

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 19-25

Z.C. Case No. 19-25

Airdome, LLC

**(Zoning Map Amendment @ Square 982,
Lots 57, 65, 68, 70 & 823 [1101-1125 H Street, N.E.]**

April 27, 2020

Pursuant to notice, at its February 20, 2020 public meeting, the Zoning Commission for the District of Columbia (“Commission”) considered an application (the “Application”) by Airdome, LLC (the “Applicant”), for approval of an amendment of the Zoning Map from the NC-16 and MU-4 zones to the NC-17 zone for Lots 57, 65, 68, 70 and 823 in Square 982, with an address of 1101-1125 H Street, N.E. (the “Property”), pursuant to Subtitle X § 500.1 of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations (“DCMR”), Zoning Regulations of 2016, to which all references are made unless otherwise specified). The Commission considered the Application as a contested case pursuant to Subtitle A § 210 and Subtitle Z, Chapter 4. For the reasons stated below, the Commission **APPROVES** the Application.

FINDINGS OF FACT

I. BACKGROUND

NOTICE

1. On September 11, 2019, the Applicant mailed a notice of intent to file the Application to all property owners within 200 feet of the Property as well as Advisory Neighborhood Commission (“ANC”) 2E, the “affected ANC” pursuant to Subtitle Z § 101.8, as required by Subtitle Z §§ 304.5 & 304.6.(Exhibit [“Ex.”] 3G).
2. On December 26, 2019, the Office of Zoning (“OZ”) sent notice of the February 20, 2020, public hearing to:
 - The Applicant;
 - ANC 6A;
 - ANC Single Member District 6A02;
 - Office of ANCs;
 - DC Council;
 - Office of Planning (“OP”);
 - District Department of Transportation (“DDOT”);
 - Department of Consumer and Regulatory Affairs; and
 - Property owners within 200 feet of the Property (Ex. 16 and 17).

3. OZ published notice of the February 20, 2020, public hearing in the *D.C. Register* on December 27, 2019 (66 DCR 16559) as well as through the calendar on OZ's website. (Ex. 15 and 16.)

PARTIES

4. The only party to the case other than the Applicant was ANC 6A. The Commission received no requests for party status.

THE PROPERTY

5. The Property consists of 32,667 square feet of land area on the south side of H Street, N.E., between 11th and 12th Streets, N.E., with frontage on 11th and 12th Streets, N.E. (Ex. 3.)
6. All five lots of the Property are improved with structures as follows:
 - Lot 65 has a one-story commercial building;
 - Lot 70 has a two-story commercial building;
 - Lots 57 and 68 have five-story buildings devoted to residential use with ground floor retail; and
 - Lot 823 has a two-story commercial building. (Ex. 3.)
7. The Property abuts private property to the south, except Lots 57 and 68 which abut a public alley. (Ex. 3.)
8. H Street, N.E., where the Property is located, supports a wide variety of residential development, restaurants and bars, grocery stores, retail and service establishments, and art venues, and has ample public transportation in the form of Metrobus lines, the DC Streetcar, and the Metrorail accessed at Union Station. (Ex. 3.)
9. The development pattern surrounding the Property is characterized by higher density mixed-use development along H Street, N.E. (in the NC zones) and lower density, single-family row homes in the neighborhoods to the north and south of H Street, N.E. (in the MU, RA, and RF zones).

ZONING

10. Almost all of the Property is zoned NC-16, except for the southern portion of Lot 70 that is zoned MU-4 (approximately 1,464 square feet or 25% of Lot 70, and 4.5% of the Property). (Ex. 3, 3B, 11.)
11. The existing NC-16 zone is intended to permit mixed-use development at a moderate density with an emphasis on the provision of retail uses. (Subtitle H § 900.13.)
12. As a matter-of-right, the NC-16 zone permits:
 - A maximum density of 2.5 FAR (3.0 FAR for Inclusionary Zoning ("IZ" developments), of which no more than 1.5 FAR may be devoted to nonresidential uses, except that for new construction that preserves an existing façade constructed before

