

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

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 IN THE MATTER OF: :  
 : Case No.  
 Masjid Muhammad, Inc. - Map : 19-03  
 Amendment @ Square 5790, Lots:  
 32-35, 39, 40, 47, 818, & 819:  
 -----:

Thursday,  
May 16, 2019

Hearing Room 220 South  
441 4<sup>th</sup> Street, N.W.  
Washington, D.C.

The Public Hearing of Case No. 19-03 by the District of Columbia Zoning Commission convened at 6:34 p.m. in the Jerrily R. Kress Memorial Hearing Room at 441 4<sup>th</sup> 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:

MAXINE BROWN-ROBERTS  
JOEL LAWSON

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MAXIMILIAN TONDRO, ESQ.

The transcript constitutes the minutes from  
the Public Hearing held on May 16, 2019.

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

(6:34 p.m.)

1  
2  
3 CHAIRMAN HOOD: Are we ready to start? Good  
4 evening, ladies and gentlemen. This is a public hearing of  
5 the Zoning Commission for the District of Columbia. Today's  
6 date is May the 16th, 2019. My name is Anthony Hood and  
7 we're located in the Jerrily R. Kress Memorial Hearing Room.

8 Joining me this evening are Vice Chair Miller,  
9 Commissioner May, and Commissioner Turnbull. We are also  
10 joined by the Office of Zoning Staff, Ms. Sharon Schellin,  
11 Office of Attorney General, Mr. Tondro, the Office of  
12 Planning, Mr. Lawson and Ms. Brown-Roberts.

13 This proceeding is being recorded by a Court  
14 Reporter, and it's also being webcast live. Accordingly, we  
15 must ask you to refrain from any disruptive noises or actions  
16 in the hearing room, including display of any signs or  
17 objects.

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

21 The hearing will be conducted in accordance with  
22 provisions of 11 DCMR Chapter 5 as follows, 11Z DCMR Chapter  
23 5 as follows: Preliminary Matters; Presentation by the  
24 Petitioner; then the Office of Planning; Reports of Other  
25 Government Agencies; Report of the ANC, Organizations, and

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1 Persons in Support; Organizations and Persons in Opposition;  
2 Organizations and Persons who are Undeclared.

3 The following time constraints will be maintained  
4 in this meeting: Petitioner has 60 minutes; Organizations  
5 have five minutes; Individuals three minutes.

6 All persons wishing to testify before the  
7 Commission in this evening's hearing are asked to register  
8 at the witness kiosk to my left and to fill out two witness  
9 cards. The Staff will be available throughout the hearing  
10 to discuss procedural questions. Please turn off all  
11 electronic devices at this time so as not to disrupt these  
12 proceedings.

13 At this time the Commission will consider any  
14 preliminary matters. Does the Staff have any preliminary  
15 matters?

16 MS. SCHELLIN: The only preliminary matter that  
17 Staff has is that the Applicant, or Petitioner rather, has  
18 proffered one expert witness, Shane Dettman, who has  
19 previously been accepted by this Commission as an expert.  
20 We just ask that the Commission consider him an expert in  
21 this case.

22 CHAIRMAN HOOD: Any objections? I think we usually  
23 don't reconsider but we have to ask. Okay, so we will  
24 continue that status. Anything else Ms. Schellin?

25 MS. SCHELLIN: No, sir.

1 CHAIRMAN HOOD: All right Commissioners, Mr.  
2 Glasgow you want to introduce everyone at the table?

3 MR. GLASGOW: Yes, sir.

4 (Simultaneous speaking)

5 COMMISSIONER MAY: I'm sorry, Mr. Chairman.

6 CHAIRMAN HOOD: Hold on a second.

7 COMMISSIONER MAY: I have a preliminary matter.  
8 I guess it's a preliminary matter. I think what I have to  
9 say has a lot to do with the Commission's thinking as a  
10 whole, as we've been discussing issues like this or cases  
11 like this. And I think that I at least and I imagine others  
12 may have a little bit of unease about considering this case  
13 as a rulemaking. I know it was filed that way and I'm  
14 certainly glad to see the extensive support from the  
15 community. It seems like it's a very straightforward case.

