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GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission

Regular Public Meeting
1458th Meeting Session [9th of 2017]

6:52 p.m. to 8:22 p.m.
Monday, April 24, 2017

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 MICHAEL TURNBULL, Commissioner

6 PETER SHAPIRO, Commissioner

7

8 Office of Zoning:

9 SHARON SCHELLIN, Secretary

10

11 Office of Planning:

12 JENNIFER STEINGASSER

13 JOEL LAWSON

14 MATT JESICK

15 STEPHEN MORDFIN

16 MAXINE BROWN-ROBERTS

17 STEVE COCHRAN

18

19 Office of the Attorney General:

20 JACOB RITTING

21

22

23

24

25

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

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

6 My name is Anthony Hood. I'm going to do
7 something different today since we have others. I'm
8 going to ask everyone to introduce themselves,
9 starting to my left, all the way to my left, and what
10 office you represent.

11 MR. RITTING: Good evening. My name is Jacob
12 Ritting. I'm an attorney with the Office of the
13 Attorney General.

14 MS. SCHELLIN: Sharon Schelling, Secretary to
15 the Zoning Commission with the Office of Zoning.

16 MR. TURNBULL: Michael Turnbull, representing
17 the Architect of the Capitol.

18 MR. MILLER: Robert Miller, Vice Chair and
19 Mayoral Appointee.

20 MR. SHAPIRO: Peter Shapiro, Mayoral
21 Appointee.

22 MR. MAY: Peter May, representing the
23 National Park Service.

24 MS. STEINGASSER: Jennifer Steingasser,
25 Deputy Director with the D.C. Office of Planning.

1 MR. LAWSON: Joel Lawson, Associate Director
2 with the D.C. Office of Planning.

3 MR. JESICK: Matt Jesick with the D.C. Office
4 of Planning.

5 MR. MORDFIN: Stephen Mordfin, D.C. Office of
6 Planning.

7 MS. BROWN-ROBERTS: Maxine Brown-Roberts, the
8 Office of Planning.

9 MR. COCHRAN: And Steve Cochran, Office of
10 Planning.

11 CHAIRPERSON HOOD: Okay. Thank you. Copies
12 of today's meeting agenda are available to you and
13 are located in the bin near the door. We do not take
14 any public testimony at our meetings unless the
15 Commission requests someone to come forward.

16 Please be advised that this proceeding is
17 being recorded by a court report and is also webcast
18 live. Accordingly, we must ask you to refrain from
19 any disruptive noises or actions in the hearing room,
20 including the display of any signs or objects.
21 Please turn off all electronic devices.

22 Does the staff have any preliminary matters?

23 MS. SCHELLIN: No, sir.

24 CHAIRPERSON HOOD: If not, let us proceed
25 with the agenda. I had not anticipated on taking the

1 case first, but I see that we have a number of
2 interests, so I think I'm going to move Case No. 14-
3 18A to the front, and I think that would be
4 advantageous for us to move in that direction. Any
5 objections?

6 Okay. Ms. Schellin, can you call Zoning
7 Commission Case No. 14-18A?

8 MS. SCHELLIN: Yes, sir. Case No. -- Zoning
9 Commission Case No. 14-18A, Mid-City Financial
10 Corporation. It's a first-stage PUD modification of
11 significance and a second-stage PUD at square 3953.
12 We do have a preliminary in this case. Exhibit 184,
13 the Brookland Manor residents, party in opposition,
14 filed a motion to strike Exhibits 179-D-1, and 179-D-
15 2 from the record because it's basically stating that
16 it should be able to cross-examine the author of the
17 report.

18 The applicant filed its opposition to the
19 motion at Exhibit 185, stating that the document was
20 in direct response to information -- excuse me. I
21 have to turn the page here. That the Zoning
22 Commission requested and that the zoning regulations
23 do not afford the opposition to cross-examine on
24 post-hearing submissions. But 11-Z-DCMR, Section
25 602.3 provides the opposition seven days to file its

1 response to the submissions, which it had. Exhibits
2 179 and going on after the preliminary matter we have
3 Exhibits 179 and 179-F-4, and 180 to 181, the
4 applicant's post-hearing submissions, and Exhibits
5 182 to 183, we have Brookland Manor residents, party
6 in opposition's post-hearing submissions.

7 Would ask the Commission to first consider
8 the motion and the response, or opposition thereto,
9 this evening.

10 CHAIRPERSON HOOD: Okay. Let me make sure I
11 understand. Let me frame this up. I believe that
12 the -- typically, I think, I'm not sure who asked for
13 it, but one of asked for a response or information in
14 gentrification. As a result of that it was put in
15 the record, something that we asked for. And I think
16 the party in opposition had time specifically had
17 what, seven -- they have seven days?

18 MS. SCHELLIN: Seven days. Yes.

19 CHAIRPERSON HOOD: And I guess, I'm not sure
20 whether they knew that they had time to -- Mr.
21 Merrifield, can you come up? I want to ask you a
22 question. If you can identify yourself?

23 MR. MERRIFIELD: William Merrifield, the
24 attorney for the Brookland Manor Attendant's
25 Association.

1 CHAIRPERSON HOOD: Mr. Merrifield, were you
2 aware that you had seven days that you could have
3 responded to that, our request?

