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GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Zoning Commission

Regular Public Meeting  
1435th Meeting Session [140th of 2016]

6:35 p.m. to 9:50 p.m.  
Monday, June 13, 2016

Jerrily R. Kress Memorial Hearing Room  
441 4th Street, N.W., Suite 220 South  
Washington, D.C. 20001

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1 Board Members:

2 ANTHONY HOOD, Chairman

3 MARCIE COHEN, Vice Chair

4 PETER MAY, Commissioner

5 ROBERT MILLER, Commissioner

6 MICHAEL TURNBULL, Commissioner

7

8 Office of Zoning:

9 SHARON SCHELLIN, Secretary

10

11 Office of Planning:

12 JENNIFER STEINGASSER

13 MATT JESICK

14 ART ROGERS

15 ELISA VITALE

16 STEPHEN COCHRAN

17 BRANDICE ELLIOTT

18

19 Office of the Attorney General:

20 ALAN BERGSTEIN

21 ARIEL EBI

22

23 Other:

24 MERIDITH MOLDENHAUER, ESQ.

25

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

2 CHAIRPERSON HOOD: Okay. This meeting will  
3 please come to order. Again, we apologize for being  
4 a few moments late.

5 Good evening, ladies and gentlemen, this is a  
6 public meeting of the Zoning Commission for the  
7 District of Columbia.

8 My name is Anthony Hood. Joining me are Vice  
9 Chair Cohen, Commissioner Miller, Commissioner May,  
10 and Commissioner Turnbull. We're also joined by the  
11 Office of Zoning staff, Ms. Sharon Schellin, Office  
12 of the Attorney General, Mr. Bergstein and Mr. Ebi,  
13 Office of Planning staff, Ms. Steingasser and Mr.  
14 Jesick and Ms. Vitale.

15 Copies of today's meeting agenda are  
16 available to you and are located in the bin near the  
17 door. We do not take any public testimonies -- any  
18 public testimony at our meetings unless the  
19 Commission requests someone to come forward.

20 Please be advised this proceeding is being  
21 recorded by a court reporter and is also web cast  
22 live. Accordingly, we must ask you to refrain from  
23 any disruptive noises or actions in the hearing room,  
24 including the display of any signs or objects.  
25 Please turn off all electronic devices so not to

1 disrupt these proceedings.

2 Does the staff have any preliminary matters?

3 MS. SCHELLIN: No, sir.

4 CHAIRPERSON HOOD: Okay. If not, let's  
5 proceed with the agenda.

6 Okay. Consent calendar, Zoning Commission  
7 Case No. 06-46C, Half Street Residential, PJV, LLC.,  
8 request for minor modification to a PUD at Square  
9 701. Ms. Schellin.

10 MS. SCHELLIN: Yes, sir. The applicant is  
11 requesting approval to modify the approved use and  
12 design of the approved building's penthouse,  
13 including the addition of penthouse habitable space.  
14 Exhibit 4 is an OP report recommending approval of  
15 the minor modification, would ask the Commission to  
16 consider final action this evening.

17 CHAIRPERSON HOOD: Okay. Commissioners, we  
18 have a request for minor mod in front of us. And we  
19 have Exhibit, what is this 2B? I believe it's 2B,  
20 Ms. Schellin.

21 MS. SCHELLIN: Exhibit 4 is the OP report.

22 CHAIRPERSON HOOD: Okay. Okay. And Exhibit  
23 2B is the penthouse modification plan.

24 MS. SCHELLIN: The architectural plans, yes.

25 CHAIRPERSON HOOD: Right. Okay. Let's open

1 it up, any discussion on that? We have a question.  
2 Commissioner Miller.

3 MR. MILLER: Thank you, Mr. Chairman. I have  
4 no problem with the minor modification to add this  
5 6,000 square feet of penthouse habitable space. I  
6 think it's a good thing. I just wanted to, if the  
7 applicant's representative is here, if they can give  
8 -- that does trigger an affordable housing either  
9 requirement or a contribution to the Housing  
10 Production Trust Fund. There's an indication that  
11 they're going to give the contribution to the Housing  
12 Production Trust Fund, and I realize that that isn't  
13 -- that exact number isn't determined until a later  
14 point when they're closer to the building permit.  
15 But I wonder if the applicant's counsel can just give  
16 a so-called ball park estimate of what that Housing  
17 Production Trust Fund dollar amount contribution  
18 would be, if you have any idea of that at this point.

19 They apparently have no idea. Does the  
20 Office of Planning have any idea of what that might  
21 be?

22 MR. JESICK: No. Matt Jesick with the Office  
23 of Planning. No, I'm sorry, we don't have an  
24 estimate of what that contribution would be.

25 MR. MILLER: Okay.

1 CHAIRPERSON HOOD: You know, what? Let me  
2 ask this before -- did anybody have any issues with  
3 this and wanted this to come off the consent  
4 calendar?

5 MS. COHEN: No.

6 MR. MILLER: No.

7 MR. MAY: No.

8 CHAIRPERSON HOOD: Okay. All right.

9 MR. MILLER: No. I think it will -- and I  
10 know it's based on a formula, an assessed value, and  
11 I think it will be a substantial -- I mean, a not  
12 insignificant contribution. So, I have no problem  
13 with it going forward, even without having that ball  
14 park estimate of the contribution.

15 CHAIRPERSON HOOD: Okay. Anyone else  
16 comment? Commissioner May?

17 MR. MAY: Yeah, I just wanted to ask a  
18 question of the Office of Planning on this, because  
19 the applicant's submission included reference to the  
20 fact that they could have three different penthouse  
21 heights plus the height of the elevator. And I was  
22 confused by that because I thought that we had  
23 established that you could have one height for  
24 habitable space, one height for mechanical enclosure,  
25 and then a third height for the elevator. So three

1 total. Or maybe I'm wrong.

2 MR. JESICK: I was under the impression they  
3 did have three.

4 MR. MAY: I know they do, but their  
5 application for this change cited several times that  
6 they're permitted three, plus on. Then they made  
7 some reference to the fact that they, you know, if we  
8 thought they needed relief -- maybe I'm, I'm not  
9 being very articulate myself.

10 MR. JESICK: I know there is 16-foot height,  
11 an 18-6, and a 17.

12 MR. MAY: And a 17.

13 MR. JESICK: Those are the three that I saw.

14 MR. MAY: Right. But maybe I'm getting hung  
15 up on something that doesn't really matter. But I  
16 thought it was -- I was just confused by the  
17 applicant's submission. Maybe I can find the  
18 language here.

19 CHAIRPERSON HOOD: Was that in the planning  
20 report?

21 MR. MAY: Okay.

22 CHAIRPERSON HOOD: What you're looking for?

23 MR. MAY: No. The applicant's statement.

24 CHAIRPERSON HOOD: Oh, okay.

25 MR. MAY: So I'm looking at page 4 of the



1 doesn't affect my willingness to proceed with this on  
2 the consent calendar because I think it's okay. But  
3 I think it's good to have clarity on this aspect of  
4 the regulation since we seem to be having elevator  
5 penthouse -- sorry. We seem to be having habitable  
6 penthouse space applications coming every two weeks.

7 So, that's all.

8 CHAIRPERSON HOOD: Did we get -- we didn't  
9 get clarification. I'm going to ask --

10 MR. MAY: No, I mean, I think the Office of  
11 Planning did confirm it but if you find anything  
12 different, you know, just let us know.

13 CHAIRPERSON HOOD: Okay. So you go the  
14 answer you need? Okay.

15 MR. MAY: Pretty sure.

16 CHAIRPERSON HOOD: All right. Anything else?

17 MR. MAY: I'll go with pretty sure.

18 CHAIRPERSON HOOD: Anything else? So this is  
19 not a showstopper. Someone like to make a motion,  
20 then?

21 MS. COHEN: Mr. Chairman.

22 CHAIRPERSON HOOD: Yes.

23 MS. COHEN: I move to approve a minor  
24 modification to add a habitable penthouse to an  
25 approved project and the penthouse is only two plus

1 an elevator override for Zoning Case No. 06-46C, and  
2 ask for a second.

3 MR. TURNBULL: Second.

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

6 [Vote taken.]

7 CHAIRPERSON HOOD: Ms. Schellin, would you  
8 record the vote?

9 MS. SCHELLIN: Yes, sir. Staff records the  
10 vote five to zero to zero to approve final action in  
11 Zoning Commission Case No. 06-46C, Commissioner Cohen  
12 moving, Commissioner Turnbull seconding,  
13 Commissioners Hood, Miller, and May in support.

14 CHAIRPERSON HOOD: Okay, next, let's go to  
15 Zoning Commission Case No. 08-06E, Office of Planning  
16 Request for Technical Corrections to Zoning  
17 Commission Order No. 08-06A. Ms. Schellin.

18 MS. SCHELLIN: Yes, sir. The Office of  
19 Planning is asking for technical corrections to  
20 Zoning Commission Order No. 08-06A. They're also  
21 asking for a comment period of 14 days if needed,  
22 would ask the Commission to consider final action on  
23 this case this evening.

24 CHAIRPERSON HOOD: I think we also have a  
25 request to waive our 10 day rule, correct?

1 MS. SCHELLIN: Yes, they -- well, for the  
2 second filing that they submitted, yes.

3 CHAIRPERSON HOOD: Okay.

4 MS. SCHELLIN: The supplemental.

5 CHAIRPERSON HOOD: So, Commission, any  
6 objections? Not hearing any. Okay. So we will  
7 proceed.

8 I believe that there are some things, and I  
9 want to make sure that none of the corrections are  
10 substantial. Some of them I think are really easy,  
11 and I would like to kind of run through them very  
12 quickly. Hold on one second. And I think for the  
13 sake of expediency let's -- if mines ever comes up.  
14 I think for expediency --

15 [Discussion off the record.]

16 CHAIRPERSON HOOD: Okay. Let's begin on  
17 page, I believe it's on page -- what page is this?  
18 Two of 21. Any issues with -- and I don't know if  
19 you all -- I probably won't do this with all of them  
20 but I'm going to run through them because I want to  
21 make sure that there are no significant issues.

22 A102.4, the vesting rights. Any issues with  
23 that?

24 [No audible response.]

25 CHAIRPERSON HOOD: Okay. B102, lot alley.

1 And here's the thing, if you have any questions on  
2 some of these, I just want to make sure that we are  
3 in line with what we did when we did the 2016 ZR. I  
4 mean, the regulations.

5 B100.2, height floor to ceiling clear. Okay.  
6 I think we're good with that.

7 Okay. Now I'm on page 3. The rules of  
8 measurement. Nonconformity provisions. Subdivision  
9 provisions.

10 MR. MAY: I'm sorry, which one are you on?

11 CHAIRPERSON HOOD: I'm on page 3 of 21. I  
12 just did rules of measurement for building height.  
13 I'm not reading the RF and RA zones, Subtitle B.  
14 It's on page 3 of 21.

15 MR. MAY: Okay. Yeah, and I made my marks on  
16 the original exhibit. Okay.

17 CHAIRPERSON HOOD: On the original. Okay.  
18 Nonconformancy provisions. Subdivision provisions.  
19 And that's a simple fix. Penthouse provisions.  
20 Purpose and intent.

21 And the ones that I'm calling off, if you  
22 don't hear anything, Ms. Schellin and others, we can  
23 proceed. Especially with the one about the issue  
24 with the, just renaming.

25 Purpose and intent. Okay. And this is

1 where, for me, I'm going to need to go to Ms.  
2 Steingasser. The next one I'm on page 4 of 21.  
3 Maximum number of dwelling units, Section 302.2  
4 references Subtitle E, Chapter 7, but should  
5 reference Subtitle U, Chapter 3.

6 That's the Office of Zoning, I believe,  
7 right?

8 MS. SCHELLIN: Which one is that?

9 CHAIRPERSON HOOD: I'm on E302.2. So is --

10 MS. SCHELLIN: Yes.

11 CHAIRPERSON HOOD: -- basically just --

12 MS. SCHELLIN: That was a correction just --

13 CHAIRPERSON HOOD: Correction. Okay.

14 MS. SCHELLIN: -- the correct reference.

15 Yes.

16 CHAIRPERSON HOOD: I just wanted to make sure  
17 we're not changing the number of dwelling units.

18 MS. SCHELLIN: No.

19 CHAIRPERSON HOOD: So, okay.

20 MS. SCHELLIN: It was just a correction.

21 CHAIRPERSON HOOD: All right. Maximum number  
22 of dwelling units, Section 402.2. Okay. I see that.  
23 We can move on. Let's see.

24 Side yard, 506.5. Okay. We can move on.  
25 Unless somebody else wants to stop me, just stop me.

1 I just wanted to run through these.

2 Existing provisions applicable to all C zones  
3 and current regulations to be carried forward allows  
4 the conversion of a preexisting nonresidential  
5 building to -- I think we dealt with that. Even if  
6 you would exceed permitted FAR.

7 Okay. G802.1. G803. Okay. Now I'm on page  
8 5.

9 Ms. Steingasser -- I mean, I'm sorry, 804.1.  
10 Can you help me to remember. Current lot occupancy  
11 requirements to be consistent with existing  
12 restrictions. I guess this was not matched up with  
13 what the Commission originally approved?

14 MS. STEINGASSER: That's correct. This is  
15 the equivalent of the Naval Observatory, C-2-A.

16 CHAIRPERSON HOOD: Okay.

17 MS. STEINGASSER: Which had a lot occupancy  
18 requirement.

19 CHAIRPERSON HOOD: Okay. All right. Thank  
20 you. Let's go to existing provisions applicable to  
21 all C zones and current regulations to be carried  
22 forward. Allows the conversion of preexisting  
23 buildings, residential, even if it would exceed  
24 permitted FAR. Okay. Done that. Dealt with that.

25 Court requirement. I'm sorry. The new

1 200.7. Okay.

2 Court requirements, I207.1. Okay. Alley  
3 lots, I think the -- okay. That's, I think that's  
4 pretty straight forward. 212.6. 205.1 206.1.  
5 207.1.

6 Okay. 304.1 I think is good. 305.8, general  
7 residential use requirements. Okay. Maximum  
8 permitted height should be clarified and corrected by  
9 the following language.

10 [Pause.]

11 CHAIRPERSON HOOD: Ms. Steingasser, again,  
12 can you help me because it was hard for me to cross-  
13 reference all of this with the time that we had and  
14 everything else we had going. Can you help me  
15 understand what we're doing with 503.5?

16 MS. STEINGASSER: So that this is in Subtitle  
17 I. It's the equivalent of the DD Overlay and the new  
18 downtown zones. And it reflects the permitted  
19 heights in 770. And in this particular case this one  
20 reflects preferences directly to the R-5-D, DD, which  
21 would have allowed the heights as permitted by  
22 current Section 411, and we realized that this  
23 section just got omitted.

24 CHAIRPERSON HOOD: Okay. I think the next  
25 three are just corrections, unless somebody else see

1 differently. So I'm just trying to move a little  
2 faster here. Anything on eight of 21?

3 CHAIRPERSON HOOD: Okay. Anything on nine of  
4 21? Ten of 21? Okay. Eleven of 21? I think 12 of  
5 21 is straight forward. Thirteen of 21? Okay.  
6 Fourteen of 21? Fifteen of 21? Sixteen of 21?

7 901. -- this is another one I had -- what are  
8 we doing, Ms. Steingasser, if you could help refresh  
9 me with 901? What is that, 901.2? 901 seems to  
10 stand in my mind for some reason. But 901.2.

11 MS. STEINGASSER: We're just correcting,  
12 excuse me, the language of Subsection C. Instead of  
13 saying subject in each specific case, because it's a  
14 continuum of the list. It just says that the special  
15 exception will meet such special conditions. So it's  
16 just a grammatical correction.

17 CHAIRPERSON HOOD: Okay. Okay. All right.  
18 Thank you. Seventeen of 21?

19 [No audible response.]

20 CHAIRPERSON HOOD: And this may be for you,  
21 Ms. Schellin, why, requesting for party status?

22 MS. SCHELLIN: Yes, sir. We just took out  
23 that when someone requests party status that they no  
24 longer need to provide a facsimile number. No one  
25 seems to use them anymore.

1 CHAIRPERSON HOOD: Okay. Okay. I, okay,  
2 contains a request to provide a facsimile. Okay. So  
3 we took that out.

4 MS. SCHELLIN: We took that out.

5 CHAIRPERSON HOOD: Okay. That must be on  
6 another page. I was just wondering because that's  
7 what I was thinking.

8 Okay. Eighteen of 21?

9 [No audible response.]

10 CHAIRPERSON HOOD: What did we do about the  
11 Advisory Neighborhood Commission? I'm just trying to  
12 understand. We said that we made a definition of an  
13 effected ANC.

14 MS. SCHELLIN: Correct. Affected ANC was  
15 defined earlier, and so we were just changing that  
16 section to conform with the definition earlier so  
17 that the affected ANC was defined earlier in the regs  
18 to include the ANC directly across the street. And  
19 so rather than saying whatever it was that it says  
20 here, that it just says an affected ANC.

21 So it includes both the ANC in which the  
22 property is located, plus the ANC directly across the  
23 street.

24 CHAIRPERSON HOOD: So it still says affected  
25 ANC which is --

1 MS. SCHELLIN: Yes.

2 CHAIRPERSON HOOD: -- basically in our terms,  
3 directly across the street.

4 MS. SCHELLIN: Yes, so it includes both.

5 CHAIRPERSON HOOD: Okay. All right.  
6 Eighteen of 21. Any other issues on that? Okay.  
7 All right. Almost finished.

8 Nineteen of 21?

9 [No audible response.]

10 CHAIRPERSON HOOD: Twenty of 21.

11 [No audible response.]

12 CHAIRPERSON HOOD: Okay. Ms. Schellin,  
13 again, if you can help us clarify, 406.1 contains  
14 language that causes conflicts with the definitions  
15 in the -- okay, so that goes back to the other one,  
16 affected ANC.

