

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: :

:

ANC 8A MAP AMENDMENT : Case No.

: 17-17

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Monday,

March 19, 2017

Hearing Room 220 South

441 4th Street, N.W.

Washington, D.C.

The Public Hearing of Case No. 17-17 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
- PETER MAY, Commissioner
- ROBERT MILLER, Vice Chairperson
- PETER SHAPIRO, Commissioner
- MICHAEL G. TURNBULL, FAIA, Commissioner (AOC)

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary

OFFICE OF ATTORNEY GENERAL STAFF PRESENT:

ALAN BERGSTEIN
HILLARY LOVICK

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER

The transcript constitutes the minutes from
the Public Hearing held on March 19, 2018.

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

Preliminary Matters 6

Presentations by Proponents of Amendment 9

Presentation by Office of Planning 45

Presentations by Opponents of Amendment 48

Adjourn 78

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

6:41 p.m.

1
2
3 CHAIRMAN HOOD: Okay. We're ready to start. Good
4 evening, ladies and gentlemen. This is a public hearing of
5 the Zoning Commission for the District of Columbia. Today's
6 date is March 19, 2018. My name is Anthony Hood. We're
7 located in the Jerrily R. Kress Memorial Hearing Room.

8 Joining me this evening are Vice Chair Miller,
9 Commissioner Shapiro, Commissioner May, and Commissioner
10 Turnbull. We are joined also by the Office of Zoning staff,
11 Ms. Sharon Schellin as well as the Office of the Attorney
12 General staff, Mr. Bergstein and Ms. Lovick as well as the
13 Office of Planning staff, Ms. Steingasser.

14 This proceeding is being recorded by a court
15 reporter. It's also web cast live. Accordingly, I must ask
16 you to refrain from any disruptive noises or actions in the
17 hearing room, including the display of any signs or objects.

18 A notice of today's hearing were published in the
19 DC Register and copies of that announcement are over to my
20 left on the wall near the door. The hearing will be
21 conducted in accordance with provisions of 11-Z DCMR Chapter
22 5 as follows; preliminary matters, presentation by the
23 petitioner -- un this case, it'll be ANC8A represented by
24 Richardson -- reports of other government agencies, report
25 of the ANC, organizations and persons in support,

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1 organizations and persons in opposition, organizations and
2 persons who are undeclared.

3 The following time constraints will be maintained
4 in this meeting. The petitioner has 45 minutes they
5 requested. They have up to 60 but they've requested 45;
6 organizations, five minutes; individuals, three minutes. The
7 Commission intends to adhere to the time limits as strictly
8 as possible in order to hear the case in a reasonable period
9 of time. The Commission reserves the right to change the
10 time limits for presentations, if necessary, and notes that
11 no time shall be ceded.

12 All persons wishing to testify before the
13 Commission in this evening's hearing are asked to register
14 at the witness kiosk, which we see they're already doing, to
15 my left and fill out two witness cards. These cards are
16 located to my left on the table near the door. Upon coming
17 forward to speak to the Commission, please give both cards
18 to the reporter sitting to my right before taking a seat at
19 the table. When presenting information to the Commission,
20 please turn and speak into the microphone, first stating your
21 name and home address. When you are finished speaking,
22 please turn your microphone off so your microphone is no
23 longer picking up sound or background noise. If you need
24 assistance, you can see Ms. Schellin.

25 The staff will be available throughout the hearing

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1 to discuss procedural questions.

2 Please turn off all electronic devices at this
3 time so not to disrupt these proceedings.

4 At this time, the Commission will consider any
5 preliminary matters. Does the staff have any preliminary
6 matters?

7 MS. SCHELLIN: Yes, sir. There is -- there are
8 two preliminary matters. I think the easiest one to -- or
9 the quicker one to get -- to dispose of is that the
10 petitioner filed their affidavit of posting late. They post
11 on time but they just didn't file the affidavit of posting
12 on time. So they are asking for a waiver of that and would
13 just ask the Commission to accept the late filing that's at
14 Exhibit 19.

15 CHAIRMAN HOOD: How many days were they?

16 MS. SCHELLIN: I don't recall how many.

17 CHAIRMAN HOOD: Okay. Let me -- if my computer
18 comes back on again -- is anybody else having a problem? Oh,
19 maybe it's just me.

20 MS. SCHELLIN: Yes. Their reasoning was that they
21 inadvertently obtained the wrong form and the instructions,
22 they were confused with the instructions so that was their
23 good cause for requesting the waiver.

24 CHAIRMAN HOOD: Okay. Certainly, I have no
25 objections. I'm sure they don't do this all the time so I

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1 don't have any objection. Any objections?

2 Do we need to do a motion or we just by general
3 consensus?

4 MS. SCHELLIN: General consensus.

5 CHAIRMAN HOOD: Okay. So no objections from us.

6 MS. SCHELLIN: So the next issue is a request from
7 the actual owner of the property that's the subject of this
8 evening's map amendment. At Exhibit 33, starting on page 4,
9 they are requesting that this case be heard as a contested
10 case instead of a rulemaking, so I ask the Commission to
11 consider that before we move forward.

12 MR. BERGSTEIN: If I could just expand a little
13 bit? So this is a rulemaking. No motions are permitted in
14 a rulemaking. At this point, it's not a contested case but
15 certainly, if the issue has been raised, you either start
16 this as a rulemaking or you don't. So although normally, I
17 wouldn't suggest that anyone, including the owner of the
18 property, could make a request to the Commission, it is, I
19 think, appropriately a preliminary matter for you to just
20 either confirm that you're going to proceed with this as
21 rulemaking but if it's not a rulemaking, then you would have
22 to re-advertise this as a contested case, give people the
23 opportunity to request party status, et cetera.

24 CHAIRMAN HOOD: I believe, colleagues -- and I'll
25 start it off -- this is a policy consideration. This is not

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1 about any particular case or project. This is a policy
2 whether or not the FLUM, the future land use map, is
3 inconsistent with the zoning. So I think the request is a
4 rezoning if I'm not mistaken so I want to make sure that we
5 understand about this being a contested case. It's actually
6 from my -- I'm not going to say out of our purview but this
7 is something that we have to deal with to make it consistent,
8 make it not inconsistent with the Comp Plans. So this is a
9 policy question.

10 Any other comments on that, any objections? So
11 we will continue this as a rulemaking. Do I need to do
12 anything else with that?

13 MR. BERGSTEIN: No, sir. You're the presiding
14 officer.

15 CHAIRMAN HOOD: Okay. Well, thank you -- I don't
16 usually thank you, Mr. Bergstein. Okay. So Ms. Schellin,
17 do we need to do anything else?

18 MS. SCHELLIN: No, that's it.

19 CHAIRMAN HOOD: Okay. So we'll start review, Ms.
20 Richardson? Ms. Richardson, we have reviewed the record.
21 Let me say this at the outset. I was a little disturbed by
22 some of the information I saw in here. This is not about a
23 project so to save your time, my time, and me having to cut
24 you off -- well, I won't because you'll just -- if you're
25 talking about a project, that's not why we're here tonight.

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1 We're here to talk about a policy question. We're
2 here to talk about a rezoning, changing the zoning, not about
3 any project, who wants to do what, who didn't do what. We're
4 not here for that. So if you want to waste your time, your
5 three minutes -- and I noticed -- we need to talk because I
6 notice that counsel's now going four minutes but we want to
7 -- if you want to waste your three minutes, that's our
8 regulation. Now if you want to do that, you can do that but
9 let's talk about the map amendment. Let's stay on it. In
10 other words, let's stay on course.

11 Now if it gets too much talking about a project,
12 I will cut you off but if you want to waste your three
13 minutes talking about a project, which is not before this
14 Commission tonight, then do so. You know, this is free
15 speech, public right, but I want you to make sure we stay
16 germane to the subject.

17 We all in agreeance with that? We're not --

18 MS. RICHARDSON: Yes.

19 CHAIRMAN HOOD: -- going to talk about a project?
20 Okay. All right. Ms. Richardson, you may begin.

21 MS. RICHARDSON: Yes. Good evening, Chairman Hood
22 and Members of the Commission. I am appearing as a zoning
23 consultant on behalf of ANC 8A which petitioned to rezone Lot
24 0812 from its current PDR-1 zoning is low impact production
25 distribution and repair to RA-2. RA-2 is what the zoning in

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1 the neighborhoods immediately surrounding this site is. The
2 PDR use on this site was discontinued some time ago. There
3 was a vacant building on the property for some time. It was
4 torn down. I believe it was condemned and the -- during the
5 last comprehensive planned amendment rounds, this lot was
6 designated as RA-2 on the future land use map.

7 It -- there was, prior to the amendment cycle, a
8 citywide study on industrial land uses. The -- that study
9 contended that isolated residential -- isolated industrial
10 zoned lots in residential neighborhoods were no longer
11 suitable for PDR uses and should be re-zoned. And we are
12 here tonight to, I guess, advocate for that re-zoning. We
13 note that the Office of Planning did a very, very
14 comprehensive study or analysis on the applicable policies.
15 I would just note that in addition to the policies for the
16 far northeast-southeast area elements, there are a couple of
17 policies in the implementation element procedural that do
18 strongly advocate for updating the zoning map to conform with
19 the future lands use map.

20 So this -- re-zoning this will be consistent with
21 far northeast-southeast policies calling for conserving low
22 density neighborhoods. And this is a neighborhood of row
23 houses and also some individual houses, some of them of
24 historic significance. This will -- re-zoning will help to
25 conserve the neighborhood. And this site is also, I think

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1 it's done so the Anacostia River, can walk to it in five
2 minutes and this will help connect the river link.

3 So those are my opening comments on the benefits
4 of re-zoning and I will now turn it over to Commissioner Holy
5 Muhammad, 8A01.

6 MS. MUHAMMAD: Good evening, Chairman Hood and
7 Commissioners. My name is Holly Muhammad. I am Advisory
8 Neighborhood Commission 8A, single-member district 8A01. I'm
9 here to represent the Advisory Neighborhood Commission 8A on
10 this petition to rezone the lot that is located in my single-
11 member district, which is located at 1401 22nd Street, SE.

12 I first would like to say that we've been
13 requesting to -- we've been trying to request to have this
14 lot rezoned over several months. Basically, we want to bring
15 it in consistent with the comprehensive plan to keep -- its
16 located in the middle of a residential neighborhood. It is
17 within 50 feet of a national park which is Anacostia Park,
18 and we, the community supports, the ANC supports this lot
19 being rezoned to residential so that it be inconsistent --
20 it will be consistent with the surrounding neighborhood,
21 which is residential.

22 The proposed map amendment reflects the
23 anticipated land use on the comprehensive plan future land
24 use map. Rezoning of this lot will allow for moderate
25 residential housing to be developed and become consistent

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1 with the surrounding land uses in the neighborhood. The
2 requested map amendment will be consistent with the Office
3 of Planning's recommendations stated in the far northeast and
4 southeast element and policies of the Comprehensive Plan to
5 include FMS 1.1.1 consisting of low-density neighborhoods;
6 1.1.7, row house neighborhoods in the Fairlawn and Twining
7 neighborhoods; encouraging in-fill housing constructed in the
8 architectural style and materials compatible with brick row
9 houses and semi-detached houses that predominate in these
10 areas; new development in these neighborhoods should be
11 consistent with prevailing densities;
12 FMS 1.2.2, connecting to the river, but our own City Council
13 members have designated 2018 as the year of the Anacostia and
14 the Fairlawn Community abuts the Anacostia Park and the
15 Anacostia River. So we want to be an integral part of this
16 celebrating the Anacostia River.