4 MR. MERRIFIELD: Yeah, absolutely. I did
5 respond to it in my post-hearing submissions. I
6 wrote a response to it, but I also thought that it
7 should be stricken from the record because I didn't
8 think that it was something that the Zoning
9 Commission specifically asked for in the post-hearing
10 submissions; that it was something that the applicant
11 added in on their own, and I believe in their
12 findings of fact and conclusions of law, they made
13 clear that they added in on their own, in response to
14 a question that I asked the Office of Planning. So
15 as --

16 CHAIRPERSON HOOD: And you felt like because
17 of that you needed an opportunity to cross-examine?

18 MR. MERRIFIELD: Well, as such. I mean, you
19 know, my impression was the applicant at the hearing
20 made it clear that they did not want to talk about
21 the housing issues. They put no witnesses forth.
22 They could discuss the housing issues.

23 Now they wanted a second bite at the apple,
24 through their post-hearing submissions to discuss an
25 issue that they could have discussed that night, and

1 they could have brought forward --

2 CHAIRPERSON HOOD: Okay. I think you've
3 answered my question. We're not going to go back
4 into the case, so just hold your seat.

5 Any other questions of Mr. Merrifield while I
6 have him sitting here?

7 [No audible response.]

8 CHAIRPERSON HOOD: Okay. Thank you. All
9 right. Commissioners, let me open it up for any
10 discussion on this matter. The request is to strike
11 two exhibits from the record. But those exhibits are
12 something one of us asked for. I'm not sure who
13 asked for it, but I would have to review the
14 transcript. Any comments or questions?

15 MR. MILLER: Mr. Chairman, I'd have to review
16 the record as well to see -- in general, my
17 recollection is that a lot of issues were raised by
18 Mr. Merrifield as a party, and I think in general we
19 wanted a response from the applicant to many of the
20 issues that were raised. And so, I think there is --
21 there will be -- there is now an opportunity for him
22 to be able to respond to that submission on the
23 gentrification.

24 CHAIRPERSON HOOD: Okay.

25 MR. MILLER: Because I don't think we're

1 taking final action tonight.

2 CHAIRPERSON HOOD: I think, though, for me, I
3 wanted to make sure Mr. Merrifield had a opportunity
4 to respond. One of the issues I'm starting to have a
5 problem with is not necessarily here, not just this
6 case, but all cases, and I'm putting the applicants
7 on notice. In your closing, do not try to slip
8 anything in. And I think you all heard me say this
9 last week about another case that we're dealing with.
10 And that's just not in good policy and that's not the
11 way that this Commission is going to proceed. Not
12 while Anthony Hood is here.

13 So, don't try to slip stuff in, in your
14 closing and say, this is my closing, and you're still
15 arguing your case, because that's not the way -- I
16 know, the applicant has the final word. I understand
17 that. That's the way the rules are. But when you
18 start trying to slip other things in, then it causes
19 this problem.

20 But my issue today though is, Mr. Merrifield
21 had a -- he says he had an opportunity to respond. I
22 thought maybe he did not have enough opportunity to
23 respond because I thought he wanted to cross-examine.
24 So, I wanted to make sure he had another opportunity
25 to respond and I was going to ask him to give a

1 submission. If he wanted to amend the submission
2 that he already did, I wanted to allow him time to be
3 able to do that. That's kind of where I was, so I
4 just wanted to hear what others may have had to say
5 after hearing from him, who said he's already
6 responded.

7 So, let's just do this. The issue is the
8 motion to strike. I am not inclined to grant that
9 motion to strike, and I'm not sure where everyone
10 else is. Would somebody like to comment? Or do I
11 need to just make a motion? Especially since we
12 asked for it. Commissioner Shapiro.

13 MR. SHAPIRO: Yeah. Based on -- I would
14 agree with you based upon the specific request
15 related to untimely filing. I would support the
16 denial of that.

17 CHAIRPERSON HOOD: The denial of a strike.

18 MR. SHAPIRO: Right.

19 CHAIRPERSON HOOD: Okay. Vice Chair, do you
20 have something else?

21 MR. MILLER: I was just going to concur with
22 your statements, Mr. Chairman.

23 CHAIRPERSON HOOD: You can't hear? Let's
24 make sure that we speak into the mic so everybody can
25 hear. Okay.

1 I'm going to move that we deny the motion to
2 strike Exhibits 179-D-1, and 179-D-2 in case No. 14-
3 18A. Were those the two exhibits that they asked?
4 And ask for a second.

5 MR. MILLER: Second.

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

8 [Vote taken.]

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

11 MS. SCHELLIN: Yes. Staff records the vote
12 five, to zero, to zero to deny the motion to strike,
13 Commissioner Hood moving, Commissioner Miller
14 seconding, Commissioners May, Shapiro, and Turnbull
15 in support of denial.

16 CHAIRPERSON HOOD: Okay. Did we have
17 anything else preliminary on this case?

18 MS. SCHELLIN: No preliminary matters.

19 MR. RITTING: Could I interject for a moment?

20 CHAIRPERSON HOOD: Sure.

21 MR. RITTING: I just wanted to clear up
22 something or reach some finality. Something Mr.
23 Miller said was that the opposing party would have an
24 opportunity to respond, and that's not technically
25 correct. The record's closed. So, if you wanted to

1 give them an opportunity to respond you have to
2 specifically ask for it and set out a schedule for
3 that.

4 CHAIRPERSON HOOD: But I think -- let me just
5 say this, Vice Chair. I think he was responding to
6 what I was saying. That's why I called Mr.
7 Merrifield up to the table. I think what I was
8 trying to do was work out a way to make sure that he
9 had an opportunity to respond. But Mr. Merrifield
10 informed us that he had already responded to this
11 submission. So that then negated what I was trying
12 to do. Okay? All right.

