

GOVERNMENT OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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REGULAR PUBLIC MEETING

+ + + + +

THURSDAY

OCTOBER 5, 2023

+ + + + +

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

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairperson
ROBERT E. MILLER, Vice Chair
JOSEPH IMAMURA, Commissioner
TAMMIE STIDHAM, Commissioner

OFFICE OF ZONING STAFF PRESENT:

SHARON S. 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 Meeting held on October 5, 2023.

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

Case No. 23-07
701 Michigan, LLC 6

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

(4:00 p.m.)

CHAIRPERSON HOOD: Good afternoon, ladies and gentlemen. Today's date is October the 5th, 2023 and the time now is 4 p.m. We are convening and broadcasting this public hearing by videoconferencing.

My name is Anthony Hood, and I'm joined by Vice Chair Miller, Commissioner Stidham, and Commissioner Imamura. We're also joined by the Office of Zoning staff, Ms. Sharon Schellin and Mr. Paul Young, who will be handling all of our virtual operations, also our Office of Zoning legal division, Mr. Jacob Ritting. 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 or YouTube Live. The video will be available on the Office of Zoning's website after the hearing.

All person's planning to testify should have signed up in advance and will be called by name at the appropriate time. At the time of sign-up, 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,

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1 please state your name before providing your testimony. When you
2 are finished speaking, please mute your audio. If you experience
3 difficulty accessing Webex or with your telephone call-in, or
4 have not signed up, then please call our OZ hotline number at
5 202-727-0789.

6 If you wish to file written testimony or additional
7 supporting documents during the hearing, then please be prepared
8 to describe and discuss it at the time of your testimony.

9 The hearing will be conducted in accordance with the
10 provisions of 11 Z DCMR Chapter 4 as follows: preliminary
11 matters, the case presentation by the Applicant, report of other
12 government agencies, the report of the Department of
13 Transportation, and then the Office of Planning, report of the
14 ANC, testimony of organizations five minutes, and individuals
15 three minutes, and we will hear in the following order from those
16 who are in support, opposition, or undeclared. Then we'll have
17 rebuttal and closing by the Applicant. Again, the OZ hotline
18 number is 202-727-0789 for any concern during this proceeding.

19 The subject of this evening's hearing is Zoning
20 Commission Case Number 23-07. This is 701 Michigan, LLC map
21 amendment, again this is a map amendment, not a project, at Square
22 3657, Lot 11 -- Lots 11 and 830, 701 Michigan Avenue, N.E.

23 Again, today's date is October the 5th 2023, and I
24 believe we have two ANCs involved, ANC 5A and ANC 5F.

25 So with that, at this time the Commission will consider

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1 any preliminary matters. Does the staff have any preliminary
2 matters?

3 MS. SCHELLIN: The only preliminary matter is that the
4 Applicant has proffered Shane Dettman as an expert in land use
5 and planning. He's previously been accepted by the Commission
6 as an expert. If the Commission would accept him in this case,
7 then the Applicant can start their presentation.

8 CHAIRPERSON HOOD: Okay. Any objections to continuing
9 the status of Mr. Dettman? VICE CHAIR MILLER: No objections.
10 Thank you.

11 All right. Let's bring the Applicant up and they can
12 get started.

13 MS. SCHELLIN: Okay.

14 CHAIRPERSON HOOD: How much time, Ms. Schellin, did
15 they want? I didn't see that.

16 MS. SCHELLIN: Twenty minutes.

17 CHAIRPERSON HOOD: Okay.

18 Good afternoon. Mr. Utz, before you get started, if
19 you all could let me know whether there's some opposition in this
20 case I may have overlooked, I'm just curious, but we will now
21 turn it over to you. You may begin. You're on mute, Mr. Utz.

22 MR. UTZ: Okay. I think we're unmuted now.

23 CHAIRPERSON HOOD: There you go.

24 MR. UTZ: Great. Thank you, Chairman Hood.

25 To answer your question, we are not aware of any

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1 opposition in this case. The Applicant has been out in the
2 community quite a bit and one of the things that we'll walk
3 through today is that actually a great deal of support from the
4 variety of associations that care about this part of the city in
5 particular, neighbors and of course the ANC, so we are not aware
6 of any opposition. Thanks. So we can go ahead and get started.

7 Mr. Young, could you please pull up the presentation?
8 Thank you. One other thing. Is there a Jared Khan showing in
9 the audience that could be elevated as panelist please? He's
10 part of the Applicant team. I'm not seeing him in the -- I see
11 now, so I think he might have just been elevated. That's great.
12 Thanks so much. Great. Thank
13 you.

14 Good afternoon, Commissioners. My name is Jeff Utz,
15 and I'm an attorney with the law firm of Goulston & Storrs. I'm
16 joined here today by my colleagues, Derick Wallace, and Shane
17 Dettman, also of Goulston, and Sam Swiller and Jared Khan of the
18 Applicant, 701 Michigan Avenue, LLC. Thank you for the
19 opportunity to present this application and for your time
20 generally reviewing it.

21 We are here today on behalf of the Applicant for a
22 zoning map amendment for the property at 701 Michigan to rezone
23 it from MU-3A to the MU-2 zone district. Next slide please?
24 Thank you.

25 The property is located at the intersection of Michigan

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1 Avenue and 7th Street, N.E., very near the Brookland Metro
2 station. And the property consists of just under 19,000 square
3 feet of lot area and is currently two lots. It currently contains
4 a single-story building on a portion of the site, which is used
5 as an interim daycare center currently, and a parking lot on most
6 of the remainder of the site. The property is located in the
7 Brookland neighborhood of Ward 5. Immediately surrounding it
8 are other large apartment buildings and the Catholic University
9 of America. The site is only 275 feet away, approximately, from
10 the Brookland Metro station. As mentioned, the property is
11 currently located in the MU-3A zone, and this application
12 proposes to rezone it to the MU-2 zone. The current MU-3A zone
13 does not allow a suitable matter-of-right development at this
14 location and therefore hinders new development of the property.
15 The proposed MU-2 zone would allow for primarily residential
16 development with a larger building envelope and more consistent
17 with properties surrounding and the comprehensive plan as we'll
18 discuss. As mentioned, the Applicant has been engaged with the
19 community for quite a while, beginning in late 2022. Since then,
20 the Applicant has met with community representatives and
21 neighbors many times and ultimately received a vast amount of
22 support, most of which is reflected in the record. We are also
23 pleased to be here with the report in support from the Office of
24 Planning, which is Exhibit 26 in the record and reported no
25 objection from DDOT, which is Exhibit 27 in the record.

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1 Altogether, we have three witnesses this evening, Sam and Jared,
2 on behalf of the Applicant, and Shane Dettman who I've noted as
3 an expert in land use planning.

4 With that, I'd like to turn it over to Jared to talk
5 about the Applicant, the opportunity, and community efforts.
6 Thank you.

7 MR. KHAN: Thanks, Jeff, and thank you, everybody.
8 The site is controlled -- I was going to say are you still on
9 mute? Oh.

10 The site is controlled -- sorry about that -- by 701 Michigan
11 LLC, which is led by myself, Jared Khan, as well as my business
12 partner, Sam Swiller. We're both two long-time D.C. residents
13 with over 20 and 15 years respectively living in the District.
14 I currently reside in ANC 5F, but we both have deep personal and
15 professional investments in the area. Both of us work together
16 to deliver affordable workforce and market-rate housing, as well
17 as neighborhood-serving retail, exclusively in the District of
18 Columbia. With this site in particular, we have a one-story
19 brick and masonry structure with a basement and approximately a
20 3,000 square-foot footprint. As you can -- as is -- as everybody
21 can see the site is currently predominantly an unused private
22 parking lot and with that there's limited options for activating
23 the site. Next slide please?

24 So the development goals for the subject property start
25 with transferring to development. It's about 150 feet from the

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1 Metro with zero residential displacement. There's an opportunity
2 for a substantial amount of new housing, including affordable
3 housing in accordance with the IZ Plus, as well as an opportunity
4 for neighborhood-serving retail, as well as service amenities
5 that are complementary to the existing uses nearby. Currently,
6 we've leased the improvements to a daycare operator while we're
7 going through the entitlement process. Daycare operator was
8 aware of the pending map amendment when they entered into the
9 lease and they are in support of the map amendment and have
10 submitted a letter of support. We would love to work with the
11 daycare if they're interested in coming back to the site when it
12 is developed. And the daycare has been a part of the community
13 -- they were formerly part of the RP site being redeveloped on
14 the other side of the traffic entry and continue to serve the
15 community. Next slide please?

