

GOVERNMENT OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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REGULAR PUBLIC HEARING

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THURSDAY

JANUARY 23, 2023

+ + + + +

The Regular Public Hearing of the District of Columbia Zoning Commission convened via teleconference, pursuant to notice at 4:00 p.m. EDT, Anthony Hood, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairperson
ROBERT MILLER, Vice Chairperson
PETER MAY, Commissioner
JOSEPH IMAMURA, Commissioner

OFFICE OF ZONING STAFF PRESENT:

SHARON SCHELLIN, Secretary
PAUL YOUNG, Zoning Data Specialist

OFFICE OF ZONING LEGAL DIVISION STAFF PRESENT:

JACOB RITTING, ESQUIRE

The transcript constitutes the minutes from the Regular Public Hearing held on January 23, 2023.

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T-A-B-L-E O-F C-O-N-T-E-N-T-S

Case No. 22-20

1301 Good Hope Road, LLC 5

P-R-O-C-E-E-D-I-N-G-S

(2:00 p.m.)

CHAIRPERSON HOOD: Good afternoon, ladies and gentlemen. Today's date is January 23rd, 2023. We are convening and broadcasting this public hearing by video conferencing. My name is Anthony Hood and I'm joined by ViceChair Miller, Commissioner May, and Commissioner Imamura. We're also joined by the Office of Zoning staff Ms. Sharon Schellin and Mr. Paul Young, as well as the Office of Zoning's legal division, I'm not sure who's going to join us, but I guess they'll join us at the appropriate time. I will ask all others to introduce themselves at the appropriate time.

The virtual public hearing notice is available on the Office of Zoning's website. This proceeding is being recorded by a court reporter and the platforms used are Webex and YouTube Live. The video will be available on the Office of Zoning's website after the hearing. All persons planning to testify should have signed up in advance and will be called by name at the appropriate time. At the time of signup all participants will complete the oath or affirmation required by Subtitle Z 408.7. Accordingly, all those listening on Webex or by phone will be muted during the hearing, and only those who have signed up to participate or testify will be unmuted at the appropriate time.

When called, please state your name and home address before providing your testimony. When you are finished speaking,

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1 please mute your audio. If you experience difficulty accessing
2 Webex or with your telephone call-in or have not signed up, then
3 please call our OZ hotline number at 202-727-0789. If you wish
4 to file written testimony or additional supporting documents
5 during the hearing, and please be prepared to describe and discuss
6 it at the time of your testimony.

7 The subject of today's hearing is Zoning Commissioner
8 Case No. 22-20, 1301 Good Hope Road, LLC, map amendment at Square
9 5768, Lot 808, 1916 13th Street, S.E. Again, today's date is
10 January 23rd, 2023.

11 The hearing will be conducted in accordance with
12 provisions of 11 ZDCMR Chapter 4 as follows: preliminary matters,
13 applicant's case -- I know the applicant has mentioned that they
14 could probably stand on the record or they could give a
15 presentation, I've asked them to give us a very brief presentation
16 for the public. I don't believe there's any opposition in this
17 case, at least not the record; I didn't see any. So we will move
18 in that fashion. Also we'll have the report of other government
19 agencies, report of Department of Transportation, and after all
20 that, we will have the report of the Office of Planning, report
21 of the ANC -- I'm not sure if the ANC's here, but I know we have
22 Commissioner McKinney from ANC 8A who will be representing the
23 ANC 8A -- testimony of organizations five minutes and individuals
24 three minutes. And we will hear in the following order from
25 those who are in support, opposition, and undeclared. Then we'll

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1 have rebuttal and closing by the applicant.

2 Again, the OZ hotline number is 202-727-0789 for any
3 concerns during these proceedings. At this time, the Commission
4 will consider any preliminary matters. Does the staff have any
5 preliminary matters?

6 MS. SCHELLIN: Yes. If Mr. Young could bring in Mr.
7 Ritting, that would be great, as a panelist.

8 So there are no expert witnesses. It's actually very
9 simple. Paul Tummonds and his applicant representative, Byron
10 Wells, are the applicant's team. And my understanding is they
11 will take five minutes. So that's all I have for you.

12 CHAIRPERSON HOOD: Okay. Thank you. I would just ask
13 in five minutes to mainly specify what you're doing for the
14 public. I didn't see any -- it looks like it's a lot of support
15 here.

16 And I'd just note, Mr. Ritting, the reason you had
17 problems getting in is because I had a little something to do
18 with that, so. So I wanted to make sure you had problems getting
19 in.