13 Ms. Schellin, do we have anything else
14 preliminary?

15 MS. SCHELLIN: I think that if you guys would
16 go ahead and have your discussions this evening on
17 this case so that if there's anything additional you
18 would like for the applicant and/or parties to
19 provide, if you could go ahead and hold your
20 discussions this evening on this case, and then we'll
21 schedule a date for final action.

22 CHAIRPERSON HOOD: I just want to put out
23 there, and I have to -- I've got so much stuff going
24 on down here I just wanted to remember why we're not
25 taking final action tonight, because I think there

1 are some issues with the proffers.

2 MS. SCHELLIN: Right. It was, excuse me,
3 some confusion that this case with the new
4 regulations only requires one vote. And so, there
5 was some confusion on the part of I believe, the
6 applicant, that they thought that this was -- excuse
7 me. Was going to be proposed action, and so they did
8 not file their proffers, conditions. So, action
9 cannot be taken tonight.

10 CHAIRPERSON HOOD: Okay. What we will do, we
11 will discuss the case, deliberate, and if we need
12 further information we'll deliberate some more. But
13 one of the things that I will say is that I apologize
14 for all the people coming down. We're not taking
15 final action. But I think some of the information
16 you may hear tonight may be helpful.

17 But one of the problems is, we just did our -
18 - rewrote the zoning regulations in September, and I
19 think they became active in September, September 6th.
20 Whatever the date is. And one of the things is, some
21 of the things that we rewrote for nine years, we're
22 still trying to learn ourselves. So, I just ask that
23 you be patient with us because we're all having to
24 relearn the process, how many votes it is. And I'm
25 sure in about 10 years, whoever is sitting here, it

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1 would be easier for them than it was for us. Okay?
2 Because they learned a new set. We've had to learn
3 two sets.

4 So, I've done enough talking. Let me open it
5 up to my colleagues. Who would like to get us
6 started on this case? Anything else we're looking
7 for, anything else we need? Any comments?

8 [No audible response.]

9 CHAIRPERSON HOOD: Is the record complete?
10 Vice Chair?

11 MR. MILLER: Mr. Chairman, I appreciate the
12 applicant's post-hearing submission, which I believe
13 was responsive in providing additional information
14 about the affordable housing commitment in this
15 project, and the information on the -- including the
16 snapshot of the current occupancy of the site, the --
17 how the affordable housing commitment will be
18 satisfied and updated status of the tenant relocation
19 plan, the potential location of temporary affordable
20 units in Block 7, and the occupancy of the senior
21 building, and the response to our questions about
22 families with multigenerational, who are
23 multigenerational in one unit and several bedrooms.

24 The discussion regarding the housing choice
25 vouchers and the status of the Section 8 contract and

1 I think all of that information was responsive, in my
2 opinion, and helpful, and reinforced the commitments
3 that had been made in this project.

4 I think the applicant also responded
5 regarding the -- I think they increased the bicycle
6 parking somewhat, the long-term bicycle parking. And
7 reinforced their commitment to the First Source
8 Employment agreement, and responded to my question
9 about adding balconies, although they didn't have any
10 balconies. I think they gave a good explanation as
11 to why they weren't adding back -- adding additional
12 -- adding balconies in the particular area that they
13 only had Juliette balconies, I believe.

14 I think there were some architectural changes
15 that were made in response to other commissioner's
16 questions, and I can let those commissioners
17 discuss those architectural changes.

18 And importantly, the security company was
19 changed as a result of many of the complaints that
20 they heard, we heard at the public hearing, and I
21 think they may have heard that even before the public
22 hearing. And I think there's been a meeting in the
23 past week with the community regarding the new
24 security company, with the residents and the
25 management. The letter was written April 10th, the

1 post-hearing submission, and the meeting was referred
2 to as going -- happening April 19th.

3 So, I would like, as part of an additional
4 submission as to how that meeting went, you know.
5 How the -- if the residents were -- well, how that
6 meeting went. And there were going to be a series of
7 -- and there have been a series of other meetings as
8 well.

9 So, anyway, that's where I am on this
10 project. I was pleased to see all the additional
11 information and I think we may need more information
12 on the public meetings, or the meetings with the
13 residents that have happened since that post-hearing
14 submission.

15 CHAIRPERSON HOOD: Okay. Anybody else. Mr.
16 Turnbull?

17 MR. TURNBULL: Oh, thank you, Mr. Chair. I
18 want to thank the applicant to, for its report. I
19 guess two items that came up, and it's in the
20 applicant's report, they talk about, we had a big
21 discussion with the three and four-bedroom units, and
22 the applicant has pointed out that the townhome
23 component of the overall RI approach will contain
24 only three and four-bedroom style housing and will be
25 subject to IZ. The applicant has begun an effort to

1 identify resources to support first-time
2 homeownership opportunities for current residents and
3 receive positive feedback from residents regarding
4 this housing option.

5 I'm wondering if we could get just a little
6 bit more information on, when you talk about efforts
7 to identify housing. I mean, money to be able to do
8 this funding. Is that going to be a sticking point?
9 Is there really money available and how can we do
10 that?

11 The other thing is, how many of those
12 residents that are there, which have a need for three
13 and four, what's the percentage that really want to
14 go into the townhomes and have really expressed? I
15 mean, is it a small number? Is it a large number?
16 Is it all of them or -- I just want to know what the
17 percentage is of people that are really interested in
18 going to those three and four-bedroom townhomes.

