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June 25, 2023

Anthony J. Hood, Chair  
District of Columbia Zoning Commission  
441 4th Street, NW, Suite 200S,  
Washington, DC 20001  
Email: [dcoz@dc.gov](mailto:dcoz@dc.gov)

Re: ***Zoning Commission Case 23-02***  
Hearing Date: June 26, 2023  
*Improperly Set Down as a "Rulemaking Case"*

Dear Chair Hood:

I wrote to you on June 22, 2023 on behalf of the *Coalition for Affordable Housing Not Luxury Housing!*, with respect to the proposed map amendment concerning 1617 U Street NW and 1620 V Street NW. The *Coalition for Affordable Housing Not Luxury Housing!* includes many adversely affected neighbors and property owners in Wards 1 and 2 opposed to the proposed upzoning of this public land to MU-10.

We have not yet had the courtesy of a reply from the Commission.

*The Coalition wants to be emphatic that it objects to your intent to improperly treat this matter as a "rulemaking case" rather than a "contested case", denying the Coalition and many nearby neighbors to this site their basic legal rights afforded in a contested case, including right to party status, the right to call witnesses, the right to cross-examine the witnesses of other parties including cross-examination of witnesses from the Office of Planning and DMPED, and the right to take a direct appeal to the District of Columbia Court of Appeals of any adverse decision made by the Zoning Commission in this matter.*

The Commission's own regulation, 11 DCMR, Subtitle Z, §201.2(e), unambiguously defines this instant case as a contested case:

*"Contested cases include" a map amendment "filed by the "property owner ...for multiple properties that are contiguous or are only separated by a street or alley"*

*If you proceed to treat this matter as a "rulemaking case", the Coalition may bring suit in the Superior Court as an Equal Protection claim; because we are unaware of any other case in which a property owner filed the map amendment for a single or contiguous properties that he/she/it owned, which was not treated by the Commission as a "contested case".*

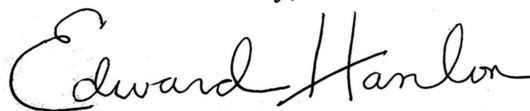
The Coalition wishes to point out to the Commission that *PAL DC Storage, LLC v. D.C. Zoning Comm'n*, 229 A.3d 148, 156 (D.C. 2020), the most recent "rulemaking case" versus "contested case" is not relevant to the facts of the present case, Zoning Commission Case 23-02.

In *PAL DC* it was not the “property owner” who filed the map amendment. It was an ANC. In *PAL DC* the owner of a property wished to build a storage container facility on its land. The zoning allowed this commercial building. The ANC, *not the owner*, came to the Commission with a map amendment to downzone the property. The Court of Appeals upheld the Commission’s treating the map amendment as a “rulemaking case” over objection. The Court’s decision in *PAL DC*, however, does not address 11 DCMR, Subtitle Z, §201.2(e) because it was not the property owner who filed the map amendment.

Accordingly, the *Coalition for Affordable Housing Not Luxury Housing!* asks the Commission to withdraw the hearing notice for June 26, 2023 and, if the Applicant wishes to proceed, to reclassify this case as a “contested case”, issue the legally required notice to all property owners and set an appropriate hearing date.

If you have any questions, please contact me.

Sincerely,



Edward Hanlon

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