

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: :

:

David Belt : Case No.

: 13-07

:

-----:

Thursday, September 26, 2013

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

The Public Hearing of Case No. 13-07 by the District of Columbia Zoning Commission convened at 6:32 p.m. in the Jerrily R. Kress Memorial Hearing Room at 441 4th Street, N.W., Washington, D.C., 20001, Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

- ANTHONY J. HOOD, Chairman
- MARCIE COHEN, Vice Chair
- MICHAEL G. TURNBULL, FAIA, Commissioner (AOC)
- PETER MAY, Commissioner (NPS)
- ROBERT MILLER, Commissioner

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OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary

OFFICE OF PLANNING STAFF PRESENT:

JOEL LAWSON

ARTHUR JACKSON

The transcript constitutes the minutes from the Public Hearing held on September 26, 2013.

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

6:32 p.m.

CHAIRMAN HOOD: Good evening,
ladies and gentlemen.

This is the public hearing of the
Zoning Commission for the District of Columbia
for Thursday, September 26th, 2013.

My name is Anthony Hood. Joining
me, Vice Chair Cohen, Commissioners Miller, May
and Turnbull. We're also joined by the Office
of Zoning staff, Ms. Sharon Schellin, also the
Office of Planning staff, Mr. Lawson and Mr.
Jackson.

The Vice Chair is telling me Mr.
Cochran and Mr. Cochran just let me know -- the
Vice Chair always looks out for me. But I think
he's leaving. He was here for the first case.
Am I correct? But we still have Mr. Cochran,
who's not going to be participating in this case.

This proceeding is being recorded by
a court reporter and is also webcast live.

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1 Accordingly, we must ask you to refrain from any
2 disruptive noises or actions in the hearing
3 room.

4 The subject of this evening's
5 hearing is Zoning Commission Case Number 13-07.
6 This is a request by Mr. David Belt for approval
7 of a map amendment for various lots located in
8 Square 5081.

9 Notice of today's hearing was
10 published in *D.C. Register* on July 26th, 2013.
11 And copies of that announcement are available to
12 my left on the wall near the door.

13 The hearing will be conducted in
14 accordance with provisions of 11 DCMR 3022 as
15 follows: preliminary matters; petitioner's
16 case; report of the Office of Planning; report
17 of other government agencies; report of ANC,
18 in this case it's 7D; organizations and persons
19 in support; organizations and persons in
20 opposition; rebuttal; and closing by the
21 applicant.

22 The following time and constraints

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1 will be maintained in this meeting: the
2 petitioner is asking for 30 minutes,
3 organization is five minutes, individual is
4 three minutes. The Commission intends to
5 adhere to the time limits as strictly possible
6 in order to hear the case in a reasonable period
7 of time. The Commission reserves the right to
8 change the time limits for presentations, if
9 necessary, noticing that no time shall be
10 exceeded.

11 All persons appearing before the
12 Commission are to fill out two witness cards.
13 These cards are located to my left on the table
14 near the door. Upon coming forward to speak to
15 the Commission, please, give both cards to the
16 reporter sitting to my right before taking a seat
17 at the table.

18 If you want to present any
19 information to the Commission, please, turn on
20 and speak into the microphone. First, stating
21 your name and home address. When you are
22 finished speaking, please, turn your microphone

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1 off so that your microphone is no longer picking
2 up sound or background noise. The
3 decision of the Commission in this case must be
4 based exclusively on the public record. To
5 avoid any appearance of the contrary, the
6 Commission requests that persons present not
7 engage the members of the Commission in
8 conversation during any recess or at any time.
9 In addition, there should be no direct contact,
10 whatsoever, with any Commissioner concerning
11 this matter.

12 Please turn off all beepers and cell
13 phones at this time so not to disrupt these
14 proceedings.

15 Would all individuals wishing to
16 testify please rise to take the oath.

17 Ms. Schellin, would you please
18 administer the oath.

19 MS. SCHELLIN: I'm sorry. That's
20 staff's --

21 CHAIRMAN HOOD: A map amendment.
22 This is a map amendment.

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1 MS. SCHELLIN: It's staff's error.
2 It's a rule making -- yes.

3 CHAIRMAN HOOD: Okay. Okay.
4 Forgive me.

5 MS. SCHELLIN: That's staff's
6 error, I apologize for that.

7 CHAIRMAN HOOD: Forgive me.

8 MS. SCHELLIN: And I did put down
9 that Mr. Belt was taking 30 minutes. However,
10 I did not get in touch with him today and he may
11 not -- I think he may intend to stand on the
12 record. But when he comes to the table he'll be
13 able to let you know.

14 CHAIRMAN HOOD: Okay.

15 MS. SCHELLIN: So, but to be safe I
16 put 30 minutes. I don't think he intends to take
17 30 minutes. But when he comes to the table,
18 he'll -- you can go ahead and come to the table
19 and let the Chairman know your intention.

20 CHAIRMAN HOOD: You know, when you
21 accustomed to reading everything -- I remember
22 one night I read that my name was Carol Mitten

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1 -- yes. Okay. Whatever's here, you read it.
2 So anyway.

3 Mr. Belt, if you can come forward.

4 I do have a preliminary matter. Do
5 we have any preliminary matters? Anything
6 else? I do have a preliminary matter.

7 Depending upon the action of the
8 case, of the Commission tonight, I'm going to
9 have to leave. I have a meeting upstairs. I
10 will read the record unless the Commission has
11 already done its business. I'm not sure. So I
12 will read whatever I miss from when I have to
13 leave out. So I don't want anybody to think I
14 just walked away and left. I do have a meeting
15 upstairs that I need to attend.

16 So, are we ready? Mr. Belt, you may
17 begin.

18 Turn your microphone on. You want
19 to introduce yourself. And you may begin.

20 MR. BELT: My name is David Belt. A
21 resident of 3940 Benning Road, Northeast. One
22 of the properties that had been, that I'm

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1 petitioning for the zoning change.

2 I didn't come really prepared
3 because I was only prepared if there were any
4 questions to answer any questions or else I would
5 have brought something to be more prepared.

