

1 GOVERNMENT OF THE DISTRICT OF COLUMBIA
2 Office of Zoning
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9 PUBLIC HEARING OF THE OFFICE OF ZONING
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13 6:30 P.M. to 8:00 P.M.

14 Monday, March 19, 2015
15

16 441 4th Street, N.W.

17 Jerrily R. Kress Memorial Room

18 Second Floor Hearing Room, Suite 220-South

19 Washington, D.C. 20001
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2 Board Members:

3 ANTHONY HOOD, Chairman

4 MARCIE COHEN

5 PETER MAY

6 ROBERT MILLER

7 MICHAEL TURNBULL

8

9

10 Office of Planning:

11 JENNIFER STEINGASSER

12 MEGAN RAPPOLT

13

14

15 Office of Zoning:

16 SHARON SCHELLIN, Secretary to the Board

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P R O C E E D I N G S

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CHAIRPERSON HOOD: Good evening, ladies
6 and gentlemen. This is a public hearing of the
7 Zoning Commission for the District of Columbia
8 for Thursday, March 19, 2015. We are located in
9 the Jerrily R. Kress Memorial Hearing Room. My
10 name is Anthony Hood. Joining me are Vice Chair
11 Marcie Cohen, Commissioners Miller, May, and
12 Turnbull.

13 We are also joined by the Office of
14 Zoning staff, Ms. Sharon Schellin, and the
15 Office of Planning staff, Ms. Rappolt, and we
16 will be joined by Ms. Steingasser and Mr. Lawson
17 shortly.

18 This proceeding is being recorded by a
19 court reporter and is also Webcast live.

20 Accordingly, we must ask you to refrain
21 from any disruptive noise or actions in the
22 hearing room, including display of any signs or
23 objects. Notice of today's hearing was
24 published in the D.C. Register, and copies of

1 that announcement are available to my left on
2 the wall near the door.

3 The hearing will be conducted in
4 accordance with Provisions of 11 DCMR 3021 as
5 follows: preliminary matters, presentation by
6 the petitioner, in this case ANC6A, reports of
7 other government agencies, report of ANC
8 Organizations and Persons in support,
9 organizations and persons in opposition.

10 The following time constraints will be
11 maintained in this hearing. The petitioner has
12 up to 60 minutes. We have 20 on the clock, but
13 I can tell you that we do read, and I think the
14 record is complete, so we can probably condense
15 that to may be 10 or less. Organizations 5
16 minutes. Individuals 3 minutes. The Commission
17 intends to adhere to the time limits as strictly
18 as possible in order to hear the case in a
19 reasonable period of time. The Commission
20 reserves the right to change the time limits for
21 presentations, if necessary, and notes that no
22 time shall be seated.

23 All persons appearing before the
24 Commission are to fill out two witness cards.

1 These cards are located to my left on the table
2 near the door. Upon coming forward to speak to
3 the Commission, please give both cards to the
4 reporter sitting to my right before taking a
5 seat at the table. When presenting information
6 to the Commission, please turn on the speaker to
7 the microphone, first stating your name and home
8 address. When you are finished speaking, please
9 turn your microphone off so that your microphone
10 is no longer picking up sound and background
11 noise.

12 The decision of the Commission in this
13 case must be based exclusively on the public
14 record. To avoid any appearance to the
15 contrary, the Commission requests that persons
16 present not engage with the members of the
17 Commission in conversation during any recess at
18 any time. In addition, there should be no
19 direct contact whatsoever with any Commissioner
20 concerning this matter. The staff will be
21 available throughout the hearing to discuss
22 procedural questions.

23 Please turn off all beepers and cell
24 phones at this time so as not to disrupt these

1 proceedings.

2 At this time, the Commission will
3 consider any preliminary matters. Does the
4 staff have any preliminary matters?

5 MS. SCHELLIN: Yes, sir, just to advise
6 the Commission, the petitioner did ask for only
7 10 minutes. I doubled the time because it was
8 their first time and they were a little bit
9 nervous, but I am sure that they are going to be
10 less than 20 minutes, so I don't want anybody to
11 be scared about the 20 minutes that is on there;
12 I did that.

13 The other thing is that the petitioner
14 has asked for a waiver for the late filing of
15 the affidavit of posting. The property was
16 posted on time, but the affidavit was just
17 filed, I believe it was 10 days late. Instead
18 of filing it 30 days prior to the hearing, it
19 was filed, I believe, 20 days prior, or 21 days,
20 so we just ask the Commission to consider the
21 waiver request. As I said, it was posted on
22 time, though.

23 CHAIRMAN HOOD: Okay, let's take the
24 waiver request. Any objections? No objections?

1 We will resolve the issue of nervousness.
2 Okay, well, I'm nervous every time I come out
3 here. I've been doing this about 17 years, so,
4 you're right at home. So, feel nervous with me,
5 and we'll work together and work through it.
6 Anything else? Okay. And, I hope I'm
7 pronouncing your name right, Mr. Sperry.

8 MR. SPERRY: Yes, sir.

9 CHAIRMAN HOOD: Okay, Mr. Sperry, you
10 may begin, and take a deep breath.

11 MR. SPERRY: Alright, thank you.

12 CHAIRMAN HOOD: Let me ask this first
13 before we get started. Is there anyone here in
14 opposition? Okay, alright, you may begin.

15 MR. SPERRY: Okay. Thank you,
16 Commissioner, or Chairman Hood. I just also
17 want to introduce that this is Calvin Ward. He
18 is our ANC Commissioner from Single Member
19 District 6A08, and he is with us here. So, good
20 evening to the Commission and to Chairman Hood.
21 My name is Todd Sperry. I live at 1507 A
22 Street Northeast. I am here on behalf of ANC6A
23 as a petitioner in this matter, and I am also
24 one of the property owners of the 14 lots

1 affected by this request. The current C2A
2 zoning designation for the 14 lots within the
3 Northwest of Square 1070 would allow these row
4 homes to be redeveloped for the commercial, for
5 commercial or mixed use. This designation is
6 out of character with, and significantly larger,
7 and/or denser than the immediate surrounding
8 area. The ANC requests that this small area be
9 rezoned to R4, like all surrounding squares.

10 Any zoning designation other than R4 is
11 going to be out of character with our
12 neighborhood, and no other residential
13 designation would be the proper alternative.
14 Square 1070 is unusually divided. The eastern
15 half of the Square is currently zoned R4, while
16 the western half is zoned C2A. These halves are
17 divided by North/South Alley, and you can see on
18 page 5 of the Office of Planning's public
19 hearing report the diagram of the Alley and that
20 separation.

21 Our portion of the Square is adjacent to
22 the former D.C. Transit car barn. This trolley
23 maintenance facility was utilized until the
24 1960s. This may explain the history of C2A

1 zoning on our square; however, the car barn was
2 converted from industrial use and rezoned for
3 residential use in 1989, and the existing C2A
4 designation for our portion of the Square
5 appears to be nothing more than an outdated
6 zoning designation and current zoning
7 discrepancy.

8 Currently the northwest quadrant of
9 Square 1070 is used only for residential
10 purposes and has been exclusively single-family
11 residential dwelling for almost 20 years.
12 Pictures of 15th Street and A Street were
13 included in the ANC's application, and I brought
14 copies that were included in my written
15 testimony that I gave to Ms. Schellin. These
16 photos will illustrate the nature of the scale
17 and the density of our residential neighborhood.
18 The ANC Square 1070 residents in our larger
19 community overwhelming support this proposed map
20 amendment. The ANC's application included a
21 petition signed by 10 of the owners who live in
22 the northwest quadrant of Square 1070. Also,
23 the Commission has received letters in support
24 of the amendment from 12 residents of these lots

1 and also more than 50 neighbors. Many of the
2 community members are who are with us here
3 today.

