

Testimony of William H Jordan 1/8/24

Zoning Case: 23-02

Map Amendment to Rezone Square 0175, Lot 826 (1617 U Street, NW) and Lot 827 (1620 V Street, NW) from the MU-4 Zone to the MU-10 Zone.

Chairman Hood and Commissioners:

I urge you to **vote against** the map amendment requested by DC's Office of Planning (OP) and Deputy Mayor for Economic Development and Planning (DMPED), the Applicant, in Case ZC23-02 on the grounds that the Applicant has failed show that the requested amendment is **Not Inconsistent** with the Comprehensive Plan (Comp Plan) when view through a Racial Equity Lens. In particular, the Applicant's Racial Equity Lens analysis fails to adequately disaggregate data to effectively evaluate the impacts regarding Black families who currently live, will potentially live and/or have lived in the Mid-City Element and U St. Corridor since 2006.

To date, the Applicant has not shown that they can competently deliver to the Commission the required Racial Equity Lens analysis in good faith and in a timely manner; therefore, the Commission should postpone deliberations and must seek an independent entity to provide a Racial Equity Lebs analysis in the case of 23-02 before completing its Comp Plan consistency analysis. Examples of the Application's Racial Equity Analysis failures:

- Applicant's Racial Equity Lens analysis in its setdown report submitted 1/18/23 concluded, ***"Overall, when evaluated through a racial equity lens, the proposed map amendment is not inconsistent with the Comprehensive Plan."***

The Applicant reached the above conclusions without disaggregating racial and ethnic data to determine by group who is anticipated to experience positive and negative impacts or outcomes. Given the Comp Plan requires the disaggregation of racial data in a racial equity lens analysis, the Applicant's analysis must logically conclude that the proposed map amendment is ***"inconsistent with the Comprehensive plan"*** or at best the racial equity lens analysis is ***"inconclusive"***. The Commission; therefore, must reject or view with a high degree of skepticism any such analysis provided by the Applicant going forward. Or the Commission would be setting a harmful precedent that a zoning action for which resulted in a Racial Equity Lens analysis that is ***"inconclusive"*** meets the ***"not inconsistent"*** test. By doing so, the Commission would render the Racial Equity Lens process moot in violation of the Comp Plan.

- The Applicant did not produce a Racial Equity Lens analysis which relies on disaggregated data as required by the Comp Plan in its 1/18/23 report. Instead, it took an additional six months, 6/16/23, and its Final Report to address this requirement. Even this belated effort by the Applicant to leverage disaggregated data to conclude, ***"Overall, when evaluated through a racial equity lens, the proposed map amendment is not inconsistent with the Comprehensive Plan."***, is fundamentally flawed and should again be viewed by the Commission as ***"inconsistent with the Comprehensive plan"*** or at best the analysis is ***"inconclusive"*** when viewed through a Racial Equity Lens.

The reason the Commission must find the zoning action is ***"inconsistent"*** or determination ***"inconclusive"*** is that the Applicant relies heavily on **cost burden analysis** supported by ***"U.S. Census Bureau, 2017-2021 American Community Survey 5-Year Estimates"***, which notes, ***"Housing cost burden by race is not available"***. Today after nearly a year, the Applicant is still

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proposing to determine Comp Plan consistency based on data this “**not available**”. Yet does not make this flaw clear in its report. And further, the Applicant ignores and/or cherry picks data from these same sources which would challenge its “benefit” or “harms” analysis and conclusions, for example:

When evaluating Direct and Indirect displacement impacts, the Applicant could have easily done a comparison between “U.S. Census Bureau, 2017-2021 American Community Survey 5-Year Estimates” and “U.S. Census Bureau, 2012-2016 American Community Survey 5-Year Estimates” (available but not used by the Applicant) on the Mid-City area the Black populations. The comparison shows that the Mid-City Black population dropped from an estimated 30,940 to 26,931 a loss of 4,000. During the same period the Mid-City White population decreased from 49,227 to 47,702 for a loss of about 2,000 or a 6,000 loss in total. This in a Mid-City area the Applicant reported exceeding the Mayor’s 2025 production goal. Clearly the above data contradicts the Applicant’s dismissive conclusions concerning Direct and Indirect impacts on displacement, particularly when the proposed amendment is in sync with the Mayor’s production policies which have been in place over the cover period since 2015. It is of no doubt that Blacks have been impacted by displacement by a greater degree than Whites.

