

GOVERNMENT OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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REGULAR PUBLIC HEARING

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MONDAY

JUNE 26, 2023

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The Public Hearing of the District of Columbia Zoning Commission convened via videoconference, pursuant to notice at 4:00 p.m. EDT, Anthony J. Hood, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairperson
ROBERT E. MILLER, Vice Chair
PETER G. MAY, Commissioner
JOSEPH IMAMURA, Commissioner

OFFICE OF ZONING STAFF PRESENT:

SHARON SCHELLIN, Secretary
PAUL YOUNG, Zoning Data Specialist

OFFICE OF ZONING LEGAL DIVISION STAFF PRESENT:

JACOB RITTING, ESQUIRE

The transcript constitutes the minutes from the Regular Public Hearing held on June 26, 2023

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T-A-B-L-E O-F C-O-N-T-E-N-T-S

Case No. 23-02
Office of Planning Map Amendment 3

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P-R-O-C-E-E-D-I-N-G-S

(4:00 p.m.)

CHAIRPERSON HOOD: Good afternoon, ladies and gentlemen. We are convened and broadcasting this public hearing by videoconferencing. My name is Anthony Hood. Joining me this evening are Vice Chair Miller, Commissioner May, and Commissioner Imamura. We're also joined by the Officer of Zoning staff, Ms. Sharon Schellin and Mr. Paul Young, who will be handling all of our virtual operations, as well as Mr. Ritting, who is our Office of Zoning Legal Division counsel. I will ask all others to introduce themselves at the appropriate time.

As noted, copies of today's virtual public hearing notice are available on the Office of Zoning's website.

Please be advised, this proceeding is being recorded by a court reporter and is also webcast live, Webex, and YouTube Live. Again, the video will be available on the Office of Zoning's website after the hearing.

Let me just skip and say, if you experience difficulty accessing Webex or with your telephone call-in and -- then please call our OZ hotline number at 202-727-0789 to sign up or to receive Webex login or call-in instructions.

The subject of this evening's case is Zoning Commission Case No. 23-02. This is an Office of Planning map amendment from MU-4 to MU-10 at square 175, lots 826 and 827. This is located in Ward 1. Today's date is June the 26th, 2023.

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1 And before I get started, we have some -- I don't want
2 to say technical difficulties, but some things we need to iron
3 out, some updated information we received. And what I'm going
4 to do is first ask Ms. Schellin -- I have a way I want to move
5 forward through this. But I'm going to ask Ms. Schellin, do we
6 have anything preliminary other than what I've already -- what I
7 already know?

8 MS. SCHELLIN: Nothing that you don't know.

9 CHAIRPERSON HOOD: Okay.

10 MS. SCHELLIN: A request from OP, which you're aware
11 of.

12 CHAIRPERSON HOOD: Right. Exactly. Well, let me first
13 start off by saying -- I'm going to say this, and I'm going to
14 open it up to my colleagues. Let me first start off by saying,
15 after I read -- started looking into the record yesterday, some
16 submissions that came in. I had just come from church, and the
17 way I want to talk -- speak about, I stopped reading it. I'm
18 not going to address the lack of notice. We know that's an issue,
19 and it needs to be taken care of. However, there was a letter
20 from Mr. Ed Hanlon. Did I pronounce his name correctly,
21 Ms. Schellin? Hanlan? Hanalon?

22 MS. SCHELLIN: I believe it's Hanlon.

23 CHAIRPERSON HOOD: Hanlon. Mr. Hanlon that stated,
24 "The Commission has improperly set down Zoning Commission
25 Case No. 23-02 as a rulemaking case in order to illegally

1 | suppress public participation in the hearing and to deny District
2 | of Columbia citizens their basic rights." I'm going to read this
3 | again. "To illegally" -- people like calling me all day. "To
4 | illegally suppress public participation in the hearing and deny
5 | District of Columbia citizens their basic rights."

6 | I don't know who Mr. Hanlon is, but for him to make
7 | such a statement against this Commission, I will say that he does
8 | not know this Commission either. I see that his letter lists a
9 | mailing address. So maybe he needs to do some research about
10 | the Commission to see just what we do here. One thing he can be
11 | assured of, that this -- that we do not ever, let me repeat, that
12 | we do not ever do anything that will prevent public participation
13 | or take rights away from the citizens of the District of Columbia.