6 But this is something that I had been
7 attempting to do for quite some time. I started
8 it back in 2006 with the Comprehensive Plan when
9 I realized that there would be, you know, this
10 area would become really hot. And because of
11 that erroneous zoning, the houses that are there
12 have been there since the, my house was built,
13 I think, in '41. The zoning map was drawn, I
14 believe, in '58.

15 And the houses had just been there
16 and the private property houses have been being
17 zoned as residential. Empty lots had been being
18 zoned as commercial. And so I knew there was a,
19 you know, there would be a problem or there could
20 be potential problems down the road. And just
21 to preserve the, you know, just to preserve that
22 little micro-neighborhood up there which is,

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1 which abuts Fort Mahan Park, which is a beautiful
2 park that I hate to see, you know, really start
3 to lose its character by over-development. And
4 I felt that it would be better to go on and work
5 on getting this, you know, getting the zoning
6 corrected.

7 Because basically, that's what I'm
8 asking for is a zoning correction because I
9 really would think that the original zoning, the
10 intention would have been to draw down Benning
11 Road around the, just at the commercial areas,
12 but when they drew the map they just drew it back
13 through the alley and included a strictly
14 residential zone.

15 And all the other zone, Fort Mahan
16 is zoned R-5-A. Yes, R-5-A. The lots down,
17 further down going towards 42nd Street, towards
18 the front on Benning Road are all zoned the same.

19 So it just made sense for our, you
20 know, this area, that one small area to be zoned
21 consistently with those zones directly adjacent
22 and behind it.

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1 So I, you know, so this is not just
2 something I just all of a sudden jumped up to do.
3 I've been working on this for some time now.

4 VICE CHAIR COHEN: Okay. Thank you
5 for your testimony.

6 Commissioners, do we have any
7 questions of Mr. Belt?

8 (No audible response.)

9 All right. We'll move on to the
10 Office of Planning.

11 MR. JACKSON: Thank you, Madam
12 Chairman and members of the Commission.

13 My name is Arthur Jackson. I'm a
14 planning development review specialist for the
15 District of Columbia Office of Planning. And
16 this is a brief summary of our record.

17 On April 19th, David Right. . Belt
18 petitioned to re-zone seven lots on Square 5081
19 from C-3-A to R-1-B. A zone thought to be more
20 consistent with the moderate density of
21 residential designations on the future land-use
22 map of the District of Columbia Comprehensive

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1 Plan.

2 However, the Comprehensive Plan
3 considers R3, R4, and R-5-A to be consistent with
4 this land-use designation.

5 Based on this plan guidance, the
6 pattern setting around the subject properties
7 and the other reasons outlined in our
8 preliminary report, the Zoning Commission voted
9 to instead advertise a zoning change to R-5-A.

10 Now, since that time, the Office of
11 Planning has learned that Four Points, LLC, the
12 contract purchaser of subject Lot 52 on Square
13 5081, is in the process of developing that
14 property.

15 According to a letter that was
16 submitted to the record, I believe submitted to
17 the record today, the development of 71
18 residential units provides one and two bedroom
19 units within a quarter-mile of Benning Road
20 Metro Station and all the units would be
21 affordable to families earning 50 percent of the
22 area median income.

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1 The project has advanced to the
2 point where of submitting a second stage
3 advocacy for housing financing to the
4 Department of Development, D.C. Department of
5 Housing and Community Development.

6 So according to the current
7 proposal, accordingly, the current proposal is
8 allowed as a matter of right of C-3-A. But
9 according to the applicant, or to the developer,
10 it would not be allowed under the proposed R-5-A.

11 The development of such a project,
12 even under the current zoning, would not be
13 inconsistent with the affordable housing goals
14 of the Comprehensive Plan.

15 So we are, so under the
16 circumstances, the Office of Planning is still
17 supportive of the goals that Mr. Belt outlined
18 of preserving the existing single-family
19 resident essential character of the area. But
20 in our preliminary report, we also want to
21 encourage the support of the goals of the
22 Comprehensive Plan, including affordable

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1 housing.

2 So there are -- we'd like to get some
3 guidance from the Commission about how you would
4 like us to proceed given these new facts that
5 have come to light just recently.

6 Now, I just wanted to check to make sure,
7 you do have the additional information that we
8 referenced in our report? The letter from the
9 applicant? Okay.

10 VICE CHAIR COHEN: Yes. The
11 record.

12 MR. JACKSON: All right. Well,
13 again, we are, we are supportive of both the
14 objectives that Mr. Belt has outlined but the
15 goals that would be achieved by the proposed
16 project.

17 And we'd just, we'd appreciate the
18 guidance about how to proceed.

19 VICE CHAIR COHEN: Thank you, Mr.
20 Jackson.

21 Any questions for Mr. Jackson from
22 the Commissioners?

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1 COMMISSIONER MAY: I'm sorry. Do
2 you have do you have some documentation of Lot
3 52? Or, I mean, I see we just received a
4 package. Is this what you have?

5 MR. JACKSON: Yes, we received
6 copies of that this afternoon.

7 COMMISSIONER MAY: This afternoon.

8 MR. JACKSON: Yes.

9 COMMISSIONER MAY: Okay. Well, I
10 guess my questions can be answered by looking at
11 this.

12 MR. JACKSON: Madam Chair, we also
13 have some maps that kind of orient the Commission
14 with identifying where the particular lot we're
15 talking about among the set of seven lots.

16 VICE CHAIR COHEN: It's a part of
17 your review?

18 MR. JACKSON: Actually, we just
19 brought that for tonight.

20 VICE CHAIR COHEN: Oh, didn't know
21 --

22 MR. JACKSON: The information is in

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1 the attachments that you have before you. But
2 we simplified it and put it all on one map. It
3 shows all the lots on the side and it shows the
4 current designations. And I believe, the
5 secretary is about to pass those out.

6 VICE CHAIR COHEN: Okay. Thank
7 you. We'll distribute it to each member.

8 Commissioner May.

9 COMMISSIONER MAY: Yes. So I have
10 a question now. I guess I'm a little confused
11 by the report.

12 I mean, you supported Mr. Belt's
13 proposal to effectively down zone this whole
14 portion of land and now that you see this other
15 proposal that is still consistent with the
16 Comprehensive Plan? Or is it not? I mean, I
17 know it's consistent with the existing zoning.
18 But is it consistent with the Comprehensive
19 Plan?

