

GOVERNMENT OF  
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

+ + + + +

PUBLIC HEARING

+ + + + +

<p>IN THE MATTER OF:</p> <p>PETITION OF HENOK ARAYA --</p> <p>MAP SQUARE E-475, LOT 1</p>	<p>  </p> <p>Case No.</p> <p>   08-11</p> <p>  </p>
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Monday,  
December 15, 2008

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

The Public Hearing of Case No. 08-11 by the District of Columbia Zoning Commission convened at 6:30 p.m. in the Office of Zoning Hearing Room at 441 4th Street, N.W., Washington, D.C., 20001, Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

- ANTHONY J. HOOD, Chairman
- MICHAEL G. TURNBULL, FAIA, Commissioner (OAC)
- PETER G. MAY, Commissioner (NPS)

OFFICE OF ZONING STAFF PRESENT:

JENNIFER STEINGASSER  
ARTHUR JACKSON

The transcript constitutes the minutes from the Public Hearing held on December 15, 2008.

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

2 6:51 p.m.

3 CHAIRPERSON HOOD: Sorry about the  
4 delay. We are going to go ahead and get  
5 started. Can you hear us? Good evening,  
6 ladies and gentlemen. This is a public  
7 hearing of the Zoning Commission of the  
8 District of Columbia for Monday, December 15,  
9 2008.. My name is Anthony J. Hood.

10 Joining me this evening are  
11 Commissioner May and Commissioner Turnbull.  
12 We are also joined by the Office of Zoning  
13 staff Ms. Sharon Schellin, Office of Planning  
14 Staff Ms. Steingasser, and Mr. Jackson.

15 This proceedings is being recorded  
16 by a court report and is also webcast live.  
17 Accordingly I must ask you to refrain from any  
18 disruptive noises or actions in the hearing  
19 room.

20 The subject of this evening's  
21 first hearing -- do we have -- okay. The  
22 subject of this evening's hearing is Zoning

1 Commission Case No. 08-11. This is a request  
2 by -- I don't want to pronounce this  
3 incorrectly but Henok Araya? Okay. Henok  
4 Araya for approval of a zoning map amendment  
5 to rezone square 475, lot 1, from R-4 to C-2-  
6 A.

7 Notice of today's hearing was  
8 published in the D.C. Register on October 24,  
9 2008 and copies of that announcement are  
10 located to my left on the wall near the door.

11 This hearing will be conducted in  
12 accordance with the provisions of 11 DCMR 3021  
13 follows: Preliminary matters, presentation by  
14 the Office of Planning, report of other  
15 government agencies, report by ANC-2C,  
16 organizations and persons in support,  
17 organizations and persons in opposition.

18 Is the Office of Planning doing a  
19 presentation? Okay. No problem. For the  
20 record there will be a presentation by the  
21 applicant.

22 The following time constraints

1 will be maintained in this hearing.  
2 Petitioner, 30 minutes; organizations, five  
3 minutes; individuals, three minutes. The  
4 Commission reserves the right to change the  
5 time limits for presentations if necessary and  
6 notes at no time shall be ceded.

7           Upon coming forward to speak to  
8 the Commission please give both cards to the  
9 reporter sitting to my right before taking a  
10 seat at the table. When you are finished  
11 speaking, please turn your microphone off.

12           The decision of the Commission in  
13 this case must be based exclusively on the  
14 public record. The staff will be available  
15 throughout the hearing for any procedural  
16 questions.

17           Please turn off all beepers and  
18 cell phones at this time. At this time the  
19 Commission will consider any preliminary  
20 matters. Ms. Schellin, does the staff have  
21 any preliminary matters?

22           MS. SCHELLIN: We have a couple

1       waivers, request for waivers. The Office of  
2       Planning's Report is Exhibit 19. They have  
3       requested a waiver for the late filing of  
4       their report which was less than 10 days  
5       before the hearing. Then we have two waivers  
6       requested from the petitioner at Exhibits 20  
7       and 22. It's supplemental information that  
8       came in less than 20 days before the hearing.

9               CHAIRMAN HOOD: Okay, I think we  
10       can do this. The Office of Planning has asked  
11       for us to accept the report. Also the  
12       petitioner has asked us to accept Exhibits 20  
13       and 22. I would move that all of that be  
14       accepted into the record and ask for a second.

15               COMMISSIONER MAY: Second.

16               CHAIRMAN HOOD: Moved and properly  
17       seconded. Any further discussion? All those  
18       in favor, aye.

19               ALL: Aye.

20               CHAIRMAN HOOD: Hearing no  
21       opposition, Ms. Schellin, could you record the  
22       vote?

1 MS. SCHELLIN: Yes. Staff records  
2 the vote three to zero to two to accept the  
3 late filings by the Office of Planning and the  
4 petitioner. Commissioner Hood moving,  
5 Commissioner May seconding, Commissioner  
6 Turnbull in favor, Commissioner Jeffries not  
7 present and not voting. Third mayoral  
8 appointee seat vacant, not voting.

9 CHAIRMAN HOOD: Okay, Ms.  
10 Schellin, do we have anything else?

11 MS. SCHELLIN: That's it.

12 CHAIRMAN HOOD: Mr. Araya, if you  
13 could turn your microphone on and you may  
14 begin your presentation.

15 MR. ARAYA: You want me to start?  
16 Okay. My name is Henok Araya and I'm going to  
17 do a small presentation about the map  
18 amendments for square 475, lot 001. I applied  
19 for a map amendment after I had reviewed the  
20 future land map use and I consulted with the  
21 OP before I actually applied for it.

22 Through the process the main issue

1 becomes whether the future land map use that  
2 I have here posted is really accurate. Does  
3 it really include my lot for future use. You  
4 do have a copy which shows the property  
5 starred. It's whether my property was  
6 included as future mixed-use into the future  
7 land map use map.

8 The OP report that I have does say  
9 that it is encompassed by the mixed-use  
10 designation. It appears that it was not meant  
11 to be that way. They are basically saying  
12 they put it on the map as part of the mixed-  
13 used but really is not supposed to be part of  
14 the map and that's really the main discussion  
15 tonight that I want to present.

16 When the planners came out with  
17 this future land map use did they really make  
18 100 feet plus or minus error starting from 7th  
19 Street and Georgia all the way through New  
20 Jersey Avenue, Florida, Rhode Island. That  
21 includes my property and other properties into  
22 the mixed-use designation.

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1           If you look at the map it also  
2 shows -- look at all the pink stripes that you  
3 see -- hopefully I'm not speaking too fast.  
4 It starts at the corner of Georgia Avenue and  
5 Florida and it ends right at the Rhode Island  
6 and Florida intersection. Do you have a copy  
7 of the map?

8           CHAIRMAN HOOD: You know what?  
9 For me we don't have the microphones so if you  
10 use your board, that may be helpful.

11           MR. ARAYA: Okay.

12           CHAIRMAN HOOD: Hold on one  
13 second. Let's see if we can get the  
14 microphone. Maybe Ron will bring it out for  
15 us. That way you can speak into the mic and  
16 you can point there and show us. I think that  
17 may be more helpful. Okay. There it is.  
18 Thanks, Ron.

19           MR. ARAYA: Can you hear me?  
20 Basically we are trying to determine this  
21 future land map use that was created back in  
22 2006 does it really include my property or

1 does it not. The OP report is saying that it  
2 does include it but it was not really meant to  
3 include it. That's really the key question.

4 If you look up here, this is the  
5 Florida Avenue and Georgia Avenue  
6 intersection. The pink stripes that you see  
7 are the ones that comes all the way down and  
8 ends right at the Rhode Island and Florida  
9 Intersection. My property is right at this  
10 corner there. It's right within that pink  
11 stripe which indicates a mixed-use future,  
12 mixed-use identification.

