

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

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IN THE MATTER OF: :
  
:
  
3200 PENN AVE PJV, LLC - MAP : Case No.
  
AMENDMENT @ SQUARE 5539, LOTS: 17-11
  
835 AND 840 :
  
:
  
-----:

Monday,
  
July 23, 2018

Hearing Room 220 South
  
441 4th Street, N.W.
  
Washington, D.C.

The Public Hearing of Case No. 17-11 by the
District of Columbia Zoning Commission convened at 6:30
p.m. in the Jerrily R. Kress Memorial Hearing Room at 441
4th Street, N.W., Washington, D.C., 20001, Anthony J.
Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

- ANTHONY J. HOOD, Chairperson
- ROBERT MILLER, Vice Chairperson
- MICHAEL G. TURNBULL, FAIA, Commissioner (AOC)
- PETER G. MAY, Commissioner (NPS)
- PETER SHAPIRO, Commissioner

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER, Deputy Director, Development  
Review & Historic Preservation  
JOEL LAWSON  
CRYSTAL MYERS

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

JACOB RITTING, ESQ.

The transcript constitutes the minutes from  
the Public Hearing held on July 23, 2018.

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

6:33 p.m.

CHAIRMAN HOOD: Good evening, ladies and gentlemen. This is a public hearing of the Zoning Commission for the District of Columbia. Today's date is July 23, 2018. My name is Anthony Hood. We're located in Jerrily R. Kress Memorial Hearing Room.

Joining me this evening are Vice Chair Miller, Commissioner Turnbull, Commissioner May, and Commissioner Shapiro, as well as the Office of Zoning staff, Ms. Sharon Schellin, as well as Office of the Attorney General, Mr. Ritting, Office of Planning staff, Ms. Steingasser and Mr. Lawson, as well as Ms. Meyers. This proceeding is being recorded by a court reporter and is also webcast live.

Accordingly, we must ask you to refrain from any disruptive noises or actions in the hearing room, including display of any signs or objects. This opening statement is going to apply to both Zoning Commission Case No. 18-06, which is our first case, and our second case is Zoning Commission Case No. 17-11, in that order. Notice of today's hearing was published in the D.C. Register, and copies of that announcement are over to my left, on the wall, near the door.

The hearing will be conducted in accordance with provisions of 11(z) DCMR, Chapter 5, as follows: preliminary

1 matters, presentation by the petitioner, one of the cases,  
2 the Office of Planning, reports of the other government  
3 agencies, report of the ANC, organizations and persons in  
4 support, organizations and persons in opposition,  
5 organizations and persons undeclared.

6           The following time constraints will be maintained  
7 in this hearing: Petitioner or the Office of Planning will  
8 have up to 60 minutes. I don't believe we need 60 minutes  
9 in either case, but we'll see how it goes; organizations five  
10 minutes, and individuals three minutes. All persons wishing  
11 to testify before the Commission in this evening's hearings  
12 are asked to register at the witness kiosk.

13           If you need assistance, you can see Ms. Schellin.  
14 It's to my left. The staff will be available throughout the  
15 hearing to discuss procedural questions. Please turn off all  
16 electronic devices at this time, so not to disrupt these  
17 proceedings. At this time, the Commission will consider any  
18 preliminary matters. Does the staff have any preliminary  
19 matters?

20           MS. SCHELLIN: No sir.

21           (Whereupon, the above-entitled matter went off the  
22 record at 6:35 p.m. and resumed at 7:49 p.m.)

23           CHAIRMAN HOOD: Let's go ahead and move into  
24 17-11. Ms. Schellin, we're going to move into 17-11 at this  
25 point. 18-06 will be dealt with this evening before

1 anything's done with 17-11. I'm clear on that.

2 MS. SCHELLIN: We're discussing whether that can  
3 be done right now.

4 CHAIRMAN HOOD: That's how we're going to proceed.  
5 I know what you all are discussing, and I don't see any  
6 issues with us -- we're not making a decision on 17-11.  
7 That's how we're going to proceed. Let's take -- come up for  
8 17-11. Mr. Glasgow, you may begin.

9 PRESENTATION BY THE PETITIONER

10 MR. GLASGOW: Yes, sir. Mr. Chairman, I think  
11 that the Applicant will not need any more than 15 minutes to  
12 present its case.

13 CHAIRMAN HOOD: Makes things a lot better. Okay,  
14 you can go right ahead.

15 MR. GLASGOW: Thank you, Mr. Chairman, members of  
16 the Commission. For the record, my name is Norman M.  
17 Glasgow, Jr., of the Law Firm of Holland & Knight. Here with  
18 me this evening are Mr. Anthony Startt, 3200 Pennsylvania  
19 Avenue DJV LLC, and Mr. Shane Dettman, of Holland & Knight.

20 Mr. Dettman has been previously qualified as an  
21 expert witness many times before the Zoning Commission. The  
22 subject property is designated moderate density residential,  
23 low density commercial in the comprehensive plan future land  
24 use map, which equated to -- we've had discussion about an  
25 MU-3B or an MU-4A zone district.

1           It's presently zoned R-1B, a category that we  
2 submit is not consistent with the comprehensive plan, so  
3 we're looking at this as a comprehensive plan consistency  
4 case. During the course of the prior hearing, the Zoning  
5 Commission requested and instructed the Applicant to work  
6 with the community to formulate a resolution as to how the  
7 rezoning of the property could move forward. We have  
8 successfully done that, and that's resulted in the  
9 application before you this evening. The height and FARs  
10 proposed by either the MU-3B or MU-4A district are completely  
11 acceptable to the Applicant. The statements about down  
12 zoning that property further or having other zones that were  
13 in the prior case are not acceptable, the zones that are in  
14 the -- I mean the FARs that are in the Office of Planning  
15 report are acceptable.

16           Similarly, with respect to the setback, we had  
17 agreed to a 20-foot setback, where the R-1B or R-1A type  
18 properties abut. That's where the 20-foot setback. So if  
19 it's in a rear yard/side yard, it's either one of those, but  
20 they have to abut, so it may or may not be a rear yard,  
21 depending upon the configuration of the lots.

22           The point is to have separation from those low  
23 density residential properties from the development on the  
24 new either MU-3B or MU-4A zone. We also heard some comments  
25 about planned unit developments.

1           We're at a site and a project where people are not  
2 banging down the door to get the property redeveloped, with  
3 respect to tenants, or it would have been done. We need  
4 flexibility. I think if we had had a PUD, we probably --  
5 from the studies that I've seen, we would have been back here  
6 twice, at least, for modifications of significance. We're  
7 nowhere near being in a position to have a PUD, and we have  
8 to have the flexibility to get the tenants in there, to get  
9 the site put together and develop it. That's what we've all  
10 been working for and working with the community. With that,  
11 unless there are any preliminary questions, I'd like to turn  
12 the testimony over to Mr. Startt. Tony, please.

13           MR. STARTT: Thank you, Chip. Good evening, Mr.  
14 Chairman, members of the Commission. My name is Anthony  
15 Startt. I'm an investment manager at Jair Lynch Real Estate  
16 Partners, an urban regeneration company that aspires to  
17 create extraordinary places. I'm thrilled to be back before  
18 you this evening to continue the discussion of our proposed  
19 zoning map amendment for a portion of the property located  
20 at 3200 Pennsylvania Avenue Southeast.

21           The site is currently known as the Shops at Penn  
22 Hill, but formerly known as, and potentially known as, again,  
23 in the near future, as Penn Branch Shopping Center. The  
24 defining features of this site are an under-utilized two-acre  
25 surface parking lot and an approximately 89,000 square foot,

1 1960s-era commercial building. When we presented to you in  
2 October of 2017, we discussed our vision to rezone the site  
3 to make the building and the planned redevelopment of the  
4 rear parking lot more consistent with the quality and  
5 character of the surrounding neighborhoods, including Penn  
6 Branch, Hillcrest, Dupont Park, Fort Davis, and Randall  
7 Highlands.

8           This vision was, and remains, consistent with the  
9 vision set forth in the 2006 comprehensive plan and the 2008  
10 Pennsylvania Avenue Southeast Corridor Land Development Plan,  
11 the latter of which specifically identifies this site as  
12 having, quote, the greatest potential of any site along the  
13 corridor to help meet pent up retail demand, but its current  
14 zoning makes it a serious challenge for viable redevelopment  
15 to occur, end quote.

16           At your direction, we have spent the months since  
17 our last hearing working diligently with the neighborhood  
18 stakeholders, including the ANC, Penn Branch Citizens' Civic  
19 Association and, most importantly, with the O Street  
20 Neighbors and Friends, or OSNF, which is comprised of  
21 residents of the 3200 Block of O Street Southeast and other  
22 nearby streets, whose direct proximity to this site makes  
23 them the most impacted by our plans. Specifically, the goals  
24 set by this Commission, OSNF, the Office of Planning, and us,  
25 as the Applicant, owner, and the developer of this site were:

1 1) to minimize the impacts of height, density, light, and  
2 privacy of any proposed development on the O Street homes;  
3 2) to mitigate the impacts of construction on the adjacent  
4 properties, including concerns raised by OSNF regarding  
5 water, soil, and environmental conditions; and 3) to address  
6 ongoing property and operational management issues that could  
7 impact the quality of life of nearby residents.

