

## **RESPONSE TO OFFICE OF PLANNING SUPPLEMENTAL REPORT OF APRIL 8, 2024**

TO: District of Columbia Zoning Commission

FROM: Homeowners Within 200 Feet of Lots 826 and 827 Party

DATE: April 15, 2024

SUBJECT: Post-hearing Response to OP's Supplemental Report: Zoning Commission Case No. 23-02

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### **BACKGROUND**

At the close of the public hearing on January 8, 2024, the Zoning Commission requested supplemental information from the Office of Planning. This information was finally provided, *in part*, three months later in OP's Post-Hearing Supplemental Report of April 8, 2024 (Exhibit #700).

Homeowners Within 200 Feet of Lots 826 and 827 Party provides the following initial feedback and conclusions based on the new evidence and material changes to the case described in OP's April 8, 2024 Supplemental Report.

We ask the Commission to consider giving opposition parties and their experts a chance to cross-examine and rebut OP about such fundamental changes to the record and to their shifting posture of their rezoning application.

### **INITIAL CONCLUSION**

The Homeowners Within 200 Feet of Lots 826 and 827 Party asks the Zoning Commission to **deny MU10 anywhere on this site** as inconsistent with the Comp Plan and maps.

And, in light of the new zoning analysis in OP's Supplemental Report, the Zoning Commission has the authority to ask OP to amend their application so the Commission may **approve a split zone for Square 175 Lots 826 and 827, where the northern half of the site remains MU4 (with Seaton Street demarcating the east-west boundary aligning with the Generalized Policy Map) and the southern half is rezoned MU5A.**

See more of the basis for this initial conclusion below.

#### **Other Zones/Two Zones:**

One of the areas of additional information requested was the appropriateness and compatibility in terms of height and density of other zones than the proposed MU10 zone for the subject site.

The Office of Planning's response acknowledged that other, less intense zones *would not be inconsistent* with the Comprehensive Plan, thus providing the Zoning Commission with options other than rezoning the site to MU10.

*“The alternate zones, MU8 and MU5A would still be considered “not inconsistent” with the Future Land Use Map designation for mixed use high-density residential/moderate density commercial and Local Public Facilities”. [Exhibit #700, p.1]*

The Office of Planning also acknowledged that splitting the site into two zones, where one of the zones remained MU4, *would also not be inconsistent* with the Comprehensive Plan.

*“...if [MU4 were] used in combination with another medium mixed-use zone the site, on balance, the site’s zoning could be consistent with the FLUM and the General Policy Map’s designation of Neighborhood Conservation along the northern portion of the site.” [Exhibit #700, p.1]*

The party of Homeowners Within 200 Feet of Lots 826 and 827 has always contended that compatibility with the surrounding area, which consists not only of a Neighborhood Conservation Area but two historic districts, as well, is of major concern. OP’s analysis of splitting the site between two zones and still remaining not inconsistent with the Comprehensive Plan addresses that concern, at least in terms of height and density. (We still have concern over the lack of impact studies and the uncertainty of the future of the public safety and EMS facilities currently located on the site.)

It’s clear from all the testimony provided in opposition to this proposed map amendment to rezone the entire site to MU10 that neighbors and the public at large would overwhelmingly have engaged with OP to collaboratively come up with a mutually agreeable proposal for this site, if they had been asked.

The potential for other, less intense zones at this site was never proposed or discussed with us or offered as an option. And the community, through our ANCs, was told that split zoning was not possible.

OP’s Post-Hearing Report now makes it clear that other zoning options *do* exist and would be not inconsistent with the Comprehensive Plan. This is completely new information for the record.

**In light of this, we now request that the Zoning Commission take all this new zoning analysis and information from OP’s Post-Hearing Supplemental Report into account and approve a split zone for Square 175 Lots 826 and 827, where the northern half of the site remains MU4 and the southern half along U Street NW is rezoned to MU5A.**

The MU4/MU5A split zone option would protect the Neighborhood Conservation Areas and Historic Districts that surround the site, not be inconsistent with the Comprehensive Plan, and still allow for new development along U Street NW.

MU10 anywhere on the site was opposed by all the previous testimony given in opposition, arguing that MU10 is, on balance, inconsistent with the Comprehensive Plan. An MU8 zone raises concerns, as well, since its development standards allow for 100% lot occupancy. Lot occupancy was not addressed in OP’s Post-Hearing Supplemental Report, nor was the overwhelming impact 100% lot occupancy at this zoning level would have on the neighborhood of largely low-rise row houses.