20 MR. JACKSON: Well, we're talking
21 about the proposed use, the affordable housing.

22 COMMISSIONER MAY: Right. But I

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1 mean, the Comprehensive Plan, according to your
2 report, goes into the density, proposed density
3 of the site. And I think it was moderate.

4 MR. JACKSON: Yes.

5 COMMISSIONER MAY: So, I mean, not
6 looking at this and studying it and having all
7 of the, you know, what the range of moderate
8 density actually can be, you know, just like
9 loaded in my head, can you tell me whether this
10 is, whether this proposal, which is again, a
11 matter of right under the current zoning, is it
12 consistent with the Comprehensive Plan, which
13 seems to have shifted away from commercial or
14 higher density to lowered density residential?

15 MR. JACKSON: It would be, it would
16 be at a higher density that would be consistent
17 with the land-use designation. But it's a
18 density that's consistent with the current
19 zoning.

20 COMMISSIONER MAY: Okay. So it's
21 consistent with the land-use designation in the
22 Comp Plan as the Comp Plan is right now.

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1 MR. LAWSON: We've not done a
2 detailed analysis of the project because we just
3 received the information. So whether it would
4 be considered a moderate density residential
5 residentially consistent project, I'm not quite
6 sure.

7 In our minds, the salient issue here
8 is that the developer is being, working on this
9 project for some time, to the point where they've
10 almost, you know, received the financing. And
11 it is consistent with the current, with the
12 current zoning. In fact, from our
13 understanding, it's actually underdeveloped a
14 bit to the current zoning. But whether it be
15 considered moderate density residential
16 development, it may very well be. But I don't
17 think anybody's done that analysis yet because
18 it's consistent with zoning.

19 COMMISSIONER MAY: All right. So
20 given all of that, what, I mean, what is your
21 recommendation at this point? Because it
22 doesn't sound like you're recommending that we

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1 proceed with a full re-zoning to R-5-A, as you
2 had originally recommended.

3 MR. LAWSON: That's correct. We
4 think that re-zoning this property would not be
5 appropriate.

6 So I think that there are a number
7 of options that would be available. Certainly
8 one of them would be to afford that one property,
9 leave the existing zoning in place. Another
10 option would be, frankly, to ask OP to go back
11 and work with these various landowners again to
12 see what might be an appropriate zone.

13 We're a little bit hesitant to, at
14 this point, recommend a different zone.
15 Because again, quite frankly, we're not quite
16 sure what zone would accommodate this
17 development, which again, is really far into the
18 development process.

19 From our understanding, it was only
20 through the posting of the property that the
21 owner became fully aware that this re-zoning was
22 being asked. And I know Mr. Belt did a, you

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1 know, tried really hard to reach all of the
2 current landowners in the area. But it sounds
3 like some of that information didn't sink in.

4 So in one respect, you know, the
5 whole process of going through the public
6 hearing and doing the notification, this kind
7 indicates it actually worked because the
8 notification raised this issue to, at least,
9 this one landowner. And, who now had some
10 concerns.

11 And typically, Office of Planning
12 isn't supportive of requested down zone
13 property against owner's wishes.

14 COMMISSIONER MAY: So it's hard for
15 me to recall, but I mean, I thought we actually
16 had raised the issue when we set down the case.
17 About making sure that everybody, all the land
18 owners were notified.

19 MR. LAWSON: From my understanding,
20 all of the land owners were notified.

21 COMMISSIONER MAY: Yes.

22 MR. LAWSON: And again, Mr. Belt

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1 also did a, tried to do as good a job as he could
2 of reaching out to all the landowners. And he
3 may be able to provide more information on his
4 efforts to reach those landowners.

5 VICE CHAIR COHEN: Any other
6 questions from Commissioners?

7 COMMISSIONER TURNBULL: Well, I'm a
8 little bit puzzled. I mean, we had a set down
9 before us, which we have to act on. It's already
10 been set down. So we can't just turn around and
11 consider something different.

12 VICE CHAIR COHEN: Well, is there
13 protocol -- Ms. Schellin, and I am going to ask
14 for your assistance on this since it exceeds the
15 experience that I've had so far -- is there a
16 protocol to the requests that we can postpone
17 this hearing if the applicant is in agreement?

18 MR. LAWSON: We would actually
19 suggest something slightly different.

20 VICE CHAIR COHEN: Okay.

21 MR. LAWSON: A different zone
22 would require a new notification. Basically, a

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1 new set down.

2 We're also a little bit concerned
3 that with map amendments like this, the more
4 restrictive zone is the zone that's in place.
5 So right now, the zoning on these properties is,
6 if it went to a building permit, is R-5-A, which
7 wouldn't allow the affordable housing project to
8 go forward.

9 So the other option that the
10 Commission would have, which is probably the one
11 that we would recommend, is that if you don't
12 want to take action right now, if you want us to
13 work with the owners to pursue this further,
14 would be, frankly, to dismiss this case. And
15 then we would work with the various landowners
16 as best we could. Because I'm not sure we'll be
17 able to identify all of the land owners either.
18 But we would work with the landowners that we
19 could identify to bring back a new proposal with,
20 either with different zoning, or with a smaller
21 boundary, or something to that effect.

22 You know, again, unless the Zoning

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1 Commission was comfortable with moving forward
2 with R-5-A for a portion of the property and
3 taking a portion of the property out and leaving
4 it C-2-A -- which I wish OAG was here. But I
5 think that that would be within your parameters
6 to do. That you would basically dismiss it for
7 the church site and proceed forward with R-5-A
8 for the remainder of the properties.

9 VICE CHAIR COHEN: I think that's a
10 very valid suggestion. I'd like my colleagues
11 to --

12 MR. LAWSON: I hope it's legal.

13 VICE CHAIR COHEN: If it isn't --
14 all of us.

15 Do my colleagues have any comments
16 on this?

17 (No audible response.)

