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GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission

Regular Public Meeting
1439th Meeting Session [18th of 2016]

6:37 p.m. to 7:42 p.m.
Monday, July 11, 2016

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

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 KAREN THOMAS

13 JOEL LAWSON

14 STEVE COCHRAN

15

16 DDOT:

17 JONATHAN ROGERS

18

19 Office of Attorney General:

20 JACOB RITTING, ESQ.

21 ARIEL EBI, ESQ.

22

23 Other:

24 PHIL FEOLA

25

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

2 CHAIRPERSON HOOD: Okay. We're ready to get
3 started. This meeting will please come to order.
4 Good evening, ladies and gentlemen. This is the
5 public meeting of the Zoning Commission for the
6 District of Columbia.

7 My name is Anthony Hood. Joining me are Vice
8 Chair Cohen, Commissioner May, Commissioner Miller,
9 and Commissioner Turnbull. Office of Zoning staff,
10 Ms. Sharon Schellin, Office of Attorney General, Mr.
11 Ritting and Mr. Ebi, Office of Planning, Mr. Lawson,
12 Mr. Cochran, Ms. Thomas, and the District Department
13 of Transportation, Mr. Rogers.

14 Copies of today's meeting agenda are
15 available to you and are located on the bin near the
16 door. We do not take any public testimony in our
17 meeting unless the Commission requests someone to
18 come forward. Please be advised, this proceeding is
19 being recorded by a court reporter and is also
20 webcast live. Accordingly, we must ask you to
21 refrain from any disruptive noises or actions in the
22 hearing room. Please turn off all electronic devices
23 at this time so not to disrupt these proceedings.

24 Does the staff have any preliminary matters?

25 MS. SCHELLIN: No, sir.

1 CHAIRPERSON HOOD: Okay. Let's go right
2 along with our agenda as follows. First, consent
3 calendar, Zoning Commission Case No. 97-16C, Lowell
4 School, request for minor modifications at PUD at
5 Square 2745F. Ms. Schellin.

6 MS. SCHELLIN: Yes, sir. The applicant is
7 requesting a minor modification to reduce the size of
8 the grassy play area where the demolished Frasier
9 building once stood. Further, the applicant has
10 advised that it is not in a position to proceed with
11 the gym addition and will likely not be in a position
12 to do so in the near future.

13 At Exhibit 5 you have an OP report advising
14 that at this time there is insufficient information
15 to determine if the application meets the minor
16 modification criteria, and we'd ask the Commission to
17 consider final action on this case this evening.

18 CHAIRPERSON HOOD: Okay. Ms. Schellin has
19 really teed that up. I don't have anything to add to
20 that. The Office of Planning, as stated in their
21 report are not sure that this meets our minor
22 modification criteria. I would not have a problem
23 with moving forward with the requests, but let me
24 open it up for any comments or questions.

25 So there are no comments or questions?

1 Commissioner Miller.

2 MR. MILLER: Thank you, Mr. Chairman. Yeah,
3 I think it is so minor that I wouldn't have any
4 objection either. And they did meet with some
5 community group, but that was set up, in particular
6 with the zoning case.

7 CHAIRPERSON HOOD: Commissioner May, you
8 wanted to add something?

9 MR. MAY: Yeah. Where was the -- I was sort
10 of puzzled by that because I didn't see that what
11 they had done in terms of community. Oh, I see.
12 It's OP notes that the applicant has met with
13 neighbors on the Community Relations Council as
14 mandated by the PUD order, but the applicant has not
15 yet met with the ANC about the request.

16 I also recall that there was, if not a party
17 in opposition, there were neighbors who were opposed
18 to the modifications that we approved some time ago;
19 not the most recent one. So I'm wondering what level
20 of outreach there have been, in particular with those
21 neighbors who were concerned about the development.
22 I think some of them actually back up to this
23 property. That's my vague recollection about it.

24 So I would rather know that they've had those
25 discussions and that there isn't an issue, than try

1 to move forward here. But you know, it does seem
2 relatively minor. Certainly it's less disruptive to
3 make it into a playing field. The issue is the
4 proximity of parking. I don't know.

5 CHAIRPERSON HOOD: Okay. Mr. Turnbull.

6 MR. TURNBULL: Thank you, Mr. Chair. Again,
7 I would agree. I think it's minor. I guess one of
8 my questions is that when it says indefinitely
9 postponed. I would rather see some type of a time
10 limit, I think, on it. Just so it's not totally
11 indefinite. That it's going to be a parking lot or
12 whatever. But that's just my thoughts that I hate
13 seeing anything so open-ended like this.

14 CHAIRPERSON HOOD: Okay. Anybody else?
15 Commissioner? Vice Chair Cohen.

16 MS. COHEN: Thank you, Mr. Chairman. I am
17 under the impression that this is -- and I thought it
18 was, you know, the passive use of the site now is
19 just a green field. And I don't know why anybody
20 would object to it. Again, having a surface parking
21 lot is -- the main issue is stated by Commissioner
22 May. But it's existing. So --

23 MR. MAY: Well, it's not existing right now.

24 MS. COHEN: -- it's just permission to retain
25 an existing parking lot.

1 MR. MAY: Oh, with the existing, parking lot
2 existing.

3 MS. COHEN: Yeah.

4 MR. MAY: Yeah, the green space is not.

5 MS. COHEN: No.

6 MR. MAY: Yeah.

7 MS. COHEN: The green space is what's going
8 to substitute for the construction of the addition to
9 the gym and the play area, which would have had
10 produced noise and probably had some effect on the
11 neighbors. So I would either move ahead on this or
12 ask them to revise the whole PUD and remove what they
13 can't construct indefinitely, instead of having it
14 outstanding.

15 But I'm actually more inclined to just
16 approve this as a minor modification.

17 CHAIRPERSON HOOD: The only thing that I
18 would be hesitant -- after hearing that discussion,
19 not that I've gotten confused with whatever we're
20 trying to do here, I thought it was pretty straight
21 forward at first. If we're asking some of these
22 questions up here now, my only thing is -- and I'm
23 not sure, I didn't see where they met with the ANC.
24 Did they meet with the --

25 MR. MAY: OP says that they did not meet with

1 the ANC and I didn't see any indication in the letter
2 that they had. They met with the Community Relations
3 Council.

4 CHAIRPERSON HOOD: Okay. I would maybe reach
5 out to the ANC. Not to rehash the whole case because
6 I still think it's really simple. I really think
7 this is straight forward. I don't think it's a major
8 issue. Maybe we can reach out to the ANC and then
9 that would be all I would do. I would not want to
10 rehash everything because as was mentioned when we
11 went through this process there were some objections.
12 And, but to me this seems like it's lessening the
13 load. What we approved, anyway.

14 So, you know, unless we want to -- I don't
15 know. You know, at this point after hearing that
16 discussion, if we are all in different areas I want
17 to make sure that we proceed -- I would like to
18 proceed with caution, even if it's just reaching out
19 to the ANC. Not rehashing or having a whole other
20 case. But just get a response from them and then we
21 can move forward. I don't think this should be long.
22 We should be able to deal with this at our next
23 meeting.

24 MR. MAY: Well, and I think we may not even
25 get a response from the ANC, but I think knowing that

1 the outreach has occurred would be helpful.

2 CHAIRPERSON HOOD: Okay. So if we outreach
3 and we don't get a response then we can deal with it
4 at our next meeting.

5 MR. MAY: I would think so. I mean, unless
6 the applicant is here or their representative is here
7 and can tell us that the outreach has occurred to the
8 ANC.

9 CHAIRPERSON HOOD: Mr. Feola, is this your
10 case? Do you want to come forward and tell us that
11 you've already talked to the ANC, put that on the
12 record? So when they call, they won't call us,
13 they'll call you.

