



Southwest / Buzzard Point / The Wharf
Advisory Neighborhood Commission 6D

January 19, 2023

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Anthony Hood, Chairman
Commissioners May, Miller, and Imamura
DC Zoning Commission
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Bob Link
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Treasurer
Ron Collins

Via email: Anthony.Hood@dc.gov

**RE: Final Response to December 15, 2022 Hearing on ZC Case 22-11,
PUD at 807 Maine Ave., SW**

Dear Chair Hood and Commissioners:

COMMISSIONERS

SMD 1 *Bob Link*
SMD 2 *Ronald Collins*
SMD 3 *Gail Fast*
SMD 4 *Vacant*
SMD 5 *Ashton Rohmer*
SMD 6 *Bruce Levine*
SMD 7 *Fredrica Kramer*
SMD 8 *Rhonda Hamilton*

This is in response to the December 15th Zoning Commission hearing in **Case 22-11, the PUD for the redevelopment of 807 Maine Ave. SW. (Sq. 439S, Lot 15).**

Please note that ANC 6D, at a duly noticed public meeting on January 9, 2023, with a quorum present, voted 6-0-0 to both reach out to the Applicant and complete our letter submissions on January 12, 2023 and January 19, 2023.

Per previous correspondence, ANC 6D submits this letter to provide a clear statement on our final understanding of the Applicant's acceptance in whole or in part of the "conditional approval" requirements previously outlined:

- *in the ANC 6D November 10, 2022 report (Ex. 82)*
- *re-confirmed in the ANC 6D December 5, 2022 letter (Ex. 89)*
- *stated again in the "ANC 6D Report" submitted on January 12, 2023 (Ex. 95)*
- *summarized in the "Applicant's Response to ANC Conditions" dated January 12, 2023 (Ex. 96)*

Having carefully reviewed again all of the above referenced artifacts including the Zoning Commission Case 22-11 Exhibits mentioned in the Applicant's final letter, ANC 6D must state definitively and clearly that all elements of our "conditional approval" for this case have not been met.

To summarize and review again the "conditional approval" elements previously provided by ANC 6D:

1. Approval was conditioned upon a commitment of no less than 42 below market rate units - approximately 21%, per recommendation of the Office of DC Attorney General -- to remain in place for the life of the building. Those units that would be in addition to the 15% already proffered, to total 21%, would be equally divided at 60-80% of MFI to encourage participation by moderate to middle income households.

ANC 6D FINAL UNDERSTANDING

The Applicant by their own statement does not agree with this conditional approval element and ANC 6D confirms that the requirement has not been met.

2. That the Applicant continues to pare back their FAR so that their project falls squarely within existing required limits under law.

ANC 6D FINAL UNDERSTANDING

ANC 6D acknowledges that significant reductions in the FAR compliance have been provided by the Applicant through the course of this review process. ANC 6D also acknowledges the data provided by the Applicant in Exhibit 69A2, Sheet 41 which depict the FAR requirements for ANY GIVEN FLOOR do not exceed the 80% requirements.

However, the Applicant in their own words state that "Although zoning relief of 2% is required, this is a nominal degree of relief, the relief is supported by the Office of Planning, and the relief will not result in any adverse impacts." It should also be noted that final adjustments required the elimination of all retail space on Maine Avenue and created first floor residential units with little or no setback which will likely be challenging to fill.

ANC 6D notes that an exception is an exception and therefore the conditional approval item is not met.

3. That this conditional support shall in no way be considered altering the commitment of ANC-6D to the Southwest Small Area Plan as the foundation document for all future development in Southwest or for support for the primacy of all Small Area Plans as adopted elsewhere throughout the District to guide development in local communities in each of the eight wards.

ANC 6D FINAL UNDERSTANDING

ANC 6D appreciates that the "Applicant acknowledges this commitment." As previously stated, acknowledging and committing to this conditional approval

element are not the same thing.

While the conditional approval element was primarily intended for the Zoning Commission, ANC 6D accepts the Applicant's acknowledgement as an explicit AGREEMENT to meeting the Southwest Small Area Plan requirements on any future development projects it might undertake in ANC 6D even as they choose to NOT comply on this project.

4. That ANC 6D supports the proffer of a financial contribution of \$150,000 to the PTO at Jefferson Academy Middle School, but requests that instead of an additional financial contribution to Habitat for Humanity (an organization chosen by the Applicant as their commitment to achieving racial equity) that that \$100,00 be redeployed and equally split between the PTOs at both Amidon-Bowen Elementary School and Richard Wright Public Charter School for Journalism and Media Arts, the only high school in Southwest and that all three of those cash contributions be made immediately upon recorded publication of the approved PUD.

ANC 6D FINAL UNDERSTANDING

ANC 6D appreciates the Applicant's continuing commitment to Jefferson Academy Middle School as well as its commitment to providing \$100,000 to Habitat for Humanity to advance the District's goals of providing more for-sale, family-sized affordable housing in Ward 6.

In addition, ANC 6D recognizes that the timing of the contributions as proffered by the Applicant is consistent with all the recently approved PUDs and with Zoning Regulations. For clarity, ANC 6D sought to accelerate the timing of the local investment to provide for an extraordinary LOCAL benefit for granting conditional acceptance for this non-conforming PUD.

However, ANC 6D does not understand the logic by which the Applicant dismisses the ANC 6D's conditional approval request to provide funding to two (2) local schools in favor of Habitat for Humanity with the statement "...Amidon and Richard Wright schools have not participated in the subject case and have not indicated a specific need that this PUD should address." In fact, the exact same logic would be directly applicable to Habitat for Humanity and the generally unclear case for future investment at unknown locations in Ward 6, only part of which is represented by ANC 6D and totally outside of ANC 6D's ability to channel benefits DIRECTLY to the community.