- 1958 both the maximum non-residential FAR and overall FAR are increased by 0.5 FAR; (Subtitle H §§ 902.1, 902.3, 902.4, 909.1(b).)
- A maximum height of 55 feet for new construction in the H Street Northeast Neighborhood Mixed-Use zones; and (Subtitle H §§ 903.1, 909.1(i).)
 - A maximum residential lot occupancy of 70% (75% for IZ developments). (Subtitle H § 904.1.)
13. The existing MU-4 zone is intended to permit moderate-density mixed-use development; provide facilities for shopping and business needs, housing, and mixed-uses outside of the central core; be located in low- and moderate-density residential areas with access to main roadways or rapid transit stops; and include office employment centers, shopping centers, and moderate bulk mixed-use centers. (Subtitle G § 400.3.)
14. As a matter-of-right, the MU-4 zone permits:
- A maximum overall density of 2.5 (3.0 FAR for IZ developments), of which no more than 1.5 FAR may be devoted to non-residential uses; (Subtitle G § 402.1.)
 - A maximum building height of 50 feet; and (Subtitle G § 403.1.)
 - A maximum residential lot occupancy of 60% (75% for IZ developments). (Subtitle G § 404.1.)
15. Properties fronting on H Street in close proximity to the Property are generally zoned NC-16, NC-17, and NC-14. (Ex. 3B.)
16. Properties abutting the rear of lots fronting H Street are generally zoned MU, RA, and RF. (Ex. 3.)

COMPREHENSIVE PLAN (TITLE 10A DCMR, THE “CP”)

Generalized Policy Map (“GPM”)

17. The CP’s GPM designates the Property as a Main Street Mixed Use Corridor, “a traditional commercial business corridor with a concentration of older storefronts”. The CP describes common features of these areas as:
- “...a pedestrian-oriented environment with traditional storefronts. Many have upper story residential or office uses. Conservation and enhancement of these corridors is desired to foster economic and housing opportunities and serve neighborhood needs. Any development or redevelopment that occurs should support transit use and enhance the pedestrian environment.”* (CP § 223.14.)

Future Land Use Map (“FLUM”)

18. The CP’s FLUM designates the Property for Mixed-Use Medium Density Commercial and Medium Density Residential. (Ex. 3E.)
19. The CP defines these designations as follows:
- Medium Density Residential - *“... neighborhoods or areas where mid-rise (4-7 stories) apartment buildings are the predominant use. Pockets of low and moderate density housing may exist within these areas. The Medium Density Residential designation also may apply*

to taller residential buildings surrounded by large areas of permanent open space. The R-5-B and R-5-C Zone districts [current RA-2 and RA-3 zones] are generally consistent with the Medium Density designation, although other zones may apply.” (CP § 225.5.)

Medium Density Commercial - “... *shopping and service areas that are somewhat more intense in scale and character than the moderate-density commercial areas. Retail, office, and service businesses are the predominant uses. Areas with this designation generally draw from a citywide market area. Buildings are generally larger and/or taller than those in moderate density commercial areas but generally do not exceed eight stories in height. The corresponding Zone districts are generally C-2-B, C-2-C, C-3-A, and C-3-B, [current MU-5A, MU-6, MU-7 and MU-8 zones] although other districts may apply.” (CP § 225.10.)*

Mixed-Use Categories - “*areas where the mixing of two or more land uses is encouraged ... and is generally applied to:*

- a. Established, pedestrian-oriented commercial areas which also include substantial amounts of housing, typically on the upper stories of buildings with ground floor retail or office uses;*
- b. Commercial corridors or districts which may not contain substantial amounts of housing today, but where more housing is desired in the future; and*
- c. Large sites where opportunities for multiple uses exist but a plan depicting the precise location of these uses has yet to be prepared.” (CP § 225.18.)*

Small Area Plan (“SAP”)

20. The Property is subject to the H Street, N.E., Strategic Development Plan, that encompasses 13 blocks and approximately 1.5 miles along H Street, N.E., from North Capitol to 17th Streets, N.E. The SAP encourages development and redevelopment along the H. Street, N.E., corridor to accommodate new uses through lot consolidation, modifying land uses and/or zoning for preferred development, encouraging new construction and preservation with building design and development guidelines, and diversifying land uses with mixed income housing.
21. The Property is also within the SAP’s Central Retail District, which extends from 7th to 12th Streets, N.E., and which identifies several sites, including the Property, as “appropriate for small scale redevelopment and infill development” that is intended to “contribute to the revitalization effort while maintaining the scale a character of the corridor”.

