

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

+ + + + +

PUBLIC HEARING

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-----:
IN THE MATTER OF: :
 :
High Street, LLC :
Map Amendment : Case No. 18-10
@ Square 5799, Lot 976 :
 :
2352-2360 High Street, S.E. :
-----:

Thursday,
March 21, 2019

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

The Public Hearing of Case No. 18-10 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, Chairperson
ROBERT MILLER, Vice Chairperson
MICHAEL G. TURNBULL, FAIA, Commissioner (AOC)
PETER G. MAY, Commissioner (NPS)

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary

OFFICE OF PLANNING STAFF PRESENT:

JOEL LAWSON
STEPHEN MORDFIN

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MAXIMILIAN TONDRO, ESQ.

The transcript constitutes the minutes from
the Public Hearing held on March 21, 2019.

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

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P-R-O-C-E-E-D-I-N-G-S

6:39 p.m.

CHAIRMAN HOOD: Good evening, ladies and gentlemen. This is a public hearing of the Zoning Commission for the District of Columbia. My name is Anthony Hood, and we're located in the Jerrily R. Kress Memorial Hearing Room. Today's date is March the 21st, 2019.

Joining me this evening are Vice Chair Miller, Commissioner May, and Commissioner Turnbull. We're also joined by the Office of Zoning staff, Ms. Sharon Schellin, as well as the Office of Attorney General staff, Mr. Tondro, as well as the Office Planning, Mr. Lawson and Mr. Mordfin.

This proceeding is being recorded by a court reporter and is also webcast live. Accordingly, I must ask you to refrain from any disruptive noise or actions in the hearing room, including display of any signs or objects.

Notice of today's hearing was published in the DC Register, and copies of that announcement are available to my left on the wall near the door.

The hearing will be conducted in accordance with provisions of 11Z DCMR, Chapter 5 as follows, preliminary matters, presentation by the Petitioner in this case, and then we'll have a report by the Office of Planning, reports of other government agencies, report of the ANC, organizations and persons in support, organizations and

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1 persons in opposition, organizations and persons who are
2 undeclared.

3 The following time constraints to be maintained
4 in this meeting, the Petitioner has up to 60 minutes, but I
5 think that we have read all the submissions, one is kind of
6 outstanding that we need to deal with -- organizations, five
7 minutes, individuals three minutes.

8 All persons wishing to testify before the
9 Commission at this evening's hearing are asked to register
10 at the witness kiosk to my left and fill out two witness
11 cards. These cards are located to my left on the table near
12 the door. Upon coming forward to speak to the Commission,
13 please give both cards to the reporter sitting to my right
14 before taking a seat at the table.

15 When presenting information to the Commission,
16 please turn on and speak into your microphone first stating
17 your name and home address. When you are finished speaking,
18 please turn your microphone off so that your microphone is
19 no longer picking up the sound of background noise.

20 The staff will be available throughout the hearing
21 to discuss procedural questions. Please turn off all
22 electronic devices at this time so not to disrupt these
23 proceedings.

24 Before I go forward with Ms. Schellin asking for
25 any preliminary matters, I do want to thank everyone in this

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1 case. This case was moved from Monday to tonight for various
2 reasons. We needed to attend the State of the District.

3 And I'll be very honest, we're part of the city
4 as well, and we need to know what's going on. So I
5 appreciate your indulgence and any apologies for any
6 inconvenience. And I wanted to make sure I said that to you,
7 Mr. Washington, especially.

8 MR. WASHINGTON: Okay.

9 CHAIRMAN HOOD: Thank you for understanding. I
10 didn't ask you did you understand. I said I'm going to say
11 thank you though. I'm assuming that you understand, so I'll
12 just leave it at that. And you can let me know later when
13 you see me around town.

14 At this time, the Commission will consider any
15 preliminary matters. Does the staff have any preliminary
16 matters?

17 MS. SCHELLIN: No, sir.

18 CHAIRMAN HOOD: Okay. We will begin -- do we
19 need to deal with --

20 MS. SCHELLIN: I'm sorry, just their expert
21 witnesses. I forgot about that.

22 CHAIRMAN HOOD: Okay. All right, let's go.

23 MS. SCHELLIN: Mr. Dettman, he's been accepted
24 before, but just if the Commission would choose to accept him
25 in this case?

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1 CHAIRMAN HOOD: I don't think we usually revisit.
2 Have your credentials, have you changed your credentials?
3 Have you had anything taken away?

4 (No audible response)

5 CHAIRMAN HOOD: Okay, so I don't think we would
6 do anything on that.

7 Anything else, Ms. Schellin?

8 MR. FREEMAN: We also have Ms. Nicole White. We
9 don't expect her to testify but --

10 CHAIRMAN HOOD: Yeah, but we've already proffered
11 her previously. Anybody that we have not proffered?

12 (No audible response)

13 CHAIRMAN HOOD: Okay. Can you all give me one
14 minute? Mr. Tondro?

15 (Pause)

16 CHAIRMAN HOOD: Give me one moment. I am trying
17 to come up to speed on something that was just given to us.
18 And just give me one moment, please.

19 (Pause)

20 CHAIRMAN HOOD: Again, as I stated in other
21 hearings, when we get last minute submissions, we do have
22 jobs. And when we get the last minute submission on our way
23 over here to do this job, we do have a submission that I've
24 been made aware.

25 I think, Ms. Schellin, you can correct me, on

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1 Exhibit 36 from Mr. Ari Theresa. And I would have to ask to
2 make sure I pronounced it correctly.

3 And we have made a determination, I guess, about
4 a year or so ago that this would be, whenever we did it, I
5 think September, in September of 2018, that this case will
6 be a rulemaking.

7 Now, all of sudden, I think six or seven months
8 later, and even later than that, shortly before we came out,
9 I'm notified. When I look in the record I see the addition
10 which says that this should be a contested case.

11 We decided that, but we will be considerate of
12 anything that's given to this Commission and any requests.
13 We will hold that in abeyance, and I will give parties or
14 anyone the opportunity to respond if they would like, as we
15 continue to deal with this again.

16 This seems to be a pattern. It seems to be about
17 five minutes or ten minutes before we walk out here we get
18 something to respond to. And we actually need to do some
19 regulation on the next one. Because we need to be afforded
20 the opportunity to be able to make informed decisions.

21 But I think right now we will hold that in
22 abeyance and give everyone the chance to respond to that.
23 Okay. Anything else, colleagues, on that?

24 (No audible response)

25 CHAIRMAN HOOD: Okay, Mr. Freeman.

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1 MR. FREEMAN: Good evening. And for the record,
2 my name is Kyrus Freeman with the law firm of Holland and
3 Knight here on behalf of the Petitioner. I am joined by, to
4 my immediate left, Joe Gaon, an associate with our firm,
5 Shane Dettman, as you know, our zoning and land use expert,
6 and most importantly our client, Adrian Washington, on behalf
7 of High Street, LLC.

8 We will be brief. I'll just talk through a couple
9 of points, and Mr. Dettman, Mr. Washington, and Ms. White
10 will make themselves available to answer any questions.

11 As the Commission is aware, we have fought a
12 petition to amend a zoning map to rezone the property from
13 the R-3 District to the RA-2 District. This is a Zoning
14 consistency case which the Commission stated, and is aware,
15 and stated at set down.

16 It's not a review of particular plans, it's not
17 a review of a particular project. But it is an analysis of
18 whether and how to request a map amendment.

19 It is not inconsistent with the Comp Plan, the
20 future land use map, or the generalized policy map. It
21 advances the purpose of the Comp Plan and other District
22 policies. It complies with the guide and principles in Comp
23 Plan, and furthers a number of major elements of the Comp
24 Plan.

25 I will submit that our evidence of record clearly

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1 indicates that we meet all standards for the map amendment
2 application. We're happy, as I'm sure the Commission is
3 aware, that the Office of Planning submitted two reports,
4 dated September 7th and December 3rd, agreeing and confirming
5 that the petition meets the applicable map amendment
6 standards.

7 DDOT submitted a report indicating that --
8 recommending approval of the application. And most recently,
9 on March 12th, the ANC unanimously voted to support and
10 recommend approval of the application.

11 So we believe that the record is thorough and
12 clearly indicates how the application meets the requirements.

13 In lieu of Mr. Dettman testifying, I have
14 submitted his testimony. You have that in front of you. In
15 response to a recent filing today, we got an additional
16 letter from DHCD, which you should have in front of you,
17 indicating that, just reconfirming that DHCD is not the
18 Petitioner. High Street, LLC, is the Petitioner, and that
19 the project is important in order to help fulfill the
20 District goals and plans with respect to increasing housing
21 and affordable housing throughout the District which, I know,
22 you heard a lot about on Monday at the State of the District.

23 Can I respond to the submission by CARE at this
24 point? I think CARE essentially makes two points, one that
25 the property should -- this case should be a -- I read their

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1 submission to say that this case should be a contested case
2 since it was filed by DHCD.

3 Again, the letter indicates that DHCD is not the
4 Applicant. This petition was not filed by a public agency
5 and thus is not required to include multiple properties.
6 H&K, Holland and Knight, we don't represent DHCD.

7 And if you look at their authorization letter,
8 which is in the record, it clearly states that the
9 authorization is contingent. And if certain things happen
10 their authorization is null and void. So this case, again,
11 we don't represent DHCD. The Petitioner is High Street, LLC.

12 I think their second argument, I should also say
13 this application falls under Section Sub-title Y 201.7(b).
14 Since it was filed by a private entity, and the Petitioner
15 does not own all the property included in the application,
16 the Zoning Commission, in fact, has applied this standard in
17 a number of Zoning Commission cases recently, 18-19, 19-03,
18 17-27, 17-17.

19 So although this argument may be kind of new, the
20 Zoning Commission has consistently treated these types of
21 cases as rulemakings.

22 And in fact, as the Zoning Commission is likely
23 aware, on Monday you will be reviewing a text amendment filed
24 by the Office of Planning, Case 1905, which clarifies and
25 codifies that map amendments, particularly those not involved

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1 in PUDs, are rulemakings and not contested cases.

2 So I think the Board's prior actions and the text
3 amendment that you'll be hopefully setting out on Monday
4 includes clarification that rulemakings are, in fact, that
5 map amendments are rulemakings.

6 I think the other argument that I do want to make
7 sure I highlight, I think the letter suggests that somehow,
8 by setting this case down as a rulemaking, I will quote, that
9 it caused people who would have normally opposed the project
10 to not participate. The actual facts and record demonstrate
11 that this argument is is flawed.

12 First of all, the Petitioner participated in 17
13 community meetings in canvassing (phonetic) dates. I could
14 submit a list of them, but they range from May 29, 2018, all
15 the way through March 5th, 2019, at which point the ANC voted
16 to recommend approval of the case. So any assertion that
17 there wasn't adequate public engagement is clearly not true.

18 As you know, Commissioners, we deferred our
19 hearing date from December 13th to March, so three additional
20 months. And as we said in the letter, that was for
21 additional community engagement which ultimately was
22 essential, because the ANC voted unanimously to support the
23 project.

24 I would note this seems to be a continual
25 argument, that if people knew they would have opposed it.

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1 But again, the facts here don't support that conclusion.