17 Connecting to the river as designated by the
18 Office of Planning would link the neighborhoods of far
19 northeast and southeast to the Anacostia River through trail,
20 path, transit, and road improvements, provide new amenities
21 and facilities in the waterfront parks that meet the needs
22 of far northeast and southeast residents. And in that, we
23 need to have the safety of the pedestrians in the
24 neighborhood which include seniors and children and
25 everything in between that utilize these streets that are

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1 surrounded -- that are surrounding the lot at 1401 22nd
2 Street, SE, which would be 22nd Street which has residential
3 housing and/or an elementary school less than 100 feet from
4 this lot, Fairlawn Avenue, which abuts the park and we have
5 residents walking and cycling and jogging along these
6 streets, so we want to make sure that we can protect the
7 safety of the residents and pedestrians in utilizing the park
8 from the neighborhood.

9 Balance growth, which is 1.1.3, strongly
10 encouraged the development of new housing on surplus, vacant,
11 and underutilized land in all parts of the City, which means
12 including in Ward 8, ensure that a sufficient supply of land
13 is planned and zoned to enable the City to meet its long-term
14 housing needs including the need for low- and moderate-
15 density, single-family homes as well as the need for higher
16 density housing.

17 The proposed map amendment would be consistent
18 with these recommendations. Remapping this site from PD-1
19 to RA-2 zone district would permit residential development
20 consistent with the surrounding land uses. The location of
21 the proposed map amendment is in a prime location for
22 residential living. It is surrounded by residential homes
23 and apartments. It is located less than 50 feet from the
24 entrance to Anacostia Park that connects the neighborhood to
25 recreational activities such as roller skating, soccer,

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1 fishing, smart bikes, basketball, a fitness center, walking
2 trails and much more. It is less than two blocks from Orr
3 Elementary School and three blocks from Kramer Middle School.

4 Developing moderate-density residential at this
5 location will allow vehicle-free urban living with access to
6 the Anacostia Metro Green line less than a mile away, the
7 Potomac Metro Orange, Blue, and Silver lines less than a mile
8 away also. This location is also well-serviced by the
9 Minnesota Avenue, SE bus lines, the B2, V7, along with the
10 Pennsylvania Avenue, SE bus lines, the 30 lines, 36, 32, and
11 the M6 and others. There's also a ZipCar location on
12 Fairlawn Avenue not even a block from this lot. So this lot
13 is prime location for residential development because this
14 is -- it's located in a residential neighborhood.

15 Rezoning of this lot to moderate-density
16 residential will be consistent with Mayor Bower's commitment
17 to providing housing opportunities in all eight wards.

18 Allowing for the PDR-1 zone to remain in this area
19 will permit the encroachment of an inappropriate commercial
20 use in residential areas. The PDR-1 zoning allows
21 development that will destroy the walkability of the
22 community adjacent to a national park and causes a pedestrian
23 safety hazard for residents and neighborhood children. The
24 PDR-1 zoning, which allows for industrial uses and commercial
25 trucks in the middle of a residential neighborhood is

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1 inconsistent with Mayor Bowser's Vision Zero initiative put
2 forth by DDOT to create safe streets for DC and eliminate
3 vehicle-related fatalities.

4 Creating an opportunity means being able to take
5 a walk or wait for a bus without concern for your safety.
6 This is Mayor Bowser's vote from the State of the District
7 March 2015. "ANC-A requests that the Zoning Commission
8 accept its recommendation to rezone Square 5564, Lot 812,
9 from PD-1 to RA-2 for the benefit of the Fairlawn community
10 and Ward 8 residents. This petition is supported by our Ward
11 8 City Councilman, Trayon White, and many others who will
12 speak here tonight."

13 At its February meeting, 2018, ANC-7B also voted
14 unanimously to support our petition to rezone this lot to
15 residential. ANC-B -- I'm sorry -- ANC-7B, their ANC area
16 is -- divides -- separates -- I'm sorry -- abuts ANC 8A's
17 area at Nicholson Street right in front of the park. So they
18 are a part to this petition and they did vote unanimously to
19 support ANC 8A in this petition. They have not submitted
20 their letter, and we request that the Commission keep the
21 record open in enough time for them to submit that. I did
22 speak with their Chairman, DL Humphrey tonight. Thank you.

23 MR. MAY: Good evening, Chairman, Commissioners.
24 I'm here to speak as a proponent of the rezoning of 1401 22nd
25 Street, SE. I'd like to address a quote that was in Exhibit

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1 33, the brief that was submitted by PAL. They cited the
2 comprehensive plan and in doing so, they noted that PDR-1
3 uses should be well-buffered from residential uses and other
4 sensitive uses such as schools, ease of the access to major
5 roads and railroads, and characterized by existing
6 concentrations of PDR and industrial uses.

7 There is no buffer between this lot and the
8 adjacent residential lot, and there's only a 15-foot alleyway
9 between it and other residential lots. It's a corner lot,
10 of course, so it only abuts two properties. There are
11 sensitive uses that are at hand. There's a school, as
12 Commissioner Muhammad mentioned, within one block. There's
13 a national park across the street. It's not easily accessed
14 by major roadways.

15 PAL claims the site has easy access to 295 as well
16 as to other roadways, but the reality is Fairlawn is a
17 residential neighborhood with narrow one-way streets. Both
18 22nd Street and Fairlawn at 1401 22nd Street at one-way
19 streets with residential parking on both sides of the street.
20 It is not conducive to commercial traffic.

21 The rail right-of-way that's across the street is
22 defunct. CSX has no intent to bring back a commercial
23 railway that would cross Pennsylvania Avenue there. There
24 is not going to be any major arteries that would service this
25 site.

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1 Further, there's no nearby PDR-1 or industrial
2 activity. This is a standalone site. Perhaps it made sense
3 for the site to be industrially or commercially zoned when
4 there was a railway running by it. There's no railway
5 running by it.

6 On every point, this though fails the test of what
7 makes for a PDR-1 lot according to the comprehensive plan.
8 I request that you rezone it to RA-2 as recommended by the
9 Office of Planning. Thank you.

10 MS. KOVALKOSKI: Good evening, Chairman Hood and
11 distinguished Members of the Zoning Commission. My name is
12 Caitlin Kovalkoski and I'm a homeowner at 1419-1/2 22nd
13 Street, SE on the same block as the site in question tonight.
14 I am speaking tonight in support of the ANC 8A's petition to
15 rezone this lot residential from commercial not only for the
16 reasons that the Office of Planning outlines in their report
17 for this hearing but also based on my own observations as a
18 new resident of Fairlawn.

19 My boyfriend and I used to live over on H Street,
20 NE, pretty busy happening scene for young couples.
21 Unfortunately, we realized we want to make DC our permanent
22 home and start a family in the coming years. That led us to
23 begin the ever-notorious task of house hunting in the City.
24 We found a home in Fairlawn that we loved and checked many
25 of our boxes; an easy commute to the Congressional Office

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1 Buildings, a home with good bones that just needed a little
2 bit of updating, a backyard to play fetch with our dog and
3 barbecue with friends and most importantly, a room to start
4 our family in the coming years.

5 We also love the assets of the neighborhood.
6 First, the mix of row houses, duplexes and detached homes
7 make the neighborhood feel so residential, you almost forget
8 295 is hovering nearby. Second, having access to Anacostia
9 Park is wonderful because I enjoy spending much of my free
10 time cycling and running along the river trail. I actually
11 trained for my first triathlon last summer using the trail
12 for those two purposes, and I really look forward to the day
13 where we can actually swim in the Anacostia to give me that
14 practice for open water swim as well.

15 I'm thankful for the new Parkland 5Ks that take
16 place every Saturday morning at 9 a.m. in Anacostia Park and
17 the new Capital Bikeshare dock that has now been located
18 right at the recreation center, the first on Park Service
19 land outside of the national mall. And as the Park Service
20 celebrates 2018 as the Year of the Anacostia, more and more
21 Fairlawn neighbor residents are coming out to the park to
22 enjoy all of the amenities that the park has to offer.

23 Finally and maybe most importantly, DCPS is making
24 a \$47 million dollar investment in the new Orr Elementary
25 School one block south of the site in question. The existing

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1 school is already over its stated 400-student capacity and
2 where the new school will grow that capacity over 60
3 students. I think this speaks not only to the growth that
4 DCPS is anticipating for future enrollment but also
5 reinforces the anticipated growth of the city outlined in the
6 comprehensive plan.

7 All of these assets contribute to a great
8 neighborhood and I believe other individuals and families
9 should also be given the opportunity to live in our
10 neighborhood by rezoning the site to residential.

11 Finally, I would like to just end with a note of
12 personal capacity. I've worked in the city for over a decade
13 now working for three separate community development
14 financial institutions. Everyone in this room knows the hard
15 truth that I see every day at my job in DC. We have an
16 affordable housing crisis in this city and if the city's
17 population continues to grow at its projected rate, the
18 affordability will only worsen when we have a fixed amount
19 of land to develop and a height restriction that will impact
20 density. I view the lack of affordable housing in
21 communities across the country as a market failure, and
22 correcting market failures is one of the quintessential roles
23 of government. I ask you to serve in the role tonight and
24 think about the future of DC and the future of the
25 communities we want to create here where all are welcome and

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1 all are welcome and all are able to afford an affordable
2 housing option in this District.

3 For me, somebody of decent means, a college degree
4 and a further degree beyond that, I was lucky enough to
5 purchase a home in Fairlawn. Let's think about how we can
6 include additional housing in Fairlawn whether it looks like
7 multifamily residential, whether it's market rate apartments,
8 or it's condos with inclusionary zoning. I really truly
9 believe this is a great community to develop more housing,
10 and I think this will be a step in the right direction.

11 And then for the sake of tonight's hearing, please
12 prioritize people and communities over profits. Thank you.

13 MS. SULLIVAN: Good evening. My name is Ruth
14 Sullivan and I am a proponent to down-zoning this lot. We
15 live at -- my husband and I live at 1409 22nd Street, SE,
16 next door to the lot. We bought the house 15 years ago and
17 the house was custom-built by the original owner of Columbia
18 Island (phonetic) in the turn of the century. The house has
19 historic value and we would like to preserve it as a historic
20 site.

21 We are two miles from Capitol Hill, from the
22 center of Capitol Hill, and very close proximity to downtown.
23 Homes on the other side of the river -- everybody has talked
24 about housing; I'm in the business of housing and housing on
25 the other side of the river is in the \$700,000.00 and upward

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1 of \$1 million. Houses in this area are affordable.

2 Keeping this as an industrial site poses a threat
3 to not only the culture of the neighborhood but also as
4 homeowners, it's posing a threat to the value of our homes.
5 There are people in our neighborhoods, people across the
6 street, people up the street who have been in the
7 neighborhood for 45 years, and this is going to change the
8 nature of the neighborhood as well as the value of our
9 properties.

10 As you know -- everybody talked about it --
11 there's a shortage of houses in DC and particularly in this
12 area because it still allows for affordable housing.

13 And lastly but -- is that keeping it an industrial
14 zone gives an opportunity to developers who are not from this
15 area to come and do with it whatever suits their needs
16 without any consideration to the community. And we ask you
17 to consider that and change the zoning. Thank you.

18 MR. SULLIVAN: Good evening. I'm Novell Sullivan,
19 Ruth Sullivan's husband and when I first saw this lot and
20 this house, I was a teenager and I always admired it. So
21 later on in life, it came available and we purchased this
22 house. And we love the neighborhood, you know, and it's just
23 -- I just can't understand how people can look at something
24 that is really wholesome and nice for the community and want
25 to abruptly change it to bring in more traffic, more

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1 pollution, bringing in to this neighborhood something that's
2 not beneficial for the community.