17 MS. SCHELLIN: Correct.

18 CHAIRPERSON HOOD: Okay.

19 MS. SCHELLIN: We just, just to conform  
20 subtitles Y and Z so that they say the same.

21 CHAIRPERSON HOOD: Okay. This is one, and I  
22 don't know if the -- I don't remember the Commission  
23 saying this one. If an ANC wishes to participate it  
24 must file its written report within the --

25 MS. SCHELLIN: It's the current --

1           CHAIRPERSON HOOD:  -- with the Zoning  
2 Commission at least seven days in advance with the  
3 public hearing and provide the name and the person  
4 who authorized by the ANC to represent it at the  
5 hearing.  And I know that's in our current  
6 regulation.  I thought we dealt with that a little  
7 differently because that's not a -- while that's a  
8 rule, that's -- we kind of a little lenient towards  
9 our ANCs who do not know how to do that.  So I guess  
10 we can continue to apply the same.

11           MS. SCHELLIN:  Right.  Their report can come  
12 in at any time.

13           CHAIRPERSON HOOD:  Okay.

14           MS. SCHELLIN:  As long as the Commission or  
15 the Board hasn't taken final action.

16           CHAIRPERSON HOOD:  Okay.  Okay.  Twenty-one  
17 of 21.  Anybody?

18           All right.  I just wanted to do that  
19 actually, that exercise to make sure --

20           MS. SCHELLIN:  Chairman.

21           CHAIRPERSON HOOD:  -- that we were not  
22 moving, that would substantively change anything.  
23 Yes?

24           MS. SCHELLIN:  Exhibit 1 contains some  
25 additional changes.

1 CHAIRPERSON HOOD: Oh, can you go back?

2 MS. SCHELLIN: Yes, sir.

3 CHAIRPERSON HOOD: Ms. Schellin, could you  
4 identify, is there a lot of them?

5 [Discussion off the record.]

6 CHAIRPERSON HOOD: Okay. Thank you. All  
7 right. Two of 23, we're on Exhibit 1. Two of 23.  
8 I'm not going to read through all these. I got tired  
9 from the other 20. Anyone --

10 MR. MAY: Not on 2, but on 3.

11 CHAIRPERSON HOOD: On 3. Okay. Three,  
12 Commissioner May.

13 MR. MAY: So on 3, Subtitle C, Section 701.5  
14 and 709 -- actually 709.1, you know, there are all  
15 these areas where we are defining what the gross  
16 floor area shall be, and I just don't recall that --  
17 you know, I mean, we went through all this stuff. Is  
18 this just conforming it with an existing provision or  
19 is this something that we had explicitly changed  
20 through ZRR?

21 MS. STEINGASSER: It's conforming it with  
22 Chapter 22 currently under the 58 regs. And the  
23 Commission did not explicitly --

24 MR. MAY: Okay.

25 MS. STEINGASSER: -- distinguish between

1 whether there should be a change with cellar or not  
2 cellar.

3 MR. MAY: Got it. Okay. Because I didn't  
4 remember having done anything there. But then again,  
5 there's a lot I don't remember from that. All right.  
6 That's it.

7 CHAIRPERSON HOOD: Four of 23.

8 [No audible response.]

9 CHAIRPERSON HOOD: Five of 23, there are no  
10 changes. Well, yeah there are. I'm sorry. Five of  
11 23. It looks like it's renumbering.

12 MS. STEINGASSER: Could I jump in and --

13 CHAIRPERSON HOOD: Yes.

14 MS. STEINGASSER: -- put myself on the mercy  
15 of the Commission? We need to correct a correction.  
16 So in all of these pages where we have reassembled  
17 the discussion and regulations for height, we make a  
18 reference to Section B207.6, and that should be D.

19 CHAIRPERSON HOOD: Okay. So Subtitle D  
20 should be B. Or B should be D?

21 MS. STEINGASSER: You'll see it in D403, 503,  
22 603. It all makes reference to -- it hash marks out  
23 603 and changes it to B207.6, and that should be D,  
24 as in dagnabbit.

25 CHAIRPERSON HOOD: Okay. All right. Okay.

1 What page? We're on five? Five. Okay. Thank you,  
2 Ms. Steingasser. Six of 23?

3 [No audible response.]

4 CHAIRPERSON HOOD: Don't have any on this.  
5 Seven? Eight? Nine? Nine? You're good with nine?  
6 Ten? I think those are mainly corrections.

7 MR. MAY: Yeah, so on 10, residential flat  
8 zones. That Sections 304.1, 404.1, 504.1, I mean,  
9 are we essentially just breaking that out into a  
10 chart as opposed to having it in the text?

11 MS. STEINGASSER: We are putting it in a  
12 chart and we're also distinguishing the lot occupancy  
13 for the various types and the conversions. So once  
14 we added the conversions --

15 MR. MAY: Right.

16 MS. STEINGASSER: -- we needed to --

17 MR. MAY: Right. I know we dealt with  
18 conversions separately but this was in the -- that  
19 was in the R-4 case, right?

20 MS. STEINGASSER: That's correct.

21 MR. MAY: 1411. Got it. Yeah. Okay. Thank  
22 you.

23 CHAIRPERSON HOOD: Okay. Where were we, 11 -  
24 - what page are we on? Eleven? Yeah, 11. Twelve?  
25 Just corrections. Okay. Thirteen? Fourteen?

1 Fifteen? Sixteen? Seventeen? Eighteen? Nineteen?

2 MR. MAY: Yeah.

3 CHAIRPERSON HOOD: Nineteen? Okay.

4 MR. MAY: So 19, on the very top of the page,  
5 "Add a new Section 717 to address parking, bike  
6 parking, and loading requirements in the R-C zones.  
7 So is this -- are we just conforming them to  
8 standard?

9 MS. STEINGASSER: Yes.

10 MR. MAY: Okay. And then for Section 814 it  
11 says, add a new 814 to address the same things in the  
12 arts zones. Right? And then 814 says, "Parking,  
13 loading, and vehicle access R-C." Should that be  
14 arts?

15 MS. STEINGASSER: Yes, sir.

16 MR. MAY: Okay. I didn't notice that first  
17 time around. I just noticed it now.

18 All right. And, so explain 101, Subtitle U,  
19 Section 101. I mean, because we have a separate list  
20 of prohibited uses or conditions, and it simply says  
21 that can't be relieved. Is that what it is?

22 MS. STEINGASSER: This is to make sure that  
23 they can be relieved.

24 MR. MAY: Yeah, okay. All right. The  
25 language is just sort of running me around in

1 circles. But --

2 MS. STEINGASSER: We'll work with OAG on  
3 getting that --

4 MR. MAY: Oh, you know --

5 MS. STEINGASSER: -- clarified.

6 MR. MAY: -- it's got to be what it's got to  
7 be. It just like, I read it like four times and all  
8 it did was make my head hurt. All right. Thank you.  
9 That was it for that page.

10 CHAIRPERSON HOOD: Okay. And let me go back  
11 to corner stores. I didn't understand what we were  
12 doing, Ms. Steingasser, on corner stores. I know  
13 we're replacing and removing and putting something in  
14 reserve, but is this showing up somewhere in our new  
15 regulations?

16 MS. STEINGASSER: These are in Subtitle U,  
17 which is uses, Chapter 2, Section 254. We found that  
18 there was a lot of, again, kind of looping and  
19 repeating of sections. We went with reserved rather  
20 than try to renumber the whole section because it's  
21 then woven throughout the code.

22 CHAIRPERSON HOOD: Okay. So this is  
23 somewhere else within our regulations. Well, the new  
24 regulations.

25 Okay. Okay. Twenty of 23?

1 [No audible response.]

2 CHAIRPERSON HOOD: Did we --

3 MR. MAY: There's a --

4 CHAIRPERSON HOOD: Oh, sorry.

5 MR. MAY: Go ahead.

6 CHAIRPERSON HOOD: Did we come up with a  
7 definition for -- did we discuss the -- did we  
8 discuss, I'm talking about the Commission, discuss  
9 office and general office? I don't remember. Ms.  
10 Steingasser, you help me? Did we discuss?

11 MS. STEINGASSER: We did not distinguish  
12 between office and general office. There was office  
13 and then there was medical care and medical offices  
14 as part of that group. But offices were treated as  
15 one general use.

16 CHAIRPERSON HOOD: Do any of us have a issue  
17 with that?

18 MR. MAY: Uhn-uh.

19 MS. COHEN: No.

20 CHAIRPERSON HOOD: All right. No problem.  
21 Just wanted to check.

22 MR. MAY: Mr. Chairman.

23 CHAIRPERSON HOOD: Yes.

24 MR. MAY: On the bottom of page 20. So, you  
25 know, the previous references to general offices and

1 office, apparently when we get down to storage or  
2 self-storage we have general indoor storage. So, is  
3 that a circumstance where we need the word general,  
4 because we went to some length to eliminate it from  
5 office. It's a minor point, but --

6 MS. STEINGASSER: I'll double-check that  
7 to -- we were trying to pick the language right out  
8 of the existing code.

9 MR. MAY: Right.

10 MS. STEINGASSER: But I'll double-check that  
11 to make sure that there is consistency.

12 MR. MAY: Yeah.

13 MS. STEINGASSER: Thank you.

14 CHAIRPERSON HOOD: Okay. We're ready to  
15 move? Twenty-one? Twenty-two?

16 MR. MAY: Did we really go all the way up to  
17 condition BB on 810.1? We had that many? Twenty-  
18 eight? Wow. Okay.

19 CHAIRPERSON HOOD: Okay. Twenty-three.  
20 Okay. Anything else? Any other comments?

21 Okay. Oh, I think we went by the lot. I  
22 think we did this one. Yeah. I don't think -- the  
23 lot alley, I think we went through that one. We have  
24 clarifying language. Did you want to revisit that,  
25 Mr. Turnbull?

1 MR. TURNBULL: No, I'm fine.

2 CHAIRPERSON HOOD: Okay. All right. All  
3 right. So nothing substantive. I think we only had  
4 one that Ms. Steingasser is going to I guess follow  
5 up on. I just want to make sure we go through the  
6 exercise. So, what do we need to do now? Do we need  
7 to vote? And also we need to lessen the time frame,  
8 I believe. To what? Fourteen days?

9 MS. SCHELLIN: Fourteen days.

10 CHAIRPERSON HOOD: Okay. I would move that  
11 we approve a request for technical corrections in  
12 Zoning Commission Order 08-06E with the limited time  
13 frame of 14 days.

14 MS. COHEN: Second.

15 CHAIRPERSON HOOD: Okay. It's moved and  
16 properly seconded. Anything further?

17 [Vote taken.]

18 CHAIRPERSON HOOD: Ms. Schellin, would you  
19 record the vote?

20 MS. SCHELLIN: Yes, sir. Staff records the  
21 vote five to zero to zero to allow for the immediate  
22 publication of a proposed rulemaking in Zoning  
23 Commission Case 08-06E for a 14-day comment period,  
24 Commissioner Hood moving, Commissioner Cohen  
25 seconding, Commissioners May, Miller, and Turnbull in

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1 support.

2 MR. MAY: Mr. Chairman, I'd just like to add,  
3 I'm really glad that everybody in the audience has a  
4 smart phone because otherwise they wouldn't know what  
5 -- yeah, see. Now I got everybody to look up. Look  
6 at that. Thank you very much for your patience as we  
7 went through that.

8 CHAIRPERSON HOOD: Okay. Let's go to final  
9 action in Zoning Commission Case No. 08-30C, 25 M  
10 Street Holdings, LLC., Modification to Capital  
11 Gateway Overlay Review at Square 700. Ms. Schellin.

12 MS. SCHELLIN: Yes, sir. The applicant's  
13 post hearing submissions are at Exhibits 25 and 25A.  
14 We'd ask the Commission to consider final action on  
15 this case this evening. Thank you.

16 CHAIRPERSON HOOD: Okay, colleagues, any  
17 comments on this 08-30C? What year, Ms. -- what year  
18 was this case? Do we know? What year was this case?  
19 Zero eight? What year was this?

20 MS. SCHELLIN: The original. The original  
21 case was -- is 2008, yes.

22 CHAIRPERSON HOOD: Because I didn't have any  
23 notes on 08. Okay. Any comments on this?  
24 Questions? Any hang-ups?

25 MS. COHEN: No.

1           MR. MAY: Mr. Chairman, as I was very  
2 concerned about the previous iterations of the design  
3 I think that now they've done something that  
4 addresses my concerns. I'd also note that they took  
5 out the request for the speculative addition of  
6 digital signage so if that becomes an issue later on  
7 we'll take that up. But for right now I'm pleased to  
8 move forward with this one.

9           CHAIRPERSON HOOD: I really like the revised  
10 perspective. At least from my standpoint. I know  
11 that was a discussion that we had. I really think  
12 they listened to -- I want to take the credit, but  
13 I'm sure it wasn't me. But I really like the way  
14 that they did revise this one. So anything else,  
15 because I think that was the hot issue. Mr.  
16 Turnbull, it might have been you or Commissioner.

17           MR. TURNBULL: No, I think the revisions are  
18 what we're all looking for.

19           CHAIRPERSON HOOD: Okay. So with that I'll  
20 move this one. I move that we approve Zoning  
21 Commission Case No. 08-30C and ask for a second.

22           MS. COHEN: Second.

23           CHAIRPERSON HOOD: It's been moved and  
24 properly seconded. Any further discussion?

25           [Vote taken.]

1 CHAIRPERSON HOOD: Ms. Schellin, would you  
2 record the vote?

3 MS. SCHELLIN: Yes. Staff records the vote  
4 five to zero to zero to approve final action in  
5 Zoning Commission Case No. 08-30C, Commissioner Hood  
6 moving, Commissioner Cohen seconding, Commissioners  
7 Miller, Turnbull, and May in support.

8 CHAIRPERSON HOOD: Okay. Let's go to Zoning  
9 Commission Case No. 14-13C, Office of Planning  
10 request for technical corrections in Zoning  
11 Commission Order 14-13, Ms. Schellin.

12 MS. SCHELLIN: Yes, sir. The proposed  
13 rulemaking is at Exhibit 3. We received no comments.

14 CHAIRPERSON HOOD: Okay. Any additional  
15 comments? I know we did a lot of this at proposed.  
16 I'm not sure if there's anything left. Comments,  
17 colleagues. Okay. Somebody like to make a motion?

18 MR. TURNBULL: Mr. Chair, I would move that  
19 we take final action on Zoning Commission No. 14-13C,  
20 Office of Planning Request for Technical Correction  
21 to Zoning Commission Order No. 14-13.

22 CHAIRPERSON HOOD: Second. It's been moved  
23 and properly seconded. Any further discussion?

24 [Vote taken.]

25 CHAIRPERSON HOOD: Ms. Schellin, would you

1 record the vote?

2 MS. SCHELLIN: Yes. Staff records the vote  
3 five to zero to zero to approve final action in  
4 Zoning Commission Case 14-13C, Commissioner Turnbull  
5 moving, Commissioner Hood seconding, Commissioners  
6 Cohen, May, and Miller in support.

7 CHAIRPERSON HOOD: Okay. Let's go to  
8 proposed action. Zoning Commission Case No. 15-13,  
9 Watkins Alley, LLC. Consolidated PUD and Related Map  
10 Amendment at Square 1043, Ms. Schellin.

11 MS. SCHELLIN: Yes, sir. At Exhibits 40  
12 through 40C-2 and 42 through 44, we have the  
13 applicant's post hearing submissions, at Exhibit 45  
14 you have an OP supplemental report, Exhibit 46 is  
15 delegated action by NCPC, which found that the  
16 project would not be inconsistent with the Comp Plan  
17 for the National Capital. Behind you this evening  
18 you have a copy of the materials board, and the  
19 applicant has asked to be able to submit a copy of  
20 that to the record if the Commission would allow them  
21 to do so.

22 MR. MAY: A copy of the copy?

23 MS. SCHELLIN: Well, they've not submitted  
24 that for the record.

25 MR. MAY: Right. Okay. But they also didn't

1 submit a materials board. There's pictures.

2 MS. SCHELLIN: A picture, sorry, of the  
3 materials. So we need it in the record.

4 They usually submit a picture --

5 MR. MAY: Yes. Yes, they need to have a copy  
6 of that in the record.

7 MS. SCHELLIN: Okay. Thank you.

8 MR. MAY: But they need to submit a materials  
9 board. It's not so we can see a bigger picture of  
10 it. Sorry. Are we ready to start talking about this  
11 one?

12 CHAIRPERSON HOOD: Yes. So that's right,  
13 this is on proposal. Maybe for a final we can get a  
14 board, not a picture. Oh, okay. Okay. Well, that's  
15 true.

16 Okay. Any open comments? Who would like to  
17 start us off? Commissioner May?

18 MR. MAY: Okay. So this project started out  
19 as a disappointment, it still remains a  
20 disappointment. And it's not in the major ways. I  
21 mean, I think you know, when you think about the FAR  
22 and the treatment of the site, the use of buildings  
23 that face an interior courtyard and all that, I mean,  
24 the density, you know, those things, the massing of  
25 it generally all okay. But the architecture from the

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1 beginning has been a struggle, and it remains a  
2 struggle.

3           You know, I asked the question about whether  
4 they really understood what high quality brickwork  
5 was, and they submit a photograph of something that  
6 they did before which is, you know, okay for an  
7 alley. But it's not okay for -- I mean, like a --  
8 you know, it would be okay for a garage in an alley.  
9 It's not really okay for you know, a building that's  
10 going to be on the street. I mean, you know, this is  
11 why I was really looking forward to seeing the  
12 materials board and actually touching the brick,  
13 which is why we asked for the actual materials. I  
14 mean, it seems like it -- you know, maybe we're just,  
15 you know, we don't really need to see that. But we  
16 do need to see it. And, you know, it demonstrates.  
17 I mean, the brick they're showing here is sidewall  
18 brick. This is not finished brick. This is not the  
19 brick that should be on E Street.