2 There was a transcript that was uploaded at 5
3 o'clock. I'm not quite sure what the -- it was just
4 uploaded. There was cover letter, there was no indication
5 of what the purpose of the transcript was for. That
6 transcript was from a DHCD hearing in November of 2018.

7 As it relates to CARE's position that people
8 thought it was a done deal and would have shown up if they
9 knew, if you read that transcript, ten people, a number of
10 people came and testified in support and opposition of the
11 project variously.

12 So people clearly are aware of this. People
13 clearly have been expressing their opinion in public forums.
14 And in fact, you'll see there're people here tonight.

15 I would note, if you look at Page 49 and 51 of
16 that transcript, Mr. Theresa, who now opposes the project,
17 on Page 49 says, and I quote, I think that this project is
18 a decent project. I have seen projects come up all over the
19 city, and I haven't seen very many projects that are truly
20 mixed income, and this is one.

21 Further down, he says, so, you know, I want to
22 applaud DHCD, you know, for doing this. I can't think of any
23 time I've ever done that. I mean, you guys have been on my
24 hitlist for a while. But I think that this project, in
25 consideration of everything else that's happened in the

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1 neighborhood, I think it's reasonable.

2 So that was what he said in November 2018. Now
3 we're hearing that folks haven't had an opportunity to
4 express their feelings about the project.

5 CHAIRMAN HOOD: And let me just ask, what page is
6 that you read on?

7 MR. FREEMAN: I'm reading the transcript that was
8 uploaded.

9 CHAIRMAN HOOD: Right.

10 MR. FREEMAN: I think it was broken up into two
11 different packets.

12 CHAIRMAN HOOD: I just want it for the record.

13 MR. FREEMAN: Page 49.

14 CHAIRMAN HOOD: I looked at the transcript --

15 MR. FREEMAN: Sure.

16 CHAIRMAN HOOD: I just want the page number.

17 MR. FREEMAN: I was reading starting on Page 49,
18 50, through 51.

19 CHAIRMAN HOOD: I'll tell you that Maximillian
20 Tondro is on the ball. Thank you.

21 MR. FREEMAN: So again, the argument that folks
22 haven't had an opportunity to learn about or talk about the
23 project is directly contradictory to the materials that
24 someone just submitted this afternoon.

25 CHAIRMAN HOOD: So, Mr. Freeman, let me just say

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1 this, and I hate to interrupt your presentation. But your
2 responses in a sound bite one-pager would be very helpful as
3 we do that.

4 MR. FREEMAN: And I am -- with that, I'm actually
5 going to conclude that if you look at their submissions,
6 there's nothing in their submission that says anything about
7 how this application is inconsistent with the Comprehensive
8 Plan, which is what this case is all about.

9 CHAIRMAN HOOD: But I think, okay, thank you, Mr.
10 Freeman. I hate to keep interrupting, but that you. You
11 rattled off some things that we need to really look at.

12 MR. FREEMAN: Sure.

13 CHAIRMAN HOOD: And if you could just condense
14 that, we don't need a --

15 MR. FREEMAN: Sure.

16 CHAIRMAN HOOD: -- 20-pager, just a one-pager will
17 be very helpful, on the highlights of the issues that were
18 raised in Mr. Theresa's statement.

19 MR. FREEMAN: Absolutely.

20 CHAIRMAN HOOD: That would be helpful.

21 MR. FREEMAN: I'm happy to submit what I just --

22 CHAIRMAN HOOD: Do you have it in that -- oh, you
23 have that?

24 MR. FREEMAN: Yeah.

25 CHAIRMAN HOOD: Oh, okay. If you could submit

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1 that for the record, that would be sufficient.

2 MR. FREEMAN: Yeah, yeah. I'm happy to get that
3 in the record.

4 CHAIRMAN HOOD: All right. So thank you all for
5 your presentation. Mr. Washington, you didn't want to add
6 anything? Are you fine?

7 MR. WASHINGTON: No.

8 CHAIRMAN HOOD: Since you had to wait two or three
9 more days.

10 MR. WASHINGTON: Okay. But actually, you know,
11 Chairman Hood, I was out of town. So actually the delay was,
12 it was --

13 CHAIRMAN HOOD: So I can save the apology for
14 another time.

15 MR. WASHINGTON: Okay. But no, thank you. I just
16 want to say a couple of things. Thank you for your time.
17 I know how hard you all work on this. And so we appreciate
18 being here. I've been, you know, before the Commission many
19 times. Hopefully you know our work, providing hundreds of
20 units of both market rate and affordable housing in the city.

21 This project is a continuation of that work. We
22 think it's a project that is very worthwhile. It is moderate
23 density. It is mixed income, it's on a vacant lot. And we
24 just think it's a very exciting addition to what the District
25 is trying to do in many regards.

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1 And just, you know, not to overly echo what Mr.
2 Freeman said, but we've worked extensively with the
3 community. And I really have to applaud my team. They spent
4 many, many nights at formal community meetings, they spent
5 many days at informal community meetings, they've walked the
6 streets, they know it. One of my staff members intends to
7 live in the neighborhood. He's looking to buy a house there.

8 We've been very invested in making sure that we
9 have reached out to the community. The project has been
10 altered quite a bit through community input. It was larger,
11 we listened to them, we made it smaller. There was less
12 parking, we listened to them, we provided more parking. The
13 design was something that people wanted to, you know, they
14 had their own input on it. And we listened to that.

15 So we take very seriously the concerns of the
16 community. We work very hard. We got a unanimous ANC
17 support and support of many other people as well. So we
18 understand your concerns. Your concerns are our concerns.
19 And we think this is a project that the vast majority of the
20 community does support.

21 CHAIRMAN HOOD: Okay, thank you all for your
22 presentation and responses. Let me see if there are any
23 questions or comments up here?

24 Vice-Chair Miller?

25 VICE CHAIR MILLER: Thank you, Mr. Chairman. And

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1 thank you for your presentation and for all the community
2 outreach that the development, well, that the Petitioner did
3 with the community, particularly ANC 8A.

4 So I see in our record, and maybe you alluded to
5 this, that we have a resolution from ANC 8A signed by
6 Chairman Prestwood in support saying the ANC unanimously
7 voted to support the Petition, conditioned upon the
8 development's commitment to do certain things. And I think
9 there are 13 or 14 different things.

10 And then also in our record is the Memorandum of
11 Understanding which memorializes those 14 or so commitments,
12 and it's signed by both Adrian Washington and the ANC 8A.
13 So the question is, we see that you made this commitment,
14 could you speak to that commitment and its enforceability?

15 MR. FREEMAN: Sure.

16 VICE CHAIR MILLER: It's the map amendment that
17 we normally don't do, conditions associated with a map
18 amendment. So as you said, it's a consistency case.

19 MR. FREEMAN: So in my experience, what the
20 Commission does is they, you know, Mr. Washington signed the
21 MOU. He's committed to those things. But typically, in a
22 map amendment order, it's not -- I haven't seen MOUs as
23 conditions in a map amendment order.

24 So for the record, we're committed to do that.
25 But in all the other map amendments I've handled before the

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1 Commission, the Commission has routinely said that MOUs and
2 CDAs are not enforceable through the map amendment process.
3 But again, he's fully committed to abiding by the terms of
4 that MOU.

5 And as you look at it, all of those conditions
6 relate to the building that will be built if the map
7 amendment is approved which, as you know, Commissioner
8 Miller, we're not in a map amendment, we're not looking at
9 a building. We're looking at consistency with the
10 Comprehensive Plan, future land use map, and other applicable
11 policies. But again, he's fully committed to all of those
12 conditions in the MOU.

13 VICE CHAIR MILLER: Right. And I understand and
14 agree with everything you've said about the map amendment
15 process. Is it enforceable through another process?

16 MR. FREEMAN: So I don't want to get kind of too
17 far down the road. But I will say that they don't own the
18 property, so they will have to make certain representations
19 and reach certain agreements with DHCD consistent with DHCD's
20 expectations about what will result as a result of this
21 disposition. So there will be additional agreements that
22 incorporate relevant information from this MOU.

23 VICE CHAIR MILLER: Say that again, I'm sorry.

24 MR. FREEMAN: So for example, the AMI levels, that
25 would be subject to a DHCD affordability covenant. The

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1 number of units, the building form, all of that will be
2 subject to an agreement that High Street will enter with
3 DHCD.

4 MR. WASHINGTON: And, you know, I know this isn't
5 a legal term but, I mean, we have a long track record both
6 in the District and working with DHCD. We have a track
7 record of working in nearby communities. We want to continue
8 to work with DHCD and nearby communities.

9 So for us not to follow this would be just, you
10 know, it'd be suicidal. I mean, it would just be terrible
11 business and terrible ethics. And also though, we like --

12 VICE CHAIR MILLER: I'm glad to hear that, I mean,
13 and I agree with you that that is the most enforceable --

14 MR. WASHINGTON: Right.

15 VICE CHAIR MILLER: -- is when you next have to
16 come before us or that ANC.

17 MR. WASHINGTON: And also, I mean, this is not the
18 market rate project where bigger is better and you make more
19 money. I mean, we have an agreement with DHCD. It's set,
20 we like this project, we think it's the right size.

21 The community did a great job in helping us shape
22 something that's appropriate. And it's not a situation where
23 we'd want to do something, you know, bigger and better. This
24 is the right project.

25 VICE CHAIR MILLER: There's an existing agreement

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1 with DHCD that memorializes some of these commitments?

2 MR. WASHINGTON: There is a, what's the status of
3 our agreement?

4 (Off the record comments)

5 MR. WASHINGTON: There is a draft PDA which
6 incorporates AMI levels and the project size, and the number
7 of units that --

8 VICE CHAIR MILLER: Realizing it's -- well, I
9 think it might be helpful to add that into the record.

10 MR. FREEMAN: I don't know that we could submit
11 that at this point.

12 VICE CHAIR MILLER: Because it's a draft.

13 MR. FREEMAN: Right. And again, I think, as it
14 relates to map amendment standards, I'm not sure that -- I
15 appreciate the question. I'm not minimizing your question.
16 I've never done that in any other map amendment case.

17 VICE CHAIR MILLER: Never submitted a draft
18 agreement --

19 MR. FREEMAN: No, sir.

20 VICE CHAIR MILLER: -- between DHCD and the --

21 MR. FREEMAN: No, sir. Primarily because that
22 agreement has a lot of confidential information that we
23 wouldn't necessarily want in a public record. And there's
24 nothing in that agreement that relates to a map amendment.

25 VICE CHAIR MILLER: Okay. And I understand all

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1 that. So I don't want to draw this out, but I just have one
2 final question. So, I mean, we have seen in other map
3 amendment cases, I believe, an MOU like the one you have but
4 which did have -- I mean, I don't know if you represented the
5 Petitioner in those cases.

6 But I think I recall one from ANC 3 that was made
7 with ANC 3E, I believe, where there was an enforceability,
8 kind of a private right of action provision built right into
9 the MOU that was signed by the potential developer and the
10 ANC.

11 And in another case, I believe, there was a
12 covenant that was entered into by, you said, the petitioners,
13 or Mr. Washington's not the owner right now. But there was
14 a covenant in that case, I believe, and someone can correct
15 me if I'm wrong, between the owner of the property and the
16 -- to record against the land, the conditions that the
17 community was seeking in that particular case.