18 Does the applicant, please, speak
19 up.

20 MR. BELT: Now, there was an
21 application for the Holy Christian Missionary
22 Baptist Church prior to this. This was actually

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1 for a variance because of the way the property
2 is located and everything.

3 And that was, that was rejected by
4 the National Park Service because it would bring
5 too much traffic, it would be, it would disrupt
6 the park just by the way the site is.

7 And I have the information on that, the
8 reasons why the Board, why this Board rejected
9 that previous development project. And that
10 was a church, which actually is not as dense as
11 what they propose now, and would not have daily
12 activity, that kind of extensive traffic going
13 through the park, driving past the back of my
14 house. Because the access there is an
15 undeveloped alley, which means the city would
16 have to finish the alley going through the park,
17 which is now a bicycle walking path. And then
18 dump it out into Benning Road, which would dump
19 out on the side of near Stewart's Funeral Home
20 there, which would be way too much congestion for
21 Benning Road. It would not be, you know, it
22 would just be way too much congestion.

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1 That alley, I went to a lot of
2 trouble to get that ally re-paved and to have it
3 designated to have the Dead End signs put up
4 there when they rebuilt Benning Road, which they
5 did. Because that was an issue with cars flying
6 up the alley. And they would actually, since
7 that alley wasn't finished, they would actually
8 drive through the park, through the bicycle
9 path, come out onto the park, onto the grass in
10 front of the police station.

11 Now to make that a thruway alley is
12 going to increase the danger back in that alley,
13 the traffic, especially when you got a 71 unit
14 four-story apartment building where it
15 shouldn't be. It wouldn't even look right
16 there. And that's way too much density to put
17 right, stick right into Fort Mahan Park, which
18 now is starting to attract people from other
19 parts of the city. Coming out there because of,
20 you know, it's a nice park.

21 VICE CHAIR COHEN: Mr. Belt, we are
22 actually going to take a five minute break.

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1 We're trying to get -- we could proceed. You may
2 not like the answer we come up with or the
3 decision we come up with. So we're going to take
4 a five minute break. We're contacting our
5 attorney for advice on how to proceed on this.
6 Because there is opposition to your proposal and
7 we have to take that into consideration as well.
8 So I'm going to have a five-minute break and get
9 some advice maybe on how to proceed. So let's
10 just take a break, please, people.

11 (Whereupon, the above-entitled
12 matter went off the record at 6:53 p.m. and went
13 back on the record at 7:00 p.m.)

14 VICE CHAIR COHEN: Thank you
15 everybody for being patient. And we're going to
16 proceed with the public hearing.

17 So, now that we have OP and we asked
18 questions of OP, are there any more questions for
19 the Office of Planning?

20 (No audible comments.)

21 Okay. Any comments from other
22 government agencies, the District Department of

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1 Transportation inquired about this proposal.
2 The agency elected not to submit any written
3 comments and did not express any concerns about
4 this request.

5 Report of ANC 7D, on May 21st of
6 Advisory Commission 7F voted to support the
7 original request to re-zone the subject
8 properties from C-3-A District to R-1-B
9 District. Evie I. Washington, single member
10 district representative of the 7F01, which
11 includes the neighborhood where the subject
12 properties are located also submitted a letter
13 in support, which I haven't seen either of these
14 letters.

15 So I think we need to keep the record
16 open for those. Okay. Okay. Apparently, it
17 is in here. All right.

18 So we're going to proceed with
19 organizations. Are there any organizations in
20 support? Any organizations in support?

21 (No audible response.)

22 Any persons in support? Are there

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1 any persons in support?

2

3 (No audible response.)

4 Any organizations in opposition,
5 please, come up.

6 And persons in opposition, please,
7 come up.

8 And I hope -- please, hand in your
9 cards. Thank you.

10 And I know our Chairman often
11 apologizes ahead for not knowing how to
12 pronounce last names. So just -- I shall do the
13 same.

14 All right. The first, the
15 organization Aroli Group doing business as the
16 Menkiti Group. Sorry. Are you Mr. --

17 MR. MENKITI: Yes, I am.

18 VICE CHAIR COHEN: Okay. Please
19 state your name for the record.

20 MR. MENKITI: My name is Bo Menkiti.
21 And I'm the founder and CEO of the Menkiti Group.

22

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1 And we're the owner of the Lot 804
2 in Square 5081 which has an address of 3938
3 Benning Road.

4 And I'm here this evening to
5 register my strong opposition to the zoning map
6 amendment application.

7 We only recently -- well, I founded
8 Menkiti Group in 2004 as a real estate services
9 company dedicated to enhancing the fabric of
10 life in D.C.'s urban neighborhoods. Over the
11 past nine years, we've invested in redeveloped
12 commercial properties along corridors in the
13 city, which traditionally had been under-served
14 by the real estate development community.

15 Our organization has committed to
16 transforming lives and communities by providing
17 opportunities for small businesses and local
18 nonprofit organizations to establish groups
19 along emerging corridors as Minnesota Avenue and
20 Benning Road.

21 We just found out about this due to
22 the posting on the property and being advised by

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1 folks in the neighborhood. And we haven't had
2 an opportunity to participate in any of the
3 conversation about this action until just last
4 week.

5 We've owned the property at 3938
6 Benning Road since 2005. And up until
7 approximately two months ago, we were leasing
8 the property's commercial office space to a
9 nonprofit organization called Ground Work
10 Anacostia River, D.C.

11 In the past, the property also
12 served as the administrative office
13 headquarters for perspective D.C. candidate
14 from Wards, a D.C. Council candidate from Ward
15 7.

16 These commercial uses are permitted
17 as a matter of right in the existing C-3-A zoned
18 district. However, such uses would not be
19 permitted under the proposed R-5-A zone
20 district.

21 When we look at the totality of the
22 Comprehensive Plan, I believe there are other

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1 provisions of the Comprehensive Plan which argue
2 for maintaining the current C-3-A zoning. The
3 property to be re-zoned is located in the
4 Minnesota Benning business district policy
5 focus area of Chapter 17 of the Comprehensive
6 Plan. The policies identified in 2.11 and 2.13
7 note the importance of revitalizing the
8 Minnesota Benning business district and
9 provided transit oriented development.

