

Marilyn J. Simon, October 13, 2006

COMMENT ON HANDLING OF FRIENDSHIP HEIGHTS MAP ISSUES
IN OP'S SEPTEMBER 20 ADDENDUM TO MAYOR'S DRAFT COMPREHENSIVE PLAN AND
ACCOMPANYING OP RESPONSE TO COMMENTS.

Friendship Neighborhood Association filed comments with specific recommendations for corrections to the Future Land Use Map and the Generalized Land Use Policy Map. The recommendations in that submission were based on a careful review of the maps, current land use, land use history and planning and zoning history, as well as the relevant policies. The corrections requested by Friendship Neighborhood Association are all consistent with current zoning and with the Comprehensive Plan. In its Addendum, the Office of Planning rejected each of these recommendations.

In the following comments, I address the rejection of these recommendations. The explanations provided by OP do not adequately address FNA's concerns, and the recommendations included in the FNA comments should be incorporated into the revised map in order to correct errors in the current Comprehensive Plan Generalized Land Use Map, and provide better clarity to the plan for the area.

The FNA recommendations are provide for higher densities at the core of the Regional Center, stepping down to the low-density neighborhoods, and including the appropriate buffer. FNA corrections show a clear pattern of intensity of land use, with higher density at the core of the Regional Center, centered at Western and Wisconsin, stepping down by categories to provide a buffer between the core of the Regional Center and the adjoining communities. This is more appropriate that the single broad category for the area, which is included in the Mayor's draft.

Existing non-conforming buildings and uses should not be used as the basis for the Future Land Use Map designation. There are several buildings in the area which represent non-conforming uses or heights and densities. The Mayor's draft proposed to map areas with non-conforming buildings to match the category associated with the non-conforming use. This is bad policy, and is inappropriate. It is clear from the zoning regulations that the policy with respect to non-conforming buildings or uses is to transform, over time, the development to a conforming buildings and uses. Matching the designation on the Future Land Use Map of these areas to the non-conforming building(s) would lead to rezoning of these lands to match the non-conforming buildings, clearly counter to the current policies with respect to non-conforming uses. The individual non-conforming buildings are discussed below.

Planned Unit Developments [PUDs] are reviewed individually, and permanent zoning changes should not result from approval of a specific project. With respect to PUDs, the Mayor's draft proposes to match the category on the Future Land Use Map to the densities associated with the projects that were approved as PUDs. However, with PUDs, map amendments, and increases in height and density were granted after review by the Zoning Commission and a determination about the specific merits of the particular project that was reviewed. The map amendment or increased height and density is not transferable to another project. If a different project were proposed for that site, it would need to be reviewed to determine whether it met the same standards. In response to one map correction requested by FNA, to correct the designation of the Chase Point [Washington Clinic] site, OP rejected FNA's proposed change from Institutional to Moderate Density Residential, and shows instead a change from Institutional to Medium Density

Residential, to reflect the density that was approved for this PUD. This is contrary to public policy with respect to PUDs, and following the rezoning process, new development of this site would be allowed the higher density as a matter of right, without the need for Zoning Commission review to determine whether this project obtained the same degree of merit as the existing project.

Friendship Heights is designated as a Regional Center in the Comprehensive Plan, and the FNA recommendations are based on the specific protections afforded the communities adjoining regional centers. The Land Use chapter of the current Comprehensive Plan provides that Friendship Heights, as a Regional Center, shall evolve in ways which are compatible with other land use policies, including those for “maintaining stable neighborhoods, mitigating environmental impacts, and reducing traffic congestion,” [§1108.1(f)] and that heights and densities in Friendship Heights, as a Regional Center, shall be limited to those which are “appropriate to the scale and function of development in adjoining communities;” [§1108.1(g)] Similar language is included in the Mayor’s Draft.

Friendship Heights is designated in the existing Comprehensive Plan as a Housing Opportunity Area, the FNA recommendations, which are consistent with current zoning, would allow for development which could include as many as 1,000 new housing units as a matter of right in Friendship Heights. A Housing Opportunity Area should not be interpreted as an area where limitations of height and density are thrown out the window when housing is included, but instead are a way of designating parts of the District where new housing might be added, within the appropriate height, density and lot occupancy limitations. Since the last Comprehensive Plan, one of the areas designated in Friendship Heights was developed as the townhouse development, the Courts of Chevy Chase, on the 5300 block of 43rd Street, and the condominiums at Chevy Chase Plaza.