14 MR. FEOLA: Thank you, Mr. Chairman. For the
15 record, Phil Feola, Goulston and Storrs on behalf of
16 the applicant.

17 The applicant has not met with the ANC and
18 met with the Community Liaison Committee, but just so
19 Mr. May knows, the persons in opposition who were at
20 the original hearing are part of that liaison
21 committee. So the people that live immediately
22 adjacent are part of it. In fact, they recommended a
23 fence be put around the play area which is the cut
24 sheet that we showed in our exhibit.

25 But no, we haven't met with the ANC.

1 CHAIRPERSON HOOD: The party that was in
2 opposition in this case, you met with them and --

3 MR. FEOLA: Persons in -- the persons in
4 opposition.

5 CHAIRPERSON HOOD: Persons in opposition.
6 Okay.

7 MR. FEOLA: They were in that community.
8 They are on the Community Liaison Committee.

9 CHAIRPERSON HOOD: Okay.

10 MR. FEOLA: And they were there.

11 CHAIRPERSON HOOD: Okay. Due to the response
12 from Mr. Feola I think that -- especially most
13 affected because a lot of times the ANC is not right
14 up on it. They're most effected. I don't have a
15 problem disposing of this today with the testimony
16 he's giving us. Any objections?

17 Okay. Somebody -- what do we need, a motion?

18 MS. COHEN: Mr. Chairman, I move to approve
19 as a minor modification zoning request to Zoning Case
20 97-16, Lowell School PUD, and ask for a second.

21 MR. MILLER: Second.

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

24 And for all those people I like to always
25 mention this, for all those people that say we follow

1 everything the Office of Planning tells us to do,
2 this is one that we didn't. So put that on the list
3 for those people who go down and talk about us all
4 the time and just say we rubberstamp everything, put
5 that on the list.

6 Any further discussion?

7 [Vote taken.]

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

10 MS. SCHELLIN: Yes, sir. Staff records the
11 vote five to zero to zero to approve final action in
12 Zoning Commission Case No. 97-16C, Commissioner Cohen
13 moving, Commissioner Miller seconding, Commissioners
14 Hood, May, and Turnbull in support.

15 CHAIRPERSON HOOD: Okay. Thank you. Next
16 let's go to Zoning Commission Case No. 06-04E,
17 Florida and Q Street, LLC., request for a minor
18 modification to a PUD at Square 3100. Ms. Schellin.

19 MS. SCHELLIN: Yes, sir. On this one the
20 applicant is requesting to modify the penthouse and
21 to add habitable space -- to add habitable space and
22 to increase the height of the parapet by eight inches
23 to accommodate the green roof areas and roof terrace
24 paving, while still meeting the three-foot, six-inch
25 building code requirement.

1 At Exhibits 4 and 4A we have the OP reports
2 on support, and Exhibit 5 we have a report from ANC
3 5A in support. Would ask the Commission to consider
4 final action and they have also requested a time
5 extension which will come up under final action this
6 evening.

7 CHAIRPERSON HOOD: Okay. Do we need to do
8 the time extension first? I get confused sometimes
9 on that. Do we need to do the time extension first?

10 MS. SCHELLIN: I think you could actually do
11 them together if you wanted to.

12 CHAIRPERSON HOOD: Because we have to do the
13 time -- well, it hasn't expired, though.

14 MS. SCHELLIN: It has.

15 CHAIRPERSON HOOD: So we need to do a time
16 extension first.

17 MR. MAY: They applied for the extension
18 before.

19 MS. SCHELLIN: Well, the -- yeah.

20 MR. MAY: So it's old.

21 MS. SCHELLIN: They're applying for the
22 construction, extension of the construction.

23 CHAIRPERSON HOOD: So it doesn't really
24 matter which order we do this in.

25 MS. SCHELLIN: Yeah.

1 CHAIRPERSON HOOD: Okay. Let's do the order
2 as listed. Let me open it up for any discussion
3 about the habitable space. Commissioner May?

4 MR. MAY: Yeah, if I could. So, you know, I
5 think in principle it's all fine. I think that there
6 is a -- you know, it looks like they've attempted to
7 meet all the setback requirements. However, I'm not
8 completely in agreement that they have met the
9 setback requirements. So if you don't mind I would
10 like to actually ask the Office of Planning about
11 this question. So, I don't know whose case this is
12 in the Office of Planning. 06-04, 1600 North Cap.

13 So the question is that the -- if we look at
14 -- I'm looking at A3.7A, and the setback on the left
15 side, sort of the left side of the wing here, they
16 seem to be setting back kind of rigidly following the
17 outline of the building. But the building steps in,
18 and where it steps in there are still areas that are,
19 you know, there's an area that is less than the
20 height of the -- the setback is not according to the
21 height of the building.

22 MS. THOMAS: Okay. Good afternoon, Mr.
23 Chair, sorry.

24 MR. MAY: Sorry. I'm just going to say, my
25 question is whether -- I mean, when you measure

1 setback isn't it -- don't you follow the perimeter
2 and draw the line of the setback all the way around
3 it and so it follows that?

4 MR. LAWSON: Yes, I would note that the
5 setback is to all points. That's correct.

6 MR. MAY: All points, right.

7 MR. LAWSON: So if this roof structure
8 appears to be nonconforming in some respects, Office
9 of Planning in all likelihood would not support that
10 setback relief and the plans would have to be
11 adjusted and make it conforming.

12 MR. MAY: Right. So, you know, I think
13 there's also a minor concern having to do with the
14 setback where the closed court meets the rear yard.
15 I don't know if that's the same condition or not.
16 But you know, for a case like this, considering
17 there's a minor modification we can't grant relief to
18 anything, in my view and so I think that they, you
19 know, they may need to submit -- I don't think we can
20 approve this based on these plans, but I would like
21 to be able to move forward tonight and approve it on
22 the assumption that they're not going to be getting
23 any relief and that those setbacks be corrected. Is
24 there a way to do that, or are we just going to have
25 to wait for new plans?

1 MR. TURNBULL: I think you have to wait for
2 new plans. I don't think we could --

3 MR. MAY: Mr. Riddick, do you -- I mean,
4 you --

5 [Discussion off the record.]

6 MR. MAY: Okay. Yeah, so, Mr. Riddick, I
7 think, agrees that we need to see new plans. I'm
8 sorry about that, but kind of the way it is.

9 I would also, you know, if you look at the
10 intersection as well, and I would rely on the Office
11 of Planning to figure this out, but the intersection
12 of the closed court and the rear yard, there's an
13 eight-foot wall that seems to be right there and it's
14 only about two feet away from the rear yard, so I
15 don't think that meets the setback requirement
16 either.

17 You know, I understand that they --
18 understand why it's done that way but we need to make
19 sure that it absolutely meets all of the setback
20 requirements. Okay.

21 CHAIRPERSON HOOD: Okay. I think
22 Commissioner May has brought up two issues why we
23 should not deal with this this evening. Any other
24 issues on that, because what I'd like for us to start
25 doing is once we get to this point if we deal with

1 the two issues and then we show back up the next week
2 or the week after and deal with this, we deal with
3 just those two issues and not add anything on like
4 we're starting to do; like we've done in the past.
5 So we will just deal with those two issues. We will
6 ask them to correct the drawings so they meet all the
7 necessary setbacks, and we should be able to deal
8 with this -- I don't want to put everything on the
9 25th. Do we have something, do we have something
10 coming up soon? We could just through this one and
11 the Lowell School?

12 MS. SCHELLIN: There is a -- unless you want
13 to --

14 CHAIRPERSON HOOD: Oh, we decided Lowell.
15 Okay. I'm sorry.

16 MS. SCHELLIN: Do you want to put it on for
17 the 25th or not? I mean, where is the --

18 CHAIRPERSON HOOD: Can we do it before the
19 25th, because the 25th is going to get longer. It's
20 getting longer and longer.

