

Dear Zoning Commissioners,
Re: ZC Case Number 18-18 and 18-19

I am understanding that this hearing is merely a formality and that the decision to change current zoning for square 5860 and 5861 to the NHR Zone has already been made without the opportunity for public input. (Exhibit A). That withstanding, I have more substantive objections to the manner in which this process is going forward. This map amendment should be done as a PUD related Map Amendment and not as a Rulemaking map and text amendment. The site is already zoned for high density and mixed use, currently allowing 7.2 FAR with inclusionary zoning and 90-foot height limits. It is not like nothing can be built at squares 5860 and 5861. Something can, and what can be built was the result of numerous studies, public input, and a collaborative Comprehensive Planning process.

This proposed rulemaking merely allows what Redbrick tried to achieve in an earlier PUD (ZC Case No 16-29). I know Redbrick development has sought and received the cooperation of the Mayor's Office of Planning to increase height limits to 130 feet and FAR to 9.0. This represents a 44.4% height increase and a 25% density increase. While the land belongs to Redbrick and is private, when Redbrick purchased the land the site's use intensity was circumscribed by existing zoning laws. I am aware that changing those laws represent public land entitlements worth tens of millions of dollars to Redbrick and come at cost to the surrounding community. Studies show upzoning increases rents and leads to resident displacement as land prices respond to the upzoning before production of any affordable housing.¹ There is a process to grant these sort of public land entitlements. It is called the PUD process. Just because something is being called a rulemaking does not make it a rulemaking.

Again, this Zoning Commission already handled Redbrick's request to upzone squares 5860 and 5861 as a PUD. That matter is now being contested in the Court of Appeals and Federal District Court. I believe this rulemaking procedure is meant to silence the role of the judiciary and stifle governmental checks and balances. This proposed rulemaking is an adjudicatory proceeding done under legislative pretense and involves the rights of parties more than broad policy decisions. I believe this proceeding is illegal and I hope there will be more judicial action if this proposed rulemaking becomes final.

Neither ANC 8A nor ANC 8C is okay with this going forward without a stronger Community Benefits Agreement. ANC's represent the voice of the community and are the

¹Does Upzoning Boost the Housing Supply and Lower Pricing? Maybe Not, City Lab, Richard Florida <https://www.citylab.com/life/2019/01/zoning-reform-house-costs-urban-development-gentrification/581677/> (“[I]nstead of falling prices, as the conventional wisdom predicts, the study finds the opposite. Housing prices *rose* on the parcels and in projects that were upzoned, notably those where building sizes increased. Freemark identifies two key mechanisms by which upzoning acts to increase prices. First, the fact that upzoning registered so quickly in higher prices is a signal that land prices respond rapidly to the ability to build more units... what the [MIT] study does show, he added, is what happens on specific lots and areas that are upzoned. And that’s “where we should be concerned,” ...[Freemark] continued, because “those who worry that upzoning will increase prices in certain neighborhoods are likely being reasonable.””)

people that we elected to represent us.² In response to the two ANC Commissions' requests for a stronger CBA, Redbrick lets known yet another underhanded motive, beyond even dodging litigation, for handling this matter as a rulemaking proceeding:

"A Map Amendment is solely evaluated on its consistency with the Comprehensive Plan and may not be conditional on benefits and amenities". March 4, 2019, Letter from Applicant.

Redbrick does not want to negotiate with the community for the tens of millions of dollars of profit they will be receiving through *public* land entitlements resulting from this Map Amendment. Redbrick would rather negotiate a CBA based on a "design review", but we are not stupid. Negotiations based on a design review have less of Redbrick's capital at stake. All that is subject to negotiation in Design Review approval is piddling points about how the building looks or functions—nothing like major matters such as the 44% additional height and 25% additional density Redbrick is *requesting*, and importantly, is not entitled to.

I think it is racist and classist that the Mayor and the Office of Planning is making it policy to do these sorts of rulemaking proceedings in black and transitional communities. I am aware black and transitional neighborhoods are the only sorts of areas these sorts of "Rulemakings", which are a lot like PUD's, are being proposed—areas such as on Chicago St. SE (19-03), High St. SE (ZC Case 18-10), K St NE (ZC Case 18-07), and here at Poplar Point (ZC Case 18-19). I believe this is akin to theft from our communities as it takes away our ability to negotiate strong CBA's with developers, even as they displace residents, and begin re-segregating our communities to all white ones. By approving this application and others like it, the Zoning Commission is complicit in stealing from our community. Residents of Wards 1, 2, 3 and 6 would not tolerate 25% increases in density and 44% increases in height without the opportunity to be meaningfully heard. As a Ward 8 resident, I will not tolerate it either.