19 The other aspect was the grandparents, those
20 like me, in their 60s plus, that end up taking care
21 of our grandchildren. And, the question came up
22 about the senior residents who are 62 and older but
23 they can't have children. But I don't think we've
24 addressed what options are available for seniors to
25 take care of their grandchildren, what kind of a

1 housing flexibility is there to be able to help them
2 out on that? And because, you've got an opportunity
3 to go to the senior house, but then you're going to
4 give up your grandchildren, and I don't think a lot
5 of them want to do that. So -- or they can't do
6 that.

7 So, I think I'd just like a little bit more
8 explanation as to what kind of opportunities are
9 there to be able to keep that family relationship
10 together. I think it's significant.

11 Those are my two big main issues that I would
12 like to see addressed. Architecturally, the elements
13 that I saw that I had issues with, I think, are all
14 addressed and I have no issues. So, those are my
15 only two points, Mr. Chair.

16 CHAIRPERSON HOOD: Okay. Any other comments?

17 Okay. The only comment I think the Vice
18 Chair mentioned about seeing some information of the
19 meetings, and I didn't really see it, and if it's in
20 here forgive me, but I didn't see where -- I know
21 there's some changes have been made as far as
22 security. As a matter of fact, I don't see anybody
23 now, but then again I don't -- you know, I have
24 looked.

25 But one of the things I want to know, I want

1 to know if the -- I want to make sure the bullying is
2 stopping, is stopped. Even though some of that's not
3 within our purview. I hate to keep using that word,
4 but that's the reality of it. But I'd like to know
5 what's really going on over there.

6 And also, I saw in Mr. Merrifield's
7 submission how he mentioned how if someone was
8 staying with a senior and they chose to stay in the
9 senior home, then I understand the family would be
10 able to go and stay at another part, which is not the
11 senior home. I want to know how all that's going to
12 work. I didn't see it in here, and I don't need it
13 to be hidden anywhere. I need to just be able to
14 just go right to it and see what the dynamics are.
15 How is that going to work, because I think that was
16 one of the bigger issues.

17 And then there was another, if I remember
18 correctly, there was another person who had -- I
19 think had a grown person who may have been autistic
20 or had some physical challenges. How is that going
21 to work because they didn't -- it was a senior. How
22 they didn't qualify. I want to know specifically,
23 how is that going to work because it does put them
24 out. You know, it displaced them.

25 So, I want to know how is that going to work;

1 make sure it works because we need to have something
2 in place to make sure that those families who have
3 those challenges, they deal with will be able to stay
4 on the property. So, I want to know what you all
5 have in place. If you have it in there, just direct
6 me to the exhibit. You don't have to -- just direct
7 me to the exhibit, the exact exhibit.

8 I'm more concerned about making sure, as has
9 been stated through this whole process, that nobody
10 has to leave. We're going to do all of the
11 transitioning right there on site, and I want to make
12 sure that that happens.

13 But those two cases, and along with what my
14 colleagues mentioned, I want to see a soundbite
15 information on that. Don't hide it nowhere. Don't
16 put it in a 300-page document. Show me where it is,
17 and particularly in response to Mr. Merrifield's
18 submission, which is Exhibit -- one second. I think
19 is -- well, anyway, Mr. Merrifield's exhibit. Or
20 whatever it is. I don't -- what is it? 183. I want
21 us to look at his exhibit, and I'd like a response to
22 his exhibit. And those questions too. I think he
23 brings up some very valid points. Okay?

24 This modern technology is something else.
25 Supposed to be easier. But anyway, any other --

1 anything else?

2 All right. So, we're going to put this off
3 until when?

4 MS. SCHELLIN: May 22nd at 6:30 p.m.

5 CHAIRPERSON HOOD: Okay. And here's what I
6 would suggest. For those -- I mean, you're welcome
7 to come down, but if you want to watch us live or
8 stream us -- okay. Well, come on down. Come on
9 down. Come on. I'm not going to -- come on down. I
10 was just trying to -- I know a lot of people want to
11 stream us but come down.

12 Okay. Anything else?

13 MS. SCHELLIN: No, sir.

14 CHAIRPERSON HOOD: All right. So, let's move
15 to -- let's get back to --

16 MS. SCHELLIN: Well, actually, we need to
17 schedule, set a date for the documents that you guys
18 requested this evening, and then a date for the
19 response from the party in opposition and the ANC.

20 Based on the date of the meeting I would say,
21 looking at the applicant, did you guys ask for any
22 revised plans while I was out having my coughing
23 attack?

24 No? So, two weeks? Okay.

25 CHAIRPERSON HOOD: That enough time?

1 MS. SCHELLIN: Okay. So, if we could have
2 your submissions by 3:00 p.m. on May 8th. And then
3 the applicant -- I'm sorry, the party in opposition
4 and the ANC would have until 3:00 p.m. on May 15th to
5 provide their responses if they choose to do so. And
6 then of course we have the proffers and conditions
7 process. Once the applicant files their proffers and
8 conditions, per the regulations, the parties would
9 follow that process when their submissions would be
10 do once they're served. They'll have seven days to
11 file a response. Thank you.

12 CHAIRPERSON HOOD: All right. Now, what date
13 is -- what day are we going to do this again?

14 MS. SCHELLIN: The 22nd.

15 CHAIRPERSON HOOD: May the 22nd?

16 MS. SCHELLIN: May 22nd.

17 CHAIRPERSON HOOD: Okay. So, we have two
18 meetings in May.

19 MS. SCHELLIN: We do.

20 CHAIRPERSON HOOD: Okay. All right. So, we
21 all on the same page? Okay. All right.

22 Let's go to the regular agenda. Let's go to
23 advanced party status. Ms. Schellin.

24 MS. SCHELLIN: Yes. So, under -- I'm sorry,
25 advance party status, we have a request on Zoning

1 Commission Case No. 16-17, EYA Development, LLC. We
2 have a request from the Residents for Responsible
3 Development of St. Josephs for advance party status
4 in opposition. Exhibits 31 and 31-A --

5 CHAIRPERSON HOOD: I'm going to ask that you
6 hold your conversations until you get out in the
7 hallway. But if you can exit as quickly as possible,
8 because we have a lot of other business we need to
9 continue.