21 MR. MAY: It's a one-issue thing. I don't
22 see a big problem with it being on the 25th, although
23 there's probably one more issue thing that's going to
24 be added.

25 CHAIRPERSON HOOD: I thought Lowell School

1 was just a --

2 MS. SCHELLIN: I think because you're not
3 going to be here you don't care if we're here until
4 11:00 at night.

5 MR. MAY: I'm going to be --

6 MS. SCHELLIN: I think that's why.

7 MR. MAY: I'll be watching. How about that?

8 CHAIRPERSON HOOD: Yeah, right.

9 MS. SCHELLIN: That doesn't count.

10 CHAIRPERSON HOOD: You can cut us off any
11 time.

12 MS. SCHELLIN: If the Commission wants, I
13 mean --

14 CHAIRPERSON HOOD: This is a five-minute
15 meeting.

16 MS. SCHELLIN: We have a special public
17 meeting scheduled for the 20th, to take up the
18 Inclusionary Zoning case. If the applicant can get
19 their stuff in quickly, if you're saying this is a
20 one-item thing, we could take this up first.

21 CHAIRPERSON HOOD: Okay. Are all of us
22 here --

23 MR. MAY: Makes sense to me.

24 CHAIRPERSON HOOD: -- on the 20th?

25 MS. SCHELLIN: Yes.

1 CHAIRPERSON HOOD: Who is the applicant?

2 MS. SCHELLIN: The applicant is indicating,
3 yes, they can do that.

4 CHAIRPERSON HOOD: They can do it? Okay. So
5 we'll just do that about 10 minutes before our
6 regulation meeting.

7 MS. SCHELLIN: It's a special public meeting
8 already.

9 CHAIRPERSON HOOD: Oh, it's already a special
10 meeting. Okay.

11 MS. SCHELLIN: So it's 6:30.

12 CHAIRPERSON HOOD: We'll do it at 6:30.

13 MS. SCHELLIN: So we'll do this one first.

14 CHAIRPERSON HOOD: We'll do this one first,
15 right. Okay.

16 MS. SCHELLIN: Okay.

17 CHAIRPERSON HOOD: All right. Anything else?

18 MS. SCHELLIN: That's 6:30 on the 20th of
19 July.

20 CHAIRPERSON HOOD: Okay. All right. Yeah,
21 we want to not put everything on for the 25th because
22 everything runs together at times.

23 All right. Let's move on to Zoning
24 Commission No. 14-11C, Office of Planning, request
25 for technical corrections to Zoning Commission Order

1 No. 14-11(1). And I think, Ms. Schellin, you can tee
2 this up.

3 MS. SCHELLIN: Yes, I am.

4 CHAIRPERSON HOOD: Only action we have on
5 this, I think, is emergency action.

6 MS. SCHELLIN: Yes.

7 CHAIRPERSON HOOD: Okay.

8 MS. SCHELLIN: So as you said, it is a
9 technical correction. It's a technical correction to
10 Section 336.13 of Zoning Commission Order No. 14-
11 11(1), where the last word, section, was
12 inadvertently changed to, subsection, between the
13 proposed and final rulemaking.

14 I spoke with ODAI this afternoon and they
15 advised they will correct this as an errata change,
16 which since we've been out on the dais I've received
17 an e-mail with a draft of the errata for approval,
18 and so I'll take a look at that tomorrow and also
19 have OAG look at that.

20 And they're hoping to get it published this
21 Friday. However, in case they don't they've
22 suggested that the Commission go ahead and approve
23 emergency action this evening, and the emergency
24 action could be that the emergency action would last
25 until September 5th or until the errata is published.

1 CHAIRPERSON HOOD: Okay. Thank you, Ms.
2 Schellin.

3 I don't know how much more discussion we need
4 on this for the sake of making sure we have something
5 in place, I would move that we move on emergency
6 action, Zoning Commission Case No. 14-11C, and our
7 order number 14-11C(1). And we move that on
8 emergency with a change of section, subsection, and
9 making that correction, and ask for a second.

10 MS. COHEN: Second.

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

13 [Vote taken.]

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

16 MS. SCHELLIN: Yes, sir. Staff records the
17 vote five to zero to zero to approve emergency action
18 in Zoning Commission Case No. 14-11C, Commissioner
19 Hood moving, Commissioner Cohen seconding,
20 Commissioners Turnbull, Miller, and May in support.

21 CHAIRPERSON HOOD: Okay. Next, let's go to
22 final action. Yeah, final action. Zoning Commission
23 Case No. 06-04F, Florida and Q Street, LLC. two-year
24 PUD time extension at Square 3100. Ms. Schellin.

25 MS. SCHELLIN: Yes, sir. The applicant filed

1 for its building permit on June 10th, 2015, but
2 states that because of the lengthy permitting process
3 it was unable to begin construction by June 15th,
4 2016, therefore request for a two-year time extension
5 to begin construction no later than June 15th, 2018
6 is being requested this evening.

7 I believe OP has submitted a report
8 suggesting a one-year extension instead of two year.
9 Thank you.

10 CHAIRPERSON HOOD: Okay. Colleagues, let me
11 open it up for discussion. Again, we do have a
12 request for a two-year, but the Office of Planning is
13 recommending that we approve it for one year. Let me
14 -- any discussion on all that. And I think we all
15 have all the material facts in the submissions.

16 Well, let me -- I'm inclined to grant the
17 two-year and I'm sure that -- I'm really not sure
18 what Office of Planning wants one year because Office
19 of Planning is very amenable at times and I'm sure if
20 they come back after that one year and need another
21 one year -- and I know this is like maybe the third
22 or fourth time we have extended this, but I think
23 there are some other factors that went into play in
24 this case that would -- I think would warrant a two-
25 year.

1 Now if you come back again and we haven't
2 moved forward, or moved further than what we are,
3 then maybe I would kind of go along with the Office
4 of Planning at that time. But I'm not necessarily
5 sure I'm with them with the one-year. But let me
6 open it up and hear what others have to say on this.

7 MR. MILLER: Mr. Chairman, there have been
8 three PUD extensions. The first order, the original
9 order was effective over nine years ago. So I really
10 wouldn't have any objection to the two years or the
11 one-year extension. It looks like they're ready to
12 finally go with this and with the -- they want that
13 modified -- they won't put that habitable space on
14 the penthouse, which we're going to get the revised
15 plans, which will show the setback requirements next
16 week. So either way, I can go with it.

17 CHAIRPERSON HOOD: And to your point,
18 Commissioner Miller, when I first got on the
19 Commission we had PUDs around for 20 years. So, and
20 I call this the Herb Franklin Rule, because Herb
21 Franklin was the first person who I heard that would
22 say, wait a minute, we keep approving these and keep
23 approving these. So to have a nine or 10 year,
24 compared to 20-year, no.

25 So I guess it's a big difference for me for -

1 - 10-year difference actually. But let me open it
2 up. Commissioner May.

3 MR. MAY: Yeah, I think that they have great
4 incentive to get it done in one year, so I don't
5 think one year versus two years makes much of a
6 difference and the fact that they have this hanging
7 over their head isn't going to make a difference.
8 It's either going to make it, or it's not going to
9 make it in the next year. So, I'm okay with it
10 either way.

11 CHAIRPERSON HOOD: Okay. Commissioner
12 Turnbull.

13 MR. TURNBULL: I have no strong feelings
14 either way. I could go one or two. Should we roll
15 the dice?

16 MS. COHEN: I would recommend 15 months. No.
17 Basically I think in this volatile time of -- in our
18 country, I think it behooves them to move ahead
19 extraordinarily quickly because we don't know what's
20 going to happen in November. But in light of what's
21 going on I don't have a problem with two years
22 either.