DISCUSSION OF SPECIFIC COMMENTS

In the following sections, I address each of the FNA requests, and OP’s response in the response filed with the September 20th Addendum to the Mayor’s Draft Comprehensive Plan.

- FNA, Comment on Generalized Policy Map

FNA, in its September 2, 2006 submission wrote:

“In the July 2006 Mayor’s Draft the Comprehensive Plan Generalized Policy Map has been revised to remove from the Conservation Area a critical portion of the residential buffer between development in the regional center at Friendship Heights and the adjoining low density residential areas. An area between Jenifer Street and Harrison Street along 44th Street that is zoned R-5-B has been placed in the “Main Street Mixed Use Corridor” category. This is inconsistent with the treatment of all other residentially zoned areas, and is inappropriate given the critical role that these sites play in providing an adequate buffer between the core of the Friendship Heights commercial and mixed use area and the low-density residential neighborhoods. This change is totally unacceptable.

“The area in Friendship Heights north of Harrison Street and south of the Regional Center must be designated as Neighborhood Conservation Area, as should all of the R-5-B zoned land bounded by 44th, 45th, Western and Jenifer. It serves as the buffer from the

impacts of the commercial development for the neighborhood adjoining this commercial area which extends well north into Friendship Heights, MD. The community stated overwhelming opposition to increased density of this area during the UWACS, a small area plan that was withdrawn by OP from consideration due to the community's rejection of intensification of land use due to limited infrastructure capacity in this area. The Generalized Policy Map submitted to residents in May 2006 designated this area as Neighborhood Conservation Area. The Neighborhood Conservation Area designation must be maintained for this area."

In response, OP wrote:

"Comment noted. The change responds to written comments on the May Draft, noting that these properties are non-residential in character and are functionally part of the business district. This is the same designation applied in Cleveland Park and Chevy Chase/ DC (Connecticut Avenue), and other business districts with small local-serving shops, public facilities, and housing."

Response: OP's response does not address FNA's concerns. There has been a significant amount of input for Ward 3 ANCs as well as from several Councilmembers about the need to place the Wisconsin Avenue corridor in the conservation area. As a result, a new category was created, and applied to the commercial areas on Wisconsin Avenue and in other parts of the District, and Neighborhood Conservation Area designation was applied to the residential portions of the area.

In the subsequent draft, OP moved a critical portion of the neighborhood conservation area into the Main Street Mixed Corridor designation. This change should be reversed. OP cites the existing non-conforming uses as the reason for the change in designation, and falsely compares this with the categorization of other areas which have commercial zones and commercial uses. The area which was in the Neighborhood Conservation Area on the earlier map is residentially zoned and has non-conforming uses, uses which were in existence when the zoning was put in place, and where it was contemplated would be replaced with moderate density residential development that would serve as part of the critical buffer between the higher density development at the core of the Friendship Heights center and the low-density residential development to the south.

OP should be responsive to the concerns that lead to the initial mapping as part of the Neighborhood Conservation Area, and to the general requirement that non-conforming uses should transition, over time, to conforming uses.

OP's recent mapping change should be reversed.

- FNA Comment on the low-density, R-2, buffer between the R-1-B district along 45th Street and more intense development to the east.

FNA, in its September 2, 2006 submission wrote:

The area along east 45th Street NW in Friendship Heights from Harrison to Western to Cortland Road is zoned R-2. The Future Land Use Map must correct this to Low Density Residential. The zoning for this area provides a buffer for the R-1 zoned area on west 45th street from the higher density zoning of the R-5-B area to the east on the Lord & Taylor site. This recommendation was made to Barry Miller, OP by ANC 3E during a meeting held with commissioners Sullivan and McVey.

OP's Response:

The area is currently designated Moderate Density Residential, which is appropriate given that it provides a transition between Low Density Residential west of 45th Street and Medium Density Mixed Use to the east. Designating this area as Low Density Residential would remove the buffer and could result in undesirable scale contrasts.

Response: This area is currently zoned R-2 and serves as part of a buffer between the more intense development at the core of Friendship Heights and the R-1-B neighborhood on the west side of 45th Street. This is currently used as part of a parking lot for Lord & Taylor, a non-conforming use.