16 MR. SWILLER: Can you forward one more slide please?
17 Thank you.

18 So as Jeff mentioned earlier, we really emphasize
19 meeting the community and meeting them repeatedly. That effort
20 began last summer and over the course of a few months we realized
21 that moving forward with the map amendment was the best course.
22 We initially met with the Office of Planning as well as several
23 members of the community. In about January of 2023, we met with
24 our SMD, Aru Sahni, and once we got his support to be added to
25 the ANC, we then met with the ANC as well. That would be ANC 5A

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1 --I'm sorry, 5F. We have consistently made efforts to listen to
2 the community and hear what the community wanted and also what
3 were some of the challenges. Often, there was mentioned traffic
4 safety as well as an emphasis on maximizing affordable housing.
5 Once we felt like we had the support of the community, we then
6 moved forward with follow-up meetings requesting their support,
7 often as a formal letter of support. And we, in addition to
8 meeting with the ANCs, met with the local civic associations,
9 including the Edgewood Civic Association and the Brookland
10 Neighborhood Civic Association. Lastly, we also had several
11 meetings with local institutions, academic institutions, and
12 businesses, including Catholic University and the Deming Career
13 Institution. And again, all of these meetings were generally
14 very positive and ultimately resulted in getting their formal
15 support.

16 I'm going to turn it over to Shane now.

17 MR. DETTMAN: Thanks, Sam. Good afternoon, Mr.
18 Chairman and members of the Commission. My testimony today will
19 walk through how the proposed rezoning from MU-3A to MU-2
20 satisfies the standard of review applicable to map amendments
21 under Z R 16. To start -- next slide please?

22 To start, the table before you provides a comparison
23 of the primary development standards of the existing and the
24 proposed zones. While both are mixed-use zones, the existing MU-
25 3A zone is intended to permit low-density mixed-use development

1 to a maximum height of 40 feet and three stories and a maximum
2 of 1.2 FAR through IZ-bonus density of which 1 FAR may be devoted
3 to non-residential use. As we'll see in a moment, in accordance
4 with the comp plan, the proposed MU-2 zone permits medium density
5 mixed-use development to a maximum height of 190 feet and a
6 maximum of 7.2 FAR through the IZ bonus density. In contrast to
7 the existing MU-3A zone, the proposed MU-2 zone favors
8 residential over non-residential use by limiting non-residential
9 uses to 3.5 FAR. Next slide please?

10 As set forth in Subtitle X, Section 500.3 of the regulations to
11 approve a request for a zoning map amendment, the Commission must
12 make a determination that the proposed map amendment is not
13 inconsistent with the comprehensive plan when it's read as a
14 whole. As the Commission knows, the comp plan is a broad
15 framework intended to guide the future land use planning
16 decisions for the District, thus even if a proposal conflicts
17 with one or more individual policies associated with the comp
18 plan, this does not in and of itself preclude the Commission from
19 concluding that the action would be consistent with the comp plan
20 as a whole. The comp plan reflects numerous, occasionally
21 competing, policies and goals, and thus at times the Commission
22 may need to balance competing priorities in determining whether
23 a proposal would be not inconsistent with the comp plan as a
24 whole. If the Commission approves a proposal that's inconsistent
25 with one or more policies reflected in the comp plan, the

1 Commission must recognize these policies and explain why they're
2 outweighed by other competing considerations. Next slide please?

3 In addition to following the guidance provided by the
4 courts for assessing comp plan consistency, the Commission is not
5 -- the Commission is now required under the current comp plan to
6 carry out its comp plan evaluations through a racial equity lens.
7 The comp plan's implementation element discusses racial equity
8 as both an outcome and a process. As a process, the comp plan
9 says we apply a racial-equity lens when those that have been most
10 impacted by structural racism are meaningfully involved in the
11 creation and implementation of institutional policies and
12 practices. As an outcome, the comp plan says racial equity is
13 achieved when everyone has what they need to thrive, no matter
14 where they live or their socioeconomic status. As demonstrated
15 in the case record at Exhibits 3 and 3C, the Applicant has
16 evaluated the proposed zoning map amendment for comp plan
17 consistency through a racial equity lens and in accordance with
18 the court's guidance related to balancing comp plan policies.
19 Upon review, I find the proposed zoning map amendment to be not
20 inconsistent with the comp plan when read as a whole, consistent
21 with the Commission's published racial equity tool, the Applicant
22 conducted meaningful engagement with the community and the
23 outcomes of the proposal have the potential to directly address
24 some of the priorities expressed by the community and that are
25 set forth in the comprehensive plan for the upper- northeast

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1 planning area. Finally, as part of its comp plan evaluation, the
2 Applicant did not identify any potential comp plan
3 inconsistencies that required balancing with other competing comp
4 plan policies and priorities. Next slide?

5 So turning specifically to the components of the comp
6 plan, the subject property is within a neighborhood conservation
7 area on the generalized policy map. As described in the framework
8 element, the guiding philosophy for this type of area is to
9 conserve and enhance neighborhoods, but not preclude development,
10 particularly, when it's going to be -- help to address citywide
11 housing needs. New development in neighborhood conservation
12 areas should be compatible with the surrounding scale and
13 character of development and densities are guided by the future
14 land use map, as well as comp plan policies. In areas with access
15 to opportunities, services, and amenities, more levels of housing
16 and affordability should be accommodated. Next slide?

17 The proposed rezoning is not inconsistent with the
18 generalized policy map. The images on this slide show the
19 prevailing scale and character of the area immediately around the
20 subject property, which can generally be described as having
21 transit-oriented, mixed-use, midrise character at scale. In
22 fact, given the site's adjacencies and proximity to Metrorail,
23 continued use of its existing condition or development under
24 existing low-density mixed-use zoning would be a significant
25 under-utilization of the site's potential, particularly, as it

1 relates to addressing citywide housing needs. In contrast, the
2 development under the matter-of-right standards of the proposed
3 MU-2 zone will yield significantly more housing, including up to
4 20 percent affordable housing under IZ Plus that will be
5 consistent with the FLUM and comp plan policies and be compatible
6 with the surrounding context. Next slide?

7 The proposal is not inconsistent with the site's mixed-
8 use medium-density commercial medium-density residential FLUM
9 designation, which was increased from moderate-density mixed-use
10 as part of the 2021 comp plan amendments approved by the Council.
11 Mixed use is a specific land use category on the FLUM and the
12 density and intensity of development within these areas is
13 determined by the specific mix of uses shown on the FLUM with
14 additional guidance provided by the applicable area element and
15 small area plans where they're not in conflict with the comp
16 plan. That said, the FLUM envisions medium-density mixed-use
17 development on the subject property with no expressed preference
18 for residential over commercial use. They're both medium
19 densities. However, if you look at the land use, transportation,
20 housing, and Upper Northeast Area element policies, certainly
21 there's a preference for residential over non-residential use in
22 this particular location. Next slide?

23 The proposed MU-2 zone is an appropriate zone for this
24 FLUM designation. As the framework element suggests, typical
25 densities in medium-density mixed-use areas range between 4 and

1 6 FAR with greater density allowed through IZ or a PUD.
2 Consistent with this range, the proposed MU-2 zone allows an
3 overall density of 6 FAR, 7.2 with IZ with non-residential uses
4 limited to 3.5 FAR. Finally, the zoning regulations themselves
5 specifically describe the MU-2 zone as permitting medium-density
6 development in areas predominantly developed with residential
7 buildings. Next slide?

8 As I've already noted, the comp plan requires the
9 Commission to evaluate all actions through a racial-equity lens
10 as part of its comp plan consistency analysis, and in response
11 to the adopted comp plan, the Commission developed a four-part
12 racial equity tool that applicants are required to utilize when
13 preparing a comp plan evaluation. Next slide?