10 MS. SCHELLIN: Okay.

11 CHAIRPERSON HOOD: Can we exit quietly,
12 please? Thank you.

13 Can we exit quietly, please? It's been done
14 before, Ms. Steiner.

15 MS. SCHELLIN: She's not even talking.

16 CHAIRPERSON HOOD: She was, to me.

17 MS. SCHELLIN: Okay. So, Exhibits 30 and 31-
18 A, the request for advance party status in
19 opposition, they also filed a waiver request from 11-
20 Z-DCMR, Section 404.3, which states in part that the
21 Communication may consider a party status request at
22 a public meeting, scheduled at least 14 days prior to
23 the public hearing, if the person requests party
24 status in advance.

25 Exhibit 33, we have the applicant submitted a

1 letter stating it was not opposed to the party -- the
2 request for party status for this party, and another
3 party status request, but did not address the advance
4 party status request. The hearing for this case is
5 scheduled for this Thursday.

6 CHAIRPERSON HOOD: Okay, Commissioners. I
7 realize that doesn't really meet our time frame. I
8 think, what is it, seven days or --

9 MS. SCHELLIN: Fourteen.

10 CHAIRPERSON HOOD: Fourteen days.

11 MS. SCHELLIN: Fourteen days prior to a
12 meeting.

13 CHAIRPERSON HOOD: Prior to a meeting. And
14 again, we're still learning --

15 MS. SCHELLIN: I'm sorry, 14 days prior -- a
16 meeting 14 days prior to a hearing.

17 CHAIRPERSON HOOD: Right. Okay. I
18 understand that as we're still going through this
19 trial and error process, I'm in favor of giving some
20 leniency. And I would also take note to the
21 applicant's request to make sure it's one party. And
22 I think that that can be manageable, or can be
23 managed. But let me open it up. Any discussions on
24 this, questions? Concerns?

25 MR. SHAPIRO: Mr. -- my concern would be that

1 the -- our rules are quite clear and if we deny the
2 request for advance party status, that they still
3 will have the opportunity for us to grant them party
4 status on Thursday.

5 CHAIRPERSON HOOD: Well, the difference --
6 the problem I have with that is, it doesn't make no
7 sense for me to deny it, then not even give them -- I
8 like to give them advance notice that they're going
9 to be a party. I think that's why we put this in
10 place to begin with, to give them an advance notice.
11 Even though, I don't know how much of advance it is.
12 It's supposed to have been much more than two or
13 three days. But that's the goal.

14 I mean, for me, I can look at it tonight, and
15 I'm sure that the applicant and the party is probably
16 listening now. The party would know how to prepare
17 or get their selves ready for whatever hearing we're
18 going to do on Thursday. That's just my position on
19 that. That's why I would rather move on it tonight
20 as opposed to denying it, and move on.

21 Again, I know we set rules in place, and I'm
22 the biggest one who sat her for nine years and put
23 rules in place, and I don't like to turn around and
24 deviate from them, but as you can see, we're all
25 learning them as we go along, even though we wrote

1 them. So, we're still trying to figure out how
2 everything fits. So, that's where I am.

3 Let me hear from others. I know we're --
4 Vice Chair.

5 MR. MILLER: Mr. Chairman, I have no
6 objection to granting advance party status tonight,
7 even though it didn't meet the timing issue.
8 Especially since the applicant has no opposition to
9 the party status request, generally, and would
10 encourage as the applicant's letter does, that the
11 other party -- the other person seeking party status,
12 consolidate with the party status request that's
13 sitting before us.

14 MR. MAY: Mr. Chairman, I agree with the Vice
15 Chair on all counts. So, I'm in favor and I don't
16 like waiving the rules.

17 CHAIRPERSON HOOD: Right.

18 MR. MAY: But this is one where I think
19 there's no harm.

20 CHAIRPERSON HOOD: I'm sorry, I didn't hear
21 what the Vice Chair said. I was --

22 MR. MILLER: Thank you, Mr. Chairman. I had
23 no problem, no objection to waiving our timing rule
24 in this case to allow the advance party status
25 request to be granted tonight. And particularly

1 since the applicant doesn't object to party status,
2 and just encourage, I also encourage this party
3 status requester to consolidate with the other person
4 who is seeking party status, as the applicant's
5 letter suggested.

6 CHAIRPERSON HOOD: Well, one of the problems
7 that I've just been informed, is one of the parties
8 has not submitted anything. So, as far as I'm
9 concerned, I'm going to deal with what's in front of
10 me. The other one is not here tonight. We'll just
11 have to take that up on Thursday.

12 But the party that's in front of us tonight,
13 I believe, is Residents for Responsible Development
14 of St. Josephs. As far as I'm concerned, they're the
15 ones who have party status. And the rest of, all
16 these other groups that we don't have, we'll just,
17 you know --

18 MR. MILLER: Yeah, I agree with you.

19 CHAIRPERSON HOOD: We'll just have to deal
20 with it on Thursday, if we deal with it.

21 MS. SCHELLIN: It wasn't -- it was just the
22 applicant's response was that they did not oppose the
23 party status, but they want the two parties to join
24 as one party. That's what I was --

25 CHAIRPERSON HOOD: Okay. Well, we appreciate

1 the applicant's response, but the applicant don't run
2 anything down here, we do. So, we appreciate it.
3 That's the way we're going to move with it, and
4 that's it.