23 CHAIRPERSON HOOD: Okay. So can we agree
24 with two years? Okay. All right. Okay. I would
25 move that we grant the request of Zoning Commission

1 Case No. 06-04F, Florida and Q Street, for two years
2 at Square 3100, and ask for a second.

3 MR. TURNBULL: Second.

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

6 [Vote taken.]

7 CHAIRPERSON HOOD: And again, I'm going to
8 note, and we're not just doing this, this does
9 happen. So when they go in front of the council and
10 say all we do is rubber stamp whatever the Office of
11 Planning says, this is two in one night. So we are
12 really on a roll. So I'll remember that the next
13 time I'm there for the oversight.

14 Ms. Schellin, would you record the vote?

15 MR. MILLER: Well, we gave them great weight.

16 CHAIRPERSON HOOD: Oh, yeah, we gave them --
17 definitely gave them great weight. Ms. Schellin,
18 would you --

19 MS. SCHELLIN: Yes, sir. Staff records the
20 vote five to zero to zero to approve final action in
21 Zoning Commission Case No. 06-04F for a two-year time
22 extension, Commissioner Hood moving, Commissioner
23 Turnbull seconding, Commissioners May, Cohen, and
24 Miller in support.

25 CHAIRPERSON HOOD: Okay. The next Zoning

1 Commission Case No. 11-03E. This is the Wharf
2 District Developer, LLC., Second Stage PUD at Square
3 473, Ms. Schellin.

4 MS. SCHELLIN: At Exhibits 36 through 38 we
5 have the applicant's post-hearing submissions.
6 Exhibit 39, we have the Capitol Yacht Club's response
7 to the applicant's post-hearing submissions, and we'd
8 ask the Commission to consider final action this
9 evening.

10 CHAIRPERSON HOOD: Okay. Colleagues, we do
11 have some submissions. Let me open it up. Any
12 questions or comments?

13 [Pause.]

14 CHAIRPERSON HOOD: Didn't we do a bench
15 decision on this case?

16 MS. SCHELLIN: For proposed, I believe, yes.

17 CHAIRPERSON HOOD: Okay. Yeah, so. Anybody
18 have any outstanding issues?

19 MR. TURNBULL: Well, no. I just -- we had I
20 think, when we left, I think there was a couple of
21 issues. One of them was ADA and they had -- there
22 was a -- only at Exhibit 36 they have got legal
23 counsel responding to Mr. Seaman telling you
24 basically -- basically talking about the dock as a
25 whole and that the -- I think some of our concerns --

1 I mean, I think all of our concerns are addressed in
2 this letter and that there was no additional ADA
3 requirements that had to be meted out in the design
4 of the dock.

5 The other thing I think they noted, they did
6 show on their design for the plan of the dock, I
7 think one of the questions that I brought up was
8 about the life rings, and they do show a plan and I
9 think they have a couple of ladders shown that if
10 something happened the life rings could be thrown out
11 and someone could go down to help rescue anybody that
12 had fallen over.

13 So, those were just two of the things that I
14 noted that were -- that we had talked about.

15 CHAIRPERSON HOOD: I would piggyback on what
16 you said, Mr. Turnbull, because I know the safety
17 plan and everything, some of the concerns that we
18 had.

19 MR. TURNBULL: Yeah.

20 CHAIRPERSON HOOD: I see that they were
21 addressed. So I don't have any others outstanding.
22 I thought I pulled it back that night, but I see that
23 it's been addressed, so I really appreciate that.

24 Anything else on this case? Okay. Not
25 hearing it I would move that we approve for final

1 action, Zoning Commission Case No. 11-03E, Wharf
2 District Developer, LLC., Second Stage PUD at Square
3 473, and ask for a second.

4 MR. MILLER: Second.

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

7 [Vote taken.]

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

10 MS. SCHELLIN: Staff records the vote five to
11 zero to zero to approve final action in Zoning
12 Commission Case No. 11-03E, Commissioner Hood moving,
13 Commissioner Miller Seconding, Commissioners May,
14 Cohen, and Turnbull in support.

15 CHAIRPERSON HOOD: Okay. Next, Zoning
16 Commission Case No. 15-34, Sherman Avenue, LLC.,
17 Consolidated PUD at Square 2873. Ms. Schellin.

18 MS. SCHELLIN: Yes, sir. I was approached by
19 the applicant's attorney a few minutes ago and they
20 have asked if we could remove this case from the
21 agenda this evening because they have not worked out
22 everything with DDOT. They would like to move this
23 to the last meeting this month, if that would be
24 possible. They had asked for the 20th but I don't
25 know if that's possible because that's -- that

1 meeting is going to probably take quite a while.

2 CHAIRPERSON HOOD: I certainly don't have any
3 objections, especially what we saw today. So whoever
4 the applicant's counsel is, is very smart and I
5 appreciate them saving us the hassle, because that's
6 what was getting ready to happen. I think, from my
7 standpoint. I don't know what -- my other colleagues
8 want to comment?

9 Okay. So we all agree, we're going to get
10 into a hassle here. Okay. And they were very smart
11 and tell them thank you. I'm not sure, I can't
12 remember who it was.

13 MS. SCHELLIN: Ms. Bloomfield. Well,
14 actually, she's standing in for Ms. Batties, I think.

15 CHAIRPERSON HOOD: Okay. Well, tell Ms.
16 Bloomfield and Ms. Batties and everybody else, thank
17 you.

18 MS. SCHELLIN: So we'll defer to that the
19 January -- I'm sorry, July 25th.

20 CHAIRPERSON HOOD: Okay. Mr. Turnbull, you
21 wanted to --

22 MR. TURNBULL: Yeah. I just have one thing,
23 that if they're going to go back they did submit a
24 revised layout for the affordable housing, and they
25 did make a couple of changes. But the thing

1 that's -- and my concern at the hearing was, as I
2 noted, that there was a lot of affordable housing
3 over the loading dock area. And they did make some
4 changes but what I'm concerned about is the worst
5 floor that gets affected is the one directly over the
6 loading dock, which was the second floor directly
7 above it. And it was four units.

8 And they've taken away one, but three
9 affordable housing units are directly above the
10 loading dock. I would like to see them take another
11 one away and move it, just so that there's an equal
12 share between market housing and affordable housing,
13 directly over the loading dock on the second floor.
14 I think that's only fair. I think that's equitable.
15 I think that, to me -- as I said at the hearing, it
16 just was a thorn in my side to see all of the
17 affordable housing grouped in the stack the way it
18 was.

19 They have made an effort to shift and move
20 some of that, but the second floor, I think, still
21 needs another unit removed directly over the loading
22 dock. That's just my issue with it.

23 I'm not sure what the rest of the Commission
24 feels, but I just think that if there's four units
25 directly over the loading dock and they've only taken

1 away one, why can't they take away another and just
2 have it two and two. Fair market and affordable. To
3 me that seems like a reasonable request.

4 CHAIRPERSON HOOD: I think that's a very
5 reasonable request. They can look at that while
6 they're looking at everything else; while they deal
7 with the outstanding issues.

8 Anything else? Commissioner May.

9 MR. MAY: So I'm sorry, I just need a minute
10 or two to pull up my notes.

11 CHAIRPERSON HOOD: Okay. Take your time.

12 MR. MAY: And my computer is fussing.

13 [Pause.]

14 MR. MAY: Okay. So, yeah, I think that the
15 only real outstanding issue was the loading issue.
16 And I think that, you know, they did address all of
17 the various issues that were brought up.

