

BEFORE THE ZONING COMMISSION OR  
BOARD OF ZONING ADJUSTMENT OF THE DISTRICT OF COLUMBIA

FORM 140 - PARTY STATUS REQUEST

Before completing this form, please go to [www.dcoz.dc.gov](http://www.dcoz.dc.gov) > IZIS > Participating in an Existing Case > Party Status Request for instructions. Print or type all information unless otherwise indicated. All information must be completely filled out.

**PLEASE NOTE: YOU ARE NOT REQUIRED TO COMPLETE THIS FORM IF YOU SIMPLY WISH TO TESTIFY AT THE HEARING. COMPLETE THIS FORM ONLY IF YOU WISH TO BE A PARTY IN THIS CASE**

Pursuant to 11 DCMR Subtitle Y § 404.1 or Subtitle Z § 404.1, a request is hereby made, the details of which are as follows:

Name: Paulatte Matthews (Manager CARE)  
 Address: 1257 Stevens Rd SE  
 Phone No(s): 202 704 5469 E-Mail: \_\_\_\_\_

I hereby request to appear and participate as a party in Case No. \_\_\_\_\_

Signature: Paulatte Matthews Date: 12/7/2017  
 Will you appear as a(n)  Proponent  Opponent Will you appear through legal counsel?  Yes  No

If yes, please enter the name and address of such legal counsel.

Name: Aristotle Theressa  
 Address: 1604 V St SE  
 Phone No(s): 202 651 1148 E-Mail: ACTheressa@StoopLaw.com

ADVANCED PARTY STATUS CONSIDERATION PURSUANT TO: Subtitle Y § 404.3/ Subtitle Z § 404.3.

I hereby request advance Party Status consideration at the public meetings scheduled for: \_\_\_\_\_

**PARTY WITNESS INFORMATION:**

On a separate piece of paper, please provide the following witness information:

1. A list of witnesses who will testify on the party's behalf;
2. A summary of the testimony of each witness;
3. An indication of which witnesses will be offered as expert witnesses, the areas of expertise in which any experts will be offered, and the resumes or qualifications of the proposed experts; and
4. The total amount of time being requested to present your case.

**PARTY STATUS CRITERIA:**

Please answer all of the following questions referring why the above entity should be granted party status:

1. How will the property owned or occupied by such person, or in which the person has an interest be affected by the action requested of the Commission/ Board?
2. What legal interest does the person have in the property? (i.e. owner, tenant, trustee, or mortgagee)
3. What is the distance between the person's property and the property that is the subject of the application before the Commission/ Board? (Preferably no farther than 200 ft.)
4. What are the environmental, economic, or social impacts that are likely to affect the person and/or the person's property if the action requested of the Commission/ Board is approved or denied?
5. Describe any other relevant matters that demonstrate how the person will likely be affected or aggrieved if the action requested of the Commission/ Board is approved or denied.
6. Explain how the person's interest will be more significantly, individually, or uniquely affected in character or kind by the proposed zoning action than that of other persons in the general public.

### Current Area Residents EoTR (CARE)

CARE is a community organization formed to protect the interests of longtime residents living East of the River. CARE is against DHCD's explicit policy of intentionally integrating black neighborhoods and turning them into lighter colored ones. CARE does not agree that the number one problem to fair housing choice in the District of Columbia is the concentration of black residents living East of the River. CARE believes the number one problem to Fair Housing Choice is the lack of affordable, quality, family housing located in the city. CARE members believe intentionally racially integrating neighborhoods by introducing extraordinarily dense luxury developments like the mixed use project proposed here at the Poplar Point site ( Square 5860, lots 97, 1025-1031, 1036 and 1037, and Square 5861, lot 91) ZC Case No 16-29 is unconstitutional and violate of zoning regulations. CARE members are concerned with negative impacts from loss of political power and acute culture shifts, community destabilization, gentrification, displacement, rent increases, lack of affordability , lack of family sized units, demographic shifts, and environmental degradation. By signing below I agree to be a member of CARE. I also agree to be represented by attorney Aristotle Theresa and the Stoop Law Law Firm before the Zoning Commission, DC Court of Appeals, and the US District Court.

