traffic and "resident only exit" of the new gates.

5. Converts our 5 existing speed "bumps" to wider tables (or something in between a hump and a table, depending on the recommendation of our contractor) and add 3 new ones closer to each curb cut.
6. Allows for restriping of the roads to update signage and make the speed humps clearer.
7. Provides a maintenance allowance of \$2500 per year for 20 years for the above.
8. Pays for one replacement of our asphalt, per our reserve study estimates, to reflect the increased wear and tear by cars that are associated with 899 Maine in the event the above still does not dissuade them from cutting through.

The attached spreadsheet breaks down the costs on the first tab, with justifications on each item on additional tabs. If you want to see the proposals/invoices/reserve study that we based the tabs off of, please let me know.

In order to signal to the Zoning Commission that you have adequately provided a realistic contribution to mitigating the traffic, **please reply no later than noon Monday, December 5th, 2022** with a final offer so I can include resolution of the cut-through traffic issue on my report.

We also intend to send our edits to the Construction Management Plan as early as possible tomorrow (Friday, December 2nd) and would be happy to meet with you with the Jefferson folks early next week so that we can have that executed prior to the December 15 Zoning Commission vote.

One additional thing - we have requested Councilmember Charles Allen to request a meeting with DDOT to try to convince them to allow your Maine Ave curb cut to be right in, right out, and to allow two way traffic of all vehicles. This will ease congestion on G and will also go a long way to preventing the "new" cut through pattern we expect from your ~500 units of housing and retail, where drivers wishing to leave the building and go west on Maine will cut into our G Street curb cut and try to exit on 9th. The gates might discourage this, but many will still try. If we can get this meeting scheduled soon, we will let you know and invite you to participate.

Thank you,

Erin Berg

616-813-6129

Attachment 2: Capitol Square Traffic Mitigation Budget

Item	Estimated Cost	Contingency Factor*	Total	Description
Consultant/General Contractor/Management Fees	\$20,000	0	\$20,000	Hire consultant to scope/design project and manage installations
Swing Arm Traffic Gates (2) plus Installation	\$67,291.91	1.3	\$87,479.48	Install gates on 9th Street and G Street, including needing to run electric to both and add new curbs to make 9th Street resident exit only
Replacement Arms (2 per year x 20 years)	\$16,184	1.15	\$18,612	Conservative estimate is arms will break or be broken twice per year
Physical Signs	\$683.82	1.15	\$786.39	Add "resident exit only" and other informational signs next to gates or on gate arm/controller
Speed Tables (8)	\$28,000	1.15	\$32,200	Converting 5 existing speed bumps to more effective table style, and adding 3 additional as advised
Asphalt Marking and Repainting	\$2,740.17	1.15	\$3,151.20	Marking "no exit" and "resident exit only" and restriping speed tables, etc.
20 year Maintenance Allowance (\$2.5K/yr x 20yrs)	\$50,000	0	\$50,000	Maintenance of gates, installation of replacement arms, replacing worn signs and striping, etc.
Asphalt Repair/Replacement Single Time	\$131,490	1.15	\$151,214	Increased wear and tear on our asphalt by cars circling will require it to be replaced more frequently
			\$363,442.17	

*Due to the Applicant desiring to provide funding as a lump sum prior to obtaining building permits, as well as unpredictable future inflation rates, we established a contingency of 15-30% for each of our task estimates and applied it to ensure we had enough funds

Capitol Square Traffic Mitigation Budget

Based on 2018 estimate from AGW & Associate (edited to be accurate for added electrical and concrete/curb work, and appropriate number of transmitters for each home to have 3 plus spares)

Item	Qty	Unit Cost	General Inflation ('18-'22		Total w/ Inflation
			Total	19%	
Mechanical Gate	2	\$ 4,121.00	\$	8,242.00	\$ 9,807.98
Installation	32	\$ 155.00	\$	4,960.00	\$ 5,902.40
LPS Loop	2	\$ 316.05	\$	632.10	\$ 752.20
Wire Kit	2	\$ 75.00	\$	150.00	\$ 178.50
Receiver	2	\$ 56.86	\$	113.72	\$ 135.33
Transmitter	300	\$ 26.50	\$	7,950.00	\$ 9,460.50
Concrete	2	\$ 375.00	\$	750.00	\$ 892.50
Curb Changes @ 9th St	10	\$ 375.00	\$	3,750.00	\$ 4,462.50
Electrical	2	\$ 15,000.00	\$	30,000.00	\$ 35,700.00
				Sub-Total	\$ 67,291.91
Swing Arm Replacements 2 per year x 20 years	40	\$ 340.00	\$	13,600.00	\$ 16,184.00