18 I think the one thing that I wanted to
19 clarify was that the residents of the building are
20 eligible for RPP but I understand that they're going
21 to put in a lease restriction so that that is not an
22 issue. But I haven't gone back and checked their
23 submission to confirm that. I think that was the
24 only concern that I had.

25 CHAIRPERSON HOOD: Okay. Anything else on

1 this. And this is going to be postponed until when?

2 MS. SCHELLIN: July 25th.

3 CHAIRPERSON HOOD: That's our last meeting,
4 right?

5 MS. SCHELLIN: It is.

6 CHAIRPERSON HOOD: That meeting is getting --
7 how many -- that meeting is getting full. Everything
8 is happening on the 25th.

9 MS. SCHELLIN: It is. Very full.

10 CHAIRPERSON HOOD: Okay. But these are a
11 single -- a lot of them are two or three issues for
12 the most -- I hope.

13 MR. MAY: Okay. So can I go back to my
14 issue?

15 CHAIRPERSON HOOD: Sure.

16 MR. MAY: So I'm not seeing it in the
17 submission that they are going to do a lease
18 restriction. Maybe I'm missing it in the letter, but
19 if it's not on the letter somewhere it needs to be
20 addressed.

21 Yeah, I'm only seeing it that they are
22 eligible for RPP.

23 CHAIRPERSON HOOD: So if they can note that,
24 what they've honored in -- at the hearing, we
25 could --

1 MR. MAY: Yeah, I mean, at the hearing they
2 testified they thought that it was not eligible and I
3 think that we just need to make sure that, you know,
4 with a building this large in an area like that where
5 there are real issues with parking, that we don't
6 have a spill-over parking issue.

7 So, yeah, I'm just not seeing any
8 application. Maybe -- or in the applicant's
9 submission. But if it is there somewhere that could
10 be clarified. Maybe the applicant just needs to
11 submit something on that.

12 CHAIRPERSON HOOD: Okay. I would agree. If
13 they can note it or point us to it and then we can go
14 from there. So that's one of the things we'll be
15 looking for. Anything else?

16 Okay. Thank you. Ms. Schellin, again, July
17 the 20th.

18 MS. SCHELLIN: Twenty-fifth.

19 CHAIRPERSON HOOD: Twenty-fifth. 6:30.
20 Okay. All right. Are we ready to move on?

21 MS. SCHELLIN: Yes.

22 CHAIRPERSON HOOD: Okay. Let's go to
23 proposed action in Zoning Commission Case No. 15-13,
24 Watkins Alley, LLC., consolidated PUD and related map
25 amendment at Square 1043, and this is our one issue

1 case.

2 MS. SCHELLIN: Yes, sir. They're actually
3 walking the bricks around, the actual bricks. But we
4 did get a submission, for the record, a copy of those
5 bricks.

6 CHAIRPERSON HOOD: Okay. I hope it's
7 finished.

8 MS. SCHELLIN: As asked for. And then --

9 CHAIRPERSON HOOD: They look finished.

10 MS. SCHELLIN: -- the actual bricks
11 themselves are behind you.

12 CHAIRPERSON HOOD: That looks finished.

13 MS. COHEN: That looks finished.

14 CHAIRPERSON HOOD: Doesn't look like the
15 alley. Commissioner May, is that finished?

16 MR. MAY: Yeah, that's the sort of brick I
17 was talking about.

18 CHAIRPERSON HOOD: Okay.

19 MR. MAY: So, I'm satisfied with any number
20 of them. I don't really feel very strongly about the
21 color, you know, which selection they choose. But
22 they are good finish bricks and I think that's what
23 appropriate on E Street. So.

24 CHAIRPERSON HOOD: I shouldn't say this, but
25 after all my years of serving with you this is one

1 time I really think you were dead-on. This is great.
2 So I really appreciate your expertise.

3 MR. MAY: One time. Thank you very much.

4 MS. COHEN: So before anybody changes their
5 mind I am going to move to approve for proposed
6 action in Zoning Case No. 15-13 Watkins Alley, LLC.,
7 consolidated PUD and related map amendment at Square
8 1043 and ask for a second.

9 MR. MILLER: Second.

10 CHAIRPERSON HOOD: Okay. It's been moved and
11 properly seconded. Commissioner May?

12 MR. MAY: Yeah, I just want to say, you know,
13 I mean, they resolved the one issue that for me was
14 just the one I couldn't get over. There are still
15 issues having to do with the overall design of this.
16 I don't think it's great. I think it's technically
17 sufficient. And I just want to say that on the
18 record, that this is not one where I'm voting for
19 enthusiastically, but I think it's technically
20 enough.

21 And, you know, we've seen examples of other
22 really great, you know, beautifully planned,
23 beautifully designed PUDs, and I just, I think that
24 this one kind of meets the bare minimum and hopefully
25 we don't see a whole lot of these.

1 CHAIRPERSON HOOD: Okay. So noted. Any
2 further discussion?

3 [Vote taken.]

4 CHAIRPERSON HOOD: Ms. Schellin, would you
5 record the vote?

6 MS. SCHELLIN: Staff records the vote five to
7 zero to zero to approve proposed action in Zoning
8 Commission Case No. 15-13, Commissioner Cohen moving,
9 Commissioner Miller seconding, Commissioners Hood,
10 May, and Turnbull in support. Would just remind the
11 Commission -- remind the applicant, rather, to
12 provide their submissions pursuant to 1503. -- yeah,
13 the PUD submissions you got.

14 CHAIRPERSON HOOD: Okay. Last final -- last
15 proposed action case is Zoning Commission Case No.
16 15-16. It's MRP Rhode Island Avenue, LLC. et al.,
17 first stage and consolidated PUD at Squares 3629.
18 Ms. Schellin.

19 MS. SCHELLIN: Yes. On this one we have the
20 applicant's post-hearing submissions at Exhibits 86
21 through 87D-18, Exhibit 88 is the Edgewood West's
22 response to the post-hearing submissions. And at
23 Exhibit 89 we have ANC 5E's report in support.

24 CHAIRPERSON HOOD: Okay. Colleagues, we have
25 a number of submissions. Who'd like to get us

1 started or open it up? Any comments or questions?

2 MR. TURNBULL: Well, Mr. Chair, let me just
3 before we start, I just want to announce that I did
4 spend five and a half hours or so watching the tape
5 of both hearings. And I was on the edge of my seat,
6 you guys did a remarkable job. And thank you for
7 allow me to participate.

8 CHAIRPERSON HOOD: Was your name mentioned at
9 the hearing?

10 MR. TURNBULL: I do recommend someone in the
11 center of the dais did mention something.

12 CHAIRPERSON HOOD: Problem is, I can't
13 remember what I said, but I'm sure it was all good.

14 MR. TURNBULL: It was good. It was good.
15 And I appreciate your thoughtfulness.

16 CHAIRPERSON HOOD: Okay. All right. Thank
17 you, Mr. Turnbull, for putting that on the record.
18 Commissioner Turnbull. I mean, Miller. I must be
19 getting tired.

20 MR. MILLER: Thank you, Mr. Chairman. I just
21 wanted to make a couple comments. Appreciate the
22 applicant modifying the LEED proffer from LEED Silver
23 to LEED Gold. And increasing in the, is it phase 1?
24 In the phase 1 plan, having deeper affordable -- more
25 deeper affordable housing than previously had been

1 proffered. And I think we need, if we move forward
2 on proposed tonight, before final we would need a
3 clear delineation by the applicant comparing the
4 affordable housing that's now being provided by the
5 project and what Inclusionary Zoning would require,
6 and we need -- we typically get provided a chart that
7 shows the number of units or square footage and the
8 AMI levels and the term of the housing.

9 So if we can get that kind of comparison
10 information and IZ chart, I think that would be
11 helpful. And I appreciate the applicant having met
12 with the ANC and Edgewood West neighbors and being
13 responsive to a number of their concerns, and our
14 concerns.