3 So I would ask that this not happen and they
4 change the zoning so that we can continue to have the type
5 of neighborhood that is conducive for families, children,
6 sports enthusiasts, and everybody that wants to enjoy the
7 river. Every day I see people walking down, fishing in the
8 river and it's something that is very dear to me to see this
9 type of life in the city. So I ask you to rezone this so we
10 can keep it commercial -- I mean so we don't -- we can keep
11 it residential and thank you.

12 MS. RICHARDSON: Do you have any questions or
13 we'll bring up some other witnesses?

14 CHAIRMAN HOOD: Okay. Have you finished all your
15 witnesses?

16 MS. RICHARDSON: No, I haven't but if you're going
17 to ask questions of this panel --

18 CHAIRMAN HOOD: Oh, so you have some more
19 witnesses that are coming up?

20 MS. RICHARDSON: Yes.

21 CHAIRMAN HOOD: Okay. So this -- you have more
22 than one panel, okay. So we need to stop the clock. Okay.
23 You did that. Maybe I'm the only one don't know what's going
24 on. Okay. Let's -- any questions colleagues? Let me just
25 say that was very well done. Everybody stayed on point and

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1 I appreciate it so I hope the next -- I hope your next panel
2 does the exact same thing, stay on point. So we will turn
3 it over to you Ms. Richardson. It's your show.

4 MS. RICHARDSON: Thank you.

5 CHAIRMAN HOOD: Ms. Richardson, can I ask you how
6 many panels do you have?

7 MS. RICHARDSON: We have two. I will try to move
8 on. The last -- the testimony will be short --

9 CHAIRMAN HOOD: No, that's fine. I just wanted
10 to know how many panels you had?

11 MS. RICHARDSON: Two panels.

12 CHAIRMAN HOOD: Okay. Seems to be very well-
13 coordinated. We'll make sure you're on the mic. I'll wait
14 until you come back to the mic.

15 MS. RICHARDSON: Any other people who are speaking
16 in favor of the rezoning, come up now or --

17 CHAIRMAN HOOD: Let me just add if she -- if Ms.
18 Richardson -- if you're on Ms. Richardson's panel and you
19 have some kids, if you can come up. Ms. Richardson, I
20 usually do the -- I'm not going to take over what you're
21 doing but I usually let the people who have their kids go
22 first so they can take them home and put them in bed. I've
23 always done that. That's my practice. So I'll let you work
24 that out, Ms. Richardson.

25 MS. RICHARDSON: So you go first.

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1 MS. BROWN: Good evening. My name is Yvonne
2 Brown. I am a homeowner at 2107 Fairlawn Avenue, SE, right
3 next door to the lot that we are here asking for rezoning.
4 I purchased my home eight years ago in the Anacostia area,
5 very happy, very excited, still am; second child in and we
6 love it.

7 And we're here asking for the lot to be rezoned
8 for this very reason, the storage unit -- excuse me -- the
9 project would be a huge eyesore. It would be right in the
10 middle of a residential neighborhood, definitely not part of
11 my checklist when I purchased my home eight years ago, very
12 excited to do. I'm from Brooklyn, New York. That was a
13 dream of mine from a little child and I made that possible
14 through hard work and perseverance.

15 So to see a neighborhood be destroyed by not
16 rezoning that particular lot, it would be very disheartening.
17 It would be a major heartbreak. It will -- this particular
18 situation could bring crime, rodents, abandonment, squatters,
19 lights blaring all night, movements all type of hours. The
20 neighborhood needs to stay residential as it is. My
21 children, my significant other, we all frequent that park.
22 We walk to my daughter's school, Friendship Chamberlain.
23 It's a Tier I school in Capitol Hill Southeast but we walk
24 to that school. We walk from our home through the park,
25 through a beautiful park. We watch the people row and we

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1 walk to and fro. I walk to the Metro to go to my good-paying
2 job which is also in the District of Columbia.

3 I can't speak anymore about the rezoning. I
4 apologize I don't have all of the word and jargon and diction
5 that goes along with this type of hearing. I'm just here
6 basically saying please rezone it. It makes 100 percent
7 sense to rezone it to residential. We're happy to open our
8 neighborhood to more residents and not a commercial property
9 that's just an easy dollar, don't require any people, doesn't
10 require any serious labor, material, just an extreme eyesore.
11 Thank you.

12 MS. CASTEEL: Good evening, Commissioners. My
13 name is Ezra Casteel. I live at 1602 16th Street, SE, which
14 is also in ANC 8A. And I just wanted to thank you for the
15 opportunity to speak tonight on this important issue. I
16 support this change from PDR-1 to RA-2 and urge you to
17 approve this request.

18 This is a lot that I pass by almost every single
19 day on my way to and from work and other places. And I do
20 support this site being developed but with it being
21 surrounded by residential and at the entrance of a national
22 park. This truly does belong as a residential zoning site
23 and any zoning should fit into the community.

24 When you look at the community that is around it,
25 there is no other industrial uses. This isn't an area where

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1 it would have that type of use there. Switching it to
2 residential is what it truly should be. Housing is a
3 critical need in the community. That's evident when you look
4 at other areas in that particular neighborhood and across the
5 city. But that's what we should be actually doing there and
6 that's what I would support.

7 MS. WARD: Good evening, Chairman Hood and other
8 Commission Members. My name is Bernita Ward. I live in the
9 Fairlawn community. I'm here to ask that this lot be rezoned
10 to residential. In talking with some of my neighbors, we
11 came up with what our community is like and what it means to
12 us, and I'd like to read something to you.

13 The Lot at 1401 22nd Street, SE is already a part
14 of our residential community. The Lot is surrounded on the
15 streets closest to it by homes, single-family town and
16 apartments. Anacostia National Park is directly across the
17 street from the Lot. All points north, southeast and west
18 of the lot consist of residences. We live in our community
19 just as others do in their communities. We walk or drive or
20 bike in our communities and beyond and we come back home.
21 We go to work. We go to school, to appointments as residents
22 of other communities do. We come back to our community that
23 we have helped to establish and maintained over time. We
24 know what is best for us.

25 We have set goals and priorities for our community

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1 which are city goals that tie us to other communities. Our
2 goals and priorities are keep areas free of trash and debris,
3 maintain existing properties, seek additional housing and
4 counseling, become more healthful, improve our schools
5 through participation, and seek job training and employment
6 opportunities. We are very careful in our community moving
7 about the streets, especially with allowing our children and
8 seniors to walk unaccompanied.

9 The traffic that comes from Interstate 295 and
10 Pennsylvania Avenue onto 22nd, Nicholson and Proudtt Streets
11 is heavy and fast and overbearing. We have had to handle
12 this traffic almost on our own for years but we cannot allow
13 any other traffic to come into our community. We cannot
14 manage the extra traffic, the extra wear and tear on our
15 streets, and the additional safety of our community.

16 Two years ago we said "no" to the storage
17 facility. We have not changed our minds. We still say no.
18 Our community is a growing community. We have moved ahead.

19 A new state-of-the-art elementary school is
20 opening in school year 2018-2019 just down the street from
21 1401 22nd Street. Along with some new innovative teachers
22 and programs, our children will move forward in this changing
23 community and city. Both Kramer Middle School and Anacostia
24 High School have recently been renovated to the extent that
25 any teen with approval of family would be excited to attend.

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1 All of these schools are within walking distance of each
2 other.

3 We are now tackling a new problem. We need
4 housing for our young families and for seniors who live in
5 our community. Many young families are living in single
6 rooms in other people's homes. They need the space to grow.
7 We also need housing for seniors with everything needed to
8 run a household on one level.

9 Some change has begun to take place in our
10 community regarding housing. It is a community that is in
11 transition. Many of the residences that have been
12 established for over 30 years have recently been sold. Some
13 were remodeled moderately and sold. Some are being
14 completely renovated showing us what the homes we now live
15 in will look like in the future. To this growing community
16 with new members coming each day, what might possibly be
17 added are more homes designed for families, with children
18 allowing this community to grow and prosper even more. Thank
19 you.

20 MS. RICHARDSON: Thank you. In view of the time
21 allocated to this case, I'm going to ask the remaining
22 witnesses if they will simply state their names, where they
23 live and just to keep -- state one key point about why
24 you're here in support of the rezoning if that's acceptable.

25 MR. PRESBURY: Do I have a choice? Do we --

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1 CHAIRMAN HOOD: Actually, though, Ms. Richardson,
2 they do have 60 minutes. If they need -- because I know
3 people prepared testimony and when they come in, we don't
4 want to shortchange them so if they can stay within the
5 limit, we'll be fine if we go over 40. I know you all have
6 60 minutes. You only took 45. I want to be fair.

7 MS. RICHARDSON: Okay.

8 MR. PRESBURY: Okay. All right. I don't have --
9 my name is Graylin Presbury. I'm the President of the
10 Fairlawn Citizens Association. I live at 1331 Ridge Place,
11 SE. My wife and I bought our house in 1986, and I got
12 involved with the Fairlawn Citizens Association 2001. And
13 after about 10 years, I was approached about becoming
14 President of the Association, and I've been the President of
15 the Association since.

16 In 2010, we did a report on the history of
17 Fairlawn and in the report, we touched on some of the
18 industrial areas within Fairlawn that date back to the World
19 War II era. But our main focus was on the change during the
20 60's. That's when the most rapid change occurred as far as
21 by race within the neighborhood. The report is called,
22 "Fairlawn: from the Flats to the Heights." The Anacostia
23 Park, as we know it today, was once known as Fairlawn Park,
24 and it was once known as the Flats, which was an open almost
25 swamp-like area until it was converted into a park shortly

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1 after the turn of the century.

2 The Fairlawn Citizens Association supports
3 rezoning the property at 1401 22nd Street from industrial
4 purposes to a residential purpose. As has been said, that
5 property is surrounded by residential area and it's located
6 at the entrance to Anacostia Park.

7 We've campaigned to keep the park entrance clean
8 from the bird poop that accumulates under the bridges of
9 Nicholson Street that leads into the park. That park has
10 seen growth in its use that is being compounded by the fact
11 that recently, the parks at East Potomac -- is that East
12 Potomac or West Potomac -- I forget -- the parks downtown
13 near the Mall have become more restrictive in their use.

14 I've been volunteering at Anacostia for pretty
15 much since we moved into the neighborhood, for 30 years and
16 seen substantial change in the use of the park. This is one
17 of the reasons why, when the 295 was renovated, the
18 pedestrian crossway was kept. IT was actually refurbished.
19 There's only three entrances to the park. There's Nicholson
20 Street, Good Hope Road, Howard Road. Other than that, it's
21 the pedestrian bridge

22 Having this Lot become an industrial purpose area
23 would have a definite effect on the people of the community
24 and on the use of that entrance to the park. I dare say that
25 it's probably a safety concern, most definitely, particularly

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1 considering increased vehicular traffic. I think I've said
2 enough. Thank you.

3 MR. CURRY: Thank you, Ms. Richardson, Chairman
4 Hood, Commissioners. My name is John Curry. My wife and I
5 own 1341 Ridge Place, SE, neighbors of the Presbury family.
6 We moved in two years ago and we've been thrilled to both
7 occupy a house built in 1926, same year Ernest Hemingway
8 wrote his first novel and enjoy the capital of the Riparian
9 community around this national park. My wife celebrated her
10 birthday roller skating at the park in the pavilion last
11 year, and we are thrilled to tell our friends about the
12 jewels that exist within Anacostia, bring them over to the
13 east side of the river.