18 MR. FREEMAN: I'm not aware of those as a map
19 amendment. So I will just say, as it relates to zoning
20 issues, those will all be within an agreement with DHCD that
21 will ultimately be recorded in the land records.

22 So for example, AMI levels, building form,
23 parking, like, most of these issues in terms of it's for
24 sale, it's going to have condos, most of that will be in an
25 agreement with DHCD with covenants recorded in the land

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1 records -

2 VICE CHAIR MILLER: So that would be a disposition
3 agreement?

4 MR. FREEMAN: Yes.

5 VICE CHAIR MILLER: And so that will go before the
6 Council or no?

7 MR. FREEMAN: I don't know. Does this -- yes.

8 VICE CHAIR MILLER: So there's another body --

9 MR. FREEMAN: Yes.

10 VICE CHAIR MILLER: -- that will be looking to see
11 if the commitments that are being made are being -- and
12 what's the timing on that, or what do you hope to be if we
13 move this forward in a timely manner?

14 MR. FREEMAN: Let me ask Diarra McKinney who's
15 with Neighborhood Development to answer that question. I'm
16 not --

17 CHAIRMAN HOOD: If you want to, you can come to
18 the table and identify yourself or you can respond. You can
19 actually have a seat, man, there's plenty of seats here. We
20 want to make you comfortable.

21 MR. MCKINNEY: Hi, my name is Diarra McKinney.
22 For the record, I'm a vice president of Neighborhood
23 Development Company. I've been working on this project since
24 January of 2018.

25 We recently went through a similar process. It

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1 was not a zoning process but a disposition process on another
2 DHCD site. So that timeline is really driven by
3 negotiations of the Property Disposition Agreement. We have
4 a draft right now.

5 Assuming that the project is approved at the
6 Zoning Commission, we will then finish that draft with the
7 DHCD. DHCD then puts together a package, submits that to the
8 Mayor's office which then gets submitted to City Council.

9 There is a, I believe it's a 60-business day
10 period in which the Council has the opportunity to take up
11 a vote. If that vote is not taken, the project is -- or the
12 PDA is deemed approved after that 60-day wait and see period.

13 VICE CHAIR MILLER: Thank you all for your answers
14 to my questions and for your presentation.

15 CHAIRMAN HOOD: Okay, Mr. Turnbull?

16 COMMISSIONER TURNBULL: Thank you, Mr. Chair. I
17 just have a question for Mr. Dettman.

18 I know we talk about compliance with the Comp
19 Plan, and the FLUM, and the generalized land use map. I
20 wonder if you could, for the record, just talk to the concern
21 that may be out there. I mean, you've got an RA-2 that
22 you're proposing in CLR-3. There's an RA-1 off to the side,
23 but this RA-2 is not adjacent to that RA-1. It's going to
24 be in the middle of R-3.

25 Could you talk to why you think this is not spot

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1 zoning?

2 MR. DETTMAN: Certainly. So, Commissioner
3 Turnbull, when you look at the future land use map it's
4 moderate density residential which then, under the framework
5 element in terms of zones that are considered to be
6 compatible with the moderate density residential land use
7 designation, RA-2, or the former R-5B, is expressly stated
8 as being considered compatible with the moderate density
9 residential land use designation in certain locations. So
10 if you look at it, that's why --

11 COMMISSIONER TURNBULL: In certain locations?

12 MR. DETTMAN: Yeah. So if you look at the chart
13 that's attached to my testimony, which was also attached to
14 DCOP's report, that was something that we prepared, we took
15 a look at the surrounding development context to see, you
16 know, what is the prevailing development pattern in the
17 areas.

18 There's a lot of, as you mentioned, R-3. There's
19 also RA-1 that's in the area. But if you look at the actual
20 development pattern, you'll find that there are many multi-
21 family apartment buildings in the immediate and further out
22 surrounding area, generally around the range of, say, 35
23 feet, that have been around for quite some time.

24 In fact, this is a site that used to have three
25 three-story apartment buildings on it up until 2013. So it

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1 even has a history of accommodating apartment buildings on
2 the site.

3 We think that the RA2 -- the problem with the R-3
4 site, which allows 40 feet and three stories, is it doesn't
5 allow multi-family. We think that the RA-2 is the right
6 zone, because from a use perspective we're able to get the
7 multi-family use in there.

8 And also, it allows us with a little bit of lot
9 occupancy so we can spread out a little bit more and reduce
10 the height of the building, per the agreement with the ANC,
11 to a height that's actually compatible with not only the
12 prevailing development pattern but also what's even allowed
13 as a matter of right under the existing zoning.

14 COMMISSIONER TURNBULL: Okay, thank you.

15 CHAIRMAN HOOD: All right, any other questions or
16 comments?

17 (No audible response)

18 CHAIRMAN HOOD: Okay. Let's go to the Office of
19 Planning. Mr. Mordfin?

20 MR. MORDFIN: Good evening, Chairman and members
21 of the Commission. This map amendment application, which is
22 a request to rezone the property from R-3 to RA-2, was set
23 down by the Commission at its September 17th, 2018, meeting.

24 At that meeting, the Commission requested the
25 Applicant reach out to the ANC regarding any concerns

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1 regarding the mixing of apartments with single family
2 detached and attached housing.

3 The Applicant met with the ANC on March 5th, 2019,
4 at which time the ANC voted to support the application. The
5 Commission also requested the Applicant submit drawings of
6 potential buildings that could be constructed on the site
7 should the application be approved.

8 However, as the request is for a map amendment and
9 not a PUD, there are no drawings. Instead the Applicant
10 submitted a photographic survey of the surrounding
11 neighborhood depicting the variety of housing types existing
12 within the community.

13 OP continues to find the application to be not
14 inconsistent with the Comprehensive Plan as it would allow
15 for the development of a vacant, District-owned lot within
16 one half mile of a metro Station as an apartment building.
17 Therefore, OP recommends the Commission approve the
18 application. Thank you.

19 CHAIRMAN HOOD: Okay. I want to thank you, Mr.
20 Mordfin, with the Office of Planning's report.
21 Commissioners, any questions of Office of Planning?

22 (No audible response)

23 CHAIRMAN HOOD: Okay. Other government agencies,
24 I think we've already mentioned. To exhaust, to a point, the
25 DHCD letter, we do have a letter from the ANC. And I think

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1 that has been mentioned and discussed. And it's already been
2 noted for the record that the Applicant agrees to everything
3 that's in some of those articles.

4 (Off the record comments)

5 Okay. Oh, let me see, is the Chair or Vice-Chair
6 here?

7 (Off the record comments)

8 CHAIRMAN HOOD: Is the Chair or Vice-Chair here?
9 They didn't designate anyone, did they.

10 (Off the record comments)

11 CHAIRMAN HOOD: Do we have that? I mean, I'm
12 going to bring you up, but I just want to make sure we -- do
13 we have that?

14 Well anyway, let me back up and finish my point.
15 We do have an ANC letter which is in support. It's already
16 been noted that the Commission has already --

17 (Off the record comments)

18 CHAIRMAN HOOD: Excuse me, excuse me, excuse me?
19 Excuse me. Excuse me. Okay, so why don't we just cool down,
20 and settle down. I know issues are hot. Believe me, I'm
21 involved, I'm here all the time. So let's just settle down,
22 and let's respect each other.

23 If you're on one side, let's respect each other.
24 If nobody wants to hear from you, don't talk to them. Let's
25 do that, I think. My ears are big enough, I heard that. So

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1 let's respect each other. All right?

2 All right. We don't have the letter, but I know
3 Chairman Prestwood would not mind me bringing one of his
4 colleagues up, I don't believe. So I'm going to go ahead and
5 do that. But let me just finish.

6 It was already stated by Mr. Freeman that the
7 Applicant agrees to everything in the letter. So even though
8 it's not part of our process, I think the record is complete.
9 I mean, it shows, if it is ever challenged, it shows that
10 this is the consensus of the Applicant.

11 So if you can come up, I'm not sure, I've seen you
12 before, and forgive me for not remembering your name, but if
13 you can come up, Commissioner, and identify yourself.

14 And let the record reflect I don't see anything
15 in the record which designates, unless you're the vice chair,
16 and are you the vice chair?

17 MS. AGYEI: No, I'm the secretary.

18 CHAIRMAN HOOD: You're the secretary. So
19 typically what our rules are, you have to be either the
20 chair, or the vice chair, or have to be appointed. And it
21 needs to be done in writing.

22 But let's forget all that now. I'm going to just
23 forgo that rule this time, because maybe I don't know what
24 happened to Chairman Prestwood.

25 (Off the record comments)

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1 CHAIRMAN HOOD: Yeah, they can follow-up and say
2 that they give you authorization to represent tonight. Could
3 you turn your microphone on. Identify yourself first, and
4 then if you can help us with all that.

5 MS. AGYEI: Dorcas Agyei, I'm Commissioner of
6 8A05. The actual project is an 8A06. I'm not sure where
7 that commissioner is. But I will be speaking on behalf of
8 the ANC as well as some of the concerns of my constituents.

9 And for the record, it's very important that some
10 of the questions that were asked here are fleshed out.
11 Because the only reason that I voted for the project, and a
12 lot of my colleagues voted for the project, is because it did
13 come down in scope.

14 I am the one that submitted the hearing testimony,
15 because I believe that you all need to hear what the
16 residents say. I don't know why that was not submitted to
17 the hearing, but I believe all hearings where the public
18 comes out and testifies should be submitted so you all can
19 see what the temperature is and what people say.

20 Initially, that hearing was on November 11th. I
21 opposed the project at the time, as well as a lot of others,
22 because of the scope of the project. At that time, we were
23 told it was 52 units.

24 I believe the document that you all have and
25 originally read, the project was actually 60 units. It's now

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1 what we agreed upon. The project is going to be 28 units.

2 I was comfortable with that scope, because the
3 said that they would work with the residents to make the
4 exterior of the buildings look and conform with the
5 residential area.

6 The initial picture, what am I trying to say, the
7 initial picture and sketches that they presented at the 11th
8 -- November 5th public hearing did not match at all with what
9 the existing homes were in the area.

10 They agreed to work with the community to make
11 something that was more in scope. Even though it's not in
12 a historic district, they border a historic district. And
13 they agreed to work with the community to make it flesh and,
14 you know, conform, and not take away from the existing homes.
15 We agreed to that. That's another reason why the ANC
16 unanimously voted for it.

17 As you can imagine, it takes a lot for people to
18 agree when they're on different sides of a project. We
19 agreed to that because they were going to bring down the
20 scope. They were going to do additional traffic studies,
21 they were going to increase parking. And we felt that they
22 were listening to the needs of the community, and we wanted
23 to work with them in good faith. That's why we agreed on all
24 of that.

25 One of the concerns I did have is that, since this

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1 is actually map amendment, does this actually go specifically
2 to the project, which is why we agreed to it, because they
3 said that they would build the 28 units.

4 But a concern that we had, and what you brought
5 up, was how was this going to be enforceable? Because one
6 of the issues was DHCD would not sign a letter stating that
7 they agreed to the 28 units. So that is still something that
8 we're concerned about as a Commission, because we have been
9 burned before when we thought the project was going to be one
10 thing, but it turned out being another.