15 CHAIRPERSON HOOD: Okay. Yeah.

16 MR. TURNBULL: Mr. Chair, I would echo
17 Commissioner Miller's comment about the IZ, and I
18 seem to remember watching during the hearing, they
19 had something on the screen that showed the locations
20 of some units. But in the submittal tonight there's
21 no floorplans that actually show where they would be
22 in the different units and what floors. So I think
23 we would like to see that and hopefully they heard
24 our comments on the previous case about not grouping
25 them together and making them throughout the

1 different floorplans in different areas.

2 CHAIRPERSON HOOD: Okay. I'm sure they're in
3 attendance and taking notes. Anybody else? Mr. May?

4 MR. MAY: Yeah. So, I do appreciate some of
5 the progress that has been made. One of the things
6 that they did do was a step-down of the massing the
7 building along 4th Street, which you know, is not
8 very well shown in the drawings that were submitted.
9 Not to mention the fact that it's -- the reference to
10 them in the submission is that it's somewhere in
11 Exhibit D, and Exhibit D is you know, 50 pages long.
12 So it would be helpful if we reported it to them more
13 directly if they want to make a case that they're
14 doing what we've asked them to do.

15 Anyway, I think that's a gesture and I don't
16 think it will be sufficient based on what I see. The
17 building still appears to be quite massive along 4th
18 Street and I don't think it's as good as it will need
19 to be, but I'm also thinking that that's something
20 that we will be able to get better results on when
21 they actually design the building when they get to
22 stage 2. So I'm okay with proceeding. I'm not even
23 asking for further modification of this massing model
24 at this point. Just, I think they need to know that
25 it needs to get better than it is.

1 And I think that they address some of the
2 issues having to do with, you know, the concern about
3 its potential to become a kiss and ride, and also by
4 pushing a little bit more of the green space and open
5 space toward the west of the project. And so I think
6 they made some moves in that direction. Again, you
7 know, some of these things will get further
8 refinement at stage 2.

9 CHAIRPERSON HOOD: Okay. I would agree. Mr.
10 Turnbull?

11 MR. TURNBULL: I would just want to add that
12 going through my notes after watching today, I have
13 several notes with the same, that Commissioner May
14 had noted that in the highway, also the ANC had noted
15 about the step backs. I know the EOC Commission was
16 talking about setbacks, step downs, and I also had
17 the party in opposition also talked about step backs.

18 So, I would think we really should see
19 something regarding those step-backs on 4th because
20 we recently had another large PUD where an element
21 showed up that was questionable whether it showed up
22 on one plan or two plans, and the applicant said, oh
23 well, it's ghosted in on a -- so, I don't want to get
24 down the road into Phase 2, Stage 2, and suddenly
25 find that oh well, it doesn't show up on any of the

1 plans.

2 So I'm just concerned that if we really are
3 shooting for a setback on 4th Street that we should
4 really see something that may not be exactly what it
5 has to be. I mean, this is only Stage 1 for that.
6 But I think if you want a setback we need to really
7 see something that later on, when we get to Stage 2,
8 it is defined and not just sort of called out,
9 because I think a lot of that stuff will get lost as
10 we go ahead in the future.

11 MR. MAY: I'm fine with that.

12 CHAIRPERSON HOOD: Okay.

13 MR. MAY: We can see that at final.

14 MR. TURNBULL: Right.

15 CHAIRPERSON HOOD: I, and I think
16 Commissioner Miller alluded to it, and I may have
17 missed it. I think that they still have -- Edgewood
18 West still had an outstanding issue about dealing
19 with the trail. I thought we had kind of come to --

20 MR. MAY: So I think the outstanding issue
21 has to do with access to the trail across the
22 property, and --

23 CHAIRPERSON HOOD: But I thought we dealt
24 with that at the hearing. I was trying to recall.

25 MR. MAY: Well, I think we --

1 CHAIRPERSON HOOD: I didn't go back and look
2 at it.

3 MR. MAY: I think we pushed for them to look
4 hard at how they manage their construction so that
5 they could keep that access open. And they've met
6 with Edgewood and the neighbors and I think they're
7 promising to do better, but I didn't see that they
8 were agreeing to guarantee that connection.

9 I mean, I can understand why it's hard to
10 guarantee it.

11 CHAIRPERSON HOOD: Right. I understand the
12 guarantee. But I want to see if we can continue to
13 work on that and try to resolve that, and get a
14 little closer together, not that we're going to get
15 the all in all. But if we move forward with this
16 tonight, which it sounds like we are, I still would
17 like for the applicant to still try to have those
18 conversations with them and let's see what we can do
19 to narrow that gap. Commissioner Miller?

20 MR. MILLER: Well, just following up on that
21 point, Mr. Chairman, they developed a construction
22 management agreement which they did provide. It
23 outlines the meetings that have to occur on a regular
24 basis to update the community on -- you know, they
25 say they will make that connection as soon as

1 feasible.

2 CHAIRPERSON HOOD: Right.

3 MR. MILLER: And I think the community was
4 very adamant in pushing for the language to get as
5 strong as it could, and they'll have those regular
6 meetings. But I agree with you, I think that is the
7 commitment that's in the agreement.

8 CHAIRPERSON HOOD: Yeah, I think it's there.
9 I just -- the second paragraph, and the support
10 letter the way I read it, it still gives me pause
11 when they say they still have some reservations,
12 which lets me know that there's still some open-ended
13 questions, and all I'm asking for is as we move to
14 final we try to close some of the gap. Let's get a
15 little closer and see what we can do. If we are
16 where we are, then silence is -- I will understand it
17 and we'll deal with the quantity. But if we can move
18 a little further to try to maybe address some of
19 those issues that I see here in this -- a letter of
20 conditional support that I read. So, I was just
21 trying to close the gap on some of that.

22 Okay. Anything else? And that's not a
23 showstopper for me to do proposed, but I will be
24 looking at it for final to see where we are.

25 MR. MAY: Mr. Chairman, there was one other

1 thing and I --

2 CHAIRPERSON HOOD: Yes. Commissioner May.

3 MR. MAY: I thought I would bring the
4 attention of the Commission to the signage proposal,
5 which is on 1.241(A) and --

6 CHAIRPERSON HOOD: Do we know which exhibit
7 that is?

8 MR. MAY: 1.241(A).

9 CHAIRPERSON HOOD: That's all right. I'll
10 just open --

11 MR. MAY: It's the big drawings that --

12 CHAIRPERSON HOOD: I'll open the hard copy.

13 MR. MAY: You know, they break up the
14 submission into so many pieces.

15 In particular I'm concerned about 1.241(A).
16 Anyway, the concern that I had is that there's a --
17 they've marked out sort of typical locations for
18 signage above the storefronts, you know, and maybe
19 some sort of double-height space. But then there's a
20 long, or rather a tall signage location that's --
21 that runs up the corner of the building. That's
22 shown in 1.241(A).

23 And I don't necessarily object to that kind
24 of signage, and it does look relatively slim, but I
25 just wanted to call it to the attention of the

1 Commission because it is something that -- that's the
2 sort of thing that we have had concerns about in the
3 past, and I think that simply indicating it as an
4 area of signage may not be enough. I don't recall
5 whether we had any specific verbal description of
6 what that signage might actually consist of, but I
7 think maybe, you know, since we're just at proposed
8 it might be helpful to understand better what that's
9 intended to be, and you know, is it going to be
10 lighted and flashing and, you know, Time Squarish? I
11 don't know. I know it's not going to be that
12 exciting but --

13 CHAIRPERSON HOOD: I would agree. We need to
14 kind of nail that down a little more as Commissioner
15 May mentioned because as we know, we've had some
16 problems with this in the past and we want to make
17 sure that kind of nail that down so we can move
18 forward with this.

