

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission

Regular Public Meeting
1441st Meeting Session [20th of 2016]

6:43 p.m. to 9:21 p.m.
Monday, July 25, 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 ROBERT MILLER, Commissioner

5 MICHAEL TURNBULL, Commissioner

6

7 Office of Zoning:

8 SHARON SCHELLIN, Secretary

9 MS. BARDIN

10

11 Office of Planning:

12 JOEL LAWSON

13 ELISA VITALE

14 STEPHEN MORDFIN

15 STEPHEN COCHRAN

16

17 DDOT:

18 ANNA CHAMBERLIN

19

20 Office of Attorney General:

21 JACOB RITTING, ESQ.

22 ALAN BERGSTEIN, ESQ.

23 ARIEL EBI, ESQ.

24

25

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

2 CHAIRPERSON HOOD: This meeting will please
3 come to order. Good evening, ladies and gentlemen,
4 this is the public meeting of the Zoning Commission
5 for the District of Columbia.

6 My name is Anthony Hood. Joining me are Vice
7 Chair Marcie Cohen, Commissioner Robert Miller, and
8 Commissioner Michael Turnbull. We're also joined by
9 the Office of Zoning staff, our Director, Ms. Bardin,
10 and also Ms. Sharon Schellin, Office of Zoning
11 Secretary to this Commission, as well as the Office
12 of Attorney General, Mr. Ritting, Mr. Bergstein, and
13 Mr. Ebi, as well as the Office of Planning, Mr.
14 Lawson, Mr. Mordfin, and Ms. Vitale, and the District
15 Department of Transportation, Ms. Chamberlin.

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

1 this time so not to disrupt these proceedings.

2 Does the staff have any preliminary matters?

3 MS. SCHELLIN: No, sir.

4 CHAIRMAN HOOD: I do have a preliminary
5 matter, Ms. Schellin.

6 MS. SCHELLIN: You do?

7 CHAIRMAN HOOD: Yeah.

8 MS. SCHELLIN: Okay.

9 CHAIRMAN HOOD: Zoning Commission Case No. M-
10 A-R-C-I-E, 007.

11 MS. SCHELLIN: Oh, okay. I don't know that
12 we can add any cases this evening. It's quite full.

13 CHAIRMAN HOOD: Well, considering that it is
14 Vice Chair Marcie Cohen's last day with us, I wanted
15 to take a few moments and I want to indulge everyone
16 who is here and those who are watching, we're going
17 to take about 10 minutes and we're going to say a few
18 things and we have a few presentations for her. She
19 didn't know this was going to be done. She didn't
20 think anybody could keep anything from her.

21 Did you know this was going to be done?

22 MS. COHEN: No.

23 CHAIRMAN HOOD: Okay. So this is the first
24 time I've surprised you in five years. So, anyway,
25 as --

1 MS. COHEN: You surprise me every night.

2 CHAIRMAN HOOD: As I've mentioned earlier,
3 when I did my homework on Marcie Cohen before, when
4 the Mayor nominated her to come on the Zoning
5 Commission, I said well let me look and see who is
6 this person that I'm going to be working alongside.
7 And my research told me that she raised the bar with
8 the Housing Authority. And when I look at what she
9 did there and I look at what she's done over her
10 career, she's very well respected with affordable
11 housing and housing components. Not just here,
12 locally, and not just in the United States, but
13 abroad.

14 And I really sincerely say that she will be
15 missed. She has definitely raised the bar here on
16 the Zoning Commission as she's done with the Housing
17 Authority and I'm sure other things. I just, my
18 research just took me back to the Housing Authority.

19 But she has been right there with me to help
20 me as I move along and try to do things up here.
21 Sometimes you get, when you're juggling different
22 things you get discombobulated and Vice Chair Cohen
23 has always been there to be helpful. We may not
24 always agree, but it's always been cordial and I
25 think the Zoning Commission and Office of Zoning in

1 the District of Columbia is better because you passed
2 this way.

3 So what I'd like to do, do we have any
4 presentations or anything, and I'll just turn that
5 over to our director, or Ms. Schellin. Whomever.

6 MS. BARDIN: The Office of Zoning and the
7 Commission wanted to present Commissioner Cohen with
8 this certificate in recognition of her five years of
9 outstanding dedicated service to the citizens of the
10 District of Columbia. And as well, a little memento
11 from the time you spent here.

12 [Applause.]

13 CHAIRMAN HOOD: Okay. Commissioner Turnbull,
14 did you have something?

15 MR. TURNBULL: Thank you, Mr. Chair. Since I
16 know people at the Architect of the Capitol, what
17 we've done for you, Marcie, is that on July 11th we
18 had a flag flown over the United States Capitol. And
19 it says, "This flag was flown for Marcie Cohen in
20 recognition of her five years of dedicated service as
21 member and Vice Chair of the Zoning Commission of the
22 District of Columbia. This flag was respectfully
23 requested by her fellow commissioners and the staff
24 of the Office of Zoning." So.

25 MS. COHEN: Oh, my gosh. I got a flag.

1 [Applause.]

2 MS. COHEN: Thank you.

3 CHAIRMAN HOOD: Let me turn it over to any of
4 my colleagues if they want to say something,
5 probably. Commissioner Miller.

6 MR. MILLER: Thank you, Mr. Chairman. I
7 don't have a flag or a plaque, but I would echo the
8 words that have been said by you, Mr. Chairman and by
9 Commissioner Turnbull and Director Bardin about the
10 Vice Chair's five years of service, four of which
11 I've been honored to serve with you and I've learned
12 a lot from you and I've admired your willingness to
13 speak your mind on almost any issue very
14 passionately, and certainly with a lot of expertise
15 and knowledge in the areas of affordable housing and
16 environmental sustainability. And I just want to
17 thank you for your public service and tell you how
18 much I've enjoyed working with you and getting to
19 know you, and no I'll be seeing you as I have seen
20 you, outside of this hearing room on non-zoning
21 matters.

22 MS. COHEN: May I?

23 CHAIRMAN HOOD: Can we do one thing and then
24 we'll hear from you? Anyone else?

25 Okay. So what I would like to do, and I

1 would ask those in the public, and I appreciate your
2 indulgence but her service to this Commission and to
3 this City, I think, deserves these few minutes that
4 we're using. But I would like for everyone, as I've
5 done before for other Commissioners in the past and
6 I'd like to do this, I would like for you to stand
7 with me and let's give Vice Chair Marcie Cohen a
8 round of applause and a standing ovation for her
9 service.

10 [Applause.]

11 CHAIRMAN HOOD: No, Vice Chair Cohen, I'm
12 getting ready to turn it over to you but as we get
13 ready to go through these cases tonight I want you to
14 remember this session and the round of applause. So
15 hopefully we don't change any of that.

16 No, just a joke. Okay. Let's it turn it
17 over to --

18 MS. COHEN: Are you suggesting that I have to
19 be nice this evening?

20 CHAIRMAN HOOD: Just be yourself.

21 MS. COHEN: Thank you. I will. It's been an
22 honor and I have to tell you I'm so proud of being
23 part of this Commission, sitting with these
24 gentlemen, and they are gentlemen. They're so
25 professional. They are so bright and dedicated. I

1 mean, what they have given to the City is totally
2 remarkable since we don't get paid for doing this.
3 It's just done out of, you know, love of a city.

4 I'm very moved by the standing ovation,
5 especially since it had a couple of developers and
6 attorneys also standing. I haven't exactly been the
7 sweetest. You know, sometimes my evil twin, Archie,
8 comes to these meetings. But I think you all know
9 that for me an inclusive city and a just city are the
10 most important things that we should strive for, and
11 to do that I think the basic human right for
12 individuals is to have a home, to have privacy, for
13 their children to be able to do their homework, for
14 people to have a much more healthy environment so
15 that they are not sick and have to run to emergency
16 rooms all the time. It's just so important for us to
17 have compassion that seems to be lacking in certain
18 parts of the world and certain people, and it pains
19 me. It actually pains me.

20 I hope I can raise this flag after November
21 and be very, very proud for what the people have done
22 for the Country because I am very proud of all of the
23 people who come out and are concerned about our city
24 and speak up for it, whether they're an ANC member or
25 a citizen that's affected by a project. I don't

1 always agree with people of course, but on the other
2 hand I respect everybody who comes out and tries to
3 make this a better city. So thank you all, and we
4 have a heavy workload, so, that's it.

5 CHAIRMAN HOOD: Okay.

6 [Applause.]

7 CHAIRMAN HOOD: Okay. Anything -- do we have
8 any more preliminary matters? Okay. All right. I
9 would like to move the consent calendar item that we
10 have in Zoning Commission Case No. 0523B down to with
11 the case, Zoning Commission Case No. 15-15 at the
12 appropriate time.

13 So first we will begin with final action.
14 And let me not forget, Vice Chair Cohen, I'm sure
15 that Commissioner May echoes everything that has been
16 said. Okay.

17 MS. COHEN: He better.

18 CHAIRMAN HOOD: I'm sure he's going to watch
19 that so he knows he better.

20 Okay. Let's get right in to it. And thank
21 everyone for their indulgence.

22 Final action in Zoning Commission Case No.
23 15-34, Sherman Avenue, LLC., consolidated PUD at
24 Square 2873, Ms. Schellin.

25 MS. SCHELLIN: Yes, sir. Exhibits 47 through

1 47A we have an NCPC delegated action advising of no
2 issues to federal interests. Exhibits 48 and 48A, we
3 have the applicant's response to the Commission's
4 comments made at the July 11th meeting. The
5 applicant stated that a revised loading plan was
6 expected to be uploaded prior to this evening's
7 meeting. However, I think they are still meeting
8 with DDOT and so we'd leave it to the Commission to
9 proceed with final action this evening.

10 CHAIRMAN HOOD: Okay, Commissioners. Thank
11 you, Ms. Schellin. Let's open it up. Any
12 discussion? I know we submitted -- they submitted a
13 loading management plan, a revised second floor ADU
14 plan. I'm not sure what else. And the residential
15 parking eligibility which seems to be, they submitted
16 how they meet the requirements and what they had, but
17 they're pulling back on the RPP.

18 Let me open it up for any discussion on this
19 case. Vice Chair Cohen.

20 MS. COHEN: Thank you, Mr. Chairman. There
21 appears to be an issue that DDOT still is not
22 comfortable with what's been proposed as a loading
23 plan. So, if you would please, I would like to hear
24 from DDOT now.

25 MS. CHAMBERLIN: Good evening. This is Anna

1 Chamberlin with DDOT. We've been working very hard
2 with the applicant up to the last minute, literally,
3 at 6:15. I think we're coming very, very close to
4 finding a suitable loading management plan. Right
5 now there's just very very minor tweaks that we're
6 working on in terms of one minute delay versus two
7 minute delays. How many, you know, cars should be in
8 the queue, so we're down to those just very, very
9 fine-tune details and we're pretty sure we can get
10 those completed within the next day.

11 MS. COHEN: Thank you very much, and I think
12 that that resolves the outstanding issue. And the
13 Office of Attorney General will be able to complete
14 the final zoning order should we act tonight. Is
15 that correct?

16 MR. RITTING: Well, actually no. I mean, if
17 it's not in the record at this time I think there's
18 no way we can say that the issue has been resolved
19 prior to taking final action.

20 CHAIRMAN HOOD: I see Ms. Batties wanting to
21 standing up but I think we have enough submission,
22 Ms. Batties. If we have enough of what's submitted
23 to make our decision for what we need to move
24 tonight, unless somebody else wants to hear anything
25 else. We haven't even finished deliberating yet.

1 Commissioner Turnbull.

2 MR. TURNBULL: Thank you, Mr. Chair. I guess
3 my only issue is there was, in Exhibit No. 48, the
4 applicant's counsel makes reference to revised second
5 floor ADU plan, in which case they talk about Exhibit
6 A, the applicant's revised -- the PUD's second floor
7 plan such that the north side of the building
8 contains two affordable units and two market rate
9 units as requested by the Commission.

10 Well, only Exhibit A would have been 48A,
11 Exhibit 48A, ADU plan. But when you pull up 48A it's
12 the very same plan that they had previously, which is
13 the second floor has three ADU units and one market
14 rate unit. So the plan has not been changed.

15 The only other thing is that on these ADU
16 plans they always say these diagrams and tables are
17 shown for illustrative purposes to demonstrate
18 potential locations for affordability dwelling units.
19 And actually, on their plans -- let me pull up. On
20 one of their sets and drawings -- I've got to pull it
21 up here.

22 Even previously on 44C, not only did they
23 have that language but it also says, "The mix of
24 affordable unit may change except that the proportion
25 of affordable units and levels of affordability shall

1 be, as required under the official code."

2 My concern is, the language they're putting
3 in, there being potential locations on this document
4 sort of sounds to me that although they're saying
5 they're going to do this, it's not fixed that it's
6 going to be changed. To me they ought to be
7 proposing the affordable units in these locations,
8 and if they have to make a change they would come
9 back as a modification, rather than just saying that
10 these are potential. I mean, that's what we look at
11 when we go through all this. We ask where the
12 affordable units are, and we approve these PUDs based
13 upon the locations. I mean, that's one of the
14 aspects that we always look at.

15 But if they're telling us that these are
16 potential locations it's not worth the paper it's
17 printed on. So I'm just concerned that it's not an
18 earnest submission then. And that bothers me.

19 CHAIRMAN HOOD: Okay.

20 MR. TURNBULL: Plus, it doesn't reflect what
21 they had talked about, having two and two on the
22 second floor.

23 CHAIRMAN HOOD: Okay. Okay. So we got the
24 ADU issue. Anyone else before I read Commissioner
25 May's -- Commissioner Miller.

1 MR. MILLER: Well, Mr. Chairman, unless you
2 object I would like to hear Ms. Batties response on
3 both of the DDOT issue and on the ADU.

4 I do see a difference in the two ADU plans,
5 but I'm not sure I can read either of them and
6 understand what's happening. But I'm wondering if
7 they could just represent what they did -- they're
8 saying they revised it per our request, I see that
9 there is a change, but I'm not sure where the -- I'm
10 not sure -- there is different, there are --

11 The change was on the second floor, though.
12 So I think --

13 MR. TURNBULL: I noticed that, but it isn't
14 at the loading dock area.

15 MR. MILLER: Okay. So I wonder if they could
16 just briefly respond.

17 CHAIRMAN HOOD: Yeah. Actually, what I
18 wanted us to do was get all our comments in so when
19 she came to the table --

20 MR. MILLER: Okay.

21 CHAIRMAN HOOD: -- she can respond to all of
22 it. And that's all.

23 MR. MILLER: Okay. I don't have --

24 CHAIRMAN HOOD: She stood up at the first
25 comment, so I want all of us to [simultaneous

1 speech].

2 MR. MILLER: I don't have any other issues.

3 CHAIRMAN HOOD: You have another one? Okay.

4 MS. COHEN: Well, I was just going to say
5 that if this latest location of ADU units is in the
6 record, then the Zoning Administrator must follow it.
7 So I don't find it problematic that the word of
8 probable. If it's in the record, which it will be,
9 and it demonstrates where those units are, I think
10 that that's sufficient. So I don't know how you feel
11 about that, Commissioner Turnbull.

12 CHAIRMAN HOOD: Let me respond to that. I
13 think that a lot of things to be done, especially
14 when I ride through restaurant -- Rhode Island Row,
15 and what we approved and what's done, I don't know
16 who follows what. So I think we need to be very
17 cautious as we proceed.

18 So let me just read Commissioner May -- and
19 Ms. Batties, if you want to start coming forward now
20 let me just -- that way you heard all of our comments
21 and you may be able to respond to all of us, and then
22 that way we can go from there.

23 This is from Commissioner May. "If the
24 applicant develops --" and I actually agree with two
25 of his points. "If the applicant develops a loading

1 plan that is acceptable to DDOT then I vote in favor
2 of final approval. If a DDOT acceptable plan is not
3 submitted then I would be in favor of deferring a
4 final decision." He has to maybe a special public
5 meeting on Thursday, which I don't think we can do,
6 "To allow the applicant --" well, we probably could.
7 "And to allow the application and DDOT to come to
8 agreement. If the Commission elects to go with a
9 loading plan that is not mutually agreeable then I
10 would abstain from the final vote since I am not
11 there to participate in discussions."

12 The he would also, and I specifically agree
13 with this last point, "I would note that I am not
14 pleased with the RPP information that was submitted
15 by the applicant because I believe that the applicant
16 initially stated that the building would not be
17 eligible for RPP and later suggested they would
18 include a lease restriction. However, I can accept
19 the applicant's explanation because of the ANC's full
20 support and the fact that parking did not appear to
21 be a major point of contention."

22 Okay. Ms. Batties, you've heard all those.
23 Can you respond to all of those issues satisfactory?
24 If not, we will probably have to delay this.