14 | Guess what, Mr. Hanlon, we live here too. We don't
15 | have votes in Congress, so we live here too. So do your homework
16 | before you make those kind of accusations. That's a touchy
17 | feeling with the residents who live here in the District. On
18 | several occasions, Mr. Hanlon, if you're listening, we have
19 | postponed cases to allow for more participation, because we
20 | didn't feel enough community outreach has been done. It appalls
21 | me that someone would make such a statement. We work very hard
22 | as a commission to make sure everyone is heard. What do not
23 | suppress, much less illegally suppress participation from the
24 | public. That's all I have to say on that.

25 | Mr. Hanlon, I want you to know that I also consult

1 with folks in Maryland or Montgomery County and Prince George's
2 County too, and we got pretty good relationships. We bounce
3 stuff off of each other. So please make sure you do your homework
4 first. It's all right to argue a case, but make sure you have
5 something legitimate, and stop trying to create malice. We have
6 enough of that in this -- not just in the city but in this world.
7 So we prefer that you give us some constructive, constructive
8 participation, if you participate in this case.

9 So with that, let me ask any of my colleagues if you
10 have anything to say before we get to what we need to do tonight.

11 Commissioner May, anything?

12 COMMISSIONER MAY: Not at this moment. Glad we got
13 into the substance of -- I think you're into get into (audio
14 interference).

15 CHAIRPERSON HOOD: Okay. And Commissioner Imamura,
16 anything?

17 COMMISSIONER IMAMURA: No, Mr. Chairman. I agree with
18 your comments, and I found it was a little unsettling to receive
19 the -- a letter like that. But I do have some comments later.

20 CHAIRPERSON HOOD: Thank you.

21 Vice Chair Miller?

22 VICE CHAIR MILLER: Thank you, Mr. Chairman. Yeah, I,
23 too, concur with your comments. People are -- not people, some
24 people are way too quick to just jump to accuse us and others
25 who they disagree with or just are unhappy with an outcome or a

1 result that question the intent or motive of a body, in this
2 case. And you're right, we always do strive to enhance public
3 participation. And so I'll just leave it at that. Thank you.

4 CHAIRPERSON HOOD: Okay.

5 Commissioner Imamura?

6 COMMISSIONER IMAMURA: Thank you, Mr. Chairman. The
7 only thing I have to add is that, you know, I think, just for
8 the general public, please don't, you know, reach out to the
9 Zoning Commission, just for soundbites. I think that's, you
10 know, some of the language that was used. That's how I feel.
11 It's just a soundbite to get attention, so.

12 CHAIRPERSON HOOD: Okay. Thank you.

13 So we know we have a notice issue, if we looked at the
14 record, and I think that's going to be taken care of. But I just
15 want to say, and I appreciate everyone for helping me, especially
16 Office of Zoning Legal Division and our staff, Ms. Schellin and
17 Mr. Ritting and others, and helping -- Office of Planning helping
18 us get this case. So we operated as we always do on the
19 information provided to us at the time. When I look back and
20 looked at the -- what the set down hearing, and one of the things
21 that was mentioned, by the Vice Chair, which he always mentions
22 this, it's a consistency case. We always mention that. And I
23 think there were some things that we relied on.

24 The Office of Planning report initiated the case by
25 filing a report. They stated at the set down meeting that it

1 | thought -- it was a comprehensive plan consistency case, which
2 | we always rely on. The second thing is the Office of Planning
3 | states that the affected property includes more than one lot.
4 | And then the Commission concluded that this should be heard as a
5 | rulemaking, as a map amendment brought by a public agency for a
6 | geographic area encompassing multiple properties. That type of
7 | case, as we always know with the information which we proceeded
8 | with, stated to be a rulemaking under Subtitle Z, 201.7(a). And
9 | with further clarification and information, we found out, I
10 | believe, most of that is not necessary to the case. There's some
11 | other nuances still moving.

12 | I would -- I don't know if I need to make a motion or
13 | how I need to do this, but I'm going to ask that we redo our
14 | thought in this, as far as set down and move it from rulemaking
15 | to a contested case, which I think is -- would be properly before
16 | us. But let me hear from my colleagues first, and then I will
17 | talk to Mr. Ritting to make sure I captured some of that. But
18 | let me hear from others.