4 You should adopt this map amendment for
5 the following reasons. First, the Proposed Map
6 Amendment is consistent with the 2006
7 Comprehensive Plan. Second, the current C2A
8 designation for the northwest quadrant of Square
9 1070 is not consistent with the residential
10 character and use and current high density of
11 our neighborhood. Third, the current C2A zoning
12 designation allows for matter of right
13 construction that threatens the scale and
14 architectural quality of the existing
15 residential neighborhood. The Proposed Map
16 Amendment specifically does not touch the
17 established neighborhood serving commercial uses
18 along East Capitol Street. Rather, the
19 amendment is aimed at insuring that the height,
20 the density, and lot occupancy of the 13 row
21 homes in this petition does not grow beyond what
22 is characteristic of this square and the
23 surrounding neighborhood.

24 I would like to review why we believe

1 the Commission should adopt this amendment.
2 First, the Proposed Map Amendment is consistent
3 with the 2006 Comprehensive Plan, and as I
4 imagine you will hear from the Office of
5 Planning, there are several policies and actions
6 within the Capitol Hill area element of the
7 Comprehensive Plan that support this Map
8 Amendment.

9 First, the amendment would protect the
10 character of row house neighborhoods like ours.

11 Second, the amendment would provide a better
12 match between zoning and existing land uses in
13 the city's residential areas. Third, the
14 amendment would reduce the number of
15 nonconforming uses in residential areas like
16 ours. And, finally, the amendment would rezone
17 the 15th Street Commercial District for
18 residential uses consistent with the Corridor's
19 designation in the Comprehensive Plan.

20 In fact, the future land use map on Page
21 8 of the Office of Planning's public hearing
22 report shows that the northwest quadrant of 1070
23 as moderate density residential consistent with
24 the proposed R4 designation. Correcting the C2A

1 zoning on 15th Street Northeast is listed in the
2 2006 Comprehensive Plan as a matter the Zoning
3 Commission should address in the short term, and
4 this amendment would do just that.

5 The current C2A designation for the
6 northwest quadrant of Square 1070 is
7 inconsistent with the residential character in
8 use, and the current height and density of the
9 neighborhood. The nature of the actual use of
10 the entire square is primarily residential.
11 Except for a handful of properties on the
12 southern-most portion of Square 1070, the
13 remainder of the properties in the square are
14 single-family residential. All of these homes
15 are 2-story and 3-story row homes. Neighboring
16 squares are also residential in nature and no
17 more than 40 feet tall. Furthermore, none of
18 the structures included in the Map Amendment
19 have ever achieved C2A density or height, but
20 instead these structures are nearly identical to
21 the R4 structures on adjacent squares to the
22 north, to the south, and to the east. In fact,
23 these row homes have never even met the density
24 limits of an R4 designation. The current C2A

1 designation is not consistent with the
2 residential character or current height and
3 density of this square and the neighborhood as a
4 whole. The map should, therefore, be amended
5 to correct this error.

6 The current C2A designation allows for
7 out-of-scale matter of right construction that
8 threatens the scale and architectural quality of
9 this residential neighborhood. Unfortunately,
10 this threat does already exist. A developer has
11 proposed replacing a 2-story row house at 1511 A
12 Street with a 5+-story matter of right structure
13 containing 18 units. This large-scale
14 development in the middle of our block would
15 tower over the surrounding 2-story row houses
16 and all structures in the immediate vicinity.

17 According to the Comprehensive Plan, new
18 development in neighborhood conservation areas,
19 like the northwest quadrant of Square 1070,
20 should be compatible with the scale and
21 architectural character of the existing
22 neighborhood. The scale and architectural
23 character of this proposed development are out
24 of proportion with the surrounding 2-story and

1 3-story row homes. Adopting this Map Amendment
2 and rezoning this area as R4 will ensure the
3 scale and density of any future development is
4 compatible with the scale and architectural
5 character of the existing neighborhood.

6 So, in conclusion, the Map Amendment
7 will unquestionably preserve the residential
8 character of our square while eliminating the
9 opportunity for out-of-scale matter of right
10 construction that could threaten an existing R4
11 street scape and surrounding R4 adjacencies. Our
12 neighborhood was entirely unaware of this zoning
13 discrepancy until a developer, Taiwo Demuren,
14 doing business as 57th Street Mews, acquired
15 1511 A Street in 2013 and his permitting agent
16 and consultant, Toye Bello, filed a permit
17 application for a large-scale development.
18 Although this proposed development brought this
19 issue to this neighborhood's attention, I do
20 want to stress to this Commission that it is
21 just, that this particular property is not being
22 singled out. It is one of 14 that are affected
23 in this Map Amendment, and it should be treated
24 like the rest of the properties that are in this

1 Amendment Request.

2 At the set-down hearing for the
3 petition, the Commission asked why this building
4 permit for 1511 A Street Northeast, submitted in
5 June 2013, had not been approved almost two
6 years later. It is my understanding that the
7 permit has not been issued for multiple reasons
8 including architectural and engineering design
9 and compliance shortcomings. In fact, as of
10 March 17, 2015, acting director of DCRA rejected
11 this building permit application because the
12 application or the plans do not conform to the
13 requirements of all pertinent laws. Currently,
14 there is no permit application or associated
15 plans pending for DCRA for any property within
16 the northwest quadrant of Square 1070 that is in
17 this Map Amendment request.

18 The Proposed Map Amendment specifically
19 does not touch the established neighborhood
20 serving commercial uses on East Capitol and will
21 therefore not create any nonconforming areas.
22 The elimination of the potential commercial use
23 in the entirety of Square 1070 is not the goal
24 of this Map Amendment. Rather, the amendment is

1 aimed at ensuring that the height and density
2 and lot occupancy of our portion of this square
3 does not grow beyond the characteristics of the
4 square and all the surrounding squares. Our Map
5 Amendment would rezone an area as R4.
6 Therefore, for all intent and purposes, it has
7 been serving already as an R4 designated area
8 without having the official designation in the
9 zoning. Any zoning designation other than R4 is
10 out of character for this neighborhood, and no
11 other residential designation would be a proper
12 alternative.

13 I ask that you support his Map Amendment
14 for these reasons, and I am happy to answer any
15 questions, and before I turn my microphone off,
16 I do want to say for the record that this is my
17 first experience with anything in the Zoning
18 Commission, and I have been so grateful for the
19 staff behind the scenes at the Zoning Commission
20 that have been so helpful for me with PDFs in
21 the wrong format and everything else that I have
22 had to try to figure out. I saw some of them
23 tonight, and they didn't thump me in the back of
24 the head, which would indicate, you know, that

1 there are no hard feelings. So, I am very
2 grateful publicly for their assistance, and they
3 were replying weekends, and times, it is very
4 impressive. So, thank you very much, and I
5 thank you for your time.

6 CHAIRMAN HOOD: Okay, thank you for your
7 testimony, and also thank you for the
8 compliments to the Office of Zoning. We will
9 have to play this back for Chairman Mendelson at
10 our oversight hearing. Anyway, hopefully he is
11 watching tonight; I'm sure he is. That gets me
12 in trouble. Okay, any questions here
13 colleagues? Any questions? Commissioner May.

14 COMMISSIONER MAY: I didn't quite follow
15 one point of what you were saying with regard --
16 you made reference to the Lot 94 development and
17 the state of the application for that, and did
18 you say in the end that there is no pending
19 application or no pending permit application?
20 Does that mean that it has been flatly rejected?

21 MR. SPERRY: That is correct. That is
22 my understanding from Council Member Allen and
23 from DCRA, apparently. I was contacted by
24 Council Member Allen's office today, and the

1 plans have been rejected. I know that I would
2 assume the Office of Planning has more
3 information than I have, but they are rejected.
4 Preliminarily rejected.