25 MS. BATTIES: Sure. As it relates to the

1 loading management plan, as you know, the most recent
2 plan in the record was filed on June 27th, which DDOT
3 did not accept. As Ms. Chamberlin mentioned, we have
4 been working all day and today as recently as 6:00
5 this evening to come up with a plan. And if we can
6 do it procedurally what we'd like to ask of the
7 Zoning Commission is to allow the applicant to file a
8 loading management plan that reflects DDOT's minor
9 tweaks, allow us to file it by this Wednesday, and so
10 final approval would be subject to the loading
11 management plan agreed upon by the applicant and DDOT
12 dated Wednesday, July 27th. If that's acceptable.

13 As it relates to the RPP, this applicant has
14 -- we were asked by the Zoning Commission whether the
15 project is RPP eligible. We stated that it was in
16 our supplemental filing. We have never proffered
17 that the project would be exempt or tenants would not
18 be able to apply for RPP. So I'm not sure where that
19 comment came from. But as stated in our most recent
20 submission on Friday, we don't think that this
21 project, and given the parking and public
22 transportation available, the project warrants taking
23 the project out of the RPP system.

24 As it relates to the ADU plan, Commissioner
25 Turnbull, I apologize if the wrong plan was

1 inadvertently filed. But we do ask, as you know, for
2 flexibility in terms of the number of units for the
3 project. It's a range of 10 percent plus or minus.
4 So, the language on the plan really is to allow the
5 applicant to revise its mix of affordable units based
6 on the final number of units that will actually be
7 constructed with the project, and also through the
8 permitting process and sometimes going through the
9 Certificate of Inclusionary Zoning, minor tweaks have
10 to be made during that process.

11 So we just want to make sure that the
12 applicant has the appropriate flexibility to revise
13 that plan to reflect the final approvals by DCRA.
14 But we do propose two affordable and two market rate
15 units on that north side over the loading management
16 -- over the loading dock. And so we will state that
17 on the record tonight. Even if the plan does not
18 accurately reflect that, we're willing to proffer
19 that on the record this evening.

20 MR. TURNBULL: Well, thank you, Ms. Batties
21 for explaining that. What I don't want to see is
22 when this gets built, that the flexibility suddenly
23 becomes four ADU dwelling units over the loading
24 dock. I think that would be pulling the rug out of
25 what we're trying to achieve. I mean, I think we're

1 looking for a mix of ADU units throughout the
2 building that is respectful of the needs of everyone,
3 and I understand there's market issues at stake here
4 also and I think we appreciate the amount of ADU
5 units that are in this building. I think that's --
6 but I just don't like to see ADU units stacked in
7 areas of buildings that are not the most desirable.

8 MS. BATTIES: Would you be agreeable to us
9 stating that the number of affordable units on that
10 north façade will be -- will match the number of
11 market rate units on that façade?

12 MR. TURNBULL: That would be fine. And I
13 think if you could submit a revised plan --

14 MS. BATTIES: Well, be proportionate. That's
15 really --

16 MR. TURNBULL: Okay. If you could submit a
17 revised plan showing the second floor. I mean, the
18 one that you were --

19 MS. BATTIES: Yeah. I can't explain that
20 right now.

21 MR. TURNBULL: Right.

22 MS. BATTIES: But we can submit that by
23 tomorrow.

24 MR. TURNBULL: Okay. Thank you.

25 MS. BATTIES: Thank you.

1 CHAIRMAN HOOD: Ms. Batties, I think I'm
2 going to take your word for the RPP. I'm looking
3 back through the old files. Not trying to prove you
4 incorrect but I think -- it does say something about
5 residential parking, and maybe we misconstrued that.
6 Maybe -- Commissioner May is not here to -- exactly.
7 He usually takes real good notes, but he's not here
8 and I'm trying to look and see if that was mentioned.
9 But I'm going to take your word for it.

10 What I think, colleagues, let me make this
11 recommendation. We can waive our rules and we can
12 ask that whatever was just mentioned be put in the
13 record. Ms. Batties, can you have it done by
14 Thursday?

15 MS. BATTIES: Absolutely.

16 CHAIRMAN HOOD: Okay. So unless there is
17 somebody who disagrees. Well --

18 [Discussion off the record.]

19 CHAIRMAN HOOD: So we can maybe take this up
20 at a special public meeting on Thursday, so we don't
21 have to carry this over to September. We too are not
22 in favor of doing a lot of that either, carrying
23 stuff over. We like to resolve it.

24 So are we agreeable to that, the things that
25 we asked for. RPP is the only thing. I think it's

1 only two things, the ADUs and the --

2 MS. BATTIES: Loading management plan.

3 CHAIRMAN HOOD: Loading management plan.

4 Okay? All right. So you think everything will be
5 worked out by --

6 MS. BATTIES: Absolutely.

7 CHAIRMAN HOOD: And we'll have something in
8 writing, stuff that we can put in the record.

9 MS. BATTIES: Yes.

10 CHAIRMAN HOOD: Okay. Thank you very much.

11 MS. BATTIES: Thank you.

12 CHAIRMAN HOOD: So we will finish this,
13 finalize this. Ms. Schellin, do you need to add
14 anything?

15 MS. SCHELLIN: Just what time do you want to
16 do the special public meeting?

17 CHAIRMAN HOOD: It shouldn't take us but 15
18 minutes, right?

19 MS. SCHELLIN: So 6:15?

20 CHAIRMAN HOOD: Yeah, 6:15.

21 MS. SCHELLIN: Okay.

22 CHAIRMAN HOOD: All right. Okay. The next
23 case is Zoning Commission Case No. 15-15, JBG
24 boundary, 1500 Harry Thomas Way, LLC. and JBG
25 Boundary Eckington Place, LLC., consolidated PUD and

OLENDER REPORTING, INC.

1100 Connecticut Avenue NW, #810, Washington, DC 20036

Washington: 202-898-1108 • Baltimore: 410-752-3376

Toll Free: 888-445-3376

1 related map amendment at Square 3576. Also, I'm
2 going to call it with the consent calendar item,
3 Zoning Commission Case No. 05-23B, 151 Q Street
4 Residential, LLC., request for minor modification of
5 PUD at Square 3576. Ms. Schellin.

6 MS. SCHELLIN: Yes, sir. On Case No. 15-15
7 Exhibits 49 through 51C, we have the applicant's
8 post-hearing submissions, 52 and 52A is again, NCPC
9 delegated action advising of no issues, 53 is an OP -
10 - OP requested to reopen the record which was
11 approved to accept their supplemental report.
12 Exhibits 54 and 55 is a DHCD request that the record
13 be reopened, which it was. And to accept their
14 letter. And then moving on to Case No. -- I'm sorry,
15 05-23B on the consent calendar, this case was
16 deferred from May 9th to be considered along with 15-
17 15, so we'd ask the Commission to consider final
18 action on both of these cases this evening.

19 CHAIRMAN HOOD: Okay. Commissioners, one of
20 the things that -- and I'll just start it off and I'm
21 sure there will be other comments. One of the things
22 that was very disturbing to me was the letter from
23 the Department of Housing Community Development. I
24 thought the applicant was getting a deeper
25 affordability, but it looks as though the subject

1 matter experts, and Anthony Hood is not a subject
2 matter expert, and I'm looking at, again, we have a
3 lot of people who are well renowned in housing, and
4 Polly Donaldson, the Director of DHCD is telling us
5 basically that for them to be -- the way I read the
6 letter, for them to administer this program we need
7 to stay within the parameters and do the IZ as
8 proposed.

9 So I'm not sure what others feel, and I think
10 she brings up a very valid point. But I would open
11 it up for any comments on that. Or anything on this
12 case. But that's one of the hesitations I have from
13 her letter. Commissioner Miller.

14 MR. MILLER: Thank you, Mr. Chairman. I was
15 disturbed to see the letter too, but only because
16 when an applicant is proffering a deeper
17 affordability level than what's required at the 60
18 percent AMI level, then the 80 percent AMI level,
19 it's disturbing that the Department says it can't
20 administer that when it does administer that under
21 different programs that they administer. There are
22 monitoring and enforcement agreements. There are
23 covenants that would be filed that the applicant has
24 provided us as to how they would conduct the process,
25 which is very similar to the Inclusionary Zoning

1 process in terms of life of the project and the
2 covenant that they would file with the city and that
3 would be mad a part of this zoning order.

4 So I'm comfortable with what the applicant
5 has proffered at the deeper affordability level,
6 which meets a greater need that's in this city and
7 this neighbor. So on that point that would be my
8 comment there. I don't know if that's enough to --
9 we've approved deeper -- in the past we've approved
10 proffers of deeper affordability level. And it's
11 only in recent months that the DHCD has come forward
12 with this concern. As DHCD references, we've just
13 taken preliminary action on the larger IZ case which
14 wouldn't be in effect for this project, which does
15 make all of the rental units, require them to be at
16 the deeper affordability level at 60 percent AMI
17 instead of 80 or an 80/50 split.

18 So I think because we've done this in the
19 past and there are covenants that will be there to
20 monitor and enforce this, I think we should be
21 comfortable with accepting the applicant's proffer of
22 a deeper affordability level.

23 CHAIRMAN HOOD: Okay. Vice Chair Cohen.

24 MS. COHEN: Thank you, Mr. Chairman. You
25 said to be me and I have to tell you, this letter

1 really made me upset. The Mayor of the District of
2 Columbia has made affordable housing one of her
3 priorities. Every councilmember has said to the
4 public how important greater affordability is,
5 especially when our review of the IZ program. And I
6 just don't comprehend how an agency that's -- their
7 whole mission is to provide affordable housing.

8 And finally, we get a cooperating developer
9 to agree for deeper affordability and it's a problem
10 for their monitoring efforts, and they claim it
11 undercuts the District's comprehensive housing
12 planning policies and strategy. Well, I don't know
13 how, how they can make the statement there and the
14 rest of the statements made.

15 So, I believe I support Commissioner Miller's
16 arguments and I strongly, strongly believe and thank
17 the developer for being willing to provide deeper
18 subsidy for people who are in desperate need. And
19 the data within the city, even under -- sort of
20 agrees with what is being provided. That is the
21 need; the greater need. So I think this is great and
22 I support it.

23 CHAIRMAN HOOD: Okay. I'm going to read
24 excerpts. But I want to hear from you, Commissioner
25 Turnbull.

1 MR. TURNBULL: Oh, thank you, Mr. Chair. I
2 would agree with my colleagues. I think when I read
3 the letter too I was a little bit astounded. I mean,
4 I think DHCD needs to get on board with the way
5 things are going in the city and realize that a
6 deeper affordability is what is needed and that's
7 what the Zoning Commission is looking for. That's
8 what, as what the Vice Chair talked about. So, I
9 think the applicant made a generous offer and I think
10 we -- I'm in favor of supporting that, the current
11 situation. I don't want to go back.

12 CHAIRMAN HOOD: Okay. I really don't want to
13 vote against this case but I can tell you that -- and
14 I'll read Commissioner May's. I don't see anything
15 pertaining to that, specifically to this subject, but
16 it does mention it.

17 I'm just concerned that when the people who
18 administer the program and the subject matter experts
19 give you a letter of pause, we don't get a lot of
20 that. And that's just like when the police
21 department comes down and they have a concern with a
22 project, that gives me pause.

23 And I know we've read it, but it says,
24 "Although the revisions to the regulations are
25 anticipated in the future outcome," and I think you

1 mentioned that, Commissioner Miller, "and the same
2 affordability levels as proposed by the applicant
3 would be affected, DHCD must view this applicant's
4 proposal in present terms. At this time the project
5 is subject to the current version of the IZ statute
6 and regulations which stipulate an 80 percent of the
7 AMI affordability level for the project. The
8 proposed regulations have let to be drafted, undergo
9 notice and comment, and final enactment. Moreover,
10 the proposed changes may require legislative
11 amendments to ratify the modified affordability
12 levels. Accordingly, the Zoning Commission approval
13 of the proposal does not yet affect the applicant's
14 PUD. Developers should be discouraged from bypassing
15 IZ compliance in exchange for affordability levels
16 outside the scope of the IZ statute and regulations.
17 Further, it is ill-advised to establish a precedent
18 of granting wholesale waivers from IZ requirements.
19 We respectfully request and encourage the Commission
20 to amend its proposed order by denying the
21 applicant's request for a waiver, and instead
22 requiring the applicants' full compliance with IZ
23 requirements. Please do not hesitate to contact me
24 should you have any questions."

25 That's a strong letter for me. And that is

OLENDER REPORTING, INC.
1100 Connecticut Avenue NW, #810, Washington, DC 20036
Washington: 202-898-1108 • Baltimore: 410-752-3376
Toll Free: 888-445-3376

1 the Director of DHCD. And, you know, I understand
2 that we have some renowned folks up here on that, but
3 to me -- and I'm going to tell you right now, I'm
4 mixed because I don't want to vote against the case,
5 but I also want to give this letter some
6 consideration. I'm not necessarily sure of all what
7 all the ramifications are. I just, you know, yes, I
8 want to go down the -- I was the first -- one of the
9 first people to try to get down to 30 percent with
10 other TIFs and other things that go into play. But
11 yeah, I want to get lower, deeper affordability.

12 But for the Director of an agency to send a
13 letter, that's strong. And those last two
14 paragraphs, to me, gives me a point of cause. I'm
15 not sure. The way I read it is that she's saying
16 that she don't know if they can even administer what
17 we're getting ready to do and I just don't
18 understand. I know we're trying to achieve and get
19 deeper affordability, but what are the unintended
20 consequences that may happen long-term and on down
21 the line.

22 So, I don't know. I'm perplexed on that one.
23 Let me read Commissioner May's. And some of this
24 goes to other issues, but I want to make sure I read
25 his, what he says.

1 "The open issues that I think had to be
2 clarified or answered by the applicant from proposed
3 actions were one, more specific information on the
4 recipients of donations done." He says that's
5 completed. "Mapping the IZ units. Done, but not as
6 good as I would like. And clarifying the penthouse
7 mezzanine calculations. Done."

8 "OP raised a new concern about the inclusion
9 of eating and drinking as a maker use in the order's
10 conditions. I agree that the language must be
11 struck. Assuming the Commission agrees that these
12 lingering issues are resolved, and assuming that the
13 applicant agrees to strike the questionable language
14 regarding maker uses, then I vote in favor of a final
15 approval. However, if the Commission is not
16 satisfied that the issues are resolved then I would
17 be in favor of deferring final action as
18 appropriate."

19 Let me ask, did Commissioner May have a --
20 was the DHCD letter in the record when he reviewed
21 it?

22 See, that's -- okay. All right. Okay.

23 MS. COHEN: Mr. Chairman, Commissioner Miller
24 pointed out that DHCD does have an affordable housing
25 program and again, I keep saying this, it does not

1 take rocket science to administer a program as long
2 as there is a covenant.

3 Now, I don't think she actually -- Ms.
4 Donaldson actually provided us with specific
5 information that would prohibit her from considering
6 this in a different affordability requirement. There
7 are numerous cities that she can contact who do
8 administer projects that are deeper affordability. I
9 mean, it really is something that I believe is not
10 only within the benefit of the public welfare, but it
11 also goes back to the data that her office has as to
12 where the need is.

13 And as I said, we don't get developers that
14 step up as easily and provide this, and I don't want
15 to miss this opportunity. Unintended consequences
16 seem to be consequences that impact the bureaucracy.
17 I'm sorry that, you know, there are things that may
18 have to be done to implement. But frankly, I
19 strongly believe that this is an opportunity and we
20 should embrace it.

21 CHAIRMAN HOOD: Let me just say this, Vice
22 Chair. I actually did too. I agree. But when I got
23 the letter from the Director, as we all did, then
24 that gave me some pause. That's just where I am.
25 Commissioner Miller.

1 MR. MILLER: Thank you, Mr. Chair. Yeah, it
2 gave me pause too, but in a different way. As I
3 said, because I know that DHCD administers affordable
4 housing programs at the 60 percent AMI and lower
5 level. It's just not the IZ program, but they
6 administer programs and there are covenants
7 associated with those projects and it just requires
8 monitoring and enforcement of them. She can check
9 with her own office.

10 And it's not only not rocket science, it's
11 simple arithmetic. I think the 80 percent AMI, 60
12 percent AMI, you can figure out what the price
13 schedule is. It's not that bureaucratic a problem,
14 unless you want it to be a problem.

15 On the maker issue, I agree with OP and with
16 Commissioner May's comments that you read that the
17 consumption of alcoholic food and drinking and
18 recreation should not be included among the maker
19 uses and I think the applicant either should
20 represent that they would agree that they would not
21 be included among the maker uses, because we wouldn't
22 want that to -- all the maker uses to be at the food
23 and drinking establishment and recreation. So, if
24 that could be revised, either orally here tonight or
25 -- if it could be revised orally here tonight I'd be

1 prepared to move forward with this project. I think
2 there are three of us who are prepared on the
3 affordable housing, to move forward.

