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GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Zoning Commission

Public Meeting  
1446th Meeting Session (25th of 2016)

6:48 p.m. to 8:22 p.m.  
Monday, October 17, 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 ROBERT MILLER, Vice Chair

4 PETER MAY, Commissioner

5

6

7 Office of Zoning:

8 SHARON SCHELLIN, Secretary

9

10 Office of Planning:

11 MATT JESICK

12 STEVE COCHRAN

13 ARTHUR ROGERS

14 KAREN THOMAS

15 JENNIFER STEINGASSER

16 MAXINE BROWN-ROBERTS

17

18 Office of Attorney General:

19 ALAN BERGSTEIN

20 JACOB RITTING

21

22

23

24

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

2 CHAIRPERSON HOOD: Good evening, ladies and  
3 gentlemen. This is a public meeting for the Zoning  
4 Commission of the District of Columbia.

5 My name is Anthony Hood. Joining me are Vice  
6 Chair Miller and Commissioner May. We have absentee  
7 ballots from Commissioner Turnbull. We're also  
8 joined by the Office of Zoning staff, Ms. Sharon  
9 Schellin, as well as the Office of Attorney General,  
10 Mr. Bergstein and Mr. Ritting, as well as the Office  
11 of Planning, Ms. Steingasser and Mr. Lawson, Mr.  
12 Jesick and Ms. Brown-Roberts, and Ms. Thomas, and I  
13 think I saw Mr. Cochran and Mr. Rogers also in the  
14 audience, and maybe other members of the Office of  
15 Planning. At the appropriate time I guess they'll  
16 come up.

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

22 Please be advised that this proceeding is  
23 being recorded by a court reporter and is also  
24 webcast live. Accordingly, we must ask you to  
25 refrain from any disruptive noises or actions in the

1 hearing room, including display of any signs or  
2 objects. Please turn off all electronic devices at  
3 this time. Does the staff have any preliminary  
4 matters?

5 MS. SCHELLIN: No, sir.

6 CHAIRPERSON HOOD: I do have one preliminary  
7 matter. Colleagues, if it's okay, I would like to  
8 move the correspondence item, and let's deal with  
9 that first, and then we can go with the rest of the  
10 agenda if that's okay. I know we arranged our  
11 materials one way but I thought that would not be as  
12 long as the other items.

13 So we will go with the correspondence item  
14 first, and then we will come back to our regular  
15 agenda in the order that it's printed. Okay. Let's  
16 begin.

17 Correspondence item, Zoning Commission Case  
18 No. 16-18, Ms. Schellin.

19 MS. SCHELLIN: Yes, sir. This is a -- on  
20 behalf of the Georgetown University, MedStar  
21 Georgetown Medical Center filed a request for waivers  
22 to, one, allow it to file a further processing at the  
23 same time as the campus plan cases is going through  
24 the process. And two, to allow for a shortened  
25 period of time for the publication of the public

1 hearing notice in the D.C. Register. So would ask  
2 the Commission to consider these two waiver requests  
3 this evening and advise accordingly.

4 CHAIRPERSON HOOD: Okay. Colleagues, as  
5 mentioned from Georgetown, we have a request for us  
6 to waive our rules that we just put in place under  
7 ZR-16, and I think evidence shows the rationale that  
8 we discussed this when we were doing the rewrite and  
9 everything, of why we did it in this fashion.

10 While this case, the way I understand it,  
11 everybody seems to agree but that does not really  
12 satisfy the rationale of why we put it in place. And  
13 furthermore, I don't really care for putting  
14 regulations in place and then throwing them right out  
15 the window. And this is right off the bat. We  
16 haven't even had a chance to use it yet, for the most  
17 part.

18 So I am not inclined to waive that rule. I  
19 think it needs to stay in place. We did it for a  
20 specific reason. We have exhaustive testimony of how  
21 we proceed in that fashion, and there are a number of  
22 reasons of college and universities across the city  
23 of why we did it that way. So let me open it up for  
24 any comments, if there are any. If not, Vice Chair  
25 Miller.

1           MR. MILLER: Mr. Chairman, I realize it's  
2 important to adhere to rules, but we do have a -- we  
3 do have waiver, the ability to waive the rules when  
4 there's a good reason to do so. I was persuaded by  
5 Georgetown's representative's letter that the  
6 Georgetown Community Partnership Steering Committee  
7 has agreed to this type of schedule that this  
8 surgical pavilion be heard concurrently with the  
9 campus plan, that they all worked years on coming to  
10 their Kumbaya moment, which has lasted more than a  
11 moment.

12           And I think when there's, you know, when  
13 there's that kind of community outreach and effort to  
14 bring the community on that they -- by an applicant,  
15 in this case, Georgetown, that they should somehow,  
16 you know -- and they all are asking for it to be  
17 considered, and trying to make sense in the  
18 efficiency of our time and of the community's time  
19 for the surgical pavilion to be considered as part of  
20 the campus plan. It made sense to me, but obviously  
21 we would need three votes to do that and there's  
22 three of us up here.

23           CHAIRPERSON HOOD: Actually, we have a proxy  
24 so you may have three.

25           MR. MILLER: I was just going to look to see

1 what he said, if anything. Okay.

2 So, we don't -- so it may be moot, but that's  
3 where I would have, you know, I would have been  
4 comfortable with moving ahead in this case, not  
5 setting a precedent for others, except to the extent  
6 that the University has worked so closely with the  
7 community to reach agreement on so many things that I  
8 think that kind of collaboration should be rewarded.

9 CHAIRPERSON HOOD: Okay. Commissioner May.

10 MR. MAY: You know, I can understand it, but  
11 I am inclined to agree with the Chairman. I mean, we  
12 just instituted this rule. We did it for a number of  
13 good reasons. Part of it has to do with you know,  
14 making sure that the community is able to get a fair  
15 hearing on these cases.

16 Going into this we really don't know whether  
17 there are issues or not, or how complex it will be.  
18 It's hard to predict what will actually happen in the  
19 hearing, even though we do have, I think, indications  
20 of support by the community. But it also has to do  
21 with our ability to digest and make thoughtful and  
22 correct decisions when we evaluate the information  
23 that's presented in the hearing.

24 So if there really is the level of community  
25 support that the applicant believes there is, then it

1 should proceed very smoothly and we'll get through  
2 the campus plan quickly. And I mean, yeah, it's  
3 going to set them back a couple of months in terms of  
4 their overall schedule, but it's going to take them a  
5 long time to build this thing and you know, maybe  
6 they can make it up on the backend. So, I'm just not  
7 inclined to waive the rules on the very first campus  
8 plan case that we take up.

9 CHAIRPERSON HOOD: Okay. I'm going to say in  
10 public, are you going to give or you going to -- if  
11 you hold your stand we can't deal with this tonight.

12 MR. MILLER: Well, I think their request  
13 would be effectively denied by -- even if I hold my  
14 stand, so I think you can hold your stand, I'd hold  
15 my stand, and we agree to disagree.

16 CHAIRPERSON HOOD: So, Mr. Turnbull didn't --  
17 okay. Well, let's just do it this -- let me not  
18 belabor the point. I move that we deny the request  
19 in the correspondence in Zoning Commission Case No.  
20 16-18, and ask for a second.

21 MR. MAY: Second.

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

24 [Vote taken.]

25 CHAIRPERSON HOOD: You know, some reason --



1 MR. MILLER: [Speaking off mic.]

2 CHAIRPERSON HOOD: I think I did. I think I  
3 did have to make a motion. We've been through this  
4 before.

5 MS. SCHELLIN: Yeah.

6 CHAIRPERSON HOOD: And then we didn't make  
7 another motion and we -- it carries on forever.

8 MS. SCHELLIN: Right. So, staff records the  
9 vote two to one to one. I'm sorry, two to one to two  
10 to deny the waiver request, Commissioner Hood moving,  
11 Commissioner May seconding, Commissioner Miller  
12 opposed, Commissioner Turnbull not present, not  
13 voting, the third mayoral appointee position vacant.  
14 So the motion would fail and therefore there will be  
15 no action on the waiver request.

16 CHAIRPERSON HOOD: Okay. So do we need to  
17 make another motion because both of them need to  
18 fail, right? We've been through this before.

19 MS. SCHELLIN: If he'd like to, sure.

20 CHAIRPERSON HOOD: Yeah, and we --

21 MS. SCHELLIN: But he won't -- yeah.

22 CHAIRPERSON HOOD: We've been.

23 MS. SCHELLIN: Yes.

24 CHAIRPERSON HOOD: And it takes three weeks  
25 to get it straightened out, so just make a motion.

1 MR. MILLER: Well, I think my motion to grant  
2 would be -- would fail for lack of a second so --

3 MS. SCHELLIN: Correct.

4 MR. MILLER: -- I'll just concede that it  
5 failed.

6 CHAIRPERSON HOOD: Okay. Thank you. I guess  
7 we can live with that.

8 MR. MILLER: It never got on the table.

9 CHAIRPERSON HOOD: Wouldn't have got a  
10 second. Okay. All right. So hopefully that will  
11 satisfy any of our legal requirements about motions  
12 and everything. Okay.

13 All right. Let's go to consent calendar,  
14 Zoning Commission Case No. 11-03H, Wharf District  
15 Master Developer, LLC., request for minor  
16 modification to PUD, Parcel 4 at Square 473. Ms.  
17 Schellin.

18 MS. SCHELLIN: Yes, sir. On this case it was  
19 deferred from the September 26th meeting to allow the  
20 applicant to respond to two issues, the distribution  
21 of the residential uses within Parcels 2 and 4, and  
22 the applicability of IZ in the penthouse habitable  
23 space.

24 The applicant has submitted their responses  
25 to those issues at exhibits 9 and 9A, would ask the

1 Commission to consider final action on this this  
2 evening.

3 CHAIRPERSON HOOD: Okay. Thank you, Ms.  
4 Schellin. Let's -- okay, colleagues, we do have  
5 exhibit, which I thought was very helpful. Let me  
6 see what exhibit it is. I believe it was 9A, the  
7 chart, the dwelling unit distribution chart. Did we  
8 have any questions on that, or comments?

9 [No audible response.]

10 CHAIRPERSON HOOD: Okay. Let's just open it  
11 up for any discussion. Anybody? Commissioner May.

12 MR. MAY: So, I think we did receive a  
13 lengthy submission from the applicant on this that  
14 explains the entire situation in some detail. I  
15 mean, I think it's -- it might be a little bit  
16 unsatisfying to know that the additional square  
17 footage is being gained on the penthouse for  
18 habitable space and yet there's no bump in the  
19 affordable housing component, but you know, I do  
20 recognize that they're already exceeding very  
21 slightly, the requirement. So I'm willing to go  
22 along on this one. I think that we've pushed as hard  
23 as we can push and I don't think that we're going to  
24 get anything more out of it, and I think it's okay to  
25 move forward.

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1 CHAIRPERSON HOOD: Vice Chair.