14 The first part of the Commission's racial equity tool
15 requires applicants to consider comp plan policy guidance as it
16 relates to a proposed zoning action. The Applicant has conducted
17 this review, which is contained in Exhibit 3C of the record. The
18 slide before you provides a list of the various comp plan policies
19 that will be advanced by the proposed rezoning. This list
20 includes policies that explicitly address racial equity that are
21 identified in OP's equity crosswalk. Generally, the proposed map
22 amendment will substantially advance comp plan policies that
23 relate to development around Metrorail, particularly affordable
24 housing around Metrorail, infill development and maintaining a
25 variety of neighborhoods, achievement of housing production

1 targets in high-need areas, and promoting equitable access to
2 transportation and improving pedestrian safety. Next slide?

3 The community's part of the -- the community section
4 of the Commission's racial equity tool requires consideration of
5 factors of past and present racial discrimination that may have
6 led to inequities that an area currently faces. These next four
7 slides summarize some of the information gathered by the
8 Applicant on this topic, some of which the Commission may already
9 be familiar with from other projects in upper northeast -- in the
10 upper northeast planning area. Like many other areas of the
11 District and throughout the country, there was widespread use of
12 restrictive covenants in subdivisions in upper northeast
13 throughout the 1940s that prevented black, African-American, and
14 other people of color from living in this area. As shown on this
15 map from an ongoing research project involving the mapping of
16 properties that have restrictive covenants, this discriminatory
17 practice was particularly prevalent in Brookland, Woodridge, and
18 the Langdon neighborhoods. In the 1950s, the racial composition
19 of the upper northeast area shifted following the Supreme Court's
20 ruling that deemed restrictive covenants unconstitutional, the
21 desegregation of schools, and discriminatory lending practices.
22 By 1954, upper northeast -- the black population of upper
23 northeast accounted for 54 percent of the total population in
24 Ward 5, predominantly -- or principally they were homeowners.
25 Next slide?

1 However, looking at data for the past 20 years shows
2 that the racial composition of the area is shifting again and
3 evidence of displacement can be observed. The map before you is
4 taken from a recent study by MNCPPC that looked at neighborhood
5 change in the Washington Metropolitan area between 2000 and 2019.
6 The upper northeast planning area is outlined in black with the
7 subject property circled in red. On a census tract level, the
8 study compared increases and decreases of middle to high income
9 populations and low-income populations and used those results to
10 categorize whether a tract has seen inclusive growth,
11 displacement, low-income concentration, or abandonment. The
12 tracts that are not colored on the map means they didn't meet an
13 established threshold for change in order to be categorized. As
14 you can see on the map, parts of upper northeast that are in blue
15 experienced displacement during the time period that was studied.
16 Next slide?

17 You can observe kind of the occurrence of displacement
18 when you look at the actual numbers as well. Using data contained
19 in the comprehensive plan as well as posted on OP's website,
20 since 2000 the black population percentage in upper northeast has
21 decreased by 23 percent, while the white population has increased
22 by 12 percent. There are various causalities that may have
23 contributed to this, some of which might not have anything to do
24 with zoning, but from a zoning, land use, and development
25 perspective, one contributing factor could be increases in

1 housing cost and the lack of affordable housing in the area.

2 Next slide?

3 I won't get into this -- into detail on this, but I
4 know that the Zoning Commission recently were very interested in
5 some trends in a particular area and so this table summarizes
6 some of the trends that you see in this -- in the data that's
7 posted to the Office of Planning's website. And sort of along
8 the vein of that last slide about sort of what other factors kind
9 of contributing to the displacement in t- -- in addition to the
10 lack of housing and affordable housing, increasing in housing
11 costs, you can see, for example, one of the trends that while
12 sort of globally across the planning area, median household
13 income is up. When you look at it at a more granular level based
14 upon race, you know, the amount over the 2016-'21 period, the
15 amount of black median household income increased paled in
16 comparison to, say, white households, and so, you know, again
17 there's the housing supply and there's the availability of the
18 affordable housing that zoning goes directly to in this zoning
19 map and then will go directly to, but there's also the income
20 and the access to jobs and whatnot component that also contributes
21 to whether displacement is happening within an area. Next slide?

22 You've already seen this slide, but you know, the third
23 component of the Zoning Commission's racial equity tool has to
24 do with community outreach. And just to reiterate, as Sam and
25 Jared presented just a moment ago, that they did engage in

1 meaningful and productive community outreach throughout the
2 process beginning in December of 2022. Next slide?

3 So what sorts of other inputs do we have in terms of
4 informing, you know, the zone that we currently pursue with the
5 zoning map amendment? For the upper northeast area, the
6 comprehensive plan priorities include expanded neighborhood-
7 serving, non-auto-oriented retail choices, increasing affordable
8 housing, and directing growth around Metrorail stations. We
9 heard similar things from the community directly, maximizing
10 affordable housing, an interest in neighborhood-serving retail,
11 and then there are certain other District priorities for the
12 upper northeast area that are set forth in the comp plan as well
13 as in the Mayor's most recent budget in terms of overall housing
14 production for upper northeast, improvements to recreation areas
15 and schools, public facilities, as well as pedestrian safety, so
16 all that information we sort of factored into our comp plan
17 evaluation. Next slide?

18 Finally, we look at the proposed zoning map amendments
19 through a number of equitable development indicators, the
20 displacement, both direct and indirect, housing, physical access
21 to opportunity. We believe that the increased density through
22 the MU-2 zone immediately adjacent to Metrorail will have all
23 positive potential outcomes in all of these areas and all of
24 these indicators. Next slide?

25 And so with all of that, Commissioners, I conclude that

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1 the proposed map amendment to MU-2 is not inconsistent with the
2 comprehensive plan when evaluated through a racial equity lens.
3 The height and density of the proposed zone is consistent with
4 the type of medium-density mixed-use development that's
5 contemplated by FLUM. The zone's preference for residential use
6 and the limitations on the permitted types of commercial uses is
7 not inconsistent with comp plan policy guidance regarding
8 development around Metrorail and neighborhood-serving commercial
9 uses in this area. The potential development permitted under the
10 MU-2 zone is not inconsistent with the neighborhood conservation
11 area designation on the generalized policy map. And then finally
12 the proposed map amendment is consistent with the stated purposes
13 of the Zoning Act. And with that, Commissioners, I'll hand it
14 back to Jeff for closing remarks. Thank you.

15 MR. UTZ: Great. Thanks so much, Shane.

16 That brings our presentation to a conclusion. We are
17 happy to answer any questions that you might have or otherwise
18 discuss what we presented here or anything in the record. Thank
19 you so much.

20 CHAIRPERSON HOOD: Okay. Thank you to the team, I
21 think everybody can be thank you to the team for your
22 presentation. Let's see if we have any questions or comments.

23 Commissioner Imamura?

24 COMMISSIONER IMAMURA: Thank you, Mr. Chairman. Thank
25 you to the Applicant team for a thorough presentation. I

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1 especially appreciated Slides 15 through 18, the
2 mappingsegregationDC.org. I thought those were pretty effective.
3 I hadn't seen those before. I appreciated the bar chart too on
4 Slide 17, but I think those -- I really appreciate those as a
5 planner, can really geek out on maps. I thought that was
6 effective.

7 One of the things that I also noticed too on Slide 9,
8 I just wanted to confirm with Mr. Dettman that we're talking
9 about a neighborhood conservation area versus a neighborhood
10 enhancement area? Slide 9 showed both, so, I just want to be
11 clear for the record.

12 MR. DETTMAN: Yes. Commissioner, I think you broke up a little
13 bit, but I think you're noting that it says neighborhood
14 enhancement area" at the top of the slide. That's a typographic
15 error, that should say neighborhood conversation area.

16 COMMISSIONER IMAMURA: Thank you. All right.
17 Slide 5 on your community outreach, and I don't want to get into
18 the minutiae of how slide decks are prepped, but as you all know,
19 there's a lot of information in the record, and so graphics are
20 important in how you communicate that information. So the
21 outreach I thought was really great along a timeline that you all
22 provided, so thank you for doing that in terms of the ANC and
23 the other stakeholders. But just in the future, just a quick
24 note, just make sure that you align those months so it's a little
25 easier for us to read, especially when you go through a quick

1 presentation.

2 More to the heart of the issue here, I'm kind of curious
3 to know, I read somewhere that you all had originally contemplated
4 an MU-10 zone, but after consideration I guess you all had landed
5 on an MU-10 (sic), probably through discussion. I was just
6 curious was that by the urging of OP or was that of your own
7 decision? And if so, what was the driver for that? And I think
8 it goes to my comment -- the other comment that Mr. Utz had made,
9 that the MU-2 was a more suitable matter-of-right development,
10 presumably, than the MU-3A. So just kind of wanted to carefully
11 walk that. So can you describe the thought process?