14 But it's not just the capital of the park and the
15 capital of the beautiful homes that we now occupy on that
16 road, but it's the human capital that we came to find out
17 among the neighbors that exist, that live on the same road
18 that we do, neighbors that have been there for decades. And
19 it's been a wealth of knowledge to learn from them, to learn
20 from what Anacostia was, what it is now, and what it could
21 be in the future.

22 So I speak on behalf of my wife and myself in
23 support of a rezoning to a residential area for the lot, the
24 corner lot at 1401 22nd Street, SE. DC has tremendous
25 promise. It always has had tremendous promise. Anacostia

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1 has tremendous promise and the idea that you have to have a
2 competition between an investment in capabilities and capital
3 and bringing in business and bringing in an expansion of
4 industry in this area, there's value to that. I get that.
5 But on the other hand, particularly with the challenge of
6 affordable housing in the City, I ask that you would take a
7 step to protect the investment in human capital and the need
8 for humans, for new neighbors to be able to come in and have
9 property of their own, and build a new chapter of this -- of
10 the Anacostia neighborhood. Thank you.

11 CHAIRMAN HOOD: We may have some questions. I'm
12 going to pick on this group. Mr. Presbury's very modest.
13 Mr. Presbury doesn't know that we know -- we're in tune up
14 here, too -- we know that you're the President of the
15 Federation as well; am I correct? Or were the Federation?

16 MR. PRESBURY: I am the Presidnet --

17 CHAIRMAN HOOD: Okay. My hat's off to you. About
18 20 years ago, I was nominated and I turned it down, so my
19 hat's off to you.

20 (Laughter.)

21 CHAIRMAN HOOD: And I tell you why. Seriously,
22 I turned that down because I was doing this. I had to learn
23 this. So when you talk about bringing different jargon, I
24 brought it so it's already here. I brought it here.

25 Let me just ask this question and this is not

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1 necessarily germane. When I -- I was sitting here and I keep
2 thinking about Fairlawn and something stuck me. In the 80's,
3 do you all know what Fairlawn was -- since you all did the
4 history -- Mr. Presbury, I'm going to pick on you because
5 you're the President of --

6 MR. POTTER: Okay.

7 CHAIRMAN HOOD: -- both Fairlawn and the
8 Federation of Civic Associations, and by the way, I can use
9 you down here a lot so you can explain to us how all that
10 works, because I kind of know being a president myself --
11 former president for 20 years in Woodridge --

12 MR. POTTER: Okay.

13 CHAIRMAN HOOD: -- but I won't put you on that
14 spot. But let me ask you what was Fairlawn known for in the
15 80's? Do you remember since you all did the history?

16 MR. PRESBURY: In the 80's?

17 CHAIRMAN HOOD: Yes. What was -- well, let me
18 back up. What was the President -- the President -- what
19 United States President came to Fairlawn in the 80's and
20 walked in the community?

21 MR. PRESBURY: Oh.

22 CHAIRMAN HOOD: What was Fairlawn known for in the
23 80's?

24 MR. PRESBURY: In the --

25 CHAIRMAN HOOD: I'll write the next history

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1 lesson. You all were known for the orange hats. You all
2 taught this city --

3 MR. PRESBURY: Oh, yes.

4 CHAIRMAN HOOD: -- you all taught this city how
5 to work orange hats. You know why?

6 MR. PRESBURY: That's right.

7 CHAIRMAN HOOD: Because Eddie Johnson and James
8 Foreman taught me.

9 MR. PRESBURY: Yes.

10 CHAIRMAN HOOD: So my hat's off -- and I don't
11 know if -- I have not heard from them in years --

12 MR. PRESBURY: Yes.

13 CHAIRMAN HOOD: -- but if you see them around --

14 MR. PRESBURY: They're still --

15 CHAIRMAN HOOD: -- just tell them I send my
16 regards.

17 MR. PRESBURY: Sure, Mr. Hood, I can do that.

18 CHAIRMAN HOOD: I know that had nothing to do with
19 Zoning but I want you to know we do more than zoning.

20 MR. PRESBURY: Okay.

21 CHAIRMAN HOOD: So -- and I walked that -- I
22 walked those streets over there many, many nights, okay. All
23 right. Any other questions up here? My colleagues probably
24 say he just goes off where he wants to. So you see what I
25 bought down here. So anything else?

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1 MR. PRESBURY: Yes.

2 CHAIRMAN HOOD: All right. Thank you, panel. We
3 appreciate it. And Mr. Presbury, thank you for letting me
4 pick on you.

5 MR. PRESBURY: Sure.

6 CHAIRMAN HOOD: All right.

7 MR. PRESBURY: Sure, no problem. Thank you.

8 MALE SPEAKER: Still have your orange hate?

9 CHAIRMAN HOOD: Yes, I do. I still have my orange
10 hat. I need to get the dust off of it.

11 MS. RICHARDSON: If there are people who are here
12 in support of the rezoning who do not wish to testify,
13 perhaps the Chair could simply ask them to raise their hands
14 and you would get a sense of the support.

15 CHAIRMAN HOOD: So I'm going to let you do that
16 Ms. Richardson.

17 MS. RICHARDSON: Okay. Raise your hand if you're
18 in support of this petition to rezone to residential. Show
19 them Ward 8 does come out to hearings. Is there anyone else
20 who wants to testify? If so, please come forward now.

21 CHAIRMAN HOOD: We've seen the hands and we got
22 the gist but we don't want to deny anybody the opportunity.

23 MS. RICHARDSON: Right, okay.

24 MS. RESPER: Good evening. My name is Susie
25 McFadden Resper. I live on Young Street, which is only a

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1 couple of blocks from the site that's in question here. And
2 I would just like to say that I've been living there for a
3 couple of decades now, and it's really a great place to live.
4 We've had our ups and our downs but overall, I've had a great
5 time there because I felt safe. There were times when I
6 didn't feel so safe but mostly, when my child was growing up,
7 we could send our children to the park in groups, 9-10-years-
8 old. No one felt fear of something happening to them because
9 we were so close to the park and we had no big, you know,
10 buildings blocking anything. You know, the view from houses
11 and apartments and all that makes you feel safe when you have
12 children in the community and they can move around freely
13 without you being fearful of letting them go.

14 So I'm here to support the rezoning because I
15 think that the community should remain residential. And
16 entrance to the park is real important. It's important for
17 everyone there, children, adults. I now have a grandson and,
18 you know, my husband can walk him to the park. My sister can
19 walk him to the park. I don't do a lot of walking but if I
20 wanted to get on my scooter and go to the park, I would feel
21 safe doing it, and that is very important to me. And I know
22 that it is important to most people in the community to be
23 able to move around freely without any fear of, you know,
24 being hurt or harmed. And that's very important, you know,
25 for us and that's all I want to say.

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1 When you make your decision, keep that in mind
2 that people in the community benefit from the community
3 remaining residential.

4 MS. RICHARDSON: Thank you.

5 MR. BROWN: Good evening, Commissioners. My name
6 is Terry Brown. I am a native Washingtonian. Actually, my
7 family's been in DC for over five generations, makes -- my
8 kids are six generation Washingtonians. I am a recent
9 Fairlawn neighbor. I moved -- my wife and I moved in with
10 our two children approximately three years ago, and we cycle,
11 walk, run through -- to the park which traverses directly
12 past the lot. And my son, who is now 10, well, he rides his
13 bike and traffic, current traffic is a problem and this lot,
14 with development -- that type of development would
15 potentially bring harm to my family as well as, I'm sure,
16 many other families and the children who go to the nearby
17 school.

18 So I come -- I'm a bit, actually, upset because
19 many -- the City has rezoned -- the whole City's been rezoned
20 and how this particular lot was missed is a travesty, because
21 it is a residential neighborhood. How this zoning remained,
22 I don't know. It's a mistake. God forbid, some kid is
23 injured or killed as they try to get to the park. We have
24 enough profit over people and I urge you to change the zoning
25 for this lot. It will be a mistake to leave it as it is.

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1 If one child or adult, whoever's injured, that could be --
2 that's a problem. And so I am in support of the downzoning
3 to RA-2. I have had many lots and properties that I own
4 downzoned. It's just what it is. Why this one was missed,
5 I don't know.

6 And so I -- please, change this for my family and
7 the many other families in this community. And I did not
8 speak -- plan to speak today but I felt compelled to come
9 before you. So I ask you to rezone this Lot to RA-2. Thank
10 you.

11 COMMISSIONER ACKER: Good afternoon,
12 Commissioners. My name is Commissioner Acker and my SMD is
13 8A03, which is the Good Hope Road area. However, I am a
14 community organizer at Bread for the City and I advocate for
15 the homeless here in the City. And one thing that hasn't
16 been brought up is the fact that we have a homeless
17 population that has been becoming more popular in the
18 Anacostia park area. And I also know that storage facilities
19 like this are often used as homes for homeless people.

20 So I would like to say that I support the
21 rezoning, because I don't want to see that population
22 continue to grow and the kids decide to make those shelter
23 their home also, which I know is actually going on. I know
24 quite a few being at Bread for the City and working as an
25 advocate and known quite a few families that have made

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1 shelters like this their homes because of the homeless
2 population here in the City.

3 So I just wanted to say that, that I support it
4 because of that reason and I'd like for you to take that into
5 consideration. Thank you.

6 CHAIRMAN HOOD: Thank you. Let's see if any
7 questions. Any questions of this panel? Okay. Ms.
8 Richardson, I turn it over.

9 MS. RICHARDSON: Thank you. That concludes our
10 oral testimony. We did cover a few more --

11 CHAIRMAN HOOD: I'm sorry. We have a question.

12 COMMISSIONER MAY: Not for the panel but for Ms.
13 Richardson.

14 CHAIRMAN HOOD: Okay. I'm sorry.

15 COMMISSIONER MAY: I just have one question which
16 is I mean is we understand it from what we've received in
17 various Exhibits, the permit to construct something that's
18 consistent with the PD-R uses has already been granted? And
19 is that -- I mean does everybody understand that this is --
20 that there's a good chance that even if this is rezoned, it
21 won't affect what has already been permitted?

22 MS. RICHARDSON: That has certainly been like
23 stated many times, yes. There's been -- that is certainly
24 the understanding of the ANC. The ANC has certainly taken
25 many steps to, you know, communicate the reality of the

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1 situation. This -- the ANC has also participated in other
2 processes involving this particular site, such as appearing
3 before DDOT on public space, etcetera. So I think that
4 everybody's on the same page but, you know, tonight the issue
5 is rezoning so that's what we're here to address.

6 COMMISSIONER MAY: Okay. That's great. That's
7 all I wanted to know --

8 MS. RICHARDSON: Okay.

9 COMMISSIONER MAY: -- want to understand that.

10 MS. RICHARDSON: So I'm just going to say that if
11 there are any issues raised by the other side, then we would
12 like to have the opportunity to do a brief rebuttal, issues
13 that we have not addressed here.

14 CHAIRMAN HOOD: This is a rulemaking and our
15 process does not allow for rebuttal.

16 MS. RICHARDSON: Thank you very much.

17 CHAIRMAN HOOD: Okay. We get it. This is about
18 policy. I think your panels, with the exception of maybe one
19 or two, but for the majority of all the testimony, 98 percent
20 of it was on point --

21 MS. RICHARDSON: Right.

22 CHAIRMAN HOOD: -- okay, as far as what we're here
23 for tonight. I think it's very important, though, -- and I
24 said this at set down because we get blamed, we -- our
25 shoulders are broad but we get blamed for a lot of things and

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1 apparently, there have been permits or whatever, whatever's
2 been already issued has been issued under the whatever the
3 zoning was.