13 CHAIRMAN HOOD: Mr. Henok, can you  
14 show me where your property is again?

15 MR. ARAYA: It's right over there.  
16 I can show it to you on this smaller map.

17 CHAIRMAN HOOD: Actually, we're  
18 going to need everybody to see it.

19 MR. ARAYA: Oh, I'm sorry. It's a  
20 small dot.

21 CHAIRMAN HOOD: Okay. We have it  
22 right here. I see it.

1                   MR. ARAYA: It's right within the  
2 boundaries of the pink stripes.

3                   CHAIRMAN HOOD: All right. Thank  
4 you. You may continue.

5                   MR. ARAYA: I'll continue. Okay.  
6 The comprehensive future land use that was  
7 created I think is highly accurate. It's  
8 extremely specific exactly where pink mark  
9 ends. That includes the whole lot, 1,800  
10 meters.

11                   That's the only lot in 1,800  
12 meters and there is no other adjoining lots on  
13 New Jersey Avenue but on the backside or New  
14 Jersey Avenue, which becomes F Street, it also  
15 covered two lots right behind the 1800 New  
16 Jersey Avenue we were talking about. Both of  
17 them were designated as future mixed-use lots.

18                   The OP report you probably have  
19 already read it. It says that the northern  
20 side of the square is what is supposed to be  
21 mixed-used but not the southern side of the  
22 square. The map clearly indicates northern

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1 southern. It's pretty clear.

2 Before I go on to the details that  
3 I have here in front of me, we have to talk  
4 about who actually created this map. Who are  
5 the people that are responsible for this map.  
6 We all can agree that these people are the  
7 right people. They have the most technical  
8 knowledge, especially the latest technology  
9 that we have. They are intellectuals.

10 There is a copy of one of the  
11 excerpts that I added to day from Evelyn  
12 Kasongo. You guys are probably already  
13 familiar with her. She was one of the master  
14 -- not the only master planner but one of the  
15 master planners in this future land map use.

16 Her e-mails clearly said that the  
17 map accurately depicts what the intent of the  
18 future development of the city is. She  
19 confirms that the colors are accurate. She  
20 said that her and others spent several  
21 thousand hours and years coming up with this  
22 plan.

1           They had neighborhood meetings.  
2           After they came out with this plan it was  
3           taken to the city council and the city council  
4           approved it as the official future land map.  
5           It basically was accepted by the consulate,  
6           accepted by the neighborhood, accepted by  
7           everybody as being as accurate as it possibly  
8           could be.

9           I also talked to Emily Yates. I  
10          received her e-mails. Emily said, "Well, we  
11          can just put colors on the map. These are  
12          accurate colors."

13          I do believe that this is accurate.  
14          The city of Washington has some of the best  
15          zoning rules, some of the best clearly defined  
16          rules that I have seen anywhere in the U.S.

17          But let's just assume they made a  
18          mistake. If they made a mistake, then there  
19          has to be some other errors, too. I'm going  
20          to go to the board and show it to you.

21          I'm going to give you a few  
22          examples why if they really did not want that

1 corner lot in the mixed-use, the rest of the  
2 corners in the Washington, D.C. area there  
3 would have been some errors, too, but they  
4 were not making an error.

5 If you look at Arrow A you have  
6 the small map in there, the Arrow A shows  
7 Florida Avenue is divided right in the middle  
8 of the road. They are showing the bottom  
9 portion of it as high commercial and the top  
10 portion of it as low residential.

11 Direct mark falls exactly in the  
12 center of the road because they did not want  
13 the other part to be high-density commercial.  
14 If they would have put that there, they would  
15 have completely cut that property off but they  
16 didn't because they wanted to be part of the  
17 mixed-use.

18 Then if you look at Point B it has  
19 a purple, it has red, stripes of red, by the  
20 old intersection right in the middle of the  
21 road. They have clearly identified it exactly  
22 what you were talking about. Again, the same

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1 thing there. If they did not want it, they  
2 would have done exactly the same there, too.

3 Then if you look at point C all  
4 the way down Florida Avenue between Virginia  
5 and Montello this is even more interesting.  
6 It's the same stripes. It's a mixed-use on  
7 the northeastern side but on the bottom side  
8 it's still residential but those stripes stop  
9 exactly halfway.

10 Florida Avenue they go all the way  
11 down. If the report of OP was to be accurate,  
12 the planners would have stopped exactly there  
13 but they didn't and went all the way to the  
14 other side.

15 D Street on New York Avenue the  
16 same way. Southern part of New York Avenue  
17 right at the pedestrian line is change of  
18 color. Northern side is the different change  
19 of color. You know those planners were really  
20 on top of it. They are within a foot with  
21 their mapping skills.

22 Then with even more details on O

1 Street between 12th Street and 10th Street.  
2 Right there that pink stripe ends exactly at  
3 that corner. It does not even cross that  
4 corner. Here, too, they are extremely  
5 specific. They have the GPS system that will  
6 tell them exactly plus or minus exactly where  
7 the roads end.

8 If they had wanted to do that  
9 there, they wouldn't be here 100 feet off.  
10 I'm not sure that's acceptable. They wanted  
11 to be part of that and that is the reason they  
12 did it that way. That is one of the reasons  
13 I believe they meant it to be that way and the  
14 city council approved it that way.

15 The planners sent me an e-mail  
16 saying, "Look, you know, this is what we  
17 wanted to make it look like." I want to  
18 address the other more specific questions that  
19 were brought up by the OP. One of the first  
20 concerns were if the rezoning of this corner  
21 would have a negative impact on S Street.

22 S Street is on the other side. We

1 have two gas stations right around the corner.  
2 There is the funeral home. There is a Dunkin'  
3 Donuts in the area already so this will have  
4 no effect. The tiny 800-square footage of  
5 space would really not make any negative  
6 effect but would have a positive effect where  
7 people could actually walk by and get their  
8 groceries.

9 I live on S Street myself. On S  
10 and New Jersey are both my houses. I have to  
11 go to the 7-Eleven to get my sandwiches about  
12 two blocks away. Then the main entrance to  
13 the property is on the New Jersey side. It's  
14 not S Street like the NC is claiming.

15 Behind New Jersey is not S Street.  
16 It's New Jersey Avenue. At the same time  
17 having a little store there would just  
18 increase a little sales tax. It's not a  
19 million dollars but there will be some changes  
20 for the neighborhood.

21 The applicant was concerned  
22 whether this small space is going to affect

1 Georgia Avenue or people from Georgia Avenue  
2 are going to come to New Jersey Avenue to  
3 purchase things. If it was Wal-Mart I could  
4 understand. That would bring people from all  
5 over the place but this will have pretty much  
6 minimal impact on Georgia Avenue. It's not  
7 going to be that powerful of a store.

8 The final comment is about traffic  
9 in the area. The DOT says there is about  
10 20,000 cars going back and forth in that  
11 intersection and that data hasn't really  
12 changed much. It's not going to change  
13 because a small store opens right on the  
14 corner.

15 It's not special store. It's  
16 going to be a regular convenience store so  
17 you're not going to have people coming in from  
18 all different directions to buy anything on  
19 this corner.

20 I don't see any effects on  
21 traffic. One of the main reasons it's such a  
22 small limited size that it can't carry

1 everything to bring everybody to the  
2 neighborhood. I don't expect any big traffic  
3 impact on it at all.

4 I'm about to conclude my  
5 statements here. Doing a map amendment for  
6 this small corner is part of the official  
7 future land use for that lot. It's not a  
8 transition area where we can say, "Well, maybe  
9 or maybe not." It is within the boundaries,  
10 not outside of the boundaries.

11 The craters on the map it was  
12 meant to be that way. The city council  
13 approved it. Then if we are going to go and  
14 say, "Well, we cannot approve this because ANC  
15 said this," which I'm pretty sure they have a  
16 good point.

17 If this was my neighborhood and it  
18 was a corner that was going to be changed  
19 without any future plans, then I understand  
20 but this is part of the future plans. Then  
21 really what is the use of the map if we cannot  
22 rely on it?