12 MR. DETTMAN: Sure. Thank you for the question. That
13 would -- the original thought behind MU-10 was something that we
14 initially approached the Office of Planning about. MU-10 is
15 specifically identified in the framework element as being
16 consistent with medium-density commercial. You know, we were
17 sort of -- further discussion, you know, MU-10 allows up to 100
18 feet through IZ, plus the penthouse, and the Office of Planning
19 in looking at that zone and the surrounding context was not
20 comfortable with that kind of height as a matter-of-right. And
21 so we went back and looked at it a little bit further and came
22 back with the MU-2 zone, which allows 90 feet. And, you know,
23 MU-2 is kind of a purpose built zone that's intended to be sort
24 of a transition zone, and so we came back and looked at that a
25 little bit more closely with OP, and they were comfortable with

1 the MU-2 zone, so that's what we went forward with.

2 COMMISSIONER IMAMURA: Okay. I appreciate the
3 explanation on that. Certainly, in map amendments, I guess, you
4 know, kind of fair or unfairly, the public, applicants may
5 project, you know, each commissioner has their particular issues
6 that they're concerned about. Height, massing, and scale is one
7 of mine, certainly, and I'll own that in urban design. Do we
8 know -- do you know what the heights of these adjacent buildings
9 are around in that area, and can you just kind of walk us through
10 that, since we don't have sort of a section of the site, can you
11 at least articulate what that looks like?

12 MR. DETTMAN: Sure. The buildings that surround it,
13 they vary in height somewhere around, say, 65 to 70 feet, not
14 including any kind of penthouse structure. They were approved
15 as part of a PUD under a different comprehensive -- a moderate-
16 density commercial comp plan designation some time ago, but
17 generally about 65 to 75 feet, plus whatever's on top of the
18 building in terms of penthouse structures.

19 COMMISSIONER IMAMURA: Okay. And then were there any
20 other zones that you considered? I know that, obviously, you're
21 taking height. We're not talking about a project here, but
22 inevitably this could and will lead to a project of some kind,
23 and so when you pencil this out, you kind of determine how many
24 residential units possibly. I think I read somewhere in the
25 ballpark of 120 residential units and somewhere in the ballpark

1 of about 5,700 square feet of retail space, so with that any
2 other zones that you all had considered, or is this kind of where
3 we landed because of the sort of mathematics, the arithmetic of
4 it?

5 MR. DETTMAN: No. Actually, I would say before we even
6 got to the mathematics on, you know, a number of units, whatnot,
7 we did kind of -- we took sort of a scaled approach. We looked
8 at the zones. So from, you know, the existing MU-3, MU-4, 5, 7,
9 8, 10 too, and, you know, and so, you know, MU-4 is a low-density
10 commercial zone, doesn't really get you there and certainly
11 doesn't take advantage of the comp plan designation. We looked
12 at MU-5 and MU-7 and kind of came to the same conclusion that
13 those are moderate-density commercial zones, and so again we're
14 moving forward to help implement the revisions to the
15 comprehensive plan. MU-8 and MU-10, again, sort of MU-10 I'd
16 talked about how OP wasn't comfortable with that as a map
17 amendment and so we kind of pulled back and we believed that the
18 zone that we landed on, MU-2, at a maximum height of 90 feet,
19 that kind of falls in the middle of like an MU-7 and a MU-10,
20 and OP was comfortable with that height and then that's how we
21 got to -- and then at that point we went forward with the
22 mathematics, thinking about okay what, you know, an estimate of
23 the number of units that potentially could be yielded from the
24 MU-2.

25 COMMISSIONER IMAMURA: Okay. I appreciate that.

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1 MR. DETTMAN: We also considered the proximity to
2 Metro, yeah.

3 COMMISSIONER IMAMURA: Okay, very good. It's just
4 helpful to understand that full story, that full arc, which isn't
5 always explained in the record. There's also an aspect of a
6 small corner of the site that's designated as institutional in
7 the general policy map, and so that might lead to some, you know,
8 potential inconsistency there with the comp plan I think just
9 because of the realignment of 7th street. Can you just address
10 that real quick?

11 MR. DETTMAN: Sure. Yeah, and actually there's a
12 footnote in the statement that acknowledges that and it was 7th
13 Street was realigned as part of the PUD that I was just -- that
14 I just referenced and it used to go straight, and that's how the
15 FLUM boundaries -- but for instance, for that tiny little corner
16 of the site that is clipped by the institutional designation, the
17 framework element, the guidelines for using the FLUM and the GPM
18 acknowledged that for institutional uses, the comprehensive plan
19 does not provide any height and density guidance; however, if
20 those areas designated institutional, a change of use does
21 happen, then future designations and zoning should be compatible
22 with the surrounding designation, and so the surrounding
23 designations here would be the mixed-use medium commercial,
24 medium residential and we would apply the same rationale for that
25 little corner institutional that we did to justify the MU-2 with

1 the mixed-use medium designation right next to it.

2 COMMISSIONER IMAMURA: Okay. Just a couple more
3 questions. I appreciate forbearance here. You did mention that
4 we're interested in the trends in areas, so thank you for
5 acknowledging that, because we are, and so I'm curious in your
6 point of view, and I know you mentioned this in the record, but
7 just if you could articulate one more time what you think this
8 map amendment will do for the area in terms of either stemming
9 unintended consequences, I guess, of displacement or promoting a
10 more diverse neighborhood, so what do you think this map amendment
11 will do?

12 MR. DETTMAN: Commissioner Imamura, you're breaking up
13 just a little bit, but is your question what do I think the map
14 amendment will do for the area?

15 COMMISSIONER IMAMURA: Yes.

16 MR. DETTMAN: Sure. So I -- from a positive side, I
17 think that -- and especially compared to the existing zoning that
18 only allows 1.2 FAR, I think from on the positive side the
19 increased height and density, especially immediately next to
20 Metro, is going to prevent that -- that will -- it'll bring, you
21 know, a substantial amount of new housing in a very transit-rich
22 environment and in an amenity-rich environment too with all the
23 retail that's immediately surrounding the site. And as a map
24 amendment that's going to be subject to IZ Pplus, we're talking
25 upwards of 20 percent affordable housing in an area that's

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1 identified in the housing equity report as being a high need --
2 specifically for a high-need area.

3 So from a housing perspective, I think really good
4 things will happen. From a retail perspective, the MU-2 zone is
5 an interesting zone. I mentioned it's a -- it's a buffer zone,
6 and if you look at sort of the commercial uses that are permitted,
7 it's not -- it's not wide open. It is fairly constrained in
8 terms of the commercial uses that are allowed as a matter-of-
9 right, be it daycare, arts and design, educational uses. And
10 interestingly enough, like the uses that are allowed as a matter-
11 of-right in MU-2 zones say for ground-floor commercial uses are
12 all compatible and complementary to the uses that exist in the
13 area now. There was -- Sam mentioned there was an interest by
14 the community for a daycare center. That's a matter-of-right
15 use. There is -- educationally we've got Catholic University and
16 Trinity University and other institutions around there. We've
17 got arts, design, and creation uses that are matter-of-right.
18 We've got the arts walk immediately next door, so I think that
19 zone brings some positive things on the commercial level as well.
20 From a planning perspective, thinking about potential negative
21 impacts, increased density certainly brings additional traffic.
22 And I think we heard from the community some questions around
23 traffic congestion and traffic safety, although I will say again,
24 going back to the limited types of commercial uses, typically,
25 it's the commercial component of a mixed-use project that

1 generates the big trips and we don't think that the uses that
2 are permitted in the MU-2 zone are going to be those big trip
3 generators, and of course for residential, hopefully is going to
4 be heavily dependent upon the transit that's in the area.

5 COMMISSIONER IMAMURA: Sure. Well, Mr. Dettman, thank
6 you. That was textbook in terms of how to break that down in
7 terms of residential, commercial, and transportation. I
8 appreciate that very much.

9 Just a few more questions. About the daycare, I know
10 a comment was made that certainly welcomed the stay once and if
11 a project materializes. Is there any sort of formal agreement
12 that's been made with the daycare in terms of either to help them
13 relocate elsewhere or just provide that kind of general
14 assistance if and when in the future, Mr. Swiller?