5 COMMISSIONER MAY: So, alright. So, we
6 will ask the Office of Planning, because I
7 thought I read a different status of where that
8 property stands, but we will hear from them.
9 Thank you.

10 CHAIRMAN HOOD: Any other questions?
11 Vice Chair Cohen.

12 VICE CHAIR COHEN: Thank you, Mr.
13 Chairman. You provided a picture of the car
14 barn, and I was just wondering if you know the
15 height of the car barn at its highest level. Do
16 you happen to have that information?

17 MR. SPERRY: I do not have a specific
18 measurement for you. I can tell you that the
19 residential areas that are in the R5B area at
20 C2A and R5B under the overlay of a historic
21 something, National Historic designation, it is
22 3 stories plus cellar, so the residential is 3
23 stories plus part of the residents you go down
24 to get into them, but -- so I would say I don't

1 even want to take a guess on it.

2 VICE CHAIR COHEN: Now, you are
3 concerned about the particular development being
4 out-of-character. Can you elaborate a little
5 bit more about the actual bulk and the height
6 and the densities -- you know, can you go into
7 that a little bit more?

8 MR. SPERRY: I can go into it as best I
9 can as a layman, and I will tell you that the
10 building plans that were submitted to DCRA were
11 actually in excess of C2A regulations and so
12 that was part of the problem with those plans.
13 They were higher in the grade and the curb and
14 the issues -- the plans that we saw were so
15 massive in scale. They were 5 stories, they
16 were taller than the car barn, they were taller
17 than anything in the vicinity that is, you know,
18 it was massive. It was occupying the middle of
19 a block and an entire portion, like the
20 occupancy is allowed in C2A is massive compared
21 to what every other part of that square is. The
22 rest of that square is R4, and those are single-
23 family homes, 2 and 3 stories. This is
24 excessive compared to everything else in that

1 area. VICE CHAIR COHEN: So, would I be
2 correct in restating excessive as being 2
3 stories higher? Because, I thought it was just
4 10 feet higher.

5 MR. SPERRY: I am not sure I understand
6 the question.

7 VICE CHAIR COHEN: You said it is
8 excessive, and I was wondering what that means
9 to you -- the stories, if it came down 2
10 stories, would it be more of a complement to the
11 rest of the neighbors?

12 MR. SPERRY: Well, Vice Chair Cohen, I
13 think that the -- as long as it is in relation
14 to the Comprehensive Plan and that it should be
15 in similar character and architecture in size
16 and scope, and what the Comprehensive Plan says.
17 I believe that is a great point of reference
18 for size and scope. I mean, it is not
19 necessarily for me to dictate that other than to
20 say -- I mean, I don't know. You're saying
21 hypothetical or are you saying with this plan in
22 particular, or...

23 VICE CHAIR COHEN: This plan in
24 particular. I mean, because you saw the plan,

1 and you said that it was out of character, and
2 I'm trying to get a feeling of, you, now, how
3 much out of character is it. For example -- let
4 me -- the building materials, were they totally
5 out of character with the neighborhood? So,
6 historically, does it in any way match?

7 MR. SPERRY: I feel very comfortable
8 absolutely saying that it does not match. It
9 doesn't look like anything else in the
10 neighborhood. It would not -- it would not
11 match any of the necessary items that are in the
12 Comprehensive Plan for the Capitol Hill area
13 element of the Comprehensive Plan, and it would
14 not match any of those items in size, in scope,
15 in height, in architecture, and all of those
16 items. This building is completely out of
17 character.

18 VICE CHAIR COHEN: What is the age of
19 some of the houses in the neighborhood? I think
20 I read it somewhere, but it sort of didn't...

21 MR. SPERRY: Sure. To the best of my
22 knowledge from researching, for example, my
23 house was built in 1923 as was the house at
24 1511. There were four of those built at the

1 same time. On the other side of the Alley on
2 Square 1070, the portion that is R4, those are
3 all 1910, and some of those are, I believe, a
4 little bit earlier, but I just know that it is
5 late 1800s to 1923 seems to be the predominant
6 cut-off date when all those homes were built.

7 VICE CHAIR COHEN: And, I assume that
8 you have never met with the developer and an
9 architect never came around to talk to anybody
10 as part of your, you know, group?

11 MR. SPERRY: Well, actually, we did have
12 a meeting in our community. We went to our ANC
13 and asked to meet with them. They came to an
14 ANC meeting. Then, we met with them later, I
15 believe it was in March or April of last year,
16 and they brought the plans, and they indicated
17 that those plans were, you know, what they were
18 going to build, and we had a discussion. So, we
19 did meet with them if that is your question. We
20 did have a discussion with them, and there was
21 never an architect or an engineer or anybody
22 that was brought.

23 VICE CHAIR COHEN: One last question.
24 It seems like, you know, you didn't really have

1 that much communication, give-and-take, but one
2 of the things that seems to have happened is the
3 process was started, and now we are looking at
4 changing in midstream, and can you just react a
5 little bit to that concern?

6 MR. SPERRY: I certainly can. I have an
7 E-mail from the permitting agent, Mr. Bello, on
8 behalf of his client, Mr. Demuren, that was
9 dated from May of last year where he decided to
10 suspend all communication with the community and
11 hold it in abeyance until he had a permit in
12 hand. So, as far as outreach with the
13 developer, they made the conscious effort to
14 tell the community that they didn't want to talk
15 anymore.

16 Additionally, the issue here was also
17 the licensure of the individuals involved with
18 these plans, which have both had cases before
19 the D.C. Office of Administrative Hearing, so
20 that has been part of the process as well.

21 CHAIRMAN HOOD: Okay, does anybody have
22 any other questions? Commissioner Miller.

23 COMMISSIONER MILLER: Thank you, thank
24 you, Mr. Chairman, and thank you, Mr. Sperry for

1 your testimony and for your presence here, Mr.
2 Ward. I think that is a strong Comprehensive
3 Plan zoning consistency argument, which you all
4 have made, and the Office of Planning has made.
5 I do have a couple of concerns about what the
6 status of the building permit is, and we will
7 talk to the owner of Lot 94's representative if
8 they are here tonight, and we will ask the
9 Office of Planning about that.

10 You had indicated that there is no
11 alternative zoning that would be appropriate fit
12 for these properties. Can you just elaborate on
13 why, maybe R5A, for example, might not be
14 appropriate for Lot 94 development, which would,
15 as I understand it, would put a lot of the same
16 height restrictions that the R4 has, and might
17 also require special exception approval, which
18 would allow the community to weight in on any
19 design of a development there. I guess, just
20 elaborate on why no alternative for that
21 property or for the rest of the property for
22 moderate-density zoning category wouldn't work.

23 MR. SPERRY: Sure. Thank you, that's a
24 great question. The reason why -- everything in

1 that area is R4. All the subsequent squares
2 around there are the residential R4 designation,
3 and, I believe, that making it R5A is a -- that
4 doesn't necessary solve the issue here, because
5 basically it is just creating another zone where
6 what would happen is potentially out-of-
7 character and out-of-scale development compared
8 to everything, and I will cite back to what I
9 said, the majority of, or all of these houses
10 that are in this Map Amendment have been living
11 an R4 life in a C2A world without having the
12 official R4 designation. The commercial zoning,
13 the wall Vice Chair Cohen mentioned was the car
14 barn there, that is a commercially zoned wall,
15 but there is no commercial business there. I
16 mean -- it just seems like that is a holdover,
17 and so therefore what we are trying and asking
18 for is that it be brought into compliance that
19 is matching everything else that is around it,
20 and I don't understand -- I'm not certain that
21 R5A would -- that would just create another out-
22 of-character zoning area compared to everything
23 else, in my opinion.