1                   This is a perfectly accurate map  
2 done by professionals that knew what they were  
3 doing. To go back and second guess them and  
4 for them to go back and say, "No, it's  
5 accurate," I'm not sure what the use of the  
6 map will be if we say this is not what we  
7 meant to do. It's a pretty straightforward  
8 case.

9                   I'm done if you have any questions  
10 for me.

11                   CHAIRMAN HOOD: Thank you very  
12 much, Mr. Araya.

13                   I want to thank my colleague for  
14 reminding me. I guess you wrote this out on  
15 this map in your handwriting. Do you have the  
16 Office of Planning's report from December  
17 10th?

18                   MR. ARAYA: I have it here.

19                   CHAIRMAN HOOD: Let's turn to page  
20 -- Commissioner May showed me a much better --  
21 what exhibit is that? I guess that's Exhibit  
22 4?

1 MR. ARAYA: Exhibit 4.

2 CHAIRMAN HOOD: Let's look at the  
3 result. Is that all of your property there in  
4 light green?

5 MR. ARAYA: I don't have it in  
6 color.

7 CHAIRMAN HOOD: You have black and  
8 white? Okay. If you look at it -- thank you,  
9 Ms. Schellin. I guess you are referring to  
10 Ms. Kasongo.

11 MR. ARAYA: Yeah, Kasongo.

12 CHAIRMAN HOOD: Kasongo and the  
13 experts who did the map. I'm looking at  
14 Exhibit 4. Is all of that your property  
15 there, even the part that is outside the  
16 boundaries since you talk about the technique  
17 and how great the lines were drawn and  
18 everything? Is that all your property?

19 MR. ARAYA: The green part is and  
20 the front part is my space also. It's a  
21 public space but that includes our property.

22 CHAIRMAN HOOD: So that whole

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1 square is your property?

2 MR. ARAYA: Yes.

3 CHAIRMAN HOOD: Now, what you are  
4 proposing to do will not go beyond that point.  
5 Is that correct?

6 MR. ARAYA: It can't. Yes, you're  
7 right.

8 CHAIRMAN HOOD: Okay. So it's  
9 going to stop right there.

10 MR. ARAYA: Yes. That's exactly  
11 where it stops. As you can see, that property  
12 there faces New Jersey Avenue. It has no  
13 entrance from the S Street side.

14 CHAIRMAN HOOD: Does it face New  
15 Jersey or S?

16 MR. ARAYA: It faces New Jersey.

17 CHAIRMAN HOOD: Okay, faces New  
18 Jersey but part of it -- so there is no  
19 entrance on the S Street side?

20 MR. ARAYA: There is no entrance  
21 on the S Street side.

22 CHAIRMAN HOOD: There is or is

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1 not?

2 MR. ARAYA: There isn't.

3 CHAIRMAN HOOD: So you're  
4 proposing to do a store?

5 MR. ARAYA: I was thinking of  
6 doing a nice store with a small cafe on it  
7 because it has the front part that you see.  
8 That whole yard is an open space. You have  
9 small stores with little cafes coming up in  
10 all the small residential areas and I thought  
11 it would be a nice --

12 CHAIRMAN HOOD: So that area that  
13 is outside of the pink shaded area, what is  
14 that area going to be used for?

15 MR. ARAYA: That's a public space.

16 CHAIRMAN HOOD: Okay. So it's not  
17 a building or anything like that?

18 MR. ARAYA: That's open space.

19 COMMISSIONER MAY: Mr. Chairman,  
20 can I follow on that?

21 CHAIRMAN HOOD: Sure.

22 COMMISSIONER MAY: Can we look at

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1 Exhibit 3 from the Office of Zoning Report?  
2 It's an enlarged version and it overlays the  
3 map on top of aerial photography. The way I  
4 see it here the pink section of the map seems  
5 to dissect the building on the property. Am  
6 I reading that correctly?

7 MR. ARAYA: There are some -- I  
8 think you're right but there are some setbacks  
9 here that doesn't show. From the S Street  
10 side there is a major setback that brings in  
11 a little bit closer to --

12 COMMISSIONER MAY: Right, but what  
13 is outlined in green is your actual property.  
14 It does not include any of the public space  
15 the way I read it because you can see the  
16 other buildings along that line there to the  
17 left or to the west.

18 You can see a very strong hard  
19 line that lines up with the lower green line  
20 that indicates the front of your building.  
21 Then we have in front of that, I don't know,  
22 20 or 30 feet of front yard which would be

1 public space.

2 MR. ARAYA: Right. Yes. You're  
3 right.

4 COMMISSIONER MAY: Then the  
5 sidewalk and then you can see there is a car  
6 parked close to the corner. Right?

7 MR. ARAYA: Yes. Go ahead.

8 COMMISSIONER MAY: Anyway, I guess  
9 my question is it looks to me like maybe 40  
10 percent of your building is actually within  
11 the pink hatched area?

12 MR. ARAYA: I think it's about 75  
13 percent of the lot in the pink.

14 COMMISSIONER MAY: 75 percent of  
15 the lot but only about 40 percent of the  
16 building. Is that right?

17 MR. ARAYA: From what I can see it  
18 doesn't show the majority of the house. The  
19 house really does extend back a little bit  
20 more.

21 COMMISSIONER MAY: Right, but it's  
22 not as deep as the houses next to you on S

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1 Street. We can tell that from Exhibit 2 from  
2 the OP report. The back of your property, I'm  
3 guessing, is probably about 10 or 15 feet from  
4 the back of the houses next to it.

5 You can see the line of the houses  
6 next to it in the photograph and in Exhibit 3.  
7 If you draw a line straight across from the  
8 back of those houses, it's probably 10 or 15  
9 feet south of that.

10 MR. ARAYA: I'm not really good at  
11 feet.

12 COMMISSIONER MAY: There is a  
13 scale on Exhibit 3 toward the bottom there.  
14 You can see that car which is probably about  
15 20 feet so that gives you a sense of things.

16 MR. ARAYA: You know, talking to  
17 Evelyn she did state that there are split  
18 zoning.

19 COMMISSIONER MAY: Sure. There  
20 are properties that are split zoned.

21 MR. ARAYA: Split-zone areas. She  
22 said the majority of the lot they go -- she

1 said it's not about the building but about the  
2 lot size, how much of the lot is actually --

3 COMMISSIONER MAY: I was just  
4 curious about it because I thought you were  
5 saying that what we saw that was outside of  
6 the pink hatched area was all public space and  
7 it's not. It's the majority of your building.

8 MR. ARAYA: I must have misspoke  
9 on that one.

10 COMMISSIONER MAY: Do you have  
11 any --

12 MR. ARAYA: Public space.

13 COMMISSIONER MAY: Right. To the  
14 east.

15 MR. ARAYA: To the east of it, not  
16 to the south of it.

17 COMMISSIONER MAY: To the east and  
18 to the south of the green line is public  
19 space. It's part of the public right-of-way.

20 MR. ARAYA: Yes. You're right.

21 COMMISSIONER MAY: At the moment  
22 you don't have any immediate plans to expand

1 the building further into the back yard?

2 MR. ARAYA: I mean, if it  
3 becomes -- if it's a split zone or if the  
4 zoning change is an issue, then the actual  
5 building could be moved into the part where it  
6 is zoned with the proper zoning. Our  
7 properties in Washington are split zones and  
8 people move the side of the property to the  
9 other side to make it fit.

10 COMMISSIONER MAY: It's  
11 countermeasure to practical to move the  
12 building but theoretically you could have more  
13 density further back but that seems like a lot  
14 of work. I was wondering if you have  
15 immediate plans to try to building anything in  
16 the backyard?

17 MR. ARAYA: I mean, the plan is  
18 another six or seven years maybe. When I  
19 moved to this neighborhood back a long time  
20 ago it was all boarded houses. I made the  
21 majority of changes to all this neighborhood  
22 before D.C. became popular.