4 CHAIRMAN HOOD: Okay. I -- and I hate to
5 vote against this project but this letter from Ms.
6 Donaldson really gives me pause. So, and then I wish
7 Commissioner May had had a chance to chime in on
8 this, but the letter was not in the record when he
9 reviewed the case.

10 So I will be voting against this, even though
11 I'm not against deeper affordability whatsoever. I
12 just pause. Maybe you all know something a little
13 more than I do, but to me this means a lot when the
14 subject matter expert sends us something of this
15 nature.

16 So, if we could have the applicant or the
17 counsel come forward so we can deal with this maker
18 issue, and then we'll go from there. And it seems
19 like we had three votes so we don't have to worry
20 about Hood. Okay?

21 MR. UTZ: Sure. Thank you.

22 CHAIRMAN HOOD: Can you identify yourself?

23 MR. UTZ: I'm Jeff Utz with Goulston and
24 Storrs, counsel for the applicant.

25 Regarding the maker concepts, we have been in

1 a bit of correspondence with the Office of Planning
2 about the two elements that I believe are at issue
3 right now. Regarding the piece of the maker
4 definition that's part of condition B-11, production,
5 sale, distribution, and/or consumption of food and
6 beverages, one of the items that I believe OP asked
7 for in our discussion was to limit the consumption
8 piece so that it can't just be a restaurant to an
9 accessory component of the production use.

10 And I should probably step back. The reason
11 that the food production concept is in there, and
12 then also the recreation use concept is in there, is
13 actually derived from the Ward 5 maker study that
14 kind of dictates much of how we are reprogramming
15 uses within the PDR portions of Ward 5. So we tried
16 to kind of take those and integrate those into how
17 this was defined. So we understand the Office of
18 Planning's issues and I think we're willing to
19 incorporate language that would deal with that and
20 hopefully still have strands of that plan
21 incorporated in the definition here.

22 So that kind of long-winded explanation being
23 said, the -- hopefully the definition of that
24 particular use would be production, sale,
25 distribution, and/or consumption of food and

1 beverages provided that on-site consumption of such
2 products is accessory to the other uses, other such
3 uses.

4 And then for the recreational use as we kind
5 of start talking a bit about what exactly that means,
6 the ultimate concern being, we don't want a
7 traditional gym there or a traditional fitness club
8 there. We want it to be something kind of special in
9 the spirit of the Ward 5 study, Ward 5 maker
10 concepts.

11 So we were taking about -- we, the applicant,
12 we're talking about specialty sports and recreation
13 uses, and not including traditional gyms and fitness
14 centers. So that would be something like kind of
15 unique uses that would perhaps be more destination-
16 based, but still recreation, experiential gyms, maybe
17 three-story gyms that could benefit from the
18 flexibility that we have integrated into the plan.
19 Things along those lines.

20 So hopefully this is language that the Office
21 of Planning would feel more comfortable with, being
22 in the spirit of the Ward 5 study, and the Commission
23 as well.

24 CHAIRMAN HOOD: Sorry. I was not ignoring
25 you. I was just trying to figure out procedural, how

1 to move best. Whose case is this? Mr. Cochran, and
2 Mr. Lawson. Does the Office of Planning agree with
3 what you just heard from Mr. Kadlecheck (sic), and if
4 so, colleagues, if you move forward with this we
5 would give OAG the flexibility to work out the
6 language along with the applicant as well as the
7 Office of Planning.

8 MR. LAWSON: Thank you, Mr. Chair. Joel
9 Lawson with the Office of Planning.

10 I think that that's definitely a move in the
11 right direction. We think that, first of all we need
12 to separate out the Ward 5 work study, which is
13 recommending -- which has many recommendations in
14 terms of uses. This, however, is a proffer
15 associated with the PUD from the applicant to provide
16 maker space. And that's a different thing our minds.

17 So we would continue to have concerns about
18 recreation space being considered maker space. I
19 think there's nothing -- and we would encourage the
20 applicant, if they wanted to, to provide that space
21 within their PUD. But as yet we don't understand how
22 that would be defined as maker space.

23 We do agree on the eating and drinking
24 establishment. We think it would be clearest. Our
25 understanding is that the Zoning Administrator

1 normally considered 20 percent of a use to be
2 considered accessory to the principle use. So the
3 Commission may want to make that clear in the order
4 that that's kind of the level of accessory that we're
5 talking about. You know, but again, because this is
6 a proffer associated with PUD, we think that it
7 should be held to a fairly high standard as maker
8 space.

9 And that's so that it remains consistent with
10 the Comprehensive Plan, and that the proffer remains
11 a true proffer. Thank you.

12 CHAIRMAN HOOD: Thank you, Mr. Lawson.
13 Colleagues, any comments? Again, as you know, the
14 DHC letter does it for me. And therefore, what I'm
15 just hearing now, I think there needs to be some more
16 discussion between them. And I would be in favor,
17 and I know I'm in the minority, but you know, I
18 understand. I can count. So know that -- and I'm
19 not trying to just hold it up for my issue, but from
20 what I just heard from Mr. Lawson and Mr. Kadlecheck,
21 going back and forth, there's still some things that
22 need to be worked out and we need to define some of
23 that language.

24 I would be willing to give the Office of
25 Attorney General the flexibility, but from what I

1 just heard I think it goes a little beyond that. But
2 let me open it up. Any questions? Vice Chair Cohen?

3 MS. COHEN: No, I think that the developer
4 will live with the reduction of the definition. I
5 see some head shaking. And I would certainly think
6 that the Office of Attorney General, who is standing
7 behind you, would be quite competent in providing
8 that language with OP and the applicant's attorney.

9 So I would actually move this project ahead
10 tonight and see what my colleagues say.

11 CHAIRMAN HOOD: Okay. Mr. Turnbull?

12 MR. TURNBULL: Thank you, Mr. Chair. I've
13 got a separate issue. I don't want to jump around
14 but I've got a separate issue on this.

15 CHAIRMAN HOOD: Can we come back to that
16 because we've --

17 MR. TURNBULL: That's fine.

18 CHAIRMAN HOOD: We're already mixed up. I'm
19 already mixed up. Commissioner Miller.

20 MR. MILLER: Okay. On the maker issue, I
21 think we would need to hear at least a -- I heard the
22 Vice Chair say she saw head shaking that they would
23 remove the recreation all together. But I actually
24 didn't see it and I didn't hear it, so I'd like to
25 hear, given what OP said, if you are willing to just

1 eliminate the recreation as part of the maker
2 proffer.

3 MR. UTZ: Sure. Thank you.

4 MR. MILLER: I'm willing to go along with the
5 accessory language that, as the DA defines it, for
6 the food and drinking establishment.

7 MR. UTZ: Correct. We are. So we are
8 willing to remove the recreational component, the
9 recreation use component of the maker definition, and
10 then limit the consumption of food production and use
11 to accessory; an accessory portion of that use.

12 MR. MILLER: And I wasn't saying that you
13 shouldn't proffer a health club as part of the -- as
14 OP wasn't saying. But it just shouldn't be part of
15 the maker proffer.

16 So I will wait to hear what Commissioner
17 Turnbull's -- because maybe that will lead to a
18 deferral as well.

19 CHAIRMAN HOOD: I do want to say, I think we
20 want to have all this in black and white and we can
21 add that to the special public meeting we're doing
22 Thursday. Soon we'll have a regular meeting.

23 Okay, Commissioner Turnbull.

24 MR. TURNBULL: Yeah, getting back to the
25 maker space, I would agree with Commissioner Miller

1 and his comments and if we're willing to add this on
2 to our special public meeting, that's fine. Defer
3 this.

4 Plus also, and I'm just throwing this out
5 there, I don't know if he can or not, Commissioner
6 May might be able to read the outstanding item and be
7 able to weigh in on that too. I know he's -- it's
8 pushing it, but he might.

9 CHAIRMAN HOOD: Well, he can take some time
10 out. He ain't doing nothing.

11 So what we can do is, I really want him to
12 read that. And also, I don't know if it's not enough
13 time, but I would like for Ms. Donaldson, and that's
14 Thursday, I would like for her to really, in a
15 soundbite issue for me, help me understand why we
16 should not go. And I read the letter. It's a two-
17 page letter. She put a lot of time in -- somebody
18 put a lot of time into it. She signed it.

19 Understand why this cannot be done. I don't know if
20 I can ask Ms. Bardin or Ms. Schellin, if you all can
21 contact her and tell her I need that because I would
22 like to vote in favor of this project, but her letter
23 has given me a lot of pause and hesitation.

24 So, Mr. Turnbull, I'm sorry. You have
25 another issue, right?

1 MR. TURNBULL: Well yeah, no. But getting
2 back to what you're talking about, I guess what
3 bothers me with her letter is that she can say that
4 now for any of the other cases that come up that
5 we're going to push for 50 percent AMI and 50 percent
6 at 80 percent. I mean, she can say that now on any
7 case and she's going to say she's not in support of
8 it. Until the order is issued and it's out there.
9 And that bothers me.

10 And when she knows that the Zoning Commission
11 is going ahead and is pushing in this direction that
12 the mayor -- as the Vice Chair said, we're pushing
13 for this. So I mean, that's the only thing from my
14 standpoint is sort of bothering me.

15 CHAIRMAN HOOD: Well, like always up here,
16 you get mixed messages.

17 MR. TURNBULL: No, I know. I know.

18 CHAIRMAN HOOD: In her letter it talks about
19 what the mayor is trying to do and I guess the only
20 thing I can do is just ask the mayor.

21 MR. TURNBULL: Yeah.

22 CHAIRMAN HOOD: But I know that's not
23 appropriate. But I'm just saying, you know, her
24 letter talks about what the administration is doing.
25 But we know we're pushing, the mayor is pushing for

1 deeper affordability. So I guess I'm just confused.

2 MR. TURNBULL: I know.

3 CHAIRMAN HOOD: I'm trying to figure out what
4 are those unintended consequences, or what is it, if
5 we do do that, what is the problem? What is the
6 issue? What happens that I don't see and I don't
7 understand. But, you know, I'm on board with my
8 colleagues, but I just want to proceed with caution.

9 And if she could -- if we can get that from
10 her between now and Thursday, that would be very
11 helpful to me.

12 MR. TURNBULL: Yeah.

13 CHAIRMAN HOOD: Even if I don't have the
14 votes.

15 MR. TURNBULL: The only other issue that I
16 had is sort of tied in with the consent calendar
17 item, 523B. And there kind of -- it's kind of a
18 mixed bag because they're both adjacent properties.
19 But 523B has three areas showing how they're tying in
20 sharing space, loading facilities, and all that.

21 My concern is that the drawings on 1515 don't
22 match up with the reflected use on 523. In other
23 words, the shared space, the open space, the
24 accessibility between 1 to the other is not clearly
25 evident, which means that 1515 would be coming back

OLENDER REPORTING, INC.

1100 Connecticut Avenue NW, #810, Washington, DC 20036

Washington: 202-898-1108 • Baltimore: 410-752-3376

Toll Free: 888-445-3376

1 for a modification for either a doorway or an
2 entrance or whatever.

3 So I don't think -- I think 1515 should have
4 drawings on those three areas that 523 does, showing
5 exactly how they're interfacing and how the opening
6 ties in. I don't think it really shows -- I looked
7 at the drawings already on 1515, and I know where
8 they're tying in on that northeast corner. There's
9 no door that goes into 1515, so it's a technical
10 point but I think if you're going to have 523 and
11 1515 share loading docks, I think that 1515 needs to
12 submit drawings in those same areas showing exactly
13 how they tie in.

14 CHAIRMAN HOOD: Okay. Vice Chair wanted to
15 add something and I would agree, maybe we can add
16 that to Thursday.

17 MR. TURNBULL: Well, Mr. Utz wants to say --

18 MR. UTZ: So, we actually submitted the same
19 pages to illustrate that in the main submission. So
20 I think the best one to look at is the July 5th
21 submission that contains the entirety of the plan set
22 for the project, and it's the same set of documents
23 as -- in case of 5-23B.

24 MR. TURNBULL: I'm looking at --

25 MR. UTZ: So it's pages --

1 MR. TURNBULL: -- A4.01 and I don't see any
2 kind of an opening up at that -- I mean, I guess, all
3 right, you show me what plans we should be looking
4 at.

5 MR. UTZ: Page A1.11, and page A1.12 show it
6 the best. How the door is connecting and the
7 circulation allowed thereby.

8 MR. TURNBULL: A1.11 and what else?

9 MR. UTZ: A1.12.

10 MR. TURNBULL: Okay. So you really don't
11 have it -- do you have it on a plan? It's just sort
12 of in this perspective, but that's fine too.

13 Okay. So what, they're both areas that have
14 roll-up doors? Is that it? Or gates? Or is that
15 roll up gate, or what is it?

16 MR. UTZ: It's a door.

17 MR. TURNBULL: It's a door.

18 MR. UTZ: Correct.

19 MR. TURNBULL: What about on A.11? Are those
20 gates, or is that a roll-up door?

21 MR. UTZ: Doors as well.

22 MR. TURNBULL: Doors.

23 MR. UTZ: So they're roll-up gates to the
24 street. They're actually on the --

25 MR. TURNBULL: Right.

1 MR. UTZ: -- exterior of the gale, and then
2 there are doors in between the two projects.

3 MR. TURNBULL: Swing doors or roll up doors?
4 I mean, what are these?

5 MR. UTZ: Swing doors.

6 MR. TURNBULL: Swing doors. Oh. And what's
7 going on at the ramp, then, that would relate to
8 1515? Where would I find any reference to that tie-
9 in?

10 MR. UTZ: You talking about bringing the gale
11 up to the elevation --

12 MR. TURNBULL: Yeah. Yeah.

13 MR. UTZ: -- of the floor plate of 1515?

14 MR. TURNBULL: Right.

15 MR. UTZ: I think when we studied it they
16 were roughly the same elevation at that location. It
17 didn't require significant ramping.

18 MR. TURNBULL: So why are you showing it
19 circled on 1523? 05-23, what -- why is that circled?
20 I mean, the other two are clearly evident, but what's
21 on the ramp issue on 523?

22 [Pause.]

23 MR. UTZ: I think it's just indicating where
24 the ramp -- what page were you looking at in 05-23?

25 MR. TURNBULL: I'm looking at --

1 MR. UTZ: That page --

2 MR. TURNBULL: -- that word circled and it
3 says, "Refer to sheet 129 for revisions to ramp
4 area," which since it's an existing PUD I'm just
5 curious how -- does that affect 1515 at all, or no?

6 MR. UTZ: No. It wasn't intended to affect
7 1515.

8 MR. TURNBULL: That's what I thought. But I
9 just wanted to be sure.

10 MR. UTZ: Yeah. Correct.

11 MR. TURNBULL: Okay.

12 MR. UTZ: It is not.

13 MR. TURNBULL: All right. Thank you.

14 MR. UTZ: Sure.

15 MR. TURNBULL: Yeah, I'm satisfied, Mr.
16 Chair.

17 CHAIRMAN HOOD: All right. I wanted to --
18 any other questions? Okay. Thank you, Mr.
19 Commissioner.

20 MS. COHEN: No. Oh.

21 CHAIRMAN HOOD: Oh, I'm sorry, Commissioner.

22 MS. COHEN: Oh, for him, no, no, no.

23 CHAIRMAN HOOD: Okay. Thank you. Vice Chair
24 Cohen, you had a statement you wanted?

25 MS. COHEN: Yeah, I -- if there are

1 unintended consequences, and I will be blunt, is that
2 the administration is talking out of both sides of
3 its mouth. It's their data. It's not my data. It's
4 not the data that anybody else has come forward with,
5 for the need for 50 percent affordable housing units.
6 And I really believe that the DHCD -- and I had to
7 read that letter several times because I know Polly;
8 known her for a number of years. I mean, Ms.
9 Donaldson. I was in shock.

10 And again, I don't know if it's some
11 mysterious thing that she knows about, but she didn't
12 put it in the letter and that's what bothers me also.

13 CHAIRMAN HOOD: Okay. It looks like,
14 colleagues, that we're going to add this to the
15 special public meeting. I don't know if we need to
16 do it -- I guess we can -- well, we have to do the
17 consent calendar item too. So maybe we better move
18 that meeting to 6:00.

19 MS. SCHELLIN: 6:00. And also, I just want
20 to make sure that the record is open for the
21 applicant and OP to work on the language regarding
22 the maker language. So.

23 CHAIRMAN HOOD: And see if we can -- yeah,
24 let's come in because we need to get in here and get
25 out of it. This doesn't need to be at a meeting like

1 tonight. We need to be able to get in here and get
2 out of here. We don't want to hold everybody up.

3 MS. SCHELLIN: Right. And also if DHCD has
4 something further to submit.

5 CHAIRMAN HOOD: That would be very helpful.
6 And if it's a soundbite, if they can just give me a
7 paragraph --

8 MS. SCHELLIN: Yeah.

9 CHAIRMAN HOOD: -- to help me understand what
10 the magnitude of -- if there is a problem. Also, I
11 know Commissioner May might watch this but --

12 MS. SCHELLIN: Yes, I'll contact him too.

13 CHAIRMAN HOOD: If you can get in touch with
14 him. Tell him, he can give us 10 minutes.

15 Okay. Anything else on this? All right. So
16 we'll add that to our now, 6:00 special exception
17 public meeting. Okay.