10 Each lot included in the application
11 is less than half a mile from the Minnesota Metro
12 Station, also a short walk to the Benning Road
13 Metro Station. I believe that maintaining the
14 C-3-A zone district, which allows for the
15 possibility of mixed-use development, does a
16 better job of achieving these policy goals than
17 the proposed R-5-A district.

18 The property to be re-zoned is
19 located in Study Area 2 of the Benning Road
20 corridor plan and directly across from Benning
21 Road from the East River Shopping Center, which
22 has been noted as an area that can benefit from

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1 transit oriented development based on the
2 proximity of the Minnesota Avenue Metro and the
3 Benning Road Metro Stations.

4 These same arguments exist for our
5 property. And our property should also be
6 deemed appropriate for transit oriented
7 development. The existing C-3-A zoned district
8 allows for such development while an R-5-A zone
9 does not.

10 The Deanwood/Great Street Strategic
11 Development Plan that notes the development at
12 the node of Minnesota and Benning Road should
13 include four corners of new moderate to medium
14 density development anchored by active
15 pedestrian friendly ground-floor retail with
16 residential or office above. Once again,
17 maintaining the existing C-3-A zone district
18 does a better job achieving this goal than the
19 proposed R-5-A zone district.

20 I also note that some of the
21 provisions known off the planning report
22 supporting the zoning map amendment such as

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1 policy LU-141 regarding infill development and
2 policy LU-143 zoning infill sites can also be
3 used to support the argument to maintain the
4 existing C-3-A zone district.

5 The property to be re-zoned on the
6 north side of Benning Road adjacent to Fort Mahan
7 Park and directly across the street from a
8 variety of commercial uses is not an established
9 row-house or garden apartment area. It's
10 predominantly vacant land with a, with some
11 places being used as commercial office and some
12 single-family homes. It's surrounded by a
13 federal park and other commercial uses.
14 There's no physical connection between this
15 tract of land and the neighboring residential
16 communities.

17 I believe that maintaining the
18 ability to create mixed-use development on the
19 properties and keeping with the established
20 character of the area and the prevailing
21 development pattern in surrounding
22 neighborhoods.

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1 I would also note that two of the
2 largest landowners in the 1.3 acres, which are
3 proposed to be re-zoned in this application, are
4 here this evening to testify in opposition to
5 this application. Together our properties
6 constitute over 60 percent of the land area which
7 is proposed to be re-zoned. The applicant, Mr.
8 Belt, owns just 8 percent of the property
9 proposed to be re-zoned.

10 So we would, you know, just wanted
11 to say that we haven't had the opportunity to
12 engage in this process. So it's sort of been a
13 last-minute exercise for us scrambling to get on
14 the record and make sure that there's not a
15 change in the property that we've owned and been
16 using as a nonresidential use for a number of
17 years.

18 So, thank you, guys.

19 VICE CHAIR COHEN: Thank you.

20 Mr. Freeman, I think you get three
21 minutes.

22 MR. FREEMAN: sure. I'll use less

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1 than that.

2 For the record, my name is Kyris
3 Freeman. I'm an attorney with the law firm of
4 Holland & Knight. Seated to my immediate right
5 is Mr. Stan Voudrie of Four Points, LLC which is
6 a well-known development company here in the
7 city. And to my far right is Jessica Bloomfield
8 who's an associate with our firm.

9 We submitted a request that Square
10 5081 Lot 50 to be removed from this map amendment
11 application. Which I believe your Counsel
12 would likely had confirmed procedurally is
13 appropriate.

14 The church, which represents 43
15 percent of the area to be re-zoned, has been, has
16 a contracted, a purchase agreement with my
17 client Four Points. They've expended
18 substantial efforts to move forward with the
19 matter of right development of an affordable
20 housing project. 100 percent affordable, at 50
21 percent of AMI. And this map amendment would
22 stop that project unquestionably.

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1 Included in our submission are
2 multiple materials that show the number of steps
3 we've taken in order to move forward with the
4 development. We submitted applications to DHCD
5 for funding. We've received preliminary
6 approval from them. We've retained an
7 architect to develop plans, which plans are a
8 matter of right plans. So once we get funded,
9 we could move forward with that development.
10 Behind Exhibit C, we've done market studies,
11 we've done a market and feasibility study.
12 We've done a market evaluation study. We've
13 submitted funding request to DCHFPA for financing
14 to move forward with our development. We've
15 done environmental studies for the site. So
16 this is a real development which our client is
17 very much interested in moving forward with.

18 And again, approval of this map
19 amendment would directly stop that project.

20 Secondly, as detailed in more
21 detail, as indicated in more detail in our
22 narrative, our project is directly consistent

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1 and will implement a number of the area and city
2 elements of the Comprehensive Plan, such as: the
3 land-use element, the transportation element,
4 the housing element.

5 Again, there's a need as you know,
6 Commissioner Cohen, for housing all across the
7 city. And this project, we believe, is directly
8 consistent with those elements.

9 So the last thing I would note is we
10 also submitted a letter from our Council member,
11 Yvette Alexander, stressing the importance of
12 our project and supporting our request to remove
13 this site from the proposed map amendment.

14 That concludes my statement and
15 we're happy to answer any questions.

16 Thank you.

17 VICE CHAIR COHEN: Thank you.

18 Mr. Voudrie, you signed in. Do you
19 want your three minutes?

20 MR. VOUDRIE: No, thank you. I
21 will stand on Mr. Menkiti and Mr. Freeman's
22 testimony.

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1 VICE CHAIR COHEN: Thank you.

2 Are there any questions for these
3 individuals from our Commissioners?

4 COMMISSIONER MAY: Yes. I need to
5 understand better who owns what in this whole
6 realm. So I understand Lot 52 is the -- is this,
7 right? This project. That one there.

8 MR. VOUDRIE: Yes.

9 COMMISSIONER MAY: So then
10 immediately next to that, to the west, I don't
11 know what that lot number is. I'm seeing a lot
12 805 but it doesn't look like that's the one
13 immediately next to it. So 804 is Mr. Belt's
14 property which is immediately next to Lot 52.