#### **SEATON STREET IS THE NATURAL EAST-WEST DEMARCATION**

**We further request that the demarcation line dividing the northern and southern halves of the site along its western boundary be Seaton Street NW**, and not the alley behind the homes on the northern side of Seaton Street NW. Seaton Street homes are included in the Neighborhood Conservation Area that

OP's Post-Hearing Supplemental Report pointed to in its two zone analysis on p.2 of its report. "For the northern portion of the site fronting V and Seaton Streets, consider a less intensive zone ...". [Exhibit #700, p.2] These homes are also within the same RA2 zone as the five row houses along 17th Street NW that OP cited on p.3 of its Post-Hearing Supplemental Report in its two-zone analysis. [Exhibit #700, p.3]. The suggestion of using the alley (marked in red in OP's figure on p. 3 of its Post-Hearing Supplemental Report) appears to be arbitrary and *inconsistent* with both the General Policy Map designation of the area's Neighborhood Conservation Area and the District's Zoning Map.

Figure 1 below shows the western portion of the General Policy Map's U Street Corridor. The U Street Corridor extends north from U Street NW only as far as Seaton Street NW, and not to the alley just north of Seaton St. (See the red arrow in Figure 1 below.).

That clearly puts the houses on the north side of Seaton Street NW within the same Neighborhood Conservation Area as the five houses to their north along 17th Street NW and deserving of zoning protection, as well.

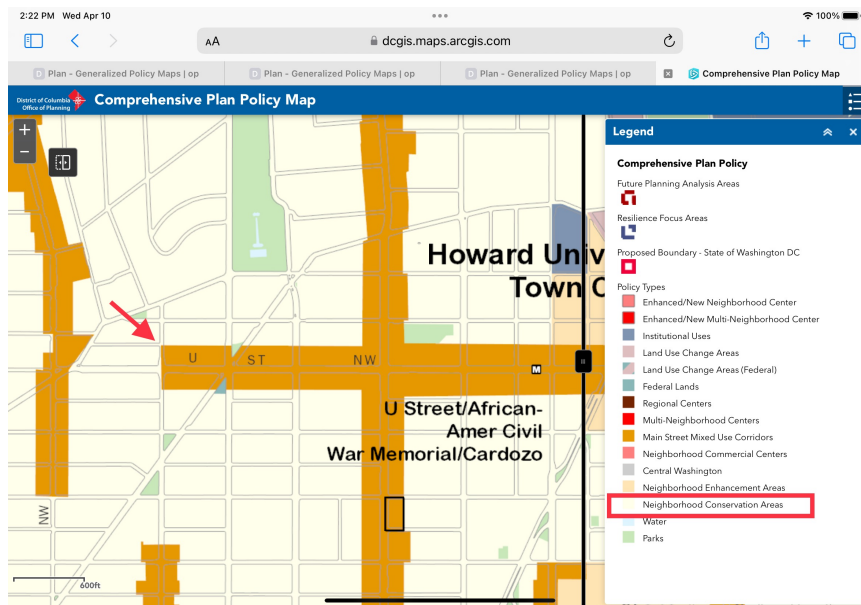


Figure 1 General Policy Map

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Figure 2 below shows the District’s official zoning map.

The red circle indicates the houses on the northern corner of Seaton Street NW and 17th Street NW and clearly shows that they sit within the same RA2 zone as the five 17th Street NW houses cited by OP on p.3 of its Post-Hearing Supplemental Report (indicated by the blue square).

The houses on the southern corner of Seaton Street NW and 17th Street NW are in a different zone, MU4.