18 All right. Let's go to Zoning Commission
19 Case No. 14-11A, Zoning Commission technical
20 corrections to Zoning Commission Order No. 14-11.
21 Ms. Schellin.

22 MS. SCHELLIN: Yes, sir. On this one the
23 proposed rulemaking was published in the Register on
24 June 17th. No comments were received and we'd ask
25 the Commission to consider final action.

1 CHAIRMAN HOOD: I think we took a bench
2 decision on this case, right?

3 MS. SCHELLIN: This was a technical
4 correction. It was on the consent calendar so you
5 guys just authorized immediate publication of
6 proposed rulemaking.

7 CHAIRMAN HOOD: All right. I think this is
8 pretty straight forward, colleagues, and I'm sure
9 that clarifications have been noted. Any
10 conversations on this? If not, I would move that we
11 approve Zoning Commission Case No. 14-11A, Zoning
12 Commission technical corrections to the Zoning
13 Commission Order No. 14-11 and ask for a second.

14 MS. COHEN: Second.

15 CHAIRMAN HOOD: It's been moved and properly
16 seconded. Any further discussion?

17 [Vote taken.]

18 CHAIRMAN 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 approve final action in
22 Zoning Commission Case No. 14-11A, Commissioner Hood
23 moving, Commissioner Cohen seconding, Commissioners
24 May, Miller, and Turnbull in support. May in support
25 by absentee ballot.

1 CHAIRMAN HOOD: Okay. Next. Zoning
2 Commission Case No. 11-03F, Wharf District Master
3 Development, LLC., second stage PUD and modification
4 to first stage PUD at Square 473. Ms. Schellin.

5 MS. SCHELLIN: Yes, sir. At Exhibits 53, 53A
6 we had a request from Mr. Solon to reopen the record
7 to accept all of the pages of a petition from Harvard
8 Square, and to provide for further in-person
9 testimony. The request was approved only to allow
10 for the petition in the record, which is in the
11 record at 53A. Exhibits 55 through 57 we have the
12 applicant's post-hearing submissions. We'd ask the
13 Commission to consider final action this evening.

14 CHAIRMAN HOOD: Okay. Commissioners, as we
15 can see the applicant has reached an agreement with
16 the ANC, and some of the things that we have
17 mentioned have been addressed. The transmission of
18 sound and some other issues. So let me open up any
19 comments. Anyone? If not.

20 MS. COHEN: Mr. Chairman, I think the, again,
21 the major issue for the ANC and for a number of the
22 residents was the sound and I believe that it has
23 been satisfactorily addressed. So, unless my
24 colleagues have any other comments, I would move this
25 application. So.

1 MR. MILLER: And I would second that we take
2 final action on Zoning Commission Case No. 11-03F for
3 the reasons that you and the Vice Chair have stated
4 and appreciate the applicant working with the ANC in
5 reaching that agreement on the terrace use
6 restrictions.

7 MS. COHEN: Do you want me to make a proper
8 one?

9 CHAIRMAN HOOD: It's been moved and properly
10 second -- you already moved it, right?

11 MS. COHEN: Yeah, but I didn't make a proper
12 fully statement.

13 CHAIRMAN HOOD: Oh.

14 MS. COHEN: Would you like me to do that?

15 CHAIRMAN HOOD: Make a full -- well, yeah.
16 Please make a full statement.

17 MS. COHEN: I move to approve Zoning Case No.
18 11-03F, Wharf District Master Developer, LLC., second
19 stage PUD and modification to first stage PUD at
20 Square 473, and --

21 MR. MILLER: Second.

22 MS. COHEN: Okay.

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

25 [Vote taken.]

1 CHAIRMAN HOOD: Ms. Schellin, would you
2 record the vote and the proxy?

3 MS. SCHELLIN: Yes. Staff records the vote
4 five to zero to zero to approve final action in
5 Zoning Commission Case No. 11-03F, Commissioner Cohen
6 moving, Commissioner Miller seconding, Commissioners
7 Hood and Turnbull in support, Commissioner May in
8 support by absentee ballot.

9 CHAIRMAN HOOD: Okay. Next, Zoning
10 Commission Case No. 15-19, New York Avenue Holdings,
11 LLC., consolidated PUD and related map amendment at
12 Square 3594. Ms. Schellin.

13 MS. SCHELLIN: Yes. In this case we have
14 Exhibits 316 through 320. The applicant's post-
15 hearing submissions, Exhibit 321 and 321A, NCPC's
16 delegated action advising of no issues, and we would
17 ask the Commission to consider final action.

18 CHAIRMAN HOOD: Okay. Commissioners, I don't
19 know how much more we can vet on this case. I think
20 that we have exhausted this case so I would move that
21 we approve Zoning Commission Case No. 15-19 and ask
22 for a second.

23 MR. TURNBULL: Second.

24 CHAIRMAN HOOD: Any further discussion?

25 [Vote taken.]

1 CHAIRMAN HOOD: Ms. Schellin, would you
2 record the vote and the proxy?

3 MS. SCHELLIN: Yes. Staff records the vote
4 five to zero to zero to approve final action on
5 Zoning Commission Case No. 15-19, Commissioner Hood
6 moving, Commissioner Turnbull seconding,
7 Commissioners Cohen and Miller in support,
8 Commissioner May in support by absentee ballot.

9 CHAIRMAN HOOD: Okay. Next, Zoning
10 Commission Case No. 08-06D, Office of Planning
11 technical correction to Zoning Commission order 08-
12 06A. Ms. Schellin.

13 MS. SCHELLIN: Yes, sir. Exhibit 4 we have
14 comments from the Committee of 100. Exhibit 5 we
15 have an OP supplemental report. Would ask the
16 Commission to consider final action this evening.

17 CHAIRMAN HOOD: Ms. Schellin, I need you to
18 help me out now. 08-06D and 08-06E are in the same
19 format, right?

20 MS. SCHELLIN: Yes.

21 CHAIRMAN HOOD: Whether it's a technical
22 correction --

23 MS. SCHELLIN: They were both technical
24 corrections.

25 CHAIRMAN HOOD: Right. But whether we --

1 okay. I just wanted to make sure I was --

2 MS. SCHELLIN: Yes.

3 CHAIRMAN HOOD: -- reading that correctly.

4 MS. SCHELLIN: They just came at different
5 times.

6 CHAIRMAN HOOD: Okay. All right. Okay.
7 Colleagues, I think you mentioned about the comments
8 from the Committee of 100, as well as the Office of
9 Planning's responses to comments. Colleagues, what I
10 wanted to do, and soon as this comes up I will be
11 able to talk about it. I wanted to go down the
12 Office of Planning's list of things they thought were
13 technical correction. I will tell you that -- if it
14 ever comes up.

15 Somebody have it up? Okay. Here it comes.

16 [Discussion off the record.]

17 CHAIRMAN HOOD: Okay. What I would like to
18 do, begin on page 2 of nine. And I appreciate the
19 work that the Office of Planning did on this case
20 because they really outlined the issues. We have a
21 lot to read and this made it easier for us to
22 identify who was saying what and who agreed on what.

23 Let's look at the proposed correction,
24 minimum PUD lot area requirement waiver, correct a
25 type in the zoned group column. And the office -- we

1 see what the Committee of 100 says about the typo.
2 Not a technical correction they think is a little
3 more specific and knows her proposed rulemaking
4 requires a renotification and a public hearing to
5 allow public comment, and then the Office of Planning
6 responded to that, to still recommended the option of
7 what's being noticed.

8 Has anyone moved or anything on that? I will
9 tell you that I would like for this to be -- and I'm
10 not sure, I know we may have some options on this.
11 But I would like to -- I think it's a little more
12 involved than just a technical correction for me. I
13 would like for this to come off and -- does it just
14 take one person, or we all have to agree?

15 MR. BERGSTEIN: That's actually whether or
16 not initially it should remain on the consent
17 calendar. So this is now on final action. So I
18 think there actually would have to be consensus that
19 it should not be included in the notice of final
20 rulemaking.

21 CHAIRMAN HOOD: Okay. I would recommend to
22 my colleagues that this not be noticed for a
23 technical correction and that we -- let me see, does
24 anyone support my -- Mr. Turnbull?

25 MR. TURNBULL: No, I guess OP considers it a

1 typo. Committee of 100 says whether it's a typo or
2 not. I'm just looking at this. Requires
3 renotification on a public hearing to allow public
4 comment. Maybe we should hear from OP.

5 CHAIRMAN HOOD: Okay. You want to hear from
6 OP?

7 MR. TURNBULL: Yes, I would.

8 CHAIRMAN HOOD: Mr. Lawson?

9 MR. LAWSON: Sure. Thank you, Mr. Chair.
10 Since the time that we submitted this report we've
11 had additional discussions with OAG. We've looked a
12 little bit more deeply into this issue. While it may
13 have resulted from a typo, we agree with the Chair,
14 actually that we think that this is more involved,
15 and certainly it was out there in the public sphere
16 for quite some time in that format.

17 So while we still support that change
18 happening to the Zoning Regulations we think that it
19 probably is prudent to kind of pull this as being a
20 technical correction and bring this forward for
21 sitting down and for a public hearing.

22 If the Commission is inclined to do that we
23 would certainly ask that you set it down tonight so
24 that it could be dealt with, assuming that the Office
25 of the Attorney General feels that's acceptable. Set

1 it down tonight so that it can be noticed and so that
2 the public hearing can happen expeditiously, and
3 hopefully we can have a hearing relatively quickly on
4 this one so it can move forward. It is an important
5 issue.

6 CHAIRMAN HOOD: Fine. Okay. Commissioner
7 Miller.

8 MR. MILLER: I guess I don't have a big
9 problem with having a public hearing, although I
10 think we did get public comment, even, on this
11 technical correction which, so I don't think anything
12 is necessarily going to change because it does
13 accurately reflect the direction of the Commission on
14 this particular issue.

15 I guess I would want to make sure, and I
16 think we need some comments from OAG, to make sure
17 that if we went the public hearing route that the
18 status quo on waivers would remain, that there
19 wouldn't be no availability to waive the PUD while
20 this case marches forward throughout the fall. So if
21 OAG, I think you can -- if it can be advertised in a
22 way that keeps the status quo on the waiver, on the
23 waiver process so that there's no -- so that we don't
24 eliminate any -- eliminate all waiver possibilities
25 during the period that this proposal would be

1 considered.

2 MR. BERGSTEIN: This was very fast developing
3 this afternoon so I would like the flexibility to be
4 able to discuss this with OP and if it turns out that
5 keeping the text as was finally adopted would
6 actually result in a change to the status quo, I'd
7 like the flexibility to modify the technical
8 correction as necessary so that we actually don't
9 change something that is already an existing
10 authorization, if that would be appropriate for the
11 Commission to do. And yes, I have no objection to
12 the Commission setting down the actual proposed
13 amendment this evening.

14 CHAIRMAN HOOD: Any objections to what Mr.
15 Bergstein just said, all that. I have no objections
16 and I will concur, with given the flexibility of the
17 work, work all that out with OP and other parties
18 that need to be.

19 Okay. Let's move on quickly.

20 MR. BERGSTEIN: Just to tie things up.

21 CHAIRMAN HOOD: Yes.

22 MR. BERGSTEIN: Did you make a determination
23 whether or not you actually then want to set this
24 down for a hearing?

25 CHAIRMAN HOOD: Yeah. We want to set it

1 down, Mr. Bergstein, and we also want to give you the
2 flexibility that you just asked for. I just can't
3 recite all that.

4 MR. BERGSTEIN: And if -- okay. And that's
5 fine. If necessary to expedite the hearing process
6 in order to meet an earlier date, we would also have
7 the authority to do that as well.

8 CHAIRMAN HOOD: Yes. Yes, you do.

9 MR. BERGSTEIN: Thank you very much.

10 CHAIRMAN HOOD: Okay.

11 MR. BERGSTEIN: I appreciate your indulgence.

12 CHAIRMAN HOOD: Sure. Thank you. This next
13 one, clarification of definition of emergency
14 shelter. I actually don't have any issues with that.
15 I think that's what should be done.

16 MS. COHEN: Absolutely.

17 CHAIRMAN HOOD: And I think that's actually
18 added. That's a plus, so I'm not sure -- I disagree
19 with the committee on that one.

20 Now, the definitions --

21 [Discussion off the record.]

22 CHAIRMAN HOOD: Okay. I'm being advised so I
23 don't need to go through that, but we do need to have
24 -- in 2016, did we define about?

25 [Discussion off the record.]

1 CHAIRMAN HOOD: And sometime, and I agree
2 what I think I read was sometimes the dictionary has
3 three or four definitions. And abut was something I
4 dealt with in the '90s in a zoning case. So, you
5 know, I think we need to look at some of this, Mr.
6 Lawson, in the report, if my colleagues agree, and
7 see which ones that need to be defined. I know,
8 abut, for sure.

9 Okay. Corrected numbering for DuPont Circle.
10 I don't think that's an issue. And, my colleagues,
11 if you all do just chime right in. Just trying to
12 move through.

13 Rear yards, PUD heights for Fort Totten mixed
14 use. Okay. Okay. I'm down to alley lot
15 definitions. Okay. Removal of the term, structure,
16 from the lot occupancy calculations. Does anyone see
17 where that's not a -- here's what I'm doing. I'm
18 always cautious. I don't want us to be making these
19 technical corrections and they're actually a little
20 more involved as what we just found out about the
21 first, the waiver issue. And that's what concerns
22 me. So I'm going to ask for the sake of --

23 I know that this report is here and, Mr.
24 Lawson, can we revisit these again as you all have
25 discussed on the first issue that we -- I mean, the

1 PUD waiver. Can we revisit some of these and make
2 sure, let's nail down and make sure that these are
3 not -- unless you've already done it, that they don't
4 have any last minute evolutions that we might want to
5 reconsider whether or not these are technical
6 corrections or not.

7 MR. LAWSON: Sure. Well, that's what we
8 attempted to do in this. We think that specifically
9 with regard to structure we were trying to make sure
10 that we were keeping in line with the long-standing
11 practice within the District. If the Commission
12 wishes us to we can certainly add the issue, the kind
13 of broader issue of how we use the terms, building
14 and structure, which we tried to use pretty
15 carefully. But if you want us to take kind of a
16 second look at that we can certainly do that and if
17 we find areas that we think are inconsistent or could
18 result in a change, though it is contrary to the
19 direction of the Zoning Commission, we can certainly
20 bring those forward as part of future, either
21 technical corrections or substantive corrections,
22 depending what they are.

23 CHAIRMAN HOOD: Okay. If we could do that,
24 that would be most appreciated. Anything else on
25 this, this one?

1 So everything else we will consider technical
2 correction.

3 MS. COHEN: Yes.

4 CHAIRMAN HOOD: With exception of the
5 comments noted. So I would move --

6 [Discussion off the record.]

7 CHAIRMAN HOOD: Okay. I would move, with the
8 changes, Zoning Commission Case No. 08-06D, Office of
9 Planning technical corrections to Zoning Commission
10 Order 08-06A with the modifications noted in this
11 discussion and ask for a second.

12 MR. MILLER: Second.

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

15 [Vote taken.]

16 CHAIRMAN HOOD: Ms. Schellin, would you
17 record the vote and the proxy?

18 MS. SCHELLIN: Yes. Staff records the vote
19 five to zero to zero to approve Zoning Commission
20 Case No. 08-06D for final action with the changes
21 discussed this evening. Commissioner Hood moving,
22 Commissioner Miller seconding, Commissioners Cohen
23 and Turnbull in support. Commissioner May in support
24 by absentee ballot.

25 CHAIRMAN HOOD: Okay. I need to read where

1 Commissioner May -- and I forgot, hopefully this
2 doesn't change anything. I vote in favor of final
3 approval of the proposed technical corrections on
4 Cases 08-06D and 08-06E with further corrections as
5 noted by OP in its response to the comments. Those
6 further corrections include change the MU-13,
7 technical corrections to I205.1, corrections to Table
8 G, technical corrections to I.

9 Regarding the ZA's recommended changes, I
10 agree with OAG's assessment that the suggested
11 changes are too substantial to correct in this final
12 action. If the Commission elects to set down the
13 proposed changes then I would vote in favor of
14 setdown and ask OP, OAG, and ZA to work together on
15 proposed language alternate. I would have no
16 objections should the Commission ask instead that the
17 changes or some portion of the changes be brought
18 forward for future considerations by the ZC. I think
19 that's kind of in line. At least the way I interpret
20 it.

21 Okay. Next, let's go to Zoning Commission
22 Case 08-06E, Office of Planning technical corrections
23 to Zoning Commission No. 08-06A. Ms. Schellin.

