

Applicant's
RESPONSE TO CARE

- The standard for the filing of a map amendment is as follows:

201.7 Map amendments in rulemaking cases may be initiated by:

(a) Public agencies to amend the zoning map for a neighborhood, commercial district, or other geographic area encompassing multiple properties, unless determined otherwise by the Commission pursuant to Subtitle Z § 201.9; and

(b) Private persons, organizations, or other entities to amend the zoning map in cases where:

- (1) The petitioner does not own all of the property proposed to be rezoned; or
- (2) The petitioner owns all of the property proposed to be rezoned, but the ownership pattern is geographically scattered or otherwise of a character that raises land use policy questions to a greater degree than highly localized issues of fact and effects on neighboring properties.

- This petition was NOT filed BY a public agency, and thus is NOT required to include multiple properties. H&K does not represent DHCD and their authorization clearly states that the authorization is “contingent” and that if certain things don’t happen, the authorization is “null and void.”
- Indeed, the case is captioned petition by “High Street, LLC (“Petitioner”)”. The fact that DHCD ok’ed the filing doesn’t make them the Petitioner.
- Even if the ZC decides 201.7(a) is applicable – which it is not – then pursuant to 201.9 the ZC can waive the requirement that the application include multiple properties since the property is question is large and meets the standard of 201.5 which states:

201.5 Rulemaking cases are legislative in nature and present issues for resolution at a public hearing that **potentially affect large numbers of persons or property or the public in general**, and include, without limitation, the following:

- (a) Amendments to the text of the Zoning Regulations; and
- (b) Map amendments pursuant to Subtitle Z § 201.7.

- The Application falls under 201.7(b)(1) since filed by a private entity and the Petitioner does not own all of the property included in the application.
 - The ZC has properly applied this section in a number of rulemaking map amendment cases. See 18-19; 19-03; 17-27; 17-17.
 - The Proposed Text Amendment 19-05 submitted by OP clarifies and codifies that map amendments (not involving PUDs) are rulemakings and not contested cases.
- Section 201.2 defines a contested case as including “(e) Map amendments filed by the property owner or owners for a single property or for multiple properties that are contiguous or are only separated by a street or alley.” Again, this application does not meet the definition of a contested case as defined in 201.2(e) since this case was NOT filed by the property owner.
- Thus, the petition was clearly and properly set down as a rulemaking case.
- CARE/Ari argues that the case should be a contested cases since setting it down as a rulemaking somehow allegedly “caused people who would have normally opposed the project” to not participate. But, the actual facts and record demonstrate the flawed nature of this argument:
 - The Petitioner participated in 17 community meetings and neighborhood canvassing dates.

- Petitioner deferred hearing date from December 13, 2018 to March 2019 for 3 additional months of community engagement.
- The ANC unanimously voted to support the project.
- Ari/CARE made this exact same argument in ZC Case 08-07D re: “people that would have opposed didn’t” despite the facts being contrary to this assertion.
- BUT, the FACT of the matter is that people HAVE spoken in other settings both in opposition and in support, and are aware of this application. For example, the transcript of a DHCD hearing on 11/5/18 regarding the disposition (which transcript was just filed at 5pm) indicates that 10 people testified about the project and map amendment petition. In fact, ARI EVEN TESTIFIED AT THAT TIME IN SUPPORT OF THE PROJECT AND MAP AMENDMENT PETITION. See pages 49-51. Gretta Fuller also said that So, for Ari/CARE to now claim that people thought they didn’t have a chance to participate in this or any other process is completely false.
- The first Hearing Notice advertising this case as a rulemaking was issued on **October 18, 2018**, so to now submit this last minute filing to challenge the decision made 5 months ago that this is a rulemaking case is bad faith and prejudicial to the Petitioner (who has been working in good faith with the community and has ANC support) because if Ari/CARE really had a concern, instead of lying in wait, he could have raised it sooner rather than a couple of hours before the hearing.
- Finally, nothing in their submission says anything about the actual, substantive Map Amendment standards and the Comp Plan, which is what this case is all about.

List of High Street Meetings

1. May 29, 2018 - Meeting with ANC 8A SMD Greta Fuller
2. June 13, 2018 - Meeting with ANC 8A SMD Greta Fuller
3. July 11, 2018 - Small Community Meeting with Neighbors and ANC 8A SMD Greta Fuller
4. August 8, 2018 - Small Community Meeting with Neighbors and ANC 8A SMD Greta Fuller
5. September 19, 2018 - Small Community Meeting with Neighbors and ANC 8A SMD Greta Fuller
6. October 23, 2018 - ANC 8A SMD 8A06 Greta Fuller Public Meeting with Constituents
7. October 28, 2018 - Meeting with ANC 8A SMD Greta Fuller
8. November 5, 2018 - DHCD PADD Division Public Hearing Meeting
9. November 8, 2018 - Meeting with ANC 8A SMD Greta Fuller
10. November 15, 2018 - Door to door canvassing of Hight Street, Mapleview Pl, Mountview Pl, Payne Terrace, and surrounding streets
11. November 28, 2018 - ANC 8A SMD 8A06 Greta Fuller Public Meeting with Constituents
12. December 4, 2018 - ANC 8A Public Meeting
13. January 30, 2018 - Meeting with ANC 8A SMD 8A06 Tyon Jones & DHCD Representative Latrena Owens
14. February 19, 2019 - ANC 8A Executive Board Meeting
15. February 22, 2018 - Call with ANC 8A SMD 8A06 Tyon Jones to prepare for ANC 8A Public meeting with DHCD and Constituents
16. February 28, 2019 - ANC 8A SMD 8A06 Tyon Jones Public Meeting & DHCD Representative Latrena Owens with Constituents
17. March 5, 2019 - ANC 8A Public Meeting