24 COMMISSIONER MILLER: Thank you. Also,

1 I believe under the existing R4 zoning, of
2 course, there is a pending proposal to change
3 the R4 zoning, but under the existing R4 zoning,
4 this property might be able to have six
5 apartment units through a conversion because of
6 the land area. I assume you are aware of that
7 and maybe oppose that as well.

8 MR. SPERRY: I don't know that I would
9 necessarily say that we oppose, I mean look, we
10 are asking for R4, and what comes with R4 are
11 the R4 regulations, and we realize that. So, we
12 thought very carefully before coming to this
13 Commission and proposing all aspects of this
14 amendment request because, obviously, there are
15 commercial areas down there that we want to
16 protect. Those are part of our community as
17 well, and, you know, if the plans come back and
18 somebody can, because of the size of the lot - I
19 mean, I fully understand that, and I think that
20 this is a good time for me to just also say that
21 nobody in this community is more eager to see
22 that property developed and developed within the
23 laws and regulations of the city and done well,
24 and welcome new neighbors. There is nobody in

1 this room that is going to deny that is what we
2 want.

3 But, what we want to happen is we want
4 it to happen within the rules and regulations
5 that we see before us in the Comprehensive Plan
6 and additionally within the laws and
7 regulations, which have to do with why this
8 permit has been so stalled. This needs to be
9 fit all into the rules that we all play by.

10 COMMISSIONER MILLER: One final
11 question. So, how long -- is the property
12 currently -- is that property, Lot 94, currently
13 vacant or is it occupied?

14 MR. SPERRY: It is vacant.

15 COMMISSIONER MILLER: How long has it
16 been vacant?

17 MR. SPERRY: He bought it in June 2013.
18 There were renters or people living in it that
19 were family members of the previous estate that
20 sold this property, and they were in there on
21 and off very regularly, so I would say that it
22 has been vacant since June of 2013, maybe May of
23 2013 when the estate sale or whatever that was
24 began.

1 COMMISSIONER MILLER: Are the other 13
2 properties all occupied currently?

3 MR. SPERRY: Yes, sir.

4 COMMISSIONER MILLER: Okay, thank you
5 very much.

6 CHAIRMAN HOOD: Any other questions?
7 Commissioner Turnbull.

8 COMMISSIONER TURNBULL: Yeah, I just
9 have a couple of comments, Mr. Chair. Mr.
10 Sperry and Mr. Ward, thank you for being here
11 tonight, and as a neighbor in the area, speaking
12 for the architect of the Capitol. We always
13 appreciate people coming forward and looking
14 out. We try to be a good neighbor. I know
15 sometimes we don't always succeed with you
16 folks, but as Commission Miller said, we have a
17 big Comprehensive Plan issue here, and there is
18 a consistency issue at stake. So, I think you
19 made a very good case. I think the only thing
20 that -- the one issue is the one property, which
21 we will resolve as we go ahead, but this is the
22 only square like this that has this C2A, that is
23 mixing up the R4 blend that you know of, or...

24 MR. SPERRY: I believe there is one

1 additional -- I have scoured the maps on your
2 website, and I have found one additional, and it
3 is far north, and it is right on Bladensburg
4 Road, I believe. That is the only one I have
5 seen because I looked for something similar. It
6 is, I don't know how far from this, but would
7 say two miles, three miles. That is the only
8 one I found.

9 COMMISSIONER TURNBULL: Okay. Alright,
10 well again I just want to reiterate. I want to
11 thank you for coming here and bringing this
12 along with OP to our attention, so thank you
13 again.

14 MR. SPERRY. Thank you.

15 CHAIRMAN HOOD: Can you remember where
16 it was on Bladensburg Road? I'm just curious.
17 Was it up near New York Avenue?

18 MR. SPERRY: I believe it was, yes, sir.

19 CHAIRMAN HOOD: Okay, alright, okay.

20 COMMISSIONER MAY: Can I ask a question?
21 I mean, the question was where are there other
22 spots of C2A surrounded by R4?

23 CHAIRMAN HOOD: Um-hum.

24 COMMISSIONER MAY: Oh, there is one

1 right up 15th.

2 MR. SPERRY: I misunderstood the
3 question because I thought the question he was
4 asking was subdivided squares.

5 COMMISSIONER MAY: Oh, I'm sorry.

6 COMMISSIONER TURNBULL: A similar
7 arrangement where we have a mix.

8 COMMISSIONER MAY: Yeah, right up 15th
9 at 15th and Florida, there is a cluster that
10 takes up, I think, probably three squares of C2A
11 and the majority of it is still residential, but
12 there is a little bit of commercial there. It
13 is where, what do they call it, the Capitol Hill
14 Oasis buildings are. Those very large
15 townhouses right up 15th.

16 MR. SPERRY: Okay, I stand corrected,
17 and I defer to your expertise on that.

18 COMMISSIONER MAY: I only happen to know
19 that because somebody asked me a question about
20 it, and I have looked it up on the map. But, it
21 is somewhat similar because it is all otherwise
22 R4 all around it.

23 CHAIRMAN HOOD: Okay, any other
24 questions? Commissioner Miller.

1 COMMISSIONER MILLER: I'm sorry, I
2 forgot to ask one question. This square is one
3 block away from Capitol Hill Historic District,
4 is that correct?

5 MR. SPERRY: Yes, sir.

6 COMMISSIONER MILLER: I was just
7 wondering, has the ANC explored expanding the
8 Historic District, or what briefly is the status
9 of those discussions in the community?

10 MR. SPERRY: Actually, I think it would
11 be better if I defer because I know that there
12 are members of the Capitol Hill Restoration
13 Society that would probably have the very
14 latest, if that is okay.

15 CHAIRMAN HOOD: Any other questions? I
16 think, Mr. Sperry, the bottom line is, I think,
17 I don't want to talk about a project, because
18 this is not a project that is basically in front
19 of us. I know there is something looming out
20 there, and typically in a rezoning, we don't
21 talk about projects. So, I'm not going to talk
22 about any projects.

23 What I want to talk about is the C2A
24 that is coming to R4. A simple question. From

1 what I gather from everything -- when I looked
2 at the photographs, I said, here is another
3 consistency issue here in the city that we need
4 to deal with. I think the case was made. I
5 think the record is complete for me. I do want
6 to hear from the opposition, of course, because
7 there is always an issue about the government
8 being predictable, and I think it's predictable
9 because right now is going on the way we
10 understand it, as my colleague has already
11 mentioned.

12 At the end of the day, I think the
13 community, from what I read, is basically just
14 trying to preserve and protect the character.
15 Would that be a fair assessment?

16 MR. SPERRY: Yes, sir.

17 CHAIRMAN HOOD: That's all I need to
18 know. Okay, any other questions up here?
19 Alright. Let's go to, you know what, we don't
20 do a lot of these rule-makings. I'm used to
21 contested, you know, battles. I have to figure
22 out what we do next. Office of Planning, let's
23 go to Office of Planning. Okay.

24 MS. RAPPOLT: Good evening, Megan

1 Rappolt with the Office of Planning. The Office
2 of Planning continues to stand on the record, we
3 believe this application is consistent with the
4 Comprehensive Plan for some of the reasons that
5 were just mentioned, primarily the character,
6 the moderate density, so we will continue to
7 stand on the record.

8 CHAIRMAN HOOD: Okay, thank you, Ms.
9 Rappolt. Any questions of Ms. Rappolt, anyone?
10 Vice Chair Cohen.

11 VICE CHAIR COHEN: Thank you, Mr.
12 Chairman. I think you can anticipate -- what
13 have you found out from DCRA?

14 MS. RAPPOLT: Sure, I spoke with the
15 zoning administrator and his counsel yesterday
16 afternoon about the status of the building
17 permit, and it is my understanding that the
18 building permit is, in essence, on hold, and the
19 plans are rejected or refused. So, it is my
20 understanding that, and that is the way the
21 zoning administrator's counsel is interpreting
22 the regulations. So, the permit -- it is not
23 necessarily active, but it is sort of shelved,
24 and the plans have been rejected. So, they

1 could then submit other plans.