1                   COMMISSIONER MAY:  Okay.  I don't  
2                   have any other questions.

3                   COMMISSIONER TURNBULL:  Thank you,  
4                   Mr. Chair.  I guess one of the things, Mr.  
5                   Araya, is that I always get troubled when I  
6                   look at comprehensive plan maps.  We had a  
7                   case recently, I think it was Georgia Avenue,  
8                   where the map indicates all these different  
9                   shading and stripes.

10                   Until you get to a bigger blow-up  
11                   you look at all the complexities that show.  
12                   I mean, if I look at the Exhibit 4, it shows  
13                   part of your property as being zoned C-2-A,  
14                   but then it shows the next five residential  
15                   lots beyond that also got a piece of this C-2-  
16                   A.

17                   I can't imagine that -- I know you  
18                   think the people who did these did it 100  
19                   percent but my feeling is I don't think they  
20                   really meant to have a line drawn all the way  
21                   through half these properties.  When we get  
22                   into this we have to carefully look at it.

1           There are other ones here, too.  
2           We've gone through with the Office of Planning  
3           on, I think, it was Georgia Avenue where you  
4           had a theoretical line that went through but  
5           when you actually looked at it, you found  
6           clearly residential properties that were not  
7           really meant to be.

8           Just because of the nature someone  
9           simply drew a line straight across and didn't  
10          look at the impacts of alleys and adjacencies.  
11          I guess I don't really have a question for  
12          you. I can just look at this map on Exhibit  
13          4 and you can just -- you begin to make some  
14          questions on how accurate some of these things  
15          are once you begin to see them at a small  
16          scale.

17          I mean, if I even go down the  
18          street past 6th Street I see some homes on the  
19          other side on the northeast side that, again,  
20          it's like somebody just carved a knife right  
21          through the middle of people's homes and said,  
22          "Well, part of your house or part of your

1 property is residential and the rest is C-2-  
2 A." Some of it doesn't make sense. I guess  
3 I would like to hear from the Office of  
4 Planning on some of this.

5 MR. ARAYA: May I respond?

6 COMMISSIONER TURNBULL: Yeah.

7 MR. ARAYA: A lot of the -- from  
8 my understanding they leave a little room for  
9 what is called a transition or buffer zone.  
10 This is throughout D.C. If you look  
11 throughout D.C. history there is always areas  
12 where there are split zones and it allows for  
13 split zones and it allows for people to come  
14 into the Commission and say, "Look, we have a  
15 split zone here. Can we go one or the other?"

16 Some of the common decisions you  
17 guys have made in the past. That's the  
18 intentions of when they extended these lines  
19 to say, "We'll leave this as a buffer zone so  
20 if it ever becomes an issue, you can come ask  
21 for variances or you can come ask for  
22 different types of permissions that you can be

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1 allowed to make the changes."

2 That was my interpretation.  
3 That's what I understood from talking to the  
4 original -- some of the -- Evelyn and Elaine  
5 from Zoning.

6 COMMISSIONER TURNBULL: I guess  
7 I'm looking at Exhibit 2 and I sort of get  
8 into some of the questioning that Commissioner  
9 May was getting into where there appears to be  
10 almost the size of a lot which is actually in  
11 the public space.

12 You have a sidewalk going through  
13 this and it looks like there are trees or  
14 shrubbery. I don't know what else is on there  
15 but you would actually be looking to try to  
16 get a public space permit to take that over  
17 and make an outdoor cafe or something.  
18 Otherwise, you can't do what you say you want  
19 to do.

20 I mean, it's almost as if there  
21 was another lot here but it's actually public  
22 space which you're now going to be saying, "I

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1 want to take over this space, too," which  
2 isn't really yours.

3 MR. ARAYA: That's very true. The  
4 public space actually you pay for those but  
5 there is also a plan to expand New Jersey  
6 Avenue. I'm not sure when that's going to  
7 happen but the plan is to cut the corner from  
8 New Jersey and expand the road to within 10  
9 feet of the property. I'm not sure about the  
10 exact timing of that. Small stores in D.C.,  
11 small stores of 800 square footage, 900 square  
12 footage are everywhere.

13 COMMISSIONER TURNBULL: What is  
14 the property adjacent to yours at the back  
15 looking at the Exhibit 2 photograph? Is that  
16 an apartment building?

17 MR. ARAYA: That's an apartment  
18 building, yes. Where the cars are?

19 COMMISSIONER TURNBULL: Right.

20 MR. ARAYA: Yes, that's an  
21 apartment building. That is zoned C-2-A also.

22 COMMISSIONER TURNBULL: I'm trying

1 to look in the back of your building here. It  
2 looks like a white square object, shoebox  
3 size. Is that a structure or is that a  
4 vehicle of some sort?

5 MR. ARAYA: That's a truck.

6 COMMISSIONER TURNBULL: That's a  
7 truck. Kind of like a package delivery truck  
8 or something?

9 MR. ARAYA: A furniture store  
10 truck.

11 COMMISSIONER TURNBULL: Okay.  
12 That's all the questions I have. Thank you.

13 CHAIRMAN HOOD: Okay. Anymore  
14 questions, Commissioner May?

15 COMMISSIONER MAY: I guess looking  
16 at the map that you provided, if you would  
17 look at -- let's just take for example H  
18 Street N.E. going to the right of Union  
19 Station.

20 MR. ARAYA: Okay.

21 COMMISSIONER MAY: You see H  
22 Street, N.E. and it's a swath that follows H

1 Street. Then it gets a little bit narrower  
2 once you cross 7th Street and then it gets a  
3 little bit wider to the south once you cross  
4 8th Street. Then it narrows again. Right?

5 MR. ARAYA: Yes.

6 COMMISSIONER MAY: Why do you  
7 think it's jogging in that way north and  
8 south?

9 MR. ARAYA: Why is it going --

10 COMMISSIONER MAY: Yeah, why is it  
11 shifting like that?

12 MR. ARAYA: I would assume to  
13 include the lots in that specific area and the  
14 north side there is more residential.

15 COMMISSIONER MAY: So to follow  
16 the alleys or something like that it's  
17 probably jogging around like that.

18 MR. ARAYA: And the size of the  
19 lots.

20 COMMISSIONER MAY: Right, the  
21 lots, because the lots abut alleys at the  
22 back.

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1 MR. ARAYA: Right. Then if you --  
2 a lot of the 8th Street zoning one size is C-  
3 3-A and the other side is C-2-B.

4 COMMISSIONER MAY: Right. I'm  
5 just talking about this map. This is the land  
6 use map which is not always exactly conformed  
7 to the actual zoning. I'm just trying to  
8 figure out why you think it was mapped in this  
9 way. This sort of circumstance happens a good  
10 bit across the map.

11 I mean, just in the sample that  
12 you've got. You've got Rhode Island Avenue  
13 that jobs a little bit here and there and  
14 you've got certainly 14th Street as it goes up  
15 it kind of moves in and out and follows  
16 properties fairly exactly.

17 If you follow up above the Rhode  
18 Island Avenue or even in the neighborhood of  
19 the Rhode Island Avenue metro the lines are  
20 sort of conformed to a lot of different  
21 circumstances there to follow those things  
22 fairly exactly. Chances are that is actually

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1 conforming it to actual lots.

2 I guess my question is if that is  
3 the normal logic, or that's what they try to  
4 do to conform it to the actual lots, why do  
5 you think the Office of Planning made a very  
6 deliberate decisions to have it slice right  
7 through your lot and not either pull it all in  
8 or pull it all out?

9 MR. ARAYA: Why did they not?

10 COMMISSIONER MAY: Yeah. Why  
11 didn't they conform it to the alley or bring  
12 it to the street or to the lot line or  
13 something like that because they seem to have  
14 done that everywhere else? Not everywhere  
15 else but lots of other places.

16 MR. ARAYA: That's the same  
17 argument that if they didn't want it to be  
18 there, they would have completely eliminated  
19 two. They would have completely decided they  
20 would not have any of that part.

