

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

+ + + + +

PUBLIC HEARING

+ + + + +

-----: :
IN THE MATTER OF: :
: :
Jemal's Channing Place, LLC :Case No.
Map Amendment at Square 3846 :10-30
-----:

Thursday,
July 26, 2012

Hearing Room 220 South
441 4th Street, N.W.
Washington, D.C.

The Public Hearing of Case No. 10-30
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, Chairman
MARCIE COHEN, Vice Chair
MICHAEL G. TURNBULL, FAIA, Commissioner
(OAC)

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OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER, Deputy Director,
Development Review & Historic
Preservation
MAXINE BROWN-ROBERTS

The transcript constitutes the
minutes from the Public Hearing held on July
26, 2012.

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

ZCDC CASE NO. 10-30 - Jemal's Channing Place,
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1 P-R-O-C-E-E-D-I-N-G-S

2 6:35 p.m.

3 CHAIRMAN HOOD: This is a public
4 hearing of the Zoning Commission for the
5 District of Columbia for Thursday, July 26th,
6 2012.

7 My name is Anthony Hood.

8 Joining me are Vice Chairperson
9 Cohen and Commissioner Turnbull. We're also
10 joined by the Office of Zoning Staff Ms. Sharon
11 Schellin. Also, the Office of Planning Ms.
12 Steingasser and Ms. Brown-Roberts.

13 These proceedings are being
14 recorded by a court reporter and is also webcast
15 live. Accordingly, we must ask you to refrain
16 from any disruptive noises or actions in the
17 hearing room.

18 We have two cases tonight and I'm
19 going to read the opening statement once and
20 then I'll read the specifics about the second
21 case when we get ready to start the case.

22 The subject of this evening's first

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1 hearing is Zoning Commission Case Number 10-30.

2 This is a request by Jemal's Channing Place,
3 LLC for approval of a consolidated PUD-related
4 map amendment to property located at Square
5 3846.

6 Notice of today's hearing was
7 published in the D.C. Register on May 18, 2012
8 and copies of that announcement are available
9 to my left on the wall near the door.

10 The hearing will be conducted in
11 accordance with provisions of 11 DCMR 3022:
12 Preliminary matters, Applicant's case, report
13 of the Office of Planning, report of other
14 government agencies and report of, in this case,
15 ANC 5B, organizations and persons in support,
16 organizations and persons in opposition,
17 rebuttal and closing by the Applicant.

18 The following time constraints will
19 be maintained in this meeting: The Applicant
20 ten minutes, organizations five minutes,
21 individuals three minutes.

22 Please turn off all beepers and cell

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1 phones at this time so as not to disrupt these
2 proceedings.

3 Would all individuals wishing to
4 testify please rise to take the oath?

5 Ms. Schellin, would you please
6 administer the oath?

7 MS. SCHELLIN: Yes. Please raise
8 your right hand.

9 Do you solemnly swear or affirm the
10 testimony you'll give this evening will be the
11 truth, the whole truth and nothing but the truth?

12 CHAIRMAN HOOD: Okay. Thank you.

13 Mr. Freeman, would you like to move
14 forward?

15 I think for us -- unless my
16 colleagues disagree, I think it's better for
17 us to just ask our questions. I think the record
18 is not voluminous, but I think it's complete.

19 Any more than that, I don't want. Lloyd Jordan
20 I'll be.

21 So, let's deal with the party
22 status. I'm sure he'll probably get a kick out

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1 of that. Let's deal with the party status issue
2 first.

3 Okay. We have a request. Turn to
4 the page. We have a request by Old Town Trolley
5 Tours of Washington, D.C., Inc. and they
6 expressed in their submission why they would
7 like to have party status in this case. I think
8 it's a very valid reasons and I think it spells
9 out a need to have party status.

10 Mr. Freeman, any objection?

11 MR. FREEMAN: No, Mr. Chair.

12 VICE CHAIR COHEN: And, Mr.
13 Chairman, I agree with you. I think that the
14 trolley cars are -- is uniquely impacted.

15 CHAIRMAN HOOD: Okay. I would move
16 that we grant Old Town Trolley party status in
17 this case and ask for a second.

18 VICE CHAIR COHEN: Second.

19 CHAIRMAN HOOD: Moved and properly
20 seconded. Any further discussion?

21 All those in favor?

22 (Ayes.)

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1 CHAIRMAN HOOD: Not hearing any
2 opposition, Ms. Schellin, would you record the
3 vote?

4 MS. SCHELLIN: Yes, staff records
5 the vote 3-0-2 to grant party status in
6 opposition to Old Town Trolley Tours of
7 Washington, Inc. Commissioner Hood moving.
8 Commissioner Cohen seconding. Commissioner
9 Turnbull in support. Commissioner May not
10 present, not voting. Third mayoral appointee
11 position vacant, not voting.

12 CHAIRMAN HOOD: Okay. Mr.
13 Freeman, again, I think that the record is
14 complete. While it's not voluminous, I don't
15 necessary think we need a presentation. Not
16 even a ten minute.