Print Name	Sign Name	Number	Address
Juan Jackson	Juan Jackson	2/300-3090	1519 V St S.E. Apt 2
HIP Nabavian	HIP Nabavian	301-383-5232	1635 V St Apt 303
Emily S. Jackson	Emily S. Jackson	2/230-7234	2020 16 <sup>th</sup> St SE
Janette N. Jackson	Janette N. Jackson	2/704-5469	1257 Stevens Rd SE
Alfonso Morgan	Alfonso Morgan	2/710-9040	1625 V St
Alonzo Atkins	Alonzo Atkins	2/290-5069	1641 V St SE
Junior Josephson	Junior Josephson	2/867-1034	2500 Pomeroy Rd

zorilla mas group@gmail.com  
S.E.

## Current Area Residents EoTR (CARE)

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Print Name	Sign Name	Number	Address
David Wilson	David Wilson	202 678-4582	2120 16 <sup>th</sup> St SE
Curtis Peyton	Curtis Peyton	202-652-0502	1737 W St <sup>SE</sup> / Hubbard w/ feyrol
Kenn Johnson	Kenn Johnson	202 638 9901	1635 V St SE @ gmail
Janison, Anthony	A. Janison	(202) 274-0175	1656 W St. S.E. # 306
Thaddeus McKeamer	Thaddeus McKeamer	(202) 644-0423	1636 V St SE # 306

# STOOP LAW

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A COMMUNITY JUSTICE PROJECT

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Washington DC, 20002  
Ph: (202) 651-1148

December 4, 2017

## **Request for Party Status**

CARE is an unincorporated nonprofit association formed for purposes of protecting EoTR residents culture, heritage, homes, families, ways of living, stored wealth, and social and political ecosystems, and thus brings this party status request under 11 DCMR §3022.3. Our membership consists of very low to low income black renters, homeowners, and homeless living EoTR. CARE does petition to appear as a party in opposition to the above-referenced application by Poplar Point RBBR, LLC (“Applicant”). The Applicant is seeking a first stage approval of a Planned Unit Development (“PUD”) and related Zoning Map Amendment to rezone the subject property from MU-14 to MU-9 Zone District for the development of a 700 unit mixed use project at Square 5860, lots 97, 1025-1031, 1036 and 1037, and Square 5861, lot 91. The hearing scheduled for December 4, 2017 will be the first public hearing on the matter.

CARE also intends to seek party status in opposition in every hearing that is scheduled. Preliminarily, CARE is concerned with a lack of agency written report from the Department of Housing and Community Development (DHCD). According to zoning regulations this report was to have been filed 2 weeks prior to the first public hearing, this in order for the public to review it prior to testifying and thus have the basis for more particularized critiques of whether adverse impacts have been mitigated. This influenced CARE’s late party status application, as much of the case we bring is reliant on DHCD positions regarding Applicant’s project and DHCD’s own public policies.

## **Summary of Arguments**

**Zoning Commission approval of an extraordinarily dense market rate building such as the one proposed at Poplar Point would be in unconstitutional furtherance of explicitly non-race neutral DHCD planning policies.**

In 2012, DHCD issued policy in the “Analysis to Impediments to Fair Housing Report” (hereinafter AI) which makes as a goal racially integrating neighborhoods. (Department of Housing and Community Development, *Analysis to Impediments to Fair Housing Choice 2006-2011*, 3 (Apr. 2012)( <https://ohr.dc.gov/publication/dc-analysis-impediments-fair-housing-choice-2006-2011-report>).

When describing EoTR it notes African-Americans were "over 98 percent in but a...handful of...neighborhood clusters." District of Columbia Office of Human Rights, DC Analysis of Impediments to Fair Housing Choice 2006-2011 p. 3 *available at*

<https://ohr.dc.gov/sites/default/files/dc/sites/ohr/publication/attachments/DC%20AI%202012%20-%20FINAL.pdf>). The document goes on to state, “*This extreme degree of segregation is the District's greatest fair housing challenge* [emphasis not ours].” *Id.* Maybe somewhat naively, it goes on to state “The District's goal should be to achieve the racial and ethnic composition throughout the city that would exist in a genuinely free housing market not distorted by racial discrimination.”