11 So I definitely want to make sure that, you know,
12 the developer is saying they're willing to do the 28 units,
13 DHCD in the hearings are saying that they agree to the 28
14 units, so if there is a way for us to enforce that in a
15 binding documents that they submit when they actually get the
16 permits and everything, the paperwork, that would be
17 appreciated.

18 And I am going to pass it off now to the
19 Commissioner that's actually involved with this project.

20 CHAIRMAN HOOD: So let me, before we --

21 MS. AGYEI: Yes?

22 CHAIRMAN HOOD: -- go to the Commissioner Jones,
23 I think I've seen you recently, so before we go to
24 Commissioner Jones, let me just ask this question.

25 MS. AGYEI: Yes.

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1 CHAIRMAN HOOD: You mentioned a hearing on
2 November the 11th?

3 MS. AGYEI: Yes. No, November the 5th -- 11th,
4 I'm sorry, November the 5th which is what the hearing that
5 -- that's the transcript that was uploaded at 5 o'clock,
6 actually it was at 4:00.

7 CHAIRMAN HOOD: Was that our proceeding or was
8 that another proceeding?

9 MS. AGYEI: No, this was an open hearing hosted
10 by DHCD. The developer was there as well as the Commissioner
11 at the time, Greta Fuller. And the residents came.

12 CHAIRMAN HOOD: Okay. So while we appreciate that
13 that's another proceeding, we're dealing with the land use --

14 MS. AGYEI: Right.

15 CHAIRMAN HOOD: -- basically, here and how, you
16 know, the map amendment. So, I mean, I think it's good, but,
17 you know, you're asking us to do something with somebody
18 else's proceeding, unless I missed the point.

19 MS. AGYEI: You're misunderstanding why I uploaded
20 it.

21 CHAIRMAN HOOD: Help me get to --

22 MS. AGYEI: I definitely will, because I'm showing
23 you how the Commission got to where we got to.

24 CHAIRMAN HOOD: Okay.

25 MS. AGYEI: We contested the project at that time,

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1 because it was 52 units. We agreed to the project now
2 because it's 28 units.

3 CHAIRMAN HOOD: Okay.

4 MS. AGYEI: And that's reflected in the complaints
5 that you'll see in the hearing.

6 CHAIRMAN HOOD: Okay, so you're not asking us to
7 do anything?

8 MS. AGYEI: No.

9 CHAIRMAN HOOD: Okay. I was thinking you were
10 asking us to show how it was enforceable. So you were giving
11 us some background as to --

12 MS. AGYEI: I was.

13 CHAIRMAN HOOD: Well, let me just say this. I
14 really appreciate it. I thought there was an ask for us with
15 the DHCD proceeding. But let me, first of all, thank you.
16 I appreciate the -- bringing us up to speed on that.

17 MS. AGYEI: There's not an ask for you to rule on,
18 but there is a request that you read the hearing, and you see
19 the views of the neighborhood, and you take in mind that,
20 when hearings come before you, a lot of the time the people
21 that voice their opinion don't always make it here.

22 So just because you don't see someone in front of
23 you does not mean that they did not care, and they didn't,
24 you know, have an opinion on the project.

25 CHAIRMAN HOOD: I'm sure. You know, in my

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1 neighborhood, and I tell my neighbors all the time, you might
2 not make it downtown. So I'm in those ANC meetings when I'm
3 not here. I'm in those civic meetings. I'm in those civic
4 engagement groups as well. So I understand that fully.

5 But let me make an ask of you. And I know that
6 this came in, I don't know when it came in, but for me, it
7 would be helpful. And I'm not -- sometimes when you give us
8 that stuff, which is very appreciative from my standpoint,
9 I'm sure others do as well, I would like to have a chance to
10 really digjest and look into that.

11 And I have not been afforded the opportunity that
12 you asked me to, even though I will, but I have not been
13 afforded. So if you could give me a little more time to be
14 able to read this document, this transcript, I would actually
15 like to see how it proceeds. So what I'm actually doing is
16 commending you and thanking you for giving that to us.

17 MS. AGYEI: Right. And had this been my project,
18 you would have gotten it earlier, but it's not my project.

19 CHAIRMAN HOOD: Oh, okay.

20 MS. AGYEI: But there are some last minute
21 actions, and I felt that I needed to upload it.

22 CHAIRMAN HOOD: Okay, all right. Well, whoever's
23 listening out there, and whoever streamed, it's noted that
24 we are very much interested in it.

25 And like I said the other night in another case,

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1 we don't live somewhere else. We live here too. We're in
2 some of these ANC and community meetings as well. And we
3 also take part in that as well. So thank you.

4 MS. AGYEI: You're welcome.

5 CHAIRMAN HOOD: Commissioner?

6 MR. JONES: Thank you. So I have prepared a
7 statement.

8 CHAIRMAN HOOD: Oh, that's right. We may have
9 some questions for you. You can hold your seat. I'm sorry.

10 MR. JONES: Chairman Hood and commissioners, my
11 name is Tyron Jones, and I am an Advisory Neighborhood
12 Commissioner for 8A06. I'm joined here today by Commissioner
13 Agyei, 8A05, who may also provide comments, which I think she
14 provided first, regarding Case Number 18-10.

15 At our regularly scheduled meeting on March 5th
16 with a quorum of seven commissioners, ANC 8A voted
17 unanimously to support the zoning map amendment to rezone
18 properties located at 2352 through 2360 High Street, SE,
19 Square 5799, Lot 976, from the current R-3 zone to the RA-2
20 zone.

21 After looking at the project holistically, taking
22 in perspective from the community, the developer, and the
23 Department of Housing and Community Development, myself, and
24 the Commission believe that Applicant's petition will further
25 facilitate the development of mixed income home ownership

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1 options in our community.

2 The RA-2 zoning map amendment will permit matter
3 of right development of multi-family residential housing.
4 And this amendment supports the District Comprehensive
5 Development Plan for the area by providing moderate density
6 housing in the community.

7 Moreover, in collaboration with the Department of
8 Housing and Community Development, the R-2A zoning map
9 amendment will help meet the District goal of providing
10 affordable housing and offering home ownership to more
11 residents.

12 The developer and the Neighborhood Development
13 Corporation has committed and have shown their commitment to
14 work with the community to ensure the project aligns with the
15 residents' desire to preserve the neighborhood's historical
16 character and provide amenities that the entire community can
17 benefit from.

18 I'll also add that the developer, outside of the
19 MOU, has committed to other community requests including
20 looking at additional onsite parking spaces during the design
21 process. And they have stated that they are open to
22 including in the site in the Historic District.

23 ANC 8A supports this condition upon the commitment
24 agreed to by the developer in the Memorandum of Understanding
25 that has been submitted with the support letter and agreed

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1 to by the developer.

2 In closing, while we still see the map amendment
3 as a route for developers to go around the community while
4 infringing on the community, this developer has shown his
5 willingness to work with the community on a project that we
6 all can support.

7 We are here today standing with the developer as
8 they request this map amendment, because we have no doubt
9 that this developer plans to good neighbor. Thank you.

10 CHAIRMAN HOOD: Okay. I want to thank both
11 commissioners. And as you were reading, I also was thinking
12 about what Commissioner Agyei had done. And I really
13 appreciate it. So I was able to it put in context. And I
14 really was serious about what I said about submission. I was
15 able to put in context what you said, thanks to her showing
16 me what the concerns were. And I kind of briefly looked at
17 some of it. That's why I had a chance -

18 So I was able to put all that, even though it
19 might have come in different order, I was able to put it all
20 back together with the community, how you got to where we
21 are, how you got consensus, and how to scale down, and how
22 you got the support. So I appreciate both commissioners.

23 Let me see if there's any questions up here.
24 Any questions or comments?

25 (No audible response)

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1 CHAIRMAN HOOD: Not hearing any, thank you all for
2 all the work that you do. Appreciate it.

3 Okay, so I'm going to go to organizations and
4 persons who are here in support. Do we have any
5 organizations or persons who are here in support?

6 (Off the record comments)

7 CHAIRMAN HOOD: Support, okay. Anybody who
8 supports the project, I mean, not the project, because we're
9 not talking about a project, the map amendment? I'm getting
10 confused myself. There's no project in front of us.

11 (Off the record comments)

12 CHAIRMAN HOOD: Ronald Thompson? So let me be
13 clear. Because I say this all the time. Here I am, there's
14 no project in front of us, okay. So you may begin?

15 Anyone else who's here in support?

16 (No audible response)

17 CHAIRMAN HOOD: Okay, you may begin. Turn your
18 mic on, identify yourself.

19 MR. THOMPSON: My name is Ronald Thompson, Jr.
20 I'm a resident of ANC 8A04 which is adjacent to, in part,
21 somewhat 8A06. So this project, I walk past the project.
22 I've seen the site.

23 My name is Ronald Thompson, Jr. I am 21 years
24 old. I prepared this testimony in preparation of the earlier
25 date of Monday. So I now, I've been 21 for four, three days

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1 or something like that. But I've been 21 for a few days.
2 And I've lived my entire life in the District of Columbia in
3 Ward 8.

4 Combining the ages of my parents and I, I have
5 over 100 years of experience living in the District. And
6 adding my brother, and sister, and grandmother, well over two
7 centuries.

8 I spent the early part of my life on the far end
9 of southeast and southwest, spending the early part on First
10 Street in the Washington Highlands neighborhood and then on
11 Southern Avenue right across from what was then Greater
12 Southeast.

13 My eldest brother and I spent a great deal of time
14 in Congress Heights going to see our grandmother on
15 Mississippi Avenue and hearing the sounds of the Blue
16 Marching Knights practicing in the afternoons and evenings
17 down the hill.

18 We would walk down to Bellevue, down to South
19 Capitol Street to run errands for our grandmother. My
20 brother attended Draper Elementary School which is now
21 closed. My mother attended Highland Elementary School which
22 is now known as Fairview Hope but still closed. She
23 graduated from Hart Junior High School and Ballou Senior High
24 School.

25 I have deep roots in Ward 8 and know this

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1 community. I have spent the better part of the last decade
2 living in Anacostia. I've seen the good and the bad, the
3 change and stagnation, the growth and the contraction. I've
4 seen it all.

5 And so I come here today to be what at times has
6 seemed like a lone dissension in opposition to forces who do
7 not understand. They do not understand what it is like to
8 hear stories of your grandmother and her family moving from
9 one little district to another because of urban renewal.

10 They do not understand what it is like to have a
11 mother who grew up in the Highland dwellings, worked since
12 she was 16 years of age, and still has struggled to own a
13 home or maintain the cost of rising rent.

14 They do not know what it's like to have a brother
15 who has lost friend after friend due to gun violence, almost
16 always because they were trapped in a situation of despair
17 and deprivation in the same neighborhood that we grew up in.

18 They do not know what a chance that quality
19 housing means to a high school graduate who is away at
20 college in his first year and is constantly worried about
21 whether or not his parents are able to send money for laundry
22 without dipping into rent money.

23 I come here in support of High Street LLC's
24 request for a map amendment at 2359 High Street, because I
25 support equitable development that brings home ownership

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1 opportunities to all who are able, regardless of class,
2 color, or creed.