II. THE APPLICATION

PROPOSED ZONING

22. The Application, filed on October 30, 2019, requested to rezone the Property from the NC-16 and MU-4 zones to the NC-17 zone in order to facilitate the redevelopment of the Property with a new mixed-use development project. (Ex. 1-3.)

23. The intent of the NC-17 zone proposed for the Property is to permit mixed-use development at a moderate- to medium-density with an emphasis on the provision of retail uses. (Subtitle H § 900.14.)
24. The NC-17 zone permits the following as a matter-of-right:
 - A maximum overall density of 3.5 FAR (4.2 FAR for IZ developments), of which no more than 1.5 FAR may be devoted to nonresidential uses, with a 0.5 FAR bonus for new construction that preserves an existing façade constructed before 1958 for either residential or non-residential use; (Subtitle H §§ 902.1, 902.3, 902.4, and 909.1(b).)
 - A maximum height of 70 feet (75 feet for IZ developments) for new construction in the H Street Northeast Neighborhood Mixed-Use zones; and (Subtitle H §§ 903.1, 909.1(i).)
 - A maximum residential lot occupancy of 70% (80% for IZ developments). (Subtitle H § 904.1.)
25. The proposed map amendment would increase the Property’s development potential by:
 - 1.0 FAR for residential uses (1.2 FAR for IZ developments), with an additional 0.5 FAR for developments preserving pre-1958 facades;
 - 15 feet for building height (20 feet for IZ developments); and
 - 10% for lot occupancy (15% for IZ developments).

APPLICANT’S JUSTIFICATION OF RELIEF

Not Inconsistent with the CP

26. The Application asserted that the Application satisfied the requirements of Subtitle X § 500.3 because the Application was not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the Property. (Ex. 1-3L.)
27. **GPM** – The Application asserted that it is not inconsistent with the GPM’s Main Street Mixed Use Corridor designation because the proposed rezoning will:
 - Increase the residential density allowed on the Property while maintaining the same non-residential density as the existing zones;
 - Allow future redevelopment to both add housing units and encourage development of new commercial uses while generating additional pedestrian traffic to existing businesses; and
 - Encourage future redevelopment that would allow for improvements to the public realm adjacent to the property, thereby increasing pedestrian safety and the aesthetic appeal of the area.
28. **FLUM** – The Application asserted that the proposed rezoning would not be inconsistent with the FLUM’s designation of the Property for mixed-use Medium Density Commercial/Medium Density Residential because the proposed NC-17 zone:
 - Is intended to permit mixed-use moderate- to medium-density development;
 - Has identical building height, penthouse height, lot occupancy for IZ projects, and rear yard development standards and use permissions to those of the C-2-B (current