17 Unless my colleagues see otherwise,
18 what we would like to do is to call your witness
19 up and let us ask our questions.

20 MR. FREEMAN: Absolutely.

21 CHAIRMAN HOOD: Are you proffering
22 him?

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1 MR. FREEMAN: We'd like to proffer
2 Mr. Steven E. Sher as an expert on his own and
3 in land-use analysis.

4 CHAIRMAN HOOD: We could have
5 probably saved that. Okay. I don't think we
6 have any issues.

7 Anybody have a problem with Mr.
8 Sher?

9 I got to figure out a way to
10 grandfather him. We've done that.

11 So, okay. I don't think we have any
12 problems with Mr. Sher.

13 Okay. Commissioners, let's ask our
14 questions. Who'd like to start off? Vice
15 Chair.

16 VICE CHAIR COHEN: Yes. Mr. Sher,
17 hi.

18 Because this particular property,
19 proposed residential property is near a lot of
20 industrial properties, don't you think that will
21 have a negative impact on the residents who may
22 be moving to the proposed project when it's

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1 developed?

2 MR. SHER: For the record, my name
3 is Steven Sher, Director of Zoning and Land-Use
4 Services with the law firm of Holland & Knight.

5 I would say it could. It doesn't
6 necessarily have to. The City since I would
7 say 1974 or so had made a conscious policy set
8 of decisions. It's more than one decision.
9 A set of decisions that mixed-use was the way
10 things should be in the City rather than
11 segregating residential over here, commercial
12 over here, industrial over here.

13 So, if you go back to, for example,
14 the adoption of the Waterfront Districts which
15 applied first to the Georgetown Waterfront and
16 ultimately to the Southeast Waterfront at
17 Buzzard Point, if you look at the CR District
18 which applies to the west end and some other
19 places, in those zones, you had as permitted
20 uses residential, retail, office, institutional
21 and industrial and they were there under
22 circumstances that the regulations provided for

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1 in those zones.

2 And in other circumstances,
3 residential was always given a higher FAR.
4 There was an incentive, if you will, for building
5 residential. You couldn't get as high a density
6 if you only built commercial and so, I think
7 having that mixture of uses is something that
8 is ingrained in the policy and policies of the
9 City and has been for 40 -- 35 years or something
10 like that.

11 In this case, you have a
12 Comprehensive Plan future land-use map that
13 draws a fairly hard boundary at the edge of the
14 area in the vicinity of Rhode Island Avenue Metro
15 Station.

16 If you look at the excerpt of the
17 future land-use map which is behind page 8 in
18 the outline that you were just handed and you
19 see the big M bullet sort of right in the middle
20 there, the M sits at -- in this map, sits at
21 the intersection of the Metro railroad track
22 which is the red line running basically up and

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1 down and Rhode Island Avenue which is the line
2 running diagonally across the page.

3 In the four quadrants of that
4 intersection, if you will, the northeast
5 quadrant which is the one we're talking about
6 is the one that's designated for the mixed-use,
7 high-density residential/medium-density
8 commercial. In fact, it's the highest
9 designation of any of those quadrants, of any
10 of those combinations of land uses that are shown
11 in that vicinity.

12 But, as you go further north along
13 Reed Street, which is the street that comes up
14 off Rhode Island Avenue, it changes the
15 designation from mixed use to PDR, production,
16 distribution and repair and that line is pretty
17 much the boundary between the property that
18 we're asking you to rezone this evening and the
19 Old Town Trolley property which is immediately
20 to the north.

21 So, the plan draws that distinction
22 and we think that the zoning should follow the

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1 plan and that, therefore, this would be an
2 appropriate change.

3 Now, you asked will there be an
4 adverse impact on the residential because of
5 the industrial? Anybody who develops that site
6 is going to know what the context is. Is going
7 to go out, you know -- our client is Douglas
8 Development.

9 You've seen them many times on many
10 different projects. They have a good sense of
11 what's going on in the City. They're going to
12 build a building that takes that into account.

13 Whether that requires extra soundproofing,
14 whether that requires changes or setbacks.
15 Whatever it's going to do whether it's Douglas
16 or if they dispose of the property or joint
17 ventured with somebody else, that would all be
18 taken into account.

19 I don't see that zoning this
20 property C-2-C is inherently inconsistent with
21 the notion that there would be an operating
22 semi-industrial-type business immediately to

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1 the north. It's not a manufacturing business.
2 It's not a steel mill or a blast furnace or
3 whatever. It's a warehouse with automotive
4 maintenance and vehicle maintenance I should
5 call it. Automotive vehicle maintenance and
6 repair and offices for the company as well.
7 I don't see that being inconsistent with the
8 development that could occur under C-2-C.

9 Short question. Long answer.

10 VICE CHAIR COHEN: Thank you.

11 CHAIRMAN HOOD: Mr. Turnbull.

12 COMMISSIONER TURNBULL: Thank you,
13 Mr. Chair.

14 Mr. Sher, with the two designations,
15 I mean we also -- I mean it's also been noted
16 by Old Town Trolley people about -- they've made
17 reference to the upper northeast area element
18 of the Comprehensive Plan and the preservation
19 of C-M-2 or what we're now calling PDR zones.