15 MR. BELT: 805.

16 COMMISSIONER MAY: Oh, 805 is
17 yours. That's what confuses me. All right.

18 And you own -- is yours just a single
19 width? It's looks like there are three lots
20 here.

21 You need to be on the microphone if
22 you're going to talk. I'm sorry to ask

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1 questions of you but maybe this is the easiest
2 way to get it.

3 MR. BELT: We've lived there for
4 almost 14 --

5 COMMISSIONER MAY: I'm not asking
6 how long. I just want to know --

7 MR. BELT: It's a double lot.

8 COMMISSIONER MAY: It's a double
9 lot.

10 MR. BELT: 50 feet. 50 feet.

11 COMMISSIONER MAY: 50 feet. Okay.
12 And that's 805. And does it abut Lot 52?

13 MR. BELT: No, it does not.

14 COMMISSIONER MAY: Okay. So it's a
15 double lot to the west.

16 So what abuts Lot 52?

17 MR. MENKITI: So, just, I think if
18 I'm clarifying here, I think that it's actually
19 806 that's Mr. Belt's lot. Our lot is 804. And
20 so neither of those lots -- our lots abut each
21 other but their lot does not abut --

22 COMMISSIONER MAY: Either of yours.

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1 MR. MENKITI: Yes.

2 COMMISSIONER MAY: So there's
3 another lot in between.

4 MR. MENKITI: Three more lots.
5 There are three more lots in between Mr. Belt and
6 --

7 COMMISSIONER MAY: Does anybody
8 over hear understand it? Because I don't
9 understand it.

10 Oh, there we go. Okay. All right.
11 Okay.

12 So moving down the line, 52 is your
13 client.

14 MR. FREEMAN: Yes, sir.

15 COMMISSIONER MAY: Okay. 805 is
16 who?

17 MR. BELT: 805, that's Ms. Martha
18 Jones. And her lot consists of three lots.

19 COMMISSIONER MAY: Right. Okay.
20 I can see that. That's 75 feet wide.

21 And then there's 14 and 15.

22 MR. BELT: 14 and 15 were

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1 undeveloped, just, they're abandon lots that --

2 COMMISSIONER MAY: Okay. That's
3 fine.

4 MR. BELT: -- I cleaned up.

5 COMMISSIONER MAY: 806 is yours
6 then.

7 MR. BELT: Correct.

8 COMMISSIONER MAY: Okay. And 804
9 is Mr. Menkiti.

10 And then there's lot 22 -- okay.
11 Another person in the audience.

12 And that looks like the last
13 property and it's hard to see here.

14 MR. FREEMAN: There's an alley
15 after that.

16 COMMISSIONER MAY: Okay. I see an
17 alley. All right.

18 So, and then I have one other
19 question for Mr. Freeman or your client. It's
20 not clear from this drawing package where the,
21 you know, what I can see in the couple of minutes
22 I've had to look at it, are you actually

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1 reestablishing that rear alley? Or is that
2 being left undeveloped? Or --

3 MR. VOUDRIE: It's being left
4 undeveloped.

5 COMMISSIONER MAY: Okay.

6 MR. VOUDRIE: We're able to access,
7 from existing curb cut on Benning Road, the
8 underground parking.

9 COMMISSIONER MAY: Okay. And your
10 development is completely a matter of right?

11 MR. VOUDRIE: Yes, sir.

12 COMMISSIONER MAY: Okay. And
13 where are you in the process at this moment?

14 MR. VOUDRIE: We've received
15 preliminary approval for funding from DHCD.

16 And we've been underwritten by DC Housing
17 Finance Agency which gives us approval to, you
18 know, the DHCD application went in on May 31st.
19 And based upon, based upon the current schedule,
20 the award will be on November 15th. So they're
21 finalizing the documentation now. And then
22 we'd be able to, oh, we'd be able to complete our

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1 construction drawings for a, for a summer
2 construction start.

3 COMMISSIONER MAY: Okay. So I
4 mean, it sounds like if we leave things the way
5 they are right now, in effect because of the set
6 down rule R-5-A is in place. But if we take
7 action and resolve with the zoning situation is
8 before November 15th, that should work with your
9 schedule.

10 MR. VOUDRIE: No. If we leave, if
11 we change it to anything other than C-3-A --

12 COMMISSIONER MAY: I'm not, I'm not
13 --

14 MR. VOUDRIE: Yes, sir.

15 COMMISSIONER MAY: -- I understand
16 that there, if we decide to change it to
17 something other than C-3-A it will have an effect
18 on you.

19 MR. VOUDRIE: Yes.

20 COMMISSIONER MAY: The question is
21 whether, I mean, right now, in effect, R-5-A is
22 in place.

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1 MR. FREEMAN: As of right now, we do
2 not have a shovel ready project.

3 COMMISSIONER MAY: Right.

4 MR. FREEMAN: So if D.C. --

5 COMMISSIONER MAY: So I'm just
6 trying to figure out how quickly we have to
7 resolve the question of what gets re-zoned and
8 what doesn't.

9 MR. FREEMAN: From our perspective,
10 the sooner the --

11 COMMISSIONER MAY: I understand
12 that. Everybody wants it as soon as possible.
13 I want to know when it has to. I'm sorry to be
14 testy about it. I just, I've had too many people
15 telling me ASAP today. And I'm just -- I need
16 to know what day.

17 MR. VOUDRIE: So right now, DHCD
18 believes that the project is, I mean, the
19 property is zoned C-3-A. And they'll -- and
20 they're going to make a decision on, a final
21 decision, a final award of funding on November
22 15th.

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1 COMMISSIONER MAY: Right. So if
2 it's cleared up by November 15th that should be
3 sufficient.

4 MR. VOUDRIE: I mean, I don't know
5 --

6 COMMISSIONER MAY: I'm not talking
7 about November 14th.

8 MR. VOUDRIE: I assume that that
9 would be okay. I don't, I don't know why that
10 would be a problem but, I mean, I --

11 COMMISSIONER MAY: Okay. All
12 right. I understand. There are certain things
13 that you may not know. I mean, this is all
14 coming together very quickly obviously.

