

**Comments of Ann Lane Mladinov RE OP Supplemental Report III in ZC 25-13
Text and Map Amendment to Carry Forward Wisconsin Avenue Development Framework (WADF)**

I am an Advisory Neighborhood Commissioner in ANC 3A, one of the two ANCs within the area covered by the proposed Text and Map Amendment ZC 25-13. I have been working on this matter through the year and participating in the discussions and resolutions with my ANC. (See separate letter submitted by ANC 3A on July 23, 2026, in this proceeding, and previous submissions in this case.)

My ANC was not expecting to be able to submit comments in this phase of the case because the original deadline occurred before our July meeting, but I was monitoring the Zoning Commission discussion at its July 16 meeting and appreciate the opportunity to submit comments during this additional week.

Though the ANC did not adopt official comments on the substantive details of OP Supplemental Report III at the ANC 3A Public Meeting on July 21, the Chair encouraged individual Commissioners to submit comments on our own. I am offering my comments as an individual, not as a representative of the ANC as a whole.

My comments deal with several aspects of OP Supplemental Report III and its proposed language covering the design review process outlined by the DC Office of Planning in that report:

- choice of thresholds for design review under ZC 25-13
- details of the proposed design review, including criteria, structure and timing
- plans and timing for the proceeding, including public participation

I have concerns about the contents of OP Supplemental Report III in regard to those elements and would pose additional questions that point to a need for further thought and work. It would be good for OP and the Zoning Commission to be able to consider the concerns at some point in the proceeding, after the initial vote if not before.

A. Thresholds for Design Review

- Properties of 15,000 square feet or more would be exempt from design review (NOT measured by the size of the project, but by the size of the lot/property).
- Projects with more than 33% deeply affordable housing would be exempt from design review. (*Those were both recommendations from Patrick McAnaney of Somerset Development.*)
- Properties with an historic landmark would be exempt from design review.

OP explains why it chose a property size of 15,000 square feet and up as the threshold for design review. OP concluded that threshold would minimize the burden on smaller properties and also minimize the regulatory burden on the Zoning Commission. OP also suggests that focusing on properties over that size would concentrate the design review on areas where the potential is greatest for building new housing. But OP does not explain why it chose to focus on the property size rather than the project size.

Impacts on the corridor and the community seem like they would logically be related to the project size. Though there would most likely be a correlation between the size of a property and the bulk of a proposed development on that property, it would not necessarily follow that projects on the largest properties would represent the greatest adverse consequences for the surrounding community. A very tall building on a much smaller site could have just as serious an effect. There's no discussion of the options. Supplemental Report III notes that OP had data on property size and had evaluated potential for development on the various properties in an earlier phase of the project so it had that data available to use. I can imagine that project size would not be known until a project is proposed.

Establishing a specific project size as a threshold for design review might mean that the affected areas could not be mapped in advance. That could be a drawback in anticipating how and where the process might come into play on the corridor in the future. But I think that still might be the more important variable to consider in assessing the potential impacts of a proposed development project on the neighborhood, environment, or corridor and the physical and operational functioning of the community. That is not discussed.

OP Supplemental Report III says that the properties that are proposed to be subject to design review would likely contain most of the new housing and expected affordable housing on the Wisconsin Avenue corridor through future years. There is no discussion in OP Supplemental Report III of whether the new design review would potentially discourage or inhibit projects that would represent the greatest addition to housing supply and affordable housing. Is this something that OP considered, and how did it assess the potential costs or benefits of that potential deterrent effect?

As far as affordable housing, some developers have said they couldn't afford to meet IZ+ requirements even at the current levels (16-20% in most cases). Would the proposed design review push prospective developers to smaller properties or other locations, or to smaller units, less open space, shortcuts on other amenities? Would they choose to try a Planned Unit Development instead of a "matter of right" project with design review? OP's material does not have any analysis of those considerations.

The other provision related to affordable housing is the exemption from design review for a project offering 33% or more of the units would be "deeply affordable." ANC 3A has encouraged more housing for low income and extremely low income households, and it would be good to see more deeply affordable units in Ward 3. It is not clear why 33% is chosen as the threshold in that provision, except that was the threshold that was suggested in a public comment. The reasoning for recommending an exemption from design review for a project with a high share of deeply affordable housing is that there are tight timelines for financing affordable housing developments and a design review could potentially stretch longer and conflict with the financing deadlines. That was an assertion in the public comment but there is no consideration of other potential approaches to meet the concern about meeting financing deadlines. It is not clear from any of the material in the record that a project with 33% or more deeply affordable units would necessarily represent fewer adverse effects on the corridor, environment, open space, pedestrian needs and safety, or physical or operational functioning of the neighborhood, which appeared to be the concerns that OP Supplemental Report III indicated were the basis for identifying potential thresholds for design review.