15 MR. SWILLER: Yes. There is no formal agreement yet,
16 but we have a very warm relationship with the land -- the tenant
17 and the daycare operator. We've had discussions about if we were
18 to move forward with the development, the need for neighborhood-
19 serving retail and having a daycare, her daycare operations being
20 part of that mix. And, you know, she responded positively to
21 the idea. It's just I think when we get to that point in the
22 project, we can then talk concretely or work out about what that
23 would look like and what the stage would look like, but I would
24 say wholeheartedly we will welcome that discussion.

25 COMMISSIONER IMAMURA: Okay, very good. I'm glad to

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1 | hear that. Just a few more here. I want to acknowledge that
2 | there's a number of letters in support. Want to highlight
3 | actually Catholic University's letter, specifically a statement
4 | that says "they welcome responsible residential and commercial
5 | development in this neighborhood." I thought that's important
6 | and so certainly want to keep that front and center of this map
7 | amendment and whatever happens down the road. "Responsible
8 | residential and commercial development in this neighborhood."
9 | That'll bring additional housing, of course that we talked about,
10 | and neighborhood-serving retail is certainly important. And that
11 | they've got a concern about deconflicting vehicular traffic
12 | patterns and pedestrian safety, so also front and center there
13 | should be top of mind, should a project ever develop from this.
14 | And then also, somebody noted, I think that maybe you, Mr.
15 | Swiller, that your community engagement and outreach yielded some
16 | positive feedback, which is great and it doesn't sound like
17 | there's any opposition; however, it's always, I think a good idea
18 | not to always lean on those who are in favor of it, but listen
19 | more closely to those maybe who express concern or dissent. So
20 | I'm interested to know, even though there aren't any letters in
21 | opposition, your meetings generally went well, I'm curious to
22 | know what feedback did you receive that either expressed some
23 | concerns and what was that -- what were those concerns outside
24 | of traffic and other concerns?

25 | MR. SWILLER: Sure. The only real feedback that I

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1 | thought was worth noting was there were concerns about the levels
2 | of affordability. There was an expression of having
3 | affordability be as deep as 30 percent AMI, and you know -- we
4 | had a very good discussion. It was -- you know, there was some
5 | concern about also displacement of residents, and then once we'd
6 | started talking about how it is currently, has zero residents on
7 | the site, that was -- that concern went away, but I did want to
8 | bring up that 30 percent AMI target was vetted and it's something
9 | that -- simply that we can adjust at that site, but did think
10 | that it should be part of this discussion in the future for sites
11 | across the table.

12 | COMMISSIONER IMAMURA: All right. I appreciate that
13 | because I was curious how you responded to that, so I'm satisfied
14 | with that.

15 | MR. SWILLER: Uh-huh.

16 | COMMISSIONER IMAMURA: All right. Very good. You
17 | know, I think that concludes all the questions and comments that
18 | I have. Again, my compliments to the Applicant in terms of how
19 | you structured and framed your story here, so I appreciate that,
20 | and your responses as well.

21 | So Mr. Chairman, I yield back.

22 | CHAIRPERSON HOOD: Okay. Thank you.

23 | Commissioner Stidham, any questions or comments?

24 | COMMISSIONER STIDHAM: No. I think Commissioner
25 | Imamura took them all from us.

1 CHAIRPERSON HOOD: Okay. All right.

2 Vice Chair Miller, any questions/comments?

3 VICE CHAIR MILLER: Thank you, Mr. Chairman. Yeah, I
4 agree that Commissioner Imamura has comprehensively analyzed and
5 reviewed and asked a lot of questions, which I appreciate the
6 Applicant's team response and all of your work to date on this
7 map amendment and the community engagement and outreach that you
8 initiated, including with the ANC, the affected ANC 5F, ANC-5A,
9 the Single Member District commissioner in ANC-5A, Commissioner
10 Rojas, the Brookland Neighborhood Civic Association, the Edwards
11 Civic Association, the Michigan Park Civic Association, Deming
12 Career Institute, Petit Scholars, and Catholic University,
13 amongst others, so thank you for all of that effort.

14 You know, this is largely a comprehensive plan
15 consistency case -- zoning consistency case with the
16 comprehensive plan and of course the land use map, future land
17 use map, designates as has been stated, a medium-density mixed
18 use. The current zoning, MU-3A, is a low-density zone. The MU-
19 2 proposed zone is a medium -- is in the medium-density range
20 and so would be more -- much more consistent with the future land
21 use map. And then there are other -- and you -- and this would
22 get a IZ Plus designation with the 20 -- up to 20 percent of set-
23 aside for affordable housing under our regulations.

24 And as Commissioner Imamura noted, which I think came
25 from the DDOT report, the MU-2 zone in the DDOT report says that

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1 would result in approximately 120 additional residential units
2 than the MU-3A zone, and 5,700 more suite of retail on the
3 property, and of course that 120 additional residential units
4 means that there'd be 24 -- if you go to the 20 percent, I'm not
5 sure what square footage they were using because IZ is based on
6 the square footage, but I guess they were going with an average
7 that would result in at least 24 -- approximately 24 additional
8 affordable housing units under our inclusionary zoning program.
9 So all of that with the medium -- and with the medium-density
10 designations on the land use map and in the pol- -- the affordable
11 housing and market rate housing supply policies that are in the
12 comprehensive plan generally, and in the upper northeast plan and
13 the Brookland small area plan, I think this -- a case has been
14 made for how this map amendment could be supported.

15 On the -- you said -- you were saying that the MU-2
16 zone has a certain number of compatible commercial uses that
17 would be matter-of-right, and you named a few, I think daycare
18 and educational and other neighborhood-serving uses. I assume
19 that a grocery store is one of those uses as well because I --
20 or is it not?

21 MR. DETTMAN: Commissioner Miller, a grocery store is
22 a large format retail use that would require BZA relief, if one
23 was interested in going into the ground floor of this building.

24 VICE CHAIR MILLER: Okay. But I think there was some
25 reference somewhere -- I don't know if it was in the community

1 | letters or in the -- in your own Applicant's testimony that there
2 | was some desire expressed by some in the community for a grocery
3 | store; was that correct?

4 | MR. SWILLER: Yes, that is correct.

5 | VICE CHAIR MILLER: But it would require a BZA approval
6 | under -- would that be a use variance, is that what's -- what
7 | that would --

8 | MR. DETTMAN: Special exception.

9 | VICE CHAIR MILLER: What?

10 | MR. DETTMAN: Special exception. Special exception.

11 | VICE CHAIR MILLER: So there wasn't another zone that
12 | was still on the lower end of the medium density that would allow
13 | the grocery store to be as a matter-of-right other than MU-2?
14 | Yeah, I know you considered the MU-10, but rejected it because
15 | of the height and possible incompatibility. Was there another
16 | zone that would of -- a use variance would be very -- is a very
17 | high threshold to -- a very high bar to obtain, so I don't want
18 | to leave anyone with the impression that this map amendment is
19 | going to facilitate a grocery store. I thought it might, but
20 | were there -- was there another zone that you considered that
21 | would have allowed that and still not had the higher height or
22 | that might have been incompatible with -- or less compatible with
23 | the surrounding context of the neighborhood?

24 | MR. DETTMAN: So I think -- I think a grocery store
25 | would actually require just a special exception, not a use

1 variance.

2 VICE CHAIR MILLER: That's an important --

3 MR. DETTMAN: Not to say that's a guarantee.

4 VICE CHAIR MILLER: -- distinction.

5 MR. DETTMAN: Yeah. In terms of other zones that would
6 allow a grocery store to be matter-of-right, certainly, the MU-
7 10, but then we know that we start to -- we have to start looking
8 at concerns about height in relation to the surrounding context
9 as I mentioned. You know, you could look at, you know, MU-4,
10 but that's not taking advantage of the density that could be
11 realized through the amended comp plan. And then there's another
12 medium-density commercial zone, MU-8, which I think gets you the
13 density, but also you're back down -- in terms of height, you're
14 back down to like a moderate density commercial height, so. And
15 we did look at that in terms of like what's -- you know, the
16 limit -- were we going to prefer the limitations on the ground-
17 floor uses or try to find a zone that allowed us to bring as much
18 housing to the site as possible? And we ended up going in that
19 direction with the MU-2 zone, noting that, you know, there are
20 other developments immediately surrounding this site that have
21 potential for, and are zoned for, a potential grocery store.