3 I know what this project will potentially mean for
4 folks like my eldest brother and his young daughter, my
5 sister and her wife who have a young school-age daughter, or
6 my mother and I who are looking for some degree of stability
7 in terms of housing in the community we've called home.

8 I have many neighbors with young children and good
9 paying jobs who would leap at the opportunity proposed by the
10 developer. The opportunity requires High Street, LLC, to go
11 forward with their project which requires this map amendment
12 petition to be granted.

13 I have a last paragraph but I'll save that.

14 CHAIRMAN HOOD: I want you to finish your
15 testimony.

16 MR. THOMPSON: I would like to say this.
17 Factionalism never ought to be the force in zoning policy.
18 I attended the November 5th meeting, I have a recording of
19 it in my phone. This is my first time ever attending the
20 Zoning Commission hearing, but it will likely not be my last
21 because of the level of vitriol, exclusion, and classism that
22 went into an effort to derail this project.

23 We were talking about 53 units that would have
24 brought a sizable portion of affordable housing to a number
25 of people in Ward 8 and throughout the District. It was one

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1 of the first projects of home ownership I've seen at that
2 scope, at that scale.

3 And to hear the developer say that they were going
4 to scale it back to meet the needs of the community, I said,
5 well that offends me. Because I live among tenants, people
6 that want home ownership. And it's hard for them to get to
7 that point.

8 And to hear that we're contracting the size of
9 available home-owning, affording units bothered me,
10 especially knowing where that site sits. People treat the
11 alley that is adjacent to this vacant lot as a roadway. And
12 right behind that alley is a very large RA-1 development.

13 Based upon my experience with this project, a
14 minority of people are driving conversations. It is
15 incumbent upon this body to do all that it can in conjunction
16 with other agencies responsible for zoning, planning, and
17 development.

18 I will continue to advocate on behalf of the folks
19 who helped raise me, those tenants who have been working and
20 waiting their entire lives for the chance to own a home. We
21 must all do more to create an inclusive district for
22 everyone.

23 But our governmental agencies and representatives
24 must do more to ensure that the voices most likely to lose
25 out on an opportunity are included at the table. We are

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1 facing an uphill fight to ensure that we are delivered a
2 piece of the pie.

3 I thank you for the opportunity to testify today
4 and hope that you all vote in favor of the map amendment
5 petition.

6 And if I can just add very quickly, this is an
7 article from DCist that came out on March 8th of this year.
8 And the title is a bunch of new condos are about to hit the
9 DC market.

10 The contents of this article talk about luxury
11 apartments and how it is such a cause for developers to bring
12 affordable home ownership opportunities in the form of condos
13 to the District.

14 We have several thousand new condo units coming
15 online. But we have none that people who work every day, who
16 work 80 hours a week in some cases, like my mother has done
17 for the 21 years I've been alive, who cannot afford rent and
18 cannot afford the opportunity to buy a home, as the price of
19 homes go up astronomically.

20 So if we're talking about what we need, we need
21 projects like the one that High Street, LLC, is proposing.

22 CHAIRMAN HOOD: Okay. Thank you, Mr. Ronald
23 Thompson. And we really appreciate your heartfelt testimony.
24 And I'm glad to see -- would you have been 21 on Monday if
25 we had had the hearing? Is that your --

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1 MR. THOMPSON: On Sunday.

2 CHAIRMAN HOOD: On Sunday.

3 MR. THOMPSON: So I would have been -- on Sunday.

4 CHAIRMAN HOOD: So we gave you an extra day to
5 celebrate your birthday.

6 MR. THOMPSON. You did, thank you. I appreciate
7 it.

8 CHAIRMAN HOOD: So, you know, I know that I'm not
9 going to be sitting up here for no long time either. A lot
10 of us are going to be moving on. This is for the people like
11 you. I always say this. People that are Millennials, or
12 whatever the generation, what's the next one, X, or whatever
13 it is, but anyway, there're going to be a lot of
14 millionaires.

15 You know why? Because of the thought pattern.
16 Your thought pattern and your -- for the first time to come
17 in front of the Zoning -- my first time in front of the
18 Zoning Commission I thought back to it, I may have been about
19 24. But I was not as eloquent as you were.

20 And I want to commend you. And I want you to stay
21 involved and stay engaged, just like you made a commitment
22 here. And also, I want to make sure we have that in the
23 record. We're going to need that, especially what you showed
24 us. Hopefully, it's not your last copy. But we'll give you
25 --

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1 MR. THOMPSON: I have copies at home.

2 CHAIRMAN HOOD: Okay. We're going -- do you have
3 your testimony too?

4 MR. THOMPSON: I can submit this for the record.
5 But I don't have --

6 CHAIRMAN HOOD: Sure. Do we have your testimony
7 already? I didn't see it.

8 MR. THOMPSON: No, I don't think I submitted it.

9 CHAIRMAN HOOD: So did you read what you just
10 said?

11 MR. THOMPSON: Yes, this is --

12 CHAIRMAN HOOD: I would love to have that in the
13 record, even if you only one copy.

14 MR. THOMPSON: Okay.

15 CHAIRMAN HOOD: I think that needs to be in the
16 record. And I want to commend you. I don't want you to go
17 away from anything you're doing, not just in Ward 8 but make
18 yourself city-wide. Because I think you have the potential,
19 and you have the talent, and you have the passion.

20 And I'm not sitting here just saying that because
21 you're here. But I heard it come across loud and clear. And
22 that's what we need more of. Because a lot of people in the
23 room, and I hate to lump us all together, we're going to be
24 gone. We to shall move on. And we need to make way for
25 people like you to come, with that thought pattern, to make

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1 this city better than what it is, okay. So we really
2 appreciate it.

3 And let's see if we have any other comments or
4 questions up here.

5 (No audible response)

6 CHAIRMAN HOOD: None? Okay, we're good. Thank
7 you very much, we appreciate it.

8 MR. THOMPSON: Thank you.

9 CHAIRMAN HOOD: Okay, do we have any organizations
10 and persons who are in opposition?

11 Okay, come forward. It looks like we have -- Ms.
12 Fuller, are you coming as well?

13 (No audible response)

14 CHAIRMAN HOOD: Okay. So we have four. So Mr.
15 Freeman, if you all could step back. Anyone else who's here
16 in opposition?

17 Anyone who's here who's undeclared, if you can
18 come up as well.

19 Okay, we're going to start to my left, this young
20 lady here, and we'll come right on down.

21 (Off the record comments)

22 CHAIRMAN HOOD: Are you an organization or an
23 individual?

24 MS. SCOTT: I'm an individual.

25 CHAIRMAN HOOD: You have three minutes. But, you

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1 know, we're pretty flexible.

2 (Off the record comments)

3 CHAIRMAN HOOD: Well, we're not that flexible.
4 You may be by -- I may have to skip everybody else, and you
5 may be by yourself. No, I'm just --

6 MS. SCOTT: Well, good evening, ladies and
7 gentlemen. My name is Barbara Scott. I live in historic
8 Anacostia, 8A06. And just a little bit background for me,
9 I am from Oakland, California. And I grew up in a very, very
10 devastated neighborhood, much like Anacostia was back in the
11 '80s, and I was able to pull myself up.

12 And in Oakland, we do have -- or there is still
13 a commitment to people that come from low areas to come back
14 to your neighborhood, and try to invest in it, and try to,
15 you know, move people along.

16 So that's where I'm coming from. I've been in
17 Anacostia for six years. And I've seen some things that have
18 troubled me. But, you know, I've seen it all over the United
19 States, about the gentrification that's going on. And that
20 is a cycle here in America.

21 Regarding this zoning process, I am against it for
22 a couple of reasons. I do know that historic Anacostia is
23 one, it has a long history, a very proud history, and it
24 started with very modest homes that were there.

25 It was the first subdivision of DC. And it looks

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1 as such. Small, low slung homes were built there. And we're
2 the only historic district east of the river. And as such,
3 we have small streets. And they're not going to change,
4 because it is a historic district.

5 Georgetown and Capitol Hill have been able to
6 nurture their historic districts and benefit monetarily
7 because of that, among other things, by saving the historical
8 character and charm by keeping their streets and zoning
9 intact.

10 However, unlike those districts, historic
11 Anacostia has constantly lost character of the neighborhood
12 by the powers that be. And other DC areas, such as
13 Georgetown, and Capitol Hill, and other parts, were created
14 and have prospered by redlining by the powers that be,
15 rezoning by the powers that be, political will, and money.
16 And they've profited, as such.

17 Now, our district has been plundered because of
18 that. Because the site that is being proposed to be rezoned,
19 in the '60s they had the three buildings that you saw. But
20 before that, they had homes.

21 And the reason why there were able to have homes
22 and then have the buildings was because they got rezoned.
23 And the reason why they got rezoned was because other places
24 in, like, Southwest, et cetera, they were doing some
25 maneuvering, and then they had to put people who couldn't

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1 come back somewhere.

2 So there they went. They put them where they
3 didn't have resources or put up cheap buildings, and things
4 that would not help the community somewhere. And they put
5 it close to the historic district.

6 So we really do not have the space and the streets
7 to accommodate these buildings. We have a huge building
8 right down the street from this proposal. And the traffic
9 is horrible. The traffic is not going to change, because we
10 can't widen the streets. And what should really be here is
11 houses. That's what this historic district usually had or
12 had at the beginning. And it should have that again.

13 Now, we are a vulnerable community. We do not
14 have the resources that other communities have. So I would
15 like you to carefully consider the pattern that is being set.

16 And I believe that, as the city is trying to align
17 whatever goals they're trying to align, they're going to look
18 for the place that has the least that will not be able to
19 push back.

20 So I would ask you not to rezone this, because
21 frankly, I don't trust DHCD. We've had several projects
22 where they've said one thing, but they have not come through.
23 So that's all I have to say. Do you have any questions?

24 (No audible response)

25 CHAIRMAN HOOD: We will ask our questions when

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1 everybody gets through.

2 MS. SCOTT: Okay, thank you.

3 CHAIRMAN HOOD: Thank you. Next?

4 MR. THERESA: Hi, my name is Aristotle Theresa.
5 I'm representing an organization, CARE. So could I have five
6 minutes? Thank you.

7 Yeah, so I'd like to sit and talk about the
8 details of this project, the affordability levels and the
9 homeownership. But I know that that's not what this
10 proceeding is about.

11 Matter of fact, this proceeding explicitly
12 excludes those sorts of things. This really is about
13 changing the zoning of an area from 40 feet height limits to
14 50 feet height limits and from unstated FAR to about 2.0 FAR.

15 And whatever comes on the site is what comes on
16 the site. But that's not really part of this hearing today
17 because of how this is being handled. And it's being handled
18 as a rulemaking proceeding rather than a contested case.

19 I do not believe that that is appropriate for this
20 lot, specifically because it's already zoned for what should
21 be there. And you're really just talking about some more air
22 rights which, by statute, is a contested case.

23 And the reason why this is so concerning for me
24 is because I've seen this happen here, which is a project
25 which Kyros noted I agreed with in some respects.

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1 That's prior to me understanding that this was
2 going to be rulemaking, that's prior to me understanding that
3 Poplar Point was going to be a rulemaking, that all kinds of
4 other projects are now about to become rulemaking as I see
5 a recent text amendment proposed by the Office of Planning.