19 | Commissioner May?

20 | COMMISSIONER MAY: Yeah, I think it certainly makes
21 | sense that we take this up as a contested case, as a map
22 | amendment. I -- you know, but I have to say that as I read
23 | through all of the comments that were in the record, I mean, I
24 | saw some, I think, interesting and perhaps appropriate criticisms
25 | or concerns about what could happen, even if we go through the

1 process and were to go ahead and rezone it to MU-10. And it
2 may -- I mean, I'm -- this is probably not a practical thing, but
3 it made me really wish that we were taking this up as a PUD and
4 not as just a map amendment, because the PUD process allows for
5 a more careful planning and deliberate neighborhood involvement
6 in how the building is or how any future buildings are developed
7 on the property.

8 So I mean, I kind -- I would actually like to ask the
9 Office of Planning why we could not do that? I think I know the
10 answer, but I think it's important to have that information from
11 the Office of Planning.

12 CHAIRPERSON HOOD: Okay. Let's do that now.

13 Ms. Schellin, if we can bring up the Office of Planning
14 right --

15 MS. SCHELLIN: It's Steve Cochran and Jennifer.

16 CHAIRPERSON HOOD: Okay. Let's do that right now.

17 MS. SCHELLIN: They might not be on, so it may be Joel.
18 Oh, Jennifer is on. She's under DCOP Jennifer.

19 CHAIRPERSON HOOD: And good afternoon, Ms. Steingasser
20 and Mr. Cochran. Hopefully, you heard Commissioner May's
21 question. If you could respond when you have -- when you're
22 available. There you go.

23 COMMISSIONER MAY: All right, you're muted.

24 CHAIRPERSON HOOD: You're muted.

25 MS. SCHELLIN: Mr. Cochran, are you available?

1 MR. COCHRAN: Yes. Of course.

2 MS. STEINGASSER: There we go.

3 MR. COCHRAN: Yes, I am available. Let me see if I
4 can get my video to work. I -- control, shift B. There we go.
5 Oh. Okay.

6 Thank you, Mr. Chair. Because this is a zoning
7 comprehensive plan consistency map amendment, we simply viewed
8 it as an implementation of the Comprehensive Plan. The comments
9 that are in the record express very understandable concerns about
10 a hypothetical development that might occur on the site. One
11 would assume that during the RFP process, there would be public
12 participation. And it's not until you get to the RFP process,
13 that you actually get to whatever the physical shape or use of a
14 building or buildings on this property might be.

15 This simply sets a different zone that gives a maximum
16 envelope that any kind of a development might be able to take
17 advantage of. And as -- I want to emphasize, that's a maximum.
18 It's the citizen participation. It's the actual response from
19 whomever responds to the RFP that determines what the use is,
20 what the shape is, what the setbacks are, et cetera.

21 We have two District agencies that have presence on the
22 site and that probably would like to continue there. We also
23 have a need for affordable housing. It's a District-owned site.
24 Contrary to some of the things that we've seen in the record, it
25 wouldn't be just IZ. It wouldn't be just IZ Plus. If any of

1 the development eventually goes for residential, 30 percent of
2 it would have to be affordable, a higher percentage than any
3 other requirement in the zoning regulations. That's actually --

4 COMMISSIONER MAY: Right. Okay. So -- okay, go ahead.

5 MR. COCHRAN: So that's why we why we were looking at
6 it just as setting the envelope consistent with what the Council
7 decided as part of the Comprehensive Plan.

8 COMMISSIONER MAY: All right. So maybe -- the reasons
9 why that's not a fully complete picture -- and I'm not criticizing
10 you. I'm just saying that there is more to it than just, like,
11 what's in the FLUM. The -- but I'm -- what I'm really asking is
12 why -- I mean, I understand why you decided to go this route,
13 and certainly that made sense, and that's why we set it down that
14 way. But why couldn't it be a PUD? Because again, it's through
15 the -- because it -- you know, if this were going up next to me,
16 and I had to, you know, rely on the fact that, you know, the
17 Deputy Mayor's office is going to do a really good RFP and had
18 really good public input on how it's going to be developed and
19 that's going to shape it, I'm not sure I would have the same
20 level of confidence that I would have if we knew that it was
21 going to go through a PUD process.