8           The result is a vastly improved application which  
9 meets all of these goals and maintain its consistency with  
10 both the comp plan and the small area plan. We have removed  
11 lots 838 and 839 from our application, on which the existing  
12 commercial building sits.

13           These lots will retain the current MU-3 zoning,  
14 but we are still committed to investing more than \$9 million  
15 in a comprehensive renovation plan that is currently  
16 underway. This change to the application was in response to  
17 a concern raised by OSNF and ensures that the building height  
18 will be measured from Branch Avenue. We worked with Office  
19 of Planning and OSNF to develop parameters for a  
20 quote/unquote custom zone that will be implemented via a  
21 zoning text amendment that was presented earlier this  
22 evening, in Case 18-06.

23           The custom zone specifically addresses building  
24 setbacks, buffers, height, density, and lot occupancy through  
25 a creative use of a combination of elements from the existing

1 zoning regulations, including elements of MU-4, MU-3, R-1B,  
2 and even PDR zones. Lastly, we worked diligently with OSNF  
3 to compile a quote/unquote good neighbor agreement that  
4 addresses the quality of life concerns raised at the last  
5 hearing.

6           Some of the key provisions of the good neighbor  
7 agreement include construction management provisions,  
8 including traffic and parking control, limitations on work  
9 hours, our commitment to share reports for all subsurface,  
10 environmental and geotechnical investigations, and our  
11 commitment to completing a pre-construction existing  
12 condition survey of neighboring homes on O Street and  
13 monitoring those conditions ongoing through construction by  
14 a third-party engineer. The good neighbor agreement includes  
15 ongoing operational management provisions, such as a limit  
16 on operating and loading hours of new retailers within the  
17 MU-3B or MU-4A proposed zoned portion of the site, and  
18 efforts to minimize parking and light pollution in areas  
19 adjacent to the O Street homes.

20           Lastly, the good neighbor agreement documents our  
21 commitment to consistent and ongoing communication with OSNF,  
22 including quarterly project update meetings. These updates  
23 will include, among other things, advanced notice of any  
24 programmatic and retail leasing decisions and continue  
25 discussion of the name of the existing shopping center.

1           When we presented to this Commission last year,  
2 I relayed an anecdote of how members of this community not  
3 only supported our efforts to develop the property, but often  
4 asked how can I help, to which we replied stay engaged. As  
5 evidenced by the more than ten meetings with OSNF, the ANC,  
6 Penn Branch Citizens Civic Association, and other  
7 neighborhood organizations, over the last nine months, along  
8 with countless emails, phone calls, and informal  
9 conversations, and by the number of individuals present to  
10 participate in this hearing this evening, it is evident that  
11 the neighborhood has more than met our challenge to stay  
12 engaged.

13           During these months, it became abundantly clear  
14 that while there may be some disagreement over details, the  
15 entire neighborhood, and us, as developer, have a shared  
16 vision for this property. We all want to see a high quality  
17 project that includes neighborhood-serving retail and  
18 residential options, that is developed consistent with the  
19 comp plan and small area plan, but also a project that  
20 respects the history and stability of the neighborhood.

21           We believe that the map amendment to rezone this  
22 site to MU-4A or MU-3B, as it may be called, is a crucial  
23 step in realizing that shared vision, but zoning is only one  
24 very early step in this process, especially with decisions  
25 to be made regarding program, design, product type, and

1 tenant mix. We understand that rezoning this site provides  
2 us with substantial flexibility, and thus also a great  
3 responsibility, and that our commitment to continued  
4 engagement with the neighborhood, via the good neighbor  
5 agreement, is evidence that we take that responsibility very  
6 seriously and that we will continue to collaborate with OSNF,  
7 the ANC, civic associations, and other neighborhood  
8 stakeholders to ensure that the ultimate outcome is a  
9 realization of that vision.

10 In closing, I ask that we all jointly take the  
11 next step and respectfully request that the Commission  
12 approve our application to rezone the site to MU-4A or MU-3B,  
13 as it may be called.

14 However, before I hand it over to Mr. Dettman, I  
15 would like to offer a special thank you to a few individuals  
16 in the neighborhood for devoting their time, energy, and  
17 passion to this project, specifically ANC Commissioner  
18 Hammond and other members of ANC 7B, and most importantly,  
19 the leadership of OSNF, specifically Ms. Laura Richards, Ms.  
20 Barbara Morgan, and Ms. Marla Dean.

21 They've been a pleasure to work with, tough, but  
22 fair, discerning, but responsive, and extremely generous with  
23 their time. Thank you, Commissioners, for your time, and I  
24 am happy to answer any questions you have.

25 MR. DETTMAN: Good evening, Mr. Chairman, and

1 members of the Commission. I just have a few slides that  
2 will take you through, specifically, the parameters of the  
3 proposed new zone, whether it be MU-4A or MU-3B, and apply  
4 those directly to the revised subject property in this case.

5           What you have before you here is a chart that  
6 shows the parameters of R-1B, MU-3, the existing MU-4, and  
7 you can see how the proposed new zone slips right in between  
8 the existing MU-3 and the MU-4. You can see that --

9           CHAIRMAN HOOD: You know what? I hate to be --  
10 I hate to cut you off. I want you to start over in a minute.  
11 I hastened to rush, and I shouldn't have done that. We need  
12 to deal with 18-06. Forgive me for doing that.

13           Sometimes, you try to move things along, and after  
14 I've had a few minutes to think about it and consult with  
15 Counsel and others, we need to decide that first, deal with  
16 that first case. I think that case is flavored and is ready  
17 to move forward. I tried to accommodate everyone. Sometimes  
18 I put myself in a bad position, and I did that this evening.  
19 I'm not going to do that again. I'm not going to say I'm not  
20 going to do it again. I want us to deal with 18-06. I  
21 understand what the Vice Chair meant, but actually, we need  
22 to deal with creating something before we hear something.  
23 I have somebody in my ear over here, and somebody in my ear  
24 over here, and somebody in my ear over there. It took me a  
25 minute to think about that.

1           Before we proceed, Mr. Glasgow, and do something  
2 incorrectly, I'm going to undo what we just did. I'm going  
3 to put 17-11 in abeyance for about five minutes.  
4 Commissioner May and Shapiro and Vice Chair Miller,  
5 Commissioner Turnbull, we need to deal with 18-06.

6           (Whereupon, the above-entitled matter went off the  
7 record at 8:02 p.m. and resumed at 8:09 p.m.)

8           CHAIRMAN HOOD: Let's go back to 17-11. Mr.  
9 Dettman.

10          MR. GLASGOW: Mr. Chairman, just one procedural  
11 thing, then. We want our application to be amended that we  
12 are asking for the MU-3B zone.

13          CHAIRMAN HOOD: Thank you. Any other  
14 clarifications?

15          COMMISSIONER MAY: No, but they're going to have  
16 to refile. We're going to have to postpone the hearing,  
17 aren't we?

18          CHAIRMAN HOOD: No, I don't think we're going to  
19 -- I don't think the neighbors would appreciate having to  
20 come back. You all see Commissioner May after the hearing.

21          MR. DETTMAN: Thank you, Mr. Chairman.

22          CHAIRMAN HOOD: Let the record reflect we're going  
23 back to Case No. 17-11.

24          MR. DETTMAN: Just a few slides here, and any  
25 references to MU-4A, you can pretend that it's MU-3B. What

1 this chart shows is how the parameters of the proposed new  
2 zone, MU-3B, fit in with the continuum of zones and drawing  
3 upon how it was influenced by some of the existing parameters  
4 of R-1B.

5           It draws from MU-3; it draws from the existing  
6 MU-4. You can see here, as Ms. Steingasser testified, the  
7 proposed 2.0 FAR, 2.4 with IZ, maintaining the 1.5  
8 non-residential. You can see how it fits in between the  
9 existing the MU-3 of 1.0 FAR overall, and then the 2.5 with  
10 MU-4. Height draws from MU-4, maintaining the 50-foot height  
11 limit; however, it draws in a story limit, which is  
12 consistent with the story limit -- with the institution of  
13 a story limit like the MU-3, and even the R-1B. With lot  
14 occupancy, largely, the proposed zone maintains what is  
15 permitted under the MU-4. That's 60 percent for residential.

16           It goes up to 75 percent with IZ, non-residential  
17 with 100 percent. However, the subject property in this  
18 case, that's Square 5539, and just the two lots now, 835 and  
19 840, for all uses, it would be 60 percent, which is  
20 consistent with, say, the permitted lot occupancy for a  
21 school or place of worship, even from the R-1B zone, which  
22 is the existing zoning on that site.

