



Council of the District of Columbia

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Chairperson
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Testimony of Brianne K. Nadeau, Ward 1 Councilmember

**FOR THE LIMITED PURPOSE OF EVALUATING THE FOLLOWING APPLICATION
UNDER THE UPDATED COMPREHENSIVE PLAN AND THE ISSUES ON REMAND
FROM THE DISTRICT OF COLUMBIA COURT OF APPEALS TO THE ZONING
COMMISSION**

**Z.C. Case No. 16-11 (Park View Community & the District of Columbia – Consolidated PUD &
Related Map Amendment (Square 2890, Part of Lot 849)**

HEARING DATE: OCTOBER 19, 2021

October 18, 2021

Chairman Hood and Members of the Zoning Commission,

I typically do not submit testimony on zoning cases, as I take very seriously Council's limited role in zoning decisions and the Zoning Commission's independent status. However, this is a limited scope hearing specifically on updated Comprehensive Plan policies that relate to case 16-11; seeing as amendment and approval of the Comprehensive Plan does fall within Council's land use purview, I have been advised that it is appropriate for a Councilmember to submit testimony for this hearing. This testimony should not be construed as the official position of the D.C. Council as a whole, in keeping with the advisory opinion of the Board of Ethics and Government Accountability on Letters of Support.¹

I continue to affirm my position as a strong proponent of this PUD. It is necessary to fulfill the replacement of public housing units at Park Morton and deliver much-needed additional affordable housing and community amenities. As deliberations of this body have shown, the density and site plan of the PUD are necessary to achieve these critical goals.

While recent amendments to the Comprehensive Plan are not required for approval of this PUD, they do serve to make clearer the PUD's consistency with the land use policy goals of the District of Columbia.

Council's amendments to the Comprehensive Plan address uncertainty that has led to delay and challenge of cases like 16-11, cases which meaningfully address the District's affordable housing crisis. The amendments elevate inclusive growth, fair housing, and housing affordability as high

¹ https://bega.dc.gov/sites/bega/files/publication/attachments/1040-001_-_Letters_of_Recommendation_Advisory_Opinion.pdf

priorities. I hope this testimony can shed light on several relevant sections in the amended Comprehensive Plan.

This case was remanded to the Zoning Commission to address the following seven points:

“(1) take into account that the ninety-foot-high building protrudes into a Neighborhood Conservation Area; (2) take into account that the areas adjacent to the western portion of the PUD are designated moderate-density residential, not medium-density residential; (3) take into account that the ninety-foot-high building and the sixty-foot-high building are not generally consistent with, respectively, the medium-density-commercial and moderate-density-residential designations in the FLUM; (4) either identify record support for the statement that the senior building “mimics many other apartment houses that have been built as infill developments in the area” or forgo reliance on that consideration; (5) independently analyze and discuss whether the PUD is inconsistent with specific policies, or would have adverse effects, timely identified before the Commission; (6) determine whether, in light of the Commission’s conclusions on these issues, the Commission should grant or deny approval of the PUD; and (7) explain the Commission’s reasoning in granting or denying approval.”²

It remains the task of the Zoning Commission to identify inconsistencies with the Comprehensive Plan and adverse effects of a PUD, weighing those against benefits. In my role, I wish to illuminate language related to points (1) (2) and (3).

Relevant Sections in the Amended Framework Element and Future Land Use Map

Several amendments to the Framework Element of the Comprehensive Plan, effective August 27, 2020, clarify the application of a Neighborhood Conservation Area in context with the rest of the Comprehensive Plan. First, the definition of Generalized Policy Map designations was amended to 1) indicate that development opportunities should still be anticipated in Neighborhood Conservation Areas, and 2) clarify that Neighborhood Conservation Areas necessitate policy treatment based on their context:

“Major changes in density over current (2017) conditions are not expected but some new development and reuse opportunities are anticipated, and these can support conservation of neighborhood character where guided by Comprehensive Plan policies and the Future Land Use Map.”³