6 And so I see this as nothing more than a way for
7 the Office of Planning to implement its agendas on
8 communities that cannot push back. So whether it's a project
9 I agree with today or one that I disagree with tomorrow, most
10 likely it will be ones that I disagree with tomorrow, because
11 that seems to be the pattern of development in the city.

12 I cannot abide by these kinds of proceedings. A
13 rulemaking proceeding in this situation, in this context, is
14 wrong. It doesn't fit. This isn't what's happening here.
15 This is not broad-based policy decision.

16 So on the one hand, if you can't consider what
17 they're developing here, and that's not something we can talk
18 about, how is raising the height limits ten feet a broad-
19 based policy? It just isn't.

20 This involves the rights of parties. It involves
21 DHCD, it involves a third party purchaser, and it involves
22 the people who live on that street. And they should have the
23 chance to come before this body as a party and oppose it, and
24 oppose it with all of the rights that the D.C. Administrative
25 Procedures Act makes available to them.

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1 And this type of proceeding takes power out of the
2 hands of the ANC, takes power out of the hands of the
3 community, and it's not something that I will ever agree
4 with, my clients don't agree with it, and it's just not
5 something that should be happening.

6 This project is a contested case. It's more
7 appropriate as a PUD or even a contested case map amendment.
8 Thank you.

9 CHAIRMAN HOOD: Thank you. Next? You want to
10 turn your mic on?

11 MS. SAPP: Oh, hello.

12 CHAIRMAN HOOD: Yes.

13 MS. SAPP: My name is Yetunde Sapp. And I'm 19
14 years old. And I've lived next to the site since I was four
15 years old. The site is 2352, 2356, and 2360 High Street.

16 And I remember the gigantic boarded buildings that
17 were there over a decade of my growing up. And there were
18 racoons loitering, burning of stolen cars, and guns pulled
19 from the building when it was finally demolished, and then
20 the gigantic -- I felt like it never fit the fabric of the
21 neighborhood anyway when it was there.

22 So we've appreciated what the lot looks like now,
23 as it's kind of just empty and green, and kind of anticipated
24 what's going to come next. And it brings up some concerns
25 about the proposed project.

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1 My mother attended the meetings about this project
2 last summer, this fall, and several weeks ago. And we
3 appreciate that the developers have taken into account some
4 of the community's concerns. But some of our household
5 concerns include the following, for one, the rezoning.

6 Currently, the lot for the proposed project is
7 zoned for R-3 which allows for groups of three or more row
8 dwellings mingled with detached dwelling and the semi-
9 detached dwellings. And the R-3 zoning allows for the
10 equivalent of about five houses on the lot in question.

11 And the site of the proposed project is not zoned
12 for RA-2 which is the type of zoning needed for the proposed
13 28-unit development. And changing the zoning to RA-2 would
14 allow for predominantly moderate density residential housing.
15 But this type of density is not appropriate at High Street
16 and Maple View. And so we are opposed to the DCHD changing
17 of the zoning from R-3 to RA-2.

18 And changing the zoning would cause more problems,
19 we believe. What is guaranteed that we have from the
20 developer, from DHCD, that the developer's current proposal
21 of 28 units will not be honored once the zoning is changed?
22 Our community has been burned before by such promises and the
23 monstrosity in Maple View Flats is proof of that.

24 We want the zoning to stay at R-3. Something like
25 five houses would be ideal for the maintaining of the

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1 historical fabric, the character and residential nature of
2 our neighborhood.

3 My second concern is the density. Once the zoning
4 is changed from R-3 to RA-2, the density of the building and
5 the people will be an issue, since our neighborhood is a
6 historical residential neighborhood. And we want to keep it
7 that way as much as possible, especially up and down the side
8 streets.

9 At the corner of Martin Luther King, on Main
10 Street, and Maple View Place, we now have Maple View Flats,
11 a massive project that was also built with utter disregard
12 for the residents legitimate concerns. Specifically, many
13 community members fought against Maple View Flats and wanted
14 the city to preserve and rehab - do I just keep going --
15 okay, the three historical houses that were once there.

16 The community was even presented with restoration
17 plans for the house and the lot. But DHCD went against those
18 plans and built the high density monstrosity, Maple View
19 Flats, an example of housing that disrupts the fabric,
20 character, and residential nature of historical Anacostia.

21 So we are asking DHCD to hear the voices and
22 concerns of the residents about this project. Both of us and
23 -- there's, like two more paragraphs. Is that --

24 CHAIRMAN HOOD: Go right ahead.

25 MS. SAPP: Okay. My third concern is parking.

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1 We appreciated that the revised proposal for the project will
2 have at least one parking space per unit. However, this
3 could still mean significantly more vehicles on High Street
4 and Maple View. Multiple cars per unit and cars that belong
5 to visitors should be anticipated.

6 To address the parking issue, the developer plans
7 to offer parking spaces for bikes. Maple View is a very
8 steep hill of the street, and we rarely see bikers traveling
9 to the top of the street and therefore do not believe that
10 offering bike parking will alleviate the street park issue
11 that will be created by this proposed project.

12 Number 4 is traffic. Maple View is a short,
13 narrow street, and High Street is a one-way street. Several
14 times a day, drivers drive up Maple View and make a U-turn
15 at the top of High Street to go back down Maple View.

16 Also, several times a day, vehicles drive
17 illegally up High Street, which again is a one-way, to the
18 top of Maple View as a short cut. Such traffic has posed
19 threats to vehicles parked along these streets. Therefore,
20 additional cars will cause traffic issues on top of parking
21 issues. The proposed project does not adequately address
22 these potential traffic issues.

23 And my last concern is affordability. If the 28
24 units is approved, we do not want the long-term conditions
25 of the property to be negatively impacted by a financially

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1 dysfunctional condo association which Ward 8 has its share
2 of.

3 Condo developments with units that sell for
4 \$50,000 to \$75,000 often have a bankrupt condo association
5 behind them. A dysfunctional condo association will not be
6 able to sustain a building of this density.

7 Also, in terms of affordability, we want a
8 balanced approach to development, an approach that does not
9 work to concentrate any one income level in Ward 8. Such
10 saturation will potentially hinder economic development of
11 historic Anacostia.

12 And we already don't have a grocery store and
13 other amenities, for examples. So how will such development
14 attract other retail and amenities that our community needs?
15 Thank you for your time and consideration.

16 CHAIRMAN HOOD: Thank you. Next?

17 MS. FULLER: Good evening. My name is Greta
18 Fuller, former Commissioner of 8A06. I am here as a
19 resident. I live on Maple View Place.

20 I have a couple of things that I want to address.
21 Holland and Knight said that they are not the owners of High
22 Street and that DHCD actually owns High Street. I know
23 that's true, because I was at the disposition hearing that
24 everybody was talking about in 2018.

25 However, DHCD has admittedly, over, and over, and

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1 over, told us, the community, that they refuse to put in
2 writing any agreement that says that what High Street, LLC,
3 is presenting to the community as the project, that they will
4 not sign onto that and that they cannot sign onto it.

5 And today, I have very conflicting stories. High
6 Street is saying one thing, and DHCD is saying we can't do
7 this. And if I smell a rat, it's usually a rat, and
8 something's wrong going on in here.

9 The next thing, it's a disposition hearing. It
10 has nothing to do with zoning. But what I know is at that
11 hearing -- because everything I'm saying right now is going
12 on record -- at that hearing that happened at DHCD that
13 everybody was talking about on November 5th of 2018, who ever
14 heard of them turning off the recording or stopping the
15 record when they did not want to hear what the community was
16 saying?

17 And if you read that, a lot of the disposition,
18 the residents there, as Mr., I think, Thompson, Ron --

19 (Off the record comments)

20 MS. FULLER: No, that's what I'm saying. The
21 gentleman who said-

22 CHAIRMAN HOOD: Wait a minute, wait a minute.
23 Hold on a second. We'll just stop the clock.

24 MS. FULLER: Okay.

25 CHAIRMAN HOOD: We're not going to do that down

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1 here.

2 MS. FULLER: Okay.

3 CHAIRMAN HOOD: When I'm in my neighborhood at ANC
4 meetings we do some of that. So we're going to try not to
5 do that down here. And I know they do it all over the city,
6 it ain't just in my neighborhood. And I know it's probably
7 your neighborhood and everywhere else. But let's not do it
8 down here. Let's wait until we get home, and then we'll do
9 it. But seriously, let's be respectful, Commissioner, I mean
10 former Commissioner.

11 MS. FULLER: Yeah. What I was trying to say is
12 the recording that he had, he probably has a complete
13 recording of the hearing. That's all I was trying to say.
14 But DHCD had the court reporter, not a court reporter,
15 whatever the reporter is that does the disposition hearings,
16 they turned it off when we start talking more than what they
17 wanted to hear. That's that.

18 The next thing is we were told, I was told, and
19 several of the -- and the community was told that the MOU
20 would address the design, the changes, and it would also
21 address that these units would stay the same and that the
22 affordability would stay the same of what High Street, LLC,
23 is presenting today.

24 But as I look at the MOU that's presented from
25 March of this year, and the MOU from last year when I was the

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1 actual commissioner in December, nothing's changed but Number
2 7 on the original verbiage. They took out the developer
3 agrees that the architectural plans were considered and
4 provided by ANC 8A.

5 Now the verbiage basically says that they agree
6 to consider input provided by ANC. They totally removed
7 Number 16 and 17. And I have both MOU's, one from December
8 and one from March.

9 And the other thing, the reason why I support the
10 affordability of the project, but that is not why we are
11 here, we are here talking about a map amendment. We are here
12 talking about changing R-3 zoning to RA-2 zoning.

13 And honestly, honestly, no one, not a
14 commissioner, not DHCD, not Office of Planning, DDOT, or
15 anyone has told me or written to us and showed us why R-3
16 does not work in a neighborhood where it's already properly
17 zoned with single-family and single, I mean, semi-detached
18 housing.

19 Why are we changing a perfectly zoned property and
20 not trying to put houses for home ownership with
21 affordability workforce on a lot that is properly zoned in
22 a neighborhood that is residential?

23 I have huge concerns when I see words like
24 institutional and semi-private -- semi-public with RA-2,
25 where RA-3 definitely states that it's a residential lot.

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1 So if the Board, DHCD, or anybody can tell me
2 exactly what institutional or semi -- here it is, permanent
3 flexibility of design by permitting all types of urban
4 residential development, if they conform to the high density
5 and area requirements established for these districts, and
6 permit the construction of those institutional and semi-
7 public buildings that would be compatible with adjoining
8 residential uses that are excluded from the more restrictive
9 residential zoning.

10 And why are we changing to a RA-2 when RA-3 states
11 semi-detached and detached homes in a residential area where
12 that's what's surrounding it?

13 And I also want to be very clear, this is not the
14 historic district, this parcel of land. But this parcel of
15 land sits in the middle of the historic district, to the left
16 and to the right.

17 As the ANC Commissioner, the former ANC
18 Commissioner, we had a unanimous vote, of which I have it
19 here. We voted seven to zero to oppose this project. And
20 the reason we opposed this project, because nobody could tell
21 us why RA-2 and not R-3.