23           For rear yard and side yard, it's consistent with  
24 MU-4, 15 foot and 8 foot for a side yard minimum. But just  
25 to clarify some of the comments about the 20 foot setback and

1 all that, in this case, which we'll see in a minute, it just  
2 so happens that the rear property line and one of the side  
3 property lines is directly abutting an R zone property. So  
4 regardless of what rear yard and side yard would require, the  
5 transition setback would kick in, and you have to provide  
6 that 20-foot setback from the ground up, and then above 40  
7 feet, another 10 foot. We thought this was the best way to  
8 handle it because there may be a site in the future, if there  
9 was a proposal to map MU-3B someplace else, it could be that  
10 just the side yard directly abuts an R property, and the rear  
11 yard abuts another MU property where, in that case, the rear  
12 yard would be 15 feet, the side yard would be subject to the  
13 transition setbacks.

14           Then, again, there's the transition setbacks,  
15 which I briefly just touched upon already. How do those  
16 parameters of the new MU-3B apply directly to the revised  
17 subject property? This is the existing zoning of the site.  
18 This was the original proposal, which pulled in the two lots  
19 fronting on Pennsylvania Avenue, consisting of the existing  
20 shopping center.

21           Following the hearing and the development of the  
22 new zone parameters, we had revised the application to  
23 eliminate the two properties along Pennsylvania Avenue,  
24 largely as a result of comments from the community over  
25 concerns about the elevation and measuring building height

1 from the elevation of Pennsylvania Avenue, which Ms.  
2 Steingasser even eluded to in this particular subject  
3 property. It's got extreme topography, so we removed those  
4 two lots and just focused on the two rear lots, the subject  
5 surface lot. Taking a look at the setback requirements that  
6 would kick in when you're directly abutting the adjacent  
7 residential properties, you can see, in red outline, that's  
8 the property line.

9           Because we're directly abutting on both the north  
10 and the east, directly abutting our properties, we have the  
11 20-foot setback that would kick in, in lieu of the 15-foot  
12 rear property or the side yard requirement. Above 40 feet,  
13 which is an initial height that's consistent with the maximum  
14 height under R-1B, above 40 feet, the building would have to  
15 set back another 10 feet.

16           Then to address issues perhaps related to noise,  
17 within 50 feet of any of these directly abutting property  
18 lines, there would be no outdoor communal recreation space  
19 permitted. Just quickly to touch upon the lot occupancy  
20 limit on this subject property being 60 percent for all  
21 usage, you can see, in this light blue, in any other property  
22 that would be mapped MU-4B, the building footprint could  
23 technically come out to a 20-foot setback, and then go up  
24 from another 10 foot above 40 feet. It just so happens that  
25 60 percent lot occupancy on this site corresponds to this

1 darker blue area. So again, while, under the new zone, you  
2 could technically come out to here, because of the 60 percent  
3 lot occupancy on all uses, development would be constrained  
4 to this darker blue area.

5           What does that mean in terms of setbacks from --  
6 or distances from existing residential homes? You're looking  
7 at setbacks of a minimum of 100 feet, perhaps more, depending  
8 upon how the building is brought out to the street and how  
9 the building is designed. With respect to the comprehensive  
10 plan, under the future land use map, the MU-3B would be not  
11 inconsistent with the site's current mixed use, commercial,  
12 low density/moderate density, residential.

13           Then again, with the generalized policy map, you  
14 see a map here. The subject property under the policy map  
15 is a neighborhood conservation area. Neighborhood  
16 conservation areas are described as conserving and enhancing  
17 established surrounding neighborhoods and that land use  
18 decisions should be guided by the future land use map which,  
19 again, is mixed use, low density commercial, moderate density  
20 residential. I think given the work that's been done with  
21 the community and the development of those transition setback  
22 areas and whatnot, we can successfully carry out what's  
23 called for under the future land use map in a manner that is  
24 consistent with the generalized policy map, in terms of  
25 neighborhood conservation area and transitioning down to the

1 adjacent residential properties.

2 Just to conclude, the map amendment to MU-3B is  
3 not inconsistent with the comprehensive plan. It's also  
4 going to implement several of the recommendations in the  
5 Pennsylvania Avenue Corridor Small Area Plan.

6 It's also going to further public health, safety,  
7 and general welfare of the District, which is the purposes  
8 of the zoning regulations, for the reasons that are set forth  
9 in this chart here. I won't go through them item by item.  
10 With that, Mr. Chairman, that concludes my presentation.

11 MR. GLASGOW: We've finished, Mr. Chairman.

12 CHAIRMAN HOOD: Okay, thank you, and again, pardon  
13 the interruption. Let's see if we have any questions or  
14 comments up here. Nobody, after all that? Okay, Mr.  
15 Turnbull, thank you.

16 COMMISSIONER TURNBULL: Mr. Chair, I have -- in  
17 the transition area, I think the way the new MU-3B -- there  
18 will be no loading in the transition area, is that -- am I  
19 understanding?

20 MR. DETTMAN: That's correct.

21 COMMISSIONER TURNBULL: So it's going to be just  
22 basically an open area? What will be that transition  
23 (Simultaneous Speaking)?

24 MR. DETTMAN: Within the first 20 feet, there's  
25 a requirement that the first 6 feet measured from the rear

1 property line be landscaped. The other condition is that it  
2 can't be used for loading.

3 COMMISSIONER TURNBULL: Okay, thank you.

4 CHAIRMAN HOOD: Questions, Vice Chair?

5 VICE CHAIR MILLER: Yes, thank you, Mr. Chairman.  
6 Thank you for your presentation. This is a similar to a  
7 question I asked at set down. I know we're dealing with  
8 including this property within -- this proposal to include  
9 this property within the proposed new MU-3B zone, but you  
10 talked about the shared vision between the property owner and  
11 the neighborhood that you've worked on. Can you just  
12 summarize what this zoning will facilitate, in terms of the  
13 shared vision, the range of uses that's being envisioned here  
14 by everybody?

15 MR. STARTT: Sure. Thank you for the question.  
16 As I mentioned, I believe, at the last hearing, last October,  
17 our vision is evolving and very much has evolved even way  
18 beyond what I expected just in the last nine months, really  
19 from feedback from the neighborhood.

20 We mentioned -- and everyone, I think, in the  
21 neighborhood is very well aware -- that we want to land a  
22 very high quality grocery anchor retail tenant here, so  
23 that's our primary goal, with additional in-line retail,  
24 small shop retail, so restaurants, other neighborhood-serving  
25 retail uses to complement what we have in the existing

1 building.

2 I think I mentioned that we have -- Planet Fitness  
3 is going to take 20,000 square feet on the lower level, and  
4 we are fully renovating the existing building. Beyond that,  
5 our residential program is not set in stone. We have looked  
6 at a number of options, very much based on some of the  
7 feedback, especially from the ANC and from OSNF. We're  
8 looking at some for-sale townhome options, for-sale  
9 condominium options, and mixed-use rental options across the  
10 full spectrum.

11 We generally have, I think, an agreement that we  
12 want quality neighborhood-serving retail, and we want  
13 residential uses that complement that and can help support  
14 that.

15 VICE CHAIR MILLER: Thank you.

16 CHAIRMAN HOOD: Okay, any other questions up here?  
17 Let's go to the -- is there anyone representing the ANC?  
18 Representing the ANC, as a whole, Mr. Hammond? Okay, we'll  
19 come back. Let's go to the Office of Planning. I'm sorry,  
20 we do have -- do we have a party in this case?

21 Okay, I'm getting confused. Let's go to Office  
22 of Planning, Ms. Meyers.

23 REPORT OF THE OFFICE OF PLANNING

24 MS. MEYERS: Good evening. OP remains supportive  
25 of this proposal to rezone this property to MU-3B and

1 appreciates the efforts of the Applicant and the community  
2 to come to an agreement. OP recommends approval and is  
3 available for questions.

4 CHAIRMAN HOOD: Okay, any questions of Office of  
5 Planning? Do we have any reports of other government  
6 agencies? I do know we have a letter from Councilmember Ward  
7 7 in support of this application. Anything else? That's our  
8 Exhibit 10. We have a DDOT report. Do you have it up?

9 PARTICIPANT: It's in the record as Exhibit 25.

10 CHAIRMAN HOOD: Exhibit 25? Can somebody open  
11 that up and read it? I'm having some problems.

12 COMMISSIONER SHAPIRO: I can read the  
13 recommendation if you want, Mr. Chair.

14 CHAIRMAN HOOD: Yes, if you could, thank you.

15 COMMISSIONER SHAPIRO: DDOT has reviewed the  
16 Applicant's request and determined that based on the  
17 information provided, the proposed rezoning may lead to a  
18 moderate increase in the number of vehicle trips generated  
19 by the site, as compared to both existing conditions and the  
20 existing zoning. Despite the potential impacts, DDOT has no  
21 objection to the approval of the requested map amendment,  
22 since the zoning change is consistent with the land use  
23 vision of the comp plan.