21 COMMISSIONER MAY: I think the  
22 argument that OP would -- I'll let them speak

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1 for themselves but what I would make just sort  
2 of looking at the map is that if they had  
3 gotten into it in that level of detail, they  
4 probably would have drawn the line right at  
5 the alley and flattened it out at the bottom  
6 rather than continue the zone and cut a swath  
7 across your property and the two neighboring  
8 properties with the extra zone.

9 If they really intended for there  
10 to be commercial use on New Jersey Avenue, I  
11 would have thought they would have taken the  
12 time to kind of turn the zone and have it come  
13 down one or two block widths or one or two lot  
14 widths along New Jersey Avenue but they didn't  
15 do that. They just had it follow the path of  
16 Florida Ave.

17 MR. ARAYA: That's a really good  
18 point but if you look at a current zoning, C-  
19 2-A ends exactly at --

20 COMMISSIONER MAY: The alley.

21 MR. ARAYA: If you look at Exhibit  
22 2 it ends exactly at the alley.

1 COMMISSIONER MAY: Right.

2 MR. ARAYA: They have looked at  
3 that and they said, "Okay, we will include a  
4 portion of this property." That's my  
5 understanding. They are assuming that at this  
6 corner it's okay to have a split zone where it  
7 would allow --

8 COMMISSIONER MAY: I find it very  
9 hard to believe. Split zoning does occur but  
10 split zoning is much more common in larger  
11 parcels than it is in the smaller parcels and  
12 it's not likely to occur as a result of this  
13 kind of mapping.

14 I really have a hard time  
15 believing that it was the intention of the  
16 Office of Planning or whoever else was putting  
17 this map together, the city council who  
18 approved it, that you should take a property  
19 that is 2,000 square feet or 2,500 square feet  
20 of land and split it down the middle and have  
21 one half be commercial and the other half be  
22 residential.

1           It seems to me that -- I wouldn't  
2 call it a mistake but the sort of convenience  
3 that they took was just to draw the line  
4 straight rather than try to conform it  
5 exactly. That's the question I asked Evelyn  
6 and her response was, "We didn't just put  
7 colors on the map." That was her response.

8           COMMISSIONER MAY: I wouldn't  
9 suggest it's just putting colors on the map  
10 because then there would be no reason for  
11 things to be where they are.

12           MR. ARAYA: You don't think more  
13 than 70 percent of the lot is not in color?

14           COMMISSIONER MAY: What?

15           MR. ARAYA: When you look at the  
16 colors that they have done you don't think  
17 that more than 70 percent of it is part of  
18 that pink zone in the area?

19           COMMISSIONER MAY: I don't know.  
20 It's not a zoning map so it's not really that  
21 -- it's the land use map which, you know, is  
22 not drawn as accurately as the zoning map is

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1 in my view.

2 CHAIRMAN HOOD: Okay. Let me ask  
3 you. Evelyn Kasongo. Who is that?

4 MR. ARAYA: She is one of the  
5 planners that worked on this map itself.

6 CHAIRMAN HOOD: Is she currently  
7 the Ward 8 planning coordinator?

8 MR. ARAYA: She is.

9 CHAIRMAN HOOD: Office of  
10 Planning? She's the Ward 8 planner?

11 MR. ARAYA: She's the Ward 8  
12 planner but she was involved in the whole  
13 plan. The person that was specifically  
14 involved in Ward 2 is not around anymore. The  
15 person in charge of that position is Emily  
16 Yates. She just got hired not long ago and  
17 her comments were the same as Evelyn  
18 Kasongo's.

19 CHAIRMAN HOOD: So the young lady  
20 that you're talking about, the Ward 8 planner,  
21 helped to devise this in her capacity in the  
22 Office of Planning?

1 MR. ARAYA: She's not the only  
2 one. She's one of the people that was  
3 involved --

4 CHAIRMAN HOOD: In 2006?

5 MR. ARAYA: -- to come up with  
6 this future land map use.

7 CHAIRMAN HOOD: Let me ask you  
8 this. You said something about before D.C.  
9 became popular. I just wanted to hear that.  
10 You said something about before D.C. became  
11 popular you did something?

12 MR. ARAYA: I repaired the  
13 neighborhoods back in 2000. I did a lot of  
14 work in the area.

15 CHAIRMAN HOOD: Oh, you did a lot  
16 of work in the area in 2000 before it became  
17 popular.

18 MR. ARAYA: The house next to me  
19 were shells.

20 CHAIRMAN HOOD: When did D.C.  
21 become popular? I'm just asking because I'm  
22 curious.

1 MR. ARAYA: I think back in 2004,  
2 2005.

3 CHAIRMAN HOOD: Okay.

4 MR. ARAYA: In my opinion. I'm  
5 sorry.

6 CHAIRMAN HOOD: Oh, that's better.

7 MR. ARAYA: It's my opinion from  
8 what I see.

9 CHAIRMAN HOOD: I thought it was  
10 1964. Everybody goes through a transition,  
11 both the suburbs and the urban areas also. I  
12 say '64 because that's when I was born and  
13 it's always been popular. Okay. Do we have  
14 any --

15 I'm sounding like I'm off my  
16 rocker but is the ANC present to cross-  
17 examine? Oh, okay. We don't do cross-  
18 examine. Okay. Thank you. Okay. Let's go  
19 to the Office of Planning. You can hold your  
20 seat. I don't think nobody is going to push  
21 their way up to testify. Mr. Jackson.

22 MR. JACKSON: Good evening, Mr.

1 Chairman and members of the Zoning Commission.  
2 My name is Arthur Jackson. I'm a Development  
3 Review Specialist in the District of Columbia  
4 Office of Planning. I will present a brief  
5 summary of the Office of Planning's final  
6 report on this application.

7           You have the report before you, I  
8 believe. Essentially the 2006 Comprehensive  
9 Plan Generalized Future Land Use Map  
10 designates the southeastern half of Square E-  
11 475 for moderate density residential and  
12 commercial uses and the southwestern half of  
13 the square for moderate density residential.

14           The mixed-use designation also  
15 encompasses much of the subject property  
16 although it was located on the southern half  
17 of the square. Since the proposed rezoning  
18 did not appear inconsistent with the  
19 comprehensive plan, the Office of Planning  
20 recommended that this application be set down  
21 for public hearing to allow the applicant to  
22 make their case.

1           During the public hearing to  
2 consider the petition for set down the  
3 Commission questioned whether the extension of  
4 mixed-use moderate density residential  
5 commercial designation across the rear yards  
6 of the properties fronting S Street was a  
7 drafting error.

8           Upon further review the Office of  
9 Planning determined that the reference line is  
10 a generalized southern boundary of a land use  
11 mix that centered along Florida Avenue thus  
12 calling into question whether this designation  
13 is intended to continue south along New Jersey  
14 Avenue.

15           With that I'm going to refer to  
16 our submission No. 4. Actually I'll go  
17 through the maps. Exhibit No. 1 is the  
18 existing property. The existing property is  
19 around 1,300 square feet. It is at a corner.  
20 The actual distance between the property and  
21 what appears to be the roadway is 53 feet.

22           Also note that the center line of

1 the alley is where the C-2-A designation stops  
2 at this time. Also on Exhibit 2 you'll note  
3 that the applicant is correct in that the  
4 entrance to the property is off of New Jersey  
5 Avenue and there are no principal entries off  
6 of S Street.

7 I would also note that every  
8 property in this square is residential. There  
9 are no commercial or nonresidential properties  
10 in the square that is the subject of this  
11 application.

12 Of course, the original map that  
13 was submitted in our preliminary report,  
14 Exhibit 3, shows that much of this property is  
15 covered by mixed-use designation per the  
16 generalized land use map. You see where the  
17 zoning designation between the commercial and  
18 residential is still in the center line of the  
19 alley.