22 MR. COCHRAN: It certainly could be a PUD. It is
23 going -- it -- if you can pull in someone from DMPED --
24 Daniel Lyons, I believe, is listening. The DMPED preferred to
25 be able to advertise it with the map amendment in place. The

1 last thing that a developer wants is uncertainty, and this gives
2 anyone that's responding to an RFP the certainty of what their
3 maximum envelope might be.

4 COMMISSIONER MAY: Well, you know, we all know,
5 developers like certainty, but they operated in an uncertain
6 environment. And there certainly are examples of other land
7 dispositions, other situations where the City has disposed of
8 land and has required that there be a PUD in the process in order
9 to get to the right zoning, or if not a PUD, I mean, maybe it's
10 too small for this, but we have done special development zones,
11 right, at Reservation 13, and so on, where they are really --
12 they address some of these community concerns. And I just -- I
13 feel like, you know, we could go all the way through this process
14 as a contested case and not get to a position where we are ready
15 to make the decision. I mean, that's an uncertainty unto itself.
16 So I'm not sure that that, you know, this is the route that's
17 going to get us to the best result.

18 Anyway, I said my piece on this topic. I don't know
19 whether folks want to hear from Mr. Lyons or not. I'm sure we're
20 going to hear some version of the same thing that Mr. Cochran
21 told us. Because it -- yeah, I mean, I can see from DMPED's
22 perspective the easiest thing to do is to have it mapped now.
23 That's the surest way to get through their RFP process.

24 MR. COCHRAN: If I might, there are also -- the
25 Commission, after it discusses in a future hearing, it may wish

1 to ask the Office of Planning to consider some alternative
2 proposals.

3 COMMISSIONER MAY: Yeah.

4 MR. COCHRAN: But right now -- because we certainly see
5 the advantages, from the standpoint of design and control of
6 design, to what a PUD would be, but there are other possible
7 options that might bring about a result that's --

8 COMMISSIONER MAY: Yeah.

9 MR. COCHRAN: -- more compatible.

10 COMMISSIONER MAY: So -- and I think that that -- I
11 mean, it -- you know, it's unfortunate there hasn't been
12 sufficient community discussion to flesh out some of those
13 things, because I was also imagining that there could be, you
14 know, that the Deputy Mayor's office could put restrictive
15 covenants onto the property prior to disposition that would
16 require the kind of step backs and setbacks and public spaces and
17 things like that, that are -- that, you know, are envisioned or
18 potentially envisioned and have been requested by some of the
19 neighbors (indiscernible) could --

20 MR. COCHRAN: Of course, that would be possible. It's
21 just not something that we would be doing through zoning, per se.

22 COMMISSIONER MAY: Correct. But if we knew it was
23 going to happen, right? If there was something -- if there had
24 been enough public engagement, that DMPED came to us and said,
25 "Hey, this is what we are planning to do, and this is how we are

1 planning to control the development," I think that would probably
2 put a lot of people at ease, as we go through a map amendment
3 process, which again, doesn't have that same level of control
4 over the actual form. So anyway, I think I've said enough.

5 Chairman Hood, maybe you want to pass it on to somebody
6 else or if you want to bring in the DMPED representative, that's
7 up to you.

8 CHAIRPERSON HOOD: Okay. Let me go to anyone else, and
9 then I'll go to -- let me go to Commissioner Miller. But before
10 I do that, I do want to state that while I understand that
11 applicants and developers need predictability and want to have
12 some certainty, but so do residents. I never want to rule
13 residents out. They want certainty and some predictability as
14 well in this development. So it goes two ways. And I'll just
15 leave it at that.

16 Commission Imamura?

17 COMMISSIONER IMAMURA: Thank you, Mr. Chairman.

18 And thank you, Commissioner May, for bringing up some
19 very important points.

20 I'll cut to the chase. I'm inclined to support this
21 as a contested case, as well, but just want to emphasize that,
22 you know, I think based off of what's in the regulations and our
23 decision, it seems to make sense to me that at least at initial
24 set down that it's a rulemaking case, and that the regulations
25 clearly state and empower the Zoning Commission to make that

1 determination, especially when rules overlap. I think that I'm
2 pleased to see the volume of community interest and certainly
3 share some of their concerns. And I think they've raised some
4 important issues as well.