5 MR. MAY: You know, the second party only
6 asked for three minutes to speak. I'm not sure if
7 they fully understood what party status means. So, I
8 think that is something we can appropriately address
9 on Thursday.

10 CHAIRPERSON HOOD: Right. Well, we
11 appreciate the applicant -- I don't want the
12 applicants not to think, but we don't move by what
13 the applicants tell us. We move by the five guys
14 that -- five guys that sit here. Okay?

15 All right. Anything else? Five guys. We
16 don't do burgers now. Okay. So, anything else?

17 So, I would move that we grant party status
18 to the residents, or whatever is in the -- my
19 computer cut off again. Whatever can --

20 MR. MAY: Do we have to waive the --

21 MS. SCHELLIN: Yes.

22 MR. MAY: -- filing? Motion to --

23 MR. RITTING: Yeah, may suggestion,
24 procedurally, is to take up the waiver, the
25 timeliness waiver issue first, then proceed to the

1 party status request.

2 CHAIRPERSON HOOD: Okay. So, I would move
3 that we waive our rules on this occasion,
4 specifically because they're still new. And I'm
5 putting that as a caveat because next year this time
6 I won't be as -- I won't be pushing to waive our
7 rules in this case for party status request, and ask
8 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?

15 MS. SCHELLIN: Yes. Staff records the vote
16 five, to zero, to zero, to waive the rules of 11-Z-
17 DCMR 404.3, Commissioner Hood moving, Commissioner
18 Miller seconding, Commissioners May, Shapiro, and
19 Turnbull in support.

20 CHAIRPERSON HOOD: Okay. Next, we will deal
21 with granting party status.

22 [Discussion off the record.]

23 CHAIRPERSON HOOD: Residents for Responsible
24 Development of St. Josephs. I move that we grant
25 them party status and ask for a second.

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1 MR. MILLER: Second.

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

4 [Vote taken.]

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

7 MS. SCHELLIN: Staff records the vote five,
8 to zero, to zero to grant party status in opposition
9 to the Residents for Responsible Development of St.
10 Josephs, Commissioner Hood moving, Commissioner
11 Miller seconding, Commissioners May, Shapiro, and
12 Turnbull in support.

13 CHAIRPERSON HOOD: Okay. Let's move right on
14 with our agenda. Let's go to consent calendar. The
15 Zoning Commission Case, modification of consequence,
16 Zoning Commission Case No. 06-46D. Ms. Schellin.

17 MS. SCHELLIN: Yes, sir. On this one, at the
18 March 27th meeting the Commission determined this
19 case was in fact a modification of consequence and
20 set a schedule for the ANC and the applicant to make
21 submissions. We did not receive anything from the
22 ANC, but the applicant submitted their additional
23 information regarding digital signage, which was
24 requested, and that is found at Exhibits 8 through
25 8B, would ask the Commission to consider action this

1 evening.

2 CHAIRPERSON HOOD: Okay, colleagues, this is
3 a case, a modification of consequence where we're
4 going to deliberate, so let me open it up. Any
5 questions or comments?

6 MR. MAY: Mr. Chairman, I appreciate the
7 information that was submitted by the applicant, but
8 I really, really want to hear what the ANC has to
9 say. This is an applicant that seemed to have
10 morphed a bit from when it was initially submitted.
11 And what's now described as digital signage may have
12 been described as an art mural. And so, I'm not
13 totally sure what the ANC knows about it. The Office
14 of Planning opined on an art mural, not on the
15 digital signage.

16 So, I'm interested in -- I'm really
17 interested in hearing what the ANC has to say and
18 would prefer that we give them another chance to do
19 it and ask the ANC tonight, if they're watching, or
20 the applicant, to reach out to the ANC to make sure
21 that we get feedback from them on this proposed
22 change.

23 Again, it's the digital signage thing that
24 is, I think, a completely new element. The rest of
25 the changes I'm not particularly concerned about.

1 CHAIRPERSON HOOD: Okay. That's fine. Let's
2 see, any other comments on it?

3 MR. TURNBULL: Yeah, Mr. Chair, I would agree
4 with Commissioner May. And I think one of the issues
5 is, this ANC is usually very responsive to -- and I'm
6 just surprised they haven't said anything. So.

7 And maybe it's because they didn't fully
8 understand. So, I would like to give them another
9 chance to look at this, review it, and the
10 opportunity to get back to us.

11 CHAIRPERSON HOOD: Okay. I see somebody
12 raising their hand. We don't usually call people up
13 unless we want them to come. Are you from the ANC?

14 UNIDENTIFIED SPEAKER: I'm the applicant.

15 CHAIRPERSON HOOD: You're the applicant?
16 Okay. Could you tell Ms. Schellin whatever it is.
17 And, Ms. Schellin, would you let me know if it's
18 something that we need to deal with this evening?

19 [Pause.]

20 CHAIRPERSON HOOD: Okay. The Commissioners
21 have made this. I kind of overhearing that. So,
22 we're going to go ahead and hear from the ANC. Ms.
23 Schellin, could you give us a schedule? At least
24 we're going to do it one more time on our end.

25 MS. SCHELLIN: Yeah. The applicant has

1 indicated they've contacted the ANC several times and
2 they're just not responsive. But we can put it on
3 for the next meeting, which would be May 8th. Two
4 more weeks.