20 Do you see any conflict? I mean
21 what you just said, you don't see a conflict
22 from what in those -- in the way the C-2-A is

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1 being recommended zoned and with the
2 preservation of the PDR areas.

3 MR. SHER: Again, I think you have
4 to look at that policy in conjunction with the
5 future land-use map. There are areas where the
6 land-use map says PDR and they should remain
7 PDR and they're not going to change.

8 This area is one which in part is
9 designated as a land-use change area.

10 COMMISSIONER TURNBULL: Okay.

11 MR. SHER: You go out there today
12 you're going to say that's not a residential
13 area today. That block of Reed Street going
14 north to Rhode Island Avenue up to Evarts Street,
15 there's no residential in that block at all
16 today. But, the plan is suggesting over the
17 long term that something different happen on
18 the east side of Reed Street and on the south
19 side of -- on the west side of Reed Street up
20 to the property that we're talking about here.

21 I don't believe that anything that
22 we're doing is going to preclude or prevent

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1 industrial or warehouse or wholesale or vehicle
2 maintenance uses from continuing on that
3 property to the north. We're not changing the
4 zoning on that property. We're not changing
5 anything. We're not changing the zoning on that
6 property. We're not asking that that property
7 be rezoned and they have the right to continue
8 the uses that they have now and I don't see that
9 anything that we're doing here is inconsistent
10 with -- there are other policies -- I think
11 I have to step back.

12 There are other policies in the
13 upper northeast element that suggest that
14 properties that are no longer going to be used
15 for industrial should be converted to different
16 kinds of uses and I've cited some of them in
17 the outline. I can find it for you if you need
18 it. They're on pages 16 and 17 of the outline.

19 Capitalize on the preface of the
20 Metro Station at Rhode Island Avenue.
21 Encourage the development of additional medium
22 and high density mixed-use development around

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1 the station. Encourage the long-term use of
2 older commercial and industrial sites with
3 higher value mixed uses.

4 So, on the one hand, yes, certain
5 PDR sites are going to remain. On the other
6 hand, certain of those are going to be changed
7 and become developed with mixed uses.

8 COMMISSIONER TURNBULL: Okay. I
9 mean basically we've got a balance here. You
10 know delicate balance.

11 MR. SHER: Well, I --

12 COMMISSIONER TURNBULL: I mean
13 you've got a C-2-A which as you said as you
14 develop the property you're going to have be
15 obviously aware of what properties you're
16 adjacent to and develop that property
17 accordingly and as long as the property that
18 is now in the PDR is compliant with all the
19 regulations of their zone and I mean they've
20 got refueling. They've got maintenance, their
21 offices. So, as long as they're in compliance
22 with the regulations governing the PDR zone,

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1 life goes on.

2 MR. SHER: I would -- just to
3 correct for the record, we're asking for C-2-C
4 not C-2-A, but just to say that.

5 COMMISSIONER TURNBULL: Okay.
6 You're right.

7 MR. SHER: And number two, in fact,
8 the City's regulations other than zoning are
9 more likely to be controlling on
10 environmental-related issues than the standards
11 from 1958 in the C-M-2 District on decibels and
12 the old Wimbalman smoke parts and things like
13 that.

14 COMMISSIONER TURNBULL: Yes.

15 MR. SHER: Just to digress for one
16 second, I remember talking to the Zoning
17 Administrator about how back 600 years ago when
18 they were -- when he was trying to hold that
19 chart up and figure out what was the density
20 of smoke coming out, you know, we've got way
21 more sophisticated regulations on all those
22 things and they're not part of the Zoning

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1 Regulations any more.

2 So, the more likely controlling
3 factor is going to be the Department of
4 Environment Regulations or other sound, smoke,
5 et cetera criteria than what you find in the
6 C-M Zone.

7 COMMISSIONER TURNBULL: Okay.
8 Thank you.

9 CHAIRMAN HOOD: Mr. Sher, is
10 anything taking place on this property right
11 now? What's going on now?

12 MR. SHER: There are three
13 warehouse buildings at varying heights between
14 one and four floors. They are vacant at the
15 moment and then to the site that's not built,
16 it's also vacant and not used.

17 CHAIRMAN HOOD: So, there's no work
18 or nothing being done on the site?

19 MR. SHER: I believe not.

20 CHAIRMAN HOOD: I understand about
21 the Comp Plan. I understand and I'm familiar
22 with this area and I also understand doing a

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1 mixed project near Rhode Island Avenue, but Reed
2 Street -- and I guess at some point in time,
3 maybe the Office of Planning, there's got to
4 be some infrastructure.

5 And Old Town Trolleys has stayed the
6 course and they've been back there for awhile
7 and I think their concerns are very valid.
8 Because what's going to happen -- and I actually
9 agree with their letter.

10 The reason I know is because what
11 they're saying in the letter is one of the
12 reasons I'm sitting here on the Zoning
13 Commission. I moved into a neighborhood that
14 had -- well, I'm not going to go down that lane.