“The guiding philosophy in Neighborhood Conservation Areas is to conserve and enhance established neighborhoods, but not preclude development, particularly to address city-wide housing needs. Limited development and redevelopment opportunities do exist within these areas. The diversity of land uses and building types in these areas should be maintained and new development, redevelopment, and alterations should be compatible with the existing scale, natural features, and character of each area. Densities in Neighborhood Conservation Areas are guided by the Future Land Use Map and Comprehensive Plan policies. Approaches to managing context-sensitive growth in Neighborhood Conservation Areas may vary based on

² Cummins v. D.C. Zoning Comm'n, 229 A.3d 768

³ Framework Element, 225.4

neighborhood socio-economic and development characteristics. In areas with access to opportunities, services, and amenities, more levels of housing affordability should be accommodated. Areas facing housing insecurity (see Section 206.4) and displacement should emphasize preserving affordable housing and enhancing neighborhood services, amenities, and access to opportunities.” (225.5, emphasis added)

The context of this PUD is an area that is both high in amenities (transit, schools, recreation) and one undergoing an acute crisis of housing insecurity and displacement. Between 2000 and 2016, the census tract containing this PUD site experienced a 15 percent decline in its low-income population, a trend that has persisted.⁴

The emphasis on housing affordability in 225.5 and throughout the updated Comprehensive Plan indicate the high priority for projects such as this that deliver a significant amount of affordable housing and replacement public housing, especially within Neighborhood Conservation Areas.

Council approved updates to Future Land Use Map definitions in the Framework Element, including a shift to using Floor Area Ratio to indicate density guidance rather than stories or feet, and a clarification that designations are intended to be “soft-edged.”⁵

Relevant to this case, the definition of Medium Density Residential was amended to read as follows:

“This designation is used to define neighborhoods or areas generally, but not exclusively, suited for mid-rise apartment buildings. The Medium Density Residential designation also may apply to taller residential buildings surrounded by large areas of permanent open space. Pockets of low and moderate density housing may exist within these areas, Density typically ranges from 1.8 to 4.0 [Floor Area Ratio]. FAR, although greater density may be possible when complying with Inclusionary Zoning or when approved through a Planned Unit Development.”⁶

Notably, amendments clarify that the analysis of PUD density is to be considered across an entire site rather than for individual buildings:

“In considering whether a PUD is “not inconsistent” with the Comprehensive Plan, it is appropriate to consider the context of the entire site, such as aggregating density on one portion so as to increase open space on another portion — achieving an overall density that is consistent with the Plan.”⁷

This PUD, given its balance of housing and open space, is just such a circumstance. The FAR of the project as a whole is well under 4.0.

⁴ <https://myottetm.github.io/USMapBoxIMO/USLwDispConc.html>

⁵ Framework Element, 228.1

⁶ Framework Element, 227.7, emphasis added

⁷ Framework Element, 224.7

At the recommendation of ANC 1A, Council approved two amendments to the Future Land Use Map: changing the northern part of the site from Institutional to Medium Density Commercial/Medium Density Residential; and a change on the southern part of the site from Institutional to Moderate Density Residential/Parks and Open Space.⁸

While the proposed land use, balanced against the rest of the Comprehensive Plan, was already compatible with the previous Future Land Use Map designation, these updated designations on the site more accurately and specifically reflect the intended use of the site.

Finally – but perhaps most importantly – the amended Framework Element names specific public benefits that should be considered high-priority when evaluating Planned Unit Developments:

“In light of the acute need to preserve and build affordable housing, described in Section 206, and to prevent displacement of on-site residents, the following should be considered as high-priority public benefits in the evaluation of residential PUDs:

- *The production of new affordable housing units above and beyond existing legal requirements or a net increase in the number of affordable units that exist on-site;*
- *The preservation of housing units made affordable through subsidy, covenant, or rent control, or replacement of such units at the same affordability level and similar household size;*
- *The minimizing of unnecessary off-site relocation through the construction of new units before the demolition of existing occupied units; and*
- *The right of existing residents of a redevelopment site to return to new on-site units at affordability levels similar to or greater than existing units.”⁹*

This PUD meets the standard of every single one of these high-priority public benefits; this is by design, as that list reflects the goals of the New Communities Initiative, of which ZC 16-11 is an essential part.