5 CHAIRPERSON HOOD: So, we'll give this --
6 this ANC is pretty, very responsive.

7 UNIDENTIFIED SPEAKER: We can show evidence
8 of e-mails and --

9 CHAIRPERSON HOOD: But anyway, is this --

10 MS. SCHELLIN: So, you should contact them
11 again.

12 MR. MILLER: This is ANC 6D.

13 MR. MAY: Yeah. I think they need to make
14 sure -- the ANC needs to understand what is proposed
15 here in the way of signage, and that's --

16 CHAIRPERSON HOOD: Okay. So, we --

17 MR. MAY: -- just something that's not --
18 given how they have reacted to, you know, past
19 discussions and their concern about aesthetics and so
20 on, I would expect that they would have something to
21 say about this. I'm very surprised that they haven't
22 responded.

23 CHAIRPERSON HOOD: Okay. We'll give them
24 another two weeks, and if not, if no news, then we'll
25 just go ahead and proceed.

1 And one of the things, suggestions, Ms.
2 Schellin, is that when we do modification of
3 consequences again as we continue this, like one of
4 them tonight we did, we said modification of -- what
5 do we say? Deliberations, and the other one will say
6 modification of consequence of scheduling, because I
7 thought both of them were deliberations. So, that's
8 what we like to see so we'll know whether we're
9 deliberating or scheduling.

10 MS. SCHELLIN: One is for scheduling?

11 CHAIRPERSON HOOD: Yeah, like when we put in
12 the title.

13 MS. SCHELLIN: Uh-huh.

14 CHAIRPERSON HOOD: I should have probably
15 told you this, mentioned this off-line, but I'm doing
16 it before I forget. Modification of consequence of
17 deliberation. Modification of consequence of -- what
18 was the other one?

19 MR. MILLER: Scheduling.

20 CHAIRPERSON HOOD: Scheduling.

21 MS. SCHELLIN: Scheduling.

22 CHAIRPERSON HOOD: Yeah.

23 MS. SCHELLIN: Okay.

24 CHAIRPERSON HOOD: Okay.

25 MR. MAY: But, yeah, we have to work on how

1 that's described because it's, you know, we could be
2 -- it's not a given that we would be scheduling
3 something.

4 MS. SCHELLIN: I think it's determination.
5 How about determination?

6 MR. MAY: Yeah. I mean, I don't think we
7 have to figure it out right here and now.

8 CHAIRPERSON HOOD: Well, here's the problem,
9 now we're going to get into a meeting. Well, we are
10 at meeting. Okay.

11 Here's the problem. Here's the problem.
12 Today, I thought we were deliberating on both of
13 them.

14 MR. MAY: No, I understand completely what
15 the problem is. The question is that we can take up
16 the initial consideration of a modification of
17 consequence and deliberate on it at the very first
18 meeting and determine that it is not a --

19 MS. SCHELLIN: Right.

20 MR. MAY: -- modification of consequence.
21 So, to say that it's, you know, the first meeting is
22 a scheduling, might not be correct. So, I think it,
23 you know, it could be first consideration, then
24 second consideration. Something like that.

25 CHAIRPERSON HOOD: Okay.

1 MR. MAY: It's, again, it's just
2 wordsmithing, and I think it's best done not at the
3 dais.

4 MS. SCHELLIN: Or, it could just be maybe
5 modification of consequence, and modification of
6 consequence deliberation because the first one is --

7 CHAIRPERSON HOOD: This seems really hard, so
8 maybe we have Office of Planning do a study on this.
9 No, I think we can handle this one. We'll -- I'll
10 leave it up to staff and to the wordsmith,
11 Commissioner May. And if you all could work on that
12 or come up with something that makes it easier, so
13 we'll know what frame, or what we're doing. Okay?

14 All right. I think that will be good for all
15 of us. As you can see, we're still learning this.

16 Okay. Where are we at? Modification of --
17 so we've finished that one.

18 Let's go to Zoning Commission Case No. 16-
19 03A, DB Residential, LLC modification of consequence
20 to design review at Square 1112E. Ms. Schellin.

21 MS. SCHELLIN: Yes. On this one this is for
22 the Commission to decide whether it is a modification
23 of consequence, and not a modification of
24 significance. And if you do decide that, or
25 determine it is a modification of consequence, then I

1 would ask that one, a schedule be set for
2 submissions. And two, a date for deliberations.
3 Thank you.

4 CHAIRPERSON HOOD: Okay. First, colleagues,
5 do we think this is a modification of consequence or
6 significance? And we do have the Office of Planning.

7 MR. TURNBULL: Yeah, I would go with what
8 it's down for, and I think the Office of Planning
9 agrees with that determination. So, I think it would
10 be a modification of consequence.

11 MR. MILLER: And I concur.

12 MR. SHAPIRO: I concur as well.

13 CHAIRPERSON HOOD: Okay. So, we all have
14 agreed that this is a modification of consequence and
15 I would concur. Okay. So, we need to -- we can
16 deliberate. This is one of those cases I think
17 you're talking about, Commissioner May, right?
18 Correct?

19 MR. MAY: It is, we are now deliberating
20 whether it is a modification of consequence. And
21 we've concluded that it is.

22 CHAIRPERSON HOOD: Right. So, I'm just -- I
23 was just trying to think back to --

24 MS. SCHELLIN: Now it's a scheduling.

25 MR. MAY: Now we move into the scheduling

1 mode, yes.