- (MU-5A) zone that the CP expressly identifies the MU-5A zone as compatible to a Medium Density Commercial designation; and
- Has a maximum FAR that matched that of the MU-5A zone, except for the 0.5 FAR bonus for redevelopment of a pre-1958 façade, which is still below the maximum permitted density of the MU-6, MU-7, and MU-8 zones that the CP describes as corresponding with the Medium Density Commercial designation.
29. **CP Elements** - The Application asserted that the proposed map amendment is not inconsistent with the CP elements as detailed below.
30. **Land Use Element** – The Application would facilitate better utilization of the Property by permitting greater height and density that will better serve the long term needs of the surrounding neighborhood and District as a whole; and would advance a number of policies in the Land Use Element including:
- Development Around Metrorail Stations; (CP § 306.11.)
 - Edge Conditions Around Transit Stations; (CP § 306.14.)
 - Infill Development; (CP § 307.5.)
 - Conserving, Enhancing, and Revitalizing Neighborhoods; (CP § 307.8.)
 - Promotion of Commercial Centers; (CP § 312.5.)
 - Hierarchy of Commercial Centers; (CP § 312.6.)
 - Encouraging Nodal Development; and (CP § 312.9.)
 - Scale and Design of New Commercial Uses; (CP § 312.10.)
31. **Transportation Element** – The Application would encourage higher density development of the Property along a major mixed-use “highly-trafficked and multi-modal transit corridor”; and would advance a number of Transportation Element policies including:
- Transit-Oriented Development; (CP § 403.10.)
 - Boulevard Improvements; and (CP § 404.6.)
 - Pedestrian Network. (CP §410.5.)
32. **Housing Element** – The Application would permit greater height and residential density allowing for the creation of more market rate and affordable housing units and would advance the following Housing Element policies:
- Private Sector Support; (CP § 503.2.)
 - Balanced Growth; (CP § 503.4.)
 - Mixed Use Development; and (CP § 503.5.)
 - Land and Building Regulations. (CP § 507.2.)
33. **Economic Development Element** – The Application would encourage mixed-use development on the Property with greater height and density than is currently permitted, resulting in additional commercial uses as well increased foot traffic to local businesses, and would advance the following Economic Development policies:
- Expanding the Retail Sector; (CP § 708.4.)
 - Neighborhood Shopping; and (CP § 708.7.)
 - Neighborhood Commercial Vitality. (CP § 713.5.)

34. **Urban Design Element** – The Application would allow for the redevelopment of underutilized sites with new, aesthetically pleasing buildings that would enhance the surrounding neighborhood along a major District corridor, and would advance the following Urban Design Element policies:
- Avenues/Boulevards and Urban Form; (CP § 906.6.)
 - Multi-Modal Avenue/Boulevard Design; (CP § 906.10.)
 - Priority Avenues/Boulevards; (CP § 906.11.)
 - Neighborhood Character and Identity; (CP § 910.6.)
 - Neighborhood Centers; (CP § 910.9.)
 - Infill Development; (CP § 910.15.)
 - Enhanced Streetwalls; and (CP § 913.13.)
 - Improving the Street Environment. (CP § 913.14.)
35. **Capitol Hill Area Element** – The Application would direct development towards the H Street, N.E., corridor, including “needed housing and retail services,” improvements to the public realm through high quality redevelopment all of which would facilitate the “renewal of H Street,” and would advance the following Capitol Hill Area Element policies:
- Renovation of Housing Stock; (CP § 1508.3.)
 - Upgrading Commercial Districts; (CP § 1508.4.)
 - Directing Growth; (CP § 1508.5.)
 - Transit Service; (CP § 1508.16.)
 - Façade Improvements; and (CP § 1508.17.)
 - H Street Streetcar. (CP § 1508.20.)
36. **SAP** – The Application asserted that it was not inconsistent with the SAP because the proposed map amendment would support the goals of both the SAP and of the Central Retail District, the SAP’s sub-area that encompassed the Property, by increasing the height and density available for development along the H Street, N.E., corridor, which would:
- Allow the redevelopment of an underutilized site with more neighborhood serving retail and mixed income housing;
 - Help attract private investment to the area; and
 - Encourage the renovation of existing buildings and compatible infill development.

The Transportation Study

37. The Applicant submitted on January 21, 2020, a transportation study (the “Transportation Study”), which concluded that the maximum development permitted under the proposed map amendment could be “accommodated without adverse impact to the surrounding roadway network” based on its determination that vehicle trips generated by the maximum build out under the proposed rezoning would not result in significantly higher trip generation than maximum build out under the existing zoning. (Ex. 20-20A.)

Public Hearing Testimony

38. At the February 20, 2020, public hearing, the Applicant:
- Presented an opening statement;

- Offered expert witnesses to respond to questions from the Commission;
 - Confirmed, in response to the Commission’s question, that if the Commission approved proposed rezoning, any proposed development on the Property in excess of 6,000 square feet would require design review approval from the Board of Zoning Adjustment (“BZA”) pursuant to Subtitle H § 910.1; and
 - Clarified, in response to the Commission’s question, that the ANC had categorized its support as “preliminary” because the ANC supported the proposed map amendment but did not want to approve a potential redevelopment of the Property until the development plans were finalized and submitted to the BZA.
- (February 20, 2020 Public Hearing Transcript [“Feb. 20 Tr.”] at 8-11, 14-16).