4 MS. RICHARDSON: Yes.

5 CHAIRMAN HOOD: Depending upon which way we go --
6 and I'm saying this for the public, not you Ms. Richardson
7 because I know you know -- it's -- but I think that's a very
8 important point that Commissioner May mentioned, because I,
9 too, have went through a rezoning and something else took
10 place years ago. And not understanding everything, I've
11 learned that they operated under the existing zoning and we
12 wanted to do a rezoning. And when we did do that, when we
13 did change it, it was after the fact.

14 MS. RICHARDSON: Yes.

15 CHAIRMAN HOOD: So I just want to make sure
16 everybody's -- because -- well, they'll say, oh, that Zoning
17 Commission doesn't ever listen. No, that's not true. That's
18 not true but there are some circumstances, as Ms. Richardson
19 already knows and has probably already articulated, some
20 other avenues that are already being worked on but depending
21 upon what action this Commission takes, whatever's already
22 out there is out there. But anything after that will have
23 to come up under what this Commission does depending upon
24 which way this Commission goes.

25 MS. RICHARDSON: Yes. And when I --

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1 CHAIRMAN HOOD: All right.

2 MS. RICHARDSON: -- spoke of rebuttals, yes, I
3 know that that's not the right word and I really meant if
4 there are any policy issues that are raised, but I guess
5 we'll just let it go. Thanks.

6 CHAIRMAN HOOD: Okay. All right. Any other
7 questions? All right. You have a question?

8 VICE CHAIR MILLER: Yes.

9 CHAIRMAN HOOD: Ms. Richardson, hold on, we have
10 some questions.

11 VICE CHAIR MILLER: You may have -- I think you
12 did touch on this in your opening remark and some of the
13 others did as well. Maybe this can get to what you wanted
14 to try to do in terms of rebuttal. So this is a zoning map
15 consistent to case as we -- as I see it and as, I think,
16 others see it, the Comp Plan calls for moderate density
17 residential and PD-R is not consistent with that. The RA-2
18 would be. But there are other comprehensive plan policies
19 that call for preserving a limited amount of industrial
20 that's in the City with appropriate buffers. Maybe you could
21 address why the -- why certain Comp Plan policies, including
22 obviously the land use map policy, take priority over some
23 of the industrial preservation policies since we have such
24 a limited supply of industrial land.

25 MS. RICHARDSON: Yes. That actually is what I had

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1 in mind. This is a case of Comp Plan interpretation where
2 the land use is the primary element and it has greater
3 weight. And then the other elements, the area elements and
4 then small area plans are interpreted in light of the land
5 use element.

6 Now in this case, what we have here is a very
7 clear directive in the land use element for, let me see, for
8 giving up the industrial uses where they are no longer
9 appropriate. Give me one second, please. Let's see. I
10 wanted to question -- yes, it's land use policy 3.1.4,
11 rezoning of industrial areas provides allow the rezoning of
12 industrial land for non-industrial purposes only when the
13 land can no longer viably support industrial or PDR
14 activities or is located in proximity to housing and is --
15 or cannot be buffered with other -- adequately with adjacent
16 existing uses. Examples include land in the immediate
17 vicinity of Metro rail stations, sites with an historic
18 districts, and, quote, small size in the midst of stable
19 residential neighborhoods." In the event such rezoning
20 results in the displacement of active uses, then assist those
21 uses in relocating to designated PDR areas. That's a land
22 use element that spins off perfectly into the decision to
23 designate this particular Lot as moderate density residential
24 on the land use map.

25 And, of course, there was no active PDR use when

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1 this was written. The PDR use had ceased. So the Comp Plan,
2 despite recognizing the need to maintain some industrial
3 land, did feel that once, you know, in some areas, when it's
4 gone, it's gone. You can't bring it back.

5 And as you recall, the industrial area study which
6 took place over two years -- mid-2000's, and that was used
7 in doing the last round of Comp Plan amendments or the one
8 before that. And the land use element says -- or hey, we
9 took that study into account and we did -- and we took some
10 policies from it and so that study's been subsumed in the
11 plan as we have it today.

12 And if you look at page 153 of that study, there's
13 a chart there that kind of takes a look at -- that's on page
14 10 of my testimony -- takes a look at all of the different
15 industrial areas next recommendations. And as to the CSX2
16 Anacostia-Fairlawn area, it says, "Suitable for continued PDR
17 use, no." So I think that's -- this is not supposed to be
18 used for industrial use.

19 VICE CHAIR MILLER: Thank you very much.

20 MS. RICHARDSON: Thank you.

21 CHAIRMAN HOOD: Thank you, Ms. Richardson. Thank
22 you for the way you assembled your panels. We appreciate it.
23 Oh, Ms. Muhammad's work. Well, Ms. Muhammad, I definitely
24 want to give credit where credit is due. Well, both of you,
25 thank you.

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1 (Off mic comments.)

2 CHAIRMAN HOOD: Okay. Well, I'm going to give it
3 to both of you, to everybody. All right. Ms. Schellin, do
4 we have the -- oh, let's go to the Office of Planning. I'm
5 sorry.

6 MS. STEINGASSER: Chairman Hood, Commissioners,
7 the Office of Planning stands in support of this petition and
8 recommends the site be rezoned from the PDR-1 to the RA-2.

9 I want to build a little bit on the arguments and
10 Comp Plan foundation that's just been laid. The future land
11 use map identifies the site as moderate density residential.
12 As part of this case, we went back and we looked at every
13 amended land use map back to 1985 when the original home rule
14 first comprehensive plan was adopted, and it always has shown
15 the site as moderate density residential. So it should have
16 been zoned by now but it's not and it's clear that there was
17 no intention for this to maintain its industrial use.

18 There is the industrial plan that -- industrial
19 study that has been referenced and you'll hear more about
20 later. There was many opportunities if the sense from the
21 council or the Office of Planning or the neighborhoods were
22 that this site should be responsive to that plan in a way
23 that it should maintain an industrial use, there were
24 multiple times where the map could have been changed and that
25 never happened. So we believe it is strongly intended to be

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1 a moderate density residential.

2 I also want to just add into the record a little
3 bit more than we usually do in a case like this, but the
4 importance of the future land use map and its categories is
5 set out in the framework element of the Comprehensive Plan.
6 That's Chapter 2. And it very clearly states purpose of the
7 land use map and says a future land use map is part of the
8 adopted comprehensive plan and carries the same legal weight
9 as the plan document itself. That means the map and the
10 policies are on even footing. The map uses color-coded
11 categories to express public policy and the preparation of
12 the map is explicitly required by DC law. Its purpose is to,
13 quote, "represent the land use policies set forth in the
14 proposed land use element."

15 This map has always shown this site as being
16 moderate density residential. Interpreting it in terms
17 through the lens of what's identified as the purpose of the
18 land use map, it's reinforced that it should be moderate
19 density residential.

20 Ms. Richards just referred to the land use
21 policies in the land use element, which is Chapter 3 of the
22 comprehensive plan and there is land use policy 3.1.3, which
23 talks about the location of PDR areas. And it gives some
24 general advice about areas that are well-buffered from
25 residential uses and other sensitive uses such as schools,

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1 easily accessed from major roads, characters and such areas
2 are generally designated as PDR on the future land use map.
3 This site is not designated for PDR on the map.

4 Then it gives the conditions of when such zoning
5 should be changed, and Ms. Richards just read that section
6 where it specifically calls out small sites in the midst of
7 stable residential neighborhoods. I think the testimony
8 you've heard tonight reinforces that this is a stable
9 residential area.

10 So I also wanted just to kind of go through a
11 summary of the logic. The site is currently unimproved.
12 What had been on the site has been demolished. It's zoned
13 PDR but it's designated residential. So is the site
14 considered industrial land as referred to through the
15 Comprehensive Plan by mere virtue of the zoning? And I think
16 not. I think when you look at the balancing of these other
17 factors, the other reason I think it is not the Office of
18 Planning's position is that zoning shall not be inconsistent
19 with the Comprehensive Plan and that's the DC charter. That
20 was -- the Home Rule Act passed by Congress changed it from
21 consist to not inconsistent and makes it very clear. So,
22 therefore, the zoning that's on the site must be changed.
23 It's in conflict with the land use map. It's in conflict
24 with the policies of the Comprehensive Plan and it must be
25 changed.

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1 And with that, I stand available for any
2 questions.

3 CHAIRMAN HOOD: Thank you, Ms. Steingasser.
4 Commissioners, any questions or comments? Commissioner May.

5 COMMISSIONER MAY: So I had one. Looking at the
6 map, the broader zoning map, what's zoned PDR goes beyond
7 this particular property and it includes some area that is
8 clearly not developed as PDR. Some of that's -- I think most
9 of the actual land that remains as PDR is the railroad right-
10 of-way, right, that space. So I'm wondering why we are not
11 taking care of all of that at once and eliminating all of the
12 PDR use?

13 MS. STEINGASSER: We will be doing a comprehensive
14 review of that as part of the land use element in the future
15 land use map amendments that are going forward now through
16 the Comprehensive Plan amendment cycle.

17 COMMISSIONER MAY: Okay.

18 MS. STEINGASSER: So it is being reviewed. This
19 one got pulled out because the ANC petitioned to have that
20 rezoned.

21 COMMISSIONER MAY: Okay. So that's something that
22 we got straightened out at a later point, okay. Thank you.

23 CHAIRMAN HOOD: Any other questions, comments?
24 Okay. So now I have a list of opponents to the map
25 amendment. So I'm going to call John Curry, Alex Hurst,

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1 Robert Cerrone, and if I mispronounce your name, just come
2 forward anyway; if it sounds like your name, come forward,
3 Mr. Andres, Meredith Moldenhauer, Phinis Jones, Stephen
4 Varga, Eric DeBear -- oh, wait a minute, how many people --
5 am I going to -- how many do I have; do I have enough there?

6 Now it looks like most people are from Palatine;
7 is that how you pronounce that? So everyone, one person will
8 have five minutes and everybody else will have three. Is
9 that right, Ms. Schellin?

10 MS. SCHELLIN: Yes. So who's taking the five
11 minutes?

12 MS. MOLDENHAUER: Mr. Hurst will take the five
13 minutes.

14 MS. SCHELLIN: Mr. who?

15 MS. MOLDENHAUER: Hurst.

16 MS. SCHELLIN: Hurst, okay.

17 CHAIRMAN HOOD: So it looks like you lined up a
18 panel, okay. I mean, you know, I can look right here and see
19 them. We have one chair left? Somebody's missing, somebody
20 from the panel didn't show up. Sas --

21 MS. SCHELLIN: We called eight names but not --

22 CHAIRMAN HOOD: Okay. Sas --

23 MS. SCHELLIN: -- everybody showed up.

24 CHAIRMAN HOOD: Who am I missing. Is Sas --

25 MS. SCHELLIN: Steve Varga didn't come. Oh, he

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1 is --

2 CHAIRMAN HOOD: -- Sas Gharai. Thank you. Is Mr.
3 Gharai --

4 MS. MOLDENHAUER: I believe he's here if he needs
5 to testify.

6 CHAIRMAN HOOD: Are you testifying?

7 MR. ANDRES: I'm representing.

8 CHAIRMAN HOOD: Okay. He wasn't going to. Okay.
9 It's on you. I mean there's a seat over there but if you're
10 not going to, we're not going to twist your arm and make you
11 come up. So I guess you're here with the opponents. Okay.