5 And so I think this goes to your point earlier,
6 Mr. Chairman, that the Zoning Commission does listen to the
7 public, does listen to the community. We do practice the good
8 neighbor policy here, and you know, look for better outcomes. So
9 with that, I think it's good to have public input, and I'm
10 inclined to support moving forward as a contested case here and
11 know that, you know, that'll require, obviously, a re-notice with
12 a new public hearing. But I think it will lead to a better
13 outcome and more involvement by the community.

14 CHAIRPERSON HOOD: Okay. Thank you.

15 Vice Chair Miller?

16 VICE CHAIR MILLER: Thank you, Mr. Chairman. And thank
17 Office of Planning for your comments and my colleagues for your
18 comments.

19 Yes, I, too, support readvertising this case as a
20 contested case map amendment as opposed to a rulemaking map
21 amendment. And I think Commissioner May does bring up a good
22 point that if this were -- that the PUD process would provide
23 more public input throughout the process -- throughout our
24 process, at least. And we have a recent -- we have recent case,
25 at least one, where we went all the way through the case, and

1 | we -- it was a map amendment. I think it was a contested case,
2 | and then at the final action, I think we decided that it needed
3 | to be readvertised as a PUD, or they should consider a PUD, and
4 | I think that's what's happening in that particular case, in order
5 | to give the neighbors input into how that design does get shaped.

6 | It may not be further enough along in this case, and I
7 | recognize the certainty aspect of a map amendment, which the
8 | development community would like to have that certainty. But
9 | they also -- they like to have certainty until they need
10 | flexibility, and then they want flexibility and -- to do certain
11 | things that the -- other things, and that's what a PUD also does
12 | provide. So anyway, I do support -- it doesn't seem like it's
13 | right to advertise it as a PUD, because there's no particular
14 | development plans before us or before the public at this point.
15 | So I support readvertising it as a map amendment contested case
16 | and see where we go from there.

17 | CHAIRPERSON HOOD: Okay. Thank you. Again, I will
18 | state, even though I didn't really comment on this round, I will
19 | state that I never tell an applicant, even in other cases,
20 | Vice Chair Miller was, how to come with a PUD map amendment or
21 | don't come at all or whatever. I never state how to come. I
22 | just wait until they bring it and deal with it accordingly. And
23 | I think in this case here, we probably could -- I think the
24 | justifications go either way. But I mean with this latest update
25 | of what I saw in the record, I think contested case is the way

1 we need to go. And who knows what's going to happen there as
2 has already been stated by all of my colleagues, I believe.

3 We can go all the way up to final and still have
4 problems. It's been -- it's proven. So let's just see, you
5 know, if we've going to set this down as a contested case, I
6 think that right for now, I don't want to put any promise -- put
7 anybody on promised land. We'll say come back with a PUD, and
8 then you turn around and we're in the same situation. So I'm
9 just going to leave it at that. Let the developers who are
10 sophisticated enough or the Office of Planning, DMPED, whoever,
11 come with what they come with, and we'll deal with what's before
12 us.

13 But we need to bring up first the gentleman from DMPED.
14 I want to bring Mr. -- I think it's Lyons you say his name. Mr.
15 Lyons?

16 MR. LYONS: Yes, sir.

17 CHAIRPERSON HOOD: Okay. Yeah, Mr. Daniel Lyons.

18 Good afternoon, Mr. Lyons.

19 MR. LYONS: Hello? Can you hear me?

20 CHAIRPERSON HOOD: We can hear you now, Mr. Lyons.

21 MR. LYONS: Okay, sorry, I can't put myself on video.

22 I am connected by both computer and by phone.

23 CHAIRPERSON HOOD: Okay.

24 MR. LYONS: But thank you for the opportunity to
25 participate and to discuss the project with you. I'm happy to

1 answer questions regarding the matter that was brought up
2 earlier. I would concur with the essence of what Mr. Cochran
3 said, that the -- that we're looking for -- we're looking to
4 create maximum flexibility and creativity, to create a good
5 project that allows the recreation of the fire station and police
6 station and provides for other uses, including residential,
7 including affordable housing.