III. RESPONSES TO THE APPLICATION

OP REPORTS AND TESTIMONY

39. OP submitted two reports in support of the Application in addition to its public hearing testimony:
- A November 25, 2019, report (“OP Setdown Report”) recommending that the Commission set down the case for a public hearing; and (Ex. 11.)
 - A February 7, 2020, report (“OP Hearing Report”) recommending approval of the Application. (Ex. 22.)

OP Setdown Report

40. The OP Setdown Report concluded that the Application would not be inconsistent with the CP’s map designations and other policies because:
- The proposed map amendment would permit future development at a higher density that would allow for the creation of more housing units;
 - This additional housing would include more IZ units; and
 - This additional housing would help support nearby transit and businesses.

OP Hearing Report

41. The OP Hearing Report recommended approval of the Application based on OP’s determination that the proposed map amendment would be not inconsistent with the CP, including the GPM and FLUM designations and the citywide and area elements because:
- The additional height and density provided by the proposed rezoning would foster the development of additional housing units in support of the District’s housing goals;
 - The Property is “a targeted location in the Small Area Plan for adaptive reuse and infill development ... along a transit-rich, mixed-use corridor [that] would support development that would not be inconsistent with the medium-density, mixed-use development anticipated by the FLUM”; and
 - The proposed rezoning would be not inconsistent with the SAP because it would “promote new investment in future mixed-use infill development of the underutilized parcels, framed within the desired scale of development consistent with existing H Street design requirements”.

DDOT

42. DDOT filed a February 4, 2020, report (“DDOT Report”) stating no objection to the Application based on DDOT’s conclusions that: (Ex. 21.)
- The development of the Property with the most intense matter of right uses permissible under the proposed rezoning would likely not lead to a significant increase in the number of peak hour vehicle trips on the District’s transportation network;
 - The proposed rezoning would support nearby transit and generate additional pedestrian traffic for nearby businesses;
 - The Transportation Study’s analysis correctly concluded that the additional trips generated by the proposed map amendment “are expected to have a minimal impact on the transportation network”; and
 - DDOT would address parking supply and TDM measures during the permitting for specific developments under the new zoning.

ANC 6A

43. ANC 6A submitted a September 28, 2019, report (“ANC Report”) stating that at its regularly scheduled and properly noticed September 12, 2019, meeting at which a quorum was present, the ANC voted to preliminarily support the Application based on the ANC’s: (Ex. 4.)
- Concern that additional housing stock is much needed in the community;
 - Understanding that the proposed map amendment would provide additional housing; and
 - Condition that future development of the Property:
 - Conform with the H Street Design Guidelines;
 - Include restrictions on Residential Parking Permits in any condominium by-laws; and
 - Would increase the number of affordable units in the community.

PERSONS IN SUPPORT

44. No letters in support of the application were filed in the case record and no persons or organizations testified in support of the application at the public hearing.

PERSONS IN OPPOSITION

45. No letters in opposition to the application were filed in the case record and no persons or organizations testified in opposition to the application at the public hearing.

NATIONAL CAPITAL PLANNING COMMISSION (“NCPC”)

46. NCPC responded to the Commission’s referral of the Application for review and comment pursuant to the District of Columbia Home Rule Act of 1973, as amended (87 Stat. 790, Pub. L. No. 93-198, D.C. Code § 1-201 *et seq.*) with an April 1, 2020 letter stating that NCPC had determined that the Application is not inconsistent with the Comprehensive Plan for the National Capital and would not adversely impact any other identified federal interest. (Ex. 27, 28.)