24 They do say, however, given the anticipated  
25 increase in projected vehicular traffic, it's expected that



1 Southeast, in Square 5539, Lots 835 and 840, Zoning Case  
2 17-11.

3           Before I continue, I have a question. Our  
4 testimony was based on the rezoning of MU-4A. However,  
5 listening to what has happened tonight, you've changed that  
6 classification to MU-3B. My question to you guys is what is  
7 the change from MU-3B to MU-4A? How much of a change is that  
8 in the zoning process?

9           CHAIRMAN HOOD: Actually, it's just the coding of  
10 it. That was one of the questions that I think we elaborated  
11 on. I'm going to ask Ms. Steingasser to go more in depth for  
12 it, so we can make sure we all get the understanding of it.

13           MS. STEINGASSER: There will be absolutely no  
14 change to the advertised text. All the FARs, the heights,  
15 the setbacks, the transitions, the restriction on loading,  
16 all of that remains exactly the same. The only difference  
17 is just the name.

18           CHAIRMAN HOOD: Had we done -- if there was  
19 something that significant, we would have had to  
20 re-advertise. As she said, it mirrors it. We just changed,  
21 I call it the coding.

22           MR. HAMMOND: All right, thank you for the  
23 explanation. Mr. Chairman, on Wednesday, July 11, 2018, I  
24 held a senior member district member meeting with Jair Lynch  
25 and Anthony Startt. The development team member gave a

1 presentation to approximately 75 plus members of the Penn  
2 Branch, Dupont Park, Hillcrest, Fairfax Village, Fort Davis,  
3 and Benning Ridge communities an update on the progress of  
4 the Shops of Penn Hill development, after which a Q&A was  
5 held. There remains much interest in the project. Moreover,  
6 there was no obvious objection from the audience to revised  
7 zoning of Lots 835 and 840, which applies to the rear parking  
8 lot of the site. Mr. Startt also explained, during his  
9 presentation, that the July 23rd hearing would be a two-part  
10 zoning process, the first being the zoning text amendment,  
11 which is to develop a custom zone; and two, revised map  
12 amendment, which is to rezone Penn Hill Lots 835 and 840 from  
13 MU-4A, now to MU-3B.

14           Mr. Chairman, you may recall, at the October 2,  
15 2017 hearing, the ANC 7B Commission submitted a resolution,  
16 dated June 15, 2017, in support of the zoning map amendment  
17 to change the zoning of the Penn Hill site from MU-3 R-1B to,  
18 now, MU-3B. The ANC Commission would like to submit a new  
19 resolution in support of the revised petition submitted by  
20 Jair Lynch Real Estate Partners to rezone Lots 835 and 840  
21 in Square 5539 from MU-4 to MU-3B.

22           However, Mr. Chairman, the resolution cannot be  
23 voted on until our next public community meeting, which will  
24 be held on August 16, 2018. Therefore, I would like to  
25 request that the Zoning Commission's case record 17-11 remain

1 open until August 20th, so the ANC Commission can be entered  
2 -- the ANC resolution can be entered into the Zoning  
3 Commission's record. Thank you.

4 CHAIRMAN HOOD: Okay, thank you, Commissioner  
5 Hammond. You all meet in August?

6 MR. HAMMOND: Yes.

7 CHAIRMAN HOOD: My hat's off to you.

8 MR. HAMMOND: We meet year round.

9 CHAIRMAN HOOD: Good. You all are getting the  
10 work done. Next.

11 PARTICIPANT: I would like Laura Richards to go  
12 first.

13 CHAIRMAN HOOD: Just tell me the order. What's  
14 the order? Just tell me the order, Ms. Morgan. What's the  
15 order? Okay, Ms. Richards.

16 ORGANIZATIONS AND PERSONS IN SUPPORT

17 MS. RICHARDS: Good evening, again. I'm  
18 testifying in 17-11 on behalf of O Street Neighbors and  
19 Friends. I'm not going to reiterate much of what you've  
20 heard in other testimony. I would like to speak briefly to  
21 the comp plan small area plan consistency. The parameters  
22 of MU-4A/3B were worked out in conjunction with OP, the  
23 developer, and the O Street Neighbors. I guess you don't  
24 need to hear that, though. The rezoning is going to result  
25 in an MU-4A lot sandwiched between one-story R-1B residences

1 at the rear and an MU-3 lot fronting on Pennsylvania Avenue.  
2 We realize this is somewhat counterintuitive. Higher density  
3 development usually fronts on a commercial street, and lower  
4 density development is in the rear.

5           This normal transition is what is called for in  
6 the relevant small area plan. In this case, however, the  
7 owner determined at the outset, for its proprietary business  
8 reasons, to retain and restore the existing low height, low  
9 density building at the front of the site, and to erect a new  
10 mixed use building at the rear.

11           The owner originally sought to rezone the entire  
12 site, even though it's not changing what's physically present  
13 on Pennsylvania Avenue. Now, of course, he's only going to  
14 rezone the rear portions. This means -- so for the  
15 foreseeable future, the front of the site will be zoned and  
16 used as MU-3.

17           The generous front setbacks will be maintained.  
18 Because this is a prominent corner on a special street, its  
19 scale should continue to set the standard for most of the  
20 east end of Pennsylvania Avenue. OSNF regards this as a  
21 significant benefit, and we hope that this will be noted in  
22 your deliberations and ultimate opinions because we've been  
23 faced with the prospect of much, much taller buildings under  
24 other owners, right at the front.

25           I would say that another benefit here -- and this

1 is outside the exact scope of the zoning envelope -- as  
2 you've heard, there are going to be some much deeper setbacks  
3 than the minimum 20-foot requirement on the plans we've seen.

4           We know there are no guarantees and plans could  
5 change, but we regarded that as a very significant potential  
6 benefit that would arise -- could arise from this rezoning  
7 and remapping. I think the other things, these setbacks over  
8 40 feet, the limitation to four stories, the 60 percent lot  
9 occupancy, these all come together to make this, we think,  
10 workable, not perfect, but workable.

11           It is going to be very -- it's going to be kind  
12 of an experiment because you're going to have, again, this  
13 fairly high density -- comparatively high density building  
14 in between these much lower densities. I do not think that,  
15 based on the existing configuration of the neighborhood, that  
16 is going to result in a lot of copycats. It will be  
17 interesting to see how the developer carries it out. We  
18 support it. It's been a genuine community effort, so thank  
19 you very much.

20           CHAIRMAN HOOD: Thank you. Who's going next?

21           MS. MORGAN: Good evening, members of the Zoning  
22 Commission and Office of Planning. At the last hearing,  
23 those of us that reside on O Street did get together, as the  
24 Commission suggested, to work out our differences with the  
25 developer, as it pertained to our homes directly behind the

1 Penn Branch Shopping Center.

2           We were able to engage in a dialog and work out  
3 our differences. It was not an easy task because some would  
4 have preferred that the project simply go away. We took the  
5 task that our elected officials should have conducted by  
6 consulting with those of us before the ANC took a vote. Only  
7 after we organized to obtain results from which the entire  
8 community could benefit did anyone take us seriously. We  
9 never opposed the Penn Branch inner facelift, but we did have  
10 our homes and properties to protect. We bought our homes in  
11 Washington and did not flee the city to Maryland and  
12 Virginia. We loved our neighborhood in Washington because  
13 it looked like the outskirts of suburban living.

14           Some people have wondered why we continue to  
15 negotiate. We did nothing different from what the people in  
16 Hillcrest, who fought for their homes when they started with  
17 Skyland. We all live in Ward 7. Some people consider where  
18 we live on O Street down on in the hill or in the valley.

19           I have lived in Southeast before it was the Penn  
20 Branch Shopping Center. I moved there in 1962, when it was  
21 a used car lot. I have seen the differences. I have seen  
22 the changes in our community. I have seen people not  
23 consider those of us on O Street.

24           We had to put together our own civic association  
25 to address our concerns when I moved there in 1962. The late

1 Mr. Haskel Shackelford went to Fort Davis. They gave us the  
2 land for Dupont Park Civic Association, which is on record  
3 down at the library, under civic associations and  
4 organizations in this city. However, today, I'm here today  
5 to try and protect my property, those that abut O Street, P  
6 Street, and Q Street, that are members of the Dupont Park  
7 Civic Association, and who don't live on the hill in Penn  
8 Branch.

9           We have seen several developers involved with the  
10 center. Mr. Christofides, with ICG, was the property owner,  
11 and he worked with us. However, at that particular time, he  
12 went bankrupt because of what was happening in the city.