16 Nonetheless, given the facts of the case, the  
17 contiguous properties, the fact that all the owners are  
18 signed on, the fact that there are not policy issues at stake  
19 here, I mean I think these things all add up to a contested  
20 case, not a rulemaking. So I'm curious about what the rest  
21 of the Commission thinks about that.

22 CHAIRMAN HOOD: Okay. All right. Any other  
23 comments on that issue?

24 VICE CHAIR MILLER: Yes.

25 CHAIRMAN HOOD: Vice Chair Miller.

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1           VICE CHAIR MILLER: Thank you, Mr. Chairman. I  
2 appreciate Commissioner May bringing that up because as I was  
3 reading through tonight's exhibits that it did have the feel  
4 to me of a contiguous smaller property that usually would be  
5 the subject of a contested case and so I -- in order to make  
6 sure that we err on the side of caution in terms of our  
7 procedure because there's a lot of support for this and we  
8 want it to go, well I want it to go forward properly.

9           I would support rescheduling I guess the hearing  
10 as a contested case where there are parties and opportunity  
11 for cross-examination and that and so forth. I think that's  
12 where I'm leading Mr. Chairman.

13           CHAIRMAN HOOD: Okay. Commissioner Turnbull, do  
14 you have anything?

15           COMMISSIONER TURNBULL: Thank you, Mr. Chairman.  
16 I guess I would concur with both my colleagues. The question  
17 of the amendment, the map amendment, does not cover a  
18 substantial area, I think it's about 47,000 square feet. And  
19 although it does raise some land-use policy questions, I  
20 believe that those questions could be secondary to the impact  
21 on the local neighborhood. So, I believe it really should  
22 be re-set down and put as a contested case, because of those  
23 issues.

24           CHAIRMAN HOOD: Okay. I, too, as I read and start  
25 reading and I'm starting to get a little uncomfortable. Not

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1 just the case but other cases as well because they all read,  
2 and they all have the feel of a contested case, like this  
3 one. But I believe, well I want to -- what I'm thinking, I  
4 believe that the look and feel of this is exactly a contested  
5 case especially when I start reading the ANC letter and it  
6 starts talking about benefits, we don't usually do those kind  
7 of things in map amendments and so I think we need to put  
8 this right back on course.

9 I think we need to set this, re-set this down as  
10 a contested case as I've said. And I'm glad, noted my  
11 Commissioners that this was brought up because the uneasiness  
12 of it. I'd rather for it to be brought up at the beginning  
13 as opposed to go through all this and decide like we have  
14 done in some other cases at the end.

15 So, I think that we're going to ask the applicant  
16 to re-set this down. I don't think -- I think that's where  
17 we need to go as a -- set it down as a contested case and I  
18 want to apologize, let me first apologize to the residents  
19 who've come down tonight.

20 But one of the things we want to make sure we do  
21 and in the path we're moving that we do it correctly.  
22 Because a lot of our stuff is challenged and we want to make  
23 sure that we think things through and we do it correctly so  
24 -- I want to first apologize, especially to the residents,  
25 and the applicant, and everybody else, Staff, the Office of

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1 Planning, and everybody else about our decision.

2 But I'd rather correct it now and feel good about  
3 it as opposed to have us all come down here and sit for a  
4 night, go through it and then make the decision as we do  
5 deliberations. So, I want to thank my colleagues also for  
6 bringing it up because I think the time to do it is now. It  
7 may be an inconvenience, Mr. Glasgow, but I think the time  
8 to do it right is now.