Capitol Square Traffic Mitigation Budget

Based on 2020 actuals from Signs by Tomorrow, reduced to quantity and type needed for this project

Item	Quantity	Price Each	Total	15.15% inflation (2020-2022)
Reflective 24"x18" Signs	6	\$67.35	\$404.10	\$465.32
U Channel Posts	4	\$41	\$164	\$189
Set Up Fee	1	\$26	\$26	\$30
				\$683.82

Capitol Square Traffic Mitigation Budget

Estimated using the DOT and NACTO sources linked below

"Requires more material than speed hump; typical unit cost ranges between \$2,500 and \$8,000" (DOT)

We estimate \$3500 each x 5 to replace existing bumps with tables, plus 3 new near each curb cut = total of 8

Quantity	Price	Total
8	\$3,500	\$28,000

<https://highways.dot.gov/safety/speed-management/traffic-calming-eprimer/module-3-part-1>

<https://nacto.org/publication/urban-street-design-guide/street-design-elements/vertical-speed-control-elements/speed-table/>

Capitol Square Traffic Mitigation Budget

Estimated from 2021 proposal, adjusted for wider speed tables, greater quantity, above existing 5 speed bumps

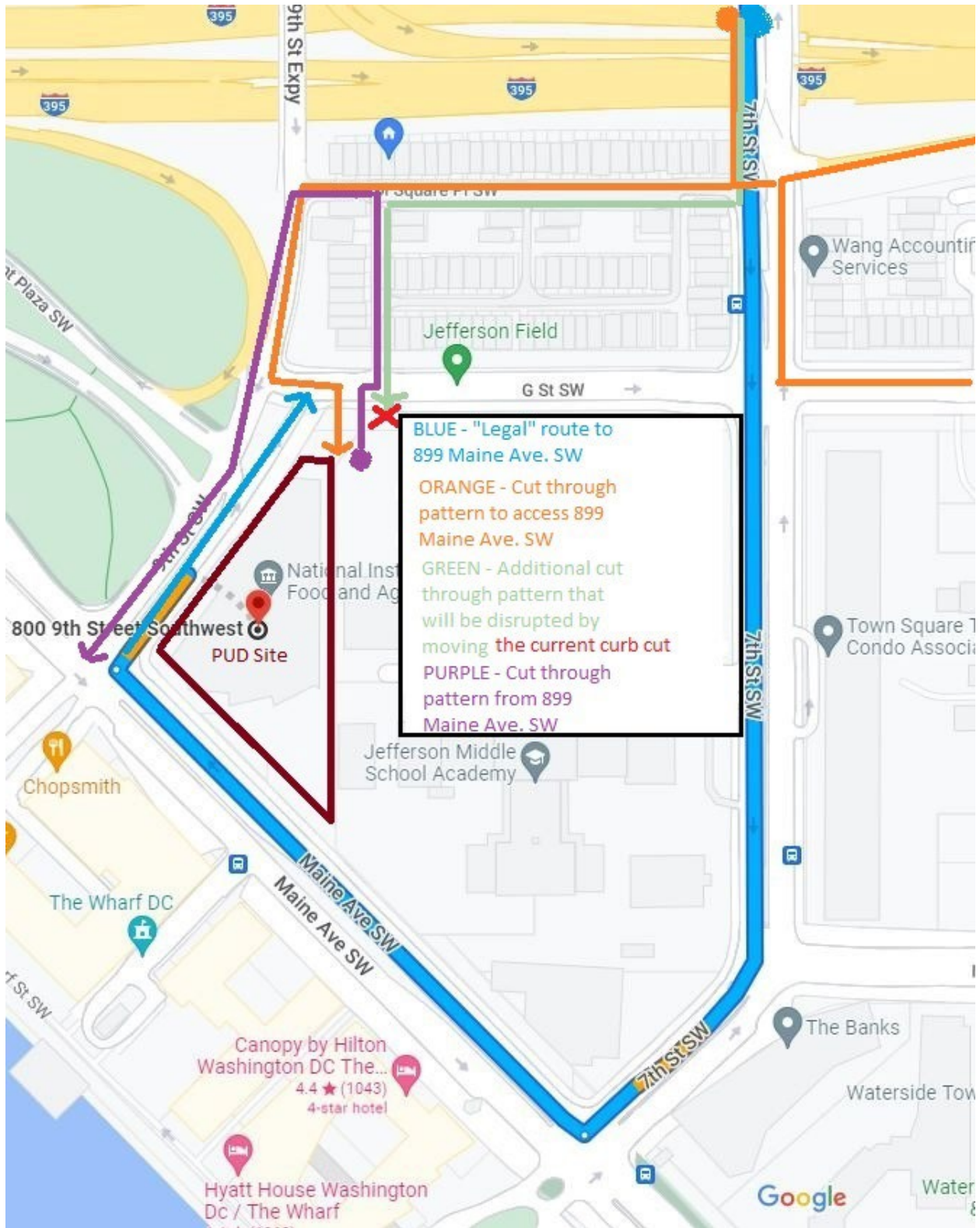
Quantity	Unit	Description	Cost	Total
1177	linear feet	Restripe Fire lane lines	\$0.45	\$529.65
595	linear feet	Restripe fire lane curbing	\$1.25	\$743.75
12	each	Box and black old striping	\$8	\$96
12	each	New Stencils	\$18	\$216
8	each	Speed TABLE striping *	\$60	\$480
1	mobilization	Setup/Breakdown/Milage	\$460.10	\$460.10
				\$2,525.50
	plus 8.5% inflation			\$2,740.17