In 2012's AI the District acknowledged gentrification. AI at 3. The AI stated areas they had sought to integrate were becoming segregated again, this time segregated with white people. *Id.* at 10. It is important to note, the development of Poplar Point has been discussed at least since the 2012 AI report and involved heavy DC government involvement to facilitate site control for Applicant.

In a subsection of the District of Columbia FY16- FY20 Consolidated Plan titled, "Are there other strategic opportunities in any of these areas?" The Plan states, "It is vital to create affordable housing that integrates neighborhoods racially... To this end, strategic opportunities include...development of mixed-income housing, particularly in areas of the city where market rate housing could subsidize affordable income targets." Department of Housing and Community Development, FY 2016-FY 2020 Consolidated Plan, p. 137 *available at* <https://dhcd.dc.gov/service/consolidated-plan-housing-and-community-development>). The District's Consolidated Plan explicitly states race is a factor in carrying out the development of mixed income communities. *Id.* DMPED and the DHCD formed the Consolidated Plan in 2016, but the DHCD has advocated for racially integrating communities since 2012's AI. *See Supra* p..

That notwithstanding, again, in the very same document, 7 pages later, DHCD warns that “[T]he in-migration by wealthier whites is producing gentrification that is reducing the Districts supply of housing affordable to households with modest incomes and threatens to re-segregate these gentrifying neighborhoods as virtually all-white.” AI at 10. The 2016 Consolidated Plan is an active DC government policy to create mixed income neighborhoods in order to racially integrate them in a manner where the market rate housing pays for the affordable housing when in 2011 the District Government knew their plans to integrate neighborhoods were turning them “virtually all” white. *Id.*; *See also* AI at 3.

Applicant's project is a 700 unit 10% affordable mixed income apartment building which represents city and developers' first beachhead, crossing the Anacostia River into the 98% black “pockets” DHCD seeks to lighten. DHCD's explicit policy of racially integrating neighborhoods is unconstitutional because 1.) Race can only be used in public policy if there is a compelling interest and here there is no compelling interest for racially integrating the community, 2.) because even if there were a compelling interest the introduction of a non-human scaled 700 unit building which will destabilize the political and social ecosystem of the adjacent communities is not narrowly enough tailored, and 3.) the singling out of black communities for “integration” violates equal protection under the laws.

The Zoning Commission must oblige by all local human rights laws and applicable US constitutional laws. Approving increases of density at the subject site in the manner proposed by applicant furthers nonracially neutral public policies and places the Zoning Commission in violation of its statutory duties. Thus approval of this project would be inconsistent with the

Comprehensive Plan. To that end, the lack of written agency report from DHCD makes it impossible for the Zoning Commission to conduct a constitutional analysis. For one, DHCD must give its reasons for the policy in order for the Zoning Commission to know if there is a compelling interest; second, DHCD must conduct an environmental impact study of Applicants implementation of the public policy in order to begin to determine if the policy is narrowly tailored, and finally, DHCD must place on the record reasoning for why black communities are singled out for integration but no other type of community is. Without this information, it is impossible for the Zoning Commission to assess the constitutionality of approving this mixed income project approved by OP, at least in part, due to its effect on certain neighborhoods' racial composition and alignment with the Consolidated Plans.

**The Applicant has not met the burden of showing that the relative value of the public benefits and amenities outweigh the projects adverse impacts.**

Applicant's project will create an entirely new economy at Poplar Point. The census tract where the project is being proposed is 74.01. Census tract 74.01 has a population of 2,414 people; is 39% children compared to 17% for the rest of the city; the family income is \$20,219 compared to \$102,342 compared to the rest of the city; and, it has a poverty rate of 60% and a child poverty rate of 70%. The immediately adjacent census tract to the northeast, 75.03, has a population of 2,587 people; is 32% children compared to 17% for the rest of the city; the family income is \$40,188 compared to \$126, 176 compared to the rest of the city; and, it has a poverty rate of 47% and a child poverty rate of 59%. The immediately adjacent census tract to the east, 74.07, has a population of 2,425 people; is 38% children compared to 17% for the rest of the city; the family income is \$44,121 compared to \$126, 176 compared to the rest of the city; and, it has a poverty rate of 25% and a child poverty rate of 37%. <https://www.neighborhoodinfocd.org/censustract10/census.html>