2 VICE CHAIR COHEN: The plans are
3 rejected based on technical deficiencies like
4 engineering?

5 MS. RAPPOLT: I believe the engineer's
6 license has been revoked by DC, and so the stamp
7 itself is what is the problem on the plans.

8 COMMISSIONER MAY: I guess in other
9 words, based on what you are telling us, we can
10 assume that the permit application is still
11 somehow active in the system, and their ability
12 to continue with the C2A designation for the
13 property remains alive, at least for the moment.

14 MS. RAPPOLT: It would remain until you
15 would take action, and then there would be a
16 period of anywhere between 30-60 days afterward.

17 COMMISSIONER MAY; Right, thank you.

18 CHAIRMAN HOOD: Any other questions of
19 Office of Planning? Commissioner Miller.

20 COMMISSIONER MILLER: Thank you, Mr.
21 Chairman. For Map Amendments, unlike PUDs and
22 other BZA cases, there is no direct notice
23 requirement to the property owners in the
24 regulations or is there?

1 MS. RAPPOLT: Let me defer to the Office
2 of Zoning for that answer.

3 COMMISSIONER MILLER: Okay, is there
4 any, you know, in Zoning Commission PUD cases
5 and in other cases before the BZA that we
6 consider the applicant has a responsibility to
7 notify the owners within 200 feet of the
8 property that is being affected by the zoning
9 action or Proposed Zoning Action. In Map
10 Amendments, we don't have that requirement, do
11 we?

12 MS. SCHELLIN: No, but the property has
13 to be posted.

14 COMMISSIONER MILLER: Every property, so
15 all 14 of the properties are posted.

16 MS. SCHELLIN: Correct.

17 COMMISSIONER MAY: Okay, thank you.

18 CHAIRMAN HOOD: Any other questions?
19 Okay. Do we have any other reports from any
20 other government agencies? I don't believe so.
21 Let's go to report of -- well, in this case,
22 we've already had the report of ANC because ANC
23 is the petitioner. Okay. Mr. Ward, did you
24 have anything you wanted to ask?

1 MR. WARD: Not at the moment.

2 CHAIRMAN HOOD: Okay. Let's go to
3 organizations and persons in support. Does
4 anyone want to testify on this case tonight in
5 support? Okay, we do have some letters. Okay,
6 Mr. Peterson, you can come on up. Anyone else?
7 You can come on up. We do have a number of
8 letters in support in the file. Ms. Schellin
9 went to get the witness list for me, but I don't
10 think I need that now. Anyone else who would
11 like to testify in support? Okay. Let's start
12 with you, Mr. Peterson.

13 MR. PETERSON: Thank you, Mr. Chairman.
14 I am Gary Peterson. I am Chair of the Capitol
15 Hill Restoration Society Zoning Committee and
16 the Restoration Society supports the zoning
17 change or the Map Amendment. Two things. There
18 was a question about what is being done about
19 creating additional Historic Districts. I think
20 I can safely say that the CHRS has done all of
21 the research and done all of the reports
22 necessary to turn almost all of Capitol Hill
23 into a Historic District. We are, however,
24 working with the ANCs and want the ANCs to be

1 the person who makes the application. Right
2 now, there is one application for the squares
3 abounded by F Street, H Street, Northeast Second
4 Street, and Fourth Street. There are four
5 squares that are being considered right by the
6 HPRB. I anticipate that in the future there
7 will be additional squares where those would be
8 part of the Capitol Hill Historic District or
9 their own Historic Districts. We take no
10 position on that. We just like to see something
11 done with them.

12 In regard to the question on the car
13 barns, that was subject to a zoning case in
14 1978. That was rezoned from CM1, which is an
15 industrial zone, to the current zoning. The
16 CHRS supported that zoning provided that the
17 building that was built complied with the plans
18 that the applicant had on file. The tallest
19 structures are approximately 40 feet. They are
20 three stories, and there is nothing remarkable
21 about the heights of the buildings considering
22 the area. That property is also Landmark, so
23 any changes would be problematic, and we don't
24 anticipate any anytime soon.

1 Then, there was a question about C2A.
2 Actually, there is a lot of C2A zoned on 15th
3 Street, starting in southeast midway down 15th
4 between A and Independence. It is zoned C2 on
5 both sides of the street, and it is zoned from
6 there all the way down to roughly E Street
7 Southeast, and it really a band. It doesn't
8 take the whole square in either case. It just
9 comes down as a band all the way down, and
10 actually that is referred to in the
11 Comprehensive Plan as well as needing to be
12 rezoned R4, and I don't know why that hasn't
13 been done. I don't know if you can take this up
14 on your own motion, but it seems to me that it
15 is right for the same process. There is,
16 indeed, some C2A, actual C2A in that location.
17 That is all I have to say. I am happy to answer
18 any of your questions.

19 CHAIRMAN HOOD: Okay, thank you. Next.

20 MS. ALCORN: My name is Sara Alcorn. I
21 live at 31 15th Street Northeast. I am here in
22 support of the Amendment as well for the reasons
23 that Mr. Sperry stated. I wanted to raise three
24 points that were raised in questions. The first

1 is about this process being midstream. We all,
2 as Todd said, live in an area that appears, for
3 all intent and purposes, to be R4. If you take
4 a look at the street scape in the pictures that
5 he gave you, you do a 360 around, everything
6 looks R4. We all bought our homes thinking it
7 was R4 because it is a residential row-home
8 neighborhood. We weren't aware that it was C2A,
9 until we found out that someone was trying to do
10 something different out of scale with our
11 neighborhood. As Todd said, no one is here
12 attacking a particular development, we just want
13 to keep it within the scale and nature of our
14 neighborhood.

15 To respond, I think, to the question
16 about it being out of character, in the Office
17 of Planning's report on Page 7, they put
18 together a great chart, which sort of explains
19 the plans in comparison with the R4, F5, C2A
20 designation. I am not sure, I am not an expert,
21 I have seen the plans, but I am not even sure it
22 says -- the plans say that they were 49.9, but
23 our understanding, actually, is that in looking
24 at the plans based on the way that the street

1 scape is, that those are actually exceeding C2A.
2 So, I'm not sure that is the right figure
3 there, but what does remain when you look at the
4 chart is that since we are all R4 in character,
5 anything above a 3-story, 40-foot street scape
6 would be out of scale. We are not opposing any
7 sort of development within that type of
8 designation. We just want to make sure that
9 everyone stays within what the rest of us look
10 like.

11 The last thing I wanted to raise was, I
12 am not, again, an expert in permitting or
13 anything of that nature, but I, myself, did
14 speak today with Council Member Allen's Chief of
15 Staff, who informed us actually that the
16 building permit, application, had been rejected
17 rather than the plans being rejected, that it
18 was actually the application was rejected. So,
19 there is no, as I understand it from Council
20 Member Allen's staff, there is no actual
21 application pending. Thank you.

22 CHAIRMAN HOOD: Thank you. Next.

23 MR. ALCORN: Great. Thank you to the
24 Commission. My name is Brian Alcorn. I am the

1 spouse of Sara, and we both live at 31 15th
2 Street Northeast. I wanted to say that I think
3 that Todd and Sara have made both good points.
4 To fill in some of the questioning from
5 Commissioner Cohen, you asked us, or Todd, to
6 think a little bit more creatively about what
7 building might be acceptable within the lot at
8 Lot 94 at 1511A. Notwithstanding that the
9 permit, you know, was not issued and not
10 withstanding that the plans apparently have been
11 rejected by the city, I really would not want to
12 critique that building other than to say and
13 echo what Todd observed, that when the community
14 became aware a proposed development was going in
15 there, we became aware that C2A zoning applied
16 at that time. Sort of peeling back the layers
17 of the onion, we discovered that it was an
18 excessive, a 5-story or taller building that was
19 occupying a significantly large lot, but the
20 building was just completely out of scale. In
21 my estimation, I would say potentially 2
22 stories, 2-1/2 stories, maybe even taller than
23 the existing properties, you know, on that
24 square.