20           And I don't understand why we have to educate  
21 people about this when they're bringing a project  
22 forward like this. All you have to do is walk down a  
23 street in Capitol Hill and look at the front of the  
24 building and look at the side of the building, you  
25 can understand the difference between the kinds of

1 brick. It's nonsense.

2 I mean, again, this is not the most  
3 meaningful component of this. Generally speaking,  
4 the FAR and the layout is okay, but the architecture  
5 is mediocre at best.

6 The quality of the drawing package is  
7 mediocre at best. You know, we've asked for a  
8 clarity on certain things. Some things get  
9 clarified, some things get murkier. We have drawings  
10 that call out green roof over significant portions of  
11 the project, and then we have elevations that show --  
12 and perspective views that show those same roofs  
13 covered in standing seam roofing or asphalt shingle.

14 It's not that hard to get a coordinated set  
15 of drawings done, and to be accurate when you're  
16 representing something like green roof. I mean, how  
17 much green roof is really on this project? We don't  
18 know. I've seen three different versions of it in  
19 the drawing set.

20 I mean, there are other aspects of this where  
21 it just seems like it's careless. You know, I guess,  
22 I don't know what I was thinking when we did the  
23 review before, but I didn't even ask where is the  
24 water going to go from the sloped roof, and we have  
25 lots of sloped roofs and I don't see a single

1 downspout. And not that it's important for us to  
2 approve the downspouts, but I think we want to see an  
3 accurate representation of what the building is going  
4 to look like, and downspouts are a big thing.  
5 Especially when, you know, the building is backing up  
6 to an alley. You've got a sloped roof that goes up  
7 to it. Where is the water going to go? Is it going  
8 to go drain into the alley? Is it going to drain  
9 back into the building somewhere?

10 I don't know. It's still half-baked. The  
11 floor plans, I think, are not very good. But I  
12 don't, you know, that's not really our domain. If  
13 they can sell units that are as poorly configured as  
14 these, I guess, you know, that's okay. That's not  
15 our domain. But it's a really second-rate project  
16 and I think that's being generous. I think there's a  
17 lot that needs to be fixed, just from an  
18 architectural perspective.

19 Again, you know, from a strict zoning  
20 perspective it's not a bad plan. It's not a bad  
21 layout. I think they answered some of the questions  
22 having to do with the garage entry. But the rest of  
23 it is just really mediocre. And it's going to -- I  
24 don't want to have to go past this and be one of  
25 those projects that I regret having voted to approve.

1 And that's happened a few times. Not very many, but  
2 this -- I don't want this to be one of them. So  
3 that's my take.

4 CHAIRPERSON HOOD: Okay. I guess,  
5 Commissioner May, for me, I got so enthusiastic about  
6 the brick. But I think you bring up some very valid  
7 points. Especially educating me on which brick  
8 should be on the front and those kind of issues. I  
9 know we looked at the -- we asked them to rethink the  
10 bridge. And we talked about what the balcony is  
11 going to look like. But I think you also correct the  
12 downspouts.

13 And as you were talking I looked, and I think  
14 there are some things that are missing in the  
15 drawings that we received. So I would concur. I'm  
16 not sure what my other colleagues --

17 MR. MAY: Can I add one other thing?

18 CHAIRPERSON HOOD: Yeah.

19 MR. MAY: On the materials board they're  
20 showing us a photo of what looks like vinyl siding,  
21 and they're calling standing metal seam roof. I  
22 mean, it's a joke.

23 CHAIRPERSON HOOD: So back to my point. We  
24 probably need to get some things tightened up. And I  
25 would recommend, especially in light of the comments

1 that I heard, again, my issue was, I like the brick.  
2 You know, I understand I'm being educated now on the  
3 brick, but I think that we probably need to hear  
4 other comments and we may want to postpone any  
5 decision making until we get this -- I don't know if  
6 you said half-baked, but I'm going to say half-baked  
7 when I look at what's just in front of us. There's  
8 some things here that need to be tightened up. I  
9 don't think they're that far off, I don't believe. I  
10 don't think it will be hard for them to get a  
11 materials board in here, I don't think hard for them  
12 to tighten up some of these drawings and show us some  
13 of the representations. But let me open it up.

14 Commissioner Turnbull.

15 MR. TURNBULL: Thank you, Mr. Chair. Well,  
16 I'm not going to go as far as Commissioner May. I  
17 think the design overall has gone a long way from  
18 when we first saw it. I think they've made some  
19 great strides and I think they've corrected the  
20 brick, they've made some changes, I think they're  
21 trying to address a lot of the comments that we've  
22 had. I will agree that a lot of the drawings are not  
23 coordinated. You see a roof plan called out with a  
24 lot of green roofs, and when you look at an overall  
25 aerial view of the project, and I'm looking at

1 drawing -- I'm comparing A13 to A44. It's not the  
2 same. It's just totally different. So you really  
3 don't know what the project is really going on.

4           There are, on the drawings, downspouts  
5 indicated. What we don't know, I think, is how the  
6 end -- what's happening with the downspouts as they  
7 meet the ground? Do they go down into a -- is the  
8 water being picked up, or is it being dropped on the  
9 surface? So I think we need clarification on what's  
10 happening on the downspouts.

11           There are quite a few shown on the  
12 elevations. They're not called out; they're not  
13 totally indicated. They're -- so I think you're  
14 right, we do need clarification on the downspouts, as  
15 to where the water goes in this project.

16           But again, overall, I think compared to where  
17 we were in the beginning when it first started, this  
18 project has gone a long way. I still don't  
19 understand the bridge crossing between the two  
20 projects, other than to say it's going to be one  
21 complex. It's going to be just one part of one  
22 terrace.

23           I think they've added some cross-bracing to  
24 it to make it look more industrial, which I'm not a  
25 big proponent of, but it's not a showstopper for me,

1 architecturally. But I do say I would agree with  
2 Commissioner May that we do need a better set of  
3 drawings. Things need to be called out, and they  
4 need to clarify a lot of different questions that he  
5 brought up.

6 CHAIRPERSON HOOD: Okay. Any other comments,  
7 Commissioner Miller?

8 MR. MILLER: Thank you, Mr. Chairman. I  
9 would agree with Commissioner Turnbull that the  
10 design has improved and that they did make some  
11 changes in response to some of our requests.  
12 Including the windows I think are better now and more  
13 in keeping with what's more cohesive for their  
14 project and more compatible with the neighborhood  
15 than the previously iterations of that.

16 They've also -- this project includes an  
17 affordable housing component, which is to be  
18 commended, at a greater amount of -- I think it's a  
19 greater amount, but certainly a deeper level of  
20 affordability, or the affordable housing and what IZ  
21 requires, including two, two-bedroom units -- two-  
22 bedroom townhouses and two three-bedroom apartments.  
23 So that's also larger than we usually see for some of  
24 the affordable units, so I think that's a good thing.

25 But they, themselves, promised -- did promise

1 the materials board on this date and we don't have  
2 it. I don't mind waiting until final, but I'll go  
3 with whatever -- I see the discrepancies that others  
4 have talked about and it probably would be good to  
5 get those tightened up.

6 CHAIRPERSON HOOD: Okay. Any other comments?  
7 Can we do this in a week? Can this be done in a  
8 week?

9 MS. SCHELLIN: If not then we'll have to go  
10 to the next meeting. We're just trying to figure out  
11 which meeting to reschedule for.

12 CHAIRPERSON HOOD: If we don't get the next  
13 meeting it will be September sometime. So let's try  
14 to do the --

15 MS. SCHELLIN: July.

16 CHAIRPERSON HOOD: What did I say, September?

17 MS. SCHELLIN: You said September.

18 CHAIRPERSON HOOD: No, if we don't do -- if  
19 we don't get it within a week, right?

20 MS. SCHELLIN: Then Commissioner May will be  
21 here the first meeting in --

22 CHAIRPERSON HOOD: What I'm saying, if it  
23 goes to the next meeting, the next meeting is in  
24 July, right?

25 MS. SCHELLIN: Yes.

1 CHAIRPERSON HOOD: And then if we don't get  
2 it the first meeting of July then we're looking at --

3 MS. SCHELLIN: It goes to September, correct.  
4 So it's either, if you can't make the submission in  
5 one week then we are going to the first meeting in  
6 July. So it's up to you.

7 CHAIRPERSON HOOD: Well, we don't want to  
8 rush you. We want you to come back with at least the  
9 materials board.

10 MS. SCHELLIN: You can do it in one week. So  
11 we need your submission by 3:00 p.m. on June 20th.

12 And then we'll put this on the June 27th  
13 public meeting for 6:30 p.m.

14 CHAIRPERSON HOOD: Okay. So that's two  
15 weeks.

16 MS. SCHELLIN: Correct.

17 CHAIRPERSON HOOD: Okay. Anything else on  
18 this case? All right. We all on the same page?

19 To the applicant, we all on the same page?  
20 Okay. Good. All right.

21 Let's go to the next case.

22 [Discussion off the record.]

23 CHAIRPERSON HOOD: Okay. Let's go to Zoning  
24 Commission Case No. 15-15, JBG/Boundary, 1500 Harry  
25 Thomas Way, LLC., and JBG/Boundary, Eckington Place,

1 LLC., Consolidated PUD and Related Map Amendment at  
2 Square 3576. Ms. Schellin.

3 MS. SCHELLIN: Yes, sir. At Exhibits 43  
4 through 45E we have the applicant's post-hearing  
5 submissions, Exhibits 46 and 47 are OP and DOEE's  
6 responses to the applicant's post-hearing  
7 submissions.

8 CHAIRPERSON HOOD: Okay.

9 [Pause.]

10 CHAIRPERSON HOOD: All right. Let's open it  
11 up for any comments on 15-15.

12 [Pause.]

13 CHAIRPERSON HOOD: Okay. Vice Chair Cohen.

14 MS. COHEN: Thank you, Mr. Chairman. My  
15 comments about this is, the flexibility for the  
16 commercial versus residential space, it's up to  
17 5,100, almost 5,200 square feet. I didn't have a  
18 problem with that.

19 I think we do need some evidence that DHCD  
20 can administer the IZ units at 60 percent AMI. So I  
21 think the applicant needs to go back to DHCD and talk  
22 to them.

23 But my major concern is that the project  
24 really should be LEED Gold, or achieve LEED NCV-2009  
25 Gold Certification. And we do have a report from Jay

1 Wilson of DDOE. I just think that you know, the  
2 commitment for solar panels is low. We really need  
3 to have greater commitment to LEED. And Silver has  
4 become the baseline. This is a city that absolutely  
5 needs to address issues related to sustainability  
6 where although we're getting better at buildings  
7 we're not high on air quality. And this particular  
8 developer does a lot of work in the city. I think  
9 that they need to recognize that it's important to be  
10 a partner with the city and go for the higher LEED  
11 rating. Those are my comments.

12 CHAIRPERSON HOOD: Okay. Any other comments  
13 or questions? Commissioner Miller?

14 MR. MILLER: Thank you, Mr. Chairman. I was  
15 just looking for the previous design because there  
16 was a pretty significant change to the façade as I  
17 recall, called the previous design. I think they've  
18 removed some of the brick component from the upper  
19 levels. But they did add balconies, which I'm always  
20 happy about to see on residential buildings, because  
21 you definitely know you're looking at a residential  
22 building when you see the residential balconies.

23 I also have no problem with the commercial --  
24 some of the residential ground floor, I think it was,  
25 including ground floor space being used for

1 commercial because they have an opportunity to get a  
2 very innovative kind of a tenant in there. And this  
3 is -- that might be a catalyst for a lot of the other  
4 retail that they're trying to attract in this  
5 particular project with the kind of maker type of  
6 retail.

7           On the affordable housing, they -- I mean,  
8 they've proffered doing all 60 percent AMI units  
9 instead of what IZ would have required which was 80  
10 percent, only 80 percent AMI. So this is a -- it's a  
11 much deeper affordability level and they will enter  
12 into a covenant which their post-hearing submission  
13 references, which will be -- which I think other  
14 projects have done when they don't meet the 80 and 50  
15 percent IZ requirements. I've never really  
16 understood why DHCD isn't able to come up with a  
17 program that can plug in a different level.  
18 Especially when we're getting a lower level than  
19 what's required. But be that as it may, there will  
20 be a covenant that where monitoring enforcement  
21 provisions will be included so that we can get those  
22 60 percent AMI units and so I think that's a good  
23 thing.

24           It seemed like they -- I mean, they gave a  
25 justification as to why they couldn't get to the

1 Gold, including the -- I thought Mr. Wilson did offer  
2 some from DOE. They offer a few things that maybe  
3 they could do that would be not as expensive as the 4  
4 point -- I think they reference a \$4.5 million  
5 number, is what the gap would be for them to have to  
6 hit the gold number.

7 I don't know if that included the updated  
8 LEED Silver number that -- the LEED Silver standard  
9 that DOE said that they could live with if they just  
10 met the updated LEED Silver. So, I'm not sure -- it  
11 sounds like they could just do a few things and maybe  
12 get a few more points and get closer to that Gold.  
13 But other than that I think this is going to be a  
14 great project for this neighborhood and help continue  
15 the transformation that's going on there.

16 CHAIRPERSON HOOD: Any other questions or  
17 comments? It looks to me, and I'm not sure who  
18 mentioned about the promenade, but it looks to me, I  
19 think the -- I don't want to call it, the connection  
20 that we talked about, looks like they're giving us,  
21 the way I see it, some variations to pick from, and I  
22 wasn't clear on that. Either way, I don't know if --  
23 and I think, Mr. Turnbull, did you bring that up or  
24 was it this case or was it another one, about the --  
25 I think it was two or three cases actually.

1 MR. TURNBULL: No, I think the Vice Chair  
2 brought up some questions about the --

3 CHAIRPERSON HOOD: Oh, okay.

4 MR. TURNBULL: -- whether -- and I think it  
5 was established that they're not really bridges.  
6 They're just representational of what bridges would  
7 have been in an industrial project.

8 CHAIRPERSON HOOD: But I think they're giving  
9 us some options. I may be incorrect. At least the  
10 way I see it. If you look at [Speaking off mic.].  
11 A308 and A309. But while you're looking at that  
12 maybe you can help me because one of them has two,  
13 one of them has three, and they're trying to show us  
14 different representations.

15 But my issue is the flower wholesaler. The  
16 letter I read kind of, it was like it didn't  
17 necessarily meet their needs. So I just need -- let  
18 me get it back up. I need to kind of understand if  
19 the wholesaler would like to remain. I understand  
20 about the big trucks that come, and I understand  
21 about their needs. And it appears that there's been  
22 no final -- I know they've been working with the  
23 applicant but try to work a little harder.

24 If you all can find some kind of agreement  
25 where that wholesaler can stay in that community

1 because they've been there a long time, if they wish  
2 to stay, and they were down that area when a whole  
3 lot of other people wouldn't come down there. So,  
4 you know, I would just suggest that we continue to  
5 try to work with the flower shop and see whether or  
6 not did -- but at least the letter I'm reading, and I  
7 don't necessarily need any comment. I may bring  
8 somebody to the table. But the letter I see here  
9 does not really give me the -- it looks like there's  
10 still some ongoing conversations that are taking  
11 place.

12 And let me just pull it back up.

13 MR. MAY: Mr. Chairman, I read that to mean  
14 that the flower center is convinced that they've got  
15 to go. It doesn't meet their needs, they've got to  
16 bring in tractor trailers.

17 CHAIRPERSON HOOD: Yeah, I read that.

18 MR. MAY: Yeah. But they support the  
19 project, nonetheless.

20 CHAIRPERSON HOOD: Because they also  
21 mentioned somewhere about relocating temporarily, so  
22 I don't know whether they were thinking about coming  
23 back, or you know --

24 MR. MAY: Well, I think they raised that as a  
25 complication for them. Another reason why they

1 didn't work for them is that they would have to move  
2 twice.

3 CHAIRPERSON HOOD: Okay. Well, let me  
4 refresh my memory on this. Hold on a second.

5 I'm going to read the letter first, again.  
6 Again, as soon as I find the case. Don't necessarily  
7 have to come right up. Let me just -- maybe you all  
8 are recalling it better than I am. Okay. Thank you.  
9 This is starting to become quicker.

10 MR. MILLER: That's why I do it. They also  
11 mention in that letter, if I may add, Mr. Chairman,  
12 that they are the current -- they're current owners  
13 of a portion of the property that's being sold to the  
14 applicant. So, they are involved here in this  
15 project going forward.

16 CHAIRPERSON HOOD: Maybe, I guess that's why,  
17 everybody reads something differently. Perhaps most  
18 importantly our business would be required to  
19 relocate or temporarily cease operations during the  
20 project construction period. On the other hand, our  
21 current approach to relocate would allow us to  
22 maximize our business continuity and begin permanent  
23 operations at the new site immediately.

24 Let me ask the owner, and I do know the  
25 owners here. So, let me ask the representative to

1 come forward, because I do want to ask him a few  
2 questions.

3 Can you identify yourself? Turn your mic on.  
4 Hit the --

5 MR. PAUL: Dennis Paul.

6 CHAIRPERSON HOOD: Okay. Good evening, Mr.  
7 Paul. Let me ask you, help me understand this  
8 letter. I've read it, and I understood the facts in  
9 it. Help me understand this letter. You said here,  
10 you have a new site. Where is the new site?