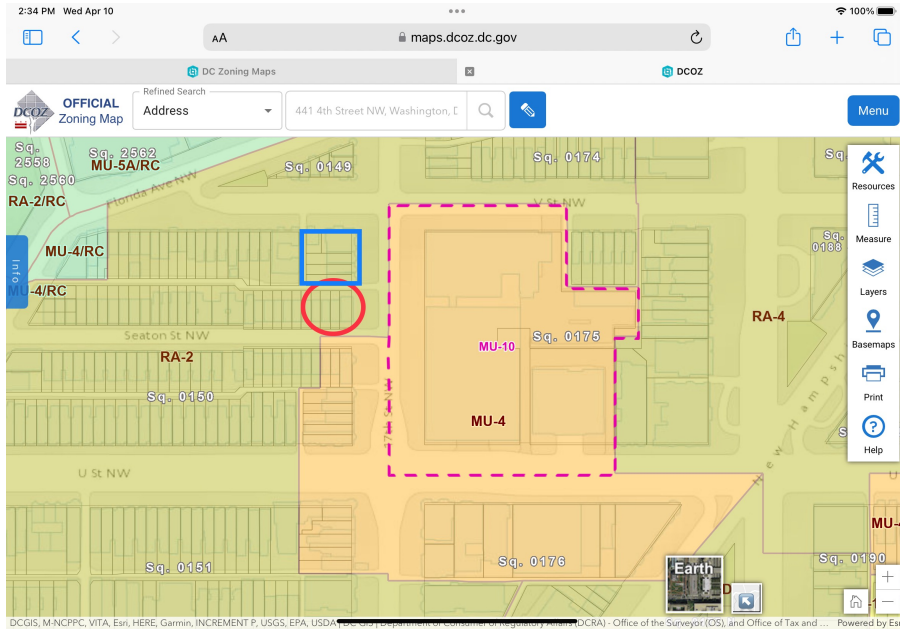


Figure 2 DC Zoning Map

Therefore, from both a zoning perspective and an effort to preserve a neighborhood Conservation Area, the obvious choice for splitting any proposed rezoning site would be at Seaton Street NW — not the alley to the north of it, as proposed by OP. A Seaton St NW demarcation line would protect the Neighborhood Conservation Area, acknowledge the current RA2/MU4 boundary line, and, thus, be *consistent* with the General Policy Map and the District’s Zoning Map.

### **Housing:**

Another area addressed by OP in its Post-Hearing Supplemental Report was the issue of housing.

It is important to note that *any new housing constructed on this site would be significant* regardless of what zone districts are remapped to the site because there is currently no housing at Square 175, Lots 826 and 827.

Therefore, Comparing the ‘loss’ of housing units between one potential zone and another, as OP did on p.2 of its Post-Hearing Supplemental Report, should not, in the position of the Homeowners Within 200 Feet of Lots 826 and 827 Party, be a major factor in determining a new zone for this site. It is our position that compatibility with the surrounding area, as prescribed by the Comprehensive Plan’s policies on Neighborhood Conservation and Conservation of Row House Neighborhoods (Policies MC-1.1.1 and MC-1.1.5)\*, is more significant and should ultimately determine the number and type of housing units built, not the other way around where housing numbers dictate zoning.

OP also referenced the Comprehensive Plan’s policy of co-locating housing with public facilities. (Exhibit #700, p.7). This policy, Policy CSF-1.1.9, supports co-location “...*provided that the uses are functionally compatible with each other...*”. OP stated in its Closing Statement of March 25, 2024 (Exhibit #696, p.1) that “[The site] ... will continue to be occupied by, the Metropolitan Police Department (MPD) Third District Police headquarters and by Fire and Emergency Services (FEMS) Engine Company 9 and its related uses”. If true, then are we to assume that OP’s estimates on housing units were based on the construction of housing units above the police station facilities? Nowhere in the case record have either supporters or opponents of this proposed map amendment been able to cite any instances of where housing has been built above a police facility or that they are “compatible with each other”. Housing unit estimates, again, should not be a major driving factor in the Zoning Commission’s decision in this case. They are interesting, but questionable.

#### **HOMEOWNER’S INITIAL CONCLUSION**

The Homeowners Within 200 Feet of Lots 826 and 827 Party asks the Zoning Commission to **deny MU10 anywhere on this site** as inconsistent with the Comp Plan and maps. And, in light of the new zoning analysis in OP’s Supplemental Report, the Zoning Commission has the authority to ask OP to amend their application so the Commission may **approve a split zone for Square 175 Lots 826 and 827, where the northern half of the site remains MU4 (with Seaton Street demarcating the east-west boundary aligning with the Generalized Policy Map) and the southern half is rezoned MU5A.**

As OP’s Supplemental report has demonstrated, a split zoning approach allows the Commission to rezone the site in a way not inconsistent with the Comp Plan and on balance helps mitigate harm to the surrounding community.

Respectfully submitted by,

Arlene Feskanich

Representative for the Homeowners Within 200 Feet of Lots 826 and 827

*Footnotes:*

- 10A DCMR = Title 10A of the DC Municipal Regulations = DC Comp Plan (2021)

2008.2 Policy MC-1.1.1: Neighborhood Conservation

Retain and reinforce the historic character of Mid-City neighborhoods, particularly its mix of row houses, apartment houses, as well as historic districts, and walkable neighborhood shopping districts. The Planning Area's squares, alleyways, and historic alley lots offer opportunities for preservation and creative development. The area's rich architectural heritage and cultural history should be preserved and enhanced.

- 2008.6 Policy MC-1.1.5: Conservation of Row House Neighborhoods

Recognize the value and importance of Mid-City's row house neighborhoods as an essential part of the fabric of the local community. Ensure that the Comprehensive Plan and zoning designations for these neighborhoods reflect the desire to retain the row house architectural pattern. Zoning and policy in Mid-City's row house neighborhoods should seek to maintain and augment the mix of large and small unit sizes and opportunities for both homeownership and renting, as exemplified by the use of English basements as separate dwelling units. See Policy LU-2.1.7 and Policy LU-2.1.9 for more guidance on alterations to row houses