13           As I sit here today, we, on O Street, have gone  
14 along. We have met, and we are going to continue to meet,  
15 and we're going to continue to hold developers responsible  
16 for what is happening for us on O Street. We have a vested  
17 interest. We pay taxes, and we do vote. I want to thank  
18 you.

19           CHAIRMAN HOOD: Thank you.

20           MR. ANDERSON: Good afternoon. My name is Donovan  
21 Anderson, and I'm an ANC commissioner in ANC 7B. I'm here  
22 testifying today in my individual capacity, representing ANC  
23 7B06. As I testified at the previous hearing, in October,  
24 I, along with the other members of the ANC, voted to support  
25 the project by the ANC providing our resolution in support

1 of the Commission. I'm here today testifying in favor of the  
2 project. I'm glad that the developer and the residents of  
3 O Street were able to reach an agreement on the scale of the  
4 project.

5 I'm here, though, to state that the overwhelming  
6 majority of the residents of Hillcrest and ANC 7B is in  
7 support of this project. I do ask you to -- I know the last  
8 time we were here, I know that there are a lot of folks from  
9 O Street here.

10 It appears that was the sentiment of the  
11 community, that the community did not want it. I do  
12 understand that because it does impact them directly, but  
13 just wanted to let you know that the overwhelming majority  
14 of the residents, we want this project, and we fully support  
15 it. Thank you.

16 CHAIRMAN HOOD: Thank you. Next.

17 MS. SMITH: Hi, my name is Ayanna Smith, and I'm  
18 a Penn Branch resident. I'm here to testify in support of  
19 the zoning amendment. I think the bigger issue is whether  
20 or not we'll get a Trader Joe's, so that I can get the \$5  
21 Bellini Prosecco that I -- that should be the focus here.

22 CHAIRMAN HOOD: All right, straight to the point.  
23 Ask for what you want. Seize the moment is what I call it.  
24 Next.

25 MS. DEAN: Hello, Board of Zoning. Thank you for

1 this opportunity to testify on behalf of O Street Neighbors  
2 and Friends. I am Marla Dean, a resident of the 3200 block  
3 of O Street. As you are aware, this has been a very  
4 difficult moment in our community.

5           Though we stand here today in support of the  
6 customized MU-3 whatever it is now, I find it important to  
7 give an historical account of how the new custom zone came  
8 to be. When Jair Lynch first came to the community about the  
9 plan for Penn Branch Shopping Center, they stated they wanted  
10 to do a map amendment, as opposed to a PUD, as it allowed  
11 them greater flexibility.

12           We, the adjacent community to the shopping center,  
13 wondered if flexibility was a euphemism for less  
14 accountability to the community. As time went on, due to a  
15 deep desire of the community to have a shopping center  
16 renovated and much desired amenities brought into our  
17 neighborhood, both the Penn Branch Civic Association and ANC  
18 took the position that we should just take whatever Jair  
19 Lynch gave us without any negotiation. In fact, the former  
20 president of Penn Branch kept making promises to meet with  
21 O Street residents and never kept his promises. Our single  
22 member commissioner for ANC 7B would not allow O Street  
23 residents to see the resolution he was seeking to have passed  
24 through the Commission.

25           Eventually, it became clear to O Street residents

1 that we had to organize to protect our interests and to have  
2 our concerns potentially addressed. We came en masse to the  
3 zoning hearing and asked for a customized zone as a means of  
4 us providing some -- with some negotiating power. At first,  
5 we heard nothing from Jair Lynch for many weeks.

6           Finally, a man named Anthony started to appear on  
7 the scene and he started meeting with us, O Street Neighbors  
8 and Friends. Through a series of meetings, we came to an  
9 agreement on the zoning issues and we crafted a good neighbor  
10 agreement. O Street Neighbors and Friends has compromised  
11 on many issues because we, too, want certain amenities in our  
12 community, but we refuse to have irreparable harm done to our  
13 homes in the process. So today, I stand before you saying  
14 that we have a good neighbor agreement, in theory, because  
15 not all neighbors have had a chance yet to sign, due to the  
16 rain. I couldn't get down the street and have everybody  
17 sign. But there are a few concerns.

18           East of the river should not be the only place  
19 that supports affordable housing in Washington, D.C. Each  
20 ward should share in the goal of all being housed in the  
21 city, not just those who are privileged and of means.  
22 Therefore, we have expressed to Jair Lynch that we want  
23 for-purchase housing and, at the very least, market rate  
24 housing.

25           One of the main reasons the community wants this

1 project so badly is to bring amenities like a grocery store  
2 and restaurants to our community, and one of the reasons  
3 we're constantly told we can't have such amenities is because  
4 of the average income of our community.

5           If, indeed, that is a barrier to better amenities,  
6 then more affordable housing will not serve to alleviate this  
7 issue, so we continue to request Jair Lynch to build  
8 for-purchase townhomes and condominiums, so that children who  
9 grew up in Ward 7 and went to college and are desirous of  
10 coming back can purchase homes, not only in the city, but in  
11 the community they were raised, too. The name Penn Hill is  
12 an insult to some. I'm not a native Washingtonian, but  
13 Washingtonians are quick to tell you about how many  
14 generations of their families have lived in D.C.

15           The name Penn Branch is sacred to some, and for  
16 those who have lived here over 50 years, it represents the  
17 struggle for desegregation in housing and the ending of red  
18 lining. This issue runs deep and still impacts civic  
19 associations today.

20           The reason why Penn Branch Civic Association is  
21 now both a citizens and a civic association is an attempt to  
22 get over historical divides. The reason why many older  
23 citizens on O Street went across Branch Avenue and convened  
24 with Dupont Civic Association instead of Penn Branch had a  
25 lot to do with perceived levels of privilege or not.

1           While this is not my issue, as I am not a native  
2 Washingtonian, and I only moved to Penn Branch in 2010, but  
3 I represent O Street Neighbors and Friends, and I understand  
4 the historical context in having your name changed without  
5 your permission, or even engagement. We urged Jair Lynch to  
6 maintain the name of Penn Branch Shopping Center. It  
7 represents the community's struggle to move through and past  
8 issues of division and levels of privilege.

9           I have other things -- I respectfully ask to speak  
10 because I'm speaking for O Street. Finally, O Street  
11 concerns began with three major areas, a large structure  
12 immediately abutting the backyards of my neighbors on the  
13 southern side of the 3200 block of O Street.

14           We believe that the setbacks, trees, employee  
15 parking lot will create enough distance between our homes and  
16 the building so that we can continue enjoying some level of  
17 privacy. Two, the impact of traffic on our street. We have  
18 already witnessed increased traffic with the aisle that was  
19 placed on Pennsylvania Avenue.

20           We continue to await the results of the traffic  
21 study. We seek for O Street to be turned into a cul-de-sac  
22 at the corner of O Street and Carpenter, and the egress to  
23 be closed at the laundry mat, so the cars do not use it as  
24 a pass-through from Pennsylvania to O Street, to escape  
25 immense traffic in the mornings and evenings during high

1 commuter times, and a traffic light to be placed on the  
2 intersection of O Street and Branch. Due to tributaries,  
3 streams, and ravines that run through our community, we want  
4 to ensure when Jair Lynch begins to dig to create the  
5 foundation for the new structure and the underground parking  
6 lot, that our homes are not destabilized.

7           As a result, we look forward to the environmental  
8 study that will be conducted and inspected of our homes  
9 before construction. If our homes do, in fact, shift or  
10 otherwise impact it, we are comforted by the insurance that  
11 Jair Lynch will carry to address any adverse impact on our  
12 homes.

13           Again, thank you to the Zoning Board for this  
14 opportunity to speak, and thank you to Anthony Startt for  
15 working in good faith with O Street Neighbors and Friends.  
16 Many lessons have been learned through this experience. One,  
17 Jair Lynch should have initially asked for a PUD instead of  
18 circumventing true community engagement by requesting a map  
19 amendment, but we were able to successfully move past this  
20 issue. Thank you again, Anthony Startt. Two, our single  
21 member ANC commissioner could have allowed O Street residents  
22 to see the resolution and provide input and feedback before  
23 it was taken up to an ANC for a vote, but he has since  
24 apologized and admitted to us privately that he could have  
25 handled it better, so some of us have been able to move past

1 this issue.

2           Three, the former president of Penn Branch Civic  
3 Association could have kept his promise to meet with O Street  
4 residents and listen to our concerns. He has never stepped  
5 up to admit how he could have handled it better.

6           Instead, he has been on a constant campaign to  
7 silence and isolate O Street Neighbors and Friends by calling  
8 us obstructionist, and he has personally defamed me for  
9 advocating for my community. We have not been able to move  
10 past this issue because he remains dishonest and  
11 manipulative. Again, thank you, and with this long troubled  
12 path, we stand in support of the map amendment, a customized  
13 zone.

14           CHAIRMAN HOOD: Thank you. Let's see if we have  
15 any questions of this panel. Okay. Let me ask this, though.  
16 Who is Anthony Startt? All right.