Relevant Sections in the Remainder of the Amended Comprehensive Plan

Outside of the amended Framework Element, there are components of the amended Comprehensive Plan, effective August 21, 2021, relevant to the case.

The court’s majority opinion notes that “placing a ninety-foot-high building across the street from two-story row houses seems clearly in tension with the policy reflected in 10-A DCMR § 309.10 (2020) (‘Carefully manage the development of vacant land and the alteration of existing structures in and adjacent to single family neighborhoods in order to protect low density character, preserve open space, and maintain neighborhood scale.’)¹⁰

⁸ Note: these amendments have been approved and are effective in statute. A final visualization of amendments to the Future Land Use Map has not yet been transmitted to Council by the Mayor for approval by resolution.

⁹ Framework Element, 224.9

¹⁰ Cummins v. D.C. Zoning Comm'n, 229 A.3d 768

That excerpt from the Comprehensive Plan, as amended, reads: “Carefully manage the development of vacant land and alterations to existing structures to be compatible with the general design character and scale of the existing neighborhood and preserve civic and open space.”¹¹

It is also clarified that the above excerpted language applies to “low-density neighborhoods and related low-density zoning.” More applicable to the context of this PUD might be an updated policy on moderate density rowhouse neighborhoods:

“Policy LU-2.1.7: Row House Neighborhood Character

*Respect the character of row house neighborhoods by ensuring that infill development is compatible with existing design patterns and maintains or expands the number of family-sized units.”*¹²

This language omits specific mention of “scale,” which acknowledges pre-existing variations in scale and dwelling type that have been historically permitted in neighborhoods like the area in question. While it is still the prerogative of the Zoning Commission to justify compatibility of new development in rowhouse neighborhoods, the emphasis is on design patterns and on maintaining a diverse unit mix, rather than on scale. Variation in building scale is a reasonable consequence of the District proactively addressing the need for housing.

Sections of the amended Comprehensive Plan also situate ZC 16-11 in the context of the District’s goals for transit-oriented development, vibrant commercial corridors, and publicly-owned site redevelopment, and the appropriate densities needed to meet those goals. Many of these amended sections lie in the Land Use Element. While not exhaustive, below are relevant passages:

“Policy LU-1.3.5: Public Benefit Uses on Large Sites

*Given the significant leverage the District has in redeveloping properties that it owns, include appropriate public benefit uses on such sites if and when they are reused, and involve the public in identifying benefits. Examples of such uses are housing, especially deeply affordable housing, and housing serving families, older adults, and vulnerable populations; new parks and open spaces; health care and civic facilities; public educational facilities and other public facilities; and uses providing employment opportunities for District residents.”*¹³

“Policy LU-1.4.6: Development Along Corridors

Encourage growth and development along major corridors, particularly priority transit and multimodal corridors. Plan and design development adjacent to Metrorail stations and corridors to respect the character, scale, and integrity of adjacent neighborhoods, using approaches such as building design, transitions, or buffers, while balancing against the District’s broader need for housing.”¹⁴

¹¹ Land Use Element, 310.12

¹² Land Use Element, 310.14

¹³ Land Use Element, 306.11, emphasis added

¹⁴ Land Use Element, 307.14

“...some major corridors well served by transit can support higher-density uses even farther away from the Metrorail station;”¹⁵

“Policy LU-2.1.13: Planned Unit Developments in Neighborhood Commercial Corridors
Planned unit developments (PUDs) in neighborhood commercial areas shall provide high-quality developments with active ground floor designs that provide for neighborhood commercial uses, vibrant pedestrian spaces and public benefits, such as housing, affordable housing, and affordable commercial space.”¹⁶