20 Anyway, so we'll wait to hear from Mr. Tummonds. 'Cause
21 you know what I'm talking about.

22 MR. TUMMONDS: Good afternoon, Mr. Chairman, members
23 of the Commission. I'm Paul Tummonds from Goulston & Storrs,
24 (indiscernible) counsel on behalf of the applicant. As we noted
25 in our pre-hearing statement that was discussed today, we are

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1 seeking approval of zoning map amendment application for a very
2 small property, it's only 2,160 square feet, it's located at 1916
3 13th Street, S.E. in the Anacostia Historic District, in close
4 proximity to the Good Hope Road, S.E. business community. This
5 application will rezone the property from the RA-3 to the MU-4
6 zone, which will allow for commercial and residential uses on the
7 site. As noted in the applicant's statement in support of the
8 application, the proposed MU-4 zone is consistent with the future
9 land use map designation, generalized policy map designation for
10 the site, as well as numerous policies of the land use, economic
11 development in the far southeast-southwest area element to the
12 comprehensive plan. This application has the support of ANC 8A,
13 OP, and DDOT. The -- I might -- the purpose behind this map
14 amendment is to allow a office use on the site. As noted in our
15 statements, the applicant, which is an affiliate of the Menkiti
16 Group, intends to lease this property for minimal nominal value,
17 one cent, to the CPMG Foundation, so that they can use this
18 property for office use. That office use is entirely consistent
19 with the MU-4 zone. We are -- we think that is probably going a
20 long way to the support that this application has, the support
21 of ANC 8A. So based on these factors, we are available -- or
22 we're basically somewhat resting on the record. And Mr. Wells,
23 on behalf of the applicants and the Menkiti Group is here to
24 answer any further questions that you may have.

25 CHAIRPERSON HOOD: Thank you, Mr. Tummonds and team,
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1 it's always good when -- first, to give back, Menkiti Group and
2 others, and also good when a lot of the legwork is done. It
3 makes our jobs a little easier and we can stick really with the
4 zoning piece of it. So let me open it up for any questions or
5 comments.

6 Commissioner May?

7 COMMISSIONER MAY: I do not have any comments or
8 questions. Thank you.

9 CHAIRPERSON HOOD: Commissioner Imamura?

10 COMMISSIONER IMAMURA: Mr. Chairman, the record seems
11 pretty clear to me, so I don't have any questions.

12 CHAIRPERSON HOOD: Okay.

13 And Vice Chair Miller?

14 VICE CHAIR MILLER: Thank you, Mr. Chairman. And thank
15 you, Mr. Tummonds, for bringing this application forward, which
16 seems to be not inconsistent with the comprehensive plan -- zoning
17 map -- proposed zoning map amendment from R-3 to MU-4, seems to
18 be very consistent with the comp plan land use map designation
19 of medium density mixed use, which is what's -- which is the
20 designation all around that side of the street and also the main
21 street -- I think it's a main street on the policy map, is that
22 right? Main Street, mixed use. So I guess I have no questions.
23 I'm prepared to move forward.

24 CHAIRPERSON HOOD: Okay. Thank you.

25 Ms. Schellin, do we have anybody here from the agency?

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1 MS. SCHELLIN: We do not.

2 CHAIRPERSON HOOD: Okay.

3 All right. Let's keep right on moving this.

4 Let's go to -- do we have anyone here from any
5 government agencies?

6 VICE CHAIR MILLER: Mr. Chairman, you want to note that
7 the ANC 8A's letter is at Exhibit 12 and is in support? You
8 probably were going to do that at another time, but.

9 CHAIRPERSON HOOD: It's number five, Vice Chair, that's
10 number five on my agenda.

11 VICE CHAIR MILLER: Okay.

12 CHAIRPERSON HOOD: I was -- yeah, I'm going to probably
13 get an ANC --

14 VICE CHAIR MILLER: You want questions to the
15 applicant, okay. Got it.

16 CHAIRPERSON HOOD: Yeah, yeah. So we don't have anybody
17 here from the ANC, and, Vice Chair, since you mentioned that, we
18 can get ready, we can do the correspondence to the ANC. You can
19 let us know what the letter says.

20 So we don't have anybody, reports from the OAG, do we
21 have a report from the Department of Transportation or Office of
22 Planning. I'm sorry, let's go to Office of Planning. Mr.
23 Mordfin?