The other exemption for a property with an historic landmark is not sufficiently defined to determine where it might apply, but I would ask the same questions. It is not clear from any of the material in the record that a project with an historic landmark would necessarily represent fewer adverse effects on the corridor, environment, open space, pedestrian needs and safety, or physical or operational functioning of the neighborhood, which appeared to be the concerns that OP Supplemental Report III indicated were the basis for identifying potential thresholds for design review. Reviews by HPRB examine effects of proposed projects on an historic property itself, but do not consider effects on the surrounding properties, neighborhood, or corridor, so HPRB review would not duplicate or substitute for a design review with the objectives OP has described.

B. Elements of Proposed Design Review

OP Supplemental Report III adds new language about the elements that would be considered in a design review. However, for most elements there is no indication of how the Zoning Commission would decide if a criterion has been met or not (sensitivity to surrounding neighborhood/context, sensitivity to the environment, open space, pedestrian/traffic safety). The latest draft doesn't answer those questions. ANC

3A had urged more clarity and certainty in the provisions establishing the proposed new design review process but the new language does not appear to achieve that.

The proposed language also does not provide any descriptions of how the design review would work or what the chances would be for public participation.

In addition, Supplemental Report III does not specify a timetable for design review, either the time for public comments, time for review of comments, or time allowed before a final decision. That is something we asked for in our previous comments—more certainty on the timing and the criteria/standards for a design review. I would hope that any design review would allow affected members of the public to submit comments and have those comments heard and fully considered, while applicants for a project would also want to have their presentations fully considered. And all parties would want to know how long to anticipate that a design review would take.

NOTE: Under the proposal in OP Supplemental Report III, some properties in ANC 3A would be covered by design review requirements. That is a change from OP's previous proposal for design review that was focused on areas around the Friendship Heights and Tenleytown Metro. Constituents in ANC 3A might appreciate having an opportunity for design review of proposed projects on large properties in our area, though it is not clear from the OP language how much chance there would be for public comment or what kind of consideration the process would afford.

C. Plans and Timing for the Proceeding

At its July 16 meeting, the Zoning Commission noted that there will be another opportunity to comment on the proposed changes in ZC 25-13 – a “second chance” for public participation. That appeared to refer to the practice of having an initial Zoning Commission vote followed by public comments before a second Zoning Commission vote. That is something that my ANC has been expecting and we hope to be able to make use of the opportunity for public comment.

1. Provision for public comments on OP's latest recommendations for changes in zoning language

Based on the discussion at the Zoning Commission's July 16 meeting, it seems clear that OP staff, working with zoning staff, is continuing to refine the specific details set out in OP Supplemental Report III, which were not available for us to review or provide public comments during the present comment period (through July 23 at 3 pm). As the Zoning Commission Chair noted, OP staff will also not have an opportunity to review and respond to any comments submitted for the record during this one-week allowed for public comment (July 17-23). The Zoning Commission may review the new comments but without the benefit of OP's perspectives or recommendations on them, except in the course of the July 30 meeting.

If public comments were editorial only, that process could be sufficient. But when there are substantive issues still open and being raised in the comments, as I perceive is the case with ZC 25-13, that is a less than effective approach for hearing and incorporating the range and depth of public input on zoning changes with substantial consequences for hundreds of properties, thousands of residents and establishments, and a large area of the District.

The Zoning Commission always has choices, from making a decision with incomplete information to asking for more information, deferring a decision, restructuring a case or starting over.

a. Timing for public comments

If the Zoning Commission decides to go ahead with taking an initial vote at its July 30 meeting and going ahead with the structure for requesting comments on the language that is the subject of the vote and scheduling a time for a second vote, then there are additional options for what goes into the notice and what is chosen for the timetable.

