

**Council of the District of Columbia**  
Committee of the Whole  
***Bill 22-663 Comprehensive Plan Amendment Act of 2018***

Statement of Monte Edwards  
March 20, 2018

Thank you for the opportunity to comment.

I live at 330 E Street, NE and have been a resident of Ward 6 for 34 years. I am concerned about changes proposed by the Office of Planning would make it substantially easier for the Zoning Commission to justify approving map amendments that would introduce uses into established neighborhoods that are incompatible with the neighborhood's character.

To demonstrate, assume I am a developer and have acquired two adjacent row houses in an RF-1 (residential row house neighborhood) as shown on the first photograph. The properties and adjacent lots are all in a Neighborhood Conservation Area and are all designated moderate density residential on the Future Land Use Map. Now, to maximize my profit, I want to rezone them for greater density to MU-4 (mixed commercial and residential) to build an apartment building with possible commercial uses on two floors<sup>1</sup>. In RF-1, I am limited to a 35-foot height,<sup>2</sup> but in MU-4, the height could be 50 feet.<sup>3</sup>

I would use the proposed changes to the Framework Plan to accomplish this. The fact that the parcel is in a Neighborhood Conservation Area would not be a barrier to the rezoning for this purpose, since the proposed Framework Element provides that “new development and alteration” would be on a par with “conservation” as the guiding philosophy in Neighborhood Conservation Areas,<sup>4</sup> and new development would not have to be consistent with the Future Land Use Element if it is deemed to be part of a small area plan.<sup>5</sup>

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<sup>1</sup> 11 DCMR G-402.1 and .2. Subpart 2 provides that on smaller lots like this one (less than 10,000 SF) you can have a variety of commercial uses on the first two floors.

<sup>2</sup> 11 DCMR E-303

<sup>3</sup> 11 DCMR G-403.1

<sup>4</sup> Proposed Framework §223.5 “The guiding philosophy in Neighborhood Conservation Areas is to conserve and enhance established neighborhoods encourage the conservation and enhancement of existing neighborhood character but not to preclude new development, redevelopment, or alteration. [emphasis added]”

<sup>5</sup> 223.4 . . . New development and localized land use changes are predicted to occur in Neighborhood Conservation areas when not inconsistent with the Future Land Use Map (FLUM), or when identified as part of an approved small area plan and are in furtherance of the policies of the citywide or area elements. . . . [emphasis added]

The fact that the parcel to be rezoned is located in an area designated “moderate density residential” by the Future Land Use Map (FLUM) and that its zone is listed as one of the representative zones of that designation would not be a barrier. The FLUM’s zone designations would be “not intended to be strictly followed” in map amendment cases and its boundaries would be deemed “soft-edged”.<sup>6</sup>

Furthermore, under the Office of Planning’s proposal a new zone may be added to the FLUM’s moderate density residential category that “meets the intent” of that category.<sup>7</sup> The definition of that category envisages “low rise apartment buildings”.<sup>8</sup> Since that use is among those possible in the proposed new MU-4 zone,<sup>9</sup> it could be argued that the new zone “meets the intent” of that category (despite the restrictions on new apartment uses in RF-1 and the large differences in potential height and density in the two zones). Even if the new zone could not be said to “meet the intent” of the moderate density residential category and thus would not be consistent with FLUM, it could be added to that category anyway, if it is deemed “not inconsistent with an approved small area plan”. That is to say, if there is an applicable small area plan and it contains nothing to prohibit the rezoning, the small area plan could supplant the Comprehensive Plan’s FLUM altogether as the controlling authority.

The result would approximate what is depicted on the photo visualization: a fifty foot high, five story apartment that is completely inconsistent with the architectural character of the neighborhood because compatibility with a neighborhood’s architectural character would no longer be required.<sup>10</sup> And that’s not all - the new 5-story building could be topped by 15-foot high penthouse,<sup>11</sup> for a total height 30 feet higher than the adjacent row house.

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<sup>6</sup> §226.1.a “... intended to provide broad guidance, and are not intended to be strictly followed ... The Future Land Use Map boundaries are intended to be “soft edged.”

<sup>7</sup> §225.1 “... the listed zone districts are not exhaustive, and other zone districts may also apply. A non-listed zone district may also be appropriate where it :

- 1) Is not inconsistent with an approved small area plan for the area; or
- 2) Meets the intent of the identified land use category.”

<sup>8</sup> 225.4 “Moderate Density Residential: This designation is used to define the District’s row house neighborhoods, as well as its low-rise garden apartment complexes. The designation also applies to areas characterized by a mix of single family homes, 2-4 unit buildings, row houses, and low-rise apartment buildings. . . .”

<sup>9</sup> 11 DCMR U-512.1(a)

<sup>10</sup> 223.5 “. . . when new development, redevelopment, or alterations occur, they should be compatible with the existing scale, architectural character, and natural features of each area . . . “

<sup>11</sup> 11 DCMR G-403.3