To re-iterate, Habitat for Humanity is not based in Southwest, and while the Applicant's motivation may be contributing to racial equity, such a contribution would have little effect on this community's attempt to maintain diversity as memorialized in the Southwest Small Area Plan.

As a result, ANC 6D states that neither conditional approval condition has been

accepted by the Applicant despite the relatively easy opportunity to demonstrate “good faith” directly to the Southwest neighbors.

5. That ANC 6D supports the proffer of \$75,000 for a public art project on Maine Avenue under the direction of a minority and women-owned local business in consultation with a community group selected by the Commissioners of ANC 6D and that should this contribution be directed through any entity for management purpose, any such involvement be considered a pro bono contribution by that body and that no fees will be extracted as a result. ANC 6D further requested that the project be undertaken in consultation with a community group selected by Commissioners of the ANC.

ANC 6D FINAL UNDERSTANDING

The Applicant has confirmed that the public area project proffered will be executed by MYLY and no management entity will be utilized.

ANC 6D states that this conditional approval element is substantially satisfied.

6. That the final zoning order shall include an approved construction management plan between affected parties of Jefferson Middle School, Town Square Towers Condos, The Wharf, The Banks, and the Applicant; in addition to a dog waste management plan.

ANC 6D FINAL UNDERSTANDING

At the request of the Applicant, ANC 6D has reviewed the Construction Management Plan (CMP) provided in the case record as Exhibit 28E. Note that the CMP provided is clearly a “Draft” version as evidenced by “cut-and-paste” errors and overall simplicity of the plan for what is by all accounts a VERY CHALLENGING parcel to re-develop as well as the Applicant’s own “Draft” watermark on the document itself. ANC 6D specifically sought that an “Approved” CMP between the affected parties be entered as part of the final zoning order in this case in order to meet one element of our conditional approval.

ANC 6D also reviewed at the request of the Applicant Exhibit 83 which outlines the Applicant’s stated plan to enter into a specific CMP with the Jefferson Middle School given the direct adjacency of the school grounds to the parcel AND the absolute impacts this project will have on ingress / egress to school grounds and the quality of life for the students during the demolition and construction work. ANC 6D appreciates and recognizes this special focus by the Applicant to ensure that the students and staff of Jefferson Middle School are minimally impacted during this multi-year project.

With respect to the affected parties, ANC 6D rejects the Applicant’s position that no response by Town Square Towers to the “draft” CMP and/or a letter of support by The Wharf represents a decision by either entity to NOT desire / require a voice in the final CMP review and project execution. However, since the Applicant has committed to working with ANC 6D to establish the necessary community advisory committee, it is ANC 6D’s position that we will also be able to invite any and all entities potentially impacted by this project to those quarterly meetings to discuss and resolve any concerns that are not explicitly addressed in the final CMP.

As a result, ANC 6D states that no element of this conditional approval has been accepted by the Applicant but is hopeful that post approval the Applicant's team will keep all of the agreements summarized herein to ensure that all Southwest community concerns are met.

Of greatest importance to ANC 6D, its support was **conditioned** on the provision of long-term affordability of at least 21% of the residential units, per the filings of the Office of the Attorney General (with the additional 6% over the 15% proffered by the Applicant to be split between 60% and 80% of MFI to target more of "the forgotten middle" who too cannot afford market rate housing). Once again, ANC 6D finds itself advocating per its charter by the District of Columbia for the residents of Southwest, NOT finding ways for Applicants to meet bare requirements.

Chairman Hood captured the essence of the ANC 6D position on this matter in the December 15 Zoning Commission hearing when he made the following statements when he spoke to the other Zoning Commission members on WHY focusing on bare minimum compliance is not sufficient now and into the future:

"We need to figure out how to get to where ANC 6D is. That's my goal, that should be all our goal. Because what I think ANC 6D wants or is trying to get in all these projects for the most part is a very diverse and liveable community. I think that's what they are trying to do. And it's coming through bright because most of the projects in that area they are voting against. Sometimes we have to make it conducive to the people who live there and that's what I'm trying to get to, it's up to the Commission"

And

".....people who look like me still can't afford it"

Of equal importance to ANC 6D is formal confirmation by the appropriate Authority that any final conditional support, or the override thereof, shall in no way be considered altering the commitment of ANC 6D to the Southwest Small Area Plan as the foundation document for all future development in Southwest **or** for support for the primacy of all Small Area Plans as adopted elsewhere throughout the District to guide development in local communities in each of the eight wards.

To re-iterate our previous submissions, granting a PUD **must** reflect an extraordinary exception to current zoning limits and ANC 6D has consistently asked the Commission to elevate the condition for granting this PUD to a very substantial expansion; ANC 6D understands that the ultimate arbiter is the Zoning Commission. As ANC 6D presented in its November 10th report, anything less than a very substantial expansion of affordability **and** any perceived or actual precedent set with respect to altering the foundational tenets of the Southwest Small Area Plan puts the standards for redevelopment in all of Southwest at risk, and can create an immediate temptation for other property owners of affordable housing to redevelop those parcels.

To further emphasize our position, when communities are asked to be part of a planning process for future development, their vision **as adopted** should become a reality. ANC 6D will continue its work to ensure that future planning is not a game of horseshoes and hand grenades, where the only objective is to get it "close."

Our comments are consistent with the findings, and ANC 6D requests, as by law, that its position of opposition in this matter be given **Great Weight** in your final considerations of this application.

Should you have any questions, please contact me at 6D07@anc.dc.gov.

Respectfully submitted,

A handwritten signature in cursive script that reads "Fredrica Kramer".

Fredrica Kramer
Chair, ANC 6D
Southwest | Buzzard Point | The Wharf