12 We'll start with MR. Hurst because he has the five
13 minutes. Let me -- Mr. Andres, are you with Palatine as
14 well?

15 MR. ANDRES: I'm representing Palatine.

16 CHAIRMAN HOOD: So everybody will -- only Mr.
17 Hurst will have five minutes. Everybody else will have
18 three. Okay. Now I see -- now we have Mr. -- okay. All
19 right.

20 MS. MOLDENHAUER: We would ask the Board's -- or
21 the Zoning Commission's indulgence to also provide Mr. Varga
22 five minutes as an expert in land use and zoning.

23 CHAIRMAN HOOD: Ms. Moldenhauer, we're going to
24 provide him the same time that we do everybody else.

25 MS. MOLDENHAUER: And we would ask the Board --

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1 Zoning Commission's indulgence to allow him five minutes in
2 order to provide some additional issues.

3 CHAIRMAN HOOD: I'm going to --

4 (Off mic comments.)

5 CHAIRMAN HOOD: Right. It's not a party case so
6 I'm going to deny that request and I'm going to -- he's going
7 to have three minutes like everyone else. That's the rule.

8 MS. MOLDENHAUER: So noted.

9 CHAIRMAN HOOD: Okay.

10 MR. ANDRES: Chairman Hood, can I cede my time,
11 a minute to Mr. Varga?

12 CHAIRMAN HOOD: Is this one where I read no time
13 shall be ceded? Mr. Andres, you were here. You've been --
14 I -- we say that all the time. Anyway, let's -- and I'm sure
15 everybody else is going to follow suit so let's go ahead.
16 Let's make sure we follow the rules. I can't do the rules
17 one way one week and then do them another way the next week.
18 I have to try to be consistent. If not, I'll be back down
19 here like we were before trying to straighten up something
20 the courts had me do -- us do. So Mr. Hurst, you have five
21 minutes. You may begin.

22 MR. HURST: Thank you.

23 CHAIRMAN HOOD: Turn your mike on.

24 MR. HURST: Thank you. My name is Alex Hurst.
25 I am the founder and managing partner of Palatine Capital

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1 Partners Management. We own 1401 22nd Street, SE, which is
2 the subject of this proposed zoning map amendment. I'm here
3 tonight on behalf of Palatine to tell the Commission that we,
4 as owners, strongly oppose this proposed map amendment.

5 Palatine was founded in 2007 as a real estate investment
6 firm. Since our founding, we've invested and developed a
7 number of real estate projects throughout the country. We
8 have worked in a variety of development settings whether it's
9 new construction or capital improvement projects.

10 I want to provide some background and my company's
11 plans for the property including an explanation as to the
12 benefits a self-storage facility would have for the community
13 and the negative impact the proposed downzoning could have
14 on Palatine and its investors. You will hear more on the
15 inconsistency of this proposed map amendment with the
16 Comprehensive Plan and other land use policies from our
17 attorney, Meredith Moldenhauer, as well as our expert in land
18 use and planning, Stephen Varga.

19 In 2007, Palatine purchased the property with
20 approved building permits to construct a self-storage
21 facility. The property is in an ideal location for a self-
22 storage facility. The property is not only vacant but it is
23 zoned PDR-1, which permits a self-storage facility as a buy
24 right use. As you may know, there is an extremely limited
25 supply of vacant industrial land in the District of Columbia

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1 so the property presents an excellent opportunity for a
2 planned self-storage facility. Based on our research, there
3 are no self-storage facilities currently operating in Ward
4 8.

5 CHAIRMAN HOOD: Please stop the clock. Mr. Hurst,
6 were you here when I made my opening statement?

7 MR. HURST: Yes.

8 CHAIRMAN HOOD: When I said we weren't going to
9 talk about a project, were you here?

10 MR. HURST: Yes.

11 CHAIRMAN HOOD: Okay. Ms. Moldenhauer, I don't
12 need you. I'm talking to him now. So we're not talking
13 about a project so if you can leave out self-storage, no
14 storage, whatever storage. Let's talk about the map
15 amendment. Let's talk about what's being proposed to rezone.
16 Okay. We're not talking about a project. I have -- we have
17 nothing to do with the project.

18 MR. HURST: Self-storage is a PDR use. IT's an
19 allowable use in the PDR zone. The Zoning Commission should
20 not evaluate this map amendment in a vacuum. The PDR use
21 that we will build is low impact. The individuals who have
22 testified are asking for housing now. Unfortunately, a
23 downzoning will not accomplish that request. As a result of
24 this proposed downzoning, the self-storage facility will
25 immediately become a non-conforming use at the property as

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1 a self-storage facility is not a buy right use in an RA-2
2 zone.

3 The Comprehensive Plan advocates for economic
4 development and growth. A map amendment would not be
5 consistent with the Comp Plan policy because it will create
6 a non-conforming use. The most important impact to us is
7 that we will not be able to rebuilt the self-storage facility
8 in the event that more than 50 percent of the structure is
9 destroyed in a casualty event such as a fire or an act of
10 God. Also, we will be unable to substantially alter or
11 expand the proposed storage because non-conforming uses
12 cannot be extended in gross floor area or use intensity. The
13 limitations create both short-term and long-term financial
14 harm to my company and our investors, which would have larger
15 impacts to others looking to invest in Washington, DC.

16 Looking at this PDR -- this -- looking at the PDR
17 this -- looking at this PDR property, it is ideal and a
18 viable PDR use. It is located next to the 295 highway and
19 in close proximity to freeways and major intersection access.
20 Based on my professional experience, this site is and will
21 continue to be viable for low impact industrial use such as
22 our self-storage facility. Palatine will face --

23 Finally, I would like to talk about our community
24 outreach. Since we found out about this case in January, we
25 have attempted to engage with the community to begin a

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1 dialogue about our planned self-storage facility.
2 Unfortunately, ANC 8A would not honor our request to formally
3 discuss the project at their March 6th hearing -- meeting --
4 I apologize -- meeting. Nonetheless, we attended the
5 community meeting on March 13th to discuss the project. The
6 issues and concerns raised by community members during that
7 meeting generally concerned traffic and pedestrian safety.
8 We asked if we could offer any community benefits that could
9 address those concerns but the community members responded
10 that they wanted a residential building. We believe we've
11 addressed the concerns in our filing and in our testimony.

12 We also have numerous letters of support for our
13 self-storage facility. We look forward to working with the
14 community throughout the course of this project and remain
15 open to continued discussion.

16 I would also like to add that we are open to a
17 conversation around eliminating industrial uses to the extent
18 that we could rebuild the self-storage facility in the event
19 of a casualty event. Thank you for your consideration.

20 CHAIRMAN HOOD: Okay. Who's going next. Three
21 minutes.

22 MR. CERRONE: Good evening. My name's Robert
23 Cerrone. I'm a member of Palatine's investment team with
24 specific focus and sort of seeing -- evaluating executing
25 self-storage facilities. I'm here to talk about both the

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1 benefits of a self-storage facility as well as the low impact
2 a self-storage facility has on a surrounding community.

3 CHAIRMAN HOOD: You all just want to make my --
4 this -- I don't understand it. You know, the -- you know
5 what, if you're going to talk about it, so go right ahead.
6 You all have three minutes.

7 MS. MOLDENHAUER: There is evidence in the record
8 that their use, this use --

9 CHAIRMAN HOOD: Ms. Moldenhauer, I'm talking to
10 the next person. I'm not -- this is a rulemaking. This is
11 not a contested case. This is run totally different. I'm
12 not going to let you come there -- nobody come there and make
13 this a contested case. It's not. You can make it hard on
14 yourself. So go ahead. If you want to talk about a self-
15 storage, no storage, whatever, go right ahead because I can
16 guarantee you we're going to stick with -- we're going to
17 stick with the issue. You need a minute to regroup and take
18 self-storage out of your conversation, I'll give you that.
19 So let's take three minutes and take self-storage out of your
20 conversation. I'm going to take all my stuff out of self-
21 storage. Take it out of your conversation, please. Thank
22 you. You have three minutes.

23 Let me just say this. We don't have any
24 demonstrations in the -- were you all here also -- see, I'm
25 a fair guy. Were you all here earlier. We weren't clapping

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1 and --- okay, Commissioner Muhammad. All right. Thank you.
2 We're going to take three minutes.

3 (Whereupon, the above-entitled matter at 8:06 p.m.
4 and resumed at 8:13 p.m.)

5 CHAIRMAN HOOD: All right. We're ready to get
6 started. I have consulted and I thought about it. If you --
7 we're not talking about a project, as I stated, and I know
8 you all reworded -- but if you mention it, you know, I just
9 think that -- and I've done this before -- I just think that
10 it's advisable to make sure that you commence this Commission
11 why this rezoning shouldn't be, about the rezoning. So let's
12 -- it's some tickle. This is a map amendment. It's not
13 anything else so anyway, who's next? You may begin.

14 MR. CERRONE: Again, my name is Robert Cerrone.
15 The low impact PDR use that we are proposing for this, again,
16 is within the current zoning. We -- in my experience -- I've
17 20 years experience with this type of project and I can speak
18 to the amount of traffic and the amount of activity that goes
19 on in one of these facilities, and I can compare it to low
20 impact residential use, and there will be virtually no rush
21 hour type traffic created when this -- much of the activity
22 happens on off hours. The facilities are typically limited
23 hours so there's nobody permitted on the site after access
24 hours, which normally end at 7:00 p.m. So that limits the
25 amount of activity.

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1 Generally, in this particular asset class, we see
2 an average of one to four people on site at any given time.
3 This is going to be much less than if there's a 50-unit low
4 density residential use on this facility. We will have
5 employment on the facility with skilled workers without
6 advanced degrees, so we will be providing some employment
7 opportunities for them. In addition to that, we -- there is
8 a service that is available to the community and it's
9 frequented heavily, in my experience, in the community.

10 MR. ANDRES: Good evening, Chairman Hood, Members
11 of the Commission. Erwin Andres with Gorove/Slade
12 Associates. My statement is geared to respond to certain
13 statements that have been made and some assertions that have
14 been made in certain filings related to this proposed
15 rezoning.

16 As a matter of background, the site is actually
17 well-served by local and regional access. They're near major
18 arterials, both Pennsylvania Avenue and Minnesota Avenue are
19 both two to three blocks away. Relative to the proposed
20 rezoning, DDOT had issued a letter February 2, 2018 that I'm
21 going to reference that identified the ability to, with the
22 rezoning, create a certain number of apartments. We've
23 looked at that and believe that we can actually, with the new
24 rezoning, can fit about 50 apartments of about 800 square
25 feet, which are consistent with the market. So in that, with

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1 an -- with these 50 apartments, these 50 apartments during
2 the weekend, evening, peak hour would generate less than a
3 low impact PDR use that would be viable for the site. So --
4 and the reason for it is because, as -- excuse me -- would
5 generate more traffic than the -- than low impact PDR viable
6 use for the site. And the reason for that, as Mr. Cerrone
7 had mentioned, is because of the fact that for certain PDR
8 uses, there are opportunities for those to take place
9 sporadically and spread out during off peak hours.