20 Finally we go to Exhibit 4 and I  
21 think this tells the tale. I note that north  
22 and south of Florida Avenue along the center

1 line are a consistent distance. The  
2 boundaries of the mixed-use designation are  
3 consistent distances from the center line.  
4 This is consistent with usual planning  
5 practice.

6 Of course, we talk about 400 scale  
7 and 200 scale and architectural scale. When  
8 you get down to a site plan or a particular  
9 lot and you're talking about a building, of  
10 course you're talking about architectural  
11 scales in terms of the setbacks and the  
12 boundaries within the property.

13 When you go to a larger scale such  
14 as zoning districts, zoning district usually  
15 coincide with either centers of right-of-way,  
16 right-of-way boundaries or property lines.  
17 The line use designations are much more  
18 general in nature. This is a generalized map  
19 and, as such, it is drawn such that it  
20 includes much of the property along Florida  
21 Avenue.

22 Our basic contention is this is

1 really intended -- this is where this corridor  
2 designation is intended to be along Florida  
3 Avenue. We also note that there are a number  
4 of other inconsistencies that really does lend  
5 itself to further interpretation of what the  
6 map is intended to display.

7 For example, we have two green  
8 circles on the map at 5th Street. 5th Street  
9 comes off of Florida Avenue and obviously all  
10 the properties fronting Florida Avenue are  
11 probably intended to go to commercial uses.

12 But as you move up 5th Street, 5th  
13 Street, at least according to the existing  
14 land use pattern, is all residential so I  
15 don't think the intent of the regulations is  
16 that the commercial designation move north  
17 along 5th Street but in the event it is, it  
18 probably should stop at the alley. That would  
19 be the normal planning practice to protect  
20 these establishments in the neighborhood from  
21 commercial encroachment.

22 I think the same situation exist

1 if you look to the west or to the left along  
2 6th Street, 6th Street at T. You see the  
3 boundaries of this designation north of  
4 Florida Avenue extends along properties that  
5 are fronting T Street. We don't think the  
6 intended rate of this designation is that  
7 properties along T Street moving east from 6th  
8 Street will go residential at some point in  
9 the future.

10           Again, this is a general tool that  
11 is used to provide guidance on land use  
12 patterns and it is left to the zoning  
13 commission and other bodies to do additional  
14 analysis and to consider whether this is the  
15 best planning practice to make the changes  
16 that could be possible under this designation.  
17 During the public hearing that's when the --  
18 this analysis was done in response to comments  
19 made at the hearing.

20           Furthermore, the subject property  
21 is located within the boundaries of the  
22 convention center area strategic development

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1 study area. This analysis is looking at the  
2 potential uses of the area and what will be  
3 best in light of the ongoing development  
4 around the convention center.

5 The associated analysis concluded  
6 that there was excess commercially zoned  
7 property in the study area and that through  
8 adoption of a strategy that would call for  
9 concentration of retail uses along 6th and 9th  
10 Street. The thought was that concentration of  
11 uses there would make for stronger commercial  
12 areas to support the convention center.

13 Rezoning subject property along  
14 New Jersey Avenue from residential to  
15 commercial and increasing the amount of  
16 commercially zoned area within the study area  
17 would therefore be contrary to the goal of  
18 that small area plan.

19 The applicants have made a number  
20 of observations about the accuracy and  
21 specificity of the map. We think it is  
22 specific to a degree but, again, this is 400

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1 scale design of land uses and this is a land  
2 use plan.

3 It is generalized and it is used  
4 to provide guidance. This guidance is not  
5 seen as being in isolation but in conjunction  
6 with other guidance that has been prepared in  
7 terms of small area plans and those types of  
8 analysis.

9 I think the weight of that  
10 analysis and the characteristics -- the way  
11 the land uses are characterized on this map  
12 are leaning toward the -- there not being an  
13 interest in this plan of extending the  
14 commercial designation south to small  
15 residential lots along S Streets.

16 We also note that the change of  
17 zone in this property does not limit the  
18 applicant to any particular use. There have  
19 been suggestions about the small retail store  
20 but once the zoning is in place, any allowable  
21 retail use in the commercial C-2 district  
22 could go on that property.

1           Be clear this is not a PUD where  
2           you can indicate exactly what you -- you will  
3           not be required to put a particular use on the  
4           site. This is a zoning change and any matter  
5           of light use or use subject to special  
6           exception could be allowed on the property.

7           Lastly, we think as official  
8           guidance the accuracy of this map is  
9           sufficient for the purpose it was intended for  
10          but on a lot-to-lot basis consideration by the  
11          Zoning Commission of the particular  
12          characteristics of this site and their  
13          interpretation of what is in the best interest  
14          of the District with regard to any changes  
15          that are being proposed.

16          Based on the information that we  
17          have developed, the Office of Planning does  
18          not support rezoning this one lot on Square E-  
19          475 from R-4 to C-2-A. We think the intent of  
20          the regulation and the intent of the  
21          comprehensive plan did not extend to moving  
22          commercial zoning south of the alley. That

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1 concludes the Office of Planning's report. We  
2 are available to answer questions.

3 CHAIRMAN HOOD: Thank you very  
4 much, Mr. Jackson. Any questions? I will  
5 tell you though -- I'm sorry. Go ahead.

6 COMMISSIONER TURNBULL: Thank you,  
7 Mr. Chair. Mr. Jackson, thank you for your  
8 comments. I have always agreed that the  
9 generalized land use plan is a generalized map  
10 and that you have to get into -- I have  
11 mentioned Georgia Avenue and how we went in  
12 and we had all the different side streets and  
13 it was a mess.

14 We looked at it and I think we  
15 came up with the map amendment that made sense  
16 of that one area. This has 53 feet, you  
17 pointed out, between this lot and the street.  
18 that is not a vacant lot. That is just public  
19 space.

20 MR. JACKSON: Correct.

21 COMMISSIONER TURNBULL: Even the  
22 sidewalk now is in the public space, I guess.

1 MR. JACKSON: Some distance away.

2 COMMISSIONER TURNBULL: Okay.

3 It's kind of interesting how we get those  
4 strange spaces like that. I looked at this  
5 map, too. You're right the feeling is any of  
6 the other lots you're saying, even next to his  
7 where they go from 30 percent, 20 percent, all  
8 should be -- are all residential at the alley.  
9 You should really draw the line along the  
10 alley.

11 MR. JACKSON: We would say from  
12 the perspective of where the line should be  
13 located it appears to be located correctly in  
14 that it's centered in the alley.

15 COMMISSIONER TURNBULL: If you go  
16 a little bit further northeast you see up on  
17 6th Street some of the homes facing there are  
18 also covered in that dashed area. Again, the  
19 assumption is when you get to this scale those  
20 are not to be C-2-A.

21 MR. JACKSON: Yes. Again, we are  
22 not saying -- we are saying that the intent of

1 the boundary of this mixed-use corridor is  
2 really to focus on what is along the Florida  
3 Avenue.

4 COMMISSIONER TURNBULL: Florida  
5 Avenue. I would agree.

6 MR. JACKSON: The first thing you  
7 look at is properties that front Florida  
8 Avenue.

9 COMMISSIONER TURNBULL: Right.

10 MR. JACKSON: Then if other  
11 applications come in for properties that are  
12 fronting 5th Street, then you make a  
13 determination whether or not that makes sense.  
14 At this point given the analysis we have in  
15 the comp plan and also in the area study, it  
16 does not seem that the intent would be, or it  
17 would be in the best interest of the planning  
18 that currently exist to extend the C-2 further  
19 south.

20 COMMISSIONER TURNBULL: Okay.  
21 Thank you.

22 CHAIRMAN HOOD: I asked Ms.

1 Schellin to go get -- by law we are supposed  
2 to look at the Webster's unabridged  
3 dictionary. Most people don't have to do that  
4 but I need to look up the word generalized.  
5 "To modify or eliminate for improved  
6 legibility or for emphasis some particular  
7 feature."