2 MR. MILLER: Thank you, Mr. Chairman. Yeah,  
3 I would agree with Commissioner May, except that I'm  
4 really kind of, like in another case, kind of  
5 dissatisfied that this is kind of -- you know, our  
6 penthouse, new penthouse regulations enabled this  
7 habitable space on the rooftop and this is like gravy  
8 for a development that already was approved and had  
9 its whole financing approved, and to not have the  
10 trigger of the affordable housing for that gravy, for  
11 that luxury, the most valuable housing that's going  
12 to be on this property, to not have the trigger for  
13 the affordable housing, that certainly was not my  
14 intent when we passed the penthouse regulations, and  
15 I know the Office of Planning is looking at that,  
16 those regulations to see if there's some exemptions  
17 which could be refined or modified.

18 And in this case, like a recent case that we  
19 heard, there already is, as Commissioner May noted, a  
20 substantial affordable housing component that's  
21 deeper than what IZ would require. So, for that I  
22 can -- I'll also let it go, you know, let it go  
23 forward. I think we're not going to get anything for  
24 it further, but I think that it should apply as a  
25 policy matter and I hope OP will bring something

1 forward on this and other types of similar cases.

2 CHAIRPERSON HOOD: Okay. And typically this  
3 is not typically what we do in our deliberations, but  
4 I need some clarification on the Office of Planning's  
5 September 2nd submission, unless there was one that I  
6 may have missed that came in later.

7 Ms. Steingasser, I think you all are still  
8 looking for some additional modifications in this.  
9 Am I correct, or did I understand it because it still  
10 says Office of Planning is generally in favor, but it  
11 says, pending an amendment to the current application  
12 to include the new areas of flexibility the Office of  
13 Planning cannot recommend approval to this request.  
14 Is that still in effect, or did I miss something?

15 MR. JESICK: The applicant did submit  
16 additional information as part of their September  
17 23rd and October 3rd submissions. I'm sorry, I don't  
18 have the exhibit numbers on those.

19 CHAIRPERSON HOOD: Okay. Didn't you all do a  
20 supplement report, or am I thinking of another case?

21 MR. JESICK: No, there was no supplemental  
22 report.

23 CHAIRPERSON HOOD: Okay, that was another  
24 case. All right.

25 So, I guess with what was submitted, can you

1 verbally state that something different other than  
2 your September 2nd?

3 MR. JESICK: Yes, based on the supplemental  
4 information that was received we can recommend  
5 approval of the modification.

6 CHAIRPERSON HOOD: Okay. All right. So, I  
7 don't have any other issues, other than that. I  
8 don't know how we're going to handle this proxy,  
9 because I don't know if he was given that information  
10 I was just given. So anyway, somebody like to make a  
11 motion on this?

12 MR. MAY: I would move approval of Zoning  
13 Commission Case No. 11-03H, Wharf District Master  
14 Developer, LLC., request for minor modification to  
15 PUD at Parcel 4 at Square 473.

16 MR. MILLER: Second.

17 CHAIRPERSON HOOD: Okay. It's been moved and  
18 properly seconded. Vice Chair Miller seconded.

19 [Discussion off the record.]

20 CHAIRPERSON HOOD: Okay. It's been moved and  
21 properly -- is there any further discussion?

22 [Vote taken.]

23 CHAIRPERSON HOOD: Ms. Schellin, would you  
24 record the vote with the proxy?

25 MS. SCHELLIN: Yes. So staff records the

1 vote three to one to one to approve Zoning Commission  
2 Case No. 11-03H, Commissioner May moving,  
3 Commissioner Miller seconding, Commissioner Hood in  
4 support, Commissioner Turnbull opposed because at the  
5 time he submitted the absentee ballot. He said -- he  
6 wrote, "Agree with OP that additional modifications  
7 are required." So he did not know that they were  
8 satisfied. So I'll have to record the vote as  
9 submitted. And third mayoral appointee position  
10 vacant, not voting.

11 CHAIRPERSON HOOD: Also, if he comes back and  
12 wants to, we can always redo that vote, but for now  
13 it passes. If he wants to get on the affirmative  
14 side, I'm sure we can reconsider. Okay.

15 Let's go to Zoning Commission Case No. 11-  
16 03I, Wharf 5 Hotel Leaseholder, LLC., request for  
17 minor modifications to PUD, Parcel 5 at Square 473.  
18 Ms. Schellin.

19 MS. SCHELLIN: Yes, sir. This is a request  
20 from the applicant for a minor modification to the  
21 approved plans for Parcel 5 to modify the use of  
22 approved penthouse habitable space from recreation  
23 space to a restaurant bar and to make related  
24 modifications to the penthouse facades and rooftop  
25 terrace.

1           At Exhibit 5 there's an ANC 6D report in  
2 support. Exhibit 6 is a letter in support from the  
3 Gangplank Slip Holders Association, Exhibit 7 and OP  
4 report in support, and Exhibit 8, a letter in support  
5 from the Capital Yacht Club. Ask the Commission to  
6 consider final action this evening.

7           CHAIRPERSON HOOD: Thank you, Ms. Schellin.  
8 I think, colleagues, with the modification it seems  
9 to be a lot of support, but let me open it up. Any  
10 comments?

11           MR. MILLER: Mr. Chairman, yeah. I am  
12 persuaded by all the support for this allowance of a  
13 bar/restaurant use at the penthouse level because of  
14 the support by the -- as Ms. Schellin noted by the  
15 ANC and by the Capital Yacht Club, and by the  
16 Gangplank Slip Holders Association, and for all the  
17 reasons that they set forth in their letter and  
18 letters, and the applicant's letter as well.

19           So I'm prepared to make a motion to support  
20 whenever you're ready.

21           CHAIRPERSON HOOD: Okay. Vice Chair, you can  
22 go ahead and make a motion.

23           MR. MILLER: Thank you, Mr. Chairman. I  
24 would move that the Zoning Commission take action on  
25 Zoning Commission Case No. 11-03I, Wharf 5 Hotel



1 Leaseholder, LLC., request for a minor modification  
2 to PUD, Parcel 5 at Square 473, and ask for a second.

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

5 [Vote taken.]

6 CHAIRPERSON HOOD: Ms. Schellin, would you  
7 record the vote with the proxy?

8 MS. SCHELLIN: Yes, staff records the vote  
9 four to zero to one to approve final actions in Case  
10 No. 11-03I, Commissioner Miller moving, Commissioner  
11 Hood seconding, Commissioner May in support,  
12 Commissioner Turnbull in support by absentee ballot,  
13 and third mayoral appointee position vacant, not  
14 voting.

15 CHAIRPERSON HOOD: Do we need to, for the  
16 record, read Mr. Turnbull's comments?

17 MS. SCHELLIN: Do you want me to?

18 CHAIRPERSON HOOD: Yeah, if you --

19 MS. SCHELLIN: He just said that there were  
20 low light levels, the downlighting only. He makes  
21 reference to the plain black box-like structure  
22 labeled as metal, mass trellis, the perspective view  
23 shows it as a solid black mass, where a section on, I  
24 believe it's 0.17 shows it as open with verticals.

25 CHAIRPERSON HOOD: Okay. I think we need to

1 read his comments since he's taken all this time like  
2 the rest of us. Okay.

3 Let's go to final action, Zoning Commission  
4 Case No. 15-16, MRP Rhode Island Investors, LLC., et  
5 al., first stage and consolidated PUD at square 3629.  
6 Ms. Schellin.

7 MS. SCHELLIN: Yes. This case was deferred  
8 from the September 26th meeting also. At Exhibit 98  
9 the applicant provided its signage plan, but at  
10 Exhibit 100 they withdrew the request for approval of  
11 signage, and advised they would come back for a  
12 modification prior to issuance of the building permit  
13 for phase one.

14 At Exhibit 99 we have the OP report  
15 responding to the signage plan that was submitted by  
16 the applicant, which may now be moot. But, ask the  
17 Commission to consider final action this evening.

18 CHAIRPERSON HOOD: Okay. Let's open it up  
19 for any comments on 15-16. I will start, though. I  
20 know they withdrew the signage and I know to some it  
21 may not be a big deal, but we need to come up with a  
22 method that our drawings are updated showing nothing.  
23 I know that the orders probably will be written  
24 saying no sign has been approved. I know that  
25 they've mentioned that they will come back. I read

1 all that. But I think one needs to match the other,  
2 whether we just draw a line and they sign off on it.  
3 I don't know what the mechanism is, but I believe  
4 that we need to be consistent in our actions,  
5 especially from a Commission standpoint.

6 So that's my only comment. How we get there,  
7 I'm not sure, but I will leave that up to Ms.  
8 Schellin and others. But since they've already  
9 pulled it, because I'm not asking you to go back and  
10 give us a brand new set of drawings, I'm just  
11 figuring out a way that we can scratch it. I know  
12 that the order is going to say no signage has been  
13 approved. I know you're holding back so that's the  
14 only comment I have on this. Any other comments up  
15 here, Commissioner?

16 MR. MAY: No, I mean, it is an unusual  
17 circumstance to have a component of the design,  
18 essentially, withdrawn, even though it's still  
19 showing that way on the drawings. But I think if we  
20 make it clear in the order that no signage has been  
21 approved and that they will have to resubmit before  
22 they can install any signage, then I think we're  
23 covered.

24 We may also want to take a further step that  
25 the office might be able to do to make sure that the

1 drawings are marked as such. Ms. Schellin is nodding  
2 her head so they can -- you want to describe what you  
3 would do?

4 MS. SCHELLIN: Yes. On the first page of the  
5 -- or on the front of the plans that are approved, we  
6 would -- I could mark on them that any signage shown  
7 on the drawings were not -- have not been approved  
8 pursuant to the order, pursuant to final action taken  
9 by the Commission as of this date, and per the order.  
10 Some language of that sort.

11 And that way when those plans are submitted  
12 to DCRA, then they would see that.

13 CHAIRPERSON HOOD: Okay. Anything else?  
14 Commissioner May?

15 MS. SCHELLIN: And I can work with OAG for  
16 the exact language that they think is appropriate.

17 CHAIRPERSON HOOD: Thank you. Any other  
18 comments up here? Vice Chair Miller.

19 MR. MILLER: Yeah, I would just agree with  
20 everything that's been said up here. I think with  
21 the withdrawal of the signage plan, with the clear  
22 understanding that any signage that's going to be on  
23 that building would have to come back to us for  
24 approval, that no signage has been approved at all  
25 currently, and with Ms. Schellin's administrative

1 noting on the plans that any signage shown has not  
2 been approved.

3           So I'm comfortable with moving forward with  
4 final action today.

5           CHAIRPERSON HOOD: Okay. All right. With  
6 that I would approve Zoning Commission No. 15-16 as  
7 noted, first stage and consolidated PUD at square  
8 3629 and ask for a second.

9           MR. MILLER: Second.

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

12           [Vote taken.]