CONCLUSIONS OF LAW

1. The Zoning Act of 1938, effective June 20, 1938, as amended (52 Stat. 797 ch. 534; D.C. Official Code § 6-641.01 *et seq.* (2012 Repl.)) (the “Zoning Act”) authorizes the Commission to create zones within which the Commission may regulate the construction and use of property in order to “promote the health, safety, morals, convenience, order, prosperity, or general welfare of the District of Columbia and its planning and orderly development as the national capital.” (§ 1 of the Zoning Act; D.C. Official Code § 6-641.01.)
2. Section 2 of the Zoning Act (D.C. Official Code § 6-641.02) further provides that:
“zoning regulations shall be designed to lessen congestion on the street, to secure safety from fire, panic, and other dangers to promote health and general welfare, to provide adequate light and air, to prevent the undue concentration and the overcrowding of land, and to promote such distribution of population and of the uses of land as would tend to create conditions favorable to health, safety, transportation, prosperity, protection or property, civic activity, and recreational, educational, and cultural opportunities, and as would tend to further economy and efficiency in the supply of public services. Such regulations shall be made with reasonable consideration, among other things, of the character of the respective districts and their suitability for the uses provided in the regulations, and with a view to encouraging stability for the uses provided in the regulations, and with a view to encouraging stability of districts and of land values therein.”
3. Pursuant to the Home Rule Charter, the District of Columbia Comprehensive Plan Act of 1989 (D.C. Law 8-129), and Subtitle A § 401.1, the Commission is charged with preparing, adopting, and subsequently amending the Zoning Regulations and Zoning Map in a means not inconsistent with the Comprehensive Plan.
4. Pursuant to Subtitle X § 500.3, the Zoning Commission shall find that map amendments are not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the Property.

NOT INCONSISTENT WITH THE COMPREHENSIVE PLAN (SUBTITLE X § 500.3)

5. The Commission concludes that the Application complies with Subtitle X § 500.3 because the proposed map amendment is consistent with the purpose of the Zoning Act and is not inconsistent with the CP, when considered in its entirety including its maps and policies, as supplemented by the SAP, as detailed below.

GPM

6. The Commission concludes that the Application is not inconsistent with the GPM’s Main Street Mixed Use Corridor designation because:
 - The proposed rezoning will increase the Property’s permitted overall density, including density for housing and affordable housing which will not only contribute needed units to the District’s housing supply but will contribute to the economic vitality of the H

Street corridor and generate positive economic benefits for new and existing businesses; and

- The Property is presently underutilized considering its proximity to the H Street, N.E., DC Streetcar line, multiple Metrobus routes, the Metrorail, and regional rail lines at Union Station, and the location along one of the District’s Great Streets (Findings of Fact (“FF”) 27).

FLUM

7. The Commission concludes that the proposed NC-17 zone is not inconsistent with the FLUM’s mixed-use Medium Density Commercial/Medium Density Residential designation because:
 - The NC-17 zone is specifically intended to permit “mixed-use development at a moderate- to medium-density”; and
 - The NC-17 zone’s development standards permit comparable height and density to other zones that the CP identifies as corresponding to the FLUM’s Medium Density Commercial designation. (FF 28.)

Land Use Element

8. The Commission concludes that the Application is not inconsistent with the Land Use Element because the proposed map amendment will:
 - Facilitate greater utilization of the Property that can better meet long-term neighborhood and citywide needs by permitting a greater height and density than allowed under the existing zoning; and
 - Facilitate the redevelopment of some or all of the Property which will improve the character, stability, and safety of the neighborhood, reinvigorate underutilized land, and therefore help to balance competing demands for land within the District. (FF 30.)

Transportation Element

9. The Commission concludes that the Application is not inconsistent with the objectives of the Transportation Element because the proposed map amendment will:
 - Not result in any adverse impacts to the District’s transportation network, even at maximum potential build out of the Property under the proposed rezoning, as confirmed by the Transportation Study and DDOT Report; and
 - Encourage redevelopment of the Property at a greater height and density than currently permitted along a major mixed-use and transit-oriented corridor, which will generate additional transit ridership and pedestrian traffic for the retail corridor, which will support the District’s goal of improving mobility through the District and enhancing access to the city’s mixed-use designations. (FF 31, 37, 43.)