24 MS. SCHELLIN: Yes. On this one, at Exhibit
25 5 we have the comments from the Committee of 100,

1 Exhibit 6 comments from DCRA, and Exhibit 7 the OP
2 supplemental report, again, asking for final action
3 on this case.

4 CHAIRMAN HOOD: Okay. Would somebody like to
5 get us started? Pull this up.

6 All right. I kind of do some of the same
7 that I did previously. Okay. There it is. Ms.
8 Schellin.

9 [Pause.]

10 CHAIRMAN HOOD: Okay. Now, I'm clear because
11 when I was reading it this afternoon, and yesterday I
12 was unclear, but I'm clear now what's going on.

13 Okay. Here we have the additional -- and I think
14 this is what Commissioner May was also mentioning,
15 the additional comments from DCRA for setdown. Let
16 me open it up because if we do move in line with this
17 next case and we set everything down, or set down
18 what's being asked to be set down by the ZA, then we
19 would shorten the notice or the time frame so we can
20 expeditiously have a hearing on these.

21 Let me open it up. Vice Chair Cohen.

22 MS. COHEN: Thank you, Mr. Chairman and OP's
23 reply to the -- I'm just going to focus on the Zoning
24 Administrator's comments. They're not opposed to the
25 Commission setting down the proposed text amendment

1 for a public hearing that's recommended by the ZA.
2 But my reaction is, where was the ZA during all of
3 these hearings that we're having and the
4 opportunities to comment. So I just, you know, had
5 to get that out of my system. But I don't have a
6 problem with setting it down because I'm not going to
7 be here.

8 CHAIRMAN HOOD: Okay. The last part you
9 said, you won't be here for these hearings. But I
10 would agree with you. But again, as I've asked this
11 question before and I know a lot of this
12 materializing and there's some things that we may not
13 have seen or understand the magnitude and I
14 appreciate the Office of Planning, OAG, and Office of
15 Zoning bringing these things to our attention because
16 a lot of times they don't get credit for doing that.
17 They get -- we get accused of just moving forward and
18 actually, that's not the case.

19 So as you can see in this case this validates
20 some of the things that we're going to have a hearing
21 on. But let me open it up. Any other comments?

22 MR. TURNBULL: I would just like to answer
23 the Vice Chair's question about the ZA, where he was
24 and I'm just going to say, it's a mystery. That's
25 all I can say.

1 CHAIRMAN HOOD: Okay. Well, hopefully he
2 doesn't watch us.

3 MR. TURNBULL: Well, probably doesn't. No,
4 but I would agree with your comments, Mr. Chair.

5 CHAIRMAN HOOD: Okay. Commissioner Miller.

6 MR. MILLER: I have no objection to setting
7 this down and pursuing whether it, you know, whether
8 it's an appropriate change in the fall.

9 MR. TURNBULL: What are we making a motion
10 on? On setting down 08-06E?

11 [Discussion off the record.]

12 MR. MILLER: No, we're making just a piece of
13 this.

14 MS. SCHELLIN: It would be approving final
15 action for 08-06E and then you would be setting down
16 probably a different motion to set down the part from
17 the prior case. Or actually all of those non --
18 those substantive items for setdown, and I would give
19 it a new case number.

20 CHAIRMAN HOOD: Okay. So we would approve
21 Zoning Commission Case 08-06E.

22 MR. MILLER: E.

23 CHAIRMAN HOOD: And ask you to assign the
24 setdown from the ZA comments, the DCRA, and give it a
25 case number.

1 MS. SCHELLIN: And any of the other, I
2 believe it was the --

3 CHAIRMAN HOOD: And anything else that needs
4 to be set down.

5 MS. SCHELLIN: Or just, any other.

6 MR. BERGSTEIN: I just heard only one other,
7 the PUD waiver.

8 MS. SCHELLIN: The one other. Yeah, the
9 waiver.

10 MR. BERGSTEIN: So there's two set downs that
11 I've heard.

12 MS. SCHELLIN: Yeah.

13 CHAIRMAN HOOD: Okay. All right.

14 MR. TURNBULL: All right. I will move that
15 we take final action and approve Zoning Case No. 08-
16 06E Office of Planning technical corrections to
17 Zoning Case Order 08-06A, and look for a second on
18 that.

19 MS. COHEN: Second.

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

22 [Vote taken.]

23 CHAIRMAN HOOD: Ms. Schellin, would you
24 record the vote and the proxy?

25 MS. SCHELLIN: Yes. Staff records the vote

1 five to zero to zero to set down Zoning -- I'm sorry,
2 to approve final action in Zoning Commission Case No.
3 08-06E, Commissioner Turnbull moving, Commissioner
4 Cohen seconding, Commissioners Hood and Miller in
5 support, Commissioner May in support by absentee
6 ballot.

7 CHAIRMAN HOOD: Okay. And the second?

8 MR. TURNBULL: I guess I would move that we
9 set down the items that we just discussed for --

10 CHAIRMAN HOOD: Setdown.

11 MR. TURNBULL: -- for setdown.

12 CHAIRMAN HOOD: And give Ms. Schellin
13 authority to assign it -- well, she has to assign it
14 a case number.

15 MR. TURNBULL: A case number for it.

16 CHAIRMAN HOOD: Okay. It's been moved. I'll
17 second it. It's been moved and properly seconded.
18 We don't exactly have a case number. That's why
19 we're just doing it vaguely. Moved and properly
20 seconded. Any further discussion?

21 [Vote taken.]

22 CHAIRMAN HOOD: Ms. Schellin, would you
23 record the vote and the proxy?

24 MS. SCHELLIN: Yes. Staff records the vote
25 five to zero to zero to set down Zoning Commission

1 Case No. 08-06F, as in Frank, for setdown as a
2 rulemaking case, and for expedited publication of the
3 public hearing notice. A shortened -- I believe
4 that's going to be a 30-day --

5 MR. BERGSTEIN: Thirty-day advertisement
6 period.

7 MS. SCHELLIN: Thirty-day advertisement
8 period. Commissioner Turnbull moving, Commissioner
9 Hood seconding, Commissioners Cohen, Miller
10 approving, and Commissioner May approving by absentee
11 ballot.

12 CHAIRMAN HOOD: Okay. Are we clear on that?
13 Okay, good.

14 Let's go to proposed action? Am I at
15 proposed? Yeah. Let's go to proposed action, Zoning
16 Commission Case No. 15-29, Jamal's Gateway D.C.,
17 consolidated PUD and related map -- I'm sorry, at
18 Square 2960.

19 MS. SCHELLIN: Yes, sir. At Exhibit 36 we
20 have an ANC 4B -- I'm sorry. We have some
21 preliminary matters in this. We have -- well, let me
22 just go through what we have first. At Exhibit 36 we
23 have ANC 4B report, Exhibit 37 through 39 we have the
24 applicant's post-hearing submissions, Exhibit 40 and
25 41 we have an update from Mr. and Mrs. Jefferson,

1 Exhibit 42, the preliminary matter would be the
2 applicant's motion to strike the Jefferson
3 submission. And then Exhibit 43 in the alternative
4 we have the applicant's response to the Jefferson
5 submission if you do not strike their submission.
6 Exhibit 44 we have ANC 4B's report rescinding their
7 earlier report. Exhibit 45 and 46, the applicant's
8 request to reopen the record which was approved to
9 respond to ANC 4B's report. Exhibit 47, 48 the
10 Jeffersons requested to reopen the record to respond
11 to the applicant's motion to strike which was
12 approved, and it was approved to accept the two-page
13 item referred to in their request as the cover page
14 but denied as to the 24-page opposition.

15 So, before you, you have the applicant's
16 request for a motion to strike, and you have Mr. and
17 Mrs. Jefferson's opposition to that motion to strike
18 before you.

19 CHAIRMAN HOOD: Okay. Colleagues, I am going
20 to -- I'd really like to strike all of them because
21 when I went back and looked at the transcript, that's
22 not what I asked for. And what I would like to do is
23 for them to take another stab at it. I'm not sure
24 whether we'll do proposed before final.

25 But I had the courtesy of looking back at the

1 transcript. And I'm going to read it. Ms. Schellin
2 says, this, "Ms. Jefferson, Mr. and Mrs. Jefferson
3 gets to respond regarding their meeting, the outcome
4 of the meeting that they had with the applicant, and
5 that would be due by the 7th at 3:00 p.m., July 7th.
6 And then we'll put this on the agenda for the 11th of
7 July." But that didn't happen.

8 Then Chairperson Hood, "And I think, let me
9 just give the Jefferson's some guidance. If you can
10 just come back with issues that you all were not able
11 to resolve."

12 Ms. Schellin, "Okay. All right. I'm going -
13 - and then the Jeffersons would have until 3:00."

14 So anyway, when I went back and looked at
15 what I read here, when I started looking at this I
16 said, I don't remember saying all of that and asking
17 for all of that. What I asked for was something very
18 specific. And I do it all the time. And to me, I
19 don't know how we do this, but I'd like to strike all
20 of it and I'd like to give them an opportunity to try
21 to achieved what I asked of them. And maybe I can be
22 a little more explicit this time. Try to achieve
23 what some of the issues are in working with the
24 applicant, because what I read, I had to go back and
25 read the transcript to see if I said some of those

1 things.

2 So I don't -- and I'm sure if you look at the
3 video on demand, I did not say some of those things
4 that came back. So I'm not sure how this took a life
5 of its own because it did.

6 So let me open it up for discussions. I'm
7 not sure, I think the first issue is striking. For
8 me, I'd like to strike all of it. That's where I am.

9 MR. MILLER: Mr. Chairman, I was inclined to
10 allow everything into the record because I think it
11 showed where everybody was on issues beyond what you
12 asked for. But it also showed in the applicant's
13 opposition to the motion to strike, and then the
14 applicant's response, that the applicant did make I
15 think, extensive efforts to try to address issues
16 that both the immediate neighbors, the Jeffersons,
17 and ANC 4B have raised in recent weeks and
18 previously. So, I'll defer to what the majority of
19 my colleagues on where they want to -- whether they
20 want to allow this in or out. But I was prepared to
21 move forward this evening because I think the
22 applicant has made a lot of effort to try to meet
23 legitimate issues that have been raised by the ANC
24 and by the immediate neighbors, and has offered a
25 number of solutions where appropriate.

OLENDER REPORTING, INC.

1100 Connecticut Avenue NW, #810, Washington, DC 20036

Washington: 202-898-1108 • Baltimore: 410-752-3376

Toll Free: 888-445-3376

1 So that's where I was on this case.

2 CHAIRMAN HOOD: Okay. And, Commissioner
3 Miller, let me just say, I could either way, but I
4 really want to go back to my initial discussion. And
5 the ANC letter is something totally different for me
6 because the ANC said it needed more time. Then they
7 come back with this exhaustive letter and rescinding
8 their comments. So I'm trying to figure out how we
9 go from needing more time to discuss something to an
10 exhaustive letter of basically being in opposition.

11 So let me just open it up. Anybody else?
12 Commissioner Turnbull?

13 MR. TURNBULL: Thank you, Mr. Chair. I could
14 go either way on this. I think I respect what you
15 just said. I mean, you were very clear in your
16 instructions and I think from that standpoint,
17 technically they haven't met the merits of what you
18 asked for. And the fact that you've left it open for
19 them to come back and answer it before final, I think
20 is more than fair.

21 So in that case I can go along with your
22 recommendation to strike, allowing them to come back
23 and submit exactly what you asked for.

24 CHAIRMAN HOOD: Okay.

25 MR. TURNBULL: But I can go the other way

1 too. Whatever.

2 CHAIRMAN HOOD: Vice Chair Cohen.

3 MS. COHEN: Thank you, Mr. Chairman. I would
4 like to move ahead with this project. I think again
5 we have a developer who reaches out to the community.
6 He's shown over and over that he has accommodated a
7 lot of what ANCs and the community have requested.

8 So I do believe that their reply was very
9 complete. I know that they will continue to work
10 with the neighborhood, and I would support your
11 effort to strike.

12 CHAIRMAN HOOD: Okay. I'm actually going to
13 -- Commissioner Miller has convinced me to leave that
14 in the record. I was going to strike it, all of it
15 because I just, I think that we're bringing more
16 stuff into it. But I think you bring a good point.
17 It brings in all the relative issues. So looking
18 back at that, I would suggest that maybe we allow it.
19 I know I'm flip-flopping, but I just, when I read
20 this and I had to go back and look at what I really
21 asked for, I feel like we went way off in left field.
22 But I think it does bring all the issues to bear.

23 So what I am going to do now, do we need to
24 make a motion to accept it?

25 MR. RITTING: I'm sorry. I was involved in

1 some cross-talk there, so I didn't quite hear the
2 full extent of your question.

3 CHAIRMAN HOOD: I was just wondering; I was
4 first I was in favor of striking everything. But do
5 we need to make a motion to accept everything? Or
6 did I do that already?

7 Yeah, let's just do it by general consensus.
8 I think we got it, Mr. Ritting. Let's just do it by
9 -- let us save you. Let's just do it by general
10 consensus that we allow everything. Okay.

11 MR. RITTING: And to clarify, by everything
12 you mean the Jefferson submission and the applicant's
13 response.

14 CHAIRMAN HOOD: Everything that came in.

15 MR. RITTING: Okay.

16 CHAIRMAN HOOD: So I'm overturning what I
17 wanted to do.

18 I still would say that I'm going to ask for,
19 as I've asked previously, where you differ. That's
20 all I need to know. And don't bring anything extra
21 because Commissioner Miller, we have the issues now.
22 So I'd just like to know where the problems lie. You
23 know, where the differences are. Have we made any
24 headway? And I only want that from the applicant and
25 from the Jefferson family.

1 MR. MILLER: But you're willing to go forward
2 with proposed action and see what we get by final.

3 CHAIRMAN HOOD: Yeah. I'm going to move with
4 proposed, but you know I don't have a problem not
5 going forward with proposed, but if I don't have the
6 votes it won't matter about Hood.

7 So anyway, let me just say that I would like
8 for Ms. Jefferson, or if we can relay that to them.
9 I'm not sure if they're here. They're here? Okay.

10 So, Ms. Jefferson, if you call could just do
11 me a favor and let me know where you part. I know
12 you have counsel now. Okay. But your counsel --
13 okay. Well, you all work together. This applicant
14 is known across the city. You all work together with
15 some of the issues if you could and just -- I just
16 want to know where we differ, one, two, three, four,
17 and what kind of mitigations we can put in place to
18 help resolve because end of the day, at the end of
19 the day, the Jeffersons are going to be there. They
20 live there. I live over, way over in Ward 5. So
21 let's see what we can do to try to mitigate some of
22 the impact of some of the issues that they have.

23 I'm not saying we're going to do it, because
24 as you heard, this Commission is ready to move
25 forward with proposed action, but I still want to be

1 considerate of those who are going to be impacted.
2 Now, the ANC letter, I need some more time to digest
3 that because -- and I'm not sure if you all have been
4 out to 4B. I know 4A was in support, even though 4B
5 abuts, or is across the street. The word abut, we
6 need to define it.

7 I know in 2016 it won't be an issue. There's
8 not really an issue here now. But we want to be
9 considerate for the ANC 4B as well, but my issue is
10 4A, I think, may have had a few issues that were
11 worked out, but they sent a letter in support. So
12 that causes problems, I think, in communities so
13 hopefully again, applicant, you can go back out and
14 maybe address some of those issues.

15 I think you've been out there before
16 previously, but in their letter they said you
17 declined to come back. Maybe they just needed
18 further clarification once they got engaged in this
19 case because the first letter, and I'm not
20 reprimanding my good friend, Mr. Austin. But the
21 first letter said they needed more time. But the
22 second letter comes back with all these issues and I
23 can tell you. And I know it's going to get back to
24 him. I know it's going to get back to him.

25 But the question -- and I don't mind them

1 looking, but I need to know how did we go from
2 needing more time to all these issues. I'm perplexed
3 about that. A lot of this stuff is not easy. Okay?
4 Okay?

5 So, Ms. Jefferson, if you and your counsel
6 can continue to work and let's try to narrow the gap
7 because we're the ones who are going to -- we're
8 going to make a decision but I want to make a
9 decision in respect to the people who live in the
10 neighborhood. Okay? And I'm sure that we can make
11 it work. You always have done it in the past. Okay?

12 Enough of my soapbox. Vice Chair, this is
13 your night. You should be soapboxing.

14 Any other comments on this case?

15 MS. COHEN: I'm not finished yet.

16 CHAIRMAN HOOD: Oh, any other comments on
17 this? Let me see what Commissioner May says. He
18 didn't have an issue? Did he see the latest stuff
19 that came in? So he didn't have a full -- he didn't
20 have everything, the stuff to strike.

21 MS. SCHELLIN: Yes.

22 CHAIRMAN HOOD: He saw all that. All that
23 was in there? Okay.

24 Okay, it says pursuant to the motion and
25 second to the proposed action I vote in favor to

1 proposed action and would support any further
2 submissions as requested by the Commission. However,
3 should the Commission decide not to take proposed
4 action at this time, and instead request further
5 submissions by the applicant, the ANC, or the
6 Jefferson family, I would agree with deferring
7 action.