Redbrick should build "by-right" as any increases in zoning will destabilize my community. DHCD has not conducted a study on how this will impact the surrounding neighborhoods, especially as it relates to other coming development on MLK and near Anacostia Metro. Moreover, there have been no studies done on this proposal's environmental impact. The re-mapping will greatly intensify use on a flood plain contrary to active policy documents making it inconsistent with the Comprehensive Plan³. Nor has any DDOT study been done as to how the re-mapping will interact with the Frederick Douglass bridge which was designed for existing zoning. The lack of reports from agencies belies that this matter is not policy oriented and really only meant to effectuate the wishes of Redbrick to increase heights and density as set forth in ZC Case No 16-29. I strongly oppose this Map Amendment being done as a rulemaking procedure. I also strongly oppose the Map Amendment.

3/14/2019

Date

Aristotle Theresa, Esq

Print Name

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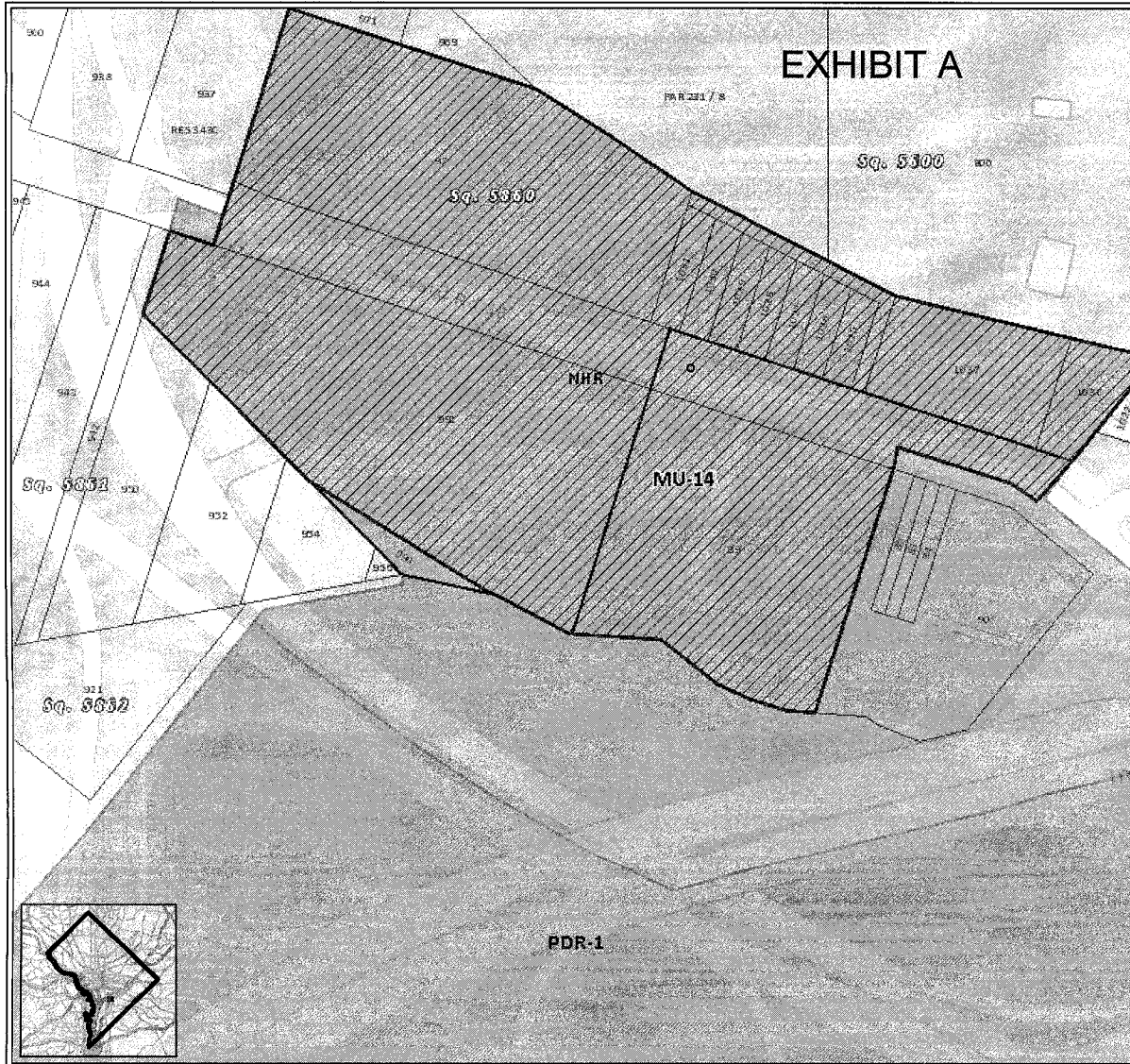
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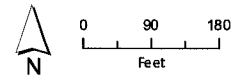
² On the other hand the zoning commission is an unelected body and should not be adjudicating under legislative pretense.

³ Climate Ready DC, pg 10, paragraphs 4 and 5.

EXHIBIT A



Zoning Map of the District of Columbia



Extracted from Online Zoning Information published by the District of Columbia Office of Zoning, DCGIS, and Office of the Chief Technology Officer (OCTO) Exported on: 3/11/2019

To certify zoning on any property in order to satisfy a legal requirement, contact the office of Zoning at the address listed below.

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