1 I believe, Commissioner Turnbull, you
2 raised a question about C2A zoning in other
3 parts of the city or on Capitol Hill. I would
4 like to say that as Gary had mentioned, there
5 are some instances of that on Capitol Hill;
6 however, I would like to point out that within
7 Square 1070, our square, we believe it is a
8 completely unique situation that half of -- the
9 square is half divided between C2A and R4, and
10 that is a bit of a quirk.

11 Aside from that, again, I would just
12 like to thank the Commission for hearing us on
13 these issues. The community is obviously very
14 interested in this issue. We have a lot of
15 community support here to show that, you know,
16 we are concerned about our neighborhood both
17 scale as well as livability, and I would like to
18 say personally, as a homeowner, you know, I am
19 asking the Commission to take this action
20 voluntarily. I understand that there could be
21 financial implications for me, as a homeowner, I
22 am selling a property that is zoned C2A versus
23 R4, and I realize that, you know, I am in some
24 ways wanting to do this for the community, but I

1 believe that, you know, our property should fit
2 into the neighborhood street scape as the street
3 scape exists today.

4 We are not asking for anything different
5 other than to recognize those 14 properties that
6 are currently residential use, maintain them,
7 and recognize them R4 residential use, and
8 we're, you know, we're asking that the other
9 properties on the square that are currently
10 zoned C2A and have a history of commercial use
11 that is demonstrated remain that way, and I
12 thank you.

13 CHAIRMAN HOOD: I want to thank you all.
14 Is there anyone else in the audience who would
15 like to testify in support? Okay. Colleagues,
16 any questions of this panel? Commissioner
17 Miller.

18 COMMISSIONER MILLER: Thank you, Mr.
19 Chairman, and thank you all for your testimony.
20 I appreciate it. I really don't have a
21 question for any of the witnesses, but I do have
22 a comment and a request to the Office of
23 Planning since there is conflicting verbal
24 testimony about the status of the building

1 permit application. I understand what you said
2 to be different than what has been represented
3 by a couple of the neighbors. So, I think we
4 need something in writing from the executive,
5 whether it is you, your office, or the zoning
6 administrator, preferably, I guess, that the
7 application is or is not pending in their
8 office. That's all.

9 CHAIRMAN HOOD: Thank you. Alright, any
10 other questions? We appreciate your testimony.
11 Thank you for coming down. Okay, I did see one
12 hand in opposition. Anyone who is opposition,
13 you can come forward. Is there anyone else here
14 in opposition? Okay. Let me just ask, Mr.
15 _____, are you still the ANC Commissioner?

16 SPEAKER: (OFF MICROPHONE)

17 CHAIRMAN HOOD: Okay, yeah. Right,
18 okay, I was just curious. Okay, thank you.
19 Okay, anyone else in opposition? Okay, you can
20 introduce yourself, and you may begin.

21 MR. DEMUREN: Good afternoon. My name
22 is Taiwo Demuren. I own 57th Street Mews, Inc.
23 I own the property on Lot 94. I have a
24 statement that I wanted to read. I don't know

1 if I can give copies to...

2 CHAIRMAN HOOD: Pass it to Ms. Schellin.

3 We'll stop the clock, and you can pass it to
4 Ms. Schellin.

5 MR. DEMUREN: Good afternoon, again,
6 Chairperson and members of the Board. This
7 letter is written in reference to the request
8 for Amendment for the list of properties in ZC
9 No 14-20 filed by the ANC 6-A subject to public
10 hearing before the Commission today. My name is
11 Taiwo Demuren, and I am the sole officer of 57th
12 Street Mews, Inc., and owner of 1511 A Street
13 Northeast, which is property legally described
14 as Lot 94 in the records of the DCRA office.
15 Although I have had a formal notice of the
16 impending action, I did not receive formal
17 notice of this impending action from the Office
18 of Zoning, as required by pertinent regulation.
19 Although 57th Street Mews, Inc.'s business
20 address is in public record, I have refrained
21 from rejecting to the Proposed Map Amendment as
22 relates to my property on the basis of competent
23 zoning advise and lately zoning administrator's
24 confirmation that the downzoning does not

1 retroactively apply to the proposed development
2 of my property in accordance with the vesting
3 provisions of the zoning regulations, for which
4 permit issuance has been pending since June
5 2013, close to two years since applying for a
6 building permit. There is no gainsaying in
7 stating that ANC 6A's motivation in filing this
8 request for a Map Amendment is the objective of
9 permanently frustrating the pending project,
10 which is the matter of right development of my
11 property into an 18-unit for sale condominium
12 dwelling units under its current zoning C2A zone
13 district. In the belief that a proposed, more
14 restrictive zone district can be made
15 retroactively applicable, this conclusion is
16 underscored by ANC 6A's letter to DCRA, which I
17 have attached to the letter.

18 My meeting with ANC 6A and related
19 correspondents aggrieved/concerned neighbors and
20 the Office of Planning's lack of definitive
21 response to specific questions posed by Chairman
22 Hood and at least two other members in the cause
23 of the setdown hearing relating to the vesting
24 provisions of the zoning regulations as they

1 apply specifically to the pending projects on my
2 property.

3 The Commission rightfully pointed to the
4 fact that all stakeholders in the District,
5 citizens, homeowners, investors, and developers
6 and like must have confidence in the protection
7 of their investment based on the subsisting and
8 current zoning of properties they invest in and
9 the potential thereof.

10 Without prejudice to the merit of
11 Proposed Map Amendment, as it affects all other
12 stakeholders, post Map Amendment. Such agenda-
13 driven and ad-hoc approach to rezoning
14 properties in the District does not serve the
15 purpose and intent of the zoning regulations and
16 zoning maps, nor the District's economic
17 development interests.

18 It is public record that I paid \$1.5
19 million to acquire the subject property on July
20 2, 2013, and incurred approximately \$250,000 in
21 close to two years and counting that it has
22 taken to advocate or obtain a permit from DCRA,
23 although I am glad to say for the record that
24 the zoning administrator has finally approved

1 the project for zoning.

2 The purpose of my written submission and
3 testimony given of the foregoing is to put in
4 the public domain for prosperity's sake the
5 definitive position of the Zoning Commission on
6 the applicability of the vesting provisions of
7 the zoning regulations in this circumstance to
8 discourage this single agenda and ad-hoc
9 approach to the amendment of the DC zoning map.

10 To this end, I hope that the Zoning
11 Commission will compel the Office of Planning to
12 provide a more definitive and conclusive
13 testimony to the record than preferred in the
14 letdown hearing. In the alternative, perhaps
15 counsel for the Zoning Commission will avail the
16 Zoning Commission on the applicability of the
17 vesting provisions as future guidance to all
18 interested parties. Thank you for the
19 opportunity to testify and accepting this letter
20 to the case file. Respectively, Taiwo Demuren,
21 President of 57th Street Mews, Inc.