The people moving into the nearly all market rate building will necessarily have different wants and needs than the residents currently living in the census tract. Concentrating a large number of wealthy individuals into a largely economically distressed community will rapidly turn the political, economic, and social eco-system on its head because newcomers will have entirely different needs and agendas.. A concentrated, segregated, community such as the one proposed is capable of turning the Ward 8 councilman election. It is undeniable that the insular needs of the residents of this luxury building, so different from those in the surrounding area, will definitely be capable of deciding the next ANC 8A or 8C commissioner. Such concentrated luxury and gilded development set amidst abject poverty more scattered throughout the census tract and in many different homes and buildings raises many of the same questions the Electoral College purports to solve. This project will adversely impact the political power of current residents and Applicant has made no efforts to mitigate, nor has DHCD done an impact study, much less a basic written report as required by statute. Such an upending of political power is precisely the sort of community destabilization zoning regulations are designed to protect against. The Zoning Commission has within its power and statutory duty to require developer's to offset the adverse impact to their projects, including community destabilization.

CARE will show that as a further part of this destabilization, is the cultural and demographic transformation that will occur to the area. This by design and at behest of the DHCD. All CARE residents are content and even pleased with the area's current racial make-up and are offended by DC planning agencies suggestion that it is problematic in the least. Developers cannot mitigate for this unconstitutional violation of human rights, nor have they mitigated for the actual demographic and cultural shifts which are sure to take place by synergistically developing the area with extraordinarily dense development.

Applicant's project will lead to displacement pressures and widespread demographic transformation. Using the Whole Neighborhood approach the zoning commission is required to consider the aggregate impact to projects. Applicant's project is being done in conjunction with the Barry Farm redevelopment, MLK Gateway, Busboys and Poets, 11<sup>th</sup> St. Bridge Project, Cedar Flats, the Four Points development along MLK, and the Frederick Douglass bridge. The census tract where all of this is occurring has one of the largest portion of renters in the city, as well as the largest number of families, and the largest portion of low income individuals. Nonetheless, Applicant's project only has 10% of its overall residential floor area devoted to housing affordable to people making 25% of AMI (10% at 50%AMI with affordable set at 50% of monthly income). This is still too high for many people living in Ward 8 to achieve an affordable housing benefit if one can call the privilege of paying half of their monthly salary "affordable" where for most of the country that percentage is 33%.

Further, DHCD's own reports to Housing and Urban Development have already acknowledged efforts to integrate neighborhoods are re-segregating them. This is compounded by the Barry Farm redevelopment where residents will be forced to leave the site for ten years while reconstruction takes place. Residents will likely have to leave their immediate community and be dislocated during development because this luxury development project will increase housing costs to everything nearby including the Barry Farm and Historic Anacostia Neighborhoods which are both contiguous neighborhoods that are directly adjacent.

Unlike other parts of the city, East of the River has not seen widespread development so these projects will pose acute displacement and gentrification pressures that are not generalized but new and targeted, even, intentionally targeted. This development project will adversely impact area rents, home prices, and property taxes. Given the level of education in the ward, the developer's proposed benefit of jobs will not benefit current area residents as most of the jobs they qualify for will not be of a livable wage once the wave of development occurs and housing prices increase.

Further, Applicant's project is located in a flood plain. Even with LEED certification, the large scale project will contribute to storm water runoff which will further pollute the Anacostia River which is one of the most polluted rivers in the country. As well as be apart of planned cumulative development that will extend the current flood plain further into the Historic Anacostia community and Chicago Ave communities, leading to concrete injury.

## **Witness List**

Pursuant to 11 DCMR §3022.3(e) , CARE is providing below a list of those who will testify at the hearing on its behalf. CARE may update with additional witnesses or different scopes of testimony than has been provided.