*estimate based on costs provided to paint 5 narrower speed bumps, updated to reflect to 8 tables and 3x the surface on wider table

Capitol Square Traffic Mitigation Budget

Actual asphalt replacement cost in 2017 was \$111,815.00 (Brothers Paving) - plus 16.27% inflation 2017-2022 = \$130,007.30

Asphalt costs estimated in our 2021 Reserve Study for the period 2022-2024				
Short notes				page 1 2022-2036
Asphalt Pavement, Crack Repair, Patch				\$26,991
Asphalt Pavement, Mill and Overlay, Streets and Parking Areas				\$68,386
Asphalt Pavement, Total Replacement, Driveways				\$36,113
				\$131,490





**COUNCIL OF THE DISTRICT OF COLUMBIA
THE JOHN A. WILSON BUILDING
1350 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20004**

Charles Allen
Councilmember, Ward 6

Chairperson
Committee on the Judiciary and Public Safety
Co-Chairperson
Special Committee on COVID-19 Pandemic Recovery

Committee Member
Business and Economic Development
Health
Transportation and the Environment

December 5, 2022

Anthony J. Hood
Chairman
District of Columbia Zoning Commission
1100 4th Street, SW, Suite E650
Washington, DC 20024

To Chairman Hood and Members of the DC Zoning Commission:

I write in opposition to the current proposal for ZC 22-06, for 899 9th St., SW, in particular echoing many of the concerns raised by both ANC 6D and the homeowner's association at Capitol Square at Waterfront regarding the project as it has been submitted to this commission.

I strongly urge the Zoning Commission to require several changes to the project prior to approval to maximize the benefit for the Southwest community more broadly and neighbors living nearby. Echoing on-the-record comments by ANC 6D, the Office of the Attorney General, and current Southwest residents, the Zoning Commission should examine the relationship between the project meeting the bare minimum for inclusionary zoning while pushing beyond height limitations as set out in both the Southwest Small Area Plan and the FLUM, and require more IZ units from this project as a benefit to maintaining affordability in a Southwest community that is rapidly growing.

Second, I urge the zoning commission to require the project adopt a more dramatic stepdown design on the north-facing design to more appropriately correspond to the height and mass of Capitol Square at Waterfront homes, as well as preserve sunlight for the homes and secondarily for the playing fields at Jefferson Middle School.

Finally, I support the request by nearby neighbors to see a mitigation plan addressing their concerns around traffic patterns, particularly if a full-service grocery store is approved on the first floor, to ensure safety for existing neighborhoods and a preservation of their quality of life.

I believe with a substantial increase in inclusionary zoning units and modifications to the building design on the north-facing side, this project could achieve support from the ANC and

neighborhood leadership in a way that is far more constructive and good for the Southwest community.

Sincerely,

A handwritten signature in blue ink, appearing to read "Charles Allen". The signature is fluid and cursive, with a long horizontal stroke at the end.

Charles Allen, Ward 6 Councilmember
Chair, Committee on the Judiciary and Public Safety

202-724-8072 | callen@dccouncil.gov

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Suite 110
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