- Further the Applicant in all its filings state the new FLUM designations and accompanying density and height will provide the following potential benefits:
 - Accommodate new facilities for the 3rd District Police and for Engine Company 9 and related services, including a larger parking facility to shelter police cars and employee vehicles that now park on neighborhood streets and grassy parking strips;
 - Accommodate a significant amount of affordable housing on the site, and possibly some market rate housing atop the government facilities; and
 - Not preclude the possibility of providing limited ground floor retail uses along a portion of the site’s U Street frontage.
 - Increase the possibility of accommodating other public cultural uses on the site.

Yet the Applicant’s Racial Equity Lens analysis fails to use disaggregated data to show these elements would benefit or harm Mid-City Black families.

- The inadequacies of the Applicant’s Racial Equity Lens analysis is further demonstrated in its use of the District’s, “Upward Mobility Action Plan (June 2022)”. The Plan offers a challenge to the Applicant’s cost burden analysis when it comes to the potential affordable housing benefits proffered with this zoning action.

The plan states, “...Residents with lower incomes **have not benefited** as much from the District’s economic growth...”. The Plan then goes on to state, “Many workers with lower incomes have not experienced enough wage growth to keep up with the rising cost of goods, services, and especially housing”.

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The applicant's analysis fails to concretely explain how the amendment zoning would facilitate the required income growth for the proposed benefits to be meaningful, especially for low and middle income Black families.

The reality is that the District's affordable housing regulations require families to pay at least 30% of their income as rent, this can benefit families by keeping rent costs at the 30% threshold. However, this policy means that 30% of any new income results in an increased rent taking away from the family's ability to benefit from the action's possible potential. Effectively this amounts to a 30% tax on family income growth. Income required to keep up with the rising cost of goods and services, particularly in an area like the U St. corridor where many amenities such as restaurants, bars, gyms and etc. are expensive. The Applicant fails to address this obvious and fundamental impact in its analysis.

In addition, the Applicant's report fails to analyze the impact of the FLUM on Black Home Ownership, new jobs etc. in Mid-City. Worst of all, DMPED the co-applicant has executed similar projects/RFPs which relied on similar FLUM and density changes, yet the Applicant fails to use data from these projects when completing their, "Table 9: Zoning Commission Racial Equity Tool Factors" and their analysis.

- Furthermore, the Applicant's analysis and presentation of community engagement and outreach fails to consider a Racial Equity Lens analysis. The report's Appendix B log of community outreach is not disaggregated by race and ethnicity. Instead, the applicant has relied on ANC led engagement as substitute without first showing that ANC engagements in any way met a Racial Equity standard.

In fact, the FLUM changes upon which 23-02 amendment is based have a "Fruit of the Poisonous Tree" problem. The Comp Plan FLUM change was introduced by CM Nadeau on 5/4/21 via a legislative amendment without any significant community dialogue. Nadeau's FLUM amendments including for this U St. area was submitted after the completion of a Racial Equity Impact Statement (REIA) by the DC Council's Office of Racial Equity (CORE); therefore, her FLUM amendments were not subject to a racial equity analysis. In fact, the REIA stated that the Comp Plan, *"As introduced, Bill 24-0001 will exacerbate racial inequities in the District of Columbia."* The REIA noted some positives, which was the addition of amendments requiring the Commission to require a racial equity process and analysis for amendments such as this. Unfortunately, the FLUM change never received a REIA quality racial equity review nor in depth community discussion in the 3 plus years since.

The above examples highlight the fundamental flaws of the Applicant's Racial Equity Lens analysis. So flawed that it should not be used to determine if the proposed amendment is Not Inconsistent with the Comp Plan. Therefore, the Commission must reject the proposed amendment as **"Inconsistent"** with the Comp Plan and/or reject the Applicant's Racial Equity Lens analysis as **"Inconclusive"** postponing any further deliberations until a competent Racial Equity Lens analysis can be completed. Given, the Applicant's years long failure, I recommend that the Commission seek an independent analysis.