“New condominiums, apartments, and commercial development should be directed to the areas that are best able to handle increased density, namely areas immediately adjacent to Metrorail stations or along high-volume transit corridors. These areas are generally located around 14th and Park Streets NW, along the 14th Street NW corridor, along U Street NW — especially around the Metro station, along 7th Street NW and Georgia Avenue NW”¹⁷

It should be noted that while Georgia Avenue NW is often considered the more significant corridor, the site of PUD 16-11 also sits between Irving Street NW and Columbia Road NW, designated as an east-west bus priority corridor and part of WMATA’s frequent service network.^{18 19}

More specifically, the Mid-City Element and the Georgia Avenue Policy Focus Area within it contain sections relevant to the case:

“Policy MC-1.1.2: Directing Growth

Stimulate high-quality, transit-oriented development around the Columbia Heights, Shaw/Howard University, and U St./African American Civil War Memorial/Cardozo Metro station areas, as well as along the Georgia Avenue NW corridor and the North Capitol Street NW/Florida Avenue NW business district. Opportunities for new mixed-income housing developments that provide a greater mix of affordability as a result of a rezoning effort, neighborhood retail, local serving offices, and community services should be supported in these areas, as shown on the Comprehensive Plan Policy Map and Future Land Use Map.”²⁰

“Policy MC-1.1.7: Preservation of Affordable Housing

Strive to retain the character of Mid-City as a mixed-income community by preserving the area’s existing stock of affordable housing units and promoting the construction of new affordable units. Give attention to the most rapidly changing neighborhoods and encourage the use of historic preservation tax credits to rehabilitate older buildings for affordable housing.”
2008.8

“Action MC-2.1.E: Park Morton New Community

¹⁵ Land Use Element, 307.4, emphasis added

¹⁶ Land Use Element, 310.20

¹⁷ Mid-City Element, 2007.3

¹⁸ DDOT Bus Priority Corridors: <https://ddot.dc.gov/node/1499316>

¹⁹ WMATA Frequent Service Map, 2021:

https://www.wmata.com/initiatives/upload/Sept5MetrobusFrequencyMap_DC.pdf

²⁰ Mid-City Element, 2008.3

Continue redevelopment of Park Morton as a new community, replacing the existing public housing development with an equivalent number of new public housing units, plus new market-rate and moderate-income housing units, to create a new mixed-income community. Ensure that every effort possible is made to avoid permanent displacement of residents. Provide opportunities for Park Morton residents to access ownership opportunities on redevelopment sites and within the community.”²¹

The approved amendments to the Comprehensive Plan acknowledge that “NCI projects have taken significantly longer than anticipated and not always aligned with the expectations of the affected communities or commitments of the initiative to redevelop communities with older public housing into mixed income neighborhoods while avoiding the displacement of residents and a net loss of affordable housing.”²²

I strongly encourage the Zoning Commission to consider this and all future cases with a robust analysis of racial equity, as indicated in the updated Implementation Element of the Comprehensive Plan.²³ While it is up to the Zoning Commission to operationalize the guidance of the Implementation Element, the racial equity impact of PUDs should not be considered in a vacuum and must take into account the harms caused by the status quo, including rising housing costs in areas with insufficient affordable housing production.

The delay in delivery of new housing on this site has had a ripple effect of harms in the form of continued displacement and undue burdens on families at Park Morton. While there are divergent opinions on how best to address these impacts, it is my strong belief that expeditious affirmation of ZC 16-11 is the best way to meet previous commitments as well as expand benefits to Park Morton residents and the greater Lower Georgia Avenue community.

Outside of the Comprehensive Plan, Council has voted to enable development at this site on multiple occasions, including four votes on surplus and disposition, a contract approval, several budget votes, and a subtitle in the FY22 Budget Support Act that explicitly ties funds to the execution of ZC Orders 16-12 and 16-11. While the Zoning Commission is the ultimate arbiter of zoning decisions, I will continue to support this essential project where necessary and within the Council’s purview.

Regards,



Brianne K. Nadeau
Councilmember, Ward 1

²¹ Mid-City Element, 2011.14

²² Housing Element, 506.4a1

²³ Implementation Element, 2501.8