8 Then it goes to, "Form  
9 generalizations, make inductions or general  
10 inferences. To be prone to make vague or  
11 indefinite." It kind of goes back to I think  
12 some of what I heard in Mr. Jackson's  
13 testimony. You mentioned something, Mr.  
14 Jackson, that really got my attention.

15 I think the applicant was making a  
16 compelling argument. I can't remember exactly  
17 how you stated it but it was the statement  
18 before your last in your presentation. Do you  
19 remember the statement about the PUD? Mention  
20 that to me again to make sure it registers.

21 MR. JACKSON: Okay. There is a  
22 difference between this consistency rezoning

1 and one that is involved with the planned unit  
2 development. A planned unit development with  
3 rezoning would likely be tied to a specific  
4 land use that would be required on the  
5 property. As such it would be predetermined  
6 what type of land use would exist.

7 A consistency rezoning is  
8 essentially changing the zoning to be  
9 consistent with the comprehensive plan but it  
10 is unlikely there are any limitations on the  
11 type of use that is being established -- on  
12 the zoned district that is being established  
13 such that any matter of right use or any use  
14 allowed as a special exception or other zoning  
15 relief within that zoned district would be  
16 allowed.

17 We can discuss about a small store  
18 and we can make conjectures about what might  
19 be proposed. The fact of the matter is once  
20 the zoning is changed, any use that is allowed  
21 under the zoning regulations would be allowed  
22 in the zoned district that was put in place.

1                   CHAIRMAN HOOD: Anything goes.  
2                   Let me just ask this, though. Why? I'm sure  
3                   there is a reason because I'm sure I've heard  
4                   it before but why did we not do a special  
5                   exception as opposed to a rezoning? Why did  
6                   we not do that?

7                   MR. JACKSON: A special exception  
8                   for -- if there is no special exception to  
9                   allow the retail use he is proposing in a  
10                  residential district. He could apply for a  
11                  use variance but, of course, the variance test  
12                  for a use variance is pretty high. As a  
13                  practical matter --

14                 CHAIRMAN HOOD: It wouldn't pass.

15                 MR. JACKSON: Well, it doesn't --  
16                 I haven't seen any case, of course, but it is  
17                 a working residential dwelling in good shape  
18                 and serving a purpose. There would have to be  
19                 a very compelling argument for a use variance  
20                 in a completely residential zone to create  
21                 some other use that is not allowed in a zoned  
22                 district.

1                   CHAIRMAN HOOD: Okay. Mr. Araya  
2                   -- I'm doing this kind of informally. Mr.  
3                   Araya, you are basically saying that the  
4                   powers that be or the very intellectual people  
5                   who did this generalized, which I've already  
6                   looked up and it says vague, and it's not  
7                   meant to be precise, drew it incorrectly.

8                   You understand where I'm going  
9                   here? Generalized and some of your testimony  
10                  about what the authors, Ms. Evelyn Kasongo  
11                  and others, who helped with the work on this  
12                  generalized land use map, you said they didn't  
13                  mean to do certain things. When I look up the  
14                  word generalized, which we are supposed to do  
15                  by law, it doesn't say anything definite.

16                  I think most of what I heard in  
17                  your argument was there was a mistake in the  
18                  map or it should have included this area. Am  
19                  I characterizing that correctly or am I off in  
20                  left field somewhere?

21                  MR. ARAYA: I didn't think they  
22                  made a mistake. I think they were accurate

1 that from what it is now that C-2-A  
2 designation stops at the alley. That's the  
3 current use. The future land use extends into  
4 75 percent of my property. I'm saying that  
5 transition there, that change, is not a  
6 mistake.

7 They meant to make that property  
8 commercial. The argument of OP, Arthur  
9 Jackson's argument is that they still meant to  
10 stop at the alley, the designation. If they  
11 meant stop at the alley like everywhere else,  
12 they would have stopped at the alley but on  
13 the map here it did not stop at the alley.

14 That is the discussion I've had  
15 with the people who made the map is that they  
16 wanted to -- they did not want it to be part  
17 of the C-2-A or part of the mixed use. The  
18 pink drawings, or those stripes, would have  
19 ended exactly at the alley. That is a big  
20 change.

21 If it's already at the alley, if  
22 it's already existing at the alley why go back

1 and extend the drawings to 70 percent or 75  
2 percent of the lot next to it. That's  
3 something I don't understand and I think that  
4 was not their intention to stop at the alley.  
5 If they wanted to stop at the alley, they  
6 would have stopped at the alley. That's from  
7 what I can see in the drawings which is  
8 exactly what it is.

9 MS. STEINGASSER: Mr. Chairman.

10 CHAIRMAN HOOD: But this goes back  
11 to again my definition. Ms. Steingasser.

12 MS. STEINGASSER: If I might, in  
13 all fairness to Ms. Kasongo, she did not know  
14 she was being drawn in to a zoning debate.  
15 She was unaware this was an active case and  
16 she was very unaware that this was a specific  
17 question about a specific corner. She works  
18 for the Office of Planning.

19 We work for the Office of Planning  
20 and we are all co-authors in this  
21 comprehensive plan. In all fairness to her I  
22 have to speak up on her defense that she would

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1 not appreciate being paraphrased in opposition  
2 to her colleagues on this particular case  
3 because she was unaware that was the question  
4 being asked of her.

5 She was asked a very general  
6 question about the preparation of the  
7 generalized land use map and she answered  
8 generally through e-mail in a very friendly  
9 nature. She was unaware this was a specific  
10 case. She is not authorized to testify at  
11 this case or on behalf of the Office of  
12 Planning in this case. I wanted to clarify  
13 that for her.

14 CHAIRMAN HOOD: Actually, that was  
15 one of my questions. You and I have worked  
16 together for a while and that was what I was  
17 going to ask you. When I saw the Ward 8  
18 planning coordinator, I'm trying to figure out  
19 -- I do know often times Ward 5 has a  
20 coordinator.

21 I'm very familiar how that  
22 operation works. Most planners in the wards

1 are very amenable to their constituents  
2 because at the end of the day I'm a  
3 constituent so I know they are very amenable.  
4 Thank you for that clarification, Ms.  
5 Steingasser.

6 Okay. Let me do this. Any other  
7 questions of the Office of Planning? Do you  
8 have any cross -- that's right. I don't know  
9 why I want to make this --

10 MR. ARAYA: I just want to respond  
11 to her. I'm sorry but I can ask questions,  
12 right? Through e-mail?

13 CHAIRMAN HOOD: Here is the issue.

14 MS. STEINGASSER: You can ask  
15 questions but the woman is not here to testify  
16 on her own behalf. You are testifying for  
17 her. She is with the Office of Planning. We  
18 are the representatives for the Office of  
19 Planning so with all due respect you are not  
20 authorized to represent her representing the  
21 agency. That's our job.

22 MR. ARAYA: Oh. I'm sorry. I

1 just had a specific question. I didn't know  
2 who else to ask. I had asked Arthur about who  
3 actually came up with the plan and Arthur did  
4 not respond.

5 CHAIRMAN HOOD: Let me just say  
6 this. I think what Ms. Steingasser is saying,  
7 if you knew you had a case in front of the  
8 Commission, they have different departments  
9 over the Office of Planning and I think if you  
10 had told Evelyn, Ms. Kasongo, of you had  
11 mentioned to her that you had a map amendment  
12 or you had a PUD, she would not have  
13 responded.

14 She would have turned you over to  
15 Ms. Steingasser's area and that representation  
16 would have come from them as opposed to --  
17 what you did now we have two people who work  
18 for the same agency with different views  
19 because -- I'm not going to say different  
20 views. It was not a coordinated effort  
21 because you went as a constituent and asked a  
22 question.

1 MR. ARAYA: Right.

2 CHAIRMAN HOOD: There is a  
3 particular office that deals with us.  
4 Actually Ms. Steingasser's office is the one  
5 that deals with us and has the information to  
6 be able to come in front of this Commission  
7 more so than a Ward 8 planner. Is this in  
8 Ward 5?