22 MR. UTZ: The other thought about the grocery store
23 idea is the site is only a little under 19,000 square feet, so
24 the practicality of putting a grocery store here is very limited.
25 The hope is to have some form of a commercial neighborhood-

1 serving service retail use on the first floor and that's what I
2 think will happen and if there needs to be a special exception
3 to achieve that use, if we need to step outside of an MU-2, that's
4 going to -- then we would love to explore that. But the reality
5 is that the grocery store is probably not the right use for this
6 specific site, for this specific lot, but hopefully, as we
7 mentioned before, the daycare use might be a use that would fit
8 the floor space that we anticipate being developed here. So we
9 do anticipate that the use will be kind of conducive to the
10 neighborhood wishes that we heard during those meetings, just not
11 the grocery store use part of it.

12 VICE CHAIR MILLER: Okay. Well, thank you, Mr. Utz and
13 Mr. Dettman, for your responses to that question. On the daycare
14 use, Petit Scholars is a current tenant of the site; is that
15 correct?

16 MR. UTZ: It is. That is the current tenant of the
17 site.

18 MR. SWILLER: Yes.

19 VICE CHAIR MILLER: And we have their letter of support for this
20 project, for this map amendment, which we appreciate, and you had
21 a dialogue with Commissioner Imamura about their opportunity to
22 perhaps return to the site, although they probably want to
23 continue in use -- continue their operations in the neighborhood
24 while the construction might be going on for any project that
25 might happen, so I realize there are challenges there, but -- so

1 I appreciate you working with them to provide any opportunity to
2 come back into the building if they so desire, if a project
3 materializes that you're --this team is a part of, which you may
4 or may not be, I don't know.

5 So I think that is it, Mr. Chairman, for my questions.
6 I appreciate all the extensive comprehensive plan analysis and
7 the racial equity lens analysis that's required. It's very
8 helpful information. I especially appreciated I guess the slide
9 that I don't recall seeing before, that was maybe -- I think it
10 was maybe your Slide 15, that had neighborhood change in the
11 Washington metropolitan area and showed areas of displacement,
12 areas where there's been inclusive growth, areas where there's
13 been low-income concentration. So what was the source of that
14 chart, is -- that's part of a -- is that a part of a -- I think
15 it's on the Office of Planning's website, but is it a part of
16 -- what is the source, is it -- I see montgomeryplanning.org
17 referenced at the bottom of it?

18 MR. DETTMAN: Yeah. It was a study done by the
19 Montgomery County Park and Planning Commission and the link is
20 at the bottom of our slide and it's a really interesting --
21 there's a written report that summarizes -- and the study was
22 done for the entire -- I think the entire region, certainly D.C.
23 and the Montgomery County, but there's a written report, there's
24 also an interactive map that allows you to like click on census
25 tracks and see, you know, why something is categorized as being

1 inclusive growth as opposed to abandonment and whatnot.

2 VICE CHAIR MILLER: Well, yeah, it is a very interesting
3 map and I appreciate you providing it and providing the link
4 there. I'll look for that. I think it's a useful part of the
5 whole discussion about part of the whole evaluation of racial
6 equity analysis through the -- when we're doing a comprehensive
7 plan consistency case. So thanks. I thank each of you for
8 bringing this forward, and I have no further questions or comments
9 at this time, Mr. Chairman. Thank you.

10 CHAIRPERSON HOOD: Okay. Thank you, very much.

11 I just have a few quick questions. Mr. Utz, I want to
12 thank you for your conversation you had with the Vice Chair about
13 the grocery store. I'm not DDOT, but in this area a grocery
14 store right now and the way this area is -- I know they have the
15 market, I think they do it every Saturday or Sunday, the fresh
16 market there, so I think that would suffice.

17 One of the things about this Commission, and I think I
18 heard discussion earlier, when we started dealing with Brookland
19 and in that area and start getting to higher heights, this
20 Commission, including my own family, criticize us to a point, and
21 then after some time went by, my family came back and said, you
22 know, I'm starting to like that, so it grew on the neighborhood.
23 So it looks like we're going the same trend that we're going with
24 the Potbelly's and all those up in the Brookland area.

25 One of the things that threw me off on this case,

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1 | there's another zoning case coming up on the other side of the
2 | bridge. Let me ask this question. Does anybody know the name
3 | of the bridge? Oh, you all getting ready to do something and
4 | don't know the name of the bridge?

5 | MR. DETTMAN: I was just looking up the name of it
6 | yesterday.

7 | CHAIRPERSON HOOD: You forgot the name of the bridge?

8 | MR. SWILLER: Are we allowed to Google the answer?

9 | CHAIRPERSON HOOD: No. I'm going to tell you the name of the
10 | bridge, because I was there when Marion Berry did it in 1982.
11 | The name of the bridge is the Charles Richard Drew Bridge, so I
12 | would encourage you all -- and I'm not getting on the Applicant
13 | -- whenever you're doing something in the neighborhood know all
14 | of the particulars that's going on, so I think that's important,
15 | the Charles Richard Drew Bridge, and I'm sure that his grandson
16 | will appreciate me -- Ernie Jarvis would appreciate me mentioning
17 | that.

18 | But let me just ask these questions. And I'm really
19 | not concerned about Petit Scholars. I know they're well thought
20 | of, and I know that if you all don't do them right, whatever
21 | project you come up with, I know y'all will probably have to find
22 | somewhere else to develop, so I'm not wor- -- I'm not concerned
23 | about that Petit Scholars, but I want to encourage you to keep
24 | working with Petit Scholars. They do a fabulous job, not just
25 | there, but in this city as a whole.

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1 One of the other things that I've noticed -- and I want
2 to thank ANC 5F. ANC-5F is one of the new ANCs in Ward 5. They
3 just came up during this last re-districting cycle and I want to
4 commend them. I know they have a couple of seasoned commissioners
5 and most new. But I do want to ask this question. Mr. Utz, I'm
6 not sure who can answer this problem -- I'm not sure who can,
7 Mr. Khan. There was one Commissioner who voted against this.
8 Was that the Single Member District commissioner?

9 MR. SWILLER: No, it was not. It was Commissioner
10 Williams, who was actually the lady who I had then had a follow-
11 up conversation with about her concerns and it was the 30 percent
12 AMI issue, and actually we spoke again at the Edgewood Civic
13 Association just a few weeks ago. She calls herself a fighter
14 for the city, and I really -- I think she stands out there, she
15 really had a lot to say.

16 CHAIRPERSON HOOD: And what's her name, Commissioner
17 Williams, what is her name?

18 MR. SWILLER: Yes, Commissioner Williams --

19 CHAIRPERSON HOOD: Okay, good.

20 MR. UTZ: -- of the ANC.

21 CHAIRPERSON HOOD: I appreciate her, and I'm saying
22 this because I really appreciate her fighting for 30 percent of
23 the MFI, AMI, or whatever you want to call it, because I like to
24 go from 0 to 30 percent, so whatever we can do, I appreciate her.
25 I'm also impressed -- I know the work that Mr. Michael Clark has

1 | been doing, who's the president of the --

2 | MR. SWILLER: Uh-huh.

3 | CHAIRPERSON HOOD: -- Edgewood and Eckington
4 | communities, he's been out there a long time, and I see a support
5 | letter. And the reason why I'm mentioning all these things is
6 | because this didn't come by no small feat. You all getting this
7 | kind of support and me not seeing no opposition as of yet means
8 | a lot, because I know a lot of the players. Mr. Clark -- and
9 | I've known him for years, I know the work that he's done in this
10 | city for years, so I appreciate the work that you all have done.
11 | But let me just ask this question with the -- whatever development
12 | is done here, and I know DDOT supports and said they didn't have
13 | any issues. The concern for me has always been how even without
14 | other approvals that we've done in the Brookland area, my concern
15 | has always been how 12th Street is operating now and how Michigan
16 | Avenue is operating with this going from MU-3A, which I was
17 | surprised we -- that was even MU-3A, and I -- when we did the
18 | mapping because I think it was either MU-3A, and Vice Chair
19 | Miller, you maybe know, one of them was fairly -- it might have
20 | been MU-2B or 3B, so something we did was very fairly new. So
21 | I'm just -- I was just curious if that was already MU-3, but I'll
22 | leave that alone.