9 MR. GLASGOW: Well the time to do it, we should've  
10 done it at set-down.

11 (Simultaneous speaking)

12 MR. GLASGOW: I'm agreeing with your apology.

13 (Simultaneous speaking)

14 CHAIRMAN HOOD: So, since we didn't -- this is not  
15 the first time we've had to relook at something but one thing  
16 I appreciate about the Zoning Commission, we don't mind  
17 correcting something when we see it needs to be corrected at  
18 the time. It may be an inconvenience now, but I think in the  
19 long run it'll be a better process for not just for the  
20 applicant, for the residents, but for the city as a whole,  
21 so that's where I am.

22 I don't think I really need to go to Mr. Glasgow  
23 to comment on this. I think it's four votes, we're missing  
24 one but even if he was here to disagree, he was outnumbered.  
25 So, I think, Mr. Glasgow, you heard us. I'm going to go to

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1 Ms. Schellin. Let me ask this, Mr. Tondro do I need to let  
2 Mr. Glasgow say anything?

3 MR. TONDRO: Not, pardon me, I think if I'm  
4 hearing you correctly the motion was to re-set down as a  
5 contested case, so I think then we need Ms. Schellin to  
6 reschedule.

7 CHAIRMAN HOOD: Okay, so do I need to make a  
8 motion?

9 MS. SCHELLIN: You need to make a motion.

10 MR. GLASGOW: Mr. Chairman, I would like to get  
11 onto the record. Just briefly, one minute.

12 CHAIRMAN HOOD: So, Mr. Glasgow, I had to ask my  
13 council do I need to -- Is that up to me to let him say  
14 anything? Okay. How many people think I should let Mr.  
15 Glasgow say something? Could you show a show of hands?

16 (Laughter)

17 CHAIRMAN HOOD: Okay, I'll listen to the rest of  
18 this. Mr. Glasgow can -- How many people want him to keep  
19 it brief? Can you give me a show of hands?

20 (Laughter)

21 CHAIRMAN HOOD: All right, Mr. Glasgow, you have  
22 the floor.

23 MR. GLASGOW: Okay. Thank you, sir. We do  
24 believe that the case was properly set down by the Commission  
25 as a rulemaking. We don't own all the property in the

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1 square.

2 We are implementing the comprehensive plan land-  
3 use map and that was an overall policy decision over many  
4 squares and blocks here in this area of the city if you look  
5 back at this change.

6 Because I was heavily involved in that change with  
7 former Mayor Barry, who would call me down to his office said  
8 how do we help get Martin Luther King Avenue going stronger?  
9 And I said if you change the comprehensive plan, we'll be  
10 able to do map amendments.

11 And as a policy of this city that will be set  
12 forth and you will be able to go on these mixed-use cases.  
13 And there will be higher density and then that will encourage  
14 people like Mr. Omar Karim to come in and develop and we  
15 viewed it as an overall policy. If you look at the changes  
16 that were made at that point in time to the comprehensive  
17 plan, it was many blocks including the Congress Heights Metro  
18 Station.

19 And part of the discussion that we had with that  
20 the reason why there's a big circle around the Congress  
21 Heights Metro Station with the same designation as here, is  
22 I was having trouble articulating to the former mayor, what  
23 that was. And he said okay well if I draw a circle it was  
24 either 2500 square foot radius or 1500 square foot radius,  
25 does that cover it? And I said yes, sir. And so that's why

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1 you have that circle there. So, it was all part of that  
2 discussion of many squares and blocks in this area.

3 CHAIRMAN HOOD: Thank you, Mr. Glasgow.  
4 Certainly, we do not want to -- we don't take anything light  
5 when you tell us if Mayor for Life said anything because  
6 Mayor for Life is the reason I'm here. But I will tell you  
7 that I've heard from my colleagues and I think this is the  
8 path forward that we're going to take. I apologize to Mr.  
9 Karim and everyone else as far as moving forward. Ms.  
10 Schellin?