13           CHAIRPERSON HOOD: Ms. Schellin, would you  
14 record the vote and the proxy?

15           MS. SCHELLIN: Yes. Staff records the vote  
16 four to zero to one to approve final action in Zoning  
17 Commission Case No. 15-16, Commissioner Hood moving,  
18 Commissioner Miller seconding, Commissioner May in  
19 support, Commissioner Turnbull in support by absentee  
20 ballot. Third mayoral appointee position vacant, not  
21 voting.

22           CHAIRPERSON HOOD: Mr. Turnbull's note, which  
23 coincides with the vote, he says, "No blade signs or  
24 vote to the nod." So there's no blade signs so he's  
25 voting to approve with any conditions we had.

1           Okay. Let's move right along. Zoning  
2 Commission Case No. 04-33G, Campaign for Inclusionary  
3 Zoning Text Amendment, Inclusionary Zoning. Ms.  
4 Schellin.

5           MS. SCHELLIN: Yes, sir. As a preliminary  
6 matter I just want to note that the amendment to  
7 Subtitle C, Section 1001.6A was moved to Zoning  
8 Commission Case No. 04-33H. And for this case  
9 Exhibits 250 and 251 were public comments that were  
10 received to the proposed rulemaking, and Exhibit 252  
11 we have OP's review of those public comments as  
12 requested by the Zoning Commission, would ask the  
13 Commission to consider final action this evening.

14           CHAIRPERSON HOOD: Okay. Let me open that  
15 up. Any other discussion on this?

16           MR. MAY: I did have one question that came  
17 up in the -- it was a comment from the Committee of  
18 100 in the last round that had a question about,  
19 which was the applicability of 10 percent as a  
20 percentage, you know, with the difference between  
21 something that's stick-built versus concrete  
22 construction. And I'm wondering if what they're  
23 suggesting is something that we should consider,  
24 which is to drop the condition of the building being  
25 less than 50 feet. In other words we can have stick-

1 built buildings that are above 50 feet now, quite  
2 readily. And you know, why wouldn't they be subject  
3 to the 10 percent if they're so much less expensive.  
4 And maybe it's -- I'm actually curious to see whether  
5 the Office of Planning thought that this proposal had  
6 merit.

7 MR. ROGERS: So we did our economic analysis  
8 with some of those same assumptions in mind. We used  
9 an economic analysis was a one-story concrete, steel  
10 and concrete level with stick above, which is the  
11 type of form that you get now with that.

12 So, all our conclusions were based on that  
13 economic analysis, and so it included that.

14 MR. MAY: So buildings that are built like  
15 that, they're going to be 60 feet tall or 70 feet  
16 tall, you still think should be subject to eight  
17 percent rather than 10 percent.

18 MR. ROGERS: I don't think we came to a  
19 definitive conclusion but based on the zones that we  
20 modeled, we showed that the various impacts. We did  
21 not test increasing the requirements from eight  
22 percent to 10 percent.

23 MR. MAY: Okay. I don't know if this is  
24 something that requires further study on our part. I  
25 mean, we're at final action now, so I don't think

1 that we could suddenly make this change without  
2 having to, you know, hear it again and all that.  
3 But, you know, we have other things that we're  
4 tweaking, continue to tweak on Inclusionary Zoning.  
5 Maybe it's something that we need to revisit. I  
6 don't know. What do my fellow commissioners think?

7 CHAIRPERSON HOOD: Vice Chair Miller?

8 MR. MILLER: Thank you, Mr. Chairman and  
9 Commissioner May. I had the same question as you  
10 when I saw the -- the paragraph of the Committee of  
11 100. I had a note next to it saying, "Ask for OP  
12 response."

13 So, I think we can ask for OP to run the  
14 study, but I don't want to delay final action. This  
15 case has been a long time coming and has some very  
16 important components in it, which will increase the  
17 supply of affordable housing targeting it at the  
18 levels that are most in need for rental buildings.

19 So I wouldn't want to delay it but I think we  
20 could ask them to look at it and if we have to do  
21 another tweak, among many tweaks that we do up here,  
22 we can do that later.

23 CHAIRPERSON HOOD: Okay. All right. I would  
24 go along with Vice Chair Miller. Even I didn't have  
25 a problem delaying it, sending it back. I think I



1 don't have a problem with holding off. Sometimes we  
2 rush to rush to rush and I don't mind taking our time  
3 but hopefully we can add this to our list, laundry  
4 list of things, and this is something that we can  
5 take up expeditiously, so I don't have a problem with  
6 moving forward with what we have, but I think as  
7 stated by Commissioner May, I think the Committee  
8 brings up a good point and we need to fully exhaust  
9 that.

10 So we need to add that to -- I would request,  
11 formally request now that we add that to our list of  
12 things that we're tweaking, even though we're moving  
13 forward tonight. I would ask, as my colleagues have  
14 stated, that we add that to our list.

15 Okay. Anything else?

16 MR. MILLER: Yes. Mr. Chairman, since this  
17 is final action I think we need to make a  
18 determination if we can, on an effective date  
19 provision and I know we've been provided with a  
20 number of options by both OP and OAG. I would just  
21 suggest in terms of allowing time for implementation  
22 for both the public sector community and the private  
23 sector community, which may involve council  
24 legislation, which may involve rulemaking, and just  
25 to have a transition period where there's time for

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1 people to get adjusted to the new requirements. I  
2 would just, for discussion purposes, throw out a  
3 specific date and that would be the first Monday in  
4 June, which I believe is June 5th, 2016. I think  
5 that's sufficient time to do all the things that need  
6 to be done to get this important, I think,  
7 modification to the program, implemented.

8 MR. MAY: So that's seven and a half months  
9 from now. Is that what you were intending, seven and  
10 a half months?

11 MR. MILLER: Yes.

12 MR. MAY: Okay. Because I was thinking more  
13 like six months, but I am definitely in favor of a  
14 specific date.

15 MR. MILLER: I would go with an earlier, if  
16 we have --

17 MR. MAY: The first Monday in May, which  
18 would be six and a half.

19 MR. MILLER: That's fine with me.

20 CHAIRPERSON HOOD: I kind of like -- I yield  
21 to the experience. I kind of like Mr. Miller, his  
22 previous light --

23 MR. MAY: That's fine. I can go that way  
24 too. I'm fine with that.

25 CHAIRPERSON HOOD: You want to lean on that

1 June 5th, or whatever that date was, I can understand  
2 why you might want May. But it's supposed to be  
3 funny, but anyway, but seriously, I think Vice Chair  
4 Miller has factored in all those pieces and one of  
5 the concerns that I have when I looked at the DHC, it  
6 was all those things that need to be implemented and  
7 I think with your experience and expertise, I think  
8 that is a good date. June 5th.

9 I know you want it sooner than later, so you  
10 didn't have a problem with May. But I think June  
11 5th. Are we okay with that, Commissioner May?

12 MR. MAY: Uh-huh.

13 CHAIRPERSON HOOD: Okay. So anything else on  
14 this? Someone want to make a motion?

15 MR. MILLER: The only other comment I wanted  
16 to make, Mr. Chairman, before we vote on it, was that  
17 -- is that I want to make sure that -- I don't think  
18 it's what we're doing in the -- in our rulemaking,  
19 but in what the council does and what DHCD and DMPED  
20 do in their administrative rulemaking, is that we  
21 don't have the problem that we've encountered in the  
22 past year. So, where people have proffered,  
23 applicants have proffered deeper affordability level  
24 than the 50 or the 80, and the administration or the  
25 executive has said that they had trouble implementing

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1 because they only had two price schedules, rent  
2 schedules, whatever, published. I think that a  
3 number of -- that multiple rent schedules should be  
4 published so that if someone wants to proffer  
5 something that's less -- deeper in affordability, we  
6 ought to be able, as a government, to implement that  
7 and accept that deeper affordability level.

8           So, I don't know. I don't know if it's in  
9 our own rulemaking that we need to do something  
10 there. Ask OP to look at that. But -- and OAG. But  
11 if it's in the council legislation, which I'm sure OP  
12 and OAG will be involved with, as well as the  
13 administrative rulemaking, to at least do it there if  
14 not in our own Zoning Commission rulemaking.

15           CHAIRPERSON HOOD: So, I actually would agree  
16 with that. I'm not sure how we get to that  
17 conclusion but I would agree. I don't know if we add  
18 that to the list too, but we don't want to hear some  
19 of the testimony we've heard where we can't  
20 administer something if it's a deeper affordability.  
21 I don't know what the fix is. Maybe we can as I  
22 think you've already formally asked OP to look at  
23 that, and OAG to look at that together and let's see  
24 if, if it's satisfied here, which I don't think it  
25 is. Or do we need to do some more advertisements so

1 if somebody comes with deeper affordability then we  
2 won't have to say, well, we can't administer it  
3 because the program doesn't have that. So, you know,  
4 we want to get away from that.

5 And I would agree with you 100 percent. Any  
6 further comments?

7 Okay. Someone like to make a motion?

8 MR. MILLER: Yes, Mr. Chairman, I would be --

9 MR. BERGSTEIN: Not to interrupt but I want  
10 to clarify with the Commission, are you including the  
11 new proposed condition C-10005.6, which was actually  
12 not included in the notice of proposed rulemaking in  
13 your action?

14 MR. MAY: Well, I think that that's new  
15 enough that we need to actually have a separate  
16 notice of proposed rulemaking for that, right?

17 MR. BERGSTEIN: So I would assume that your  
18 motion would include that as well.

19 MR. MAY: As a separate notice of proposed  
20 and we'll have to take final later on.

21 MR. BERGSTEIN: That's correct, right. Yeah.  
22 Thank you very much.

23 MR. MILLER: With that understanding and with  
24 the effective date that we discussed of the first  
25 Monday in June I would move that the Zoning

1 Commission take final action on Zoning Commission  
2 Case No. 04-33G, Campaign for Inclusionary Zoning,  
3 Text Amendment Regarding Inclusionary Zoning, and ask  
4 for a second.

5 MR. MAY: Second.

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

8 [Vote taken.]

9 CHAIRPERSON HOOD: Ms. Schellin, would you  
10 record the vote and absentee?

11 MS. SCHELLIN: Yes. Staff records the vote  
12 four to zero to one to approve final action in Zoning  
13 Commission Case No. 04-33G, Commissioner Miller  
14 moving, Commissioner May seconding, Commissioners  
15 Hood in support, Commissioner Turnbull in support by  
16 absentee ballot, and third mayoral appointee position  
17 vacant, not voting.

18 CHAIRPERSON HOOD: Okay, next, let's go to  
19 Zoning Commission Case No. 09-03C, Skyland Holdings,  
20 LLC., one-year PUD time extension at Square 5633.  
21 Ms. Schellin.