15 MR. VOUDRIE: Yes.

16 COMMISSIONER MAY: So I'd just
17 appreciate, I mean, if you knew for sure that
18 something had to happen, it helps me to know that
19 there is a November 15th --

20 MR. VOUDRIE: They have a complete
21 application. So they're not, they're not
22 looking for new information at this point.

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1 COMMISSIONER MAY: Right. And --
2 okay. Thanks.

3 VICE CHAIR COHEN: Commissioner
4 Miller.

5 COMMISSIONER MILLER: Thank you,
6 Madam Chair.

7 Have you, Mr. Freeman or -- and I'm
8 sorry, I forget your --

9 MR. VOUDRIE: Voudrie.

10 COMMISSIONER MILLER: Voudrie.
11 Yes, I know you've been before us before. I
12 just, my memory is not great always.

13 We're just seeing this project now.
14 Has there been any consultation with the
15 advisory neighborhood commission? I
16 understand you have to work with the letter which
17 I appreciate receiving from the council member.
18 But has there been any consultation thus far on
19 this project with the ANC?

20 MR. VOUDRIE: Very limited, no. I
21 mean it was a buy right project. So some of the
22 commissioners are aware of it but we haven't

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1 presented the plan to the ANC as yet. We were
2 hoping to wait until we had funding
3 authorization so we could meet with people to
4 talk about a legitimate schedule.

5 We saw the posting on the property
6 when we were doing our site visit with DHCD for
7 the final approval. And if we hadn't seen the
8 posting, I wouldn't have been aware of this to
9 begin with.

10 So we were just moving through the
11 process and because DHC Funding is competitive
12 and you don't always get funding, you know, to
13 start the community engagement process before
14 you know that you're going to be able to build
15 the project is, you know, it's, false starts are
16 more problematic than otherwise. So
17 we were, I mean, our schedule has us doing
18 community outreach starting this month.

19 COMMISSIONER MILLER: Okay. I
20 would encourage you to keep to that --

21 MR. VOUDRIE: Yes.

22 COMMISSIONER MILLER: -- schedule.

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1 You first got involved with this
2 site back when? On what date?

3 MR. VOUDRIE: Well, I mean, we filed
4 the application in May. So we've been working
5 on it for, you know, since about the beginning
6 of the year.

7 COMMISSIONER MILLER: And were you
8 aware of the, either of you, were you aware, not
9 of this zoning case, but of the, of the change
10 that was made by the Council in 2006 in the
11 Comprehensive Plan map for this site and the, for
12 your sites, your properties and adjacent
13 properties to change it from a mixed-use
14 moderate density residential/moderate density
15 commercial to just moderate density
16 residential? Were you aware of that?

17 MR. MENKITI: No, I was not.

18 MR. VOUDRIE: I was aware of it and
19 we didn't build a maximum density C-3-A project,
20 and we don't have any ground floor retail or
21 commercial uses to try to be consistent with
22 that. But nonetheless, we were using the rules

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1 for C-3-A zone. I mean, as it is.

2 So we could build higher and we could
3 build denser here under that zone.

4 COMMISSIONER MILLER: And is there
5 any -- we'll get more information from the Office
6 of Planning I assume after this after the hearing
7 obviously on this project and analyzing it's
8 consistency. But is there any less, is there
9 any lesser zone C-3-A that would permit this
10 project to go forward as currently planned?

11 MR. FREEMAN: As currently planned,
12 no. We actually looked at that. Based on the
13 Comp Plan designation for moderate density,
14 there aren't a lot of other zones that you could
15 go to. The best zone would be R-5-D but that's
16 high density residential, just doing a quick
17 analysis of it. So in short, no, there are no
18 other moderate density zones that would permit
19 what we're proposing as a matter of right.

20 COMMISSIONER MILLER: Okay. And
21 Mr. Menkiti, do you, did your testimony say that
22 you have plans, a planned redevelopment at this

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1 point?

2 MR. MENKITI: No, we don't have a
3 planned redevelopment at this point.

4 We've been renting. The property
5 was renovated into commercial office space and
6 has been serving that function in the
7 neighborhood with the nonprofit organization
8 that had their headquarters there. They moved
9 out a couple of months ago and have moved across
10 the street. But it has been used as a commercial
11 use for the past couple of years.

12 COMMISSIONER MILLER: Mr. Belt,
13 would you want to speak on that?

14 MR. BELT: Since this has been used
15 as commercial use, he's also been enjoying
16 residential taxes. Residential property
17 taxes.

18 And a correction for down, at the
19 property where you said there's an existing cut
20 out, there is no existing cut out. There were
21 no cutouts between 42nd Street and 39th Street.

22 COMMISSIONER MILLER: Thank you.

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1 VICE CHAIR COHEN: Any other
2 questions?

3 COMMISSIONER TURNBULL: Maybe.
4 Maybe you could respond to that comment though.

5 MR. VOUDRIE: He's right. We
6 talked to DDOT about adding a cut out but it's
7 not going to be where the alley is. It would be
8 on private, it would be entering into private
9 property. We're not going to improve the alley.

10 COMMISSIONER TURNBULL: Okay.
11 Thank you.

12 MR. VOUDRIE: So we would come in
13 off of Benning not from behind his house.

14 MR. MENKITI: I just confirm that we
15 have a triple net lease with our tenants. So
16 they were responsible for all occupancy and
17 taxes. So I can check with that to see -- they
18 actually broke their lease, so it's still under
19 least to them so I can check, but that, I'm not
20 aware of.

21 VICE CHAIR COHEN: Okay. Thank
22 you.

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1 COMMISSIONER TURNBULL: So is the
2 building currently unoccupied or --

3 MR. MENKITI: Yes. They moved out
4 about 30, what, 60 days, between 30 and 60 days
5 ago.

6 COMMISSIONER TURNBULL: Okay.

7 VICE CHAIR COHEN: All right. I'd
8 like to thank you all for your testimony.

9 Is there anybody else that wants to
10 testify?

11 (No audible response.)