11 MS. SCHELLIN: Someone has to make a motion.

12 CHAIRMAN HOOD: Oh, that's what we were doing.  
13 Okay. Would someone like to make a motion?

14 COMMISSIONER MAY: So, Mr. Chairman, I would like  
15 to make a motion that we set down, for a second time, Zoning  
16 Commission case 19-03. This time as a contested case.

17 CHAIRMAN HOOD: Okay, there's been a motion made.  
18 And can I get a second?

19 VICE CHAIR MILLER: Second.

20 CHAIRMAN HOOD: It's been moved and properly  
21 second. Any further discussion?

22 VICE CHAIR MILLER: I would hope that we would  
23 expeditiously schedule it as expeditiously as we can.

24 CHAIRMAN HOOD: Okay, with the motion made and the  
25 second and also the request to make it as fast as possible,

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1 even if we have to come another night that we don't normally  
2 meet. Let's see if we can do that. But we want to  
3 accommodate this case as quick as possible. Any further  
4 discussion? All in favor? Aye.

5 (Chorus of ayes)

6 CHAIRMAN HOOD: Any opposition? Not hearing any,  
7 Ms. Schellin, would you please record the vote?

8 MS. SCHELLIN: Yes. Staff records the vote 4-0-1  
9 to set down Zoning Commission case number 19-03 as a  
10 contested case. Commissioner May moving, Commissioner Miller  
11 seconding, Commissioners Hood and Turnbull in support,  
12 Commissioner Shapiro not present, not voting. And if Mr.  
13 Glasgow could get me a draft public hearing notice by Monday  
14 morning, the first available hearing, which would be the 40  
15 days' notice as a contested case, I could give them on July  
16 15th. We have two --

17 (Simultaneous speaking)

18 CHAIRMAN HOOD: Well is that encompassing the 40  
19 days, not -- now, even if we have to cut it, can we do it  
20 earlier?

21 (Simultaneous speaking)

22 MS. SCHELLIN: No. That would be the first --

23 (Simultaneous speaking)

24 CHAIRMAN HOOD: It's still the 40 days? Okay,  
25 that's fine.

1 MS. SCHELLIN: -- date with the --

2 (Simultaneous speaking)

3 CHAIRMAN HOOD: July what?

4 MS. SCHELLIN: July 15th.

5 CHAIRMAN HOOD: Okay.

6 MS. SCHELLIN: Does that work?

7 CHAIRMAN HOOD: July 15th works.

8 MS. SCHELLIN: If you get me a draft public  
9 hearing notice by Monday morning for a contested case, then  
10 I will go ahead and pencil you in for that date because I  
11 will only have one more date left before the recess.

12 CHAIRMAN HOOD: Before the recess. Okay. So,  
13 July 15<sup>th</sup>. I'll just make this announcement. By then we  
14 will be in our summer -- even though we've already put that  
15 in. So those who come now, especially in July, we'll be in  
16 our relaxed attire. Anything else, Ms. Schellin?

17 MS. SCHELLIN: No, sir. That's it for this case  
18 then.

19 CHAIRMAN HOOD: All right and again I want to  
20 apologize to everybody for the change, but we want to have  
21 the correct path that we believe going forward. So, with  
22 that I want to thank everyone for their participation  
23 tonight. Mr. Glasgow, do you have anything else?

24 MR. GLASGOW: No, sir.

25 CHAIRMAN HOOD: Okay. So, with that this meeting

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1 is not adjourned but I'm going to postpone for --

2 (Simultaneous speaking)

3 MS. SCHELLIN: It is adjourned.

4 CHAIRMAN HOOD: This one is adjourned.

5 (Simultaneous speaking)

6 MS. SCHELLIN: Is adjourned. It's over.

7 CHAIRMAN HOOD: Okay. Well, this meeting is  
8 adjourned. Thank you.

9 (Whereupon, the hearing in the above-entitled  
10 matter went off the record at 6:47 p.m.)

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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: DCZC

Date: 05-16-19

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.



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Court Reporter

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