23 | But as far as another zone, I've heard my colleagues
24 | drill down on that. I don't need to go with that. But my issue
25 | and concern, it's not a major concern, I'm just -- in your

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1 analysis did you look at the modal activity with the bridge, and
2 also 12th Street, which now is, because of our development over
3 the years, is starting to be congested? And I don't know do you
4 have somebody who can talk about that, but I'd like to know what
5 your analysis -- did your analysis entail all of those issues?

6 MR. UTZ: So if I'm understanding the question
7 correctly, and please correct me if I'm wrong, if -- it's whether
8 we've kind of analyzed the modal usage of our anticipated tenants
9 and the project itself? I would say that so far the project was
10 not studied enough to be at that phase. We are anticipating a
11 heavy usage of the Metro. We're 275 feet away from the station,
12 so you know, that is one of the things that we think really makes
13 this site particularly attractive for the zone and then what the
14 building can become. We think it's going to be primarily used
15 by Metro riders and it will be designed with that in mind.

16 CHAIRPERSON HOOD: Okay. Now, do you all -- is there
17 still a way to go to the Metro, whatever the use is, is there a
18 way to go to the Metro underground or do you -- or over top? I
19 think -- it used to be an underground way where you can go right
20 to the Metro. Is that still there or how do you get to the Metro,
21 you don't have to use the bridge, correct?

22 MR. SWILLER: No, you don't have to use the bridge, you
23 go underneath the bridge. You actually -- from the back of our
24 property, you go by the Arts Walk and then you're right at the
25 entrance.

1 CHAIRPERSON HOOD: Okay. Okay, good. I'm just -- I
2 wasn't sure whether that was still back there or not. All right.
3 And again, Mr. Utz, my question was really about -- you hit it,
4 you scratched it, so I'm fine with that, I know -- I just was
5 concerned through this analysis even with the MU-2, it was an
6 analysis done or whatever the intensity level of transportation
7 was on 12th Street as well as Michigan Avenue. So I'll leave it
8 at that. I'll settle for that for right now, because this is a
9 map amendment.

10 I don't have any further questions. I thank you all
11 for your response and more than all of that I thank you all for
12 your work because unless I'm getting ready to jinx myself, I
13 don't see any opposition. It looks like a lot of the people
14 who've been out here a long time, who've been doing things in
15 that area are in support, and I'm glad Ms. Williams is still
16 fighting for 30 percent of the AMI. Thank you.

17 Do my colleagues have any follow up questions or
18 comments?

19 All right. Ms. Schellin, do we have anyone here from
20 -- oh, let me ask this. Why didn't -- unless I missed it, why
21 didn't the ANC 5A -- they apparently abut at some point, they
22 decided not to weigh in?

23 MR. UTZ: Correct, yes. We did reach out to them quite
24 a bit and we do have the letter from the Single Member District
25 representative, Mr. Diego, but they did not want to put it on

1 the agenda for a vote due -- seemed like due to demand on the
2 time and just kind of scheduling conflicts.

3 CHAIRPERSON HOOD: Okay.

4 MR. UTZ: So we've tried that a couple times, actually, to speak
5 to --

6 MR. SWILLER: Yeah. I would also say when we did
7 present, I do believe it was back in July, they very quickly said
8 that they defer to ANC 5F.

9 MR. UTZ: Right.

10 CHAIRPERSON HOOD: Okay. I kind of assume that's
11 probably what they did, defer to ANC 5F. That's good collegial
12 work that we -- that I see being done a lot in this city, so
13 thank you.

14 Ms. Schellin, do we have anyone from ANC 5F or 5A here?

15 MS. SCHELLIN: Neither ANC is on.

16 CHAIRPERSON HOOD: Okay. And I will tell you when I
17 get to the ANC, I will just read the report. I know the Single
18 Member Districts have weighed in, but by law, we have to give
19 the full ANC a great weight and we do have a letter from 5F.
20 While I want it not to go unknown that we appreciate ANC 5A Single
21 Member District, and also ANC 5F, I think the Single Member
22 District, but they also have a letter from the full ANC.

23 All right. Let's go to -- hold on one second, try to
24 go off the top of my head. Let's go to other government reports.

25 Ms. Schellin, do we have anyone from any other

1 government reports besides DDOT and OP?

2 MS. SCHELLIN: No, sir.

3 CHAIRPERSON HOOD: All right. Let's go to -- do we
4 have anyone from DDOT?

5 MS. SCHELLIN: No, sir.

6 CHAIRPERSON HOOD: Okay. Well, let's go to the Office
7 of Planning. Do we have anyone from the Office of Planning?

8 Mr. Jesick --

9 MS. SCHELLIN: We do.

10 CHAIRPERSON HOOD: -- you may begin when you're ready.
11 Okay.

12 MR. JESICK: I'm here, Mr. Chairman. Thank you, Mr.
13 Chairman and members of the Commission. The Office of Planning
14 recommends approval of the proposed map amendment. OP continues
15 to find that the map amendment would not be inconsistent with the
16 comprehensive plan, both the written policies and the land use
17 maps of the plan, including when viewed through a racial equity
18 lens. And mapping the MU-2 zone on the subject site should
19 further a number of policies related to equity, mostly as a result
20 of increased potential residential density. Of course, when we
21 add residential units, both, market rate and affordable, we help
22 to tamp down the upward pressure on housing prices in a
23 neighborhood. And add to that that this is right next to transit,
24 it will give residents many transportation options to reach
25 employment destinations.

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1 Of course, OP is recommending that the Commission apply
2 IZ Plus to this property, which would result in a relatively high
3 percentage of affordable units, again adding to equitable
4 outcomes for residents, either current residents or future
5 residents of the neighborhood, and OP's full racial equity
6 analysis can be found in our report at Exhibit 26, beginning on
7 Page 4. I did want to say that we appreciate all the Applicant's
8 outreach efforts to multiple ANCs and multiple neighborhood
9 groups.

10 For the rest of my testimony, I can rest on the record,
11 but I'm happy to take any questions. Thank you.

12 CHAIRPERSON HOOD: Okay. Thank you, very much, Mr.
13 Jesick.

14 Any questions of the Office of Planning?

15 Commissioner Imamura, any questions?

16 COMMISSIONER IMAMURA: No questions.

17 Thank you, Mr. Jesick. Always matter of fact in your
18 reports, I appreciate that.

19 CHAIRPERSON HOOD: Commissioner Stidham, any questions,
20 comments?

21 COMMISSIONER STIDHAM: No. No questions from me. I'm
22 good. Thank you for your report. Very nice.

23 CHAIRPERSON HOOD: Vice Chair Miller, any questions of
24 OP?

25 VICE CHAIR MILLER: Thank you, Mr. Jesick, for your

1 report and your testimony here today, and particularly all the
2 comprehensive plan and racial equity analysis. Just out of
3 curiosity, was the medium des- -- medium density designation on
4 the future land use map, was that a result of the most recent
5 Council -- Mayor-Council and active comp plan changes two years
6 ago or do you happen to know, or was it before that at an earlier
7 amendment cycle?

8 MR. JESICK: Yes, that was a result of the most recent
9 amendments to the future land use map. It was a moderate density
10 designation in the past, but was increased in density to medium
11 mixed use.

12 VICE CHAIR MILLER: Okay. Well, I appreciate that.
13 Well, there you can see in very stark summary terms, the Mayor
14 and Council proposed a change from moderate to medium on the
15 future land use map, the Zoning Commission is required to make
16 sure zoning is not inconsistent with their comprehensive plan,
17 and I think that's what this case is all about. So thank you
18 very much.

19 CHAIRPERSON HOOD: It's always good when Vice Chair
20 Miller gives me an education on that, because he was one of the
21 ones years ago that wrote a lot of this stuff, so I always
22 consider him the expert on that, so I'll leave it at that.

23 All right. Does the Applicant have any cross of the
24 Office of Planning, I mean, any questions, cross, or whatever you
25 call it?