8 The specific question regarding a PUD has not been
9 discussed to this point. I can certainly bring that back to the
10 office. But it, you know, right now, as it is today, we are
11 pursuing the MU-10 application to create a project that has the
12 best chance of providing a creative design that answers a lot of
13 the challenges that are created by this site.

14 CHAIRPERSON HOOD: Okay. All right, thank you,
15 Mr. Lyons. Let me see if we have any questions for you.

16 Commissioner May?

17 COMMISSIONER MAY: No, I don't have any questions for
18 Mr. Lyons. I did want to make, perhaps another suggestion, which
19 is that, you know, we have the option of saying right now that
20 this is -- this should be readvertised as a contested case. But
21 I am -- you know, the volume of comments that we got, both in
22 support and in opposition, is pretty exceptional for a case like
23 this. And to me, it's indicative that there needs -- oh, and I
24 should also say the fact that some of the opposition is based on
25 unfounded concerns, that this is all going to be just a big luxury

1 development and things like that -- big luxury apartment
2 development. And it's clear to me that there's not been enough
3 effective communication.

4 And I'm not faulting anybody for not, you know, for
5 things that they have not done so far. It's not about what you
6 have done so far, it's the fact that it hasn't connected with
7 enough people, and there are a lot of people who are unhappy
8 about this. And so I just -- I feel like I -- rather than making
9 the decision immediately to readvertise as a contested case, I
10 think that I would like to give the Deputy Mayor's office and
11 the Office of Planning a little bit more time to think about
12 this. Think about what the whole strategy is and think about
13 the, you know, whether it might be a PUD.

14 Mr. Lyons, can you mute your microphone?

15 MR. LYONS: Yes.

16 COMMISSIONER MAY: Thank you. Whether it would make
17 sense to come back to the PUD. And if not, you know, a little
18 bit more about what public outreach might be conducted before we
19 take this up. Again, there's a -- there seems to be a significant
20 misunderstanding of what could happen, and what the District's
21 intentions are for the redevelopment of the property. And I
22 think more extensive outreach on the part of the Deputy Mayor's
23 office would be beneficial in making it a smoother process, if
24 we take it up as a contested case. So I would suggest that we
25 could, and, you know, obviously, it's not just up to me, it's up

1 to the full Commission. But if we could give them until an
2 upcoming meeting that, you know, we could put off the question
3 of whether we readvertise immediately, put it off until an
4 upcoming meeting.

5 And I know we have a meeting scheduled for Thursday,
6 and that's probably too fast. But maybe we can take it up on,
7 what is it, July 13th is the next one or something like that? I
8 just -- I feel like, you know, this is going to be a long process.
9 There's going to be a lot of people engaged. It really would be
10 better if there was more public outreach and some careful
11 consideration at this point of how best to move forward on the
12 part of the Deputy Mayor's office and the Office of Planning.

13 CHAIRPERSON HOOD: Okay. Thank you. Let me just state,
14 I appreciate what Commissioner May said. It kind of goes in line
15 with my earlier comments. I'm ready to move forward with a
16 contested case. I -- you know, if they wanted to come back with
17 a PUD, they have time to do it. I don't have a problem with
18 setting it down now, because I can tell you that regardless, I
19 don't want to send that signal. We're waiting for you to come
20 back with a PUD, and I still vote against it or whatever the case
21 may be. And I know that's not what you necessarily said,
22 Commissioner May, but I think they gave -- I think what they gave
23 us is what they want us to deal with.

24 But if the other -- my other colleagues are so inclined
25 to wait until our next meeting to see whether or not they come

1 as a PUD, which I'm not in favor of always pushing anybody to
2 come back with anything. I'd rather for them to make the decision
3 on how they come back with, and then we deal with the cards we're
4 dealt with accordingly. So that's my position, and I think we
5 can keep this moving forward as a contested case, get public
6 participation. I read the comments too, and like I always do, I
7 always push back and say, look, make sure you have the "good
8 neighbor policy." We're here looking at the fire department, the
9 police department. They don't want it over there? I got a place
10 for it, over here with my neighbor. But I'll leave it at that.
11 But let me hear from others.