22 MS. SCHELLIN: The applicant is asking for a  
23 one-year PUD time extension to September 10th, 2017  
24 to start construction of the building located on  
25 block two. They stated the delay was due to DCRA not

1 issuing the permit until August 26th, and Wal-Mart's  
2 announcement in January, it was pulling out. Exhibit  
3 4 is the OP report in support of the extension and  
4 would ask the Commission to consider final action  
5 this evening.

6 CHAIRPERSON HOOD: Okay. Any comments? I  
7 would agree with the request. I think this whole,  
8 that whole site has been devastated with some news  
9 and other things that have happened, so I think if  
10 that's what they needed, some additional time to try  
11 to get a project that's been around or projects over  
12 in that area that's been around for years to at least  
13 get some things moving, I don't have an issue with  
14 one year -- may need more time but at least right now  
15 they're requesting one-year time extension.

16 Let me open it up, any questions or comments?

17 MR. MILLER: I would agree with you, Mr.  
18 Chairman.

19 CHAIRPERSON HOOD: Okay. So with that I  
20 would approve the request to the Zoning Commission  
21 for Zoning Commission Case No. 09-03C and ask for a  
22 second.

23 MR. MILLER: Second.

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

1 [Vote taken.]

2 CHAIRPERSON HOOD: Ms. Schellin, would you  
3 record the vote and the proxy?

4 MS. SCHELLIN: Yes, staff records the vote  
5 four to zero to one to approve final action in Zoning  
6 Commission Case No. 09-03C, Commissioner Hood moving,  
7 Commissioner Miller seconding, Commissioner May in  
8 support, Commissioner Turnbull in support by absentee  
9 ballot, and third mayoral appointee position vacant,  
10 not voting.

11 CHAIRPERSON HOOD: Okay. Next, proposed  
12 action, Zoning Commission Case No. 08-06F, Office of  
13 Planning Text Amendment to Subtitles A and X. Ms.  
14 Schellin.

15 MS. SCHELLIN: Exhibit 28 is the OP  
16 supplemental report which they then submitted a  
17 corrected copy at Exhibit 28A. Exhibit 29 is an ANC  
18 6C report in response to the Commission's question  
19 regarding the ZA's suggested language. Would ask the  
20 Commission to consider proposed action this evening.

21 MR. MAY: So, yeah, I'd like to start with a  
22 question if I could. For the Office of Attorney  
23 General, which has to do with a suggestion that came  
24 in from ANC 6C, which essentially would fold in a  
25 notification requirement of parties on a PUD



1 modification, and whether that's something that we  
2 could simply add to this final action, or whether  
3 that requires some extra steps.

4 MR. BERGSTEIN: Well, this is proposed  
5 action.

6 MR. MAY: Oh, I'm sorry, this is proposed.

7 MR. BERGSTEIN: So there's no issue.

8 MR. MAY: All right, so --

9 MR. BERGSTEIN: This fit well within the  
10 scope of the --

11 MR. MAY: Got it. Got it. Okay.

12 CHAIRPERSON HOOD: Somebody like to start off  
13 our discussions? I hadn't had a chance to look at  
14 the ANC letter. It's not because I didn't read it,  
15 it's because it didn't show up on my computer. So.

16 [Discussion off the record.]

17 MR. MAY: Well, I mean, Commissioner -- Vice  
18 Chair.

19 MR. MILLER: Mr. Chairman, I would --

20 [Discussion off the record.]

21 CHAIRPERSON HOOD: Thank you. I'm sorry.

22 MR. MILLER: So, I would be supportive of the  
23 three recommendations made by Office of Planning in  
24 its October 13th report on the vested rights to  
25 approve as advertised with the clarification on the

1 proposed waiver to the required minimum land area for  
2 PUD to go with the OP recommendation which is to  
3 maintain a 50 percent waiver limitation for Zone  
4 Group 1, R and RF Zones, allow more than a 50 percent  
5 waiver for zone groups 2, 5, and 6, but establish a  
6 5,000 square foot lot minimum, and make some  
7 corrections in zone group in Table 10, Table X. Is  
8 it Table 10 or Table X? Table X. And the proposed  
9 changes to the flexibility granted the Zoning  
10 Administrator in Subtitle A deviations and  
11 modifications permitted by the Zoning Administrator's  
12 ruling. The OP recommendation was approved as  
13 advertised with clarifications and corrections.

14 I think the Zoning Administrator's  
15 suggestions on that would provide clarity, and I  
16 think that the ANC's suggestion would be a useful one  
17 to have for transparency and accountability and so  
18 without putting a burden, I don't think, on the  
19 government or the parties or the applicant. So I  
20 would be supportive of that ANC suggestion, which  
21 maybe we need to detail.

22 Did you detail that, Commissioner May, what  
23 they actually suggested?

24 MR. MAY: I did not. Well, I mean, just in  
25 general terms what the ANC had requested. That's all

1 I covered.

2 MR. MILLER: Right. They wanted -- yeah,  
3 that's all I was asking.

4 MR. MAY: Yeah. Yeah.

5 MR. MILLER: Yeah, they wanted the parties --

6 MR. MAY: Parties to be notified.

7 MR. MILLER: -- in the ANC to be notified of  
8 a request --

9 MR. MAY: Yeah, yeah, that's all I --

10 MR. MILLER: -- for deviation and the  
11 decision that's being made.

12 MR. MAY: Uh-huh.

13 CHAIRPERSON HOOD: Now let me ask this, who  
14 would notify? Who would notify --

15 MR. MILLER: I thought it was the applicant  
16 under the --

17 CHAIRPERSON HOOD: The applicant?

18 MR. MILLER: Under the --

19 CHAIRPERSON HOOD: Or should the government?

20 MR. BERGSTEIN: I believe it's the applicant  
21 gives notice when they file a modification request.  
22 And the ZA gives notice if it's approved, within one  
23 week of approval. So, there's a requirement when a  
24 request is made for the applicant to give notice of  
25 the parties, including the ANC, and for the Zoning

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1 Administrator to give notice to the same persons if  
2 the applicant is granted.

3 CHAIRPERSON HOOD: So, I'm not understanding  
4 that having just looking at -- I'm trying to read  
5 this quickly and I don't read very quickly. But let  
6 me just say that from what I understand of this  
7 letter, they're asking for notification before  
8 decision is made. What I'm reading.

9 So what I'm hearing and what I'm reading are  
10 two different things.

11 MR. BERGSTEIN: Well, if you go to the --  
12 they actually mark up the provisions and the force  
13 mark-up is, if you go to the very back, it's on page  
14 five of their repeat of notice of proposed of the  
15 notice of public hearing, so they would amend 304.6  
16 which basically says that if an applicant wants a  
17 modification to plans approved by the Zoning  
18 Commission, it asks that the applicant shall, at the  
19 time, serve a complete copy of the request to the  
20 parties and the ANC.

21 And then at the time that the Zoning  
22 Administrator at .7, at the time the Zoning  
23 Administrator reports to the Zoning Commission of any  
24 modifications granted to a Zoning Commission plans,  
25 that the Zoning Administrator also provide notice to

1 the ANC's and parties. That's .7 of the change, and  
2 that goes to Zoning Commission orders.

3 And then the next group of changes start at  
4 .10, which go to requested plans for modifications to  
5 plans from the BZA, and again what they do, what the  
6 ANC proposes is that it actually is .11 that at the  
7 same time that the applicant requests the  
8 modification to file copies of the request to the ANC  
9 and the parties, and then the preceding 1.10 says the  
10 Zoning Commission shall, within one week, send  
11 notification to all parties if a modification is  
12 approved.

13 So it's a parallel structure for both request  
14 for modifications for Zoning Commission orders -- I'm  
15 sorry, plans approve by Zoning Commission orders, and  
16 modifications to plans approved by BZA orders. The  
17 applicant has to provide notice to the ANC and the  
18 other parties when at the same time it requests a  
19 modification, and then the Zoning Administrator for  
20 Zoning Commission orders, because the Zoning  
21 Administrator must inform the Zoning Administrator  
22 when a modification is made. The requirement is that  
23 the Zoning Administrator also provide the same notice  
24 to parties and the ANC.

25 For the BZA, where there's no similar to

1 notice to the BZA that a modification has been  
2 granted, then the applicant -- then the ZA must  
3 provide notice of that granted approval to the  
4 parties of the ANC. That's how I read what they  
5 requested.

6 CHAIRPERSON HOOD: Okay. Okay. I think -- I  
7 didn't know that they had highlighted that in the  
8 back until Vice Chair Miller shared his copy with me.  
9 So I think that's pretty straight forward and I think  
10 you included that in your comments.

11 MR. MILLER: Yes.

12 CHAIRPERSON HOOD: Did you make a motion?

13 MR. MILLER: Yes, I did make a motion, yeah.

14 CHAIRPERSON HOOD: You did?

15 MR. MILLER: I did. I don't think I did.

16 MS. SCHELLIN: No.

17 MR. MILLER: I just said I'm supportive of  
18 all these recommendations with that additional  
19 recommendation.

20 I would -- I'm sure we'll hear form the  
21 Zoning Administrator if it's a problem.

22 CHAIRPERSON HOOD: Okay.

23 MR. MILLER: So this is proposed action, so  
24 there's time to hear from them.

25 CHAIRPERSON HOOD: Okay. Any other comments?

1 Commissioner May? Turn your mic on.

2 MR. MAY: Yeah, so I mean, we did get another  
3 request that ZR-16 not apply to modification of  
4 consequence. I did not find that argument to be  
5 persuasive, so I'm not inclined to take action on  
6 that.

7 So, just what we had previously discussed or  
8 reviewed, and the Office of Planning's  
9 recommendations, and the ANC's, ANC 6C's submission,  
10 I am supportive of all that so I'm ready to move  
11 forward.

12 CHAIRPERSON HOOD: So we have taken the issue  
13 out of this motion, if there's a motion made, about  
14 the 50 percent waiver, right?

15 MR. MILLER: That was part of the  
16 recommendation.

17 CHAIRPERSON HOOD: That was part of your --

18 MR. MILLER: Of Office of Planning.

19 CHAIRPERSON HOOD: But the Office of Planning  
20 has since then --

21 MR. MILLER: Oh, yeah, they've modified.

22 CHAIRPERSON HOOD: They modified it.

23 MR. MILLER: Yeah, they have a modification  
24 recommendation.

25 CHAIRPERSON HOOD: And I'm actually not ready

1 to move forward with any of that because I'll tell  
2 you why, because we asked them for a modification and  
3 I know there's a 30-day comment -- this is proposed,  
4 so, okay. Okay. You know, there's a 30-day comment  
5 period. We'll be able to hear comments on this  
6 modification of the 50 percent waiver.

7 So, this is by no means if I vote for this  
8 tonight, no means moving forward. I just want to see  
9 what the comments are. You know, and my vote will be  
10 accordingly. Okay.

11 MR. MILLER: Well, I would make the motion  
12 that we approve the -- for proposed action, the OP  
13 recommendations.