9 MR. ARAYA: Ward 2.

10 CHAIRMAN HOOD: Then why didn't we  
11 go to the Ward 2 planner? No, that's okay.  
12 Don't tell me. You said they left but, you  
13 know, looking at this on the surface that  
14 would be my question. Anyway, I will tell you  
15 this, though, Mr. Araya.

16 For me I thought you brought up a  
17 good point but, then again, I look at the  
18 generalized. Even though you said it wasn't  
19 mistake, I may have mischaracterized it a  
20 different way but basically we are saying the  
21 same thing. Okay. Any other questions of the  
22 Office of Planning?

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1 Report of ANC-2C. I don't see  
2 anyone so I will -- let me find it. It's  
3 Exhibit 21 and I believe they are, "Induction  
4 of a commercial entity would disturb the  
5 peace, quiet, and residential quality of the  
6 block and would cause unwanted traffic and  
7 added parking stresses to the residents living  
8 in the vicinity of the 1800 block of New  
9 Jersey Avenue, N.W.

10 ANC-2C voted two to one to oppose  
11 zoning application No. 08-11 with one  
12 commissioner abstaining. The applicant was  
13 not present at this meeting. Should you have  
14 any questions, this is from Commissioner  
15 Chapple. Had you talked to the ANC, Mr.  
16 Araya?

17 MR. ARAYA: I was not present at  
18 that meeting. I was not aware they were  
19 meeting or I would have been there if I had  
20 known.

21 CHAIRMAN HOOD: I mean, have you  
22 ever met with them?

1                   MR. ARAYA: I talked to Mr.  
2 Chapple about a year and a half ago when I was  
3 thinking of doing this.

4                   CHAIRMAN HOOD: Okay. All right.  
5 Do we have any organizations or persons in  
6 support or organizations or persons in  
7 opposition? Okay. Typically we don't do  
8 this, Mr. Araya, but do you have anything else  
9 you want to add? Since it's so crowded I  
10 figured we would just --

11                  MR. ARAYA: I don't have anything  
12 to add. I think, you know, it's funny that I  
13 met Ms. Steingasser and Joel and Travis about  
14 a year ago and presented this information to  
15 them. They said they would support it and  
16 that's the reason I went ahead and went  
17 through the whole process.

18                  CHAIRMAN HOOD: There was at least  
19 on July 16th when we set this down they  
20 actually did. They didn't support the  
21 rezoning per se. They supported us setting it  
22 down contingent on a list of bullet items

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1 which is in the July 16th report. I guess  
2 subsequently to that they found some issues  
3 that would not grant their support from the  
4 Office of Planning.

5 Let me ask you this. Since you  
6 already knew to work with Ms. Steingasser, Mr.  
7 Lawson, and Mr. Jackson, why did you  
8 eventually turn -- if you knew who to go to,  
9 why did you go to Mrs. Kasongo?

10 MR. ARAYA: I wanted to make sure  
11 that I talked to the people who actually  
12 created the map. I wanted to talk to the  
13 people that were involved in coloring in the  
14 map and with identifying the corners of the  
15 map. It's a lot easier from my understanding  
16 that if I ever want to do this or come up with  
17 any other plans to know who were involved in  
18 the map. It's public information.

19 CHAIRMAN HOOD: Okay.

20 MR. ARAYA: There is nothing  
21 insulting. It was not meant to make --

22 CHAIRMAN HOOD: Circumvent the

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1 process. Okay.

2 MR. ARAYA: It's not supposed to  
3 make anybody angry.

4 CHAIRMAN HOOD: I don't think  
5 nobody is angry. I'm just trying to get an  
6 understanding of the logic behind it. We  
7 don't get angry down here, we just try to make  
8 the best decisions possible and get the best  
9 information to make the best decisions. Some  
10 people are happy with us and some people are  
11 not.

12 MR. ARAYA: That's why I tried  
13 myself trying to understand from the people  
14 that actually went out there did the actual  
15 plan work. I talked to her and I gave her the  
16 square and the lot that I was dealing with and  
17 she forwarded me to Elaine and Elaine said she  
18 was uncomfortable making any specific  
19 comments.

20 CHAIRMAN HOOD: Okay.

21 MR. ARAYA: I think it's okay to  
22 ask as many people as possible.

1 CHAIRMAN HOOD: Okay. You have --

2 MR. ARAYA: It's not meant in any  
3 way to be negative.

4 CHAIRMAN HOOD: You have actually  
5 answered my question so I think that's good.  
6 Anything else? Okay.

7 Ms. Schellin, do we have any dates  
8 when we are going to take this up?

9 MS. SCHELLIN: No, unless you guys  
10 have any additional information.

11 CHAIRMAN HOOD: Okay.

12 MS. SCHELLIN: We'll put this on  
13 our January 12th agenda for consideration.

14 CHAIRMAN HOOD: Okay. Are you  
15 find with that January 12th? All right. With  
16 that -- excuse me a second. All right. We  
17 are going to go ahead and deal with this  
18 tonight.

19 COMMISSIONER MAY: Mr. Chairman,  
20 you want me to speak?

21 CHAIRMAN HOOD: Commissioner May.

22 COMMISSIONER MAY: Yeah. I really

1 do appreciate the earnest effort that has gone  
2 into making this case both on the part of the  
3 applicant and also the part of the Office of  
4 Planning to fully investigate it and  
5 understand what was intended when the  
6 comprehensive plan was done and when the map  
7 was drawn.

8 This is an area in which there is  
9 some vagueness but it is, after all, a  
10 generalized land use plan. Based on the  
11 information we have from the Office of  
12 Planning, based on my own appreciation of the  
13 land use map and the years of experience that  
14 I've had in dealing with it which, of course,  
15 is nowhere close to what the Office of  
16 Planning has but it's enough to be able to  
17 make judgments about translating the map into  
18 zoning designations.

19 I'm really not inclined to move  
20 forward or to approve this case and would  
21 actually at this moment like to move  
22 disapproval of Zoning Case 08-11, Henok

1 Araya's map amendment, and would ask for a  
2 second.

3 COMMISSIONER TURNBULL: Second.

4 CHAIRMAN HOOD: Okay. It's been  
5 moved and properly seconded. Any further  
6 discussion?

7 COMMISSIONER MAY: Mr. Chairman, I  
8 just want to add that part of the reason why  
9 I'm doing this at this moment is simply that  
10 this has been going on for some time and I  
11 think it's probably in the best interest of  
12 everybody to make a decision now and at least  
13 take our first action on it right now rather  
14 than extend the matter any further.

15 CHAIRMAN HOOD: Okay. Any further  
16 deliberation? I think the record is complete  
17 and, as Commissioner May has already said,  
18 it's very vague. Then, again, I go by the  
19 definition that it's not meant to be precise.

20 I really think that while the  
21 applicant made a compelling argument, I still  
22 think that the Office of Planning's evidence

1 in their report and also the definition of  
2 generalized and the comments of my colleague,  
3 Commissioner May, would also make me concur  
4 with moving to deny this particular  
5 application. Any further discussion? All  
6 those in favor?

7 ALL: Aye.

8 CHAIRMAN HOOD: Not hearing any  
9 opposition. Ms. Schellin, would you record  
10 the vote?

11 MS. SCHELLIN: Yes. Staff records  
12 the vote three to zero to two to deny Zoning  
13 Commission Case No. 08-11. Commissioner May  
14 moving, Commissioner Turnbull seconding,  
15 Commissioner Hood in support of denial.  
16 Commissioner Jeffries not present and not  
17 voting. Third mayoral appointee seat vacant  
18 and not voting.

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

21 MS. SCHELLIN: No, sir.

22 CHAIRMAN HOOD: I want to thank

1 you for your participation tonight. With that  
2 this is adjourned.

3 (Whereupon, at 8:02 p.m. the  
4 hearing was adjourned.)

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