22 We know the Comprehensive Plan wants to put more
23 density, but can you tell me that the Comprehensive Plan is
24 also there to help destroy, disrupt, and interrupt a
25 community that's already residential? I'm very confused

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1 about that.

2 And at the end, I'm going to give you my
3 testimony. But I've seen a large building, that Yetunde
4 talked about at the bottom of the hill, move out historic
5 homes. And I had to fight two extra years to get the homes
6 that they moved restored.

7 I've seen an offsite affordable housing project
8 placed in my community where they are going to put an
9 expensive hotel and condos. But they gave us the offsite
10 affordable housing. I'm not against the affordability of
11 this project, I'm against this zoning. It does not make
12 sense.

13 And finally, if I can just say this, I'm going
14 to give you my testimony, because there's more, and I've said
15 this before. Development should be a part of the community,
16 not the community a part of the whim of the developer's
17 development. It should be a part of the community.

18 And we don't want this project to look like 2620
19 Bowen Road which Neighborhood Development did in Ward 8.
20 Thank you.

21 CHAIRMAN HOOD: Thank you. Could you come to the
22 table later to testify.

23 MS. DEBERNARDO: Yes.

24 CHAIRMAN HOOD: Identify yourself, you may begin.

25 MS. DEBERNARDO: Sure. My name's Diane

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1 DeBernardo. And I apologize, as I did fill out the forms,
2 but I really hadn't originally intended to speak. A number
3 of my neighbors, who would have been able to come Monday,
4 were not able to come today. So I'm sort of filling in.

5 I also wanted to speak in opposition to this
6 rezoning. And I wanted to -- I'm not sure what I'm allowed
7 to say or not, but express my disappointment at how our
8 voices, in historic Anacostia, the community, are not being
9 heard, including by our own ANC voting in favor of this
10 rezoning.

11 And I heard Mr. Washington say that the
12 overwhelming attitude in the community is in favor of this
13 building. Had Mr. Washington been to the three meetings,
14 including that hearing that I'd been to, he would not be able
15 to honestly say that.

16 I hope my perception, as a community member, of
17 our government matters in this hearing. My perception was
18 that, at all three meetings, this was a foregone conclusion.
19 DHCD awarded the contract, knowing full well there would be
20 a rezoning and that our voices wouldn't matter. That's how
21 it seemed to me. And I'm not alone in that.

22 I want to echo the opinions of my community
23 members here that it's an inappropriate project, it should
24 be contested, that it will disrupt the fabric of the
25 community.

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1 We had a disastrous housing project there in the
2 past. We should avoid recreating it and keep it as the
3 current zoning with smaller homes. This is not saying I'm
4 in opposition of affordable housing. I am not in opposition.
5 I'm discussing the actual rezoning, the way by which it will
6 happen.

7 And I'm encouraging our city officials to please
8 listen to the community, please read those transcripts and
9 perhaps, you know, take the time to have another meeting in
10 which you can actually listen to the people who live on and
11 near that street and the terrible impact that this rezoning
12 will have on their homes and their well being. Thank you.

13 CHAIRMAN HOOD: Thank you. Thank you all. Let
14 me go back to Ms. Sapp. You're Ms. Sapp, right? Okay. Ms.
15 Sapp, I want to commend you as well. You said you were 19.
16 To me, that draws me in. That really attracts me.

17 Everybody else's testimony is fine too, but when
18 I see young people, when I was your age, my father was
19 dealing with a zoning issue. You know what I did, I walked
20 right by him and went outside and moved to the basketball
21 court. So I want to commend you. I want to commend you on
22 getting involved.

23 Did you write your testimony, or did you have any
24 assistance, or did you write it by yourself.

25 MS. SAPP: It was, like --

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1 CHAIRMAN HOOD: If you did, it's nothing wrong
2 with that. Because I couldn't have wrote that when I was
3 your age. And I can't do it now. But anyway, did you have
4 any assistance?

5 MS. SAPP: Yeah, I collaborated with my mom, like,
6 gave her some input and then kind of --

7 CHAIRMAN HOOD: And you all formed that together.
8 Okay.

9 MS. SAPP: She's out of town right now. So she
10 asked me to -- I'm actually on spring break, but she asked
11 me to come and deliver it for her.

12 CHAIRMAN HOOD: Okay. So go back and watch this
13 hearing, and watch yourself. Because I think you've done a
14 great job. Actually, I was told that while I was sitting up
15 here. Sam (phonetic), you need to see what you do. So I
16 have viewed myself.

17 But I want you to watch yourself. Because I think
18 you're cut for the cause. You did a good job. And I want
19 to encourage you.

20 Regardless of how this Commission does, where we
21 fall out -- and I will tell you, a lot of people think that
22 we always agree. The other night I came out here, I think
23 we all in five different areas. But we try to balance and
24 then try to come together.

25 So I know that sometimes communities don't agree,

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1 because the five of us don't. I never know sometimes where
2 we are. And, you know, we're passionate too about trying to
3 make the best decision possible.

4 So I want to commend you as well to keep doing
5 what you're doing, regardless of what side of the issue you
6 fall down on. Because remember, everybody has an opinion,
7 okay? All right.

8 Ms. Fuller, you mentioned about the ANC report.
9 And I was listening to you. This is a consistency case. And
10 I was listening to your argument. I'm not going to get into
11 a whole lot of it, because I would just encourage you to, you
12 said nobody told you to come down.

13 A map amendment is one of the tools of the Zoning
14 Commission. We have tools that we use. And this Applicant
15 decided to do a map, I'm sorry, a rulemakings. And we set
16 this down.

17 And I want to go to Mr. -- I hate to pronounce
18 your name wrong, because after I heard it from viewing one
19 of your court proceedings the other night, because I study
20 you too, so I just want you to know that I put that on the
21 record. So I want to come to you. But I want to make sure
22 I pronounce your name correctly. And I think I've been
23 mispronouncing your name, and I apologize.

24 MR. THERESA: Theresa.

25 CHAIRMAN HOOD: Theresa.

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1 MR. THERESA: Yeah.

2 CHAIRMAN HOOD: I don't know. I've been calling
3 it Theresa, so Mr. Theresa, I'm going to come to your
4 shortly.

5 But I would encourage you to, first, the ANC took
6 another vote. And you were not on that ANC, correct?

7 MS. FULLER: That is correct. But I live on that
8 street.

9 CHAIRMAN HOOD: Well, but I'm just saying, the ANC
10 --

11 MS. FULLER: And none of them do.

12 CHAIRMAN HOOD: Okay. But the ANC took a vote.

13 MS. FULLER: Uh-huh.

14 CHAIRMAN HOOD: So that's their vote now. I know
15 they took a vote prior when you were a commissioner. But
16 they took another vote. That's what's in front of us. But
17 I would also encourage you to work with our director to find
18 out what a zoning consistency case is, I mean --

19 MS. FULLER: That wasn't my question.

20 CHAIRMAN HOOD: I know it's not your question, but
21 it came across like that. And I think that will help you get
22 to your question. Not to be inconsistent with the comments
23 --

24 MS. FULLER: That's not my question. My question
25 was --

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1 CHAIRMAN HOOD: Well, I see you're not going --

2 MS. FULLER: -- what does RA-2 mean? I didn't
3 understand that.

4 CHAIRMAN HOOD: Okay. Well, even if that was your
5 question, again, my same response is check with the Office
6 of Zoning. We do tutorials for ANC commissioners as well as
7 community members. And I think that will be very helpful for
8 you.

9 MS. FULLER: My question was still why does RA-2
10 mean more than -- why is this property zoned correctly and
11 needs to go to something that it isn't?

12 CHAIRMAN HOOD: So it went back to my original
13 comment to you, a zoning consistency case. So --

14 MS. FULLER: Oh, okay.

15 CHAIRMAN HOOD: Yeah. See, that's what I was
16 trying -- all I'm trying to do is help. Ms. Fuller, I've
17 been knowing you a long time. We can disagree, but I've been
18 knowing you a long time. I'm just trying to help you get the
19 answers to your question.

20 Okay, now, Mr. Theresa. Did I get it right that
21 time?

22 MR. THERESA: Yes.

23 CHAIRMAN HOOD: Now, you know how this works. We
24 set this down in September of 2018, I believe. I believe I
25 have the dates. I may have the dates kind of -- and we set

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1 it down as rulemaking.

2 So your questioning is you don't believe that this
3 is the proper context for us to set that. We made that
4 decision months ago. So I'm not -- and actually, I don't
5 know if you know this or anybody told you, but we held your
6 response that we got this evening in abeyance. We still are
7 going to have a conversation about that, even though we made
8 a decision on that six months ago. So why now, through all
9 of this, why now we're bringing it right back up?

10 MR. THERESA: Well, I think when strategies change
11 it takes a while to catch up. I feel like we're playing a
12 game of cat and mouse here. And so it just took a while to
13 understand the implications of all of these things.

14 So when I understood it was a rulemaking, when I
15 understood that Poplar Point was going to be a rulemaking,
16 when I understood that Chicago Street was a rulemaking, and
17 High Street was rulemaking, and K Street in Northeast was a
18 rulemaking, I became much more concerned with the direction
19 things were heading and so looked into this more
20 specifically.

21 Because in the beginning, I was okay with the
22 project, personally, as a person who lives in the
23 neighborhood. I'm okay with the affordability and what
24 they're offering there.

25 What I'm not okay with is this pattern of taking

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1 away the power of people in their communities. And so when
2 I heard there was another hearing, and that there actually
3 were still people opposed to it, I felt like, whether or not
4 I agree with them substantively, this isn't a substantive
5 proceeding. This is not about the project. I feel like they
6 are entitled to be heard.

7 And so this is a question of governance to me.
8 And so when you ask me why it took a long time to respond,
9 who knew? Who knew what was happening.

10 CHAIRMAN HOOD: So, Mr. Theresa, you don't think
11 this is a proceeding where they're being heard?

12 MR. THERESA: I think that the ANC negotiated from
13 a deleveraged position. I know that they came to an
14 agreement. But I feel like they did not have the sort of
15 leverage that they would have if they weren't under the
16 impression that kind of, like, this was a done deal, and this
17 is just kind of what's going to happen.

18 I feel like people in the neighborhood deserve the
19 opportunity to present testimony and evidence about what's
20 happening on their block and on their corner, whether I agree
21 with them or not. Like, this is just a question of
22 governance for me.

23 CHAIRMAN HOOD: So again, I want to go back to my
24 question. You don't think this is a proceeding where people
25 can be heard?

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1 MR. THERESA: We know, we both know that the
2 rulemaking proceeding is a very different proceeding from a
3 contested case. And so I do not believe a rulemaking
4 proceeding is adequate in this situation. I believe that
5 this calls for a contested case and all of the protections
6 that go along with it.

7 I think that you guys are listening to them,
8 taking time out of your evening on this rainy night,
9 appreciate it. I've come down here twice in two weeks, and
10 it sucks. You guys are here every week, I guess, so yeah,
11 appreciate you for that.

12 But, like, in terms of the law, there are certain
13 things that people are entitled to. And I believe that the
14 way this is being handled is inappropriate.

15 CHAIRMAN HOOD: Okay. I noticed in one of your
16 arguments in front of the courts, because I'm asking you a
17 specific question, like I notice how they ask you the
18 question. And I'm asking you that for a reason.