I hope the Zoning Commission would:

- share the most complete possible material, including explanatory charts, maps, and other graphics to present the proposed Text and Map Amendment
- ensure that the notice and relevant material (above) will go to property owners on or adjoining the corridor, affected ANC's, and others who have participated in previous phases of the case
- establish a long enough comment period to allow ample opportunity for public review and comments

In December when ANC 3A was concerned that the Zoning Commission might take a first vote on OP Supplemental Report I, we urged that the Zoning Commission allow at least two months for public comment between votes, because we were going in to the holiday season when many people and organizations are off or not keeping regular work hours. The Zoning Commission currently plans to take up ZC 25-13 at its July 30 meeting before going into its August recess. Likewise, ANC 3A—like most ANC's—will be taking its August recess and will not have another scheduled public meeting until the third Tuesday of the following month which will be September 15. Every year there are District agencies that announce proposals and ask for comments during August and it is virtually impossible for our ANC and most ANC's to meet that kind of timetable.

For that reason, we have strongly recommended in past cases with District agencies that any public comment period that might normally last for a specified time NOT be initiated at the end of July or the beginning of August and/or that the comment period extend at least through September (and preferably through the ANC's October meeting, if it is a major issue), so the ANC can review the proposal, invite public comments before and during the September meeting, and have a full public discussion before voting on an official position and submitting comments. Certainly with this case, because it would have significant effects for community/ANC area, it would be best for any public comment period to extend until after our September, and possibly longer if we need time for a public presentation, discussion, and time for the ANC to review comments before we can take an official vote. (ANC 3A tries to follow the law and only take official positions by vote at a duly-noticed public meeting at which a quorum is present. We have not made phone calls or sent emails to DC agencies as official comments or requests, without a formal vote, unless there is a special circumstance where the agency asks us to follow a different process.)

We also take seriously our charge to hear and consider public comments. It is an important part of ANC's roles and responsibilities to share information with the community on matters such as the DC Office of Planning (OP) proposed Text and Map Amendments and Supplemental Reports to the Zoning Commission, along with opportunities for public comment and next steps in the process. I would like to be seeing fuller information sharing and public participation in the course of this and all similar proceedings around the District. The Zoning Commission is very good about seeking public comments and holding open public discussions. OP has a special responsibility with a text amendment such as rezoning a corridor because there are so many affected parties, beyond the ANC's and property holders along the defined sections of the streets and blocks in question, including those within 200 feet of the properties on the corridor.

I understood that OP sent notice of the proposed text and map amendment in Cleveland Park to all property owners along that corridor. The same was not done on Wisconsin Avenue, to property owners on Wisconsin or to owners of properties on adjoining streets or blocks. ANC 3A has numerous constituents, including residents in private homes that directly abut or face the blocks subject to rezoning for higher and more dense development. Most of them don't know about the proposed changes and haven't had a chance to comment. I would not want to go ahead with a change like this without informing them.

2. Information available to the public before submitting comments

ANC 3A had also asked in its comments in May that OP provide detailed maps with clear indication of the maximum height and density (FAR) that would be allowed on each property along the affected

sections of Wisconsin Avenue, and the applicable IZ+ requirements. That information is required when a text or map amendment is issued for comment, and should have been available with the initial Supplemental Report in ZC 25-13.

I have not seen such a map in any of the Supplemental Reports in this case. Supplemental Report III includes a list of the major parcels that would be subject to design review under its proposal, with the lot size, proposed maximum height, estimated number of residential units and required number of affordable units, which is helpful. But for many residents, seeing properties on a map is the best way to see where the various changes would apply. That should be possible to view from the first presentations of a proposed text amendment. Issuing the information at the time a proposed change is published in the DC Register is not sufficient to inform the public and allow full public participation and comment as a case progresses.

FINAL NOTES

ZC 25-13 is an important matter for ANC 3A and for the entire area. Virtually all constituents of the ANC will be affected by development of any scope on Wisconsin Avenue, both along the sections of the corridor within ANC 3A and in the other sections reaching north from Tenley Circle to Friendship Heights. We use Wisconsin Avenue and adjoining blocks as a main arterial for getting around, for public transportation, shopping, work, school, restaurants, entertainment, exercise, medical appointments, all types of business and recreation. And major development affects the “look and feel” of our community, the quality of life for residents and visitors, and the ability of the area to serve and welcome people from other parts of Washington as further commercial space, work opportunities and housing are created. All these things are significant for members of the public and members of the affected ANCs.

