



**BEFORE THE ZONING COMMISSION AND  
BOARD OF ZONING ADJUSTMENT OF THE DISTRICT OF COLUMBIA**



**FORM 130 – ADVISORY NEIGHBORHOOD COMMISSION (ANC) SETDOWN FORM**

Before completing this form, please review the instructions on the reverse side.

Pursuant to Subtitle Z §§ 400.7 and 400.8 of Title 11 DCMR Zoning Regulations, the ANC Setdown Form shall contain the following information:

**IDENTIFICATION OF PETITION OR APPLICATION:**

Case No.:	ZC 18-07	Applicant Name:	Lean Development LLC
ANC (ex. 1A):	6C	Date Referred to ANC:	5/29/18
Date Setdown Form Due:	6/28/18		

**ANC MEETING INFORMATION**

Date of ANC Public Meeting:	06 / 13 / 18	Was proper notice given?:	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Description of how notice was given:	Via ANC website and local news publication (Hill Rag)			
Number of members that constitutes a quorum:	4	Number of members present at the meeting:	5	
Does the ANC recommend the application/petition to be set down for public hearing?:	Yes <input type="checkbox"/>		No <input type="checkbox"/>	
Recorded vote on the motion to adopt the report (i.e. 4-1-1):	5-0			

**MATERIAL SUBSTANCE**

Please provide feedback below on whether the above case should be set down for hearing or not (*a separate sheet of paper may be used*):

See attached statement.

**AUTHORIZATION**

Name of the Chairperson or Vice-Chairperson authorized to sign the form:	Karen Wirt		
Signature of Chairperson/ Vice-Chairperson:		Date:	6.14.2018



Government of the District of Columbia  
Advisory Neighborhood  
Commission 6C

June 14, 2018

Anthony J. Hood  
Chair  
Zoning Commission  
of the District of Columbia  
441 4th Street, NW  
Suite 210-S  
Washington, DC 20001

Re: ZC 18-07 (Square 750 Map Amendment)

Dear Chairman Hood:

We write to provide our views<sup>1</sup> on the potential setdown of the map amendment proposed in ZC 18-07. As explained below, ANC 6C takes no position on whether this matter should be set down for public hearing, but strongly urges the Commission to designate this a contested case.

This map amendment request falls squarely within the definition of “contested case” set out at 11 DCMR Z § 201.2(e). The requesting party owns all four contiguous lots and the issues for resolution involve localized questions of fact rather than broad land-use policy questions. Conversely, the request possesses none of the attributes of a “rulemaking case” as defined in section 201.7(b).

ANC 6C is mindful of the Commission’s recent order in ZC 17-17 and the distinction drawn there between cases involving “adjudicative” facts (contested cases) and those that concern “legislative” facts about law and policy (rulemaking cases). ZC 17-17 involved the downzoning of a single lot, and thus the only issues before the Commission were “legislative” facts such as the relevant Comprehensive Plan policies, the FLUM designation, and so on. Because the proposed map amendment could only reduce the allowable intensity of use, the Commission had no occasion to examine localized questions of fact about potential adverse impacts.

By contrast, ZC 18-07 includes an upzoning request (from PDR-1 to MU-5-A) that would permit increased maximum height and, with inclusionary zoning elements, increased FAR as well. The appropriateness of this request therefore turns not merely on consistency with the Comprehensive Plan and FLUM, but also on purely “adjudicative” facts about the theoretical localized impacts of the proposed map amendments.

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<sup>1</sup> On June 13, 2018, at a duly noticed regularly scheduled monthly meeting, with a quorum of five out of six commissioners and the public present, ANC 6C voted 5-0 to adopt the positions set forth in this letter.

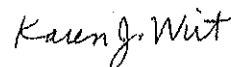
A contrary conclusion would effectively render section 201.5 a nullity. If this case— involving a compact group of contiguous lots under common ownership, and presenting no broader public policy issues—does not qualify as a contested case, it is hard to see how any map amendment could ever do so.

The public interest likewise favors treating this as a contested case. As the Commission knows, nearby property owners would receive only constructive notice (via placarding and *Register* publication) if this case were to go forward as a rulemaking. *See* 11 DCMR Z § 502.1. In a contested case, however, all owners within a 200-foot radius would receive individual mailed notice under section 402.1(d). Given the potential for adverse impacts from the proposed upzoning, ANC 6C respectfully submits that such direct notice is essential in this case.

In sum, we take no position on whether the case should be set down for hearing, but urge the Commission—as provided for explicitly in section 201.9—to designate this case a contested case and order that it be handled according to the procedures laid out in chapter 4 of subtitle Z.

Thank you for considering the views of ANC 6C.

Sincerely,



Karen Wirt  
Chair, ANC 6C