19 Because you said that this, your first initial
20 statement -- now, you've given me a number of answers to the
21 same question which I respect, but I'm asking you.

22 You've made the statement that people are not
23 being heard. And it's not necessarily that we are sitting
24 here. We take what we can do, and we listen to what they
25 say. And we take it and deal with it in the context which

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1 is before us, as you already know. But what I'm asking you,
2 you said that people were not being heard. So I'm asking you
3 again, is this proceeding where people are not being heard?

4 MR. THERESA: I think that there's a difference
5 between being heard, like, you know, you're hearing us. And
6 there's a difference between that and actually being heard
7 in a manner where there's some consequence to being heard.
8 And I don't think that there's much consequence to being
9 heard right now.

10 Like, people sat up and talked for a long time
11 about the affordable housing in this project. That's neither
12 here nor there. So what's it matter if you're listening to
13 them? I believe that you listen to them, I believe you were
14 moved by that testimony. I was moved by the testimony. But
15 we both know it doesn't matter.

16 We're here about ten feet of height on a 35,000
17 square foot lot. And what they build there, no one knows,
18 no one can guarantee. This isn't what this process is about.

19 CHAIRMAN HOOD: But, you know, also this is a
20 consistency case as well, right?

21 MR. THERESA: Yeah, whether it's consistent with
22 the Comprehensive Plan but also whether it's supposed to be
23 a contested case or rulemaking. And so in my eyes, this is
24 not appropriate for rulemakings.

25 And I don't understand how it ever was set down

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1 that way. Because, really, we're talking about 10 feet of
2 height, a little bit of density, on a 35,000 square foot
3 singular lot with one property owner.

4 CHAIRMAN HOOD: Okay. We could probably go back
5 and forth and have a lot of conversation. Because I really
6 appreciate the conversation. But for now, I'll put that in
7 the parking lot, and I will hear from others.

8 I saw somebody raising their hand. And I want to
9 see if my other colleagues have anything that they want to
10 say.

11 (Off the record comments)

12 CHAIRMAN HOOD: Okay, I'm going to allow that, but
13 typically this is our chance to ask the questions.

14 MS. SCOTT: Well, maybe I will skip it.

15 CHAIRMAN HOOD: No, I'm going to allow it. You
16 know, is it ---

17 MS. SCOTT: I'm just looking at -- listening to
18 my perception, and I'm listening to the back and forth
19 between Mr. Theresa ---

20 CHAIRMAN HOOD: Theresa.

21 MS. SCOTT: -- and Greta, and yourself. I work
22 all day, and I have a profession, and I'm not in the legal
23 field. And just all the red tape just to keep up with this,
24 we do not have, like, a lot of lawyers to even defend what
25 we are doing.

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1 CHAIRMAN HOOD: Well, you have a pretty good one
2 --

3 MS. SCOTT: We have a pretty good one.

4 CHAIRMAN HOOD: -- who I was just talking to.

5 MS. SCOTT: But I don't have 100 of them or 1,000
6 of them like maybe Georgetown. Therefore ---

7 PARTICIPANT: No.

8 MS. SCOTT: No?

9 CHAIRMAN HOOD: I don't have 100 either. I take,
10 well anyway, I don't want to get into that.

11 MS. SCOTT: Which speaks to the vulnerability and
12 being able to properly, and timely, and rightfully stand up
13 for the things that we, as residents, think we are due.
14 That's all I wanted to say.

15 CHAIRMAN HOOD: Okay.

16 MS. SCOTT: Thank you. Thank you for listening.

17 CHAIRMAN HOOD: Okay. So I'll just leave it at
18 this without going back and forth. Because I'm sure there'll
19 be plenty of other opportunities.

20 We take what we do very seriously. We listen to
21 all groups, groups in favor, groups against, groups who blame
22 us, groups who like us. We listen to it all. And we make
23 the best decisions we can. And I've said that before, and
24 I'll say it again. And I'll leave it at that.

25 Let me give my colleagues an opportunity to ask

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1 this panel, any questions or comments?

2 (No audible response)

3 CHAIRMAN HOOD: Okay, so I guess it was just me.

4 All right, so thank you all very much.

5 COMMISSIONER TURNBULL: No, I would just ---

6 CHAIRMAN HOOD: Okay, Mr. Turnbull?

7 COMMISSIONER TURNBULL: I would just add that Mr.
8 Theresa's raised a lot of good points about what's a
9 contested case and what the issues involve, and what's
10 rulemaking. I think it's something that has to be thought
11 about and pondered. But I think he's raised a lot of good
12 points.

13 CHAIRMAN HOOD: Okay.

14 MS. FULLER: Mr. Chairman?

15 CHAIRMAN HOOD: Yes?

16 MS. FULLER: This is very brief, the only thing
17 that I'd like to say is that, well, the final thing, is that
18 the ANC, the MOU that they have, and the 28 units, and all
19 of that, that was done on my watch. Like, I negotiated most
20 of that.

21 But the one most important thing, that's why I'm
22 saying I'm for this, is about the map amendment and DHCD, the
23 government, not being willing to sign on to what they have
24 High Street, LLC, here doing today. That I want on the
25 record. They're not willing to sign on.

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1 CHAIRMAN HOOD: I think it's on the record twice.
2 Because I remember you said that previously. So it's
3 definitely on the record.

4 All right, thank you all very much. We appreciate
5 it. Was there anybody else?

6 (No audible response)

7 CHAIRMAN HOOD: All right. I think this concludes
8 --- colleagues, do we have any follow-ups? We do have an
9 issue that was given to us by Mr. Theresa. Did I pronounce
10 that right, Theresa, Theresa. I'm going to get it right.
11 So we do have that outstanding issue. And then I think we
12 can come up with some basic advice. Chair Miller?

13 VICE CHAIR MILLER: In addition, thank you, Mr.
14 Chairman, in addition to you had asked Mr. Freeman to provide
15 us, I think, a written response to that preliminary question
16 which I think Mr. Turnbull would like to have. Well, I think
17 we'd like to have that ---

18 CHAIRMAN HOOD: Yeah.

19 VICE CHAIR MILLER: -- that written bullet ---

20 CHAIRMAN HOOD: Oh, I think he's already, he's
21 already submitted the bullet.

22 VICE CHAIR MILLER: Okay. So in addition to that,
23 I would like to know if any of my colleagues are interested
24 in this. I recognize everything that's been said about this
25 not being about a project, that it is about a consistency

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1 case.

2 But we know that there are several zones on the
3 zoning map that can be not inconsistent with the moderate
4 density residential on the Comprehensive Plan land use map.

5 And we have an analysis, a comparative analysis
6 from the Office of Planning and, I think, from the Applicant
7 maybe, I mean, from the Petitioner as well, comparing the
8 existing R-3 and the proposed RA-2.

9 I would like to see what RA-1 would allow and
10 whether, even though this isn't about a project, whether the
11 commitments that have been made by the Petitioner about a
12 potential project, whether that would fit into the RA-1, the
13 development standards of the RA-2 -- of the commitments, the
14 height, the stories, the density, not necessarily the other
15 commitments that don't relate to development standards.

16 So I'd like to see the comparative with RA-1
17 which, I assume, also is not inconsistent with the moderate
18 density and just to know whether or not the commitments that
19 have been made about a potential project, whether that would
20 be able to fit into that RA-1 category, especially since, as
21 Commissioner Trumbull pointed out, there is RA-1 in the
22 vicinity. And there are just many types of buildings in the
23 vicinity. So that's what I would like to see.

24 CHAIRMAN HOOD: Okay.

25 VICE CHAIR MILLER: And maybe from both the

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1 Petitioner and from the OP, because I guess there might be
2 a disagreement in there.

3 CHAIRMAN HOOD: All right. Anything else,
4 Commissioners?

5 (No audible response)

6 CHAIRMAN HOOD: All right, Ms. Schellin, do we
7 have some dates?

8 MS. SCHELLIN: One week.

9 MR. FREEMAN: We can submit in a week.

10 MS. SCHELLIN: A week, okay.

11 MR. FREEMAN: So just so I'm clear, I can maybe
12 repackage our response that you already have with some
13 information about a comparison of RA-1 to RA-2, am I
14 understanding that correctly?

15 (No audible response)

16 MR. FREEMAN: Yes, we can have that in a week.

17 MS. SCHELLIN: Okay. So in a week, that would put
18 you by March 28th, 3 o'clock p.m. And so there are no
19 parties. So there's no responses other than OP would also
20 be able make a submission by the same time. And then we
21 could put this on for proposed action at the April 8th
22 meeting.

23 CHAIRMAN HOOD: Were testimonies for the record
24 from the young folks that I wanted ---

25 MS. SCHELLIN: We got ---

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1 CHAIRMAN HOOD: If not, I want to make sure those
2 are entered.

3 MS. SCHELLIN: -- Mr. Thompson's. We just need
4 the female.

5 CHAIRMAN HOOD: And Ms. Sapp.

6 MS. SCHELLIN: Ms. Sapp's. If she could hand hers
7 in.

8 CHAIRMAN HOOD: Okay. Let's make sure ---

9 MS. SCHELLIN: Her testimony.

10 CHAIRMAN HOOD: Yeah, let's make sure we get those
11 two.

12 MS. SCHELLIN: If she could hand hers in.

13 CHAIRMAN HOOD: I'd like to ---

14 MS. SCHELLIN: I've got --

15 CHAIRMAN HOOD: All right.

16 MS. SCHELLIN: I've got his. Yeah, I just need
17 hers.

18 CHAIRMAN HOOD: Okay, do we have anything else,
19 Ms. Schellin?

20 MS. SCHELLIN: That's it.

21 CHAIRMAN HOOD: All right. I want to ---

22 MR. FREEMAN: So the record is otherwise closed?

23 CHAIRMAN HOOD: Other than, yeah, as long as we
24 have those.

25 MS. SCHELLIN: It's closed except for that.

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1 That's why I need hers this evening.

2 CHAIRMAN HOOD: Hold on one second before I close.
3 Also, Mr. Freeman, if you can respond, we're going to be
4 taking up first Mr. Theresa's rulemaking issue of whether
5 there's a rulemaking or contested case.

6 I'm told I need to afford you the opportunity as
7 well. I don't really need a book, we have enough to read.
8 But I'd like to keep it to one page and keep it simple. But
9 you know what, I can't really put a timeline or a time,
10 whatever it takes for you to respond.

11 MR. FREEMAN: Okay.

12 CHAIRMAN HOOD: Okay, so I think that's what the
13 Vice-Chair was kind of preferring that. But anyway, if you
14 could do that as well.

15 MR. FREEMAN: Thank you.

16 CHAIRMAN HOOD: okay. All right, anything else?

17 (No audible response)

18 CHAIRMAN HOOD: We've got the dates. All right,
19 I want to thank everyone for their participation. And
20 tonight's hearing is adjourned.

21 (Whereupon, the above-entitled matter went off the
22 record at 8:17 p.m.)

23

24

25

C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: Zoning Commission

Date: 03-21-19

Place: Washington, DC

was duly recorded and accurately transcribed under
my direction; further, that said transcript is a
true and accurate record of the proceedings.



Court Reporter

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