8 I think that we can move forward with
9 proposed action. But I'm really serious about trying
10 to figure out where these issues are and going back
11 out to the ANC. Okay. And maybe clarifying some of
12 those issues that they put on paper. Commissioner
13 Miller.

14 MR. MILLER: Well, with that I would then
15 make a motion, Mr. Chairman, to -- I agree with you.
16 There always can be more work to try to bridge the
17 gap. But I think there have been a lot of efforts
18 made so far. So I would move that we -- the Zoning
19 Commission take proposed action on Case No. 15-29,
20 Jamal's Gateway D.C., consolidated PUD at square 2960
21 and ask for a second.

22 MR. TURNBULL: Second.

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

25 [Vote taken.]

1 CHAIRMAN HOOD: Ms. Schellin, would you
2 record the vote and the proxy?

3 MS. SCHELLIN: Yes. Staff records the vote
4 five to zero to zero to approve final -- I'm sorry,
5 proposed action in Zoning Commission Case No. 15-29,
6 Commissioner Miller moving, Commissioner Cohen
7 seconding, Commissioners Hood and Turnbull in
8 support, Commissioner May in support by absentee
9 ballot. And just to set some dates for -- and to
10 clarify, you're looking for something from the
11 applicant and the Jeffersons regarding outstanding
12 issues only, nothing further. And what specifically
13 did you want from the ANC?

14 CHAIRMAN HOOD: Well, I think the ANC can
15 submit any time. I just wanted to know, you know,
16 what discussions and where we are with the --

17 MS. SCHELLIN: Their outstanding issues.

18 CHAIRMAN HOOD: Even though they are the
19 abutting ANC or the --

20 MS. SCHELLIN: They are, across the street.

21 CHAIRMAN HOOD: ANC across the street. And
22 the ANC within the area voted in favor of it. I
23 still want to know what some of the outstanding
24 issues --

25 MS. SCHELLIN: Well, initially I think they

1 did submit a report in favor and then they rescinded
2 that.

3 CHAIRMAN HOOD: No, the report -- you talking
4 about the report from 4B, I specifically remember, it
5 said that they needed more time.

6 MS. SCHELLIN: Right. But then they
7 submitted one in favor.

8 CHAIRMAN HOOD: They submitted another one?

9 MS. SCHELLIN: Yes. And then they submitted
10 one rescinding that.

11 CHAIRMAN HOOD: Okay. Can you show me? I
12 missed that.

13 MS. SCHELLIN: Yes.

14 CHAIRMAN HOOD: Could you let me know what
15 exhibit that is?

16 MS. SCHELLIN: Yes. That was 36.

17 CHAIRMAN HOOD: Okay. This is the one --
18 okay. Hold on a second. Is that dated July the
19 15th, Ms. Schellin?

20 MS. SCHELLIN: Yes. I think so. Is that the
21 one that they wanted more time? Let's see.

22 CHAIRMAN HOOD: Okay. I had one on June 27 -
23 - okay, that's the -- but there's one dated July the
24 15th. This is the one where they rescinded. Mr.
25 Ritting, this is the one where they rescinded. I saw

1 this. I'm looking for the one where they -- for
2 support.

3 MS. SCHELLIN: Yes.

4 CHAIRMAN HOOD: I didn't see that.

5 MS. SCHELLIN: Exhibit 36.

6 CHAIRMAN HOOD: Exhibit 36.

7 MS. SCHELLIN: Nine yes, zero no. Let's see.

8 CHAIRMAN HOOD: This is the one where they
9 rescinded.

10 MS. SCHELLIN: The one that they rescinded
11 was 36.

12 CHAIRMAN HOOD: Okay, 36. Where is the one
13 where they supported? Anyway, I didn't see it. I've
14 been known to miss a few things. Yeah, this is the
15 one where they rescinded. And the other one was the
16 time extension. Okay. No, that's 4A. Okay, that's
17 -- 4A supported. So 4B never supported it. They
18 never sent anything.

19 Mr. Freeman could you -- did 4B send a
20 letter, so we won't have to look through all this?
21 If you can identify yourself and let me did 4B --

22 MR. FREEMAN: For the record, my name is
23 Kyrus Freeman. I'm an attorney on behalf of the
24 applicant.

25 The ANC 4B has filed three documents. The

1 first document they filed requested that you leave
2 the record open for them to submit a report. They
3 submitted that report on -- I don't have it in front
4 of me but I believe it was June 28th.

5 MR. RITTING: June 28th.

6 MR. FREEMAN: Which was Exhibit 36. And that
7 report outlined comments that they had. They
8 supported in part and had other issues. And then
9 they met subsequent to that, they rescinded that
10 letter, which was Exhibit 36 and submitted a new
11 report, which is Exhibit 44, which outlines issues
12 very similar to the comments in the Jeffersons'
13 letter.

14 CHAIRMAN HOOD: Okay. All right. All right.
15 Thank you. All right. Let's go with what we've
16 stated earlier, how to move forward with this.

17 MS. SCHELLIN: Okay. So we need to set
18 dates. Do you want to set -- how much time do you
19 want to give the applicant and the Jeffersons to
20 submit -- come back with something? Typically, it's
21 two weeks.

22 CHAIRMAN HOOD: Since it's going to be in
23 September --

24 MS. SCHELLIN: Uh-huh.

25 CHAIRMAN HOOD: -- whatever. Whatever.

1 Whatever.

2 MS. SCHELLIN: Four weeks?

3 CHAIRMAN HOOD: Four weeks. Whatever time
4 they got to make it work.

5 MS. SCHELLIN: Okay. So, if --

6 [Discussion off the record.]

7 CHAIRMAN HOOD: Mr. Freeman, you had
8 something you want to add?

9 MR. FREEMAN: Mr. Chairman, for the record,
10 again, Kyrus Freeman on behalf of the applicant. We
11 can submit as early as tomorrow what our responses
12 were to the Jefferson's issues. I mean, the --

13 MS. SCHELLIN: It's outstanding issues.

14 MR. FREEMAN: The issues are the same. I'm
15 not --

16 CHAIRMAN HOOD: So what you're telling me is
17 that what I asked for is not going to work and you
18 all can't continue to have conversation.

19 MR. FREEMAN: I'm not sure if we're going to
20 be able to reach an agreement with the Jeffersons.
21 I'm just going to be honest with you.

22 MS. SCHELLIN: She's shaking her head no too.

23 CHAIRMAN HOOD: Where is she? I don't see
24 her.

25 MS. SCHELLIN: She's at the doorway.

1 CHAIRMAN HOOD: So there's no agreement.

2 Okay. So we --

3 MS. SCHELLIN: Okay. So then a week, then.

4 CHAIRMAN HOOD: Okay. Well, here is where we
5 are. We already took proposed action and I'm just
6 encouraging you all to do it, and if everybody is
7 shaking their head then just my idea just goes out
8 the window.

9 MS. SCHELLIN: Okay. So then I'll just, I'll
10 say two weeks, just in case. So if you guys can make
11 that submission by 3:00 p.m. on August 8th, that
12 would be great. And if you don't submit anything
13 then the Commission will know that there's nothing to
14 submit.

15 MR. FREEMAN: So that would just --

16 CHAIRMAN HOOD: I would just -- let me just
17 caution everyone, especially Ms. Jefferson, and I
18 don't see her.

19 MS. SCHELLIN: She's at the doorway.

20 CHAIRMAN HOOD: Okay. Let me just say this,
21 that we do have zoning regulations by law. We're
22 mandated to go and we have to make sure that if it
23 does not fit, if there are exceptions or variances or
24 there are adverse impacts, we have to look those
25 things. So, that's why we encourage you to try to

1 work these things out because we have a letter of the
2 law which we are bound to follow. If not, Mr.
3 Freeman will have us in court. Not saying you would
4 do that, but you got to do what you have to do.

5 So that's why I'm asking for this, to try to
6 work some of these things out. I know there's some
7 things, some outstanding issues that you might not
8 get. But the letter of the law, the Zoning
9 Regulations are what they are, and we're bound to go
10 by those regulations, so while you have an
11 opportunity to try to work some of these things out I
12 think it's better to do it that way.

13 Vice Chair Cohen.

14 MS. COHEN: Thank you, Mr. Chairman. Mr.
15 Freeman, meeting with the ANC, you think that that is
16 also not going to produce more positive results?

17 MR. FREEMAN: We're always --

18 MS. COHEN: Meet with the ANC.

19 MR. FREEMAN: -- happy to meet with the ANC.

20 MS. COHEN: I think you should.

21 MR. FREEMAN: Yeah. No, we have no problem
22 with that.

23 MS. COHEN: Okay. Thank you.

24 CHAIRMAN HOOD: Let me just say this, the
25 reason why I pushed this, and I'm going to use this,

1 Georgetown University, there was always an issue.
2 This Commission pushed for it. They had a grand
3 opening. They held hands with the community. If you
4 followed that case, and I probably shouldn't say this
5 because it might jinx us for the next one, but they
6 held hands, they had an opening, they are now working
7 in tandem, and that came from this Commission. So I
8 know it can be done. So, anyway, enough said on
9 that.

10 Anything else? So we've already took
11 proposed action.

12 MS. SCHELLIN: Just for the applicant to make
13 its submission with regard to 2403, 15 through 20.

14 CHAIRMAN HOOD: Okay. Anything else on this?
15 Okay. Thank you.

16 Let's move on to Zoning Commission Case No.
17 15-28, Foulger-Pratt Development, LLC., consolidated
18 PUD and related map amendment at Square 772. Ms.
19 Schellin.

20 MS. SCHELLIN: Yes, sir. Exhibits 33 and 34,
21 the applicant's post-hearing submissions, Exhibit 35
22 we have the ANC 6C report, Exhibit 36, the
23 applicant's response to the ANC report. Ask the
24 Commission to consider proposed action.

25 CHAIRMAN HOOD: Okay. Let me read first,

1 give us a break, let me read Commissioner May's
2 comments. "Regarding the specific concerns I raised
3 or supported -- excuse me, I believe that the
4 applicant has addressed the penthouse setback relief
5 issue. The areas of relief are not really visible
6 from the street. The proposed modifications to the
7 elevator tower is not very good but I will not press
8 the issue. I note that HP Office, Historic
9 Preservation Office, is not supportive of the
10 proposed modification. Response to LEED issues is
11 not what we were seeking, but I will not press the
12 issue. I presume the sample board will be provided
13 at the meeting and the drawing indicating use of the
14 materials is adequate."

15 And we do have a sample board. I don't know,
16 can we get that so he can watch that on video? Maybe
17 he can reach through it and touch it. Hopefully he
18 doesn't watch this, see I'm talking about him.

19 Okay. And let me see, "Affordable housing
20 proffer remains minimal given the additional density
21 that would be granted. But I'll leave it to the
22 Commission to determine if a greater proffer is
23 needed."

24 I'm going to read this next one, Vice Chair
25 Cohen, for you. "Affordable housing proffer remains

1 minimal given the additional density that would be
2 granted, but I'll leave it to the Commission to
3 determine if the greater proffer is needed. Assuming
4 that there is a motion and a second to take proposed
5 action I vote in favor of the proposed action and
6 would support any further submissions as requested by
7 the Commission. However, should the Commission
8 decide not to take proposed action at this time and
9 instead requests further submissions by the
10 applicant."

11 Okay. Let's open it up. Any comments?

12 MR. TURNBULL: Commissioner, he's not
13 requesting anything, though, specifically.

14 CHAIRMAN HOOD: No, he's -- Commissioner May
15 is a little -- some things didn't go to the extent
16 that it did, but he said he wasn't going to press the
17 issue on two things, response to LEED and affordable
18 housing issue, and the proposed modification to the
19 elevator tower is not very good but he said, I will
20 not press the issue.

21 MR. TURNBULL: Okay.

22 CHAIRMAN HOOD: So he didn't press the issue.
23 Commissioner Miller?

24 MR. MILLER: Mr. Chairman, I just wanted to
25 express my appreciation for the applicant's increased

1 -- increased proffers from their previous position.
2 May not be as far as some would want. But they did
3 increase the LEED proffer. They did increase the
4 number and size of the 50 percent AMI units from the
5 applicant's previous offer. They did increase the
6 amount to be contributed to the NoMa Bid for the
7 study of the Metro entrance. They did proffer some
8 3,000 square feet of the retail space, which is more
9 than 10 percent of the retail space for maker uses.
10 I'm going to come back to that. And they did
11 increase the proffer on parking by devoting two
12 parking spaces for electric charging spaces as
13 requested by DDOT. And as requested by the ANC they
14 agree to make all reasonable efforts to ensure the
15 windows of the ground floor retail will not be
16 blocked or otherwise obscured to prevent the views
17 inside.

18 So, I think that there's been a lot of
19 progress made on this project and I would be ready to
20 move forward with one caveat on the maker space.
21 Similar to the previous case, they've included within
22 the definition of maker space, consumption of food or
23 drink as an alternative. So I think we would want
24 them to come back with -- before final with revised
25 language saying that that would be only accessory to

1 any production or distribution of food and drink as
2 previously recommended by OP in the previous case.

3 But other than that, I'm prepared to move
4 forward with proposed action this evening.

5 CHAIRMAN HOOD: Okay. Any other comments?
6 Vice Chair Cohen?

7 MS. COHEN: Yeah, I really want to just
8 support Commissioner May's disappointment on the
9 affordable housing and the LEED. I know that they
10 increased the LEED but still I think that Gold should
11 be the -- what we all aim for. Especially in light
12 of what's going on, you know, with the heat dome and
13 everything, I think that it's just so important that
14 we maximize the sustainability points in every single
15 deal.

16 CHAIRMAN HOOD: Okay. And we did have a
17 letter from the ANC. Overall the ANC supports this
18 project and they had a few things. ANC supports the
19 increase in affordability and LEED rating along with
20 the other minor additions. ANC 6C agrees with the
21 Zoning Commission that the amenities package is
22 meager and request that the property developer
23 include approximately 100,000 for new expanded
24 BikeShare stations. And they go on and on in their
25 letter. That's our Exhibit 35.

1 They still wanted to step down with 4th
2 Street, but does agree that the green screen is an
3 improvement over the previous plans for the Southeast
4 corner of the property. So they have really
5 dissected this case and I know we have a response
6 from the applicant on this, which I don't think is a
7 show stopper.

8 Anything else on this? Other than what
9 Commissioner Miller asked for, I don't think anyone
10 else is asking for anything. Right? If you're
11 ready, Commissioner Turnbull.

12 MR. TURNBULL: I mean, this is only proposed
13 action. We can still ask the applicant to take a
14 long look at this before we take final action in
15 September, whenever, and come back with maybe your
16 revised proffers, revised look at what some of the
17 issues are that we've been talking about.

18 I mean, I'm not opposed to going ahead
19 tonight but I think there are some issues out there
20 that have been mentioned by a few commissioners and
21 the ANC, and I think the applicant needs to take
22 another look at this.

23 CHAIRMAN HOOD: I would concur and see --
24 take some of those concerns and some of those things
25 that everybody is not terrifically happy about and

1 see how we can -- see if we can maybe tweak -- and
2 then see if we can get closer. Anything else?

3 I think I'm ready for proposed too, but as
4 Mr. Turnbull mentioned, and like any other case, I
5 don't have a problem with not taking final. That's
6 the most important vote. Okay. Anything else? I
7 would move -- approve Zoning Commission Case No. 15-
8 28 with the caveat of what Mr. Turnbull just
9 mentioned and some of those less desirables that
10 people are looking at to try to improve this case,
11 and ask for a second.

12 MR. TURNBULL: Second.

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

15 [Vote taken.]

16 CHAIRMAN HOOD: Ms. Schellin, would you
17 record the vote and the proxy?

18 MS. SCHELLIN: Staff records the vote five to
19 zero to zero as amended this evening, Commissioner
20 Hood moving, Commissioner Turnbull seconding,
21 Commissioners Cohen and Miller in support,
22 Commissioner May in support by absentee ballot.

23 CHAIRMAN HOOD: Okay. And the correspondence
24 in Zoning Commission Case No. 10- -- I'm going to do
25 correspondence, then we'll go to hearing action

1 because I'm going to actually turn hearing action
2 over to the Vice Chair since this is her last night.
3 She's going to end us off with -- I'm going to let
4 her do the three hearing actions and I'm going to
5 stop talking for a little while.

6 So what I'm going to do is -- do we need to
7 do anything with the correspondence item? What do we
8 need to do for --

9 MS. SCHELLIN: Yes. It's very quick and --

10 CHAIRMAN HOOD: Request for withdrawal.

11 MS. SCHELLIN: You have to approve it.

12 MR. RITTING: There's a rule that requires
13 the Commission's consent to withdraw a case after its
14 been advertised.