The map submitted as part of the Mayor's draft shows this as Moderate Density Residential. This recommendation was made by ANC 3E at a meeting with Barry Miller. The purpose of the map correction to maintain the buffer between the higher density development on the east side of Square 1580 and on the other side of Jenifer Street. When this site is redeveloped, it is essential that the maps accompanying the Comprehensive Plan maintain the buffer, currently R-2, between the Friendship Heights commercial core and the R-1-B neighborhood on the other side of 25th Street.

OP rejects the request, stating that the such a designation would remove the buffer and result in undesirable scale contrasts.

However, it is OP's proposal which would remove the buffer and result in undesirable scale contrasts, eliminating the R-2 buffer between higher densities and the R-1-B neighborhood directly across the street, and creating an undesirable scale contrast with a moderate density residential zone directly across from an R-1-B district.

A careful reading of FNA's recommendation show concern about scrupulously maintaining the buffer, while the map submitted with the Mayor's draft does not achieve that goal. To the extent that any buffer is maintained, OP is moving the density and the buffer out into the neighborhood. The value as a buffer is diminished by including insufficient articulation in the designations.

- FNA Comment on west side of 5200 block of Wisconsin which is currently zoned R-5-B.

FNA, in its September 2, 2006 submission wrote:

The west side of Wisconsin from Harrison to where Ingomar would come in should be corrected to Moderate Density Residential. The area is zoned R-5-B.

OP's Response.

The proposed designation provides an opportunity for neighborhood-serving ground floor retail rather than all-residential uses, consistent with the policies of the plan

Response: This area is currently zoned R-5-B, and FNA proposed a map correction which would have changed the low-density commercial designation of this site to moderate density residential, and which would place this site in the conservation area, as was done with all other residentially zoned sites near the Wisconsin Avenue corridor. FNA's recommendation is consistent with current zoning, and consistent with requests by the overwhelming majority of the community to place this site in the conservation area. However, even with the proposed designation, members of the community would support some neighborhood-serving ground floor retail, but given

overwhelming concerns about inappropriate heights and densities, the designation as part of the Neighborhood Conservation area is critical. FNA recently filed a petition with the Zoning Commission [ZC Case 06-31] with signatures of 501 residents living within several blocks of this site, opposing heights and densities beyond that allowed as a matter of right in an R-5-B zone. These signatures represented 91% of the residents responded. Only 4% of the residents responding stated that they would support heights and/or densities beyond that allowed as a matter of right.

- FNA Comment on west side of 5200 block of Wisconsin which is currently zoned R-5-B.

FNA, in its September 2, 2006 submission wrote:

The area bounded by Western, Jenifer and 44th zoned C-2-A and must be corrected to Moderate Density Residential and Low Density Commercial Mixed Use to accurately reflect the C-2-A zoning designation.

OP response:

The proposed designation has not changed from the prior Comp Plan and is consistent with the direction provided by the prior (Ward 3) Plan

Response: FNA offered a “map correction,” which is rejected in part because “the proposed designation has not changed from the prior Comp Plan.” However, that would be true of all the areas for which map corrections were necessary. The proposed map correction is consistent with current zoning and is consistent with the direction provided by the prior Comprehensive Plan, both the Ward 3 Plan and the Land Use Element.

This area is currently zoned C-2-A, and includes the Lord & Taylor department store, two-story retail uses along 44th Street, and an office and retail building. The map submitted with the Mayor’s draft shows this area designated as Medium Density Residential/Medium Density Commercial Mixed, as is was incorrectly designated in the earlier Comp Plan map.

FNA requested that the designation be corrected to show Moderate Density Residential/Low Density Commercial Mixed, which is consistent with the zoning category and helps to maintain the clear pattern by which the intensity of use steps down from the core of Friendship Heights to the adjoining low-density neighborhoods.

Good planning principles, on which the current zoning designations are based, support a map in which the designations step down from the most intense use at the center on the Friendship Heights regional center, at Western and Wisconsin, toward the low-density neighborhoods. This stepping down of intensities is done with current zoning and with the map corrections that were recommended by the FNA, which are all consistent with current zoning. Thus, with the designations stepping down from the center, the appropriate designation for sites such as this would be Moderate Density Residential/Low Density Commercial, corresponding to heights of about 50 feet, and floor area ratios of about 1.8 or 2.0, are appropriate for this outer portion of the Regional Center.