11 MR. PAUL: We're looking for a new site.

12 CHAIRPERSON HOOD: You're looking for a new  
13 site.

14 MR. PAUL: Yes, sir.

15 CHAIRPERSON HOOD: Okay. So what's being  
16 proposed here does not work for you?

17 MR. PAUL: No.

18 CHAIRPERSON HOOD: And even further  
19 discussions would not work for you?

20 MR. PAUL: No, sir.

21 CHAIRPERSON HOOD: Okay. That's all I need  
22 to know. Thank you very much.

23 MR. PAUL: Thank you.

24 CHAIRPERSON HOOD: All right. I'll withdrawn  
25 hearing from the owner. Sorry to see that go. Or if

1 it goes. Depends on what happens with this project,  
2 but I can tell you that that is a blow to the city  
3 and especially to the Ward. Okay.

4 MS. COHEN: But let us know where you're  
5 going, please. And stay in the District, please.

6 CHAIRPERSON HOOD: Probably be in Ward 2.  
7 Okay.

8 MS. COHEN: There's no land.

9 CHAIRPERSON HOOD: Okay. Any other comments  
10 on this? Commissioner Turnbull?

11 MR. TURNBULL: I just want to add that what  
12 they did provide, I had asked for some renderings,  
13 drawings, showing automobiles in the roadway rather  
14 than just people walking. So we did get several  
15 different variations of drawings showing that and it  
16 will be interesting to see how it works out. It's  
17 not quite the kind of street that we're used to a  
18 lot, so it will be with cafes and seating areas  
19 nearby.

20 And it looks like the paving is the same.  
21 There's going to be -- the only way there would be a  
22 difference is a difference in the texture or the tone  
23 of the paving versus the roadway. But it could be a  
24 very exciting space. But it's going to be a little  
25 bit interesting to see how it really plays out and

1 how well they actually monitor traffic going through  
2 there.

3 I think that's going to be a very important  
4 element as this project goes forward, that they  
5 really do police the street and monitor it so that  
6 there is not overuse by traffic coming in to what's  
7 basically a pedestrian or bicycle way for the most  
8 part. But obviously it's the way that you've got to  
9 get in to drop off things. So it will be interesting  
10 to see how it works.

11 CHAIRPERSON HOOD: Okay. Any other comments  
12 or questions on this? Commissioner May.

13 MR. MAY: Okay. So, back to the earlier  
14 issue having to do with the 60 percent, the proffer  
15 of Inclusionary Zoning units at 60 percent. You  
16 know, that's still troubling. I mean, I mean, I  
17 certainly appreciate the fact that they're going  
18 beyond the 80 percent that would be required. That's  
19 a great thing. The issue is how does this wind up  
20 being administered? And if it can't be administered  
21 through DHCD I think it's a probably. It's probably  
22 a problem that we should have addressed in earlier  
23 projects that we haven't. But it doesn't mean that  
24 we should keep ignoring the issue.

25 And you know, hopefully something could be

1 figured out with DHCD. I'm not optimistic that  
2 that's the case based on what we've heard so far.  
3 And it makes me wonder whether we're better off doing  
4 something that fits the standard better, such as  
5 doing part of the IZ at 80 percent and part of it at  
6 -- or the majority of it at 50 percent.

7           And I mean, that's something we all should  
8 discuss but I think that that's a reasonable fallback  
9 because I like the security that we would get by  
10 having a program that's administered by DHCD since  
11 they've set up the program and it would allow not  
12 just for administration but ultimately for  
13 enforcement.

14           And remember this is forever. So in terms of  
15 some of the other architectural issues, I won't go  
16 through everything. I mean, I think they addressed a  
17 lot of the concerns that we had. I know that, you  
18 know, in terms of the setback of the penthouse on the  
19 northwest portion of the building, in setting back  
20 from that open court I think was -- is a good move.  
21 And so I think that what they've done to sort of fix  
22 the issues there, the various issues that were there,  
23 I think are good. And it's you know, as much as I  
24 want to say we shouldn't be doing any relief  
25 whatsoever for habitable penthouse, in this

1 circumstance what we're getting is something that  
2 they don't have to do, which is a setback from the  
3 open court. Even though it's not a one-to-one  
4 setback, I'm -- not the open court. The closed court  
5 at the northwest building. Since you don't have to  
6 do a setback on a closed court, I think that's  
7 actually an important thing to get on this project  
8 and it's also an important thing to fix in the Zoning  
9 Regulations. And I think I've asked for that  
10 already.

11           So, I'm okay with this as a compromise. I do  
12 still have a question about the mezzanine in those  
13 penthouse units because it still looks to me like  
14 they are counting the entire floor of the penthouse  
15 unit as the area below, as opposed to the area that's  
16 within the double-height space, which is what should  
17 be counted. Right?

18           So I mean, Mr. Cochran, did you look at that  
19 carefully?

20           MR. COCHRAN: It was a little difficult  
21 because it's a fairly open floorplan. But typically  
22 the Zoning Administrator looks at a mezzanine as  
23 being no more than one third of the floor area  
24 immediately below it. Basically the room immediately  
25 below it.

1 MR. MAY: Right.

2 MR. COCHRAN: So when it --

3 MR. MAY: Right. But so in this circumstance  
4 we have -- I mean, it's, you know, you picture a  
5 volume and you're inserting a mezzanine, it's the  
6 floor area of that volume into which that mezzanine  
7 is inserted that is counted.

8 MR. COCHRAN: Permit me to use a typical row  
9 house as an explanation. If you got a double-height  
10 living room and a kitchen, dining area in the front,  
11 and then two single-story bedrooms in the back, you  
12 could have a third of the area that's the double  
13 height space in the front as the mezzanine. But you  
14 couldn't have something as large as a third of the  
15 entire floor, as a --

16 MR. MAY: Right. And I think that's what  
17 they're doing in the circumstance because the area  
18 that extends out under the lower height portion of  
19 the penthouse room -- I mean, again, it's hard to  
20 tell from what I could see in the drawings. And  
21 maybe it's something that just needs to be clarified  
22 before final. But I'd like to see it spelled out  
23 very clearly that the area that's being considered  
24 for the full volume is just the floor area of the  
25 double-height space. And the mezzanine is one-third

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1 of that.

2 MR. COCHRAN: Certainly, I'll look at that.  
3 It would also be possible to address it in the  
4 condition saying that the second level with the other  
5 level within the penthouse space shall conform to  
6 mezzanine interpretation.

7 MR. MAY: Yeah, I'd rather see it in the  
8 drawings.

9 MR. COCHRAN: Sure.

10 MR. MAY: So, but I mean, you're right. It  
11 should be stated that way, but I don't see it in the  
12 drawings.

13 And we did this -- we went through this on  
14 another project not too long ago and it got fixed, I  
15 think correctly, and it was the same architect. So  
16 I'm -- maybe I'm missing something in the drawings.  
17 It's certainly possible that I missed it, but it  
18 would just be good to get clarity, even if it's just  
19 explaining it again for me.

20 But it just doesn't look like it's -- it  
21 looks like the one third assumes the entire floor  
22 area, including that lower height space toward the  
23 south side.

24 So there is a plan that indicates general  
25 areas and the number of units that would be IZ units

1 in those general areas, which is significantly -- I  
2 mean, it's better than what we had before but it's  
3 significantly less specific than what we have seen in  
4 the past. We typically see each unit actually called  
5 out. And I'm wondering if the -- I mean, I'm not  
6 comfortable, necessarily, with what is submitted, but  
7 I'm certainly willing to be convinced by my fellow  
8 commissioners that what we have is adequate.

9 MS. COHEN: Mr. May, it's not.

10 MR. MAY: It's not adequate?

11 MS. COHEN: No. And I had it as one of my  
12 things, but right now I'm having difficulties with my  
13 laptop.

14 MR. MAY: All right. So I think that's  
15 something that we need to get greater clarity on.  
16 Like my colleagues, I'm okay with the flexibility on  
17 the change of 5,200 square feet potentially from  
18 residential to retail. I don't think that's a big  
19 deal. I agree that we should be pushing for LEED  
20 Gold on a project like this, and I mean, there's  
21 something about the economics that doesn't seem to  
22 make sense to me. I'm not sure how -- I mean, it's  
23 you know, maybe because the project won't be held by  
24 the developer very long or something like that, but I  
25 mean, the turnaround, or rather the return on

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1 investing on these higher efficiency HVC systems or  
2 the solar panels, things like that, I mean, I would  
3 think that the economics of going for gold would be  
4 there. Certainly we are told that on a regular  
5 basis. So I'm surprised that we're not seeing a  
6 stronger push for that.

7 So, those are my thoughts.

8 MS. COHEN: Yeah, there is a note that I did  
9 omit, and that is I think at the June 6th ANC meeting  
10 they were going to come up with actually naming not-  
11 for-profits who will be receiving, I think it's  
12 \$15,000. So I think that -- I didn't see any  
13 confirmation of who they are, so I would like to see  
14 that before final approval.

15 Of course, somebody else may have seen it  
16 because their computer might be working.

17 CHAIRPERSON HOOD: All right. Any other  
18 questions or comments?

19 [Pause.]

20 CHAIRPERSON HOOD: Having a few technical  
21 difficulties. When I was growing up I used to listen  
22 to Go-go music, and when [garbled speech] had a  
23 problem with the mics, and they would say we have  
24 technical difficulty, so they would break it down.  
25 So I'm thinking about this, I want to break it. But

1 I don't want to do that. I don't want to be  
2 disruptive or destructive.

3 But anyway, can we comment on the other  
4 issues?

5 MS. COHEN: Well, we need a waiver of the  
6 inclusionary zoning. And we need the public benefits  
7 proffers I just mentioned that we need to find out  
8 who was actually getting them. And then we need to  
9 talk about vesting the order, the second building,  
10 the west parcel.

11 MR. BERGSTEIN: Vice Chair Cohen, that  
12 actually was resolved; that issue with the vesting.

13 CHAIRPERSON HOOD: Okay.

14 MS. COHEN: Thank you. I was probably  
15 playing around to get this to come up.

16 CHAIRPERSON HOOD: Okay. So with the  
17 outstanding issues, I know of two. I think we're  
18 asking for the applicant to comment. Are we asking  
19 for the applicant to comment on the proffer -- well,  
20 we're asking for them to comment on the proffers; the  
21 benefits and proffers, right? The proffers.

22 MR. MILLER: There were -- if I could just  
23 jump in, Mr. Chairman. The Office of Planning  
24 supplementary -- well, in addition to the  
25 identification of the nonprofits that the Vice Chair

1 mentioned, the Office of Planning also commented on a  
2 number of the benefits and amenities, I think, and  
3 asked for additional information. So I think between  
4 proposed action and final action we would need the  
5 applicant's response to community meeting space, for  
6 example, a commitment to what the minimum number of  
7 times per year the applicant anticipates opening the  
8 space to community groups, and a commitment that the  
9 space will be provided for the life of the project,  
10 the Adopt-a-Block. I mean, there's one, two, three,  
11 four, five, six items mentioned on page 2 of the OP  
12 report. If we can just have the applicant respond?

13           And one of them is the nonprofit. The  
14 identification of the nonprofit. So if we can just  
15 get that response prior to final, that should be part  
16 of it.

17           CHAIRPERSON HOOD: Let me ask my colleagues.  
18 You all think we could take proposed tonight or would  
19 you like to wait for some of the things you all have  
20 requested?

21           MR. MAY: So the big question I have is the  
22 waiver of IZ and accepting the 60 percent proffer, or  
23 whether we want them to consider alternatives, or you  
24 know, come back to us with more information from  
25 DHCD. I mean, I think we've heard pretty

1 definitively that DHCD is not going to administer it  
2 at 60 percent. So --

3 MR. MILLER: That might be a good thing, you  
4 know.

5 MR. MAY: I'm not convinced of that. I mean,  
6 I don't know.

7 MR. MILLER: I just think that we shouldn't  
8 be punishing which of -- a very generous public  
9 benefit on the affordable housing side, because DHCD  
10 can't figure out how to plug in the 60 percent AMI  
11 number. I wouldn't want to go back to 80 percent. I  
12 wouldn't want to see a retreat after receiving that.

13 MR. MAY: And I'm not suggesting 80 percent,  
14 but a combination of 80 and 50 is often how this is  
15 addressed and when we have additional IZ proffered in  
16 PUDs.

17 MR. MILLER: Well, I think we can maybe get a  
18 briefing on that whole issue at some point. But I  
19 don't want to --

20 MR. MAY: I'm not going to push really hard  
21 to get a, you know, a 50/80 alternate proffer unless,  
22 you know, it's something that resonates with the rest  
23 of the Commission. But I personally am more  
24 comfortable with doing something that is administered  
25 by DHCD than simply waiving the provision and hoping

1 that, you know, 50 years from now it's all working  
2 well.

3 MS. COHEN: Well, at the hearing the  
4 applicant stated that they have experience with the  
5 low-income housing tax credit program, and some of  
6 those units do hit the 60 percent mark. So I would  
7 be very comfortable eliminating DHCD from this. If  
8 they can't deal with the issue then maybe we should  
9 just bypass them. Again, this is a ribbon of people  
10 that need help and I think it's a great proffer. I'd  
11 like to see it remain.

12 MR. MAY: Okay. That's fine. I'm just, I  
13 didn't -- I was just testing to see how confident  
14 people were that it makes sense to go forward without  
15 DHCD, because I don't think we're going to get  
16 anything out of that; get any assistance from them in  
17 managing this.

18 CHAIRPERSON HOOD: Okay. Again, my original  
19 question, is there any holdups that take us -- other  
20 than the issue that was mentioned by -- that may be  
21 an issue about the 80 -- the 50 percent proffer? Are  
22 there any holdups to us taking proposed action and  
23 then asking for some of those things that were  
24 mentioned by my colleagues between final -- I mean,  
25 between proposed and final. And even with the DHCD

1 thing, you think -- I wonder if that would be putting  
2 the cart before the horse, though.

3 I wonder if we could ask them to maybe  
4 comment, or we can work that out between proposed and  
5 final, if it needs to be worked out because it may be  
6 a better deal here now. I mean, I'm putting all that  
7 out on the table. See how you all would like to  
8 proceed.

9 MR. MILLER: I think we could go ahead. I'm  
10 willing to go ahead to a final on what we have  
11 outstanding.

12 I think the only other issue was Commissioner  
13 May's concern about the penthouse. The two-story --

14 MR. MAY: Yeah. I mean, they just have to  
15 clarify.

16 MR. MILLER: That has to be clarified. So I  
17 mean, I think with that I think we can go forward.

18 MS. COHEN: I think there is a big issue with  
19 the Gold or meeting the higher standard of Silver  
20 now. So, again, I didn't quite believe -- not  
21 believe, I really am questioning some of their costs  
22 that they stated and I think that the DOEE report did  
23 the same. And so I would like one more go-round on  
24 the issue of achieving Gold.

25 CHAIRPERSON HOOD: Okay. So again, my

1 original question, I think all this can be achievable  
2 through -- it looks like we can probably move  
3 forward. Commissioner May, are you -- you know,  
4 what's your issue?

5 MR. MAY: I agree with you.

6 CHAIRPERSON HOOD: Okay.

7 MR. MAY: However, I would imagine one other  
8 thing that we thought -- some of us thought should be  
9 addressed, which is the specificity of the allocation  
10 of IZ units.

11 MS. COHEN: That I think they could do as  
12 part of the --

13 MR. MAY: Right.

14 MS. COHEN: -- final submission. Final  
15 final.

16 CHAIRPERSON HOOD: Okay. It looks like they  
17 can do everything before final. I'm just not clear  
18 on the 80 percent, 50 percent, and as Commissioner  
19 Miller mentioned that maybe a better -- we're getting  
20 a better option. So, anyway. I think we could do  
21 final action -- I mean, proposed action in everything  
22 we've asked for, we do it at final. And if it's not  
23 right, you know, we don't have a problem in holding  
24 things up and keep -- until we get it right. So.

25 MR. TURNBULL: Well, and I would agree with

1 the Vice Chair, that they take another hard long look  
2 at reaching Gold.

3 CHAIRPERSON HOOD: Okay. All right.  
4 Somebody like to make a motion on this?

5 MR. MILLER: Mr. Chairman, I would move that  
6 the Zoning Commission take proposed action on the  
7 Zoning Commission Case No. 15-15, JBG Boundary, 1500  
8 Harry Thomas Way, LLC., and JBG Boundary Eckington  
9 Place, LLC. consolidated PUD and related map  
10 amendment at Square 3576, and with the understanding  
11 that the applicant is going to address outstanding  
12 issues and questions that have been raised here  
13 tonight. And I would just add that currently with  
14 the proposed proffer in the affordable housing is 60  
15 percent AMI and that that would require a waiver from  
16 the IZ, from IZ. So with that I would ask for a  
17 second.

18 MR. TURNBULL: Second.

19 CHAIRPERSON HOOD: It's been moved and  
20 properly seconded. Any further discussion?

21 [Vote taken.]

22 CHAIRPERSON HOOD: Ms. Schellin, would you  
23 record the vote?

24 MS. SCHELLIN: Yes. Staff records the vote  
25 five to zero to zero to approve proposed action in

1 Zoning Commission Case No. 15-15, Commissioner Miller  
2 moving, Commissioner Turnbull seconding,  
3 Commissioners Cohen, Hood, and May in support. I  
4 would just ask the Commission that during the process  
5 of their submission for -- pursuant to 2403.15  
6 through 20 that they also make the submission that's  
7 -- the submissions that have been requested this  
8 evening.

9 CHAIRPERSON HOOD: Okay. I wonder if we  
10 should do 04-33G last, under proposed action. Should  
11 we switch and, I'm just throwing it out. I probably  
12 could do -- 15-19, should we do that first?

13 Okay. Not hearing any objections, we're  
14 going to just make that quick change. Let me call  
15 Zoning Commission Case No. 15-19, New York Avenue  
16 Holdings, LLC., Consolidated PUD and Related Map  
17 Amendment at Square 3594. Ms. Schellin.