22 CHAIRMAN HOOD: Okay, thank you. Have
23 you finished?

24 MR. DEMUREN: Yeah, I finished.

1 CHAIRMAN HOOD: Let's see if there are
2 any questions up here. Okay. I'm not seeing
3 any.

4 COMMISSIONER TURNBULL: I have just one.

5 CHAIRMAN HOOD: Commissioner Turnbull.

6 COMMISSIONER TURNBULL: Do you have a
7 document from the zoning administrator approving
8 your project?

9 MR. DEMUREN: I have a copy of the
10 permit tracking status, which I printed and
11 pulled up today.

12 COMMISSIONER TURNBULL: I mean an
13 approval.

14 MR. DEMUREN: Yes, it shows the zoning
15 status in approval on the zoning review section.
16 I don't know if, you know, it's public
17 information. I pulled it from the D.C. website
18 for each particular property that is on permit
19 status. There is a -- each reviewer states
20 either reject, approve, and it states the dates
21 when they reviewed it and their comments on
22 there. On the zoning section, it shows it was
23 approved by the zoning technician originally. I
24 can read that out to you. The zoning

1 technician, whose name was Mamodou Ndaw approved
2 this project on September 23, 2014, and the
3 zoning administrator, Mr. Matthew LeGrant
4 decided on October 9 to re-review it, and on
5 March 6, the zoning administrator states in the
6 comments section that the zoning administrator
7 found the plans met all applicable zoning
8 requirements and reinstates 9-23-2014 prior
9 zoning approval. So, that's, and he put in the
10 zoning review approved on March 6, 2015, Matthew
11 LeGrant, with his E-mail.

12 CHAIRMAN HOOD: Okay, do we have that
13 for the record? Is that in with what you
14 submitted to us?

15 MR. DEMUREN: Well, I didn't because it
16 is -- I can -- I only have a copy I can give
17 you.

18 CHAIRMAN HOOD: I think we'll go back to
19 what Commissioner Miller asked for. We will get
20 it from Office of Planning, and we will get it
21 another way, but we will have it in front of us.
22 Any other questions? Okay, I do want to say
23 this to you. I want to make sure that you
24 understand the comments that, well, you call it

1 the letdown hearing. I guess, is that what it
2 is, the letdown hearing, or were you trying to
3 be funny, or?

4 MR. DEMUREN: No, sir. I want to make
5 another comment.

6 CHAIRMAN HOOD: I mean, it's setdown
7 hearing. You said letdown, so I figured we let
8 you down.

9 MR. DEMUREN: Oh, it must have been a
10 typographic error.

11 CHAIRMAN HOOD: I thought you were
12 trying to be funny, the letdown hearing. Okay,
13 okay. So, you weren't being sarcastic. Okay.
14 Go ahead and finish your comment.

15 MR. DEMUREN: I just found out about
16 this today.

17 CHAIRMAN HOOD: Okay, I understand,
18 about this hearing?

19 MR. DEMUREN: Yes, sir. I just found
20 out about this today.

21 CHAIRMAN HOOD: You got your testimony
22 and stuff together very quick. Okay, but
23 anyway, go ahead and make your comment.

24 MR. DEMUREN: My zoning consultant, Mr.

1 Toye Bello, is out of the country at this time.

2 That is why he hasn't been able to come with
3 me. He got, from what I understand, he got an
4 E-mail late last night that I did not see until
5 today, and I had to get together all this
6 information to be able to be here at 6:30 today.

7 Also, I know the board was asking the neighbors
8 a couple of questions about us meeting them. If
9 you don't mind, I can give you our perspective
10 of what happened.

11 CHAIRMAN HOOD: Okay, well, if the
12 Commissioner who asked that doesn't have a
13 problem and wants to hear your side, if they
14 interrupt me and say no, but you can go right
15 ahead as far as I'm concerned.

16 MR. DEMUREN: Okay, in March, I believe
17 it was March of 2014, whereby all the
18 disciplines at DCRA had already approved the
19 plans apart from the zoning, it was Washington
20 Post reported and contacted us about a meeting
21 at the ANC that they were going to discuss our
22 project, and we went to the meeting. I, myself,
23 with Mr. Bello went to the meeting.

24 At the meeting, it was decided that we

1 would meet on a subsequent date at the residence
2 of one of the neighbors, and we met at the
3 meeting. What we left with at the meeting was
4 that there was going to be a representative that
5 was going to be contacting Mr. Bello so as to
6 exchange communication, and we already mentioned
7 at the time that we were willing to go with what
8 the neighbors are talking about with the
9 character, but on that particulate date, nobody
10 could definitively tell us what the character
11 they are looking for is. So, the individual
12 that was, because Mr. Bello is the one handling
13 it, so I don't know the individual's name, but
14 the individual or neighbor who is the point of
15 contact was supposed to get together with the
16 neighbors and see the particular character they
17 were looking for and get that information to us
18 so that we could amend the façade to fit the
19 character.

20 Now, we now found out, I believe Mr.
21 Bello found out on April 19, the ANC wrote a
22 letter to Mr. LeGrant, the zoning administrator,
23 because he was the only one reviewing at that
24 time, the permit, sort of like letting him know

1 not to approve the permit. That is in layman's
2 words, and then, I believe, Mr. Bello also
3 contacted the individual and said, "Oh, we're in
4 communication but we found out there is another
5 back door letter going to the zoning
6 administrator." So, we found out there was
7 another letter on May 10. So, that is when,
8 after the May 10 letter from the ANC to the
9 zoning administrator, that is when he sent the
10 letter to the representative that what we do is,
11 we know you are already talking to the zoning
12 administrator, we will let you do what you want
13 to do, we will get the approval from DCRA, and
14 then the façade or the character that you want
15 us to do, we'll sit down with you and then talk
16 about that. So, that's what happened then.

17 But, in the letter that I presented to
18 you now, in the last two pages, we just found
19 out, which I saw today, that the ANC on
20 September 29, 2014, sent a letter to the
21 Director of DCRA, Mr. Rabbiah Sabbakhan, to
22 suspend processing of the construction permit
23 because everybody keeps saying it's taking so
24 long, we don't know what's going on. These are

1 the roadblocks that we had. As of March, if you
2 look at the permit status, which is on the DCRA
3 website, and if you look at the tracking of it,
4 as of March 2014, the only testing that was left
5 to approve our drawings was just zoning.
6 Everybody else had approved it, electrical,
7 plumbing, mechanical, Department of
8 Transportation, Department of Environment,
9 everybody had approved it, and structural. The
10 only person left was your zoning as of March
11 2014. So, since then is where we have been
12 having, we believe, political pressure on DCRA
13 to frustrate getting us a permit.

14 CHAIRMAN HOOD: Can I ask you, besides
15 what you had on the website, is there somewhere
16 in this letter you submitted to me all those
17 approvals?

18 MR. DEMUREN: No, I didn't think when I
19 was writing this letter to include these
20 approvals, so when I was coming, I didn't have
21 time to make more copies. I just came in just
22 after 6:30.

23 CHAIRMAN HOOD: Well, I'll tell you, I
24 noticed that you mentioned me and two other of

1 my colleagues. At least, my standpoint is when
2 we do these kind of cases, we want to make sure
3 that first of all everyone is notified for the
4 most part, and also that there won't be any
5 surprises when it's done. That's basically, I
6 don't want you my comments or anyone's comments,
7 at least mine, out of context. But, for me,
8 when I look at the merits of the case, and there
9 is some more information, I think, that this
10 Commission may need before we move further, but
11 when I look at the merits of the case, I think
12 there is a case made, and it would be a strong
13 lift for me to reverse what I see here as far as
14 the merits of the record. But, there is some
15 information that has been asked for that I would
16 like to see also because the government should
17 be predictable. But, the question is, how far,
18 how long, or how far down the pipe had this
19 gone, or did it go anywhere. As stated, I think
20 we've heard maybe three or four different,
21 three, okay, if we keep going, we may hear four.
22 I can tell you that I think there is a case
23 made, and I'm being frankly honest. So, it
24 won't be no surprise when we take this up unless

1 some information changes. All that about Mr.
2 Bello and all that, I mean, that's great, but
3 again, I'm looking at the character and what's
4 being requested. I also want to make sure that
5 predictability is fair if you had already
6 started something down the pike also. So, there
7 are a number of competing factors for me. But,
8 I think it's a lift to go back to reverse what
9 I'm thinking now unless something comes into
10 this record that is different from what I see
11 here tonight, okay? That's my, that's just one
12 Commissioner's opinion, okay? Commissioners,
13 any other quick comments or questions?
14 Commissioner Miller.