15
16 But, anyway, so, I kind of
17 understand what they're saying, but again, as
18 Mr. Turnbull is saying, I think in your alls
19 discussion, you have to strike that balance and
20 I'm just trying to figure out how do we -- what
21 do we do for the -- for the businesses that stay
22 the course even though we're talking about now

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1 trying to do C-2-C to protect them because
2 they're right external effects and I mean they
3 bought up some good points in their letter and
4 maybe I can hear some of this from Office of
5 Planning.

6 What do we do to insure that people
7 like Anthony Hood don't move in your
8 neighborhood to start giving them a hassle and
9 want them to get out because I just got here
10 and it's affecting my quality of life.

11 I mean, you know, I understand about
12 all the plans. I think we got too many plans
13 actually. Too many plans that actually do
14 absolutely nothing. We talk about the small
15 area plan. I don't want to get on the soapbox,
16 but I understand what's trying to be done here
17 and I understand the argument about the Comp
18 Plan and generalized land-use map and all that.

19
20 I understand all that, but I'm just
21 trying to figure out and then I guess maybe it's
22 not a question. It's just a statement and maybe

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1 some more -- I'm just not sure about how to
2 proceed on this because I think they bring up
3 some good points in their exhibit.

4 MR. FREEMAN: If I could look --

5 CHAIRMAN HOOD: Sure.

6 VICE CHAIR COHEN: Mr. Chairman,
7 actually, there are things that we could do that
8 have been suggested by the party in opposition
9 in their submission which I believe the
10 Applicant has seen dated July 11th. So, I think
11 that there are proposals that we could consider
12 and take into account in the zoning order.

13 MR. FREEMAN: I would jump in and
14 you'll hear from the Old Town Trolleys people,
15 but we have talked to them and we have committed
16 to them and we're happy to commit on the record
17 to some things that we will do as we move forward
18 with development of that site because again,
19 this is a -- it's a map amendment. It's not
20 like a PUD case where you can impose conditions,
21 but we have committed to certain things which
22 Mr. Millstein will reiterate.

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1 CHAIRMAN HOOD: I just want to make
2 sure. Not make a -- okay. Mr. Millstein.

3 MR. MILLSTEIN: Good evening.
4 Paul Millstein, Vice President of Douglas
5 Development for the record.

6 So, all good questions and the
7 reality is we work very well with our neighbors
8 to that side and what they do as well as the
9 church to the other side as well as Muscatello's
10 Uniforms directly in front of the property and
11 then, of course, we have the District Courts
12 in our building behind Muscatello's.

13 So, I think that they certainly
14 raised legitimate concerns and we hear complains
15 from tenants on the various properties, but the
16 reality is that I think that it's important as
17 Mr. Sher said to mix these uses in with other
18 neighbors. We have no objection whatsoever to
19 their use. We have no intentions of trying to
20 affect their use in anyway. We think they run
21 a good business. They provide an important
22 function for the city and we're very supportive.

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1 We think we could coexist very well.

2 We will take design considerations into our
3 building with the pane windows and things that
4 block the sound. We have the Metro tracks
5 directly behind us equally as close and much
6 louder. Much more than the duck boats and
7 trolleys that are there.

8 We have the church's playground area
9 which is a great use, but very noisy. Kids
10 scream and they scream consistently. So,
11 Saturday mornings, I don't want to hear from
12 my tenants that kids are playing outside at the
13 school and complaining.

14 So, one of the requests that the duck
15 boats had had -- and I apologize for referring
16 to as the duck boats. I know they have a name.

17 But, anyway, we know that. So, they know that.
18 Was that we do a full disclosure.

19 This is by the way a rental property.
20 Is the intention of what we intend to build
21 so there will be tenants. Well, we disclose
22 in our leases that, you know, we have a daycare

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1 and a children's play area on one side and we
2 have a duck boat business that rings their bells
3 at 8:00 in the morning to check their bells and,
4 you know, we as a management company really don't
5 want -- you go in knowing full well and full
6 disclosure this is what you're renting.

7 Will it affect the rental of the
8 property? Sure it will.

9 You know, everything is not downtown
10 at 7th and New York Avenue and everything can't
11 be \$4.00 a foot to rent either. City means
12 options. So, this will be built a nice product
13 in a nice neighborhood and it'll be cost
14 effective and people will recognize what their
15 neighbors are and what they do and there's no
16 reason why it really can't provide a nice option
17 for rental property and coexist.

18 So, we have agreed with them to
19 disclose the uses in our leases. We have agreed
20 to bring them into the design process. They
21 have a seat at the table. What they asked for
22 and that's reasonable.

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1 We would expect to do that with the
2 church on the other side and to them anyway
3 whether they asked for it or not. That's what
4 good neighbors do and I think we're very good
5 neighbors.

6 So, I think we can work through all
7 that. I recognize they fuel vehicles. Great.
8 Fuel your vehicle. I recognize they ring
9 bells. That's what they do. Again, we're very
10 -- it wasn't even an issue to us quite frankly
11 which is why we didn't spend a lot of effort
12 on it. We recognize what they do and we think
13 they provide a good business.