14 CHAIRPERSON HOOD: But the alternative is  
15 that they -- at our request.

16 MR. MILLER: With the alternatives that they  
17 have developed, which I appreciate, in Zoning  
18 Commission Case 08-06F in their October 13th report,  
19 with the addition of the ANC 6C's recommendation and  
20 ask for a second.

21 MR. MAY: Second.

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

24 [Vote taken.]

25 CHAIRPERSON HOOD: Ms. Schellin, would you



1 record the vote?

2 MS. SCHELLIN: Yes, staff records the vote  
3 four to zero to one to approve proposed action in  
4 Zoning Commission Case No. 08-06F, Commissioner  
5 miller moving, Commissioner May seconding,  
6 Commissioner Hood in support, Commissioner Turnbull  
7 in support by absentee ballot, third mayoral  
8 appointee position vacant, not voting.

9 CHAIRPERSON HOOD: Okay. Next, Zoning  
10 Commission Case No. 15-18, Consolidated PUD and  
11 Related Map Amendment at Square 1194. Ms. Schellin.

12 MS. SCHELLIN: This case was deferred from  
13 the September 26th meeting also. At Exhibits 49  
14 through 49B we have the applicant's submission  
15 responding the Commission's request regarding the  
16 lighting plan. Would ask the Commission to consider  
17 proposed action this evening.

18 CHAIRPERSON HOOD: Okay. Thank you, Ms.  
19 Schellin. Ms. Schellin has basically teed us up for  
20 that and I think this case is the rationale of what  
21 we did in the previous case. But let me open it up  
22 for any discussion on the waiver, or anything about  
23 the case. Vice Chair Miller.

24 MR. MILLER: Mr. Chairman, I would be  
25 prepared to take proposed action. We've delayed this

1 case a number of times because while we're trying to  
2 figure out how to deal with the waiver issue, the  
3 proposed action that we've taken would take care of  
4 the problem in this particular case of being 74  
5 square feet short of the minimum PUD requirement  
6 because it would change the grave or criteria and the  
7 minimum lot size.

8           So, I -- this is a project that has the  
9 support of the ANC and of the, all of Georgetown  
10 Board, I believe, and others in the community. So I  
11 would be in favor of taking proposed action finally -  
12 - not finally. Taking proposed action this evening  
13 and deferring -- reserving action on the waiver until  
14 we take final action on the waiver issue, which we  
15 just took proposed action on.

16           CHAIRPERSON HOOD: Okay.

17           MR. MILLER: If that made any sense.

18           CHAIRPERSON HOOD: Any other comments?

19           MR. MAY: Mr. Chairman. Yeah, I agree with  
20 the Vice Chair. We should go ahead and move -- try  
21 to move this one forward. And I think that the -- in  
22 this circumstance the deviation is quite minimal. I  
23 think that the concern that was raised about wiping  
24 out minimums entirely was based more on the broader  
25 issue of PUD minimums in residential neighborhoods.

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1 It wasn't really -- I mean, cases like this, I did  
2 not get the sense was the major issue of concern.

3 So, I'm completely comfortable moving forward  
4 on this, knowing of course that if we get a whole lot  
5 of comments that you know, raise issues that causes  
6 to question that judge, we can still change our minds  
7 later on. But I'm perfectly comfortable moving  
8 forward with proposed action tonight just to try to  
9 move this case along.

10 CHAIRPERSON HOOD: I'm actually not in  
11 agreeance with the comments up here and I would  
12 rather for us to deal with 08-06F in its entirety and  
13 complete it. I'm not saying that this case doesn't  
14 warrant a looking at and possibly a waiver, but what  
15 I am saying is I would like to hear the comments.  
16 Especially with the addition of the new comments that  
17 we've heard that we have not had a chance to hear on  
18 the proposed text in 08-06F.

19 And I think that I'm not necessarily ready to  
20 vote against this, I just want to hear the comments  
21 of things that give the public the opportunity to be  
22 able to comment on what we've done, what we asked  
23 Office of Planning to do. I don't want to make it  
24 look like it's between us and Office of Planning.  
25 I'm waiting to hear the comments of some of those who

1 had concerns, and that's how we got some of those  
2 alternatives.

3           So I'd rather for us to -- I would rather for  
4 us to complete 08-06F in its entirety first, under  
5 final, after we hear those comments because I have  
6 not heard comments. So I'm just not -- and I don't  
7 want to put anybody on promise land, do proposed  
8 tonight and then turn around and do something  
9 different at a later date, so I'd rather seal that  
10 deal and then come back and relook at this again at a  
11 later time.

12           That's where I am. And I know we need three,  
13 and I am not in favor of moving forward tonight, so.

14           MR. MILLER: Well, when would final action on  
15 the other -- I mean, obviously -- when would the  
16 earliest time that final action would be on the other  
17 -- on the text amendment case?

18           CHAIRPERSON HOOD: Would have to ask Ms.  
19 Schellin. I know it's a 30-day comment period and  
20 it's --

21           MS. SCHELLIN: The December 12th meeting.

22           MR. BERGSTEIN: Unless you hold a special  
23 meeting before that, but because you're having one  
24 meeting a month, the November meeting isn't enough to  
25 allow a 30-day comment period. So the only way of

1 taking care of that would be the December meeting.

2 MR. MILLER: So if it was the December 12th  
3 meeting where we -- if we took final action on the  
4 proposed -- on the text amendment, it would have to  
5 be some date after December 12th. Or it could be at  
6 the December 12th meeting.

7 CHAIRPERSON HOOD: That could be at the same  
8 meeting. I know we tried to do this the last time,  
9 but that was before we asked for the alternative,  
10 some additional stuff from Office of Planning. So we  
11 tried to do proposed and proposed, but that didn't  
12 work out because of the alternatives.

13 MS. SCHELLIN: Yes. So at the same meeting,  
14 Mr. Miller.

15 CHAIRPERSON HOOD: So --

16 MR. MILLER: Well, I still would prefer if we  
17 went ahead but we don't have three votes, obviously,  
18 for that. So, so --

19 CHAIRPERSON HOOD: Okay. We do have a proxy  
20 --

21 MR. MAY: And the absentee ballot --

22 CHAIRPERSON HOOD: The proxy.

23 MR. MAY: -- does not support our moving  
24 forward tonight.

25 CHAIRPERSON HOOD: The absentee ballot

1 actually balances it. So I mean, because if I went  
2 with that --

3 MR. MILLER: Yeah.

4 CHAIRPERSON HOOD: -- then we don't even have  
5 a chance in December so that's why I figured we'd do  
6 that and let's complete -- let's complete the final  
7 and then we can relook at this and maybe the absentee  
8 might change. Who knows. And we'll have a full  
9 commission as opposed to split. Okay?

10 So do we need to -- what do we need to do  
11 now?

12 MR. BERGSTEIN: I'm just hearing a -- well,  
13 I'm going to leave it. Basically the thrust of the  
14 Commission's discussion is that it's going to be  
15 deferred for proposed action until December.

16 CHAIRPERSON HOOD: Okay. Because we're going  
17 to finalize the 08-06.

18 MS. SCHELLIN: Yes.

19 CHAIRPERSON HOOD: Okay. All right. So with  
20 that let's move forward with the next case. Zoning  
21 Commission Case 15-24 and 15-24A, Gallaudet  
22 University and the JBG Companies First Stage PUD and  
23 Related Map Amendment at Square 3591 and Parcels  
24 12970, 129103, 129106, and 129112.

25 Let me back up. The last case was not denied

1 so we're still continuing that. I just wanted to  
2 make sure that everybody understands.

3 MR. BERGSTEIN: That is exactly how I believe  
4 Ms. Schellin and I are reading it.

5 MS. SCHELLIN: Yes.

6 MR. BERGSTEIN: It was not --

7 MS. SCHELLIN: It's deferred.

8 MR. BERGSTEIN: -- decision to deny.

9 CHAIRPERSON HOOD: Right.

10 MR. BERGSTEIN: It was a decision basically  
11 based upon the total --

12 CHAIRPERSON HOOD: Right. It was --

13 MR. BERGSTEIN: -- deliberations to defer.

14 CHAIRPERSON HOOD: Right. I just want to  
15 make that clear for anybody who may be wondering what  
16 our action just was.

17 Okay, Ms. Schellin.

18 MS. SCHELLIN: Just to -- December 12th, Ms.  
19 Batties.

20 So for this case, 15-24 and 15-24A, the case  
21 was deferred. This one was deferred from the  
22 September 12th meeting to allow the applicant to work  
23 with the Office of Planning to provide an updated  
24 response of their benefits and amenities which they  
25 did provide at Exhibit 40. And Exhibit 41 is an OP

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1 response to the applicant's submission. So we'd ask  
2 the Commission to consider taking proposed action  
3 this evening.

4 CHAIRPERSON HOOD: I'm sorry. I'm on the  
5 wrong case. Which one are we on? Oh, we're on 15-  
6 24. Okay. I'm on Kenilworth. Somebody like to get  
7 us started?

8 MR. MILLER: Sure, Mr. Chairman. The  
9 applicant made a number of revisions to the benefits  
10 and amenities package to address OP's previous  
11 concern that the amenities and benefits were not  
12 commensurate with the increase in density that was  
13 being requested. And I appreciate the applicant  
14 having done that. And so, I believe, does OP.

15 But OP still -- the way I read OP's report is  
16 they still have an outstanding concern which they --  
17 which the way I interpret their report, and we can  
18 ask Office of Planning, is that if the applicant  
19 would increase their affordable housing proffer to 12  
20 percent, to these 12 percent rather than the 10  
21 percent, that they made in their most recent proffer  
22 and I think their original offer was the eight  
23 percent which was -- so they had already moved once.

24 But I could go along with OP's suggestion to  
25 see if in further dialog the applicant would be



1 willing to increase that affordable housing proffer a  
2 bit more, and then I think we would be -- I think  
3 Office of Planning and the Commission would be more  
4 satisfied. But I can ask OP if that's correct. If  
5 that one change was made would the Office of Planning  
6 be prepared to recommend this going forward?

7 MS. STEINGASSER: It would also be -- it's  
8 also important to OP that the issue of the design  
9 competition not be included as a benefit and amenity  
10 because it's not consistent with Chapter 24 and  
11 Section 2403. And the reason we're kind of adamant  
12 that it not be included in the provision is that,  
13 number one, it happened before the PUD was filed, and  
14 it has to do with how the applicant selected their  
15 design team. And we don't think that rises to the  
16 qualifications of benefit and amenity as set forth in  
17 the Zoning Regulations.

18 And even though the regulations clearly  
19 state, one case shall not be a precedent for another,  
20 as this case documents in several of its reports, it  
21 does look to everything as a precedent of what has  
22 and hasn't been done before.

23 So removal of that particular provision, and  
24 we think it's a -- we think it's a great positive  
25 aspect of how they do their business. It's just not

1 a benefit. And an increase to 12 percent would get  
2 us there.