17           MS. DEAN: We appreciate him. He worked well with  
18 us.

19           CHAIRMAN HOOD: When you introduced yourself, I  
20 must have been doing something else up here, but that comes  
21 over loud and clear, so hats off to Anthony Startt. Anthonys  
22 usually get it done, don't they? I'm just joking. Any other  
23 questions up here? That was a cheap one. Thank you all.  
24 We appreciate your testimony. Ms. Schellin, can we get the  
25 opponents?

1 MS. SCHELLIN: It's only one, Mary Hughes.

2 CHAIRMAN HOOD: Ms. Hughes, and also undeclared.

3 Do we have any undeclared signed up?

4 You have some more proponents? Oh. Our list was  
5 not --

6 MS. SCHELLIN: They didn't sign up.

7 CHAIRMAN HOOD: They didn't sign up? Okay.

8 MS. SCHELLIN: (Off-mic comment.)

9 CHAIRMAN HOOD: Okay, I'm sorry.

10 MS. SCHELLIN: Let me go back.

11 CHAIRMAN HOOD: How many more proponents do we  
12 have?

13 MS. SCHELLIN: Just two more.

14 CHAIRMAN HOOD: Because they look like they're  
15 coming on up anyway. I was going to call your name. Do we  
16 have eight? Do we have any more proponents? I don't want  
17 to age anybody, but I see one of my former teachers that's  
18 coming up, but I'm not going to age the person if they come  
19 up.

20 Maybe they're going out the door, but I don't  
21 know. Shows how young I am. You leaving? Okay. My former  
22 teacher's leaving. Is anyone else here who's a proponent?  
23 This is our last group for proponents. We'll start over here  
24 to my right, your left. You can identify yourself -- name  
25 your names, come up, but I'll let you all go ahead. Turn

1 your mic on.

2 MS. HUGHES: Good evening. I'm Mary Hughes, and  
3 I am a -- I have to apologize for not having my eyeglasses  
4 on, so I am undeclared at this time. I'd like to thank the  
5 Zoning Commission and the Office of Planning. I'd like to  
6 present a couple of comments here. As a long-term resident  
7 of the District of Columbia, I've noticed a number of changes  
8 that have taken place within the city. The development surge  
9 has been overwhelming for many areas in D.C. Some of the  
10 development has complemented various communities, while some  
11 of the other development has basically been obstructive to  
12 a number of communities.

13 In regards to this development, Case 17-11, at  
14 3200 Pennsylvania Avenue Southeast, I would be remiss not to  
15 provide my comments and my concerns for this development,  
16 since it's directly abutting the property which we own. I  
17 am in favor of an MU-3 zoning of this case.

18 I got a little confused with what was being said  
19 by the developer, that the MU-4 is now an MU-3B or the MU-4A  
20 is now an MU-3B. I'm a little confused on that. Perhaps at  
21 our next meeting, that can be clarified. I am also in favor  
22 of a lower occupancy rate to be applied, as well as -- I'm  
23 also in favor of zoning consistency of that particular area  
24 and lot.

25 These are my concerns: the traffic intrusion that

1 will take place as a result of this particular project; the  
2 vehicular idling that may compromise our community on O  
3 Street as trucks are waiting to go into the construction  
4 site. They may idle along Branch Avenue, and some will  
5 possibly idle along O Street, as they see that is a very  
6 convenient waiting place. Also, I am more in favor of having  
7 a retaining wall, as opposed to shrubbery in the rear of this  
8 property.

9 I don't know if many of you rake leaves, but trees  
10 and shrubbery in this area would impose, I know on me, an  
11 additional hardship of raking leaves, as well as having a lot  
12 of trash thrown in between the shrubbery. I'm right there  
13 on the corner, and I am picking up trash all the time. Thank  
14 you, again, for this opportunity.

15 CHAIRMAN HOOD: Thank you. Next.

16 MR. NASH: Yes, good evening. My name is Elson  
17 Nash, and I live at 1714 33rd Place Southeast, which is less  
18 than half a block from the O Street community. I support the  
19 MU-4A, now MU-3B zoning application recently submitted by the  
20 Jair Lynch company to the Zoning Commission.

21 The MU-4A, now MU-3B, will allow for 20 percent  
22 less density than the MU-4 application that was originally  
23 submitted to the Zoning Commission. This MU-4A zoning  
24 application would not have happened had it not been for the  
25 tenacity and resilience of the O Street residents and the

1 wisdom of their neighborhood legal counsel. I applaud their  
2 efforts to negotiate benefits to their immediate community  
3 and, eventually, broader benefits to the wider community.  
4 This MU-4A custom zone for our community is critical because  
5 it represents a process that succeeded and took many years  
6 to achieve.

7           It took the O Street group nearly ten months,  
8 since the last meeting -- and I was here -- to negotiate an  
9 agreement, but I believe it worked. It did not get mired in  
10 the PUD process, which as of 2012, has delayed 4,593 new  
11 housing units. Please retain and make available the MU-4A  
12 custom zone submitted by the Jair Lynch company at 20 percent  
13 density, which will benefit the Penn Branch community. Thank  
14 you.

15           CHAIRMAN HOOD: Thank you. Next.

16           MS. MCKENZIE: Good evening. My name is Joan  
17 McKenzie, and I am a 30-year resident of Penn Branch. I am  
18 testifying on behalf of myself, and I am a proponent. I  
19 support the proposed development and the zoning change. I  
20 want to thank Jair Lynch and partners for investing in our  
21 community. The shopping center is in dire need of  
22 redevelopment. It's been an eyesore for a long time, so I'm  
23 very happy to see it being redeveloped. I understand the  
24 housing component in the back and the need for more housing  
25 to support more retail. I ask that housing be market rate,

1 and also workforce housing.

2 I feel that we need housing at the higher income  
3 levels that market rate and workforce housing supports to  
4 support the retail and the quality of retail that we would  
5 like to see built at the shopping center. That's why I'm  
6 looking at market rate and workforce housing there, as  
7 opposed to affordable or low-income housing.

8 As far as the other developments that housing  
9 would bring, I would like to see particular attention paid  
10 to the traffic and the increased traffic. Traffic on Branch  
11 Avenue is a problem.

12 Traffic on Pennsylvania Avenue is a problem, so  
13 I would like, when they're looking at the amount of housing  
14 that's going to be built, that you pay attention to the  
15 traffic, and you also pay attention to the current traffic  
16 patterns that are a problem now. I know that's DDOT and  
17 other agencies' concerns, but it's relevant to the housing  
18 and the amount of housing that gets built on the rear lot.  
19 I would also like to see the development built in a way that  
20 it fits within the neighborhood. I applaud the O Street  
21 neighbors and others who've worked diligently to come up with  
22 a plan with the developer to mitigate some of the potential  
23 harm that the development could have caused and to, instead,  
24 try to have a more planned, thoughtful development.

25 I would have personally preferred to see a PUD,

1 if that were an option, just to allow more community input  
2 and maybe more commitments up front on the part of the  
3 developer. Right now, we are still in a situation where  
4 we're not sure exactly what will be built, so we're going on  
5 good faith here, but it seems like a lot of effort has been  
6 put into the process, so good faith is merited. With that,  
7 I do support the zoning request, and I appreciate the  
8 opportunity to testify.

9 CHAIRMAN HOOD: Thank you. Next.

10 MS. THOMAS: Shannon Thomas, on behalf of Penn  
11 Branch Citizens Civic Association. I would like to express  
12 support for the application on behalf of Jair Lynch to amend  
13 the zoning applicable shopping center for 3200 Pennsylvania  
14 Avenue Southeast to the custom zone MU-3B designation. The  
15 Penn Branch civic association leadership and members are  
16 eager that the Penn Branch Shopping Center is being  
17 transformed into a community focused hub that includes a high  
18 quality grocer and other key rental service providers and for  
19 sale or market rate residencies.

20 We commend Jair Lynch and partners for its ongoing  
21 good faith engagement with the community, and we look forward  
22 to continuing a partnership, along with many other community  
23 groups and individuals who mobilized support for this  
24 project. We would like to especially praise the efforts of  
25 our neighbors and friends on O Street.

1           We have worked with the developer to ensure that  
2 their properties and the quality of their life are protected  
3 during and after the construction of Jair Lynch Real Estate  
4 Partners and its contractors remain within the scope of the  
5 good neighbor agreement. During and after the process, the  
6 Association acknowledges the personal property risk that  
7 burdens O Street residents, in particular, taking the process  
8 of bringing this improved step of amenities to our community.  
9 We express our thanks and support to them, and we commit to  
10 working with them in spirit of partnership and common  
11 purpose. The Association welcomes the current unity and  
12 support of the project among key community stakeholders.

13           We invite and call all leaders of relevant  
14 community groups to join us in forming a coalition that will  
15 represent the entire community of beneficiaries that will  
16 engage Jair Lynch during and after the development.