14 CHAIRMAN HOOD: I'm actually glad
15 to hear you say that. I've actually had the
16 opportunity of watching some of the work that
17 you all have done over the years and that's been
18 your track record. So, I'm glad to hear you
19 say that. It actually gives me some ease while
20 I raise my concern and I'm not saying what I'm
21 going to do, but it gives me some ease in knowing
22 that the new neighbors will know up front.

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1 Okay. Here's your deck. Your
2 deck's not going to change until the
3 neighborhood maybe change or whatever. But,
4 here's what we're dealing with and this is it.

5 Rent or either you move across the street.

6 Okay. One or the other. Okay. All right.

7 Any other questions? Vice Chair.

8 VICE CHAIR COHEN: Yes. Where are
9 some of the closest properties, residential
10 properties, to this property? How many? Half
11 a mile? Quarter mile? Next door?

12 MR. MILLSTEIN: Oh, no, in fact,
13 Commissioner Vaughn lives in the apartment
14 building to the very next street as you got right
15 beside our property where the District Courts
16 are. I don't know the exact address.

17 VICE CHAIR COHEN: Okay.

18 MR. MILLSTEIN: It's one street
19 away. There's a very large residential
20 building there which the actual Commissioner
21 resides.

22 VICE CHAIR COHEN: How many units

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1 is that?

2 MR. MILLSTEIN: How many --

3 VICE CHAIR COHEN: Do you have any
4 idea? Just a guess.

5 MR. MILLSTEIN: I think it's about
6 200 units. A 100. It's a large building.
7 I --

8 MR. FREEMAN: Commissioner Cohen,
9 if you look at the aerial photograph which is
10 after page 2, you could kind of see the scale
11 kind of on 10th Street. There are pretty big
12 apartment buildings up and down 10th Street.

13 CHAIRMAN HOOD: I guess you're
14 aware that that no longer will be 5B.
15 Commissioner Bennett and all that stuff's going
16 to change.

17 MR. FREEMAN: Yes.

18 COMMISSIONER TURNBULL: I know
19 you've mentioned before that when you get in --
20 I mean you haven't designed anything yet. Now,
21 I know you have some thoughts, but I'm assuming
22 you don't see yourselves going right up to the

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1 property line on something like that.

2 MR. SHER: Typically, we envision
3 windows on that side. So, you don't typically
4 have windows on a property line.

5 COMMISSIONER TURNBULL: Right.

6 MR. SHER: That's right.

7 COMMISSIONER TURNBULL: Because I
8 mean the other property line I think they have
9 a 60-foot height that they can go.

10 MR. SHER: Um-hum.

11 COMMISSIONER TURNBULL: And I think
12 you would have 90 I think.

13 MR. SHER: That's correct.

14 COMMISSIONER TURNBULL: So, I mean
15 I think one of the things they might have been
16 concerned about was -- like you said you just
17 don't do that with a residential property.

18 MR. SHER: Correct. And they may
19 has asked. I think we'll get there. We just
20 haven't got there yet. So, we need to continue
21 to work with them going forward.

22 COMMISSIONER TURNBULL: Okay.

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1 Thank you.

2 CHAIRMAN HOOD: Okay. Again, I
3 don't see anyone here from 5B.

4 Okay. No cross examination.
5 Okay. Let's go to the Office of Planning.

6 Oh, I'm sorry. Okay. I'm sorry.

7 Okay. Ms. Steingasser.

8 MS. STEINGASSER: We're happy to
9 stand on the record.

10 CHAIRMAN HOOD: Oh, thank you very
11 much. You were reading my mind. Okay.

12 Commissioners, any questions of the
13 Office of Planning? Okay. You have a question
14 of the Office of -- ANC, again, I don't see.
15 Party. Any questions of the Office of Planning?
16 Okay.

17 We're going to get to you in a
18 minute? Okay.

19 Report of other Government
20 Agencies? Okay.

21 We do have ANC report. Put my hands
22 on it. Exhibit 20. I'm sure it's up here --

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1 oh, here it is. Is this my copy?

2 Okay. Anyway ANC 5B at its
3 regularly schedule June 7th public meeting, a
4 quorum was present. Voted 7-0 to support the
5 above referenced Zoning Commission Application
6 from C-M-2 District to a C-2-C. They had seven
7 members and I think this warrants the great
8 weight of the ANC. So, it's proper.

9 Let's go to any organizations or
10 persons who are here in support.

11 Okay. Let's go to the organization
12 here in opposition. Do we have anyone --
13 individuals who are here in opposition to this
14 case? Okay. In this case. Okay. In this
15 case. We have another one after this. Okay.

16
17 You can come forward. I can tell
18 you that we have thoroughly read your letter.

19 I don't know --

20 MS. MAZO: Thank you.

21 CHAIRMAN HOOD: As I was about to
22 say, I don't think we need 20 minutes.

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1 MS. MAZO: Oh, no. No. No.