12 Commissioner Imamura?

13 COMMISSIONER IMAMURA: Well, thank you, Mr. Chairman.
14 I do like the controls of the PUD that, you know, that are in
15 place for that. But I also appreciate your position about, you
16 know, not asking applicants to, you know, go back, revisit
17 something and then perhaps lead them in a different direction,
18 and that we should probably deal with the case before us. I'm
19 curious to hear what Vice Chair Miller and his thoughts.

20 CHAIRPERSON HOOD: And Vice Chair Miller?

21 VICE CHAIR MILLER: Okay. That was my cue. I will
22 second the motion that the Chairman made at the outset to
23 readvertise this case as a contested case map amendment. And the
24 Office of Planning and DMPED heard the comments that
25 Commissioner May and the rest of us have made about the PUD

1 aspect, and they can consider that in the meantime, if they want
2 to. But I'm in favor of readvertising and getting this rulemaking
3 hearing, which is scheduled for today, off the books and
4 rescheduled as a contested case. So I second the Chairman's
5 motion that he made at the outset.

6 CHAIRPERSON HOOD: Okay. Any other comments?

7 COMMISSIONER MAY: Yeah, please.

8 CHAIRPERSON HOOD: Yes, Commissioner May?

9 COMMISSIONER MAY: Yeah, so first of all, I want to
10 make it clear, I am not pushing for this to be a PUD. Right?
11 If -- it's entirely up to DMPED to pursue it, whichever way they
12 want. We'll deal with the way it comes. I just see advantages
13 to doing that. And in the absence of doing that, if they're not
14 going to -- if they're going to stick with the contested case
15 route, I think that's fine. But I do think that that what --
16 that there does need to be an extra measure of outreach, given
17 the range of comments that we've received and the legitimate
18 concerns that were raised by the members of the public, including
19 the recommendations by the -- two of the ANCs. I mean, they made
20 recommendations about having to do with the concerns and the
21 sensitivity and how it -- it's how -- whatever happens here steps
22 back from or sets back from adjacent low-rise development.

23 So I mean, I think all these things really need to be
24 considered carefully by the time we take this up in a future
25 hearings. So I mean, if -- and I'm okay. You know, we can set

1 | it down today, and if they decide to change their strategy at
2 | some point in the future and go to a PUD, that would be great.
3 | If they decide not to, you know, as long as they've done the
4 | outreach, I think that we could be -- we can proceed in an orderly
5 | fashion at a future hearing. I don't -- I mean, from my
6 | perspective, it wouldn't really make a whole lot of difference,
7 | because I don't know when we would actually hear this case if we
8 | readvertise as a contested case. I'm guessing that it means that
9 | it would be in September, at the earliest. No?

10 | Ms. Schellin, would you like to enlighten us?

11 | MS. SCHELLIN: At the earliest, it'll be early October.

12 | COMMISSIONER MAY: Well, okay. So, it's --

13 | CHAIRPERSON HOOD: Yeah. So --

14 | COMMISSIONER MAY: -- if we put off the decision for a
15 | couple weeks, it would really affect them. But that's fine, if
16 | you want to go ahead and set it down as a contested case.

17 | CHAIRPERSON HOOD: We, Commissioner May. We.
18 | Disregard that last comment. We. That's we.

19 | COMMISSIONER MAY: I didn't think. Yeah, and so.

20 | CHAIRPERSON HOOD: All right. Again, I think,
21 | Commissioner May, I think it can be still accomplished as -- I
22 | hear what you all are saying about the PUD. I want to tread
23 | lightly. And I do hear -- one of the things that I think will
24 | also accomplish that is something that Council had put in place
25 | for us to deal with, and that's the racial equity and the

1 community engagement piece. So I think that can be accomplished
2 there, too. So I'm ready to move forward, as we said. Let's
3 set it down. See what happens. And if something comes up in a
4 week or two, and they need to make some more changes, do as we
5 did here today. I'm just trying to keep the ball rolling.

6 But I do want -- as Commissioner May has mentioned,
7 that engagement has got to happen. It's got to happen. And I
8 think because it's DMPED, there are some other procedural things,
9 I think, they have to deal with when it comes to development that
10 may be outside of our realm. I can't remember all what it is
11 about affordable housing and some other components, if I recall
12 correctly. There's -- okay, but I think it's very important.
13 Does somebody need to say something? Okay. Oh, okay. Good.