10 Now there have also been certain comments made
11 about the incompatibility with certain PDR uses in
12 residential zones. To put this in context, at 1701 Florida
13 Avenue as well as 14th and U, there is a PDR use that has
14 been maximized on those sites that are in heavily pedestrian-
15 friendly areas, that are in heavily bike and transit-friendly
16 areas. And they co-exist with the nearby residential uses
17 relatively well. So the fact that it's a PDR use, there are
18 some PDR uses that may demand larger vehicles but there are
19 some lower scale, lower impact PDR uses that are actually
20 relatively compatible with those neighboring residential
21 neighborhoods which I've just cited.

22 So with that I'm available for questions. Thank
23 you.

24 MR. VARGA: Good evening Chairman Hood and Members
25 of the Commission. My name is Stephen Varga, Director of

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1 Planning Services at Cozen O'Connor. ANC 8A filed this map
2 amendment proposing to downzone the property from the PDR-1
3 zone to the RA-2 zone. The proposed map amendment is
4 inconsistent with several planning objectives in the
5 Comprehensive Plan as well as a number of adopted public land
6 use policies. As such, we request that the Commission deny
7 the map amendment.

8 The property is located in the Anacostia CSX2
9 Fairlawn area and is zoned PDR-1. The PDR-1 zone permits
10 self-storage uses as a matter of right. The PDR zone is
11 located next to four separate spans of highway promoting the
12 PR use at the property. The map amendment is inconsistent
13 with the Comprehensive Plan and other policies. Under
14 subtitle X500.3, a map amendment can only be approved if it
15 is demonstrated that the amendment is not inconsistent with
16 the Comprehensive Plan and with other adopted public policies
17 and active programs related to the subject site. The
18 overwhelming policy initiative of the Comprehensive Plan is
19 for the preservation of industrially-zoned land.

20 The land use element contains a number of
21 citations that call for the preservation of industrial land
22 and as I summarize these, I should remind the Commission that
23 because the land use element integrates the policies and
24 objectives of all the other District elements and should be
25 given greater weight than the other elements as competing

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1 policies in different elements are balanced as stated in
2 Section 300.3.

3 First and foremost, policy land use 3.11
4 recognizes the importance of industrial land to the economy
5 of the District of Columbia, specifically its ability to
6 support public work functions and calls for ensuring that
7 land use decisions protect viable PDR land uses. According
8 to the industrial land use study conducted in 2005, only five
9 percent of the District is industrially-zoned land. When you
10 take out railroad tracks, public rights-of-way, etcetera, the
11 number drops to only 1.2 percent. This suggests that the PDR
12 zoned land is industrial land regardless if it's vacant or
13 not. Also, policy land use 3.12 encourages exactly what the
14 property owner seeks to do, redevelop outmoded and non-
15 productive industrial sites with higher value production that
16 support core sectors of the District economy.

17 Finally, I wanted to highlight two studies
18 commissioned by the District that likewise discourage the
19 rezoning of industrial land. The previously cited industrial
20 land use study prepared for the Office of Planning include
21 the key finding that once industrial land is developed for
22 non-industrial use, the return of industrial use to the
23 redeveloped property is extremely unlikely. Each development
24 decision made in DC carries with it an opportunity cost, the
25 foreclosure of other development options for PDR uses

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1 In closing, in my professional opinion, the
2 request is inconsistent with the Comp Plan and several
3 planning objectives. As noted, competing elements must be
4 weighted against each other and the preponderance of support
5 falls on the side of the current designation. Particularly,
6 the recommendation that comes from the land use element which
7 should be given more weight. Simply put unbalanced -- the
8 support to justify the downzoning is lacking. Once the
9 industrial land is gone, it's going forever. Thank you.

10 MR. GHARAI: Hello, Chairman Hood, hello,
11 Commissioners. My name is Sasan Gharai. I'm the architect
12 on the project and I just want to point out a few things,
13 that first of all, the project is correctly buffered in terms
14 of zoning uses.

15 The other thing I want to point out is that in
16 terms of the neighborhood of plucking out this one PDR-1 use,
17 the use that's proposed for the site is -- the specific use
18 is compatible with residential use. It's not -- I mean, for
19 example, it's -- you know, as a PDR-1 use, it's not -- we're
20 not making anything there. It's not like a slaughterhouse
21 or anything like that. It's a self-storage, which for the
22 most part, will be used by residential -- other home owners
23 who store their stuff there. It's not going to be a
24 commercial use per se and that's it for me.

25 CHAIRMAN HOOD: Mr. Jones, I think you're the only

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1 one who hasn't spoken.

2 MR. JONES: And Ms. Moldenhauer.

3 CHAIRMAN HOOD: Oh, Ms. Moldenhauer. Okay.
4 Thanks.

5 MS. MOLDENHAUER: Good evening, Commissioners.
6 My name is Meredith Moldenhauer from the law firm of Cozen
7 O'Connor. I'm here representing Palatine Capital Partners
8 Management. Palatine has identified this evening they're the
9 property owner. You've heard a plea to turn this lot into
10 a residential use. The ANC testified directly asking for
11 more housing. A map amendment, unfortunately, given the
12 certain facts of this property and the existing vested
13 permit, will not do that. All that it will do is create a
14 non-conforming structure as of the date of this -- of a
15 potential decision.

16 As the Zoning Commission is aware, the creation
17 of non-conforming structures is inconsistent with the
18 Comprehensive Plan. In addition to that, the Comprehensive
19 Plan, as identified by the Office of Planning, only allows
20 for -- under LU3.1.4, only allows for industrial land to be
21 rezoned, quote, "only when the land is no longer viable."
22 What I believe you've heard this evening from Palatine's
23 property owner as well as another representative, Mr. Crozen
24 (phonetic), from the property that this property viable for
25 industrial use. It was acquired under the intention of doing

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1 that. It is located in a viable location near a highway, and
2 it has been used as commercial since 1919 when the base map
3 showed that it was improved with an ironworks facility, and
4 it was at that time surrounded by a residential property.

5 In 1958, when the zoning regulations and map were
6 enacted, the property at that time was then again zoned
7 commercial CM-1 and was also buffered and abutting a
8 residential community.

9 The question that the Zoning Commission need ask
10 themselves is why now, and is this appropriate as indicated
11 by Mr. Varga, and is this consistent with all of the elements
12 of the Comprehensive Plan. The -- obviously, the ANC's
13 identified the future land use map as well as the Office of
14 Planning. That is one of the very broad elements of the Comp
15 Plan. We have pointed out in our filing as well as this
16 evening numerous other sections, both in the elements and the
17 policy map requirements, that would encourage preservation
18 of industrial use.

19 And as I indicated, there -- sorry -- the
20 Comprehensive Plan also indicates economic development goals
21 that support, quote, "strengthening of the District's economy
22 by attracting new and diverse industries as well as creating
23 new jobs." We've also -- we have heard that this project or
24 that a potential low impact PDR use would create jobs as
25 opposed to a residential use. There is testimony in the

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1 record and information in the record from DDOT, which is
2 Exhibit 20, page 2, which references and compares a storage
3 facility to a potential residentially downzoned property.
4 And we've heard testimony from Mr. Erwin Andres that the
5 change in and downzoning would have a larger negative impact
6 to the neighborhood community from a traffic perspective
7 than maintaining a low zone -- low density PDR use.

8 As the property owner, Mr. Palatine, testified
9 through Hurst, the property owner would be open to the Zoning
10 Commission considering a potential downzoning if there was
11 an opportunity for a tax amendment that would be connected
12 with that to allow for and maintain the commercial low
13 density impact use of a self-storage facility to not create
14 an adverse impact on the property owner or future development
15 and to be consistent then with maintaining industrial uses.
16 Thank you. We'll be available for questions.

17 MR. JONES: Mr. Chairman, Members of the
18 Commission, my name is Phinis Jones. I live in Ward 8 near
19 the site. I have lived in Ward 8 for 40 years and I've lived
20 at my current address, 1845 Woodmont Place, which is at 20th
21 and Good Hope Road, for the last 8. I co-developed at that
22 site the first single-family garaged homes in Ward 8.

23 It would send a chilling effect, I believe, for
24 all developers in Ward 8 if, in fact, you could hire an
25 architect, you could pull a permit, you could get the permit,

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1 you start work -- and I think Commissioner May asked the
2 consultant for the ANC the central question, "Do you
3 understand that it's under construction" -- I think it would
4 send a chilling effect across the city if, in fact, the
5 Zoning Commission is going to downzone property after
6 developers go through the process, pull a permit and start
7 work, start construction. And that's the problem that I'm
8 having with this.

9 And I want to emphasize citywide, it would be --
10 send a chilling effect. I am also absolutely surprised at
11 the Office of Planning asking you to do something that would
12 have a building, a non-conforming building on the site since
13 construction has begun.

14 I was before you last month when you rotated to
15 the BZA, Chairman Hood, on a non-conforming building in ANC
16 8A. The ANC opposed it because we were asking for a
17 variance. I don't know how one agency of the government
18 comes in and asks you to do something that creates a non-
19 conforming building. That seems to be inconsistent and I
20 don't believe that is the purpose.

21 The other thing I will say, that because the
22 construction is underway, I worked -- started working with
23 the developer. I attended -- let me back up and say I
24 attended the meeting, the community meeting on the 13th of
25 March when the question was asked of the community, "Is there

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1 anything that we can do," and the answer was, "No, we just
2 don't want this constructed on the site." I then thought I
3 had an obligation to reach out to the developer and put
4 together a community benefit package, and I've done that.
5 Thank you.

6 CHAIRMAN HOOD: Okay. Let me just say that Mr.
7 Jones is the one colleagues mentioned as putting community
8 benefits packages where they don't belong, like the variances
9 in the BZA cases. He alluded to the BZA case and I told him
10 then that was unheard of and I'm going to say it again. It's
11 unheard of in these situations. So anyway, that's --

12 MR. JONES: Chairman Hood --

13 CHAIRMAN HOOD: Sure.

14 MR. JONES: -- our community has great needs and
15 when there is an opportunity -- because I've lived there
16 really lean times when I moved to Ward 8 40 year ago. I know
17 what those challenges are, particularly around our children
18 and the school and that's what I did.

19 CHAIRMAN HOOD: Mr. Jones, was your project
20 approved?

21 MR. JONES: Yes.

22 CHAIRMAN HOOD: Okay. All right. Let me just ask
23 Mr. Varga. Mr. Varga, when the Zoning Commission is faced
24 with a Comprehensive Plan consisting of a map amendment, what
25 do we -- what is our charge to do?

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1 MR. VARGA: Commissioner Hood, my understanding
2 is that the Commission is asked to weigh all of the elements
3 of the Comprehensive Plan, which include, obviously, the
4 future land use map but also the text as well, as Ms.
5 Steingasser noted. We would note that there are several
6 different areas in the Comprehensive Plan that speak to the
7 preservation of industrial land and industrially-zoned land
8 as well, specifically. And those elements, in the land use
9 part, are given greater weight than other parts of the
10 Comprehensive Plan, as noted in 300.3 I believe.

11 So when you look at the land use element citations
12 that are given by the petitioner, they don't stack up with
13 the ones that are -- that support industrially-zoned land.
14 As Meredith Moldenhauer said, the one sole land use citation
15 that the petitioner offers up is 3.1.4 which, again, allow
16 rezoning of industrial land only when the land can no longer
17 viably support industrial uses or cannot co-exist.

18 So here we have a situation where a building
19 permit has been obtained for an industrially-zoned use that's
20 permitted as a matter of right. And so for those reasons,
21 the citations for the land use portion that speak against the
22 petition outweigh those that support it. So for those
23 reasons, I would say that it should be denied.