2 CHAIRMAN HOOD: Okay.

3 MS. MAZO: No, I don't think we're
4 -- we don't have 20 minutes to say.

5 CHAIRMAN HOOD: Oh, okay.

6 MS. MAZO: For the record, my name's
7 Samantha Mazo. I'm from the law firm of Linowes
8 and Blocher and we represent Old Town Trolleys
9 which is the owner of the adjacent property,
10 the subject property.

11 As a general matter, although we
12 filed as a party in opposition, Trolley Tours
13 really does not oppose the map amendment per
14 se. I mean really our concern is that we want
15 to be heard. We just want to see the -- and
16 we would like to see the currently abandoned
17 warehouses on Channing Place cleaned up and
18 re-purposed and we appreciate the District's
19 emphasis on pursuing smart growth policy
20 objectives by encouraging mixed-use
21 developments adjacent to Metro.

22 However, as Dave Cohen, the General

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1 Manager of Old Town Trolleys, will testify,
2 we're here to simply request that the Zoning
3 Commission honor the Comprehensive Plan's
4 interest in sustaining and protecting the
5 adjacent industrial uses.

6 So, I'm just going to let Dave go
7 ahead and if you could just state your name for
8 the record and just tell the Zoning Commission
9 a little bit about the operations.

10 MR. COHEN: Good evening. I'm
11 Dave Cohen. I'm the General Manager of Old Town
12 Trolleys --

13 MS. MAZO: You need to press.

14 MR. COHEN: -- in Washington, D.C.
15 and as you all know, we're on the northern
16 portion of Reed Street.

17 Our concern is that we continue to
18 operate our business in the manner that we've
19 been doing since 1996 which is when we moved
20 onto that.

21 Don't really oppose the use of the
22 Jemal property or the Douglas property I should

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1 say. But, we need that reassurance that people
2 aren't going to move in there and then take a
3 turn for the worse in terms of oh, I look out
4 my window and I see trolley cars and I don't
5 like that.

6 And we want to be good neighbors.

7 We just want some disclosure up front that
8 you're moving in there. Understand that we're
9 their neighbors. We'll be good neighbors.

10 That's really all there is to it.

11 MS. MAZO: Mr. Cohen, can you just
12 very quickly just explain the operations of the
13 trolley tours on the property and especially
14 the time of days that the property is used, the
15 number of days the property is used? Just --

16 MR. COHEN: Sure.

17 MS. MAZO: -- so that the Zoning
18 Commission understands the operations and there
19 aren't questions down the line.

20 MR. COHEN: Our business is a
21 site-seeing tour and our facility is combined
22 office space, garage space and parking space.

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1 The parking space is immediately adjacent to
2 the proposed development.

3 And most of our activity takes place
4 in the morning, around 8:30/9:00 in the morning
5 and then 6:00 in the evening and again at 11:00
6 in the evening.

7 Other than those times, we're very
8 quiet and you'd hardly know we were there because
9 we're out in the streets of Washington, D.C.
10 giving tours whether that's in trolley replica,
11 vehicles or in ducks.

12 All of our repair work takes place
13 inside our facility. There's no noise to speak
14 of, but we do operate 365 days a year and our
15 parking lot is lit at night and we do fuel at
16 night typically between 8:00 and 10:00 in the
17 evening.

18 MS. MAZO: Yes, and, Mr. Cohen, can
19 you just clarify for the record approximately
20 how many vehicles that you have and where those
21 vehicles are located on the property?

22 MR. COHEN: I have 34 trolleys,

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1 buses and six duck vehicles and overnight,
2 they're parked in this parking lot. It's not
3 paved. It's just a lot. Some inside, but the
4 majority of them are outside in this parking
5 lot and as I said, during the daytime, pretty
6 much all out on the street. There might be four
7 or five still in the parking lot depending on
8 the time of year.

9 MS. MAZO: And so, we're open to
10 questions. I mean, in general, we would really
11 like to work with the Applicant in order to
12 determine the language of the disclosure. One
13 thought we had was in addition to a disclosure,
14 they could also record something in the land
15 records that sets forth the existence of Old
16 Town Trolleys and the operation.

17 Again, these are thoughts and we
18 understand in your position that you cannot
19 issue or you cannot impose conditions on a map
20 amendment and we're not really at the point where
21 we're asking you to do that. Mostly just want
22 to make sure again that we have the ability to

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1 speak directly with the Applicant about this
2 issue and to work with them going forward.

3 CHAIRMAN HOOD: I think though in
4 the full discussion I don't know how it's --
5 you know, pretty much we capture in what we do.

6 I'll leave it up to the Office of Attorney
7 General.

8 But, I think the concerns are there.

9 The discussion is usually put in our orders
10 so if you ever need something to fall back on
11 and then we have a transcript. So, you know,
12 there are a number of things you can fall back
13 on.

14 But, I can tell you that -- and I'm
15 not promoting one way or the other, but I've
16 been here for awhile and I've watched this
17 developer. He -- I haven't heard anybody come
18 back complaining yet. They may have when I
19 wasn't here, but I haven't heard anybody come
20 back complaining yet and I believe they're
21 willing to do that and I'm not -- that's not
22 a plug for them. But, I heard what he said and

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1 I'm glad he said that on the record which gave
2 me some ease.