15 CHAIRMAN HOOD: Does it need to be a motion
16 or can we do general consensus?

17 MR. RITTING: I mean, I don't see why a
18 general consensus wouldn't be adequate.

19 CHAIRMAN HOOD: Okay. Colleagues, any
20 objections with case being -- this case being
21 withdrawn?

22 Okay. So general consensus in Zoning
23 Commission Case 10-26B, 3321 Georgia, LLC. to honor
24 their request to withdraw. Okay. That's a general
25 consensus.

OLENDER REPORTING, INC.

1100 Connecticut Avenue NW, #810, Washington, DC 20036

Washington: 202-898-1108 • Baltimore: 410-752-3376

Toll Free: 888-445-3376

1 Okay. The last three cases I'm going to turn
2 over to the Vice Chair in her last official action,
3 acting as the chair. Vice Chair.

4 MS. COHEN: Thank you, Mr. Chairman. Is
5 everybody awake? Okay.

6 Ms. Schellin, can we move ahead, please?

7 MS. SCHELLIN: Actually, hearing actions are
8 going to go to OP.

9 MS. COHEN: I knew that. OP, please.
10 Setdown report for Zoning Case No. 16-11,
11 consolidated PUD and PUD related map amendment from
12 R-4 and C-2-A to R-5-B and C-2-B for Square 2890,
13 part of Lot 849.

14 MR. MORDFIN: Good evening, I'm Stephen
15 Mordfin. The applicant is requesting a consolidated
16 planned unit development and related map amendment
17 for the development of a mixed income community with
18 retail or community service space. The proposal is
19 Phase 1 of the redevelopment of the Park Morton
20 Public Housing Complex and includes replacement
21 public housing, affordable units for households
22 earning up to 60 percent AMI, and market rate
23 housing.

24 Additional Park Morton replacement housing is
25 proposed at a separate site also scheduled for set

1 down tonight. The site is an L-shaped property on
2 Georgia Avenue between Columbia Road and Irving
3 Street. The proposal consists of three building
4 sites. One, a 189-unit multi-family building with
5 ground floor retail or community service space, two,
6 a 76-unit senior citizen building, and three A
7 townhouses fronting on a private road to be
8 constructed, connecting Columbia Road with Irving
9 Street.

10 The corner of Columbia Road and Georgia
11 Avenue is not a part of the PUD and is proposed to be
12 developed separately as a private park open to the
13 public. A map amendment is requested from R-4 to C-
14 2-A -- excuse me, from R-4 and C-2-A to C-2-B for the
15 apartment building, and R-4 to R-5-B PUD for the
16 senior citizen building and the townhouses to
17 accommodate building height and lot occupancy.

18 Flexibility is requested for rear yard, side
19 yard, and loading for the apartment building, far lot
20 occupancy, rear yard and loading for the senior
21 citizen building, and lot occupancy for the row
22 houses and side yard for the semi-detached units.

23 The applicant proposes benefits to include
24 urban design effective and safe vehicular and
25 pedestrian access, housing and affordable housing and

1 environmental benefits as enumerated in Section 8 of
2 the OP report.

3 The Future Land Use Map recommends local
4 public facilities for the east side of the site in
5 light of its former use as a public elementary
6 school, and moderate density residential for the west
7 side. The application conforms with several elements
8 of the Comprehensive Plan and the Georgia Avenue
9 Petworth Metro Station and Corridor plan, and that it
10 would preserve and enhance the quality of life along
11 the corridor and increase housing and density in
12 support of neighborhood businesses.

13 Therefore, the Office of Planning recommends
14 that the Commission set down the subject application.
15 Thank you.

16 MS. COHEN: Thank you, Mr. Mordfin.
17 Commissioners, do you have any comments that you'd
18 like to make? Any requests for additional
19 information? Mr. Turnbull?

20 MR. TURNBULL: Thank you, Vice Chair. Well,
21 obviously this is a very worthy project. I think
22 there's a lot of things going for it from the
23 standpoint of housing.

24 I think what -- looking back at Mr. Mordfin's
25 -- I guess one of the -- I guess what I have from my

1 notes is that I really would like some better
2 drawings. Part of the taller, the taller building,
3 looks very commercial. It doesn't strike me quite as
4 residential but maybe that's just because the way
5 it's been rendered. It looks like there's brick on
6 this and it looks like if you get closer views you
7 can see that. But I think they need some better
8 depictions of what the building actually looks like.
9 Maybe that will help.

10 The townhouses carrying on that same
11 character, kind of a charcoal mixed with grays and
12 whites look very, not well developed compared to the
13 other. I mean, the multi-rise building looks a
14 little bit more defined. Even that, I mean, if it
15 didn't have balconies on it I think I'd mistake it
16 for a commercial building, the high-rise building.

17 So I think it needs some better definition, I
18 think, to make it read better. And the townhouses
19 definitely need some more work on this.

20 And what I was looking at, most of the units,
21 I think, look to be like one-bedroom and two-bedroom.
22 Are there three-bedroom in the townhouses? I
23 couldn't remember off hand.

24 MR. MORDFIN: They're all three-bedrooms in
25 the townhouse.

1 MR. TURNBULL: They're all three-bedroom in
2 the townhouses then.

3 MR. MORDFIN: Right. All the units.

4 MR. TURNBULL: Okay. So, ones and twos are
5 in the high-rise.

6 MR. MORDFIN: Right.

7 MR. TURNBULL: The multi-rise building.
8 Well, yeah, I guess again, better drawings, maybe
9 some better eye level, some street-level views of the
10 building as you go around the various aspects of the
11 neighborhood, looking at this project and give me a
12 better view. Some roof views, some penthouse views
13 of what's going on on the penthouse. I think I'd
14 need that. But other than that I think it's got a
15 lot of aspects to it which are very credible.

16 MR. MORDFIN: Mr. Turnbull, I'd like to
17 correct what I said. The apartment building at the
18 corner has studio, one, two, and three-bedroom units.

19 MR. TURNBULL: Oh, it does?

20 MR. MORDFIN: Yeah.

21 MR. TURNBULL: Okay. All right. Thank you,
22 Mr. Mordfin.

23 MS. COHEN: Commissioner Miller.

24 MR. MILLER: Thank you, Madam Vice Chair.
25 And thank you, OP, for your report.

1 I would agree with Commissioner Turnbull that
2 this is a very important project. It's a new
3 communities project, part of the replacement for the
4 Morton Public Housing, and it's a mixed income
5 project that has 273 dwelling units, 94 of which will
6 be replacement public housing for Park Morton. An
7 additional 108 units would be affordable to
8 households earning up to 60 percent AMI, and the
9 remaining 71 would be available at market rate.

10 I'm particularly pleased with the building,
11 the senior building which will have 76 one-bedroom
12 apartments for senior citizens, and 50 percent of
13 which would be at 30 percent AMI, and 50 percent
14 would be at the 60 percent AMI. No market rate units
15 would be provided in that particular building.

16 Just note that I assume that the District has
17 a way of monitoring and enforcing less than the IZ
18 units in this case because they are putting forth a
19 project that is less than the IZ would require. I
20 mean, that is much greater affordable housing than
21 the IZ required at the 30 and 60 percent levels. So,
22 it's a significant project that it's very important.

23 The only question in addition to Commissioner
24 Turnbull's comments about making it look more
25 residential, I would agree with that, and I always

1 like the -- I do like the balconies and so the more
2 of them the better. And especially since they're
3 creating all that green space in the courtyard and in
4 the park, so calling that out in the future
5 renderings to see exactly what those units -- how
6 those units will be able to enjoy that -- both views
7 of and use of that open space would be good.

8 But I guess one question I'd have from --
9 more information from the applicant. I know some of
10 it's here and some of it came from OP as well, but
11 more information on the consistency with the Comp
12 Plan designation. Particularly the 90-foot high
13 building. I realize that it's split designated on
14 the Comp Plan as moderate density residential, which
15 is where the townhouses are going, I guess, in the
16 senior building. Or at least the town houses are
17 going there. But certainly the 90 unit building and
18 maybe the 60-unit building are where it's actually
19 designated a local public facility.

20 So the applicant did provide one sheet that
21 showed the context of the surrounding -- the heights
22 of the surrounding buildings, only one of which I
23 think I saw at 90 feet. I don't know what the comp
24 plan or zoning designation was for that particular --
25 but just to understand a little better how the 90-

1 foot height of the apartment building would be not
2 inconsistent with the Comp Plan designation. Both
3 from the applicant and OP.

4 MS. COHEN: Mr. Chairman, would you like to
5 go next?

6 CHAIRMAN HOOD: Yes. I know that in this
7 particular case this is the old, as I stated, old
8 Bruce Monroe site. And I know that the hill, I mean,
9 it kind of slopes. But one of the thing that -- and
10 I think Commissioner Miller alluded to it. I would
11 like to see and I know we did have one or two in
12 here, I'd like to see how it all sits in that
13 neighborhood, some perspectives. And I don't know if
14 that's what you were asking for. I think he was
15 asking consistent with the Comp Plan. But I want to
16 see some additional perspectives.

17 And if you have them just tell me where they
18 are because I didn't see what I'm normally looking
19 for. What's already existing and what the
20 surrounding town homes like across the street, I
21 think that's Columbia Road and down on Sherman Avenue
22 and how all that's going to interrelate with what's
23 there now. That's what I'd like to see.

24 And that's it. Other than that it's
25 continued to help jump start. I know this is a long

1 time coming. The neighborhood has been talking about
2 that site for years, since Bruce Monroe. Okay.
3 Thank you.

4 MS. COHEN: Thank you, Mr. Chairman. I am so
5 pleased that this project is coming before us. My
6 next to the last night I will come in for the vote on
7 Thursday, the votes.

8 In 2005 this particular project was named a
9 new community and I was on the Housing Authority
10 Board. Here's my lecture, if you were waiting for
11 it --

12 CHAIRMAN HOOD: Yes.

13 MS. COHEN: -- with bated breath. That's 11
14 years ago and this project won't be built out for
15 another 10 years. I mean, it will be in stages so
16 there will be production and some people, especially
17 people who have aged in place at Park Morton will be
18 able to move into the senior building.

19 What my lecture is, and as I said, I'm so
20 happy this project is here, is that politically every
21 single council person needed a new community. But
22 they were unwilling to provide the resources to see
23 them through. And so when you promise and meet with
24 people who live in public housing, or who live in a
25 neighborhood, and you say, this is important to us

1 and we're going to move ahead on it, and you don't
2 produce results, I think that is really a shame.

3 And so again, I saw this back in 2005. I
4 went to meetings on this project, and again,
5 hopefully the city is now willing to put the dollars
6 because HUD is not. HUD is not willing or able to
7 give money to this project.

8 So that's my little lecture. It's two points
9 that I have on this. I think on the town homes we
10 need solar panels. The city is going solar. It's
11 much easier to install them at the beginning. And
12 when an individual owner has to put them in, it's
13 just more seamless now.

14 I'm concerned about the materials. I'm
15 hoping -- I haven't been out to a couple of the
16 projects that I was involved in early on, but I want
17 the materials to be sustainable and I know my
18 colleagues will insist on this as well, that I don't
19 think some of the earlier Hope Sixes are holding up
20 as well as they should.

21 And my last question is, which probably was
22 answered, was the park is located on two major
23 streets and I'm kind of surprised about that. It may
24 have to do with the slopes. It may have to do with
25 whatever is underground. But I think there needs to

1 be more elaboration on, you know, when children are
2 going to be playing in the street and a ball goes
3 into the street, again, it's not a small street, it's
4 a heavily trafficked street. So I think there needs
5 to be more information about that.

6 Other than that, I have no other comments.
7 Now, I guess my question is a procedural one, Ms.
8 Schellin. Should we move on to the next project? Is
9 this the same --

10 MS. SCHELLIN: No.

11 MS. COHEN: A different --

12 MS. SCHELLIN: They are separate cases.

13 MS. COHEN: Okay. Thank you. All right.

14 Before we move ahead with this project in deciding to
15 set it down, there was a request for a partial waiver
16 of the fees, and I would support that since the
17 affordability levels on this project are pretty
18 strong.

19 And so, I guess we don't have -- as part of
20 our vote to set it down. So I will move to set down
21 Zoning Case No. 16-11, consolidated PUD and PUD
22 related map amendment from R-4 and C-2-A to R-5-B and
23 C-2-B for Square 2890, part of Lot 849, as well as
24 approving a partial waiver of the fees and ask for a
25 second.

1 MR. MILLER: Second.

2 [Vote taken.]

3 MS. COHEN: Ms. Schellin, can you --

4 MS. SCHELLIN: Yes. Staff records the vote
5 four to zero to one to set down Zoning Commission
6 Case No. 16-11 as a contested case, and also to grant
7 the partial waiver of the hearing fee. Commissioner
8 Cohen moving, Commissioner Miller seconding,
9 Commissioners Hood and Turnbull in support,
10 Commissioner May not present, not voting.

11 And I'm sorry, I don't know if I said four to
12 zero to one, but just in case I didn't. Okay.

13 MS. COHEN: You did, but thank you.

14 MR. RITTING: Before the Commission proceeds,
15 I was just reviewing the partial hearing fee waiver
16 request and there seems to be an inconsistency
17 between the amount listed on the first page of the
18 waiver request and then the amount that's listed in
19 the chart. So I think that does need to be clarified
20 by the applicant before the hearing fee waiver issue
21 is resolved completely.

22 I don't have a ready suggestion for a way to
23 do that. But --

24 MS. COHEN: I think that has to be done prior
25 to the, you know, the hearing.

1 MR. RITTING: Yes. To clarify, on page 1 it
2 says that they're requesting a waiver reduction
3 totaling \$14,130 and then on the chart it says the
4 hearing fee reduction is \$13,950. So perhaps they
5 could submit something with their prehearing
6 statement, but I'll leave it to Ms. Schellin because
7 she usually handles the hearing fee waiver.

8 MS. SCHELLIN: Yeah. It will be the square
9 footage of the affordable units. So it will be based
10 on that. We'll reduce it based on the square footage
11 of the affordable units versus the whole project.

12 MS. COHEN: Thank you for that.

13 CHAIRMAN HOOD: So, can I just make a
14 suggestion? So you all are -- leave that flexibility
15 to the staff to work with.

16 MS. SCHELLIN: Yes.

17 CHAIRMAN HOOD: And that way we can have it
18 done before we have the hearing.

19 MS. COHEN: Thank you for clarifying.

20 All right. Let's move ahead with the setdown
21 report for Zoning Case No. 16-12. And whose project
22 is that, Mr. Mordfin?

23 MR. MORDFIN: Yes. The applicant is
24 requesting a consolidated planned unit development
25 and related map amendment for the redevelopment of

1 the Park Morton Public Housing Complex into a mixed
2 income community. This proposal would be phases 2
3 and 3 of the redevelopment of Park Morton and
4 includes the remainder of the replacement public
5 housing not included in the public housing. Excuse
6 me. Not included in the Bruce Monroe site,
7 affordable units for households earning up to 60
8 percent AMI, and also market rate housing.

9 The site is an irregularly shaped property on
10 Morton Street, generally between Georgia Avenue and
11 Water Street, south of Park Road and includes public
12 alleys that also serve private developments
13 surrounding the site.

14 Phase 2, to be constructed first, is a 126
15 apartment building -- 126-unit apartment building at
16 Park Road with below grade parking to house the
17 remaining public housing residents not relocated to
18 Bruce Monroe prior to the demolition of the remainder
19 of the site. The building will be a mixture of
20 public housing, affordable and market rate units.

21 Phase 3 is the construction of row, semi-
22 detached, and three-unit buildings consisting of
23 public housing and market rate units and two, three,
24 or four-bedroom units.

25 Reconstruction of the site also involves the

1 extension of Morton Street to Water Street,
2 eliminating the existing cul-de-sac, construction of
3 a new street connecting Park Road and Morton Street,
4 and the addition of parks providing active and
5 passive recreation and bio retention areas for storm
6 water management.

7 A map amendment is requested from the R-4 to
8 the R-5-B PUD to accommodate building height for the
9 apartment building and the three-unit buildings and
10 on lot occupancy for the semi-detached dwellings.
11 Flexibility is requested to permit multiple dwellings
12 on a single lot, and to side yards, rear yards, lot
13 occupancy, parking and loading, GR and phasing to
14 allow the applicant six years to file for permits
15 instead of two.

16 The applicant proposes benefits enumerated --
17 as are enumerated in Section 8 of the OP report.

18 The Future Land Use Map recommends medium
19 density residential. This application is in
20 conformance with several elements of the
21 Comprehensive Plan, including the Park Morton
22 Redevelopment Initiative Plan, which requires one for
23 one replacement of existing public housing units
24 together with Bruce Monroe, a mix of mid-rise and
25 low-rise development, a mix of for sale and rental

1 units, assigned parking, housing types respectful of
2 the architectural style of the surrounding area, and
3 connecting Morton Street with Water Street.