18 MS. SCHELLIN: Yes, sir. At Exhibit 310 we  
19 have a submission from the 411 Artist's Union  
20 rescinding their party status. And then Exhibit 312,  
21 we have an executed settlement agreement between the  
22 parties at Exhibit 314. We have the applicant's  
23 draft findings, facts and conclusions of law, would  
24 ask the Commission to consider proposed action this  
25 evening.

1 CHAIRPERSON HOOD: Somebody like to get us  
2 started off? Start us off.

3 [Pause.]

4 CHAIRPERSON HOOD: Okay. Commissioners, I  
5 think in this case we did receive -- we had a party,  
6 a letter of -- I do know that there were -- I think  
7 there's an extension. I can't seem to get the file  
8 open, but there's an extension to I think 2017, if I  
9 remember correctly. And I think they -- I'm not  
10 sure, I can't remember whether they rescinded their  
11 party status.

12 MS. SCHELLIN: Yes.

13 CHAIRPERSON HOOD: Okay. They rescinded  
14 their party status and I think there was an extension  
15 until -- they worked out it with the applicant until  
16 2017. I think that was the biggest issue about  
17 Artist Studios.

18 But I will tell you straight up my issue, and  
19 I understand all the artists and I understand what  
20 was going on, but I never -- I thought the applicant  
21 -- I mean, the -- yeah, the applicant or the  
22 developer was being very generous. And I know people  
23 may not like my statement, but was being very  
24 generous in what he was trying to allow in the unit  
25 to remain as he proposed. But I just have never been

1 anywhere you can tell a owner, mandate that you stay  
2 there.

3 I just, I had problems with the case and that  
4 was some of the questions that I asked the  
5 opposition's counsel. While I understand the Artist  
6 Studios and the artists, since that hearing though,  
7 I've had a few BZA cases. We're trying to help  
8 continue to find artist studios. I understand the  
9 square footage in certain areas of the city cost more  
10 than other areas. So I understand that whole  
11 scenario, and I have been trying to be an advocate in  
12 all cases for artists to remain in the District of  
13 Columbia because we need them, we need that  
14 expertise, and we need the arts.

15 But in this case I thought that the party in  
16 opposition, at least the way it was presented to me,  
17 was asking for something that I just don't see. I  
18 couldn't figure out how we got there. So I'm glad  
19 that they worked it out, even to this point. It  
20 looks like -- I'm not sure what the month is, but I  
21 know if it's 2017, the artists were able to stay  
22 there and be able to remain. And I'm glad they at  
23 least worked that out and agreed to doing that. They  
24 gave some more time so hopefully we can find some  
25 other areas for some of the artists here in the city.

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1           So I think that was the big issue and I think  
2 we had a couple of nights, we had a lot of artists to  
3 come down and testify. I think it's very valuable to  
4 the city and I hope we can find ways to keep the  
5 artists here in the city. But I just thought the way  
6 this work kind of was trying to tie the Commission's  
7 hands in some of the things that we actually had no  
8 jurisdiction, I believe, as far as requiring the  
9 applicant to let someone stay in this property.

10           So anyway, let me open it up for any  
11 additional question. But I'm glad that the party and  
12 the applicant worked it out, at least to that point.  
13 So, Vice Chair Cohen.

14           MS. COHEN: Thank you, Mr. Chairman. I  
15 concur with your analysis that I think the applicant  
16 did a very good job in attempting to address some of  
17 the concerns that within their economic ability for  
18 the artists.

19           The issue that still remains is how to treat,  
20 I think the size of the lot. And I really have to  
21 bump this to either one of my colleagues to explain  
22 what the process should be in either getting a waiver  
23 on the size of the lot, because right now they  
24 applied for, I guess the alley closing. But that  
25 hasn't happened. And if Mr. Bernstein wants to

1 elaborate I would really appreciate it.

2 MR. BERGSTEIN: Well, the applicant did not  
3 include the area of the alley to be closed in the PUD  
4 site. And therefore the PUD site doesn't meet the  
5 minimum land area requirements. And they're  
6 requesting that the Board grant a waiver of the land  
7 area requirements and the requirements for that  
8 waiver are specified in 241.2. They don't quite meet  
9 the requirements. They've provided a couple of  
10 theories how the Commission could nevertheless get to  
11 a waiver point, and that's where you are. You either  
12 have to decide whether or not to grant the waiver, or  
13 perhaps come up with some way of having that land  
14 area of the alley be included in the public site,  
15 which would then of course resolve the problem.

16 MR. MILLER: Thank you, Mr. Chairman. On  
17 that point I would have no objection and I'll wait to  
18 hear from my colleagues, for the land area of the  
19 portion of the alley to be closed to be -- that we  
20 open the record for the very limited purpose of  
21 permitting the application to be amended to include  
22 that additional land area and the applicant should  
23 adjust all the tabulations as needed. I think that's  
24 what has happened in other PUD cases which had a  
25 simultaneous alley closing, maybe pending, and the

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1 counsel that hasn't yet gone forward.

2 But would that approach work if we -- I hate  
3 to even open up the record of this case because we  
4 got a good settlement agreement which you didn't know  
5 if we would even get to between the party in  
6 opposition and the applicant, which is a great thing  
7 and I appreciate all the people who worked on making  
8 that happen.

9 But on the question, can we -- were you  
10 suggesting that option as a --

11 MR. BERGSTEIN: Well, either -- I don't know  
12 if applicant's counsel is here, you could ask if they  
13 would object to the inclusion of the land area by the  
14 Commission. And then that would at least avoid that.  
15 It would probably be helpful if they provided a  
16 revised order that revised the FAR and other  
17 necessary computations with the understanding that  
18 that revision would not have any responses to it, and  
19 that it's permitted by the rules for a party to  
20 submit that type of order. But basically you can ask  
21 applicant's counsel if they object to basically the  
22 Commission considering that area to be included  
23 within the PUD, I suppose that would be the other  
24 option you could have, you could do.

25 MR. TURNBULL: I mean, would you really be

1 reopening the record if they're just revising their  
2 order?

3 MR. BERGSTEIN: Actually not because the  
4 rules in terms of findings of fact aren't really  
5 about the record being open or not. The record is  
6 actually closed, is what the rules say, and then the  
7 parties may submit the order because the order is not  
8 new evidence. So you wouldn't need to reopen the  
9 record for that. You would simply make it clear  
10 that --

11 MR. TURNBULL: The applicant could just  
12 submit a revised order.

13 MR. BERGSTEIN: A revised order consistent  
14 with the fact that the area now includes the area of  
15 the land -- sorry, of the alley to be closed and  
16 revise their, you know, the FAR computations because  
17 obviously when you add more land area to it that  
18 changes the FAR numbers and perhaps others. So the  
19 issue would be whether or not, if the applicant's  
20 counsel is here, whether or not they object to  
21 basically the land area being included and then they  
22 would have the opportunity if they care to submit a  
23 revised order, which would not represent the opening  
24 of the record as you suggested.

25 CHAIRPERSON HOOD: So do we need to -- we

1 need to find that out this evening, I guess from the  
2 -- Ms. Moldenhauer, if you can come forward. You can  
3 just have a seat and identify yourself. And I think  
4 you've heard the discussion, so.

5 MS. MOLDENHAUER: Good evening. Meredith  
6 Moldenhauer, land use counsel. We would be fine  
7 either between proposed action and final action,  
8 updating the order. Or the other option obviously  
9 would be for the Zoning Commission to find that they  
10 can waive the requirements for the land area.

11 MR. BERGSTEIN: I guess the other question  
12 the Commission wanted a response to is whether or not  
13 the applicant's counsel would actually object to the  
14 Commission in essence considering the land area to be  
15 now part of the PUD.

16 MS. MOLDENHAUER: We would not object to  
17 that.

18 MR. BERGSTEIN: Okay.

19 CHAIRPERSON HOOD: Okay. Any other  
20 questions?

21 MS. COHEN: No, I just have a final comment.  
22 I read your proposed findings of fact and  
23 conclusions, and please work with the Office of  
24 Attorney General because there needs to be some  
25 wordsmanship. It doesn't sort of fit in some of the

1 things that are proposed. So just, they can help  
2 you.

3 CHAIRPERSON HOOD: Okay. And we'll see all  
4 that before -- all that will be straight before we do  
5 final action. And especially the last part, what  
6 Vice Chair Cohen mentioned.

7 Anything else from this case?

8 MS. COHEN: No.

9 CHAIRPERSON HOOD: And again, I want to go  
10 back to that. I think we really need to try to make  
11 sure we keep the artists here in this city. So, you  
12 know, I understand that but it's just we have to  
13 maybe come up with a different approach. So those  
14 who are looking for areas and you have other PUDs,  
15 and I'm saying this basically for the folks out here  
16 who are doing land use counsel, you may want to tell  
17 some of your developers to start looking for some --  
18 and I haven't figured it out yet. Maybe I'll work  
19 with the Office of Planning, but we need to start  
20 making sure that our artists are not leaving the  
21 city. We want to try to keep them here, so.

22 MS. COHEN: Can I just say one other thing?

23 CHAIRPERSON HOOD: Yes.

24 MS. COHEN: Which is probably controversial,  
25 but you know, I seem to do that a lot. I think that

1 this also falls into the jurisdiction of DMPED. It  
2 is an economic development argument that a lot of the  
3 artists use, and I support that argument.

4 CHAIRPERSON HOOD: Okay. All right.  
5 Anything else on this? And a number of things we're  
6 going to see before final. Somebody like to make a  
7 motion on this?

8 MR. MILLER: Sure, Mr. Chairman. I would  
9 just add, this project does include a significant  
10 arts component. It isn't the existing kind of space  
11 that exists there today and has existed there for  
12 years, but there will be a significant arts component  
13 that's part of the hotel project and I think that  
14 will bring benefit. But I do agree, we have to find  
15 other space for our artists throughout the city.

16 CHAIRPERSON HOOD: And let me just say this,  
17 though. I think I made that point earlier, and I  
18 made that point for a reason because I think this  
19 applicant was being very accommodating.

20 MR. MILLER: Right.

21 CHAIRPERSON HOOD: So I made sure I made that  
22 point earlier. So I don't want that to fall on -- or  
23 that to get lost in the conversation.

24 MR. MILLER: Right. So, with that, if it's  
25 okay, I would move that the Zoning Commission take

1 proposed action on Zoning Commission No. 15-19, New  
2 York Avenue Holdings, LLC., Consolidated PUD and  
3 Related Map Amendment at Square 3594, and ask for a  
4 second, and with the expectation that the applicant  
5 will be submitting the adjustments to the order that  
6 we discussed earlier about the land area.

7 MS. COHEN: I'll second that.

8 CHAIRPERSON HOOD: Okay. It's been moved and  
9 properly seconded. Any further discussion?

10 [Vote taken.]

11 CHAIRPERSON HOOD: Ms. Schellin, would you  
12 record the vote?

13 MS. SCHELLIN: Yes, sir. Staff records the  
14 vote five to zero to zero to approve proposed action  
15 in Zoning Commission Case No. 15-19, Commissioner  
16 Miller moving, Commissioner Cohen seconding,  
17 Commissioners Hood, May, and Turnbull in support.

18 And like the prior case we'd ask the  
19 applicant to submit the revised order along with the  
20 documents that are submitted pursuant to 2403.15  
21 through 20. Thank you.

22 CHAIRPERSON HOOD: Okay. Thank you. Let's  
23 go to our last proposed action case, Zoning  
24 Commission Case No. 04-33G, Campaign for Inclusionary  
25 Zoning Text Amendment, re: Inclusionary Zoning. Ms.

1 Schellin.

2 MS. SCHELLIN: Yes, sir. At Exhibits 227  
3 through 229 you have post-hearing submissions,  
4 Exhibit 230 is an OP request for a waiver for the  
5 late filing of their supplemental report, and their  
6 supplemental report in Exhibit 232 you have an OP  
7 worksheet. We'd ask the Commission to decide how  
8 they want to proceed on this case this evening.

9 CHAIRPERSON HOOD: Okay. Colleagues, I'm  
10 going to throw some stuff out for discussion. I  
11 think at the hearing we asked for a -- I don't want  
12 to say one-on-one, but we asked some of the  
13 developers to run us down their scenario of how they  
14 achieved and how they looked at land values. And  
15 they submitted that.

16 But I also noticed, I think that the campaign  
17 also responded with some things that it seems like,  
18 I'm not going to say we're talking past each other,  
19 but we're not talking on the same language. We're  
20 talking apples and oranges or we're not talking the  
21 same apples and apples, oranges and oranges. We're  
22 talking apples and oranges.

23 I think from my standpoint, and I know  
24 everybody wants to get this done, this is a rush,  
25 let's hurry up and do it. But you know, I like to

1 proceed with caution, and I like to try to get the  
2 best outcome and achieve the best outcome as  
3 possible. I would like to take the applicant up, and  
4 I know, you know, we may differ. But I would like to  
5 take the proposer up on -- or DCBIA, or however they  
6 choose, up on taking me down that road and showing me  
7 what they believe, and also making sure that we're  
8 having the same comparable numbers with the  
9 petitioner, and hear from both and let me try to make  
10 an informed decision.

11           And I know, you know, I've heard this has  
12 been around a long time and all this. You know, it's  
13 a lot of stuff been around a long time. But for me,  
14 I don't just vote because it's time to hurry up and  
15 get it done. I vote because I want to try to make  
16 sure that the city gets the best outcome. I want to  
17 make sure that we are making things, as we used to  
18 say in this office some years ago, leveling the  
19 playing field for all, and make sure that it works,  
20 and make sure that -- and try to get the best  
21 achievable outcome.

22           And I know that we have a worksheet to go  
23 through this tonight. You want to have a text. I  
24 understand all that. But I think we made it known at  
25 the hearing that we may want to do that, at least a

1 limited scope. And we can talk about the dynamics if  
2 I have at least three votes up here to go that route,  
3 to make sure we're making informed intelligent  
4 decisions to where we're not hurting anybody, but  
5 getting the best bang for the city.

6 And here's another thing. There's so many  
7 other things that need to be involved with this,  
8 besides zoning. And you know, we can sit here all  
9 day and just kick it to the Zoning Commission. But  
10 the Zoning Commission is not going to make it  
11 achievable. It's not going to be 100 percent here on  
12 this Commission. It's not going to be done,  
13 Inclusionary Zoning will not be -- we can do our  
14 part, but there's some other things as I think the  
15 Vice Chair always alludes to, that needs to happen to  
16 really make this thing work, because the way I see  
17 it, if we go all the way to one side I can see  
18 developers trying to figure out ways to get around  
19 it. And we can sit here and say, oh, there are no  
20 ways to get around it. But I've been here long  
21 enough to see people figure out ways to get around  
22 whatever we put in place.

23 So if we put something in place that's  
24 amenable and it works and it's achievable for a  
25 number, and not everybody is not going to be 100

1 percent happy, but we can make sure that it's  
2 something workable, that all parties interested so we  
3 can move forward.

4           So that's my opening comments on this. I do  
5 know we have a worksheet. I'm not ready to go to  
6 that, but I want to hear what others may have to say.

7           Vice Chair Cohen.

8           MS. COHEN: I would concur with you on a  
9 limited hearing. And first I really want to  
10 compliment Mr. Rogers. He did a very comprehensive  
11 report, but there are questions that I have of this  
12 report that I don't think is appropriate to take when  
13 we go through a preliminary decision.

14           In addition, I believe that the approach to  
15 the modifications of the inclusionary zoning are  
16 really quite different. The Coalition is looking at  
17 it as, we're saving costs here, therefore we could  
18 place it there. Whereas I think the analysis by OP  
19 really does look at land values more carefully, and  
20 the implication for those values. And actually  
21 there's a lot of nuance, I believe, in what they're  
22 saying with regard to where certain neighbors, it  
23 will be able to work at the proposal of the coalition  
24 and where it won't be able to work. And I think this  
25 is information that we, zoning commissioners, need to

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1 make enlightened decisions.

2           So I do support going for a limited hearing.  
3 I would like to hear from the Coalition again,  
4 especially in light of I didn't see many of their  
5 comments referring to this report, other than the  
6 DCBIA report, which also is a little -- it makes me  
7 uncomfortable that DCBIA is relying on DMPED or --  
8 I'm sorry, the Office of Planning, or maybe it's  
9 both, to carry their water.

10           So I really do think we could benefit from  
11 speaking about -- and for me the largest area is the  
12 implications, not just today, but in the long term on  
13 the discussion related to land values. I think that  
14 that is a key to the way I would vote in this -- for  
15 this case or not.

16           CHAIRPERSON HOOD: Okay. Any other comments?  
17 Commissioner May?

18           MR. MAY: So I'm certainly open to hearing a  
19 bit more about the most significant components of  
20 what we are trying to decide. I mean, I would have  
21 been okay with trying to work through as much of what  
22 was on there, our worksheet and then OP's  
23 supplemental report as possible tonight. But I'm,  
24 you know, I'm certainly open to getting some more  
25 information because you know, I mean, it is sort of a

1 difficult either/or kind of choice that we seem to be  
2 given. And I think there are reasonable arguments  
3 being made on both sides.

4 I would suggest, though, that in order to  
5 limit the scope of the hearing that you know, we may  
6 want to go through the checklist at a very high level  
7 and simply decide what needs -- what we want to be  
8 talking about, because I think, I mean honestly in my  
9 opinion, everything from No. 6 on are probably things  
10 about which we don't need additional testimony.

11 But certainly if other people thing we  
12 should, that's fine. I mean, I think the real  
13 question is, you know, what percentage are we going  
14 to -- of IZ will we require? What are the  
15 appropriate levels of affordability? What is the you  
16 know, applicability within various districts? You  
17 know, whether there should be any change to bonus  
18 density because that's one of the things that the  
19 applicant had asked for, the petitioner had asked  
20 for. And also changes to flexibility and the  
21 permitted building envelope.