17           We envision this coalition working with the  
18 developer regularly and including to facilitate regular  
19 community updates, monitoring for potential negative impacts  
20 for construction on community members and their property,  
21 helping convey any community concerns and create partnership  
22 opportunities with the developer and the community events and  
23 its initiatives involving the shopping center.

24           We are concerned that groups and individuals who  
25 do not live in our neighborhood or Ward 7 are attempting to

1 use this current case as a means to advance their own  
2 objectives, but do not respect the related issues. We urge  
3 the Zoning Commission to disregard the inputs of these groups  
4 and individuals when it comes to considering the specific  
5 merits of our application with Jair Lynch. The developer and  
6 the community members pursued a custom zone on the guidance  
7 of the Commission to achieve a site-specific objective  
8 related to the objective residential properties.

9           As such, we do not view this process as a part of  
10 any effort to sidestep our community responsibility to  
11 welcome reasonable measures to increase a housing density  
12 where possible, increase the availability of reasonably  
13 priced housing, and be inclusive and welcoming to our  
14 community and to improve environmental sustainability of our  
15 city.

16           We ask the Zoning Commission to approve Jair Lynch  
17 and partners' application and provide guidance that the  
18 developer must uphold the letter and the spirit of their  
19 agreement, as they have reached with the neighboring  
20 residents, and to broadly intercept its comments, so that we  
21 apply to the entire community of the stakeholders who will  
22 be affected by this welcome development project. Thank you.

23           CHAIRMAN HOOD: Thank you. Next.           M R .  
24 BENTON: Good evening. My name is Stan Benton. Let me first  
25 say please excuse the casual attire I have on here. I don't

1 mean any disrespect. I just wasn't thinking as I headed out  
2 the door. I'm a homeowner in Penn Branch, been there since  
3 2009. I'm also a member of the Penn Branch Citizens' Civic  
4 Association, that Jamie here heads. I'm just simply here to  
5 testify that I am in support of the zoning amendment brought  
6 forward.

7 CHAIRMAN HOOD: Let me just say this about your  
8 attire. If you notice, we don't have on ties. What we do  
9 when it gets hot, 95 and 100 degrees outside, we relax the  
10 rules. We do that every summer. I can tell you we used to  
11 go through up here with suits and ties on. It's 95 degrees  
12 by the time we get here -- anyway, I'll just leave it at  
13 that.

14 COMMISSIONER SHAPIRO: Though, Mr. Chair, that's  
15 pretty relaxed.

16 CHAIRMAN HOOD: That's all right.

17 MR. BENTON: I did notice the no ties.

18 CHAIRMAN HOOD: We're relaxed, so you're just  
19 fine.

20 MR. BENTON: Thank you, sir.

21 CHAIRMAN HOOD: Thank you. Next.

22 MS. THOMAS: Good evening. My name is Laverne  
23 Thomas. I live at 3627 Texas Avenue Southeast. As a member  
24 of Penn Branch community and the Penn Branch Civic  
25 Association, I am in favor of the MU-3B and the development

1 of the Penn Branch Shopping Center, soon to be Penn Hill.

2 I'm also in favor of a mixed use project that is  
3 comprised of market rate housing. However, I do have  
4 concerns about the workforce housing, which, in some  
5 terminology, also supports low to moderate income families.  
6 As a long-time resident of Penn Branch, I've waited for years  
7 for businesses to return or invest in this community.

8 I can recall when Penn Branch Shopping Center was  
9 a vibrant business center that housed Safeway, Sabin's  
10 Records, Lawrence Reed men's clothing store, Phillips women's  
11 clothing store, High's Ice Cream store, a beauty salon,  
12 dental and doctors' offices, and a drug store, just to name  
13 a few.

14 Penn Branch was a first of this particular kind  
15 back in the '60s. One of my most memorable favorites was the  
16 pizza shop, where we could hang out in a safe environment  
17 with our friends after school. We all knew the owner, and  
18 he knew us by our names. That's the kind of business  
19 relationships I'd like to see again in our neighborhood. I  
20 had friends that had after-school and summer jobs in some of  
21 these establishments.

22 They supported us, and we supported them. But as  
23 shopping malls and larger shopping centers begin to rise, we  
24 saw some of those businesses take flight. While we saw a  
25 change or a decline in the shopping center, for whatever

1 reasons, there has not been a decline in the Penn Branch  
2 community.

3           We have remained a close-knit community, with  
4 families reinvesting in the neighborhood they grew up in,  
5 which I also have done. For many years, Penn Branch has  
6 remained one of D.C.'s best kept secrets, as a place full of  
7 families that support and look out for one another.

8           While Penn Branch understands growth and change,  
9 we insist on progress that does not diminish, but adds value  
10 and complements this community. To that end, the expectation  
11 and vision for this community is something greater than its  
12 original, and no more and no less. Thank you.

13           CHAIRMAN HOOD: Thank you. I'll just see if we  
14 have any questions or comments up here. I do have a  
15 question, and I may have missed this. The name -- I forgot  
16 who mentioned -- maybe it was the panel previously about the  
17 name -- my time is up. The previous name of Penn Branch.  
18 I just heard you say Penn Hill.

19           MS. THOMAS: That was the proposed name.

20           CHAIRMAN HOOD: I would just say -- I'm not going  
21 to get into -- because you all seem like you all are working  
22 great. I'm not going to get into the middle of it, but I  
23 would just want the Applicant to be very cautious when you  
24 come in and start renaming. We're dealing with some issues  
25 like that in Ward 5 now. Be very careful because, as she

1 stated, they have a lot of history.

2 I, too, have history over at Penn Branch. I went  
3 to Dr. Martin for years. I spent many Saturdays -- I think  
4 I mentioned this previously, but I can just tell you,  
5 sometimes those names help us to remember the history as we  
6 move to the future. I'll let the community work that out,  
7 whether it's Penn Hill -- because if you ask me where Penn  
8 Hill is, if you all do change it, I probably won't know where  
9 it is. I just know Penn Branch. But anyway, I'm not going  
10 to get into that argument. I know somebody mentioned it.  
11 I'll leave it up to the community.

12 MS. THOMAS: No, I just want to say this. I, too,  
13 really want to see it remain as Penn Branch because like you,  
14 I don't want the confusion with Capitol Hill versus Penn  
15 Branch. As I throw it out to others, the first thing I hear  
16 is okay, is that on Capitol Hill now? I don't want the  
17 confusion. Really, I prefer to stick with the historical  
18 name.

19 CHAIRMAN HOOD: As one of my colleagues, at their  
20 confirmation hearing, said, we need to make sure that we  
21 respect the past, as we move to the future.

22 MS. THOMAS: Yes, absolutely.

23 CHAIRMAN HOOD: You remember saying that? You  
24 got the line from me? I should have used it. I'm not saying  
25 -- I didn't want to get in either way, but I just want to

1 make sure that you all continue to work in collaboration as  
2 you go into the name. Any other questions or comments up  
3 here? Okay, thank you all very much. We appreciate it. Ms.  
4 Schellin, do we have anybody else on the list? Is there  
5 anybody else who'd like to testify? Ms. Rowlands. Anybody  
6 else? Ms. Rowlands will be the last person. You want to  
7 turn your microphone on.

8 MS. ROWLAND: Is it on now? Good evening,  
9 Chairman Hood. This is a wonderful opportunity. This is my  
10 first time to present testimony before you. As you know, I  
11 am a resident of Ward 5. My name is Stephanie Rowland. My  
12 mother lives at 3201 O Street Southeast. Her property abuts  
13 the Penn Branch Shopping Center.

14 I am here to testify in behalf of the project, but  
15 I have five points that I wanted to share with you. First  
16 of all, I, too, share the sentiments of keeping the name Penn  
17 Branch. It has a lot of significance, and I think that it's  
18 important that we honor the neighborhood by not changing the  
19 name. The five points that I have are thus. Every Saturday,  
20 I'm responsible for visiting with my mother. She's  
21 handicapped, disabled. I spend about two hours picking up  
22 trash along Branch Avenue. It's an insult that the people  
23 from the shopping center throw the trash on Branch Avenue.  
24 I think that the development and the developer and the  
25 property manager should take the initiative to pick up the

1 trash.

2           Sometimes, I have as many as three garbage bags  
3 full of trash. I don't mind doing it because I think that's  
4 what a responsible citizen should do, but I'm not young. By  
5 the time I finish bending over, it hurts.

6           I think that the developer can take responsibility  
7 and, at the same time, could employ some of the neighborhood  
8 children or some of the neighborhood teenagers to take  
9 responsibility for making sure that trash gets picked up.  
10 No. 2, even though this is a map amendment, I still believe  
11 that a responsible developer should give back to the  
12 community.