24 MR. MORDFIN: Hi. Good afternoon. I'm Stephen Mordfin
25 with the Office of Planning. And I would just like to clarify

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1 some information from the set down report that the subject
2 property is, in fact, in Ward 8, and as such, the black household
3 income between 2017 and 2021 was 36,250, and the white household
4 income for the same period was \$139,077. And lastly, that 51
5 percent of the households within Ward 8 were cost burdened. That
6 said, the Office of Planning recommends approval of this
7 application. I'm available for questions. Thank you.

8 CHAIRPERSON HOOD: I did -- let me just say this -- I
9 did misspeak -- we do have a letter in opposition and we can
10 speak to that when we get there. So I did misspeak. There was
11 one letter in opposition to this.

12 All right. Any questions of the Office of Planning?
13 Okay. Not hearing anyone saying anything.

14 Again, Ms. Schellin, does the applicant have any, Mr.
15 Tummonds, you have any questions of Office of Planning?

16 MR. TUMMONDS: No questions.

17 CHAIREPERSON HOOD: Okay. And again, I don't believe
18 we have anyone here from the ANC. So we will continue. Just a
19 second. Okay. So the report of ANC 8A, Vice Chair, if you could
20 give us that report? Because I don't think anyone's here from
21 8A.

22 VICE CHAIR MILLER: Okay. Thank you, Mr. Chairman.
23 Yes, ANC 8A has submitted a resolution at Exhibit No. 12 in our
24 case file that -- dated June 11th, 2022, in which they indicate
25 that they've adopted a resolution in support of the application,

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1 and that the resolution was unanimous, and it agreed with the
2 applicant's statement that the change in the zoning district will
3 provide opportunities to enhance the business community along
4 nearby Good Hope Road. Thank you, Mr. Chairman.

5 CHAIRPERSON HOOD: Thank you, Vice Chair, for giving
6 us that report. And I also want to thank ANC. Mr. Tummonds,
7 you can let Ms. McKinney know -- Commissioner McKinney know we
8 were looking forward to seeing her tonight. I know of all the
9 work that she's done in this city and we appreciate everything
10 her and Chairperson White, and Muhammad, and Clark, I'm going to
11 get in trouble for naming them because I know most of them. So
12 anyway, it's a letter of support as the Vice Chair has mentioned.
13 And it looks like -- we really appreciate the work that they've
14 done as well as the commission.

15 All right. Let's go to -- and Mr. Mordfin, I don't
16 -- I think we're good, so thank you. Thank you for your report.
17 Just a second.

18 Okay. Ms. Schellin, do we have anyone who's here in
19 either opposition -- either in support, opposition, or undeclared
20 who'd like to testify?

21 MS. SCHELLIN: We do not. I will do one more quick
22 check just to make sure, but earlier we had no one. And we do
23 not in any category.

24 CHAIRPERSON HOOD: Okay. So we do have a letter from
25 -- I'm not sure, Ari Theresa. Mr. Tummonds, are you aware of

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1 this -- the letter from Stoop Law?

2 MR. TUMMONDS: Yes. Yeah, we saw that. And it appears
3 that Mr. Theresa's concern was the portion of the OP report where
4 it said that this map amendment should not be subject to the IS
5 Plus. You know, (indiscernible) we, as the applicant, we stand
6 behind the Office of Planning's report. We think it is well-
7 reasoned and we'll stick with that.

8 CHAIRPERSON HOOD: Okay.

9 All right. Let me ask my colleagues, anybody like to
10 opine on the letter in opposition?

11 Commissioner May?

12 COMMISSIONER MAY: Yeah. So I think Mr. Theresa gives
13 -- brings up a valid point and I think this has been a subject
14 of some debate before the Commission on past cases. And there
15 -- and I think we've had, you know, we always work to get to
16 consensus ultimately. But you know, we've had folks on both
17 sides of this question. Right? Is it -- you know, should we be
18 imposing IZ Plus on -- for projects that are in Ward 8 where we
19 know that it's -- you know, they're already well on track to meet
20 affordable housing goals compared with all the other wards in the
21 city. But also the fact that we hear regularly from community
22 members that they don't need more affordable housing, they need
23 more market rate housing, and that's been the basis for us to
24 make the decision, I think, in the past to forego IZ Plus. I
25 most of those cases though, those were ones where we knew that

1 the likely outcome of the map amendment was a publicly funded
2 project or a heavily supported project that would yield a
3 substantial number of affordable units anyway, if not totally
4 affordable.