Expert Witness - Environment - Jeremiah Lowery -

Expert Witness – Environment –

Expert Witness – Sociology – Brett Williams PhD

Expert Witness – Sociology – Public Policy- Gregory Squires PhD

Ms. Paulette – Barry Farm Resident, BFTAA member

*Reserves the right to call witnesses that appear the day of hearing.*

### **Party Status**

**How will the property owned or occupied by such person, or in which the person has an interest, be affected by the action requested of the zoning commission?**

Most CARE members are mainly renters and live in adjacent, contiguous communities to the project site. They will face acute gentrification and displacement pressures with the introduction of the first very large scale modern market rate development project placed East of the River. It will turn their currently affordable housing into unaffordable housing, concretely injuring them by raising home prices, rent prices, and property taxes. Further, the project site is located in a flood plain and is a part of synergistic development that will increase storm water run-off and increase the flood activity within the flood plain nearly all CARE members live within. Even considered alone, the project is so large it will impact flooding of the area especially to those within the flood plain.

**What legal interest does the person have in the property?**

Most CARE members are renters and live in their properties. There are some CARE homeowners, such as Alphonso Morgan at 1625 V St SE, Washington DC. He lives within 5000 feet of the project site. Ms. Paulette Matthews lives within 1000 feet of the project site and she is a public housing resident who will be seeking replacement housing within 5000 feet of the project site soon due to Barry Farm’s slated redevelopment. All other current CARE members are renters, but it is a growing group.

**What is the distance between the person’s property and the property that is the subject of the application before the commission?**

All CARE members live within 5000 feet of the project site. Ms. Paulette (1257 Stevens Rd. SE) and Junior Josephson (2500 Pomeroy Rd SE) both live within 1000 feet of the project site.



**What are the environmental, economic, or social impacts that are likely to affect the person and or the person's property if the actions requested by the commission is approved or denied?**

All current CARE members are black and live East of the River. Many have lived East of the River for many generations and like living in a black neighborhood and thus are concretely

injured by DHCD's attempts to lighten East of the River Communities and they are as well injured by any Zoning Commission approval in furtherance of those policies. CARE members live within the same flood plain as the Applicant's project and will suffer from intensified flooding due to storm water run-off despite Applicant's claims.

**Describe any other relevant matters that demonstrate how the person will likely be affected or aggrieved if the action requested is approved or denied by the zoning commission?**

If the request for party status is denied, CARE plans to file an appeal on the basis of the denial as well as whatever other errors come about from commissioners' presiding over this case. CARE members will be aggrieved because they will not have a chance to cross examine the Office of Planning (OP) or DHCD about DHCD's explicit policies to lighten black communities. Further, CARE will not be allowed to cross examine the Office of Planning and DHCD about the lack of mitigation for adverse impacts attached to Applicant's project.

**Explain how the person's interest will be more significantly distinctively or uniquely affected in character or kind by the proposed zoning action than that of other persons in the general public?**

CARE members are black, live East of the River, and are offended by the notion that mixed income communities should be used to racially integrate housing at the expense of gentrification, displacement, loss of political power, and other hardships that will be caused by Applicant's project.

CARE members live within the flood plain that will be adversely affected by Applicant's large scale development project.

Due to proximity, many members utilize Anacostia Park and even pass through on their commute. Members have expressed frustration that the park will now be a large scale development and no longer a peaceful and serene jog or bike ride by the river. The development will change how people enjoy the park. Even if it is technically accessible, with new paths even, users' relationships with nature will change by erecting the large scale development.

CARE member Paulette Matthews will soon be forced to leave her Barry Farm community and will be unable to return to the redeveloped site for perhaps ten years but in the meantime Applicant's project will increase upwards price pressure on housing that will make it more difficult for Ms. Paulette to find replacement housing within the neighborhood.

Each CARE member lives in ANC 8A or ANC 8C. Their political power will be severely undercut by the development of Applicant's extraordinarily dense project. The majority of CARE members are unemployed or live below the poverty line so they are more acutely affected

by the shift in political power that will occur when people who are wealthier by multitudes move in when compared to homeowners that live in the ANC or other parts of the city not as hard hit by poverty.

S/ Aristotle Theresa

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