12 Okay. Thank you. All right.

13 Ms. Schellin, other than the Office
14 of Planning's updated report, is there anything
15 else we need? Okay.

16 Do you want to put this on the
17 calendar?

18 MR. SCHELLIN: Mr. Lawson and Mr.
19 Jackson, how much time do you need for it, to
20 provide an updated report? And do you guys want
21 to give any kind of guidance about what you
22 really want them to provide you?

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1 MR. LAWSON: That's what I was going
2 to ask for as well.

3 COMMISSIONER MAY: A new
4 recommendation?

5 MR. LAWSON: I mean, I don't know.
6 I don't have anything more --

7 VICE CHAIR COHEN: I mean, is it
8 best to meet with the people or do you want them
9 to submit specific things? Because you just
10 really got the whole package today; is that
11 correct?

12 MR. LAWSON: Well, I think we've
13 heard from the opponent, from the opponents,
14 actually from both of the opponents kind of the
15 situation that they're in right now. As well as
16 the, as well as the overall kind of development
17 program for the site that is proposed to be
18 developed, the church site. So I'm not sure
19 there's an awful lot more that we can add to that.

20 We're certainly happy to meet with
21 the various landowners and see if there's
22 something else to bring forward.

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1 You know, I would note that quite
2 honestly if we had been about the opposition from
3 current landowners, Office of Planning wouldn't
4 have supported the re-zoning in the first case,
5 in the first place.

6 So it's through this hearing process
7 that we're hearing, which is what the hearing is
8 for, that we're hearing about the opposition.

9 If you, if the Zoning Commission
10 wants us to talk to the owners about coming up
11 with some other solution given that the
12 opponents are not contiguous, I'm not sure what
13 that solution might be. But we're happy to do
14 that if you want, if that's what the Zoning
15 Commission wishes to have that, if you wish to
16 have that additional information.

17 VICE CHAIR COHEN: I think the
18 important thing is that, you know, you go back,
19 you review what we have received. And if you
20 feel you need more information, please, go ahead
21 and get it.

22 But in the meantime, we would like

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1 another updated review from --

2 COMMISSIONER MILLER: Right. I
3 think an updated recommendation that takes into
4 account the, all the circumstances here and
5 analysis of the specific project that's been
6 proposed, in terms of what it would be consistent
7 with in terms of the Comprehensive Plan, the
8 existing Comprehensive Plan and the existing and
9 proposed zoning.

10 COMMISSIONER TURNBULL: Madam
11 Chair, I would agree. I think we need a unified
12 approach. I think we need a comprehensive look
13 at this. I mean, what we don't want to do is end
14 up with spot zoning. I think we need a holistic
15 approach to this whole area.

16 VICE CHAIR COHEN: Yes, I think
17 that's a good point that you made Commissioner
18 Turnbull. So, I'm sure the Office of Planning
19 will provide all that, you know, analysis that
20 we'll need.

21 So I turn to our Ms. Schellin, if you
22 could come up with some dates.

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1 MS. SCHELLIN: Some dates, yes.
2 How about October 7th?

3 MR. JACKSON: We'll probably need a
4 little more time than that.

5 MS. SCHELLIN: I'm trying to stay in
6 line with that November date of theirs.

7 MR. LAWSON: Sorry. October 7th
8 for submission from OP information? Or --

9 MS. SCHELLIN: Yes.

10 MR. LAWSON: Oh, yes, yes, we can do
11 that.

12 MS. SCHELLIN: Okay. And then if
13 the petitioner would like to respond to that
14 report then he could do so by October 15th. You
15 would need to submit your report that's just a
16 response to that report.

17 And then we could take it up on
18 October 21st. We only have one meeting in
19 October, Mr. Jackson, and that's the issue. And
20 we want to do this before their November date.
21 That's what I'm trying to do.

22 MR. LAWSON: I'm sorry. Two

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1 clarifications for the sake of the audience.
2 Sorry, just because I missed it, what was the
3 hearing, or sorry, what was the meeting date
4 again?

5 MS. SCHELLIN: October 21st.

6 MR. LAWSON: And the second
7 question, are you leaving the record open for a
8 response to our report just from the proponent
9 or from the --

10 MS. SCHELLIN: Just from the
11 petitioner.

12 MR. LAWSON: -- opponents as well?

13 MS. SCHELLIN: -- just from the
14 petitioner.

15 MR. LAWSON: Okay.

16 MS. SCHELLIN: The record is close
17 to everybody else.

18 MR. LAWSON: Thank you.

19 VICE CHAIR COHEN: I guess the one
20 area that we should consider is if the ANC wants
21 to weigh in on this.

22 MS. SCHELLIN: The ANC would also be

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1 able to provide a response on October 15th.
2 That's true.

3 VICE CHAIR COHEN: So I think it
4 behooves everybody to get in touch with them.

5 MS. SCHELLIN: You can do that, Mr.
6 Belt, let the ANC if they choose to file a
7 response to the OP report that's filed on October
8 7th, then they can also file a response to that
9 report by October 15th.

10 MR. BELT: Well --

11 MS. SCHELLIN: You have to come to
12 the table.

13 MR. BELT: -- well, the information
14 that was given for this meeting,
15 we decided that I didn't have to be quite as
16 prepared as what I see now.

17 And, but I think I do have other,
18 there are other, the rest of the, my neighbors
19 object to this and would like to have some say-so
20 on this. Because they have, I have spoken with
21 them. I've spoken with everybody out there.
22 And it was not told to me, you know, that, you

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1 know, the full extent of what was going to be
2 going on.

3 VICE CHAIR COHEN: I think it's just
4 the ANC that we're going to hear from.

5 MR. BELT: Okay.

6 VICE CHAIR COHEN: This was a public
7 hearing. If they had concerns they should have
8 come up and spoken tonight. Okay.

9 And they can give their concerns to you so
10 you can act on their behalf.

11 MR. BELT: Okay.

12 VICE CHAIR COHEN: Okay. With that
13 in mind, I will conclude this meeting.

14 And thank you for all coming out and
15 have a good evening.

16 (Whereupon, the above-entitled
17 matter was concluded at 7:29 p.m.)

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