3 Vice Chair.

4 VICE CHAIR COHEN: Mr. Cohen,
5 refueling, how loud could that possibly be?

6 MR. COHEN: Not loud at all. It's
7 virtually inaudible.

8 VICE CHAIR COHEN: Yes. Okay.
9 And what about the lighting that you mentioned?
10 How bright is that and is it just targeted to
11 your lot or is it --

12 MR. COHEN: It is focused into the
13 lot from both ends and it's not what I would
14 call stadium lighting. It's strictly enough
15 so that you would feel safe at 11:00 at night
16 in that neighborhood and to see what you're
17 doing. That's all it is. It's not very bright
18 at all.

19 CHAIRMAN HOOD: So, you're not
20 related Cohen to Cohen?

21 VICE CHAIR COHEN: We might be.

22 MR. COHEN: Very distantly.

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1 CHAIRMAN HOOD: Oh. Okay.

2 COMMISSIONER TURNBULL: Just to --
3 I guess not to reassure you. I mean unless a
4 property owner comes before us and asks for a
5 map amendment such as this, a zoning change,
6 they usually -- I mean there are Zoning Laws
7 that go back to the Euclid case that talk about
8 takings. So, there's clear language as to how
9 properties get changed.

10 So, I mean unless your property was
11 condemned somehow there's no -- I mean as we
12 talked about earlier, and I mentioned about
13 this, the C-M-2 which is now the PDR designation
14 is the way they're going to, there is an effort
15 to preserve those areas within the City. So,
16 unless something -- and I can't imagine how
17 anything would change your property. I mean
18 either you coming before us for a map amendment
19 and somehow changing. I don't believe there's
20 much in the City and I look to the Office of
21 Planning for any way that their property could
22 be changed such that they would need to be

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1 concerned.

2 MS. STEINGASSER: There's
3 certainly nothing in the regulatory structure
4 that would impact Mr. Cohen and his business.

5
6 I think they're more concerned about
7 the -- just the general neighborhood of -- when
8 you -- you know, when you move in somewhere,
9 you may be the last one in, but you still expect
10 --

11 COMMISSIONER TURNBULL: Right.

12 MS. STEINGASSER: You know, you
13 still want things the way you do and I think
14 it's the subsequent issues that they're
15 concerned about. You know, the guy who moves
16 next to the airport and doesn't like the planes
17 type of arrangement and what we looked at after
18 hearing the concerns of the adjoining property
19 owner was what other by right type of standards
20 would be in place and should there be a side
21 yard setback.

22 The property would have a 15-foot

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1 setback from the adjoining property. There
2 would be a 15-foot required setback from the
3 rear of the property and then the developer's,
4 of course, experience in the City knowing that
5 they're also up against the tracks. But, there
6 would have to be sound attenuation through the
7 construction.

8 But, as long as the business is
9 operating through a legal certificate of
10 occupancy and business license, there would be
11 no impact from the regulatory structure.

12 COMMISSIONER TURNBULL: Yes, and I
13 think as Mr. Sher and I were discussing, you
14 have your C of O. You're following all the
15 regulatory requirements of the City. There is
16 nothing prohibiting you from -- I mean you may
17 get some complaints at some point, but if you're
18 doing your business according to what you've
19 always done, I mean I think -- from our
20 standpoint, I think as Mr. Millstein was saying
21 and he recognizes that and I think they're going
22 to develop the property accordingly.

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1 So, I don't know if that reassures
2 you at all, but I mean I think there's enough
3 out there that -- I mean there's no way the
4 property's going to be allowed to change just
5 willy-nilly.

6 MS. MAZO: And, Commissioner
7 Turnbull, we understand that position and we
8 certainly were not under any sort of impression
9 that there was going to be some sua sponte
10 rezoning of our property and that was not even
11 on our level of concerns. We're really more
12 at the more basic level which is we -- as
13 Commissioner Hood raised, we don't want the
14 neighbors next door to be able to put up a fuss
15 when they open their window at 8:30 in the
16 morning and they see a parking lot full of
17 trolleys.

18 And so, we've been very encouraged
19 by our discussions this evening with the
20 Applicant and we hope to move forward with them
21 as good neighbors on both sides and that's truly
22 our interest. Our interest here is really not

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1 to derail this process. Again, we appreciate
2 the underlying policies of the Comprehensive
3 Plan and of the policy map and of the future
4 policy map -- the generalized policy map and
5 so, we just want to be able to have a frank
6 discussion with our neighbors and to have that
7 be on the record that there would be these
8 disclosures, potentially be a disclosure,
9 potentially have something in the land records
10 and we could work in some discussion about a
11 buffer and for us to be able to work with them
12 on the design side.

13 COMMISSIONER TURNBULL: Yes, I
14 think Mr. Millstein you've heard. I think he
15 expressed that very clearly.

16 MS. MAZO: Right.

17 COMMISSIONER TURNBULL: And he's
18 got a very good reputation within the City for
19 development of projects and he recognizes what
20 you do to service the City.