19 So if the applicant can kind of --
20 Commissioner May, I think you just asked for them to
21 kind of give us a little more than what we have from
22 them, right?

23 MR. MAY: Yeah, just some greater
24 clarification of what's involved and is it, you know,
25 is it going to be lit or is it going to be backlit.

1 You know, I think that we want to -- we don't mind
2 visibility but I think we're not looking for, you
3 know, something huge and garish either. So something
4 that gives us some confidence that it's going to be
5 appropriate for the design of the building and in the
6 neighborhood, and all that.

7 MR. TURNBULL: Well, it's 50 feet tall at
8 least.

9 MR. MAY: Yes.

10 MR. TURNBULL: It's like over five stories
11 tall.

12 MR. MAY: Yeah. Yeah. I mean, you know, we
13 certainly have had buildings with signage on it like
14 that before that can --

15 MR. TURNBULL: Yeah.

16 MR. MAY: -- be very well done. I just don't
17 want it to be --

18 MR. TURNBULL: Right.

19 MR. MAY: You know. We just want to have
20 some --

21 MR. TURNBULL: Garish.

22 MR. MAY: -- understanding of it. Yeah, not
23 garish. And I think a letter that says that it won't
24 be garish, I don't think is quite enough. I think we
25 need them to describe kind of what it would be.

1 CHAIRPERSON HOOD: Any other questions or
2 comments?

3 Okay. So with the comments that I've heard
4 noted, I would move that we approve for proposed
5 action Zoning Commission Case No. 15-16, MRP Rhode
6 Island Avenue Investors, LLC., et al., first stage
7 and consolidated PUD at Square 3629 with the caveat
8 that the things that we asked for tonight will be
9 presented to us successfully for our consideration
10 under final and ask for a second.

11 MR. TURNBULL: Second.

12 CHAIRPERSON HOOD: Okay. 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 approve proposed action
19 in Zoning Commission Case No. 15-16, Commissioner
20 Hood moving, Commissioner Turnbull seconding,
21 Commissioners Cohen, Miller, and May in support.
22 We'd ask the applicant to make submittals pursuant to
23 2403.15 through 20. Thank you.

24 CHAIRPERSON HOOD: Okay. Ms. Schellin, what
25 I'm going to do, I'm going to move correspondence to

1 next, colleagues, and we're going to do that and I'm
2 going to step away and I'm going to turn it over to
3 the Vice Chair.

4 MS. SCHELLIN: Okay.

5 CHAIRPERSON HOOD: I did not participate in
6 this -- well, for this sake I did not participate.

7 MS. SCHELLIN: Okay. Do you want me to --
8 okay.

9 Yes, Zoning Commission Case No. 13-14B, Jair
10 Lynch Development Partners. We had a request from
11 ANC 5E for a rehearing and we have the applicant's
12 response there too. Exhibit 58 is the request from
13 ANC 5E for a rehearing relating to the proposed,
14 separated, segregated residential configuration of
15 the Parcel 4 building. And as stated, the
16 applicant's response to that request is found at
17 Exhibit 59. Would ask the Commission to consider
18 this request for rehearing this evening.

19 MS. COHEN: Ms. Schellin, counsel directed us
20 to 11-DCMR, Section 3029.6, which reads as follows,
21 "A motion for reconsideration, rehearing, or
22 reargument shall state specifically the respects in
23 which the final order is claimed to be erroneous, the
24 grounds of the motion and the relief sought. No
25 request for rehearing shall be considered by the

1 Commission unless," and I'll emphasize this, "new
2 evidence is submitted that could not reasonably have
3 been presented at the original hearing."

4 Therefore, I am inclined, and I would like my
5 colleagues to weigh in on this, but I'm inclined to
6 go along with the applicant's response and to deny a
7 rehearing.

8 One of the things that I do want to mention
9 is that I think Ms. Holiday talked about the senior
10 affordable housing units within building 4, and that,
11 you know, it goes against Department of Housing Urban
12 Development's requirements. That is not something
13 that we entertain here. This is not our expertise.
14 We have no idea what, you know, if there is a problem
15 with HUD, she can pursue it with them.

16 So I'm going to need to ask my colleagues if
17 they have any comments. Mr. May?

18 MR. MAY: I would agree with your analysis.

19 MS. COHEN: Thank you. Mr. Turnbull?

20 MR. TURNBULL: I concur also.

21 MS. COHEN: Mr. Miller?

22 MR. MILLER: I concur also with your analysis
23 and would vote to deny the request for a hearing.

24 MS. COHEN: Okay. Does anybody want to make
25 a motion or shall I move to deny ANC 5E's request for

1 a rehearing on Zoning Case No. 13-14B, Jair Lynch
2 Development Partners, and ask for a second.

3 MR. MILLER: Second.

4 MS. COHEN: Having moved and properly
5 seconded this motion, all in favor?

6 [Vote taken.]

7 MS. COHEN: Ms. Schellin.

8 MS. SCHELLIN: Yes. Staff records the vote
9 four to zero to one to deny ANC 5E's request for
10 rehearing, Commissioner Cohen moving, Commissioner
11 Miller seconding, Commissioners Turnbull and May in
12 support, Commissioner Hood not voting having not
13 heard the case.

14 CHAIRPERSON HOOD: Okay. Thank you, Vice
15 Chair Cohen and others. Let's move right along.
16 Next we can go to hearing action.

17 Zoning Commission Case No. 16-04, the barred
18 and joint development between Erkley (phonetic)
19 Development Company, I messed that up, and the
20 Shakespeare Theater Company, LLC., consolidated PUD
21 and related -- did this drop off?

22 MS. SCHELLIN: Yes. I'm sorry, that dropped
23 off.

24 CHAIRPERSON HOOD: Oh, you know what?

25 MS. SCHELLIN: You're looking at the old

1 agenda. Yes.

2 CHAIRPERSON HOOD: I'm looking at a old --
3 that's what happens when you leave the room.

4 MS. SCHELLIN: The hard copy, yes.

5 CHAIRPERSON HOOD: Okay. That dropped off.
6 Let me get focused here. Okay.

7 We only have one on hearing action.

8 MS. SCHELLIN: Yes.

9 CHAIRPERSON HOOD: Vice Chair, you're
10 supposed to help me out with that.

11 MS. COHEN: I'm sorry, my computer is acting
12 up.

13 CHAIRPERSON HOOD: You have your own set of
14 problems. Okay.

15 Hearing action zoning -- we have one item.
16 Hearing action in Zoning Commission Case -- and thank
17 you, Commissioner Miller -- Zoning Commission Case
18 No. 80-07A Jamal's Darth Vader, LLC., PUD
19 modification and related map amendment at Square 563.
20 Mr. Cochran.

21 MR. COCHRAN: Thank you, Mr. Chair. OP
22 recommends that the Commission set down the
23 application by Jamal's Darth Vader, LLC. for a major
24 modification to the PUD approved in Zoning Commission
25 Case 80-07, and for a related map amendment from HRC-

1 3C to C4.

2 The proposal would take the existing building
3 down to its structural frame, reshape portions of the
4 structure, add two floors and a habitable penthouse,
5 and reskin the building with a more contemporary
6 environmentally sustainable façade. It would remain
7 a mixed use office and retail building.

8 The exact square footages and dimensions for
9 the reposition to building are on page 2 of our
10 report. It would be 29 feet taller and 2.7 FAR more
11 dense than the existing building, but it would still
12 be not inconsistent with the Comprehensive Plan's
13 texts and maps, including the Future Land Use Map
14 which shows the site as appropriate for high density
15 use, and the Policy Map which shows the location as a
16 land use change area.