5 I think it's you know, I think, you know, Mr. Theresa's
6 concern is that we'd be setting a precedent here that we would
7 be bound to for future cases. I think if there's a concern about
8 a precedent -- well, first of all, I don't consider anything like
9 this to be precedent setting, but I think we've already done it.
10 Right? And so that ship has sailed. I do think there is some
11 validity to arguing that this is such a small project and of not
12 really huge consequence when it comes to its potential for
13 bringing affordable units to the neighborhood. But that's -- you
14 know, that's another good reason. But I don't think that it's
15 -- you know, we should shift our logic away because of the concern
16 that he raises. You know, I also, I could see, you know,
17 disagreeing with the Office of Planning and going ahead and saying
18 yeah, you know, we might as well apply IZ Plus, it's not going
19 to yield a lot, but it would be consistent. So I mean, I think
20 I could be convinced to go with IZ Plus, but I don't think that
21 we have to go the route that Mr. Theresa is suggesting by, you
22 know, pointing to a completely different reason than what the
23 Office of Planning is suggesting if we were to forego IZ Plus.
24 Did that all make sense? I was kind of rambling around the issue.
25 But those are my thoughts.

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1 CHAIRPERSON HOOD: Okay. Well, thank you. I'm sure
2 we can discuss this in a number of different ways. I can add
3 some passes to it, but I think while I appreciate that, I can
4 think of bigger issues. While this is a big issue, and I'm going
5 to take away from it, but I think there's some other competing
6 factors while I would not have a problem with proceeding as this
7 case is before us. I think some other areas I would definitely
8 be pushing for, but I think here when I look at what's being done
9 for CPMG and what the ANC has already worked out was beneficial
10 to their communities. Only thing I would ask Mr. Theresa, I'm
11 -- well, I have a question I would ask him, but I can't because
12 I don't think he's here -- he's not here, so. Anyway, I'll just
13 leave that alone. But I would agree. And this is this is a
14 rambling situation, Commissioner May, so it's not necessarily
15 straight to the point. There are other factors as well. But
16 let me hear from others.

17 Commissioner Imamura?

18 COMMISSIONER IMAMURA: Thank you, Mr. Chairman. I'm
19 not sure that I have much more to add. I don't believe that this
20 is precedent setting (audio interference) similar circumstance.
21 But I think the issues that Mr. Theresa had raised in his letter
22 about -- pull it up here, his comment struck me about an
23 overabundance of safe and clean affordable housing in the area,
24 that there's enough affordable units. So I thought that kind of
25 struck me, but otherwise, you know, for this -- I'm prepared to

1 move forward with this project. Again, this isn't precedent
2 setting, but worthy of a longer conversation.

3 CHAIRPERSON HOOD: And Vice Chair Miller?

4 Thank you.

5 VICE CHAIR MILLER: Thank you, Mr. Chairman. I
6 appreciate my colleagues' comments, and I agree with everything
7 that Commissioner May has said. I too -- I mean, I agree with
8 all my colleagues that it's not precedent setting and that it is
9 an evolving situation in terms of our application of it. But
10 our application of it, at least thus far, as Commissioner May and
11 Office of Planning pointed out, is that when there has been a
12 already the affordable housing goals being met in a certain part
13 of the city, mostly the eastern end of the city, through already
14 dedicated affordable housing, that we have not applied IZ Plus
15 to the map amendment, the regular IZ would apply. This is a
16 little bit -- this does have the distinction of that, as
17 Commissioner May pointed out, that we happen to know that the
18 project being contemplated is not housing. And in the other
19 cases, it was, and more housing was going to be provided than
20 even IZ Plus would have provided. So there is that distinction.
21 There's also the distinction that it's a small site. Although
22 it's a small site that's part of a larger area that's already
23 been designated as MU-4, and this kind of brings it into that
24 what's in the surrounding neighborhood. So I don't have a big
25 concern about it being a small site.

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1 Spot zoning, I think is the word, phrase that Mr.
2 Theresa used. But anyway, I could be persuaded to, as I have
3 from the beginning, to do IZ Plus in more places. But I think
4 the rationale of it already having in this planning area more
5 than their fair share, vis-à-vis the city, of affordable housing
6 already being met -- goals being met is a reason to make that
7 distinction, continue making that distinction, at least for the
8 time being. So I'm prepared to move forward with the application
9 as is, Mr. Chairman, thank you.