The maps included in the Mayor’s draft does not include the explicit stepping down of intensity that is evident in current zoning. Failure to correct these errors might lead to inappropriate rezoning, eliminating or reducing the current buffer between the higher intensities and the adjoining communities, as required by the Land Use Element. The proposed map corrections are consistent with current zoning, and follow good planning principles, and express the clear

principles of higher density at the core of the area, with successively less intense zones, to have heights and densities appropriate to the adjoining neighborhoods.

- FNA Comment on east side of 5200 block of Wisconsin, north of Ingomar Street, which is currently zoned C-2-A.

FNA, in its September 2, 2006 submission wrote:

The east side of Wisconsin from Ingomar to Jenifer is zoned C-2-A. The map must be corrected to Moderate Density Residential and Low Density Commercial Mixed Use to accurately reflect the zoning designation..

OP response:

The proposed designation has not changed from the prior Comp Plan and is consistent with the direction provided by the prior (Ward 3) Plan

Response: FNA offered a “map correction,” which is rejected in part because “the proposed designation has not changed from the prior Comp Plan.” However, that would be true of all the areas for which map corrections were necessary. The proposed map correction is consistent with current zoning and is consistent with the direction provided by the prior Comprehensive Plan, both the Ward 3 Plan and the Land Use Element. It also, unlike OP’s designation, is consistent with appropriate treatment of non-conforming buildings, and in particular with buildings on sites that were downzoned following the commencement of construction.

This area is zoned C-2-A, which is consistent with the moderate-density residential/low-density commercial mixed designation proposed as a map correction by the FNA.

There are two buildings on the block. One of the buildings, 5225 Wisconsin Avenue, is a non-conforming structure. It was constructed when zoning in Friendship Heights was based on a highway plan that was not put in place. Subsequently, there was an interjurisdictional planning effort, and as a result the zoning on that site was changed to C-2-A. The zoning order which downzoned that site was explicit in dealing with the relevant issues, and it was clear that if the site was to be redeveloped, that heights and densities beyond that associated with the new, lower, zoning were not anticipated. The existence of a non-conforming building on the block should not be used as a reason to fail to make the necessary map correction, and to rezone the block to match the density of the non-conforming building.

- FNA Comment on west side of Wisconsin, from Jenifer to Western, which is currently zoned C-3-A.

FNA, in its September 2, 2006 submission wrote:

The west side of Wisconsin from Jenifer to Western is zoned C-3-A. The map must be corrected to reflect Medium Density Residential and Moderate Density Commercial Mixed Use to accurately reflect the zoning designation.

OP response:

The proposed designation has not changed from the prior Comp Plan and is consistent with the direction provided by the prior (Ward 3) Plan

Response: FNA offered a “map correction,” which is rejected in part because “the proposed designation has not changed from the prior Comp Plan.” However, that would be true of all the areas for which map corrections were necessary. The proposed map correction is consistent with current zoning and is consistent with the direction provided by the prior Comprehensive Plan, both the Ward 3 Plan and the Land Use Element.

- FNA Comment on Lisner Home and other areas Institutional designations.

FNA, in its September 2, 2006 submission wrote:

Institutional assignments, such as 42nd Street between Military and Western, must be corrected to reflect the underlying zoning.

OP response:

Comment noted

Response: The underlying zoning for the Lisner Home property is R-2, low density residential.

Residents near the Lisner Home have a real concern that, if Lisner were to sell off more of its land for redevelopment, Lisner might again request that the land be rezoned for higher intensity development. Lisner had recently sold 15,000 square feet of land, zoned R-2, to the developer of a PUD, who requested a map amendment to R-5-D. The final proposal did not include a map amendment on the Lisner property, but the possibility that, if the Comprehensive Plan Future Land Use Map does not explicitly support the zoning on that site, and include explicit direction of what future development on that site should be if the institution were to move or otherwise reduce its land requirements, a future request for a map amendment on that land would be granted. The designation of the Washington Clinic site as Institutional on the Generalized Land Use Map in the current Comprehensive Plan meant that the Zoning Commission could not use the map for guidance in determining the appropriate intensity of development.

It would be appropriate for the land be designated as low density residential. In the alternative, OP might create a way of designating existing institutional land, while also showing the underlying future land use if the land were to be redeveloped. That might be represented with the color of the underlying land use, in this instance, yellow for low-density residential, with an outline in blue designating its current use as institutional.