14 Mr. Ritting, did we cover everything?

15 MR. RITTING: Yeah, I think you did. And just to be
16 clear, you're voting to set this down as a contested case. The
17 applicant will then follow all of the procedural rules that would
18 ordinarily occur after set down. And that includes a new public
19 hearing notice in the D.C. Register, all the other notice
20 requirements, and that gives them the opportunity to correct any
21 notice defects that may have occurred already. And there were
22 some pretty serious allegations of a lack of notice to some of
23 the 200-footers, and they can correct that, and then you would
24 hear it as a contested case.

25 One other thing to mention is, of course, the applicant

1 | could withdraw the request prior to the hearing and refile it as
2 | a PUD, if they chose to do that.

3 | CHAIRPERSON HOOD: I just want to give them all those
4 | options, whatever they choose to do, we'll be here waiting on it.
5 | Well, I'm not going to say we, but some of us will be here waiting
6 | on it.

7 | Let's go ahead, Commission. I would move that we set
8 | down -- hold on a second.

9 | Ms. Schellin, is that -- it has the same number and all
10 | that, right?

11 | MS. SCHELLIN: Yes.

12 | CHAIRPERSON HOOD: Okay.

13 | MS. SCHELLIN: 23-02.

14 | CHAIRPERSON HOOD: Okay. I would move we set down,
15 | again, re-set down Zoning Commission Case No. 23-02 as a contested
16 | case, with everything noted to file to come back to us as a
17 | contested case, and all of -- to clean up everything. They need
18 | to clean up the notice requirements and everything, the
19 | engagement piece, all of that, and come back to the Commission
20 | as a contested case and ask for a second.

21 | VICE CHAIR MILLER: Second.

22 | COMMISSIONER IMAMURA: Second.

23 | CHAIRPERSON HOOD: So moved and properly second. Any
24 | further discussion?

25 | And again, let me just add this. Everything that was

1 | said is on the table. I'll just leave it at that. Any further
2 | discussion?

3 | Not hearing any, Ms. Schellin, would you do a roll call
4 | vote, please?

5 | MS. SCHELLIN: Yes. Before I call the vote, I just --
6 | I want to ask the Commission that, since this will, in the future,
7 | be a contested case that all of the individuals who registered
8 | to testify will need to re-register in the case to testify, since
9 | it is changing, so when that hearing date is set, they'll need
10 | to re-register. I just want to make that clear, because they
11 | will have to take the oath that's on there, since it will be a
12 | contested case.

13 | CHAIRPERSON HOOD: Thank you, Ms. Schellin. Thank you.

14 | MS. SCHELLIN: So anybody who's signed up to testify
15 | will need to re-sign up once the date is set.

16 | So Commissioner Hood?

17 | CHAIRPERSON HOOD: Yes.

18 | MS. SCHELLIN: Commissioner Miller?

19 | VICE CHAIR MILLER: Yes.

20 | MS. SCHELLIN: Commissioner May?

21 | COMMISSIONER MAY: Yes.

22 | MS. SCHELLIN: Commissioner Imamura?

23 | COMMISSIONER IMAMURA: Yes.

24 | MS. SCHELLIN: The vote is four to zero to one to set
25 | down Zoning Commission Case No. 23-02 as a contested case. The

1 minus one being the Third Mayoral Appointee, which is vacant at
2 this time. That's it.

3 COMMISSIONER MAY: Commissioner Hood, you're muted, if
4 you're talking to us.

5 CHAIRPERSON HOOD: Oh, I was talking to y'all. Yeah,
6 I was muted. That's the first time -- isn't that the first time
7 I've ever done that? I know some people probably wanted to mute
8 me over the years, but anyway.

9 The Zoning Commission will meet again June the 29th,
10 2023, and we have various cases on our agenda. We'll meet on
11 these same platforms at 4:00 p.m. I want to thank everyone for
12 the clarification on this case tonight. And with that, this
13 hearing is adjourned. Goodnight.

14 (Whereupon, the above-entitled matter went off the
15 record at 4:40 p.m.)

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C E R T I F I C A T I O N

This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DCZC

Date: 06-26-23

Place: Teleconference

was duly recorded and accurately transcribed under my
direction; further, that said transcript is a true and accurate
record of the proceedings.

Gary Euell