15 COMMISSIONER MILLER: Yeah, just a
16 couple of brief comments to Mr. Demuren.
17 Regarding your comments in your letter that you
18 read regarding the vesting provisions. I would
19 direct you, if you haven't already, looked at
20 the Office of Planning's more recent report,
21 which is Exhibit 20, which states what the
22 applicability is of the C2A zoning, if there is,
23 in fact, a pending building permit application.
24 So, I would just direct you to the Office of

1 Planning's report dated March 9, I believe,
2 which is Exhibit 20 of this case.

3 Regarding the notice of this hearing to
4 you, I would direct you, if you haven't already
5 seen, Exhibit 19, which is the affidavit of
6 posting, which purports to show a placard of
7 Zoning Commission Hearing notice on your
8 property, and as the Office of Zoning secretary
9 testified earlier, that it was required in this
10 case that each of the 14 properties have a
11 posting of the hearing a certain number of days
12 before the hearing, 40, and this affidavit was
13 submitted on February 5 of this year. So, I
14 just wanted to direct you to the zoning case
15 file for that information.

16 CHAIRMAN HOOD: Any other questions up
17 here? Does the ANC, oh no, we don't do cross-
18 examine. Okay, alright. Well, thank you very
19 much. We appreciate your testimony.

20 MR. DEMUREN: Is there any other
21 documentation you want us to provide?

22 CHAIRMAN HOOD: We're getting ready to
23 talk about that now. You're not getting ready
24 to leave, are you?

1 MR. DEMUREN: No, no, I'm here.

2 CHAIRMAN HOOD: Okay, because I want to
3 make sure you hear exactly what is getting ready
4 to be said.

5 MR. DEMUREN: Yes, sir.

6 CHAIRMAN HOOD: Okay, this is it. Okay,
7 closing from the petition. We do these like
8 once every so often, and I can't remember. Now,
9 if it's contested, I can do it off the top of my
10 head. Okay.

11 MR. SPERRY: I won't take up any more of
12 the Commissions time. I will say that basically
13 the written testimony that I put into the
14 record, I would hope that you would check that
15 out, and that is a much more detailed account of
16 everything going on with our Map Amendment
17 request, and I would just hope that you would
18 take a look at that. So, thank you very much,
19 again, for your time.

20 CHAIRMAN HOOD: Okay, thank you.
21 Commissioners, are there any follow-up question?
22 Okay, Commissioners, we have some stuff that we
23 have asked for. I'm not sure what your pleasure
24 is. I'm not sure if we want to wait on anything

1 before we start deliberating and make a final
2 decision, but anyway, let me open it up and hear
3 some comments.

4 VICE CHAIR COHEN: I think, Mr.
5 Chairman, we need to really find out what the
6 actual status of the DCRA approval process is
7 before we can really deliberate on this, at
8 least, I need to have that in hand.

9 CHAIRMAN HOOD: Okay, any other
10 comments? Commissioner May.

11 COMMISSIONER MAY: Yeah, I don't know if
12 this is necessarily a majority vote kind of
13 thing, but I'm comfortable moving forward
14 because I think the case has been made that the
15 area in bulk should be rezoned to R4 consistent
16 with the Comprehensive Plan. I realize that
17 there is one property in question, but a permit
18 has been applied for, and if it is, in fact, a
19 valid permit and it goes through, our action
20 won't have any affect on that, and I think that
21 this is, you know, this is a case where we
22 should -- there is no -- I don't really
23 understand whether there is any sort of downside
24 to us moving forward today. you know, if we

1 find out later on something is different, I mean
2 we do have, this does require two votes, so we
3 can consider it later on if we want to take some
4 different action or defer taking Final Action,
5 but really, the case has been made.

6 As the Chairman said before, it is hard
7 to see how any of the information that we have
8 requested would actually persuade us that this
9 should not be approved. It may effect one
10 individual property, but it certainly wouldn't
11 slow me down from moving forward immediately.

12 CHAIRMAN HOOD: Okay, anyone else? Mr.
13 Turnbull.

14 COMMISSIONER TURNBULL: Yeah, thank you,
15 Mr. Chairman. I agree with both yourself and
16 Commissioner May. I think it is a clear
17 Comprehensive Plan issue. It is a consistency
18 issue. I think the ANC and the neighbors have
19 made a clarified debt in my mind, and I think it
20 is a conservation issue for our poor
21 neighborhood. As Commissioner May talked about
22 the one property, I am ready to go ahead with
23 this.

24 CHAIRMAN HOOD: Okay, anyone else?

1 Commissioner Miller.

2 COMMISSIONER MILLER: I would agree that
3 we can move forward. I think it is a strong
4 Comprehensive Plan zoning consistency case, and
5 I think I would like to get that information
6 that we requested in between the Proposed Action
7 and before we go to Final Action because, just,
8 I think we need, I think, not that it would be
9 persuasive, but I think we need to know the
10 status of the -- or confirmation that there is
11 a pending building permit application or not.
12 But, otherwise, I am prepared to move forward.

13 CHAIRMAN HOOD: Okay. Vice Chair Cohen.

14 VICE CHAIR COHEN: I just wanted to
15 state that I am confused about should we move
16 forward -- I thought we were going to do the
17 whole area, and again, we can learn about the
18 status of the one block or site. So, I'm okay
19 with moving ahead too.

20 CHAIRMAN HOOD: Okay, so with that, why
21 don't we carry a motion. It sounds like this is
22 going to be approved, because we have two votes,
23 right? Then, before the second vote, whatever
24 information we have, as Commissioner May said, I

1 don't think it's going to be enough to change
2 anything, and if it is already in the pipeline,
3 what I actually hear tonight, would not affect
4 that to begin with. So, would somebody like to
5 make a motion?

6 COMMISSIONER TURNBULL: Mr. Chairman, I
7 would make a motion that we approve Zoning case
8 #14-20 ANC 6A Map Amendment at Square 1070,
9 rezoning it from C2A to R4, and I am not going
10 to mention all the appropriate lots. Well, I
11 guess I can: Lots 38, 39, 73-76, 80-86, and 94.
12 Up for a second.

13 COMMISSIONER MAY: Second.

14 CHAIRMAN HOOD: Okay, it has been moved
15 and properly seconded. Any further discussion?
16 All those in favor?

17 (A chorus of ayes.)

18 CHAIRMAN HOOD: Any opposition? I am not
19 hearing any. Ms. Schellin, would you please
20 record the vote.

21 MS. SCHELLIN: Yes, staff will record
22 the vote 5-0-0 to approve Proposed Action Zoning
23 Commission Case #14-20, Commissioner Turnbull
24 moving, and I thought I heard Commissioner May

1 second that first. There were two of them, but
2 I thought I heard him jump in first, and then
3 Commissioners Hood, Cohen, and Miller in
4 support. I wrote down that the Commission
5 wanted to have the Office of Planning check with
6 DCRA and get something in writing regarding the
7 status of Lot 94 and other than that, the record
8 would be closed. Is that correct?

9 CHAIRMAN HOOD: Let's see, is that all
10 we needed, Commissioners? Okay.

11 MS. SCHELLIN: Okay.

12 CHAIRMAN HOOD: Alright. Anything else,
13 Ms. Schellin?

14 MS. SCHELLIN: No, sir.

15 CHAIRMAN HOOD: Okay, I am going to
16 thank everyone for their participation tonight,
17 and I hope everything works out. With that,
18 this hearing is adjourned.

19 (Whereupon, at 7:43 p.m., the meeting
20 was concluded.)

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