

Ms. Schellin,

My name is Marc Poe, I live at 782 Columbia Rd, NW. I have been appointed by Tonya Williams to represent the party, formally the 'Park Neighbors', in this hearing. I acknowledge that our response must be related directly to the seven areas of concern, must not introduce new information, is limited to the existing record in Z.C. Case No. 16-11, and that the record remains closed.

The party consists of residents within 200 feet of the Bruce Monroe Park site (square 2890 -lot 849) directly affected by Zoning Order 16-11. On June 25, 2020, the District of Columbia Court of Appeals (the "Court") vacated and remanded this order for further proceedings. Within the limited scope of this hearing, we will show how the Zoning Map Amendments and related PUD continue to violate the Comprehensive Plan, even as amended.

1. *The proposed 90-foot high apartment building 'protrudes substantially' into a Neighborhood Conservation Area*

- The The Future Land Use Map (FLUM) of the Comprehensive Plan (CompPlan), was revised by Amendments 9933.1 and 9933.2 to change the land use designation of square 2890 from Local Public Facility. The north half of that square was to be designated as a mix of Medium-density Residential and Medium-Density Commercial (9933.2), while southern half would be designated as Moderate-Density Residential (9933.1). Since we are using the 1958 zoning regulations in this hearing, referring to 10A-226(e). *"The designation of an area with a particular land use category does not necessarily mean that the most intense zoning district described in the land use definitions is automatically permitted."* A zone is consistent with a land use designation when depending on the *'prevailing character of the area and adjacent uses*. The Generalized Policy Map (GPM) for this square, while also part of the CompPlan, has not changed since it was amended. The proposed ninety-foot high apartment would still protrude into a Neighborhood Conservation Area. And both it and the senior building would still be inconsistent with adjacent uses.

2. *The areas adjacent to the western portion of the PUD are designated moderate density, not medium density residential, because.*

- The FLUM also designates this area as **Moderate Density Residential**. By definition, this applies to areas 'characterized by a mix of single family homes, 2-4 unit buildings, row houses and low-rise apartment (DCMR 10A-225-1). Zone districts R3, R-4, and R-5-A are generally consistent with [this] category'. On the other hand, the senior building is more in line with the 'moderate density residential category' defined in 10A-225.5 as a 'mid-rise 4-7 story apartment building.' Therefore, the senior building is not consistent with the character of the surrounding area.

3. The ninety-foot-high building and the sixty-foot-high building are NOT generally consistent with the medium-density-commercial and moderate-density-residential designations on the FLUM.

- **(10a-226.1_)** (d) The zoning of any given area should be guided by the FLUM, interpreted in conjunction with the CompPlan. The area to the west of the proposed development, adjacent the senior building, is zoned R4 and has matter-of-right height limit of 40-feet. (11-DCMR-400.1). The area along Georgia Avenue is zoned C2A, which has a matter-of-right limit of 50 feet. Even if a PUD was approved in these zones, the heights would increase to a maximum allowed height of 60 and 65 feet, respectively. The Georgia avenue Corridor
- A building standing at nine stories is considered a high-density project according to all FLUM designations. “High-Density Commercial . . . is characterized by office and mixed office/retail buildings greater than eight stories in height” 10A DCMR § 225.11, while “High Density Residential... is used....where high-rise (8 stories or more) apartment buildings are the predominant use” 10A DCMR §225.6. In contrast, the ZC thinks the apartment building fits the Medium-Density Residential/Moderate Density Commercial FLUM designations and that these architectural features can be considered in determining the density of the apartment building “The proposed apartment house on the PUD Site will have eight stories and significant step-downs, which the ZC finds is consistent with the number of stories that could be built in the zone districts listed as being consistent with the Medium Density Commercial designation.” The Appeals Court has ruled that features such as step-downs that are designed to soften the appearance of a building, do not aid in conferring a particular use definition under the FLUM, “because the FLUM's definitions focus on buildings' actual physical characteristics rather than on how the building would look to an observer.” (*Durant v. District of Columbia Zoning Commission* 139 A.3d 880 (D.C. 2016)). The ZC’s flawed logic and interpretations regarding the FLUM and the scale and density of the project are in direct conflict with the language of the applicable regulations. Therefore, no conclusion stemming from those findings can be considered rational.

4. Identify record support for the statement that the senior building ‘mimics many other apartment houses that have built as infill developments in the area’ or forego reliance on that consideration.