21 So, I think there is a concern on
22 his part to respect your needs and operations.

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1 So.

2 MS. MAZO: Right. And we
3 appreciate that.

4 COMMISSIONER TURNBULL: Yes.

5 CHAIRMAN HOOD: Okay. Any other
6 questions? Any cross examination?

7 MR. FREEMAN: No, Mr. Chair.

8 CHAIRMAN HOOD: Okay. And again,
9 not seeing anyone here from the ANC.

10 We want to thank you all. We
11 appreciate your testimony.

12 MR. FREEMAN: Thank you.

13 MS. MAZO: Thank you.

14 CHAIRMAN HOOD: Okay. Do we have
15 any persons who are here to testify in opposition
16 to this case?

17 So, with that, if there's any
18 rebuttal.

19 MR. FREEMAN: Don't have rebuttal.

20 I just have a quick closing.

21 CHAIRMAN HOOD: Closing.

22 MR. FREEMAN: We didn't talk much

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1 about how we meet the standards for the map
2 amendment, but all of the documents included
3 in the Office of Planning Report, Mr. Sher's
4 Report and our submission materials clearly
5 indicate how we meet each of the applicable
6 standards for the requested map amendment. So,
7 to the extent we didn't talk about that, we would
8 like to incorporate that by reference.

9 As you've heard our client indicate
10 on the record, we have agreed to work with our
11 neighbors and we have committed to do two things.

12 One, include the notice in our lease and two,
13 work with them on the design and that design
14 would include some type of buffers. Those are
15 the two things we have committed to on the record
16 tonight and we intend to be good neighbors in
17 working with them moving forward.

18 Again, we believe we meet the
19 standards for the requested map amendment and
20 we would request your approval.

21 Thank you.

22 CHAIRMAN HOOD: Okay. Thank you

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1 very much, Mr. Freeman.

2 Commissioners, what is your
3 pleasure? Do you want to decide this tonight
4 or are we going to --

5 COMMISSIONER TURNBULL: Mr. Chair,
6 I'll make a motion if you'd like.

7 CHAIRMAN HOOD: Thank you.

8 COMMISSIONER TURNBULL: I would
9 move that we approve Zoning Case Number 10-30,
10 Jemal's Channing Place, LLC - Map Amendment @
11 Square 3846 and look for a second.

12 VICE CHAIR COHEN: Second.

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

16 Are you ready for the question? All
17 those in favor?

18 (Ayes.)

19 CHAIRMAN HOOD: Not hearing any
20 opposition, Ms. Schellin, would you record the
21 vote?

22 MS. SCHELLIN: Yes, staff records

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1 the vote 3-0-2 to approve proposed action for
2 Zoning Commission Case Number 10-30.
3 Commissioner Turnbull moving. Commissioner
4 Cohen seconding. Commissioner Hood in support.
5 Commissioner May not present, not voting.
6 Third mayoral appointee position vacant, not
7 voting.

8 Chairman Hood, I know that at the
9 conclusion of the hearing, the record is closed.

10 However, after 6:00 this evening, I received
11 an email from the SMD. It's not in proper form.

12 It came in after 3:00 p.m. and it was to me
13 personally instead of through the proper email
14 and I'd just ask the Commission if they -- how
15 I should respond.

16 Do you want to leave the record open
17 to allow him to submit his written testimony
18 or not?

19 CHAIRMAN HOOD: I guess if you all
20 don't mind even though we have the great weight
21 of the ANC, I don't think he has anything in
22 opposition. I'm sure --

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1 MS. SCHELLIN: Yes.

2 CHAIRMAN HOOD: -- because he
3 signed that letter, but I would leave the record
4 open for that.

5 MS. SCHELLIN: Okay. And other
6 than that, it's closed.

7 CHAIRMAN HOOD: Colleagues agree.
8 Okay.

9 MS. SCHELLIN: Thank you.

10 CHAIRMAN HOOD: And I will just say
11 I believe that's going to work because I did
12 mention my issue. Let me just say that the folks
13 who I had a problem with when I moved in are
14 still there and we learned to live together.
15 Okay. So, you know, I don't necessarily -- so,
16 I just wanted to end the story. So. Okay.

17 Anything else?

18 MS. SCHELLIN: One other thing. If
19 I could give a date to Mr. Freeman and Ms Mazo,
20 if they choose to do draft findings of
21 facts/conclusions of law, if they could please
22 submit those by 3:00 p.m. August 16th.

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1 CHAIRMAN HOOD: And for me, that's
2 going to be very important. I'm not sure of
3 all the legality of what can go in and what can't
4 go in, but I'm going to be looking seeing if
5 some of this discussion is in there.

6 Anything else? Okay.

7 So, with that, we've done a bench
8 decision. All we have to do now is just sign
9 it.

10 Okay. So, with that, the first
11 hearing is adjourned. Let me move right into
12 the second hearing.

13 MR. FREEMAN: Thank you.

14 (Whereupon, at 7:15 p.m., the
15 hearing was adjourned.)

16

17

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