24 CHAIRMAN HOOD: Are you aware that this is not the
25 first rezoning this Commission has had that exactly put us

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1 in this -- I guess you would be --

2 MR. VARGA: Correct. Oh, I --

3 CHAIRMAN HOOD: -- being the Office of Planning
4 and Office of Zoning and now --

5 MR. VARGA: Absolutely.

6 CHAIRMAN HOOD: -- where you are. Okay.

7 MR. VARGA: I'm well aware of situations where
8 there --

9 CHAIRMAN HOOD: It's nothing new to decide.

10 MR. VARGA: -- are competing elements. Oh, yes,
11 of course -- of course.

12 CHAIRMAN HOOD: All right. I just wanted to make
13 sure because it's acting like, oh, wait a minute, hold it
14 here.

15 MR. VARGA: No. It's -- I --

16 CHAIRMAN HOOD: Because it's not --

17 MR. VARGA: -- no, I just -- no, I didn't mean to
18 intend that you weren't aware of that.

19 CHAIRMAN HOOD: Okay.

20 MR. VARGA: Yes.

21 CHAIRMAN HOOD: All right.

22 MR. VARGA: But it is a viable site and that's the
23 only thing we wanted to emphasize in our testimony.

24 CHAIRMAN HOOD: So this is not like this has not
25 been done before, you know, so I just want to make sure we

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1 are, you know, mixing -- putting apples and apples.

2 MR. VARGA: Absolutely.

3 CHAIRMAN HOOD: Okay. Any other questions up
4 here? Commissioner May.

5 COMMISSIONER MAY: I was just curious, you were
6 the first one that said that it's actually under
7 construction. So what's happening on the site right now?

8 MS. MOLDENHAUER: I think the property owner can
9 probably answer that best.

10 COMMISSIONER MAY: Okay.

11 MR. HURST: We've started dewatering the site and
12 are -- we consider that to be construction. We intend to
13 start breaking ground and beginning to dig the subgrade
14 structure.

15 COMMISSIONER MAY: When?

16 MR. HURST: Weeks away.

17 COMMISSIONER MAY: Okay.

18 CHAIRMAN HOOD: Okay. Any other questions or
19 comments up here?

20 (No response.)

21 CHAIRMAN HOOD: All right. I want to thank this
22 panel, greatly appreciate it. Do we have anyone else? Do
23 we have anything else? Do we have anyone else who would like
24 to testify in opposition of this rezoning? What about
25 anybody who's undeclared? Okay.

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1 MS. MOLDENHAUER: There were two people that
2 signed in I believe that are no longer here.

3 CHAIRMAN HOOD: Ms. Moldenhauer -- Ms.
4 Moldenhauer, I got it.

5 MS. MOLDENHAUER: Getting it on the record.

6 CHAIRMAN HOOD: I got it -- I got it. I called
7 for it. I didn't see anybody move. Does anybody else here
8 want to testify? Ms. Moldenhauer and I want to know.

9 (No response.)

10 CHAIRMAN HOOD: Okay. We don't see anybody. All
11 right. Colleagues, we --- all right. Commissioners, we have
12 the request from 8A. We've heard both sides and the
13 rationale. We do have before us a Comprehensive Plan
14 consisting of a map amendment which we know we're charged to
15 do. We've heard both sides of why we think it should be done
16 and should not be done. And we also heard from a potential
17 who may be potentially doing some type of development which
18 predates what our action is.

19 So anyway, I think all that's -- I think the
20 record is clear. I think the record speaks for itself but
21 before we -- I want to thank everyone for not basically
22 talking about a specific project for the most part and being
23 straight on the map amendment and the rezoning that we are
24 charged to deal with.

25 But anyway, let me open it up for any discussions.

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1 Vice Chair Miller.

2 VICE CHAIR MILLER: Thank you, Mr. Chairman. I
3 just wanted to thank ANC 8A for bringing for this map
4 amendment which obviously, as some have alluded to, zoning
5 map amendment should have probably been brought -- I didn't
6 know it went all the way back to '85 that the Comp Plan map
7 says "moderate density residential." So I think -- I find --
8 I just wanted to commend the ANC for bringing it forward and
9 for all of the, I find, persuasive, the Comprehensive Plan
10 zoning consistency arguments in your testimony, both the
11 written testimony that was submitted and the resolutions and
12 the testimony today, I find -- which agrees with Office of
13 Planning's Comprehensive Plan analysis, which I agree with.

14 And I hesitate to go -- I don't want to talk about
15 a project so I'm not going to go there given the Chairman's
16 admonition. I was just -- I'll just say generally to the
17 extent a PDR use becomes non-conforming, if ever there was
18 a case where it should become non-conforming when we've had
19 the policy for it to be moderate density residential for over
20 30 years, this might be the case where we can proceed ahead.
21 They still can do the -- they can still do -- they have the
22 permit for a PDR use apparently from what I've head in the
23 record.

24 CHAIRMAN HOOD: Okay. All right. Any other
25 comments or questions? Commissioner Turnbull.

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1 COMMISSIONER TURNBULL: Oh, I just want to say
2 whenever we do downzoning or any kind of a zoning change,
3 there's also a great deal of angst. And I can remember when
4 we did Georgia Avenue and all the commercial-residential
5 units. Remember LP went through it. We looked and it was
6 a very long night going through and looking at these uses and
7 -- but it made sense in preserving the residential
8 neighborhoods from these little bits and pieces of commercial
9 that had been somehow -- were -- for the most part, were not
10 fitting in with the residential character of the streets
11 adjacent to Georgia Avenue. So that was very -- but I
12 thought in the long run, it made a lot of sense. We didn't
13 please everybody but I think we pleased the residential
14 neighborhood that was concerned about the impact of
15 commercial getting into the neighborhoods.

16 So this is not quite the same but it's similar,
17 the similar -- the impact onto a residential neighborhood,
18 so I do agree with Office of Planning's analysis of it and
19 it's one of those things that when something slips through
20 the crack for so long, you are concerned there's probably
21 others throughout the City, too that we just haven't picked
22 up yet. So -- but I'm very concerned about the impact and
23 I think OP's analysis makes a lot of sense.

24 CHAIRMAN HOOD: Any other questions or comments?
25 Mr. May.

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1 COMMISSIONER MAY: Yes. I think the ANC made a
2 strong case and Office of Planning certainly made a very
3 compelling case that just as a consistency case,
4 Comprehensive Plan consistency case that there really is only
5 decision. I mean I appreciate the fact that, you know, it
6 does create this non-conforming use, and I understand that
7 that potentially has impact, but really, I mean this is the
8 right thing to do. It's consistent with what has been shown
9 in the future land use map for a really long time.

10 It's unfortunate that it was not acted upon
11 sooner. I hope that we don't have too many more of these
12 kinds of cases. But I am very much in favor of approving
13 this map amendment.

14 CHAIRMAN HOOD: Commissioner Shapiro.

15 COMMISSIONER SHAPIRO: Nothing to add and I agree
16 with my colleagues. Thank you.

17 CHAIRMAN HOOD: Okay. And I would agree. These
18 are difficult cases for us but these consistency cases, as
19 Commissioner Turnbull, both May and Vice Chair Miller all
20 have said, that it's been going on for so long, so we say
21 we're not looking for anymore of these, but I think we
22 probably will see some more. We've -- I think we say that
23 every time. We don't want to see anymore but it's just the
24 way it works and as already said, this is a consistency case
25 and this won't be the first time. I can remember another

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1 case around a trash transfer facility that we had to deal
2 with.

3 So anyway, would someone like to make a motion?
4 Vice Chairman?

5 VICE CHAIR MILLER: Mr. Chairman, this is a two
6 vote --

7 CHAIRMAN HOOD: This is two --

8 VICE CHAIR MILLER: Two vote. Okay. So I would
9 move that the Zoning Commission take the proposed action on
10 Zoning Commission Case Number 17-17, Advisory Neighborhood
11 Commission 8A Map Amendment at Square 5564, Lot 812, now Lot
12 66, at 1401 22nd Street, SE, and ask for a second.

13 COMMISSIONER TURNBULL: Second.

14 CHAIRMAN HOOD: Okay. It's been moved and
15 properly seconded. Any further discussion?

16 COMMISSIONER SHAPIRO: Mr. Chair, just for
17 clarification?

18 CHAIRMAN HOOD: Yes.

19 COMMISSIONER SHAPIRO: There's discussion about
20 moving the map amendment from PDR-1 to R-3 or RA-2?

21 CHAIRMAN HOOD: I think --

22 VICE CHAIR MILLER: That's in the original
23 language. Do we need to --

24 CHAIRMAN HOOD: I think it's PDR-1 to RA-2,
25 correct?

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1 PARTICIPANT: Correct.

2 COMMISSIONER SHAPIRO: So we need to --

3 CHAIRMAN HOOD: That's what's understood.

4 COMMISSIONER SHAPIRO: -- be specific about that.

5 CHAIRMAN HOOD: Okay. So we're being specific.

6 We accept PDR-1 to RA-2.

7 PARTICIPANT: That was what I was --

8 CHAIRMAN HOOD: Yes. That's what I was thinking
9 it was, too, but he's right. We want to make sure the record
10 is complete.

11 COMMISSIONER SHAPIRO: Thank you, Mr. Chair.

12 CHAIRMAN HOOD: Okay. Thank you. Make sure --
13 we have to cover all bases. Okay. Anyone else?

14 (No response.)

15 CHAIRMAN HOOD: All right. I'm going to call the
16 vote and then I'm going to say something, Ms. Schellin,
17 before we do the vote. Moved and properly seconded. Any
18 further discussion?

19 (No response.)

20 CHAIRMAN HOOD: All in favor, aye?

21 (Chorus of ayes.)

22 CHAIRMAN HOOD: Any opposition?

23 (No response.)

24 CHAIRMAN HOOD: Not hearing any -- Ms. Schellin,
25 only thing, we're going to leave the record open for for the

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1 second vote is whatever needs to come in other than what I'm
2 getting ready to say -- is the ANC 7B's submission. That's.
3 We don't need anything else. Okay.

4 MS. SCHELLIN: Right.

5 CHAIRMAN HOOD: Ms. Schellin, would you call --

6 MS. SCHELLIN: Well, the ANC absolutely has an
7 opportunity to make their submission.

8 CHAIRMAN HOOD: The 7B has not and we were asked
9 -- the record was asked to be left open for them.

10 MS. SCHELLIN: Right.

11 CHAIRMAN HOOD: Right.

12 MS. SCHELLIN: And they can do that if we could
13 get it. You're going to work with them, Ms. Muhammad? Okay.

14 CHAIRMAN HOOD: So can you call the vote? Thank
15 you.

16 MS. SCHELLIN: Yes. Staff -- calls the vote 5 to
17 0 to 0 to approve proposed action, Zoning Commission Case
18 Number 17-17; Commissioner Miller moving, Commissioner
19 Turnbull seconding, Commissioners Hood, May, and Shapiro in
20 support. And once the proposed rulemaking is advertised, the
21 record reopens for 30 days for a comment period.

22 CHAIRMAN HOOD: Right. I was just thinking what
23 I said. Yes, the record is open for 30 days for a comment
24 period so disregard that, disregard what I said. But we do
25 want to make sure the record's open to get 7B, but disregard

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1 my comment because you can comment in the 30-day period.

2 Anything else?

3 (No response.)

4 CHAIRMAN HOOD: Okay. All right. So with that,
5 I want to thank everyone for their participation tonight and
6 this hearing's adjourned.

7 (Whereupon, at 8:43 p.m., the above-entitled
8 hearing was adjourned.)

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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: Public Hearing

Before: DC ZC

Date: 03-19-18

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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