13           My suggestion to Mr. Lynch is that he donate  
14 laptops to Randle Highlands Elementary School, along with  
15 Internet access. The reason I made this suggestion is  
16 because Randle Highlands, which I had the good fortune of  
17 attending, is one of the lowest performing elementary schools  
18 in the city. It's not enough to build shiny, gleaming  
19 buildings. You have to bring the community along, as well.  
20 I think that by donating laptops and Internet services, the  
21 developer would be demonstrating good will. The third thing  
22 is that I think -- not to brag about Ward 5, but you remember  
23 at the PUD for the Rhode Island Avenue Shopping Center --  
24 you've been around that long, haven't you, Mr. Hood?

25           CHAIRMAN HOOD: For a few years, yes.

1 MS. ROWLAND: One of the nice things about the  
2 agreement that was reached with the developer is that they  
3 agreed to give local residents a priority for leasing and  
4 operating the retail establishment. One of the things that  
5 we have to look at, in terms of holistic community  
6 development, is developing opportunities for the residents  
7 to become entrepreneurs, so that they will employ the local  
8 residents.

9 Sometimes, we have to patronize people that don't  
10 look like us and don't speak our language. I think that now,  
11 we need to take the opportunity to encourage our kids to  
12 become entrepreneurs. One of the young ladies -- I forget  
13 people's names, but she testified as to the businesses that  
14 were in the original Penn Branch Shopping Center. I have to  
15 tell you that the drugstore, Leader Drugs, was one of the  
16 first large drugstores that was operated by Black  
17 pharmacists.

18 I think we need to take a look at how is it that  
19 we develop the whole community? One of those things is to  
20 give preference, like the Rhode Island Avenue development on  
21 Washington Place did -- they gave local preference to  
22 retailers from the community.

23 I would suggest that Penn Branch do that, as well.  
24 The fourth thing is when we developed the library -- I don't  
25 necessarily like the design, the Woodridge Library; I hate

1 the design. But the good thing about that project is the  
2 developer agreed to employ several students, so that they  
3 could learn the development process.

4 For a very long time, Black people have been shut  
5 out of the development process. I can attest to the fact  
6 that I went to law school to be involved in real estate.  
7 When I went to get a job, they said oh, we don't hire anybody  
8 from the outside. This is a closed club. We only hire our  
9 kids. It's very difficult for minorities to break into the  
10 development process. It's wonderful that we have a young  
11 Black man that is going to be responsible for this  
12 development, but it's not enough for him to come to our  
13 community and build a wonderful new shopping center -- and  
14 God knows Pennsylvania Branch Avenue Shopping Center needs  
15 to be redeveloped.

16 When I went there the other day, I think the day  
17 it was raining, I took a look at how the shopping center  
18 looked. It looked aged. I think the beauty supply store is  
19 going out of business. So we do need to have the shopping  
20 center redeveloped, but we also need to think about the  
21 community, at large.

22 I would like to invite Mr. Lynch -- Mr. Lynch, I  
23 would like to invite you to visit Randle Highlands and talk  
24 to the children because they have never had an opportunity  
25 -- most people in Washington probably have never had an

1 opportunity to meet an Olympian.

2           For me, that would be a very good example of good  
3 will and community development. Now, this last item, No. 5,  
4 is something that is significant to me because I was a  
5 housing attorney with the NAACP for six years after I  
6 graduated from Georgetown Law School. I went all over the  
7 country litigating housing cases. What I'm referring to now  
8 is this poor door that you're familiar with over at -- it's  
9 proposed by Mr. Lynch at the MacMillan Reservoir. I would  
10 just like to say that I think that you need to rethink that  
11 whole idea because it sets us back to the days of  
12 discrimination. I think you know what I'm talking about,  
13 don't you, Mr. Lynch?

14           MR. LYNCH: I don't agree.

15           MS. ROWLAND: We don't have to agree, but I think  
16 it's important that we don't go back to redlining,  
17 discrimination, and creating different access doors for  
18 people of different income levels. I would like to put that  
19 on the record.

20           If you're planning to do that at Penn Branch, then  
21 maybe the community needs to understand exactly why you're  
22 willing to do it over in Ward 5 and perhaps bringing it over  
23 to Ward 7. We don't have to agree, but you need to know that  
24 there are people that believe it's a throwback to the days  
25 of discrimination, segregation. Thank you.

1 CHAIRMAN HOOD: Thank you. Any questions or  
2 comments, Commissioners? Okay, Ms. Rowland, thank you, and  
3 thank you for seizing the moment and the opportunity. Thank  
4 you.

5 MS. ROWLAND: You know, Anthony, I just want to  
6 say thank you because I've seen you as a civic leader out in  
7 Ward 5. It's a pleasure to present before you. Just  
8 yesterday, I learned the meaning of "carpe diem," seize the  
9 day. So that's what you're talking about, right?

10 CHAIRMAN HOOD: Seize the day, seize the moment.  
11 My wife always told me take the opportunity, so that's what  
12 I do, too.

13 MS. ROWLAND: Okay, thank you very much.

14 CHAIRMAN HOOD: That was yesterday. I have to  
15 check that out. I've been saying that for a while. Do I  
16 have the rights on that? No, I'm just playing.  
17 Commissioners, we've heard testimony. Is there anything else  
18 we need? Let me just say this, though.

19 I'm not sure which way -- I know what Hood is  
20 going to do. I really want to applaud everyone who got us  
21 to this point. I know there are a lot of sticking points on  
22 a lot of issues. I can tell you that whenever the first  
23 hearing was, I didn't see it coming to this, but I'm glad  
24 that it ended like this. It shows what we can do. There's  
25 always going to be disagreements. We're not going to always

1 be holding hands, but I can tell you, Ward 7, I'm real proud  
2 of the way you all have stood up and came together, and the  
3 Applicant, the way you've worked with the community.

4 I heard this, and I know that this is a map  
5 amendment, but one thing -- and I said this some years ago  
6 -- if the Applicant doesn't stay tuned to what he said he  
7 would do, even though it's a map amendment, you have to be  
8 a part of that neighborhood.

9 So I'm sure you're going to do that, and I think  
10 I heard someone mention that previously about they can change  
11 this and change -- I'm sure that it would be an agreement,  
12 just like he came down here today. So I want to applaud  
13 everybody who had anything to do with this. Let me come back  
14 to my colleagues and see do we need some dates, or what are  
15 you all ready to do? What is your pleasure?

16 COMMISSIONER MAY: Can we actually take action on  
17 this case before the zone becomes final?

18 MR. RITTING: I think you can. I was just looking  
19 at the APA. It says that you need to -- the proposed  
20 rulemaking notice needs to give reasonable notice to people  
21 that would be interested.

22 I think the key is to make sure that there's some  
23 reference in the map amendment notice that refers to the new  
24 text that we're considering, so that a person who's  
25 interested could see it. I think it's possible to do that

1 in the notice itself, so I think you could take action.

2 COMMISSIONER MAY: Okay.

3 CHAIRMAN HOOD: And let me say this. My parents  
4 brought me up well. Ms. Rowland, thank you for your nice  
5 comments. I know you're going to give me that comment, too,  
6 but I just wanted to thank you for your comments. All I  
7 wanted to do was just thank you because I didn't thank you.  
8 I guess we will operate on -- unless somebody has some  
9 unreadiness, and if we're not right, we will come back and  
10 undo what we've done. It won't be the first time. Would  
11 somebody like to make a motion?

12 VICE CHAIR MILLER: Mr. Chairman, I would like to  
13 move the Zoning Commission take proposed zoning map amendment  
14 from R-1B to MU-3B for 3200 Pennsylvania Avenue Southeast,  
15 as advertised, except for the nomenclature of MU-3B, and ask  
16 for a second.

17 COMMISSIONER SHAPIRO: Second.

18 CHAIRMAN HOOD: It's been moved and properly  
19 seconded. Any further discussion?

20 (No audible response.)

21 CHAIRMAN HOOD: All in favor, aye?

22 (Chorus of ayes.)

23 CHAIRMAN HOOD: Any opposition?

24 (No audible response.)

25 CHAIRMAN HOOD: Not hearing any, so ordered. Ms.

1 Schellin, would you please record the vote?

2 MS. SCHELLIN: Yes, staff records the vote, 5-0-0,  
3 to take proposed action on Zoning Commission Case No. 17-11,  
4 contingent on final action of Case No. 18-06, Commissioner  
5 Miller moving, Commissioner Shapiro seconding, Commissioners  
6 Hood, May, and Turnbull in support.

7 CHAIRMAN HOOD: Ms. Schellin, do we have anything  
8 else before us?

9 MS. SCHELLIN: No, sir.

10 CHAIRMAN HOOD: Again, I want to thank everyone  
11 for their participation and their hard work on this case, and  
12 this hearing is adjourned.

13 (Whereupon, the above-entitled matter went off the  
14 record at 9:18 p.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Case No. 17-11

Before: DCZC

Date: 07-23-18

Place: Washington, DC

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.



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