3 MR. MILLER: Okay. Well, I mean, I read your  
4 report and I agreed with your analysis of the amenity  
5 and benefit package, including that particular  
6 provision, so.

7 CHAIRPERSON HOOD: Okay. Any other questions  
8 or comments?

9 MR. MAY: No, I agreed in particular with  
10 that one. I mean, there are some, you know, a few  
11 other things that probably need clarification in the  
12 proffered amenities in this project. But the design  
13 competition really isn't one. And you know, having  
14 dealt with lots of design competitions I can tell  
15 you, it's a mixed bag. It's not always a benefit.  
16 In this case maybe it was, maybe it wasn't. I don't  
17 know.

18 But it's certainly not, you know -- it  
19 doesn't make sense to design everything by design  
20 competition. I mean, it just, it really doesn't. So  
21 it's, it's -- it would be questionable to me to begin  
22 with. So I agree that should be -- should not be a  
23 proffered amenity that we agreed to.

24 So, and I do support the rest. I mean, I  
25 support bumping up the affordable component on this

1 because it is an extraordinary amount of additional  
2 density that's coming to this property as a result of  
3 the PUD process.

4 CHAIRPERSON HOOD: Okay. Anything else on  
5 this? I would agree with the Vice Chair. So I think  
6 he's already elaborated enough on that. Again, it  
7 still states light and not commissary, but I wasn't  
8 sure. Do we have an outcome on this? Are we ready  
9 to move for proposed and then final, or we just want  
10 to let them go back and revisit?

11 MR. MAY: Go back.

12 CHAIRPERSON HOOD: Okay. All right.  
13 Anything else on this, other than that? Okay. So we  
14 will not take action on this. Do we need to give a  
15 date? We want you to go back and work with OP and  
16 see if we can bring some of those levels up.  
17 Anything else on that, Vice Chair, other than that?

18 Okay. All right. I would agree. Do we have  
19 a date, Ms. Schellin? Or, can we get some dates?

20 MS. SCHELLIN: I'm going to ask Ms. Roddy how  
21 much time she needs. Our next meeting is November  
22 14th. Okay. They're shaking their head that they  
23 can do that so is OP wanting to respond to -- okay.

24 MS. THOMAS: Yes.

25 MS. SCHELLIN: So if we could have their

1 submission by -- if they could make their submission  
2 by October 31st and then 3:00 p.m., and then OP could  
3 make their submission by November 7th, 3:00 p.m.  
4 Then we could put it on for the 14th of November. Is  
5 that going to work? Yes. Okay.

6 CHAIRPERSON HOOD: We all on the same page?  
7 Okay. Let's go to our next case. Zoning Commission  
8 Case No. 15-21, Kenilworth Revitalization I JV, LLC.,  
9 and DCHA, First Stage and Consolidated PUD and  
10 Related Map Amendment at Square 5113, 5114, and 5116.  
11 Ms. Schellin.

12 MS. SCHELLIN: Exhibits 53 and 56 we have the  
13 applicant's post-hearing submission. Exhibit 54, ANC  
14 7D's report rescinding their opposition. Exhibit 55  
15 we have a letter in support from Kenilworth Courts  
16 Resident Council. Exhibit 57, an OP supplemental  
17 report. Again, we'd ask the Commission to consider  
18 proposed action. Thank you.

19 CHAIRPERSON HOOD: Okay, I think, if I'm not  
20 mistaken, I think we had -- first the ANC was in  
21 opposition, am I correct?

22 MS. SCHELLIN: Yes.

23 CHAIRPERSON HOOD: Yeah. And they have  
24 rescinded for various reasons stated in helping with  
25 moving this project forward in the promise of a final

1 relocation plan in a month or so, and I think I was  
2 reminded I had a comfort level with that. I might  
3 have mentioned that at the hearing.

4 So, any other issues on this?

5 MR. MAY: Mr. Chairman, there were a handful  
6 of -- well, I'm sorry. The Office of Planning  
7 provided a response just sort of ticking off a number  
8 of outstanding issues, and I think that the most  
9 significant one that I saw that was not addressed was  
10 the rear fence issue. But maybe I'm wrong. I  
11 probably need to look through it all again.

12 There was also an issue with D.C. Water, but  
13 I thought that that could get worked out because they  
14 just didn't get a response from D.C. Water and I can  
15 understand how that may not happen.

16 And then the last thing is they -- I know  
17 that Mr. Turnbull, in particular, was concerned about  
18 the tower component on the multifamily building and  
19 the big, the very large blade sign, and I think that  
20 that does need further study, but I certainly am okay  
21 with going ahead, but that they need to take another  
22 look at that and provide some, first of all some  
23 better drawings to show us exactly what that is with  
24 the blade sign in particular, and a little bit  
25 further, you know, a little better design drawings

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1 showing what the tower component is.

2           And I think that if the applicant works with  
3 the Office of Planning they can provide the  
4 information that we need to be able to move forward  
5 to that at final. So, having said all that I want to  
6 go back and look at the Office of Planning's report  
7 just to see if there's anything else that I should  
8 highlight. But --

9           CHAIRPERSON HOOD: Let me, while you're doing  
10 that, let me read Mr. Turnbull's comments so they can  
11 be further noted. I think we can probably move  
12 forward today with his comments if we all agree.

13           This is what he says need to work on. "I  
14 have concerns about the size," I think you stated  
15 this, "I have concerns about the size of the sign  
16 proposed for the multifamily building on the reused -  
17 - " what does that say? I want to make sure I have  
18 it -- oh no, I'm sorry, "revised." Not reused. "On  
19 the revised architectural embellishment." I can't  
20 read --

21           MS. SCHELLIN: Tower.

22           CHAIRPERSON HOOD: Tower? "Tower. What does  
23 this thing want to be?" Yeah, he definitely wrote  
24 this. "What does this thing want to be? I am not  
25 convinced that the --" hope he doesn't watch this

1 hearing. "I am not convinced that the architecture  
2 has come to --"

3 MS. SCHELLIN: [Speaking off mic.]

4 CHAIRPERSON HOOD: "That the architect has  
5 come to grips with the design and there is also a  
6 vertical sign here. There are two signage locations  
7 on tower. Question mark, why?" So, I would suggest  
8 that the applicant answer those questions. If you  
9 need a copy you can see Ms. Schellin.

10 Anything else? Vice Chair Miller?

11 MR. MILLER: Yeah, thank you, Mr. Chairman.  
12 I would agree with everything that's been said thus  
13 far. On the fencing, I tend to agree with the Office  
14 of Planning that the applicant should be providing a  
15 rear fencing with a gate as opposed to just leaving  
16 it open. So, if we move forward tonight I would want  
17 to see -- I wouldn't have to take another look at  
18 that issue between proposed and final action.

19 There also are a number of issues that I  
20 think need clarification in the list of proffers and  
21 of conditions. Such as -- and so I think the  
22 applicant's counsel needs to work with OAG on  
23 ensuring that certain things like the loading dock  
24 management plan, which is in an exhibit but is not --  
25 and it's in their post-hearing submission that it

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1 would comply with the plan but it was not included in  
2 the draft order that they provided. And I think  
3 there's a similar situation with electric car  
4 charging station and clarification needed on the bike  
5 share condition, and the First Source commitment.  
6 And on the affordable housing I think there's a chart  
7 that -- affordable housing chart that the Commission  
8 has asked for as a standard condition as a way to  
9 standardize affordable housing conditions of all PUDs  
10 that include affordable housing as a public benefit.

11           So, I think the applicant just needs to  
12 provide that chart with its list of proffers and  
13 conditions after proposed action. So, they just need  
14 to work with -- their counsel needs to work with our  
15 counsel on those issues.

16           But with that, all of that, issues being  
17 worked or not, I would be prepared to move forward  
18 with proposed action. Hopefully they will be  
19 resolved by final, and I'm very pleased that the ANC  
20 and the resident's counsel, that the applicant did  
21 work with them to reach an accommodation.

22           CHAIRPERSON HOOD: Any other comments on  
23 this? With all that, would you like to make the  
24 motion?

25           MR. MILLER: Sure.



1           CHAIRPERSON HOOD: Let me just say this,  
2 though, I do commend the Office of Planning for  
3 giving a response, even though it's been noted that  
4 D.C. Water has not responded. MPD and others have  
5 responded in this case and I think it's very  
6 important that we get input from our other government  
7 subject matter experts. So, I just wanted to say  
8 that. So, Vice Chair Miller?

9           MR. MILLER: So with all those caveats, the  
10 things that are going to be worked on I would move  
11 that the Zoning Commission take proposed action on  
12 Zoning Commission Case No. 15-21, Kenilworth  
13 Revitalization, I'll leave all that out, first stage  
14 and consolidated PUD and related map amendment at  
15 Squares 5113, 5114, and 5116, and ask for a second.

16           MR. MAY: I would second but I would ask  
17 also, are we going to include in there that they  
18 address the fence issue that OP has indicated, and  
19 also the tower and blade signs.

20           MR. MILLER: Yeah, that's -- I did mention  
21 that.

22           MR. MAY: Oh, I'm sorry.

23           MR. MILLER: And it's important. That's very  
24 -- I agree with that.

25           MR. MAY: Okay.

1 CHAIRPERSON HOOD: And also some of those  
2 issues that Mr. Turnbull, which has already been  
3 noted so. Okay.

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

6 [Vote taken.]

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

9 MS. SCHELLIN: Yes. Staff will record the  
10 vote four to zero to one to approve proposed action  
11 in Zoning Commission Case No. 15-21, Commissioner  
12 Miller moving, Commissioner May seconding,  
13 Commissioner Hood in support, Commissioner Turnbull  
14 in support by absentee ballot, third mayoral  
15 appointee position vacant, not voting. And if we  
16 could have those issues addressed in two weeks, that  
17 would be great. Thank you.

18 So, that date would be by 3:00 p.m. the 31st.

19 CHAIRPERSON HOOD: Okay. Are we ready for  
20 hearing action? Let's go to our first hearing action  
21 case, Zoning Commission Case No. 16-19, ANC 6C Text  
22 Amendment to Subtitle H, Chapter 9, H Street  
23 Northeast, Neighborhood Mixed Use Zones.

24 Ms. Thomas.

25 MS. THOMAS: Yes. Good evening, Mr. Chair.

1 The Office of Planning is recommending set down of  
2 ANC 6C's petition for a text amendment to Subtitle H,  
3 Chapter 9, the H Street provisions as identified in  
4 our report.

5 The intent is consistent with the guiding  
6 principles and city-wide elements of the  
7 Comprehensive Plan as highlighted in our report, and  
8 OP will work with the applicant and OAG to clarify  
9 any ambiguities that may arise prior to the public  
10 hearing and the Commission tonight. Thank you.