22 Everything past that, such as voluntary  
23 compliance and reducing square footage when set aside  
24 for lower household incomes, I mean, I think we've  
25 heard enough in those topic areas that we don't

1 necessarily need to have further testimony on those  
2 topics.

3           So again, I would suggest one through five  
4 are what we would be focusing on, then six through  
5 eight -- six through 22 are things that we could --  
6 you know, we don't need to hear much more about.

7           CHAIRPERSON HOOD: Okay. Here is what I'm  
8 going to -- I'm going to take a five-minute break.  
9 I'm going to hear from my other colleagues first on  
10 this topic. I'm going to take a five-minute break.  
11 I'm going to ask Ms. Schellin if you can print out  
12 that for me because I'm having an awful time up here  
13 trying to get things to come up, and this is just not  
14 working and it's getting very frustrating.

15           So, yeah, but I need my own copy. So what  
16 I'm going to do is have that printed up. But let me  
17 hear from other colleagues, and I would agree with  
18 you, but you said six on and I want to refresh my  
19 memory of what is six on. So.

20           MR. MAY: Sure.

21           CHAIRPERSON HOOD: Okay. Commissioner -- I  
22 mean, Miller.

23           MR. MILLER: Thank you, Mr. Chairman. I am  
24 very frustrated with this case. This case was -- I  
25 came on to the Zoning Commission in October of 2012.

1 You were in the midst of your eight-year -- what  
2 would become your eight-year journey of ZRR. But you  
3 were having these ZRR hearings and Inclusionary  
4 Zoning was often a topic that was raised by the  
5 public. They wanted it to be included as part of  
6 that process and we made a decision sometime along  
7 the way that there would be a separate case, so after  
8 ZRR and OP would come forward with something.

9 And so it wasn't until the campaign for  
10 Inclusionary Zoning finally came forward with a  
11 proposal that we as commissioners had been asking for  
12 because we had been hearing a lot of public hearing  
13 testimony about the need to have deeper affordability  
14 levels and a greater amount of affordable housing to  
15 meet the needs of our residents.

16 So, it wasn't until February of last year  
17 that the Campaign for Inclusionary Zoning filed the  
18 petition with reforms that strengthened the -- that  
19 would strengthen the Inclusionary Zoning Program. It  
20 took the Office of Planning about six months to  
21 prepare a memo recommending set down. So that was  
22 July of last year.

23 And then the proposal was delayed and while  
24 all the parties could try to work together. And we  
25 generally were supportive of one of the Office of

1 Planning's proposals, and the Campaign for  
2 Inclusionary Zoning ended up adopting one of the  
3 Office of Planning's proposals, one of their options,  
4 Option 1B, I think it is, in the July set down report  
5 of last year that OP had recommended.

6 And then we had all those hearings. I think  
7 I got the wrong -- I think it was July of '15.

8 MS. COHEN: Yeah.

9 MR. MILLER: Yeah. So it wasn't -- so it was  
10 -- anyway, it's just been a long time coming. I was  
11 prepared to go through this worksheet which I  
12 appreciate the Office of Planning having prepared to  
13 organize our focus and see if we can make some  
14 preliminary conceptual decisions at least. I was  
15 prepared to go through that.

16 I think it would be helpful to have, as the  
17 Vice Chair indicated, the campaign for Inclusionary  
18 Zoning, particularly the D.C. Fiscal Policy institute  
19 part of that campaign to respond to the Office of  
20 Planning's May 13th final recommendation on  
21 Inclusionary Zoning because there is a lot of  
22 complicated data in there that I don't fully -- I  
23 don't fully understand.

24 I feel I have enough information to proceed  
25 based on what I do understand. But I would like to

1 have the campaign have an opportunity to respond to  
2 OP's report, and DCBIA as well because their  
3 information was -- both DCBIA and the Campaign  
4 submitted reports, submitted their latest comments  
5 prior to OP's final recommendations. So I think it  
6 would be helpful. I don't know if they needed a  
7 hearing to do it but I think there is majority  
8 support for that.

9 I just know that we see these cases that come  
10 before us all the time and where we've been pushing  
11 to go for the lower numbers, and the developers have  
12 even proffered deeper affordability levels, even  
13 before we've pushed in some cases because they know  
14 that's where we've been as a body.

15 So I am frustrated that we're not going to --  
16 and I understand that you can't make this kind of  
17 change overnight. We certainly haven't made any  
18 change in IZ overnight, and there would be a long  
19 period of time as OP is recommending for it to kick  
20 in, so current projects that had land values factored  
21 into them wouldn't be substantially adversely  
22 affected, but I'm sure there's a disagreement on that  
23 as well.

24 Anyway, that's where I am. I remain very  
25 supportive, strongly supportive of the Office of

1 Planning's Option 1B proposal that the Campaign  
2 embraced, which was a compromise for their own  
3 proposal. So I'd like to -- if we're going to have a  
4 limited scope hearing, I'd like all that to happen as  
5 quickly as possible because this train has been like  
6 a Metro train. Like it's gone off the track many  
7 times.

8 CHAIRPERSON HOOD: Okay. Commissioner  
9 Turnbull, you have anything on this?

10 MR. TURNBULL: Thank you, Mr. Chair. I would  
11 agree with all my colleagues. I think we've been  
12 doing this for quite a while and we're really -- I  
13 would agree with Commissioner May. I think the items  
14 1 -- in the OP report there's 22 items that they've  
15 listed for us to go through. And probably one  
16 through five are probably the ones that probably give  
17 us the most angst, and will take the longest to  
18 really go through and really go through. Not to say  
19 that we don't need to do six through 22. I think we  
20 need to go through each one of those and talk about  
21 those.

22 I would agree with a limited scope of  
23 hearing. But again, it should be fine-tuned. And I  
24 think it should be on a night when we don't have a  
25 lot of other things going on. I think it -- and

1 again, when we do have another public meeting to  
2 decide this, it should not be on a night when we have  
3 a lot of other things going on because this thing  
4 could take quite a while to go through and address  
5 all the items.

6           And like you said, we want to be very clear.  
7 This is something we don't want to rush into. We  
8 want to do it right. We've been doing it for a long  
9 time but we still want to get it right. So I am open  
10 for a limited scope hearing and as I say, I think if  
11 we concentrate primarily on the first five items -- I  
12 mean, obviously number one is going to give us a lot  
13 of angst first, to get through that. But one through  
14 five have probably got the most items that we really  
15 need to talk about.

16           MS. COHEN: Thank you, Mr. Chairman. The one  
17 thing that I just want to add is that we're in a very  
18 unique financial situation right now. We have  
19 extraordinarily low interest rates. We have lenders  
20 who are willing to lend probably on residential  
21 because we're still a growing area, but we have a lot  
22 of pipeline coming on. And that will have an impact.

23           And so my concern is, yes, I absolutely want  
24 more affordable housing. I sound like a parrot every  
25 time we meet. However, my concern is, is that if we

1 end up going in one direction we may end up harming  
2 again, one program that meets the need of a certain  
3 band of affordability that no other program  
4 addresses. And the programs that are really needed,  
5 as I've stated over and over, very low income  
6 housing, and the only way to do that without really  
7 getting, you know, developers to leave the city, is  
8 subsidy.

9           And I've repeated that all the time. If we  
10 don't have a subsidy we're not going to have the  
11 affordability. There's not enough dollars being put  
12 into that area where we can meet the need of people  
13 most in need. IZ was never created to go into the  
14 depth of that affordability. I don't think any of us  
15 -- I think we all understand that.

16           But I just think that if interest rates rise,  
17 if lenders start getting crazy again because they  
18 ended up pulling back significantly after the  
19 recession, and they're still having developers do  
20 things that -- except if you have a strong  
21 relationship, like certain developers do a lot of  
22 production, they have relationships so lenders kind  
23 of will allow them to do things that not every  
24 developer has the access to like, you know, some  
25 people don't have the net worth to provide a lender

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1 comfort in giving a loan. Loan to values have gone  
2 down. They're now creeping up, but they may go down  
3 again.

4 So there's all these nuances that I think Art  
5 is bringing up in his -- or, Mr. Rogers, is bringing  
6 up in his memo that we must understand. And I don't  
7 think the Coalition has had an opportunity to look  
8 into that.

9 So that's where I'm coming from. Right now I  
10 want to make sure this is sustainable; that we do  
11 something with inclusionary zoning to make it  
12 successful and sustainable.

13 CHAIRPERSON HOOD: Okay. And we can go  
14 through this worksheet, if that's what the wishes are  
15 of the Commission. But again for me, to start here,  
16 start and finalize things, and I just wanted to take  
17 DCBIA up on their offer and also give the petitioner,  
18 the Campaign, to have an opportunity to respond. And  
19 that was the limited scope hearing that I was  
20 thinking. And making sure we're all, we're talking  
21 about the same thing, we're not talking past each  
22 other, because we could sit here and go through this  
23 and made a decision. But for me it's about the  
24 outcomes.

25 I know everybody wants to get it done, like I

1 said earlier. I mean, yeah, it's been around a while  
2 but sometime we got to take a pause and try to move  
3 into the right direction to where we could try to  
4 make it a win/win for the city as a whole.

5 So that's where I am on this. I still want  
6 to take a three-minute break, and then we could come  
7 back and see where we need to go from this. Okay?  
8 All right. We'll take a three-minute break.

9 [Off the record from 8:57 p.m. to 9:05 p.m.]

10 CHAIRPERSON HOOD: Okay. Let's go back on  
11 the record.

12 Okay, Commissioners, I think that at least  
13 the way I understand it, you all wanted to go through  
14 this sheet anyway. I don't necessarily understand  
15 the relevance, but --

16 MR. MAY: I'm not suggesting we go through  
17 everything one by one. I mean, I'm suggesting that  
18 we could just make a summary decision not to -- I  
19 mean, to focus our attention on one through five,  
20 rather than go through one by one. And certainly not  
21 go through them and decide them.

22 I mean, I'm not saying that we need to decide  
23 anything tonight, I'm just suggesting that for the  
24 purposes of focusing a limited scope hearing, have  
25 that be focused on items one through five.

1           CHAIRPERSON HOOD: One through five. Okay.  
2 Because I remember, I think it's Mr. Beniti, Benita,  
3 Beniti (phonetic) mentioning about that, and I think  
4 -- I know the Vice Chair and I were very interested  
5 in that. And also as was already stated, I would  
6 like to hear the Campaign or the petitioner to  
7 respond, or to have those interactions so we can  
8 understand it because I'm going to tell you, this is  
9 not an easy case. I don't want to sit here and just  
10 -- this is not multiple choice for me. This is about  
11 trying to get it right. And I think all of us are  
12 like that, I believe.

13           So, maybe I didn't catch up with the rest of  
14 everybody else who is ready to go ahead and proceed.  
15 Maybe I'm not there yet.

16           So again, Commissioner May, you're saying  
17 focus on one through five.

18           MR. MAY: Right.

19           CHAIRPERSON HOOD: You're not necessarily  
20 saying, go through the work sheet.

21           MR. MAY: Right. I don't really want to go  
22 through the entire 22 items in the worksheet tonight.

23           CHAIRPERSON HOOD: What do others feel about  
24 that, Vice Chair Cohen?

25           MS. COHEN: I want to understand Mr. Rogers's

1 evaluation of the impact on land values and how they  
2 impact affordability, because I think that's his  
3 argument. Am I correct?

4 MR. ROGERS: Hi, this is Arthur Rogers of the  
5 Office of Planning.

6 The main thing we're concerned about land  
7 values is the delay it would cause in active projects  
8 moving forward. And given that we are in a period of  
9 strong demand the inability to supply to meet that  
10 demand would mean that prices would go up and we  
11 would actually lose affordability, at least in the  
12 short run. So that's the main concern is that a  
13 significant impact would cause some projects to get  
14 delayed and we would not be meeting the demands that  
15 we are seeing right now.

16 MS. COHEN: But you need to elaborate the  
17 hold ups. Is it just -- if it's an administrative  
18 hold up, that would hold it up originally and we lost  
19 a big window of opportunity. So I think you were  
20 saying more than that.

21 MR. ROGERS: Yeah. What I mean is developers  
22 would have to reevaluate if they're going to go  
23 forward with their project, if we changed the target  
24 affordabilities and that had some sort of negative  
25 impact on their project. They would be reevaluating

1 whether or not they could proceed in a given time  
2 frame. They have holding costs. They have other  
3 things that they would be looking at, but --

4 MS. COHEN: I think those are the things you  
5 need to concentrate and I also think that that's the  
6 need that the Coalition should also talk about.

7 CHAIRPERSON HOOD: Okay. Commissioner  
8 Miller.

9 MR. MILLER: Yeah, Mr. Chairman. I didn't  
10 really feel the need for a limited scope hearing. I  
11 could have those filings, but I think we still should  
12 get filings from the Campaign and DCBIA on OP's May  
13 13 report, maybe prior to our having the limited  
14 scope hearing that would focus on the first five  
15 items that Commissioner May cited here. If that can  
16 be just incorporated as part of the proposal, part of  
17 what we're doing, I think that might be helpful to us  
18 to focus -- have a more focused hearing. But --  
19 well, I think it would have been helpful to have the  
20 filings that respond to.

21 I assume that DCBIA will be pretty pleased  
22 with the OP report because DCBIA are basically on the  
23 same page and it's really the Campaign for  
24 Inclusionary Zoning's response because I remember  
25 that their proposal did have that -- which was OP's

1 original Option 1B proposal did have certain  
2 mitigating -- I think they had analysis that showed  
3 seven of the 10 neighborhoods would be okay, and they  
4 had some mitigating proposals for the three that  
5 there might need to be adjustments. So it's the  
6 Campaign's response to what OP has finally proposed  
7 that I'm most interested in.

8 But the focus of the limited hearing on the  
9 first five things in the OP worksheet, that's fine.  
10 I'm fine. I'm fine with that.

11 CHAIRPERSON HOOD: Okay. And again, the  
12 reason why I think the hearing is necessary to hear  
13 from the Campaign as well as DCBIA, as well as Office  
14 of Planning, is because we may have questions. I can  
15 take a submission and come to my own conclusions, but  
16 I may have some questions. And that's, for me, be  
17 more beneficial than me to sit here and try to figure  
18 things out on my own. That's just my opinion. And I  
19 can tell you that we're trying to put this on the  
20 fast track. I've already talked -- and I mean the  
21 fast track so we can get this done before we break  
22 for recess.

23 Ms. Schellin, do you have any dates? Can we  
24 just talk a few dates right quick so we can dwell on  
25 that?

1           MR. MAY: Mr. Chairman, I mean, there is  
2 something substantive that I wanted to ask for as  
3 well before you talk dates.

4           CHAIRPERSON HOOD: Yeah, but I want to put  
5 the dates --

6           MR. MAY: Okay.

7           CHAIRPERSON HOOD: Yeah, I want to put the  
8 dates out there first so everybody can let it  
9 resonate, start figuring out --

10          MS. SCHELLIN: Yes, sir.

11          CHAIRPERSON HOOD: -- how we're going to  
12 change volleyball night and all that kind of stuff.

13          MS. SCHELLIN: Yes. I don't think  
14 Commissioner May will be happy, but so after talking  
15 with OAG, if the Commission would agree to, in order  
16 to do this before the summer recess, we could get a  
17 notice of public hearing to the Register to be  
18 published on July 1st with the 10-day notice, and  
19 then we could have a public hearing, the limited  
20 scope hearing on Wednesday, July 13th. And then we  
21 could have a special public meeting on Wednesday,  
22 July 20th for the Commission to take proposed action  
23 or consider proposed action before the end of the  
24 summer.

25          MR. MAY: I'm sorry. The hearing would be on

1 the 20th?

2 MS. SCHELLIN: The 13th.

3 MR. MAY: The hearing would be on the 13th,  
4 and there will be a special exception public meeting  
5 on the 20th.

6 MS. SCHELLIN: Yes, sir.

7 CHAIRPERSON HOOD: Do we have a hearing -- we  
8 have something on the 20th, right? At 6:30.

9 MS. SCHELLIN: We do not, that's a Wednesday.

10 CHAIRPERSON HOOD: No, I mean we -- oh, oh,  
11 okay. Special public meeting. Okay. Good. Okay.

12 MS. SCHELLIN: So that it would have its --  
13 my understanding was you guys wanted to have this on  
14 its own night. Is that not correct? Because  
15 Commissioner May will not be here for the last  
16 meeting.

17 [Discussion off the record.]

18 CHAIRPERSON HOOD: I want to make sure that  
19 DCBIA is -- or somebody is going to represent them.  
20 Particularly the person who offered to do it. And  
21 then Ms. Cort or the Campaign, and make sure that  
22 they're able to participate. DCBIA is able to  
23 participate. Office of Planning will be able to  
24 participate. I see Mr. Serp (phonetic), Al Serp is  
25 here so, we can kind of figure all that. So the word

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1 will get back.

2 MS. SCHELLIN: Do you want to put a -- we  
3 also discussed maybe a 15-minute time limit for them  
4 to do a presentation, and then of course the normal  
5 time limits for individuals and organizations to do  
6 their presentations, or their testimony, rather.

7 CHAIRPERSON HOOD: Okay. Do we have to have  
8 a -- I really particularly -- and let me just ask  
9 this and Mr. Bergstein --

10 MS. SCHELLIN: Twenty minutes for each of  
11 them.

12 CHAIRPERSON HOOD: Let me just ask Mr.  
13 Bergstein this. Do we have to have a list and go  
14 back down? I guess we do have to have public input.

15 MR. BERGSTEIN: I'm sorry.

16 CHAIRPERSON HOOD: We already had a hearing.

17 MR. BERGSTEIN: Well, that's the point. I  
18 mean, you could say -- it depends where you want to  
19 sort of cut it. You could say it's just DCBIA, the  
20 petitioner, OP, and the ANC representatives, and no  
21 one else. Or, you know, and not include the public  
22 because these are just the people you want to hear,  
23 or you include the public. I assume you'd want to  
24 include the ANCs and allow them an opportunity.