4 Since the filing of the application the
5 applicant has worked with OP and DDOT to refine or
6 improve the application to better address the
7 connectivity of the street and alley system, assure
8 that all parts of the PUD benefit from eyes on the
9 street, improve access to the open space for all
10 residents and consider the provision of on-street
11 parking on both sides of Morton Street to improve
12 pedestrian safety.

13 As discussed in our report OP looks forward
14 to continuing to work with the applicant and other
15 District Agencies to further refine the application
16 and provide additional information prior to a public
17 hearing. Therefore, the Office of Planning
18 recommends that the Commission set down the
19 application. Thank you.

20 MS. COHEN: And thank you for your report.
21 It's very comprehensive.

22 And who would like to go first? Commissioner
23 Miller?

24 MR. MILLER: Thank you, Madam Vice Chair.
25 Yes, I also thank Office of Planning for its report

1 and I support its request for additional refinements
2 of the multi-unit building which in general seems
3 very attractive.

4 So I have no questions that this goes hand in
5 glove with the previous case that we just saw. So
6 it's the remainder of the public housing replacement
7 units and it's also including additional 60 percent
8 AMI units and the market rate units, so it's
9 fulfilling the mixed income new community vision, so
10 I'm very supportive of it.

11 MS. COHEN: Chairman Hood, would you like to
12 go?

13 CHAIRMAN HOOD: Yes. I think that Morton
14 Street, I really applaud the applicant for the new
15 street. You ever been back up in there, you know,
16 it's the one way in, one way out. But I really
17 applaud -- at least it was when I used to hang over
18 in that area. But I really applaud the applicant for
19 doing this.

20 But one of the things that I do want to ask,
21 again, the same thing I asked in another case, how
22 it's going to look with the surrounding area, even
23 though I know it's quite a bit of the area. I like
24 to always see, and I think you had a diagram but it
25 was blocks. I need to see how it really looks and

1 what's there now. Even though I know this is taking
2 up a lot of the specific neighborhood, but I'd like
3 to see how the relationship with the surrounding area
4 and how that's going to fit.

5 But again, I want to go back to the new
6 street and the different streets that -- new street 1
7 and new street 2, I think that is definitely a long
8 time coming and well needed back in that area. So,
9 other than that I don't have any additional comments.
10 Thank you, Madam Chair.

11 MS. COHEN: Oh, Commissioner Turnbull. Thank
12 you, Chairman, actually.

13 MR. TURNBULL: You can call me Chairman. I
14 would agree with the comments of my colleagues again.
15 This is another very important project and I think
16 it's going to be very significant in the area. And I
17 agree with Mr. Mordfin, I agree with your comments
18 about the row houses reflecting the design and your
19 concern that you want them to define the multi-unit
20 better. And I think we do need some better
21 architectural drawings of it.

22 And again, it's similar to what I maybe had
23 said before. I'd like to know more about the
24 architecture, the drawings, maybe some bird's eye
25 views around like -- like the Chair was saying, some

1 views, eye level views around the neighborhood
2 looking at the project as you would see it from some
3 of the other streets.

4 I was concerned about the loading platform on
5 Drawing A04. It was something -- I think, I mean,
6 obviously when we get drawings like this in their
7 infancy -- but on Drawing A04 it shows a loading
8 platform at the 16-foot public alley, but there's no
9 access to it. It looks like the fact there is a tree
10 in front of it. I mean, minor detail. But when you
11 look at the elevation of that building, that south
12 elevation, it looks like there's almost a window
13 there and not really a loading.

14 So I mean, there's just some inconsistencies.
15 If there's going to be a curb cut or something there
16 it needs to show it. They really need to go back and
17 pick up the drawings, clean up the drawings, and
18 actually show exactly what they're really meaning.

19 There's some setback overhangs on the roof of
20 the multi-family. There's some -- they need to go
21 back and make sure they meet the setback
22 requirements. I do like the perspective of the park.
23 I think that's -- that was a nice feature and I think
24 it reads well. But in that same mode I think if they
25 go around the site and do more views like that it may

1 help us.

2 There's siding on the back of the brick
3 houses. Hopefully it's not vinyl. Hopefully it's
4 cement fiber. I'd like to know a little bit more
5 about the drainage in the area, the gutters, where
6 they come, how they drain the site. Lighting in the
7 area; make sure that we've got appropriate street
8 lighting around there.

9 But other than that I think it's going to be
10 a very nice project. I'm looking forward to the
11 hearing.

12 MS. COHEN: Thank you, Commissioner. Again,
13 I would like to see solar panels. And I think it's
14 wise for the applicant to meet with DOEE because
15 again they can direct you to resources, financial
16 resources, to offset the costs.

17 Is there anybody here from DCHA tonight?
18 Good, because one of the things that I recall is with
19 some of the earlier Hope Six projects, when you have
20 rental and ownership and -- there were some issues.
21 And I don't need to elaborate on them. I just want
22 to make sure this design, for example, private space
23 was very important to people because other people
24 felt that, you know, even though maybe there was a
25 wind that there was deliberate garbage dumping on

1 their property, but they couldn't really -- they
2 didn't have the fencing. It may be in now. I don't
3 know because it was a promise made. But maybe a
4 promise not kept.

5 So, please, make sure that you gain the
6 experience that you have on other projects, and
7 especially on the materials. Vinyl paneling is
8 totally unacceptable. It's carcinogenic so I know
9 they won't be doing that.

10 I don't know how wide Morton Street is. I
11 forgot to really measure it. But one of the things
12 I'm concerned about is Park Morton residents have
13 always been subject to a lot of crime. And I think
14 that if the police department, MPD, can take a look
15 at the plan, I think that would be extremely helpful
16 because the problem was ingress and egress. And
17 again, I think Morton Street being a now new street -
18 - or not a new street. It's being --

19 MR. MORDFIN: It's being extended from --

20 MS. COHEN: Extended, right.

21 MR. MORDFIN: -- all the way to --

22 MS. COHEN: Right.

23 MR. MORDFIN: -- Morton.

24 MS. COHEN: Which is a smart thing. But, you
25 know, to make sure that it accommodates whatever

OLENDER REPORTING, INC.

1100 Connecticut Avenue NW, #810, Washington, DC 20036

Washington: 202-898-1108 • Baltimore: 410-752-3376

Toll Free: 888-445-3376

1 needs to fire and police, especially if there's going
2 to be any type of parking.

3 So again, I'm thrilled that this came before
4 us tonight. And so with that, who would like to --
5 and I think this also has a waiver that -- of a
6 partial waiver of fees, and I don't know if it's been
7 checked to see if it's consistent. You did? It is?

8 MR. RITTING: Yes, the --

9 MS. COHEN: Thank you.

10 MR. RITTING: Both pages are consistent in
11 the amount that they're requesting.

12 MS. COHEN: Okay. Thank you for checking.

13 So who would like to move for a set down?

14 MR. MILLER: Madam Chair, in addition, I
15 associate myself with everybody's comments and
16 request for additional information, including
17 perspectives.

18 But one other additional piece of information
19 that I'd like when we get to the hearing is, is more
20 information on what type of use is planned -- type of
21 uses are planned for the amenity spaces that I think
22 there are three different amenity spaces on the
23 ground floor, and there's one on the 5th floor of the
24 multi-unit building. And it would just be useful to
25 know what they have in mind there.

OLENDER REPORTING, INC.

1100 Connecticut Avenue NW, #810, Washington, DC 20036

Washington: 202-898-1108 • Baltimore: 410-752-3376

Toll Free: 888-445-3376

1 And with that I would move that the Zoning
2 Commission set down for a hearing, Zoning Commission
3 Case No. 16-12, consolidated PUD and PUD related map
4 amendment from R-4 to R-5-B PUD for Square 3039, Lots
5 128 through 134 and 846, and Lot 3040, Lots 124
6 through 126, and 844, and Lots 1820 in Square 3043,
7 and part of the -- and the motion includes the
8 approval of the request for partial waiver of the
9 fee, and ask for a second.

10 CHAIRMAN HOOD: Second.

11 MS. COHEN: It's been moved and properly
12 seconded.

13 [Vote taken.]

14 MS. COHEN: Ms. Schellin.

15 MS. SCHELLIN: Yes. Staff records the vote
16 four to zero to one to set down Zoning Commission
17 Case No. 16-12 as a contested case, and approving the
18 partial waiver of the hearing fee, Commissioner
19 Miller moving, Commissioner Hood seconding,
20 Commissioners Cohen and Turnbull in support,
21 Commissioner May not present, not voting.

22 MS. COHEN: Thank you, Ms. Schellin. And now
23 we move on to Case No. 16-13. OP?

24 MR. COCHRAN: Thank you, Madam Vice Chair.
25 OP recommends that you set down consolidated PUD 16-

1 13 with its related map amendment from C-M-1 to C-2-
2 B. The PUD would be not inconsistent with the
3 Comprehensive Plan's written elements and its Future
4 Land Use Map and its Policy Map.

5 The proposed height and bulk would be
6 appropriate for a medium density residential and PDR
7 area. The site is in a land use change area where
8 there are several nearby PUDs in process. It also
9 comports with the requested C-2-B zone.

10 Details about the relationship between the
11 application and the Comprehensive Plan are included
12 in OP's report. Additional information is however
13 needed about how the PUD would further the PDR
14 objectives of the Comprehensive Plan and the Small
15 Area Plan. The site is in Eastern NoMa, two blocks
16 from the Metro and just south of the Uline Arena.

17 The project would include the closure of an
18 alley segment and the provision of an easement in
19 that segment.

20 The PUD would also replace two low-scale
21 commercial and light industrial buildings with a 6.0
22 FAR and 90-foot high LEED Gold apartment building
23 with ground floor nonresidential uses. There would
24 be 69 apartments, including the minimum required 8
25 percent IZ at 80 percent of the area median income,

1 and 3,800 square feet of habitable penthouse space,
2 along with .4 FAR of nonresidential uses which the
3 applicant states it intends to market for PDR uses.

4 In addition to the map amendment the
5 applicant requests flexibility from minimum PUD lot
6 size, residential lot occupancy on the second floor,
7 rear yard and open court dimensions, the number of
8 parking spaces and loading facilities, the number of
9 differing heights in the penthouse, and the setback
10 of the penthouse on the north side of the building
11 which would be below the Height Act maximum.

12 With respect to the penthouse the applicant
13 submitted information this afternoon addressing
14 concerns about the height of the penthouse habitable
15 space and the square footage of the penthouse
16 residential uses that contribute to the 50 percent
17 AMI IZ requirement.

18 I can tell the Chair is looking. It was
19 admitted into the record very late in the afternoon.

20 If the project is set down OP will work with
21 the applicant to resolve several items. The
22 applicant will need to provide additional information
23 addressing the requested zoning flexibility, the
24 proposed PDR uses, and transportation, parking, and
25 loading considerations.

1 The architectural landscaping and public
2 space designs will need to be refined, and public
3 benefits will need to be enhanced to ensure they are
4 commensurate with the additional 50 feet of height
5 and the doubling of density from what would be
6 permitted by right in the existing zone.

7 That concludes OP's testimony. We're of
8 course open to questions.

9 MS. COHEN: Thank you, Mr. Cochran. Who
10 would like to go first? Commissioner Turnbull?

11 MR. TURNBULL: Thank you, Madam Vice Chair.
12 Mr. Cochran, thank you for your excellent report
13 again as usual. I agree with all your comments,
14 especially with -- excuse me -- exploring ways to
15 bring the penthouse into compliance. I think that's
16 a big issue right now and I think they really need to
17 take a long hard look.

18 Now with the alley closing you've now got an
19 alley at the back that's inaccessible unless you go
20 through their little opening in the building. Is --

21 MR. COCHRAN: The applicant has told OP that
22 vehicles don't use that north/south alley behind the
23 buildings that front on 3rd Street. It's too narrow.

24 So what they would be providing would be
25 pedestrian access on the east/west private alley that

1 would -- that private alley would provide access for
2 their 24-foot long loading berth, and there would be
3 a gated pass system for anybody that wants to get to
4 the back of the buildings that front on 3rd Street.
5 Presumably those passes would be provided only to the
6 people --

7 MR. TURNBULL: Right.

8 MR. COCHRAN: -- that either live or reside
9 in those buildings.

10 MR. TURNBULL: So I see the gate on Congress
11 Street, that there's a gate. So that's closed most
12 of the time.

13 MR. COCHRAN: Presumably that would be closed
14 most of the time, yes.

15 MR. TURNBULL: Okay. So they would allow
16 pedestrians to go through there then?

17 MR. COCHRAN: That's what they've said, yes.

18 MR. TURNBULL: Any comment from the neighbors
19 or from the alley people, or have we heard anything?

20 MR. COCHRAN: We have not heard anything.

21 MR. TURNBULL: Okay. It's a very constricted
22 site. I realize that.

23 Yeah, I think I would agree with your comment
24 about the affordable housing component and I think
25 all your issues are very relevant. I guess I'd like

1 to see some roof top views too of up there, up by the
2 penthouse, some better views as you go around that
3 penthouse. And maybe some more street level views as
4 we're looking at it.

5 I don't think they need the word Congress up
6 on top of the building. They've already got Congress
7 over the entry, so I don't think you need to do it
8 twice. I think it's redundant. But interesting
9 complex, small little building on a very restricted
10 site. So I would be willing to set it down, noting
11 all of your comments that they need to look at.
12 Thank you, Vice Chair.

13 MS. COHEN: Next. Commissioner Miller.

14 MR. MILLER: Thank you, Madam Chair. I agree
15 with all the comments in the Office of Planning
16 report and the comments of Commissioner Turnbull, and
17 I would just call out in particular the need for a
18 much more robust affordable housing proffer, and I
19 think that's really all I have to say about this.
20 Thank you.

21 MS. COHEN: Chairman.

22 CHAIRMAN HOOD: I don't have anything to add
23 other than I like the design so far and we're going
24 to get more into it at the set down. So I'll be in
25 support of setting this down. Thanks.

1 MS. COHEN: Thank you. I just want to
2 compliment the applicant for LEED Gold. I -- wait a
3 second. I am channeling Commissioner May, and he is
4 very concerned about the habitable penthouse space
5 and making sure it complies with all setback
6 requirements. I can assure the applicant that that
7 is of most importance to him.

8 That was exhausting. So, that's all I have
9 to add to this.

10 So with that, would anybody like to move to
11 set this down? Oh, and this is my sort of -- well,
12 it's almost my last. I'm going to be here on
13 Thursday.

14 CHAIRMAN HOOD: I'm going to make the motions
15 Thursday.

16 MS. COHEN: Okay.

17 CHAIRMAN HOOD: I'm just kidding.

18 MS. COHEN: I move to set down Zoning Case
19 No. 16-13, consolidated planned unit development and
20 related map amendment for 1109 Congress Street
21 Northeast and ask for a second.

22 MR. MILLER: Second.

23 MS. COHEN: It's been properly moved and
24 seconded.

25 [Vote taken.]

1 MS. COHEN: Ms. Schellin.

2 MS. SCHELLIN: Yes. Staff records the vote
3 four to zero to one to approve setdown of Case No.
4 16-13 as a contested case, Commissioner Cohen moving,
5 Commissioner Miller seconding, Commissioners Hood and
6 Turnbull in support, Commissioner May not present,
7 not voting.

8 MS. COHEN: Thank you, Ms. Schellin.

9 Now, before I do the gavel thing, which I
10 love doing, I just haven't done something that all,
11 you know, people forget because they get excited and
12 nervous and whatever. I did not say something that I
13 must say and that is, I have to say that the Office
14 of Planning, DDOT, DOEE, have been extraordinary
15 resources to me and to this Commission and I thank
16 them because one of the things that I know, there's
17 been a lot of pushback since I've been sitting on
18 this Commission. You are appreciated, and if it's
19 not within the confines of D.C., it certainly is
20 within the United States. You are looked at as a
21 leader and a visionary throughout the country. And a
22 number of cities have replicated what we have done
23 and thank you for all of your service to us and your
24 support, and it's meant a great deal for me. I have
25 so much respect for the District of Columbia's

OLENDER REPORTING, INC.

1100 Connecticut Avenue NW, #810, Washington, DC 20036

Washington: 202-898-1108 • Baltimore: 410-752-3376

Toll Free: 888-445-3376

1 various departments.

2 I think the Office of Attorney General and
3 the Office of Zoning are so highly professional. We
4 are so lucky to have you. Work with us and I cannot
5 say enough about, especially you, Ms. Schellin. I
6 may have done it privately, but I must do it
7 publicly. You have saved me so many hours of looking
8 for things and being a basically disorganized person,
9 and you are the most organized. So thank you for
10 everything you have done for me over these years. I
11 can't tell you how much it's meant to me. Thank you.

12 MS. SCHELLIN: You're welcome.

13 MS. COHEN: And with that, we're adjourned.

14 [Hearing adjourned at 9:21 p.m.]

15

16

17

18

19

20

21

22

23

24

25