11 CHAIRPERSON HOOD: Okay. Let's open it up.  
12 Any comments? Commissioner May?

13 MR. MAY: All right. So, I look through this  
14 and I agree wholeheartedly that this is an issue that  
15 needs to be addressed. And the example building that  
16 the ANC pointed out where the ZA's decisions to go  
17 along with that, you know, the applicant is  
18 suggesting that tearing down the façade and then  
19 reusing a portion of it in a very strange way on that  
20 building, that that was somehow acceptable and  
21 consistent with what we wanted to do in the  
22 regulations in terms of, you know, the incentives to  
23 preserve facades and everything else.

24 I mean, it's just completely inexplicable.  
25 And the building looks terrible. And we very much

1 should move to address this.

2 MR. MILLER: Mr. Chairman, I'm supportive --  
3 I support setting this down for a public hearing  
4 brought forward by the ANC.

5 I just had a question to the Office of  
6 Planning. These design requirements, do they only --  
7 and the H Street Overlay, did they only apply as --  
8 if you're getting the 0. -- if you're trying to get  
9 the 0.5 additional FAR? That's my reading of it but  
10 I just want to make sure that we're not changing  
11 anything on -- that we're not changing it from an  
12 incentive to an absolute requirement regardless of  
13 the FAR.

14 MS. THOMAS: Yes, they only apply to the  
15 facade retention. As an incentive.

16 MS. STEINGASSER: Your reading is correct, as  
17 an incentive not a requirement, and this will not  
18 change that.

19 MR. MILLER: Right. Okay. Thank you.

20 CHAIRPERSON HOOD: Okay. I don't have  
21 anything to add, just look forward to setting this  
22 down. Any comment, other comments? I move that we  
23 set down Zoning Commission Case No. 16-19, ANC 6C  
24 text amendment to Subtitle H, Chapter 9, H Street  
25 Northeast Neighborhood Mixed Use Zones.

1 MR. MILLER: Second.

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

4 [Vote taken.]

5 CHAIRPERSON HOOD: Ms. Schellin, would you  
6 record the vote and the proxy? Oh, we don't have a  
7 proxy. Or do we?

8 MS. SCHELLIN: Staff records the vote three  
9 to zero to two to set down Zoning Commission Case No.  
10 16-19 as a contested case, Commissioner Hood moving,  
11 Commissioner Miller seconding, Commissioner May in  
12 support, Commissioners -- Commissioner Turnbull not  
13 present, not voting. Third mayoral appointee  
14 position vacant, not voting.

15 CHAIRPERSON HOOD: Okay, next, let's go to  
16 Zoning Commission Case No. 16-14D, Mid-Atlantic  
17 Realty Partners, LLC., PUD Modification at Square  
18 3584. Mr. Cochran.

19 MR. COCHRAN: Thank you, Mr. Chair. OP  
20 recommends the Commission set down the requested  
21 modification of significance to PUD 06-14 for public  
22 hearing.

23 The PUD is located at the Northeast corner of  
24 New York and Florida Avenues. It was original  
25 approved as a mixed-use complex containing

1 apartments, a hotel, and an office building. You can  
2 see the site plan on page 2 of OP's report.

3 After the Commission approved modification  
4 the western building along New York Avenue has been  
5 finished but as an all residential structure rather  
6 than something that includes a hotel. Most of the  
7 publicly accessible plaza has also been completed.

8 With this modification they ask -- applicant  
9 is asking permission to modify the uses in the  
10 eastern building which has not yet been constructed.  
11 It's approved as an office building with two towers  
12 connected by a two-story glass pavilion that would  
13 contain amenities focused on the Metropolitan Branch  
14 Trail users.

15 The applicant is wanting to devote the  
16 northern part of this building of the northern tower,  
17 to residential uses. And while it indicates that the  
18 southern tower would most likely be used for offices,  
19 it's still asking for the option to build that tower  
20 as either an office building or as an apartment  
21 building.

22 Under either scenario the two-story glass  
23 pavilion would be still there to connect the two  
24 towers, and there would be occupied space in the  
25 penthouse. The façade of both towers would be

1 redesigned under this proposal with the southern  
2 towers façade remaining as proposed in the  
3 application, whether it's used for offices or for  
4 residences. And under either option there would be  
5 relatively minor decreases in FAR and parking.

6           If the applicant is set down the applicant  
7 would need to provide information that addressed  
8 concerns that we note on pages 6 and 7 of our report.  
9 Most significantly OP encourages the applicant to  
10 commit to LEED Gold standards for the residential  
11 space as well as for the office space, recommending  
12 that if the second tower is to be developed for  
13 residential uses rather than office uses, that this  
14 be permitted only through an additional use and  
15 design modification to be considered by the  
16 Commission.

17           We encourage the applicant to submit an  
18 updated transportation analysis and TDM plan that  
19 reflects the changes in the background context over  
20 the last decade since it was -- the first one was  
21 produced, and the use changes that the applicant is  
22 requesting. And by the way, DDOT has already  
23 indicated to OP that they'll require this.

24           Finally, with respect to affordable housing,  
25 the applicant proffered eight percent affordable to

1 families earning between 60 and 80 percent AMI for 10  
2 years. That was for the western building that's been  
3 constructed.

4 For the eastern building there, proffering  
5 that any residential space -- of any residential  
6 space as constructed, they would provide eight  
7 percent at 80 percent, but in the eastern building it  
8 would be for the life of the project.

9 They've told this to OP in -- orally, rather,  
10 but it's not in the applicant so it needs to be put  
11 in writing if it's going to count.

12 We're also exploring with OAG whether the  
13 eastern building's modification would actually bring  
14 it into the IZ program. This is something that the  
15 Commission indicated when there was another  
16 modification for which you issued order 06-04C.

17 And that concludes our report. Be happy to  
18 answer any questions.

19 CHAIRPERSON HOOD: Okay. Any questions on  
20 this, Vice Chair Miller?

21 MR. MILLER: Thank you, Mr. Chairman. I am  
22 supportive of setting this down for a public hearing  
23 and I thank Office of Planning for its comprehensive  
24 report. I agree with all of the comments in that  
25 report in their quest for information and



1 clarification and without hearing, and on the  
2 affordable housing issue, without hearing more, I  
3 think we need more information and justification.  
4 But without hearing more just tonight I would, just  
5 off the top of my head, agree with the interpretation  
6 that a modification of significance should comply  
7 with the existing Inclusionary Zoning requirements  
8 and not be grandfathered in just because the project  
9 originally might have been grandfathered in.

10           So, but be that as it may, the affordable  
11 housing proffer needs to be strengthened. It needs  
12 to -- there need to be 50 percent AMI units and not  
13 just the 80 percent AMI units. And there is a 50  
14 percent AMI trigger because of the penthouse  
15 habitable space. I think the OP report pointed that  
16 out. So I would want -- I would hope by the time we  
17 get to public hearing we see a strengthened  
18 affordable housing proffer.

19           But I think the project in general is a great  
20 project and for that area, and for the city.

21           CHAIRPERSON HOOD: Any other comments on this  
22 case? All right. Someone like to make a motion?

23           MR. MILLER: Mr. Chairman. Mr. Chairman, I  
24 would move that the Zoning Commission set down Zoning  
25 Commission Case No. 06-14D, Mid-Atlantic Realty

1 Partners, LLC, PUD Modification at Square 3584, and  
2 ask for a second.

3 CHAIRPERSON HOOD: I'll second it. It's been  
4 moved and properly seconded. Any further discussion?

5 [Vote taken.]

6 CHAIRPERSON HOOD: Ms. Schellin, record the  
7 vote.

8 MS. SCHELLIN: Yes. Staff records the vote  
9 three to zero to two to set down Zoning Commission  
10 Case No. 06-14D as a contested case, Commissioner  
11 Miller moving, Commissioner Hood seconding,  
12 Commissioner May in support, Commissioner Turnbull  
13 not present, not voting, third mayoral appointee  
14 position vacant, not voting.

15 CHAIRPERSON HOOD: Okay. Next, let's go to  
16 Zoning Commission Case No. 16-17, EYA Development,  
17 LLC., Consolidated PUD and Related Map Amendment at  
18 Square 3917. Mr. Jesick.

19 MR. JESICK: Thank you, Mr. Chairman and  
20 members of the Commission. The Office of Planning  
21 recommends set down of the PUD and related map  
22 amendments for the property rowhouse development at  
23 the St. Joseph Seminary site in the Michigan Park  
24 neighborhood.

25 OP finds that the proposal is generally

1 consistent, or not inconsistent with the written  
2 policies and land use maps of the Comprehensive Plan.

3           The applicant proposes -- excuse me. The  
4 applicant proposes to construct 82 row houses on the  
5 northern end of the seminary grounds, and construct  
6 related private streets, alleys, and open spaces.  
7 The proposal for the PUD related map amendment is to  
8 go from R2 to RA1, and as can be seen on the final  
9 sheet of the applicant's plan set, the density  
10 proposed with this development for the entire square  
11 would be comparable to the density in the surrounding  
12 neighborhood.

13           Overall, OP supports the project, but in the  
14 report we've noted some areas that could be clarified  
15 or where the applicant could provide more  
16 information.

17           Two I'd like to highlight this evening are,  
18 one, the applicant should provide a tree study  
19 examining the critical root zone of the very large  
20 oak tree to the west of the seminary building and how  
21 that tree can be preserved both during and after  
22 construction. And two, the applicant should examine  
23 ways to further distribute the IZ units and ensure  
24 that those units are indistinguishable from the  
25 market rate units.

1           OP can continue to work with the applicant on  
2 these and other issues, but again, we do recommend  
3 that the applicant be set down for a public hearing.  
4 Thank you.

5           CHAIRPERSON HOOD: Okay. Thank you, Mr.  
6 Jesick.

7           Let me open it up. Any comments?  
8 Commissioner May?

9           MR. MAY: Okay. So, this is like one of my  
10 least favorite kinds of projects where we're trying  
11 to jam a whole bunch of townhouses into a little -- a  
12 small portion of open space and not regular town  
13 houses but these townhouses with 20-foot alleys on  
14 them, and it's just a housing type that I really  
15 don't appreciate. I mean, I know we've approved a  
16 bunch of them and it's not something that -- I mean,  
17 I still haven't gotten accustomed to the fact that  
18 these things sell well, because they just, they're  
19 just really crammed in there like sardines, and I  
20 just don't think it's a great housing type.

21           However, I think it's likely we're going to  
22 set this down. I think that the thing that I'd --  
23 there are a few things that need to be understood  
24 about it. You know, we're looking at a development  
25 of basically the northern half of this site that had

1 basically just had one building on it, and I want to  
2 understand that what's being -- that the remainder of  
3 the area is -- will in fact stay in the existing  
4 condition. I mean, I guess that's going to be a  
5 covenant of the property if the PUD is approved, but  
6 I just want that to be spelled out because I don't  
7 want -- I mean, we've seen some other properties  
8 where they try to cram in a bunch of townhouses, you  
9 know, on the front yard, the side yard of seminaries  
10 and things like that, and I just don't want to see  
11 that happening at some point in the future.