1 MR. UTZ: We do not.

2 CHAIRPERSON HOOD: I'm sorry, sir?

3 MR. UTZ: We do not, thank you.

4 CHAIRPERSON HOOD: Okay.

5 MR. UTZ: But thank you.

6 CHAIRPERSON HOOD: All right. And again Ms. Schellin,
7 we don't have anyone from the ANC 5F.

8 So Mr. Jesick, thank you so much for all the work that
9 you continue to do.

10 All right. The report of the ANCs, Vice Chair, do you
11 have it handy, you have them handy? If not I can do it.

12 VICE CHAIR MILLER: Yes, I do. You're talking about
13 5F?

14 CHAIRPERSON HOOD: 5F, and even mention the 5A, even
15 though it's a Single Member District.

16 VICE CHAIR MILLER: Okay. Well, at Exhibit 18, we have
17 a document from the ANC 3F where they resolved that they support
18 the map amendment and then they respectfully request that we give
19 great weight to their support of the map amendment, which was
20 approved at their meeting of July 25, 2023, with six commissioners
21 present. As was been noted, the vote was five yes, one no, and
22 zero abstention, a five to one, zero vote by ANC 5F in support.
23 I'm not sure I -- what happened to my 5A. I have it here
24 somewhere, but I just can't seem to find it right now, Mr.
25 Chairman.

1 CHAIRPERSON HOOD: Okay.

2 VICE CHAIR MILLER: It's the Single Member District
3 commissioner's support, so maybe you have it.

4 CHAIRPERSON HOOD: Yeah. Let me find his name right
5 quick. His name was Commissioner -- hold on a second. It's
6 funny when you're looking for it, you can't find it.

7 VICE CHAIR MILLER: Okay, I found it. It's Exhibit 22.

8 CHAIRPERSON HOOD: That's it.

9 VICE CHAIR MILLER: At least the one I have, the
10 Commissioner Diego Rojas in a letter dated September 13, 2023
11 says that he's writing us as a commissioner of 5A04 and student
12 at Catholic University to express his support for the map
13 amendment sought by 701 Michigan, LLC. He said the proposed
14 zoning -- I'm quoting, "The proposed zoning will enable greater
15 development at a prominent corner of Brookland, potentially
16 bringing much needed amenities and housing infrastructure to the
17 neighborhood. I have faith that the new zoning will allow any
18 future development at that location to fill a gap in the landscape
19 and match the massing of adjacent buildings. Furthermore, a new
20 development at this location will provide multiple sources of
21 positive externalities, including employment opportunities,
22 improve public safety, increase local economic activity,
23 certainly to a much greater extent than what the property's
24 current zoning allows." That's the letter from Commissioner
25 Diego Rojas to the Zoning Commission.

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1 CHAIRPERSON HOOD: Okay. Thank you, Vice Chair Miller
2 for doing both ANC's. Again ANC-5F will have the great weight,
3 and 5A, we appreciate them weighing in as well.

4 Okay. With that, Ms. Schellin, let's go to the public.
5 Do we have anyone in support, opposition, or undeclared?

6 MS. SCHELLIN: No witnesses.

7 CHAIRPERSON HOOD: No witnesses.

8 Okay. Mr. Utz, do you have any closing?

9 MR. UTZ: Great. Thank you. Sure. I would love to
10 say a few words in conclusion, just a couple minutes.

11 First of all, we wanted to thank you for the opportunity
12 to present tonight and the time you've spent reviewing the record.
13 We do believe that the application that we're requesting, the map
14 amendment, is not inconsistent with the comprehensive plan,
15 particularly when evaluated through a racial equity lens.
16 As we've just discussed, the site is designated as mixed-use
17 medium density on the future land use map. This is an enhancement
18 to the mixed-use moderate-density designation on the future land
19 use map just before 2021. So the density that is -- and the
20 height that are being pursued as part of an MU-2 map amendment
21 is specifically in response to this purposeful upgrade to the
22 designation on the future land use map. The height and the
23 density of the proposed MU-2 is consistent with the type of
24 medium-density mixed-use development that is contemplated by the
25 future land use map.

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1 The MU-2 zone's preference for residential use and limitations
2 on the permitted types of commercial uses is not inconsistent
3 with the comp plan policy guidance regarding development near
4 Metrorail, Metro, neighborhood-serving commercial uses, and
5 consideration with commercial impacts on lower-scale residential
6 areas. The potential development permitted under the MU-2 zone
7 is not inconsistent with the neighborhood conservation area
8 designation on the generalized policy map, since the MU-2 zone
9 will permit greater housing compared to existing zoning.
10 And the resulting scale and character of the development will be
11 compatible with the nearby surroundings, which were actually
12 approved through (indiscernible) map amendments that were based
13 on a future land use map that was moderate-density residential,
14 now enhanced. The proposed map amendment to MU-2 is consistent
15 with the purposes of the Zoning Act as well.

16 So in conclusion again thank you for the opportunity
17 to present and the consideration of this application. Thank you
18 so much.

19 CHAIRPERSON HOOD: Okay. Thank you, Mr. Utz and to the
20 team that presented tonight and answering all the questions done
21 by my colleagues and I. We thank you and thank everyone who
22 participated, DDOT, OP, whoever -- and especially the group
23 tonight, I don't want it to go unnoticed that the Vice Chair
24 rolled off a lot of names who you all had interacted with, the
25 Brookland Civic Association, Petit Scholars, and others, and

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1 that's in the record, so thank you all for all the work, because
2 it makes our jobs, when we do this, a lot easier. And I'm saying
3 that and not knowing -- I feel like I'm going to be voting in
4 favor of this in moving forward, but let me check with my
5 colleagues and see where they are.

6 Any objections to moving forward tonight? Does anybody
7 need anything or let me -- let's start that discussion. I see
8 everybody shaking their head. Are we ready to move forward
9 tonight?

10 Okay. So what I'd like to do since Commissioner Imamura
11 really drilled down -- we all drilled down, but he really drilled
12 down on this, and if he wouldn't mind making a motion. I'm not
13 going to say to approve, because he might not want to, but I want
14 him to make a motion.

15 COMMISSIONER IMAMURA: Thank you, Mr. Chairman. Happy
16 to do so. I move that the Zoning Commission take proposed action
17 for Case Number 23-07, 701 Michigan, LLC, map amendment at Square
18 3657, Lots 11 and 830 at 701 Michigan Avenue, N.E., to include
19 IZ Plus, and ask for a second?

20 COMMISSIONER STIDHAM: Second.

21 CHAIRPERSON HOOD: Okay. It's been moved and properly
22 second. Any further discussion?

23 Not hearing any, Ms. Schellin, would you do a roll call
24 vote please.

25 MS. SCHELLIN: Commissioner Imamura?

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1 COMMISSIONER IMAMURA: Yes.

2 MS. SCHELLIN: Commissioner Stidham?

3 COMMISSIONER STIDHAM: Yes.

4 MS. SCHELLIN: Commissioner Hood?

5 CHAIRPERSON HOOD: Yes.

6 MS. SCHELLIN: Commissioner Miller?

7 VICE CHAIR MILLER: Yes.

8 MS. SCHELLIN: The vote is four to zero to one to
9 approve proposed action in Zoning Commission Case No. 23-07, the
10 minus one being the third mayoral appointee position. And I
11 would ask that the Applicant provide a draft order within two
12 weeks. And Chairman Hood, would this be, since there was no
13 opposition, a summary order?

14 CHAIRPERSON HOOD: Yes, unless I hear any objections
15 from my colleagues. Yes, let's do a summary.

16 MS. SCHELLIN: Okay. Thank you.

17 CHAIRPERSON HOOD: All right. Ms. Schellin, do we have
18 anything else before us?

19 MS. SCHELLIN: No, sir.

20 CHAIRPERSON HOOD: Okay. I probably shouldn't say
21 this, because I'm probably getting ready to jinx myself, but the
22 Zoning Commission will meet again October the 12th, and when I'm
23 looking at the agenda, if you don't join us by 4:10, you'll miss
24 us. I probably shouldn't have said that. Again, on these same
25 platforms at 4 p.m.

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1 Again, I want to thank all the -- everybody who
2 participated and especially the Applicant and the community,
3 you've done a fabulous job, so we appreciate it. So with that,
4 this hearing is adjourned. Good night, everyone. Have a great
5 weekend and holiday.

6 (Whereupon, the above-entitled matter went off the
7 record at 5:17 p.m.)

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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

Before: DC0Z

Date: 10-05-2023

Place: Videoconference

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