Housing Element

10. The Commission concludes that the Application is not inconsistent with the Housing Element because the proposed map amendment will encourage the future reuse and redevelopment of the Property by permitting a greater height and residential density that can facilitate new market-rate and affordable housing to help realize the unmet demand throughout the city. (FF 32.)

Economic Development Element

11. The Commission concludes that the Application is not inconsistent with the goals of the Economic Development Element because the proposed map amendment will:
- Encourage the mixed-use growth at the Property, including commercial uses in the form of neighborhood serving retail uses; and
 - Allow additional residential density that will help to support new and existing businesses in the H Street Commercial Corridor (FF 33).

Urban Design Element

12. The Commission concludes that the Application is not inconsistent with the Urban Design Element because the proposed map amendment will:
- Encourage the redevelopment of underutilized sites with new, visually appealing structures that appropriately interact with the surrounding public streets and sidewalks and integrate new construction with the existing and recently developed improvements on the H Street corridor; and
 - Facilitate redevelopment of the Property that will prompt associated improvements to the surrounding public spaces and increased livability and neighborhood identity. (FF 34.)

Capitol Hill Area Element

13. The Commission concludes that the Application is not inconsistent with the Capitol Hill Area Element because the proposed map amendment will assist in achieving Area Element's planning and development priorities. The greater height and density afforded by the NC-17 zone will encourage development, including the establishment of new retail stores and affordable housing, on H Street which the Area Element specifically referenced as a corridor ripe for development. (FF 35.)

SAP

14. The Commission concludes that the proposed NC-17 zone is not inconsistent with the policies and goals of the SAP because the proposed map amendment will allow increased height and density that would attract new private investment, encourage the renovation of existing buildings, establish office and residential uses in upper stories, and promote infill development on the existing underutilized lots, all of which are goals encouraged by the SAP, and the Central Retail District specifically. (FF 36.)

“GREAT WEIGHT” TO THE RECOMMENDATIONS OF OP

15. The Commission is required to give “great weight” to the recommendation of OP pursuant to § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990. (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2018 Repl.); Subtitle Z § 405.8); *Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016.)

16. The Commission concludes that the OP Reports, which provided an-depth analysis of the Application, are persuasive and concurs with OP’s recommendation that the Property be rezoned to the NC-17 zone as discussed above. (FF 39-41.)

“GREAT WEIGHT” TO THE WRITTEN REPORT OF THE ANC

17. The Commission must give “great weight” to the issues and concerns raised in the written report of an affected ANC that was approved by the full ANC at a properly noticed public meeting pursuant to § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.); Subtitle Z § 406.2.) To satisfy the great weight requirement, the Commission must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).) The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” (*Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978) (citation omitted).)
18. The Commission finds the ANC Report’s concern to increase housing in the community persuasive and concurs, although the Commission notes that the ANC Report’s conditions are not relevant to a map amendment like the Application but instead relevant in a future BZA review of a specific development project. The Commission notes the ANC Report’s support for the Application and concurs with that judgments. (FF 43.)

DECISION

In consideration of the record and the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission concludes that the Applicant has satisfied its burden of proof and therefore **APPROVES** the Application to amend the Zoning Map as follows:

SQUARE	LOT	Map Amendment
982	57, 65, 68, 70, & 823	NC-16 & MU-4 to NC-17

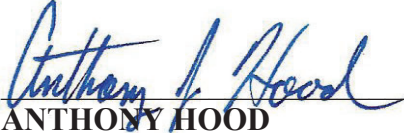
Proposed Action

Vote (February 20, 2020): **5-0-0** (Robert E. Miller, Peter A. Shapiro, Anthony J. Hood, Peter G. May, and Michael G. Turnbull to **APPROVE**)

Final Action

Vote (April 27, 2020): **5-0-0** (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, Peter G. May, and Michael G. Turnbull to **APPROVE**)

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 19-25 shall become final and effective upon publication in the D.C. Register; that is on September 11, 2020.



ANTHONY HOOD
Chairman
Zoning Commission



SARA B. BARDIN
Director
Office of Zoning

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.