12 I do agree that there -- we want to make sure  
13 that the IZ units are not, are not distinguishable  
14 from the other units. I don't believe that they all  
15 have to have parking, necessarily, but I think that -  
16 - or rather parking within the townhouse, but we need  
17 to make sure that they are indistinguishable,  
18 generally speaking.

19 I think there are also a few units that are  
20 flagged, or shown the way the color coding works  
21 there, not shown as lacking a garage, but I don't see  
22 how a garage works with them. So, I think that that  
23 has to be clarified as well.

24 And we'll just talk about the design for a  
25 second. You know, one of the big problems with doing

1 townhouses now a days is that people don't understand  
2 that when you come to the end of a row of townhouses  
3 that the end unit needs to look different. And you  
4 know, it's okay if it just looks like the sidewall of  
5 a house when it's facing an alley and the alley is --  
6 or, you know, somebody else's rear yard.

7           But it's different when you're facing a  
8 street and so we have a bunch of townhouses here that  
9 have end units that are on streets. And they need to  
10 look like they're facing those streets. They can't  
11 just be sidewall units.

12           And I think that there are two essential  
13 problems with it. One is in the fenestration and how  
14 you enter the buildings and so on. The other aspect  
15 of it is the fact that the -- you know, you have this  
16 uneven gable roof where it's, you know, one slope in  
17 the front and a different slope in the back, and I'm  
18 sure there's a very good practical reason why that  
19 happens. The problem is that it looks stupid. So I  
20 think that that should be fixed, at least where it is  
21 most visible. If you're talking about mid-block  
22 units, they might be a little bit different.

23           I also want to see better information about  
24 how the roof decks will work. I think we see them in  
25 section, we don't see them in the site plan or in the

1 roof plans of the individual units. And I think  
2 there may be an issue with the accessibility of the  
3 garages in some of these units where the -- where,  
4 you know, essentially the very small alley dead-ends  
5 into row houses. I'm not sure how those work.

6           So, I think there's some things that need to  
7 be figured out on that. And I'm hoping -- you know,  
8 the building architecture itself is pretty simple and  
9 that's probably appropriate, given the architecture  
10 of the vicinity. But it seems like it's almost too  
11 simple in many regards, and the cues that they're  
12 picking up in the design of the buildings are not  
13 necessarily the best ones and so you wind up with  
14 lacking some of the finer details that you would see  
15 in the neighboring properties having to do with, you  
16 know, how you make a cornice and you know, where --  
17 how to treat window openings and things like that,  
18 where there is actually a little bit of detail to  
19 these buildings that's kind of lost when you try to  
20 mass produce these new things. So I think a little  
21 bit more attention to that would be very useful and  
22 make a much better, much more attractive project.

23           I do think that we're going to hear  
24 significant testimony about there being too many  
25 units here, and I think that that -- I'm looking for

1 that to be addressed in the Office of Planning's  
2 further study to understand that in fact this really  
3 is the right number and it works with a neighborhood.  
4 I mean, when you look at the buildings that are  
5 across the street, they're mostly single-family homes  
6 or clusters of three houses, something like that.  
7 And you don't have rows of 20-some houses, like we  
8 see here, and I see -- well, not a row of 20. A row  
9 of 13 on 12th Street. So, it's very different.

10 So, I think that's something that we're going  
11 to have -- we will be facing at the hearing, so I  
12 think we should be prepared for that. Or they need  
13 to make adjustments in the site plan.

14 CHAIRPERSON HOOD: Okay. Vice Chair Miller.

15 MR. MILLER: Thank you, Mr. Chairman. I'm  
16 supportive of setting down this application for a  
17 public hearing and agree with all of the requests for  
18 additional information or modifications that were  
19 identified in the opportunity report, and I think  
20 many of the comments that Commissioner May made also,  
21 may make sense.

22 I think it's important to recognize that I  
23 think we saw an earlier version of this case that  
24 might have been withdrawn. But I'm not sure if  
25 that's the case, but it seemed familiar to me. But

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1 the applicant stated and does point out that the  
2 earliest -- that there had been a number of changes  
3 had been made since the original proposal was made.  
4 There originally was a proposal for 152 -- 150 units,  
5 versus the 82. There originally was four stories  
6 versus three stories in this proposal.

7           So, there's been a lot of, I think, community  
8 outreach since that first proposal, which generated a  
9 lot of community opposition as I recall. I don't  
10 know if I recall that from up here, just reading  
11 about it, but -- so, I think it's also important to  
12 point out that these are three-bedroom units. All of  
13 them are three-bedroom units, which is something we  
14 don't see enough of down here, so I think it's  
15 important to give credit for that aspect of it for  
16 family, family sized housing.

17           So, I look forward to the applicant  
18 addressing all the issues in the Office of Planning's  
19 report, including just one other one that I wanted to  
20 highlight. The additional renderings showing the  
21 context in the neighborhood is down public streets in  
22 particular, or down the alleys that are being  
23 created. But particularly the public streets that  
24 are already there so that we can see -- there's a  
25 couple -- I think there's one rendering that shows

1 one view. But I think we need more renderings to see  
2 how it fits into the neighborhood. Hopefully all the  
3 applicant can address these and other issues by the  
4 time of the hearing.

5 CHAIRPERSON HOOD: Okay. Let me just say,  
6 this is going to be an uphill push for me. When I  
7 look at this, this case reminds me of a case that we  
8 did some years ago in Ward 3, and I think then, and  
9 I'm going to say the same thing now, I need a size 40  
10 pants and I'm trying to squeeze into a size 34. And  
11 I said the exact same thing in the Albemarle  
12 (phonetic) case, which your predecessor, Commissioner  
13 May, Mr. Parsons, he came in with the solution.

14 And from us going from, I think it was 36  
15 town homes at that time, we eventually approved and  
16 voted on six town homes. Now that's a long way from  
17 what was being proposed. This case reminds me of  
18 that when I looked at it. Again, I need a size 40  
19 and I'm trying to squeeze in a 34 or a 36. That's  
20 what this case reminds me of.

21 One of the things that I want us to look at,  
22 and I don't mind going to a hearing and vetting it  
23 out with the community and hearing some of the other  
24 things that's going on with this case, but there's  
25 some traffic issues. Allison Street. There's

1 traffic issues on 13th Street, Sergeant Road. Varnum  
2 is kind of light right now but it won't be. And then  
3 12th Street. And right across the street from that  
4 is Providence Hospital, which brings me another  
5 concern. I want to see how all that's going to be  
6 addressed.

7           To me this is, it's too much density. And  
8 this is going to be an uphill climb for the applicant  
9 to convince this Commissioner. So, we need to relook  
10 at this and I understand -- I don't think this was  
11 here before. At least I didn't see it, but this  
12 reminds me of the Albemarle Case. And when I first  
13 looked at it I said, this is Albemarle all over  
14 again.

15           The affordable units, I should not be able to  
16 -- and I think the Office of Planning put it -- it's  
17 in their report. We should not be able to tell the  
18 difference between the affordable units and the  
19 regular market rate units.

20           I'm not sure how that west lawn park is going  
21 to work. See, these are questions I want to be able  
22 to talk with the applicant about as we move. And the  
23 traffic consultant has an uphill climb with me  
24 because I'm kind of familiar with Allison Street.  
25 I'm kind of familiar how that goes now with

1 Providence being across and how the traffic patter,  
2 now narrow it is. So, it's quite a few things, I  
3 think, wrong with this that needs further discussion.

4 I can tell you that I'm going to be looking  
5 at that and I'm going to be pushing for it. And I  
6 agree with you about the rendering. I didn't see a  
7 rendering that shows me this project in the existing  
8 area and I -- you know, like we need sight lines, we  
9 need site views, and how it corresponds with the  
10 existing neighborhood. And I don't see that.

11 And my problem is, it seems like when it come  
12 -- and EYA has done a lot in this city, but sometime  
13 -- and maybe I'm not taking it personal, but I see a  
14 lot of cases and I see them all over the city and  
15 they're presented differently than some neighborhoods  
16 as opposed to others, and I'm just saying, I know  
17 Ward 5 does not do a whole lot of zoning. Especially  
18 up in this area. But we need to treat -- we need to  
19 give the same examples that we do all over this city,  
20 and especially when it's coming down here to this  
21 Commission so we can get a full flavor of what  
22 actually impacts, if we approve this project, what  
23 impacts we're giving on the community and the  
24 neighborhood.

25 And I'm sure, I don't have a problem with

1 opening this up. I would encourage the applicant to  
2 continue to have some more community outreach. You  
3 may have already got to that point and may already be  
4 resolved. I know you met with 5A and 5B according to  
5 submissions, but it's going to be a hard push for  
6 Hood, I can tell you. This reminds me of the  
7 Albemarle case.

8           And again, the density of the traffic, the  
9 proposed project within the existing character of the  
10 neighborhood, and affordable units, and I'm sure it's  
11 a lot more but again I think we need to finetune some  
12 of this. I would associate myself with a lot of the  
13 comments of Commission May as well as the Vice Chair.  
14 But Commissioner May especially because there are  
15 some things here, again, looks like we're doing a  
16 squeeze.

17           So, other than that I don't have a problem  
18 with setting it down, but I'm setting it down so  
19 hopefully we can flush some of these things out, and  
20 I hope that the gap has drawn a little closer before  
21 the hearing date.

22           Okay. Anybody like to make a motion?

23           MR. MILLER: Mr. Chairman, with all those  
24 caveats, I would move that the Zoning Commission set  
25 down Case No. 16-17, EYA Development, LLC.,

1 Consolidated PUD and Related Map Amendment at Square  
2 3917 and ask for a second.

3 MR. MAY: I'll second it just to move things  
4 along, but, yeah, not much enthusiasm.

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

8 [Vote taken.]

9 CHAIRPERSON HOOD: Ms. Schellin, would you  
10 record the vote with the -- no, we don't have a  
11 proxy. Would you record the vote?

12 MS. SCHELLIN: Staff will record the vote  
13 three to zero to two to set down Zoning Commission  
14 Case No. 16-17 as a contested case, Commissioner  
15 Miller moving, Commissioner May seconding,  
16 Commissioner Hood in support, Commissioner Turnbull  
17 not present, not voting, third mayoral appointee  
18 position vacant, not voting.

19 CHAIRPERSON HOOD: Okay. Do we have anything  
20 else on the agenda tonight?

21 MS. SCHELLIN: No, sir, unless OP has --

22 CHAIRPERSON HOOD: Office of Planning, do you  
23 have anything?

24 MS. SCHELLIN: -- some update.

25 CHAIRPERSON HOOD: Office of Planning, you

1 have anything else?

2 MS. STEINGASSER: No, sir.

3 CHAIRPERSON HOOD: Okay. So, with that I  
4 want to thank everyone for their -- well, thank  
5 everyone who did participate in this meeting and this  
6 meeting is adjourned.

7 [Hearing adjourned at 8:22 p.m.]

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