25 CHAIRPERSON HOOD: Definitely want to include

1 the ANCs.

2 MR. BERGSTEIN: Yeah.

3 CHAIRPERSON HOOD: Let me have a --

4 MR. BERGSTEIN: So, that's the --

5 CHAIRPERSON HOOD: Did we have a major list  
6 of people who came down the last time? I'm just  
7 curious. Because I heard the most from the Campaign,  
8 DCBIA. And I never want to exclude the public. I  
9 just don't want to --

10 [Discussion off the record.]

11 CHAIRPERSON HOOD: Well, let's just open it  
12 up. We're going to have to open it up.

13 MS. SCHELLIN: To everyone?

14 CHAIRPERSON HOOD: To everyone. I don't have  
15 a choice.

16 MS. SCHELLIN: But just limited to the --

17 CHAIRPERSON HOOD: I don't think they have a  
18 choice.

19 MS. SCHELLIN: -- first six items, I believe,  
20 what I heard.

21 MR. BERGSTEIN: But would you first specify  
22 that certain people --

23 MS. SCHELLIN: Respond?

24 MR. BERGSTEIN: -- would go first and have a  
25 longer period of time, and then everybody else, the

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1 normal rules? We're actually looking and seeing that  
2 the rulemaking rules actually don't specify times.  
3 It's just historic what you do.

4 So, you know, you could specify for the  
5 petitioner, for DCBIA, a certain period of time. And  
6 then the question, would the ANCs have more than five  
7 minutes or --

8 MS. SCHELLIN: They normally get five  
9 minutes.

10 MR. BERGSTEIN: I'm sorry?

11 MS. SCHELLIN: The ANCs get five minutes.

12 MR. BERGSTEIN: They get five minutes. So  
13 then it would be --

14 CHAIRPERSON HOOD: We'll keep the ANCs the  
15 way they go.

16 MR. BERGSTEIN: Then that would be the normal  
17 rules, you know, representatives of organizations.

18 CHAIRPERSON HOOD: Okay. We'll give DCBIA  
19 and the petitioners 15 minutes apiece. Okay? After  
20 15 minutes I should be thoroughly confused. No, I'm  
21 just -- so we'll give them 15 minutes apiece.

22 MR. BERGSTEIN: And then the limit of scope  
23 is generally those, did you say five? The first five  
24 or --

25 MS. SCHELLIN: Yes, first five.

1           MR. BERGSTEIN: Yes. It would just refer to  
2 the OP report and ask that the scope of the hearing  
3 would be limited to discussion of those five general  
4 topics.

5           CHAIRPERSON HOOD: Does everyone agree to  
6 that, Commissioners? The first one through five?  
7 Mr. Turnbull?

8           MR. TURNBULL: Yeah. And Item 1 is really A  
9 and B. Those were the first -- the petitioner was  
10 actually supporting OP's set down Option B. So there  
11 was a question between A and B in Item 1. Those were  
12 where we were, and is there a compromise and how do  
13 we discuss these? These are the two critical areas  
14 that we got down to.

15           CHAIRPERSON HOOD: Uh-huh. Okay.

16           MR. TURNBULL: We weren't going with D. And  
17 the petitioner had actually come back and said that  
18 they would support OP's Option 1B.

19           CHAIRPERSON HOOD: Okay. All right. So that  
20 will take care of that one. But we still need to go  
21 through, I guess, one through five.

22           I'll just make sure that none of the rest of  
23 them are going to be major issues for us, any  
24 questions. Okay.

25           So we all agree the limit of the scope

1 hearing will be one through five?

2 MR. BERGSTEIN: I just heard one would be  
3 limited to A and B. Is that correct?

4 MR. TURNBULL: Well, I was throwing that out  
5 to my colleagues, but I think that's where we were  
6 at, at the hearing. But I mean --

7 MR. MAY: Yeah, I don't know that we need to  
8 parse it that closely.

9 MR. TURNBULL: Yeah, I mean --

10 MR. MAY: Let's just say one through five and  
11 keep it simple.

12 MR. BERGSTEIN: Okay. I was just responding  
13 what I heard from Mr. Turnbull, so.

14 CHAIRPERSON HOOD: Yeah. But I think he was  
15 making a point as we proceed. So you --

16 MR. TURNBULL: I was making a point from  
17 where we ended up at the last hearing.

18 CHAIRPERSON HOOD: Right. Right. So let's  
19 just leave it out there but we already know pretty  
20 much number 1 has already kind of been narrowed down,  
21 but you know, we never know what may come back, so  
22 let's just leave that open.

23 So what else do we need to do on this?

24 MR. MAY: Mr. Chairman, I had one other  
25 comment.

1           So one of the things that struck me as we're  
2 going through this and as we're evaluating other  
3 PUDs, is that where we have often been most  
4 successful in getting increased proffers of  
5 inclusionary units has been in those circumstances  
6 where it is a PUD with a map amendment that results  
7 in increased density or height or something like  
8 that.

9           And I'm wondering if there is some way that  
10 we could actually create a formula that's associated  
11 with map amendments, in part because of the PUDs that  
12 might be in the pipeline. But also because, you  
13 know, we're -- the Office of Planning is undertaking  
14 and updated the Comp Plan and some of the testimony  
15 we heard had to do with increasing the -- well,  
16 changing the future land use map to allow for some  
17 increased density in certain areas. And if that's  
18 going to happen it's going to make certain properties  
19 more valuable or more attractive for development.  
20 And why aren't we acting now to try to harness that  
21 so that if, you know, if we see a project that's  
22 going from a 2.5 FAR to a four or a five or a six,  
23 which happens occasionally, why isn't a bigger  
24 proportion of that kind of automatically put into IZ,  
25 and we could get closer to some of those percentages

1 that are much higher. I mean, why aren't we talking  
2 about 20 percent of the additional density, or 30  
3 percent of the additional density?

4 I know that that may have a tendency to drive  
5 down property values, but you know, there's a lot of  
6 money being made in the development of housing and in  
7 the sale of property right now, and you know, we're  
8 trying to lift all boats here and not just those of  
9 the specific property holders. This is a way of  
10 trying to tap some of that energy and hopefully --  
11 and value.

12 So, I don't know, I mean, maybe that's too  
13 complicated an undertaking, but it's something that I  
14 think at the very least I'd like the Office of  
15 Planning to look at and see if that's something that  
16 made sense. I imagine that the petitioner and DCBIA  
17 would have something to say about that too, but I  
18 would be interested in having that discussion.

19 CHAIRPERSON HOOD: Okay. Anybody else? Any  
20 other comments?

21 MR. MILLER: Thanks, Mr. Chairman. Yeah,  
22 there was another issue that recently came up in a  
23 particular zoning case and where IZ didn't apply  
24 because I think it's -- I asked the question of Ms.  
25 Steingasser and she said because it's a conversion

1 from an office to a residential.

2 I just don't know if the rationale for  
3 exempting that type of project from IZ, whatever the  
4 rationale was originally, whether that still applies.  
5 And in general the exemptions that exist, I would  
6 like some focus of us, if not the petitioner and the  
7 DCBIA, but at least some focus of us and OP on making  
8 sure that we're applying it as broadly and as fairly  
9 as possible.

10 I know that there's some zoning districts  
11 where there just isn't the capacity for any bonus  
12 density and I think that's why it's some  
13 neighborhoods, some areas were exempt originally.  
14 But if we can just have a brief summary of that  
15 exemption issue and see if it still makes sense in  
16 all cases to have the same exemptions.

17 CHAIRPERSON HOOD: Anything else to add on  
18 this? Ms. Schellin, could you give us the dates  
19 again, please?

20 MS. SCHELLIN: Yes, sir. The limited scope  
21 hearing will be on July 13th. That's a Wednesday at  
22 6:30 p.m. Again, Wednesday, July 13th at 6:30 p.m.  
23 And then a special public meeting will be scheduled  
24 for Wednesday, July 20th, at 6:30 p.m.

25 CHAIRPERSON HOOD: Okay. Do we need to do

1 anything else on this?

2 MS. SCHELLIN: No, sir.

3 CHAIRPERSON HOOD: Are we all on the same  
4 page? Okay. All right.

5 Let's go to hearing action. Zoning  
6 Commission Case No. 16-09, 1200 3rd Street, LLC.,  
7 Consolidated PUD and Related Map Amendment at Square  
8 747. Mr. Jesick.

9 MR. JESICK: Thank you, Mr. Chairman and  
10 Members of the Commission.

11 The Office of Planning recommends set down of  
12 the proposed PUD and related map amendment at the  
13 Central Armature site at M Street, 3rd Street,  
14 Florida Avenue Northeast near the NoMa Metro Station.

15 The applicant proposes a change from the  
16 existing C-M-3 zone to the C-3-C zone, and a mix of  
17 residential, hotel, and retail uses within a single  
18 building. The building would consist of three  
19 towers, each reaching 120 feet in height, and the  
20 project would have a total FAR of 6.98.

21 OP finds that the proposal is generally not  
22 inconsistent with the Comprehensive Plan and strongly  
23 supports many aspects of the project including the  
24 provision of a pass-through to a potential new Metro  
25 entrance, and the use of a single curb cut to service

1 the entire parking and loading needs of the  
2 development.

3 OP has, however, asked the applicant to  
4 address, prior to a public hearing, how the project  
5 can more fully comply with the production,  
6 distribution, and repair policies of the plan.

7 The future land use map for this site calls  
8 for a mix of medium density residential and PDR uses  
9 and in order to fully comply with that designation,  
10 as well as the plan's written policies, OP recommends  
11 that the applicant provide firm commitments to set  
12 aside a portion of the retail space for PDR or PDR  
13 related uses. And OP would be happy to work with the  
14 applicant to address that question.

15 Another question raised in our written report  
16 is the issue of the concentration of affordable  
17 housing. The applicant has requested flexibility to  
18 put all of the IZ units in the Northern building if  
19 the Southern building becomes a condo.

20 OP could consider some level of concentration  
21 if the affordable housing proffer is greatly  
22 expanded. But in general, planned policy supports a  
23 mix of homeownership and rental IZ opportunities. So  
24 OP would be extremely hesitant to support a total  
25 removal of IZ units from the condo building.

1 Overall, OP is supportive of the project and  
2 feels that it generally meets the goals of the  
3 Comprehensive Plan. OP therefore recommends set down  
4 and will continue to work with the applicant to  
5 address the concerns raised in our report. Thank  
6 you.

7 CHAIRPERSON HOOD: Okay. Thank you, Mr.  
8 Jesick. Any comments or questions? Did I say  
9 Jessup? Jesick?

10 Commissioner May.

11 MR. MAY: So just two quick things. First of  
12 all I totally agree on the issue with the  
13 concentration of IZ units and I think you still need  
14 to work with the applicant on that and because I  
15 think it does kind of fly in the face of what we're  
16 trying to do. And then the second thing is that  
17 there is some indication that they're seeking some  
18 form of penthouse setback relief. And I'm very  
19 stingy on that and I'm not inclined in that  
20 direction. I mean, based on what I saw in the  
21 proposal.

22 So in order to get that, I mean, there has to  
23 be a really compelling case for it. It's -- so I'll  
24 just leave it at that.

25 CHAIRPERSON HOOD: Okay. Vice Chair Cohen.

1 MS. COHEN: Thank you, Mr. Chairman. I agree  
2 with Commissioner May's two points with regard to the  
3 IZ and the penthouse. And in addition the penthouse  
4 will trigger additional affordable housing. So I  
5 just didn't see that anywhere. Not saying that I  
6 couldn't have missed it.

7 I would like to know more about this tunnel  
8 connection, this status, and who pays for it. And is  
9 it a real possibility?

10 I'd like to hear or learn more about noise  
11 attenuation on the building closest to the railroad  
12 tracks, what is being proposed. And I think this  
13 project is pretty weak on proffers. So I'd like them  
14 to look into expanding them. Thank you.

15 CHAIRPERSON HOOD: Okay. Any other comments  
16 or questions? Commissioner Turnbull?

17 MR. TURNBULL: Yeah, I would agree with my  
18 colleagues on their comments. The only thing I was  
19 ask a little bit more explanation on the retail, what  
20 kind of retail it's going to be, neighborhood  
21 surveying or whatever.

22 CHAIRPERSON HOOD: Anyone else? Commissioner  
23 Miller?

24 MR. MILLER: Just put my two cents in. I  
25 just, I generally agree with the comments of my

1 colleagues and all of the comments that are in the  
2 Office of Planning's very comprehensive report.

3 CHAIRPERSON HOOD: Okay. I would recommend  
4 that we set this down for a hearing with the comments  
5 so noted, and move that we set down Zoning  
6 Commission Case No. 1609, 1200 3rd Street, LLC.,  
7 Consolidated PUD and Related Map Amendment at Square  
8 747 and ask for a second.

9 MS. COHEN: Second.

10 CHAIRPERSON HOOD: It's been moved and  
11 properly seconded. Any further discussion?

12 [Vote taken.]

13 CHAIRPERSON HOOD: So ordered. Ms. Schellin,  
14 would you record the vote?

15 MS. SCHELLIN: Yes, sir. Staff records the  
16 vote five to zero to zero to set down Zoning  
17 Commission Case No. 16-09 as a contested case,  
18 Commissioner Hood moving, Commissioner Cohen  
19 seconding, Commissioners May, Miller, and Turnbull in  
20 support.

21 CHAIRPERSON HOOD: Okay. Next let's go with  
22 Zoning Commission Case No. 16-05, Fifth and Morse  
23 L/Cal., LLC, and Sixth and Morse L/Cal., LLC.  
24 Consolidated PUD and Related Map Amendment at Square  
25 3591 and Parcel 129/104, and part of 129/106. Ms.

1 Schellin.

2 MS. SCHELLIN: This one goes to OP.

3 CHAIRPERSON HOOD: Oh, okay. Ms. Elliott.

4 MS. ELLIOTT: Thank you, Mr. Commissioner.  
5 Good evening to everyone.

6 OP recommends set down for a public hearing  
7 for the application of a consolidated PUD and related  
8 zoning map amendment that will facilitate additional  
9 development in the Florida Avenue Market area.

10 The development would be located at the  
11 northwest corner of Morse and Sixth Streets and is  
12 comprised of about three quarters of an acre. It's  
13 currently zoned C-M-1. The applicant proposes to  
14 rezone it to C-3-C.

15 This PUD is a little unusual in that the  
16 applicant has provided two options for development.  
17 On the screen we've posted a site plan from the  
18 applicant's submission that shows the two options,  
19 and I believe it's Exhibit 2A-2 in their filing.

20 Basically the difference is a 9,000 square  
21 foot parcel. Well, it's part of a larger parcel at  
22 the northeast corner of the -- I'm sorry, the  
23 northwest corner of the property.

24 So the plan is that the applicant would  
25 acquire that from Gallaudet University who currently

1 owns the property. It would essentially change ---  
2 between the two options the difference is the design  
3 along 6th Street and the placement of the shared  
4 alley driveway.

5           So this portion of land has also been  
6 included in the neighboring PUD, which will actually  
7 be heard next week, July -- I'm sorry, June 23rd.  
8 This is PUD 15-24, JBG-Gallaudet. So the applicant  
9 of that PUD has acknowledged that it will require a  
10 modification should the land in question be acquired  
11 by the applicant of this project.

12           OP understands that the dialog between the  
13 two applicants is progressing in a positive  
14 direction, but we recommend that a public hearing not  
15 be scheduled until the applicant has settled on one  
16 of the two options and revise the application to  
17 remove the other option.

18           The proposed development would have a height  
19 of 120 feet and an FAR of 8. It would consist of  
20 ground floor retail and nine stories of residential,  
21 providing up to 270 new dwelling units.

22           The proposal also includes a shared private  
23 alley that will benefit all development in the  
24 square. But again, we have two design options that  
25 have been provided, but we anticipate that one option

1 will be removed prior to the public hearing.

2           The design of the project is a little  
3 problematic in that the projections do not comply  
4 with public space requirements, which potentially  
5 affects all street elevations. OP will continue to  
6 work with the applicant to resolve this issue prior  
7 to a hearing.

8           The Small Area Plan anticipates high density  
9 development in exchange for significant benefits and  
10 amenities. Through the PUD process the applicant  
11 would stand to gain up to 80 feet of additional  
12 building height above the C-M-1 limits, and up to  
13 approximately 160,000 square feet above matter of  
14 right floor area. The applicant has provided a list  
15 of contributions that include a deeper level of  
16 housing affordability, the provision of a shared  
17 private alley, and employment and training  
18 opportunities. However, OP notes that the applicant  
19 should continue to refine the benefits and amenities  
20 so that they are commensurate with the level of  
21 proposed development.

22           The Comprehensive Plan designation is medium  
23 density residential, high density commercial, and  
24 PDR. Both proposed options for this consolidated PUD  
25 are not inconsistent with the Comprehensive Plan's

1 objectives for the area, and to the generalized land  
2 use and policy maps. The project generally furthers  
3 the goals and objectives of the Small Area Plan  
4 subject to a determination by the Zoning Commission  
5 that the benefits and amenities are adequate for the  
6 level of development proposed.

7 OP will continue to work with the applicant  
8 to provide information noted in the report, as well  
9 as anything else requested by the Commission. I'd be  
10 happy to take any questions.

11 CHAIRPERSON HOOD: Thank you, Ms. Elliott.  
12 Commissioners, any questions or comments?  
13 Commissioner May?

14 MR. MAY: Yeah, just one quick one. The  
15 treatment of the roof is rather strange with that  
16 sort of curving feature. And, you know, the way it  
17 read at the one end, I guess at the west end, I mean,  
18 I think that's okay. It reads like it's a tower  
19 feature. But along the south façade it's just very  
20 odd and it looks the way they are trying to say that  
21 it complies with setback requirements, uses an  
22 imaginary meeting point between the front façade of  
23 the building and the roof, but there actually isn't  
24 any building there. At least that's what the diagram  
25 shows.