- The FLUM, even with the recent amendments to the ComPlan, designates this area as moderate-density residential. An approved PUD in this zone would have permitted a building of up to 60-feet to be constructed. However, there are NO PUDs built in the jurisdiction adjacent to the proposed senior building that would allow this. Therefore, the ZC should forego reliance on this consideration.
- For the same reason, the ZC should forego reliance on zoning cases ZC 13-10 (3212 GA Ave.) and 10-26 (3221 GA Ave) as precedence for building the 90-foot apartment building as neither of these other buildings have been built.

5. As mentioned in the Appeals Court Opinion, the ZC failed to independently analyze and discuss whether the PUD and zoning map amendment would have adverse effects on the surrounding community.

- Passage of the CompPlan has not changed the surrounding community. It has not replaced century-old water mains, nor has it widened the streets to allow for greater traffic flow. It has not improved emergency response times for the area’s only level 1 pediatric trauma center. Or has it? We would never know from the 2-line email by former Deputy Fire Chief Tony Falwell, because a thorough investigation was never conducted by FEMS.
- The ZC has yet to address the adverse effects this building would have on the surrounding area. Nothing was submitted with the original application, and nothing the issue has not been addressed since the order was vacated. The Transportation impact study (Exhibit 33) submitted by Holland and Knight noted that the intersections around the development are currently at or near failing. That study also concluded that the crash rate at these intersections currently exceeds the level that would “trigger further study.” Yet no study has ever been conducted on what the future crash rate may be after 370+ additional residents and their vehicles are crammed into these 1.75 acres
- The Zoning Commission did not independently analyze and discuss whether the PUD is inconsistent with specific policies of the CompPlan. The DC reg 10A-226 states that Zoning is to be guided by the FLUM, which “is interpreted in conjunction with the text of the CompPlan, including the Citywide Elements and the Area Elements.” The Mid-city area elements of the amended CompPlan (2007.3) are very clear on specific policies regarding why building a 90-foot apartment building away from a Metro Rail station, on greenspace, in a neighborhood of row house runs counter to

the intent of the CompPlan . Yet the Zoning Commission never analyzes or discusses these issues:

1. The compPlan specifically states that more 3 and 4 bedroom units are needed to attract and retain families. *This development would provide four affordable 3-bedroom units out of the total of 270.*
2. New development should be directed to the areas... immediately adjacent to Metrorail stations. *This development would be exactly a half mile from both Columbia Heights and Petworth Metro Rail stations.*
3. Intact blocks of well-kept row houses should be zoned for row houses not for tall apartment buildings, and additional historic districts should be considered to preserve architectural character.
4. The mid-City community needs additional park land, and the area has a shortage of active play fields and recreational facilities.
5. 2009.4 The anticipated population growth further compounds the need for high-quality open space all recreation areas should be retained, and new recreation areas should be provided where possible.
6. 2008.8 "...encourage the use of historic preservation tax credits to rehabilitate older buildings for affordable housing."

Based on the language of the CompPlan itself, DC should be preserving greenspace along with the existing subsidized and 'naturally affordable' housing. Where Development is necessary, more 3-4 bedroom truly affordable housing units should be built. **The district doesn't need more 90-foot tall filing cabinet apartment buildings that do nothing but concentrate poverty while creating an incubator for the next pandemic.**

\

In addition to the points mentioned before, the Zoning commission must reject the zoning map amendment and associated PUD because for the following reasons:

- Most of the discussions have been about the PUD application, but this ZC order also included a Zoning Map Amendment. Any further discussion must also include how the changes to the zoning map amendment portion of this joint order are affected by the amendments to the CompPlan. For instance, the zoning order refers to the development occurring on 'part of square 2890, lot 849'. This lot no longer exists as it was subdivided into lots 119 and 120 on July 14, 2022 and signed by DMPED Brian Keener. (See Subdivision Book 0214 page 124). :
- The original intent for this project was to "serve as the 'build first' site for the Park Morton public housing site." This plan has since changed. DCHA has emptied Park Morton by doling out housing vouchers to the point where only 27 of the 175 units are occupied. This change to a builder-first approach is yet

Conclusion

- The ZC must reject the application as submitted because it no longer is consistent with either the comprehensive plan or the official zoning maps.
- The Applicant is offered the opportunity to find another site to build this monstrosity. It is no longer needed to renovate Park Morton, and it does not serve the public good.