10 CHAIRPERSON HOOD: Thank you. All right.

11 I would agree. Not precedent -- nothing's precedent
12 setting for me, or for this Commission. But I would also agree
13 with something that Commissioner May -- and I thought about how
14 many -- I've been approached about affordable housing in certain
15 areas and that -- I mentioned this maybe a year or so ago. And
16 it took me back because I'm always -- we always had been pushing
17 for affordable housing, and the residents basically say don't
18 -- put -- give us all of it. So you know, that came loud and
19 clear. So anyway, I'm ready to move forward what we have in
20 front of us.

21 Ms. Schellin, do we have -- did we already check to see
22 if we had anybody else, did I do that already?

23 MS. SCHELLIN: We did, and there's no one signed up.

24 CHAIRPERSON HOOD: Okay. That's what -- we was just
25 talking about -- okay. Mr. Tummonds, you want to -- I don't

1 think you have any rebuttal. Well, you may, but you have any
2 rebuttal or closing?

3 MR. TUMMONDS: No, no rebuttal. Just to say we believe
4 that the information prior to the record is complete, that this
5 application fully satisfies the requirements for approval of the
6 zoning map amendment application, and we look forward to the
7 Zoning Commission's approval as soon as possible. Thank you.

8 CHAIRPERSON HOOD: Okay. Thank you, Mr. Tummonds.
9 However, I think this is pretty straightforward. We do take the
10 concerns of Mr. Theresa and I'm sure that will be -- we will deal
11 with that as we go along, when it fits in certain areas as has
12 already been described by us. So unless I hear an objection I
13 would like to have a motion, I think we'll probably be moving it
14 forward with what the record reflects. Somebody like to make a
15 motion in this case?

16 VICE CHAIR MILLER: Mr. Chairman?

17 CHAIRPERSON HOOD: Yes.

18 VICE CHAIR MILLER: I would move that the Zoning
19 Commission take proposed action on Case No. 22-20 at 13 -- is it
20 1301 Good Hope Road, LLC or is it 1916 13th Street?

21 CHAIRPERSON HOOD: 1301 Good Hope Road, LLC.

22 VICE CHAIR MILLER: -- LLC map amendment at Square
23 5768, Lot 08 (sic), 1916 13th Street, S.E. from R-# zone to MU-
24 4 zone, and ask for a second, and with the IZ desig- -- regular
25 designation.

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1 COMMISSIONER MAY: I would second that motion. IZ
2 regula, no IZ Plus. Right?

3 VICE CHAIR MILLER: Correct. That's what I meant by
4 that.

5 COMMISSIONER MAY: Yep. Yep. Got it.

6 CHAIRPERSON HOOD: It has been moved and second. Any
7 further discussion? Not hearing any, Ms. Schellin, would you do
8 a roll call vote please?

9 MS. SCHELLIN: Commissioner Miller?

10 VICE CHAIR MILLER: Yes.

11 MS. SCHELLIN: Commissioner May?

12 COMMISSIONER MAY: Yes.

13 MS. SCHELLIN: Commissioner Hood?

14 CHAIRPERSON HOOD: Yes.

15 MS. SCHELLIN: Commissioner Imamura?

16 COMMISSIONER IMAMURA: Yes.

17 MS. SCHELLIN: The vote is four to zero to one to
18 approve proposed action in Zoning Commission Case No. 22-20, the
19 minus one being the third mayoral appointee position.

20 CHAIRPERSON HOOD: Okay. Ms. Schellin, do we have
21 anything else before us this evening?

22 MS. SCHELLIN: No, sir, I did not hear the Commission
23 ask for anything further, so just a draft order from the applicant
24 and I'll refer this to NCPC. This will probably not come up
25 until the -- I don't think it's going to make the second meeting

1 of February. So it may be the first meeting in March.

2 CHAIRPERSON HOOD: Okay.

3 I want to thank everyone, but before I do that, the
4 Zoning Commission will meet again January 26 at our regular
5 meeting. We have a number of agenda items on the agenda for that
6 evening. And we'll be on these same platforms at the same time.
7 With that, Mr. Tummonds and team, I want to thank you all for
8 all the work you've done and the ANC and the community, and we
9 appreciate also the comments of Mr. Theresa, and so noted with
10 all of that.

11 So with that, this hearing is adjourned. Goodnight,
12 everyone and thank you.

13 (Whereupon, the above-entitled meeting was adjourned.)
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C E R T I F I C A T I O N

This is to certify that the foregoing transcript

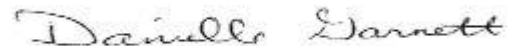
In the matter of: Public Meeting

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