1           And so I don't know why they're doing it that  
2 way, and it is important, I mean, just having that  
3 façade extend up and curve over like that is not  
4 really what we have in mind, I think, in terms of  
5 penthouse setback and God -- you know, who knows  
6 whether it would meet the Height Act requirements.  
7 So I think that has to be addressed very carefully.

8           I also don't think it's very attractive. So,  
9 I mean, I just, I just think it's a little bit odd.  
10 So, if you would work with them on that?

11           CHAIRPERSON HOOD: Any other comments or  
12 questions? Mr. Turnbull?

13           MR. TURNBULL: Yeah. Thank you, Mr. Chair.  
14 I would -- Ms. Vitale, I would agree that they need  
15 to make up their mind and actually show us which plan  
16 they're really going to be going with before we have  
17 a hearing.

18           And I would agree with Commissioner May. I'm  
19 not a big fan of the semi-Quonset hut on top of the  
20 roof. I don't think it's very attractive and I  
21 really don't think it meets our setback requirements.  
22 So I think they really need to take another look at  
23 that.

24           CHAIRPERSON HOOD: Okay. Vice Chair Cohen.

25           MS. COHEN: Yeah. I just didn't think this

1 was ready for set down. I didn't think it was fully  
2 cooked. I think a lot of it was not having the  
3 agreement as to what they intend with Gallaudet, and  
4 they don't really know what they intend to do so I  
5 wouldn't even vote for set down at this point.

6 CHAIRPERSON HOOD: Okay. Commissioner  
7 Miller.

8 MR. MILLER: Thank you, Mr. Chairman. I  
9 don't have a problem with going with OP's  
10 recommendation to set it down; set it down. But I do  
11 agree with OP's other -- concurrent recommendation  
12 that a public hearing not be scheduled until the  
13 applicant has settled on one of the two options and  
14 revised the application to remove the other option.

15 And I also just wanted to emphasize one  
16 design issue that OP did raise on page 9 of their  
17 report, which I agree with, which is the -- I'll just  
18 read the line. The applicant should consider  
19 modifications that would break up the massing and  
20 create more interest along the street facades, and  
21 create usable spaces for residents that would add  
22 depth to the facades, such as balconies.

23 I always love balconies. So it doesn't look  
24 like a commercial office building, mostly. So that's  
25 where I am, Mr. Chairman.

1 CHAIRPERSON HOOD: Okay.

2 MR. MAY: Mr. Chairman.

3 CHAIRPERSON HOOD: Yes.

4 MR. MAY: I'm sorry. I cut you off. You --

5 CHAIRPERSON HOOD: I been doing this a long  
6 time. I'm used to being cut off, so I usually wait.

7 MR. MAY: So I was just going to follow up  
8 on --

9 CHAIRPERSON HOOD: My way of letting you know  
10 you do it all the time. No, I'm just playing.

11 MR. MAY: Yeah. That's okay. You're always  
12 cutting in to volley ball night, so -- now I had a  
13 question for the Office of Planning about the reason  
14 -- I mean, I was struck by it too. The Vice Chair  
15 had raised the question, I mean, why are we even  
16 recommending set down at this point? This is the  
17 sort of thing that I would think it wouldn't be ready  
18 from your perspective. So why do you think it's  
19 ready?

20 MS. ELLIOTT: So, in looking at both options  
21 we feel that either one is compatible -- or is not  
22 inconsistent with the Comprehensive Plan, and so we  
23 were -- you know, we thought that it would be okay to  
24 set it down. And given our conversations with the  
25 applicant, the agreements are essentially in place

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1 with Gallaudet. There's just some finalization that  
2 has to happen, and they feel like that can happen  
3 fairly soon and prior to a public hearing. So that's  
4 why we were comfortable moving forward with it.

5 MR. MAY: Thank you.

6 CHAIRPERSON HOOD: So on that same note, Ms.  
7 Elliott, if we set this down and the time frame goes  
8 down for a hearing and we have not come up with an  
9 option, we will not proceed forward with a hearing  
10 the way I understand it.

11 MS. ELLIOTT: We certainly wouldn't feel  
12 comfortable moving forward with a hearing with there  
13 being two options on the table.

14 CHAIRPERSON HOOD: Okay. So I guess if we  
15 set this down, colleagues, and I know where the Vice  
16 Chair is, I didn't hear anybody else say they  
17 wouldn't want to set this down, but in that motion,  
18 and Mr. Bergstein can let me know if I'm correct, in  
19 that motion it needs to state that if that decision  
20 has not been made then -- the Commission does not  
21 authorize to move forward with having us setting a  
22 date for the public hearing. So, I believe --

23 MR. BERGSTEIN: That's my understanding, that  
24 the secretary not be authorized to issue a notice of  
25 public hearing unless the applicant has decided which

1 option it's pursuing and amended its application  
2 accordingly.

3 CHAIRPERSON HOOD: Okay. Commissioners,  
4 you've heard one of our colleagues. I don't know if  
5 -- I didn't hear anybody else say they didn't want to  
6 set it down. So, I'm like former Commissioner George  
7 White. I think every application deserves a hearing.  
8 But whether it gets approved or not is a different  
9 story. So, let me open it up if somebody wants to  
10 make a motion or not make a motion. What is your  
11 pleasure?

12 MR. MILLER: Well, Mr. Chairman, I was  
13 comfortable with -- I would make a motion and we'll  
14 see what happens. I will move that we set down  
15 Zoning Commission Case 16-05 consolidated PUD and  
16 related zoning map amendment from C-M-1 to C-3-C,  
17 located at 500 and 530 Morse Street Northeast. I'll  
18 leave it at that. And with the concurrent  
19 recommendation that was part of the motion that the  
20 secretary not be authorized to schedule -- send out a  
21 notice of public hearing unless the applicant has  
22 been revised to pick one option or the other.

23 MR. TURNBULL: Second.

24 CHAIRPERSON HOOD: Okay. It's been moved and  
25 properly seconded. Any further discussion?

1 Commissioner May?

2 MR. MAY: No.

3 CHAIRPERSON HOOD: Oh, any further  
4 discussion?

5 [Vote taken.]

6 CHAIRPERSON HOOD: So ordered. Ms. Schellin,  
7 would you record the vote?

8 MS. SCHELLIN: Yes, sir. Staff records the  
9 vote four to one to zero to set down Zoning  
10 Commission Case No. 16-05 as a contested case,  
11 Commissioner Miller moving, Commissioner Turnbull  
12 seconding, Commissioners Hood and May in support,  
13 Commissioner Cohen opposed.

14 CHAIRPERSON HOOD: Okay. I sure hope that  
15 the --

16 MS. SCHELLIN: I'm sorry. The motion was to  
17 set it down, but not to publish -- to go forward with  
18 a hearing until the applicants submit a revised  
19 application choosing one option or the other.

20 CHAIRPERSON HOOD: Okay. I sure hope that  
21 the applicant has heard the comments up here and that  
22 if it's set -- when it does become -- we do have a  
23 hearing that all those comments so noted have been --  
24 and have been fully looked at. Okay? All right.

25 Let's go to the last case on hearing action.

1 Oh, no, I'm sorry. Second to last. Zoning  
2 Commission Case No. 16-07. That would be 9th and O,  
3 LLC., Consolidated PUD and Related Map Amendment at  
4 Square 399. Mr. Cochran.

5 MR. COCHRAN: Good evening. OP recommends  
6 the Commission set down PUD 1607 and its related map  
7 amendment from C-2-A to C-2-B. The project would  
8 replace the Scripture Cathedral Church at 9th and O  
9 Streets Northwest, with a 66-unit apartment building  
10 with unusually large units and ground floor retail.  
11 It would be 90 feet tall and eight stories, plus a  
12 habitable penthouse.

13 The 15,000 square foot site's FAR would be  
14 5.99. It's designed for LEED Gold eligibility.  
15 Parking significantly exceeds what is required while  
16 loading relief is requested. The proposal is not  
17 inconsistent with the Comprehensive Plan. The future  
18 land use map designates the site for medium density  
19 residential and commercial uses. The policy map  
20 shows it in a main street mixed use corridor.

21 The requested zone, height, and density are  
22 well within the parameters the city-wide element  
23 describes for the land use designation. The  
24 development would not be inconsistent with the Small  
25 Area Plan.

1           The building would be congruent with the  
2 scale and uses of the O Street Marketplace  
3 immediately to the north, and with several recent and  
4 proposed developments nearby. It is generally well  
5 designed and employs the materials and bay  
6 projections common to the nearby Shaw Historic  
7 District. It would strengthen 9th Street retail  
8 links between the Convention Center and the O Street  
9 Market.

10           The PUD would be beneficial to the  
11 neighborhood and to the city, but there are matters  
12 that the applicant will need to address by the public  
13 hearing. While the public benefits and project  
14 amenities are sufficient for set down, they could be  
15 strengthened in light of their requested zoning  
16 flexibility. The contributions to seven community  
17 groups require more specificity, enforceability and  
18 perhaps more consolidation.

19           The affordable housing offerings are only  
20 what is required by IZ and the habitable penthouse  
21 space regulations. The oval pavilion at the northern  
22 end of the roof terrace does not qualify as an  
23 architectural embellishment and will need to be  
24 redesigned to meet setback requirements.

25           The O Street Bay projections will need to be

1 reduced to meet public space requirements, and the  
2 applicant will of course need to address  
3 transportation and TDM measures prior to the hearing.

4           These concerns are not unusual at this stage  
5 of the PUD process and OP recommends you schedule the  
6 application for a public hearing.

7           CHAIRPERSON HOOD: Okay. Mr. Cochran, where  
8 is the church going?

9           MR. COCHRAN: I'm sorry, I don't know what  
10 side it's bought.

11           CHAIRPERSON HOOD: All right. Any questions  
12 up here? Comments?

13           MR. MAY: Yes.

14           CHAIRPERSON HOOD: Commissioner May.

15           MR. MAY: Yeah. So I appreciate the report  
16 and I agree with you on all the of the comments that  
17 the Office of Planning had, especially the rooftop  
18 embellishment which is, you know, kind of in addition  
19 to it not meeting the -- what I would think are the  
20 requirements for a dome spire or tower, it's really  
21 just a rooftop embellishment thing.

22           And, I mean, I can see there is some  
23 relationship between it and the façade, where it's  
24 sort of set back a little bit you know, along the  
25 north side of the building, but set back behind a,

1 you know, the rest of the façade. It just, the thing  
2 about it is that it just looks strange.

3           It also, I mean, it's interesting because  
4 this is a building that has a corner and they're  
5 creating this sort of circular element or oval shaped  
6 element, and it's in the middle of the short façade  
7 as opposed to being on the corner. Why wouldn't you  
8 try to do a feature like that that actually relates  
9 to the corner, which is more typical in Washington.  
10 I understand maybe they're trying to do something a  
11 little different. I guess that's okay, but if  
12 they're going to do it I think it has to be much more  
13 successful, and has to meet the requirements for  
14 being an acceptable embellishment, dome, tower,  
15 spire, or whatever.

16           The facades are kind of interesting, the way  
17 it sort of moves in and out, but, you know, obviously  
18 you called out that it has to meet the bay projection  
19 requirements which it doesn't seem to do. The last  
20 thing I'd call out, which is odd, is that there's  
21 sort of elaborate iron work related to the balconies,  
22 and it looks sort of, you know, like New Orleans kind  
23 of thing. But I mean, am I picturing that correctly?  
24 It looks like a heavy dark decorative ironwork.

25           MR. COCHRAN: It didn't strike me that way

1 but I'll certainly look at a blow up of it.

2 MR. MAY: Yeah. I mean, maybe I'm just  
3 reading it wrong in my -- you know, we had a lot to  
4 read today, so maybe I missed what it truly is. But  
5 it just struck me as rather strange. But I'm sure  
6 you'll do good work in advancing the design. And,  
7 you know, I do agree, especially on the proffered  
8 benefits and amenities and the limited IZ or the,  
9 just what's required for IZ. I think that they can  
10 do a lot better. Thanks.

11 CHAIRPERSON HOOD: Okay. Any other questions  
12 or comments. Mr. Turnbull.

13 MR. TURNBULL: Laissez le bon temps rouler,  
14 as they say in New Orleans. Let the good times roll.

15 I would agree, I was confused by the wrought  
16 iron. It just, it looks a little out of place, but  
17 maybe if they can explain what they're doing it for  
18 that would be --

19 But my one question is, medium density, are  
20 we really at medium density?

21 MR. COCHRAN: Yes. Actually well within  
22 medium density.

23 MR. TURNBULL: Well within? Okay. I just  
24 wanted to be sure.

25 CHAIRPERSON HOOD: Okay. Any other questions

1 or comments? Vice Chair Cohen?

2 MS. COHEN: Thank you, Mr. Chairman. I'm  
3 going to be, you know, the contrarian tonight. I  
4 actually like the New Orleans look as it was  
5 described. I thought it was actually an attractive  
6 feature. I saw on page -- it's not -- 8A-08 there is  
7 a building that has that square on the rooftop, and I  
8 think that's very unattractive, whereas I feel the  
9 oval that's been provided on this rooftop is much  
10 more attractive. So again, you know, we all have  
11 opinions about buildings.

12 So, and then again, I thought that the OP  
13 report was very comprehensive, so I don't want to  
14 repeat that, although I do want to state and agree  
15 with my colleagues about the proffers. They seemed a  
16 little weak.

17 CHAIRPERSON HOOD: Okay. Any other comments?  
18 Commissioner Miller?

19 MR. MILLER: Yes, I just wanted to indicate  
20 my support for setting this down for a public hearing  
21 and I agree with the comments made by the Office of  
22 Planning, and I too share the Vice Chair's view that  
23 it's an attractively designed building. I'm not  
24 commenting on the rooftop but I'm just -- the façade,  
25 I like the fluctuating bays and balconies, as always.

1 CHAIRPERSON HOOD: Okay. I would agree but I  
2 do like what's going on on the rooftop. So, anyway,  
3 let's go ahead and set this down. I believe we have  
4 support to set it down. I would move that we set  
5 down Zoning Commission Case No. 16-07 and ask for a  
6 second.

7 MR. MILLER: Second.

8 CHAIRPERSON HOOD: It's moved and properly  
9 seconded. Any further discussion?

10 [Vote taken.]

11 CHAIRPERSON HOOD: Ms. Schellin, would you  
12 record the vote?

13 MS. SCHELLIN: Yes, sir. Staff records the  
14 vote five to zero to zero to set down Zoning  
15 Commission Case No. 16-07 as a contested case,  
16 Commissioner Hood moving, Commissioner Miller  
17 seconding, Commissioners Cohen, May, and Turnbull in  
18 support.

19 CHAIRPERSON HOOD: Okay. Next, Zoning  
20 Commission Case No. 04-33H, Office of Planning Text  
21 Amendment to IZ Regulations to Add Affordable Housing  
22 Created by District Law to Exemptions from IZ. Mr.  
23 Rogers.

24 MR. ROGERS: Good evening, Members of the  
25 Zoning Commission. Thank you. My name is Arthur

1 Rogers of the Office of Planning.

2 I'm here tonight to request the Zoning  
3 Commission adopt on emergency basis, an amendment to  
4 the Inclusionary Zoning Regulations that will exempt  
5 -- that will add to the list of exemptions of IZ  
6 projects, those projects that have affordability  
7 requirements that are a result of District law.  
8 Excuse me. This is a result of some recent Zoning  
9 Commission cases that have come before you that are  
10 subject to either the National Capital Revitalization  
11 Corporation and Anacostia Waterfront Corporation  
12 Reorganization Acts, and also the disposition of  
13 District Land and Affordable Housing Amendment Act of  
14 2014.

15 These projects typically have affordable  
16 housing that far exceeds Inclusionary Zoning  
17 requirements, and they also have the same extension  
18 for the life of the project. But they are not  
19 financed by DHCD, HFA, or the Housing Authority,  
20 which are the current exemptions.

21 So tonight we would request that you, again,  
22 adopt these as an emergency basis and authorize an  
23 issuance of the notice of proposed rulemaking, and  
24 then schedule a set down for a public hearing. Thank  
25 you.

1           CHAIRPERSON HOOD: Okay. Commissioners, any  
2 questions of Mr. Rogers? Okay. Somebody like to  
3 make a motion? We need to include the emergency as  
4 described. And I would move that we adopt the report  
5 presented by the Office of Planning and Mr. Rogers,  
6 and that we will set down on an emergency basis, as  
7 well as set down for a hearing -- that we will put in  
8 place on an emergency basis, a set down for a hearing  
9 in Zoning Commission Case No. 04-33H, and ask for a  
10 second.

11           MS. COHEN: Second.

12           CHAIRPERSON HOOD: It's been moved and  
13 properly seconded. Any further discussion?

14           [Vote taken.]

15           CHAIRPERSON HOOD: Ms. Schellin, would you  
16 record the vote?

17           MS. SCHELLIN: Yes, sir. Staff records the  
18 vote five to zero to zero to take emergency action  
19 and authorize the immediate publication of proposed  
20 rulemaking and set down Zoning Commission Case No.  
21 04-33H as a rulemaking case, Commissioner Hood  
22 moving, Commissioner Cohen seconding, Commissioners  
23 May, Miller, and Turnbull in support.

24           CHAIRPERSON HOOD: Okay. Do we have anything  
25 else this evening?

1 MS. SCHELLIN: No, sir.

2 CHAIRPERSON HOOD: Okay. I want to thank  
3 everyone for their participation tonight and this  
4 meeting is adjourned.

5 [Meeting adjourned at 9:50 p.m.]

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