17 The proposed revisions appear to be compliant
18 with all zoning requirements, other than parking
19 which, because half of the parking would continue to
20 be in a public vault space as it is now, would be 64
21 zoning compliant spaces shy of what is required.

22 The updated project would bring with it
23 several public benefits, including LEED Gold,
24 sustainable landscaping of the public space, the
25 design of which would be coordinated with nearby

1 PUDs, additional and taller retail space, public art,
2 first source agreements, and other items to be
3 determined in consultation with ANC 6E.

4 OP considers the new architectural treatment
5 of this distinctive building also to be of benefit to
6 the District.

7 There are additional items that are needed to
8 be provided before the public hearing. These items
9 are listed on page 8 of OP's report and they include
10 documentation of how the applicant will fulfill the
11 housing linkage requirements for a PUD that gets
12 additional commercial space.

13 That concludes our report. Thank you.

14 CHAIRPERSON HOOD: Okay. Thank you, Mr.
15 Cochran. Commission, any questions of Office of
16 Planning, or comments?

17 No one. Okay. Vice Chair Cohen.

18 MS. COHEN: Thank you, Mr. Chairman. Really
19 pleased that the applicant is proffering LEED Gold.
20 I think that's very important for the city as well as
21 for their leasing program. And the only thing I'd
22 like to know is more about the public art that
23 they're proposing, how they're going to -- are they
24 going to select it or are they going to have a
25 competition?

1 And I must say this is -- I mean, they called
2 it Darth Vader. I have no idea why, but I think it
3 is a building that enhances the neighborhood rather
4 than the existing one which has detracted from that
5 neighborhood for many, many years. So I don't have
6 any other specific comments to make other than I
7 think it's a much better looking building.

8 CHAIRPERSON HOOD: Okay. Any other comments
9 up here? Commissioner Miller.

10 MR. MILLER: Thank you, Mr. Chairman, and
11 Madam Vice Chair. I think the reference to Darth
12 Vader is to the existing building; that the existing
13 building looks like with its black bands and rather
14 unattractive façade.

15 MS. COHEN: I think you've just insulted
16 Darth Vader.

17 MR. MILLER: Okay. So in addition to -- I
18 appreciate the Office of Planning's report and I am
19 very supportive of setdown and the redesign of this
20 building, and all the information that Office of
21 Planning has requested prior to us having a hearing.
22 I guess I want to just -- I also wanted more
23 information on the housing link, the compliance with
24 the housing linkage requirement, where those units
25 are, when were they built. There was a reference

1 that they've already been constructed. And you know,
2 how many unit -- they had the 47,000 square feet
3 of -- 175,000 square feet of low income housing that
4 they've already previously constructed through a
5 joint venture with Catholic Charities. So I just
6 wanted more information on the number of units and
7 where those are currently.

8 I also just would like a better understanding
9 of -- I realize that they're asking for a map
10 amendment to C-4 and that they built the existing
11 building, as I understand it, you know, about 30 --
12 over 30 years ago, prior to the hotel -- HR Overlay
13 taking affect. But I guess I would like to know what
14 the HR overlay would have required in terms of -- and
15 maybe it wouldn't have required anything. Maybe it
16 just was an incentive for housing or a hotel. But I
17 just wanted to understand, since we're doing a map
18 amendment to C-4, which probably is comparable to the
19 new D-4 that will go into effect in September, which
20 -- oh, it isn't a comparable.

21 Well, I guess I wanted more understanding of
22 what housing is required -- is required or supported
23 in D-4, what was required in HR/C-3-C, which is the
24 existing zoning, even though it wasn't built under HR
25 because they had already built -- gotten their permit

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1 before that took effect. Just to see the comparison
2 of housing that would have been incentivized or
3 required.

4 MR. COCHRAN: Housing is not required under
5 any of the zones, be that the C-3-C, the HR/C-3-C
6 that was put on the site after the PUD was approved,
7 or in D-4, which will take effect September 6th.

8 MR. MILLER: Okay. So I guess -- and if you
9 can -- if they can provide what was permitted, just
10 so I can just see what those FAR levels were and just
11 how that compares with what they're actually
12 providing under this linkage requirement. But and
13 then overall I think it's a great project which will
14 greatly improve and complement that area. Especially
15 the landscaped screens; screen walls are really
16 unique and attractive.

17 CHAIRPERSON HOOD: Commissioner May.

18 MR. MAY: I don't have a whole lot to say.
19 I'm looking forward to seeing this as it -- once it's
20 been a developed a little bit further, and trust that
21 Mr. Cochran will help the applicant produce the sort
22 of information we need to see and, in particular I'm
23 interested in the treatment of the façade, you know.
24 One of my fears always when you're dealing with
25 glass, largely glass buildings, particularly one like

1 this, in given its setting is that it's just another
2 big glass box. There's -- and we have so many of
3 them and you know, 30 years from now we may be
4 looking back on this, the same way they were looking
5 at the building that's there right now and saying,
6 you know, gee, what were they thinking back then when
7 they -- did somebody think this was a good looking
8 building and are we going to be thinking that about
9 all these glass boxes.

10 So I mean, a lot of it is going to hinge on
11 the special features like the green screen. But the
12 fitting treatment, you know, there was a lot of
13 description of that and understanding what that is
14 going to actually look like I think is going to be
15 very helpful. So I'm sure Mr. Cochran has it well in
16 hand.

17 CHAIRPERSON HOOD: Okay. Any other comments,
18 Mr. Turnbull?

19 MR. TURNBULL: I would agree with all of the
20 comments of my colleagues, and we're looking forward
21 to going forward with this.

22 I guess I would -- my concern was just, I
23 would like to see the green wall. I mean, the deck
24 can look extremely attractive or it could like a
25 bunch of vines that are dying out there and I'm just

1 so -- I just want to make sure that they've got that
2 well in hand, how it gets designed and the greening
3 of that, because it will be an attractive element of
4 the project. So just to make sure that that's --
5 that it's called out and that they can explain it
6 very well because to me that's either going to make
7 or break it. I mean, it's either going to look
8 extremely lush and nice up there, or going to look
9 scraggly and broken and just look like, God, you need
10 to fix this.

11 My only other thing is the retractable
12 trellis, that when it's in its open position that it
13 meets the setback requirements for anything on the
14 roof.

15 CHAIRPERSON HOOD: Okay. Anything else?

16 MR. TURNBULL: And I don't know how you do a
17 retractable trellis, but it looks like it's more of a
18 -- unless there's actually posts. Unless it's some
19 kind of a screening or just a fabric out there. But
20 they're calling it a retractable trellis, so I would
21 think that when it's in its open position it would
22 need to meet the setback requirements.

23 CHAIRPERSON HOOD: Okay. Anything else?
24 Somebody like to make a motion?

25 MR. TURNBULL: Mr. Chair, I would move that

1 we set down for a hearing Zoning Case 80-07A,
2 consolidated review and approval of a major
3 modification to an approved PUD and a new related map
4 amendment at 111 Massachusetts Avenue Northwest,
5 Square 15, Lot 563.

6 MR. MILLER: Second.

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

9 [Vote taken.]

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

12 MS. SCHELLIN: Yes. Staff records the vote
13 five to zero to zero to set down Zoning Commission
14 Case No. 80-07A as a contested case, Commissioner
15 Turnbull moving, Commissioner Miller seconding,
16 Commissioners Hood, Cohen, and May in support.

17 CHAIRPERSON HOOD: Okay. Ms. Schellin, do we
18 have anything else?

19 MS. SCHELLIN: No, sir.

20 CHAIRPERSON HOOD: All right. I want to
21 thank everyone for their participation in this
22 meeting. Those who participated this meeting is
23 adjourned.

24 [Meeting adjourned at 7:42 p.m.]

25