While there were numerous witnesses and comments on the OP. Supplemental Report, many of the participants raised substantive questions about the proposals and zoning language which it is my sense that no one has adequately answered. OP has provided some response in its subsequent Supplemental Report II, but in many cases the responses did not address all the requests for information or additional consideration, and Supplemental Report III goes forward with zoning language to put in place its proposed design review process that would apply to some development on the Wisconsin Avenue corridor, but has not explained how the process would work, how it would help to achieve the objectives that had been presented in the Wisconsin Avenue Development Framework or amplified in subsequent testimony and public comments, or provided sufficient clarity to allow anyone affected to really understand what would be needed to prepare for or get through a design review.

Why the Rush?

What is the reason for hurrying this case if the material is not ready and the public hasn’t had a chance to review it? The real estate market is at a low point. We are not aware of large market-rate projects ready to be launched, waiting for this proceeding to be concluded.

Maybe a Text and Map Amendment implementing the WADF is on a checklist for OP for this term. That is an administrative objective. The Zoning Commission may prefer to conclude a proceeding within a year but that must depend on whether all the necessary information has been gathered and the language is ready for a vote.

When we are dealing with a matter of substantial public importance that involves issues requiring thought and analysis and ample public consideration is it too much to ask that the public officials and bodies responsible for the decisions take the time needed to get the analysis, hear the comments, and weigh the options, informed by facts and experience and wise advice from experts in the fields involved. Everything about the economy, financial situation, real estate market, culture, society and government seems to be in

flux. Nobody seems to know what direction the nation or the region will be going. And ideas about where we should be going are at least as tentative and as disparate.

Why would this one set of zoning changes have to be pushed through right now, as though everything is normal and we all are on a secure path forward?

The DC Office of Planning will be developing a new DC Comprehensive Plan over the coming year. It has had a round of public surveys to try to form a “vision” for DC 2050. Now OP is doing more concerted outreach to the ANCs, communities and residents, to try to get more participation and input in the process. There may be changes in the structure and context for that effort as well. But it does provide a framework for weighing future land use maps and goals for development. That may be a more appropriate time to consider the special development areas and rezoning proposals that OP is putting forward in its proposals for the Wisconsin Avenue corridor.

The preliminary Future Land Use Map that OP issued in April incorporated the proposed special development areas that are part of the draft OP is including in ZC 25-13. In the proposed Text and Map Amendment, OP has chosen to recommend rezoning properties on the Wisconsin Avenue corridor to Mixed Use categories that allow buildings higher than the range outlined and anticipated under the existing Comprehensive Plan. The Comp Plan is supposed to guide zoning, but it seems like the process is working in the reverse order. Instead of implementing the guidance of the previous Comp Plan, which is what OP describes as the basis for the Text and Map Amendment in ZC 25-13, it is using the existing Comp Plan as the basis for proposing additional changes beyond what the 2021 Comp Plan established, which will then become part of the next Comp Plan.

The Supplemental Reports do not explain why that is recommended. Is it for the look of the community? Is it for the desired skyline of the District? Is it to match the density anticipated on the Maryland side of the District boundary? Is it driven by an assessment of break-even points in the real estate market, based on construction costs and potential returns? Is it to meet specific goals in housing construction and affordable housing? Or is it a goal that some parties have set and want to see carried out under the next Comprehensive?

Have the effects been evaluated and sketched out as far as open space and light and shade on the corridor and in surrounding blocks? What would it feel like to be on the sidewalk on upper Wisconsin Avenue if the corridor is fully built out Wisconsin Avenue? What would it look like for residents in the neighborhoods or blocks just off Wisconsin Avenue? How will the results match the appealing drawings and reassuring objectives presented in the Wisconsin Avenue Development Framework?

OP committed to building all the design objectives of the WADF into the standards it would propose for implementing the framework and guidelines—through building codes, public space regulations, and zoning regulations. But as OP recognized, those are blunt instruments reliant on precise language and the kind of objective standards that can be resolved by adjudicatory bodies and legal process where subjective judgments are not comfortable or practical. OP has recognized that challenge but has not figured out how to resolve it. The proposed design review process in OP Supplemental Report III has multiple criteria that are important, even essential to the promised design review, but do not have easy or readily available objective measures or standards. How would the Zoning commission decide cases using the subjective criteria? Is it a check-the-box system: The application included language so the criteria must be met? Or will there be a serious effort to evaluate the application for each of the criteria? It is not clear from OP Supplemental Report III, and I do not expect it would be possible to assess that from OP Supplemental Report IV. New material and analysis (and public comments) would be needed to get to that point.