2 MS. SCHELLIN: So, do you -- after, do you
3 guys want anything?

4 CHAIRPERSON HOOD: For me I --

5 MS. SCHELLIN: Additional.

6 CHAIRPERSON HOOD: I don't know if anybody
7 wants anything additional. I think the record is
8 complete for me but -- anybody need any -- see
9 anything else? Okay, not hearing anything.

10 MS. SCHELLIN: Okay. So, it set a date then,
11 for the ANC to file a response by May 1st, 3:00 p.m.,
12 and then the applicant just, if there were anything I
13 think that they could file on May 8th and you guys
14 could still take it up on May 8th. Is that okay?
15 Okay.

16 CHAIRPERSON HOOD: That's fine.

17 MS. SCHELLIN: So, we'll just have the
18 applicant file by noon on May 8th. And the ANC could
19 file by 3:00 p.m. on the 1st. And we'll put it on
20 for May 8th for deliberations.

21 CHAIRPERSON HOOD: Okay. Thank you. Let's
22 go to final action in Zoning Commission Case No. 13-
23 18A, WBG, LLC, three-year PUD time extension at
24 Square 5925. Ms. Schellin.

25 MS. SCHELLIN: Yes. The applicant is

1 requesting a three-year PUD time extension in which
2 to file a building permit, which would be until April
3 17th, 2020. And construction to start by April 17th,
4 2021. The applicant cites the area of the District
5 is suffering -- has been suffering from financing,
6 construction, and leasing impediments, as the reason
7 for the extension.

8 Exhibit 4 is an OP report in support of the
9 request. We'd ask the Commission to consider action.

10 CHAIRPERSON HOOD: Okay. Colleagues, we have
11 a request, requesting a three-year time extension,
12 which would go into 2020, and the construction has to
13 start by April 17th, 2021.

14 And as always, we know that there's some
15 financing issues, construction and leasing
16 impediments as mentioned in the exhibit. So, let me
17 open it up for discussion, comments.

18 MR. MAY: Mr. Chairman.

19 CHAIRPERSON HOOD: Yes.

20 MR. MAY: I'm not surprised at all that there
21 have been difficulties getting the project financed.
22 I thought at the time we considered it, that it was a
23 pretty aggressive project for where it was and what
24 they were proposing to do. So, it's kind of not
25 surprising but I'm glad they're sticking with it and

1 hopefully if we give them another couple of years
2 they will manage to get the financing that they need.

3 They have requested three years. I think our
4 standard is two and I would be inclined to support
5 two years and just ask them to come back at two years
6 if they haven't gotten the financing.

7 CHAIRPERSON HOOD: Any other comments?

8 MR. SHAPIRO: I believe, Mr. Chair, I believe
9 OP is recommending two years as well.

10 CHAIRPERSON HOOD: Okay. Anybody else?
11 Somebody like to make a motion? I would agree with
12 the two years. And I'm hoping to get it done in two
13 years. I'm not going to encourage them to come back
14 for the one year, so I'm hoping that they get it done
15 in the two-year's time that we would stick with our
16 rules that we put in place.

17 And also, as mentioned by Commissioner
18 Shapiro, Office of Planning recommends the same. So,
19 somebody like to make a motion?

20 MR. MAY: Mr. Chairman, I would move that we
21 grant two-year PUD time extension for Zoning
22 Commission Case 13-18A, WBG Wheeler, LLC, PUD at
23 Square 5925.

24 MR. MILLER: Second.

25 CHAIRPERSON HOOD: It's been moved and

1 properly seconded. Any further discussion?

2 [Vote taken.]

3 CHAIRPERSON HOOD: Any opposition? Ms.
4 Schellin, would you record the vote?

5 MS. SCHELLIN: Staff records the vote five,
6 to zero, to zero to approve Zoning Commission Case
7 No. 13-18A, for a time extension of two years.
8 Commissioner May moving, Commissioner Miller
9 seconding, Commissioners Hood, Shapiro, and Turnbull
10 in support.

11 CHAIRPERSON HOOD: Okay. Next Zoning
12 Commission Case No. 02-38G, Waterfront 375 M Street,
13 LLC and Waterfront 425 M Street, LLC, two-year time
14 extension, time PUD extension at Square 542 east and
15 west M buildings. Ms. Schellin.

16 MS. SCHELLIN: The applicant is requesting a
17 two-year PUD time extension for the east and west M
18 buildings to file the -- in order to file the second-
19 stage PUD applications by April 15th, 2019. And in
20 addition, the applicant is requesting a waiver from
21 11-Z-DCMR, Section 705.5, that only allows for no
22 more than two time extensions, with the second one
23 being only for one year.

24 Exhibit 6 is a letter in support from the
25 Tiber Island Cooperative Homes. Exhibit 7 is an OP

1 report in support of the request, and if I'm not
2 mistaken, the applicant has already filed the second-
3 stage application. And they are okay with the
4 Commission -- excuse me, deferring action on this
5 time extension until they take final action on the
6 second stage PUD. Is that correct? Application?
7 Yes.

8 So, okay. Any comments on this?

9 MR. MAY: Yeah, Mr. Chairman, I mean --

10 CHAIRPERSON HOOD: Yes.

11 MR. MAY: -- that's the course I would
12 suggest. It seems strange to me that there was an
13 application for a time extension when, you know,
14 within it, it says that there has already been an
15 application for second stage with the first stage
16 mod. So, I would just say we'd toll the whole thing
17 until -- or toll the time extension until we take up
18 the stage-two application, whatever time that comes,
19 and hopefully that will be soon.

20 And I think that, you know, in terms of the
21 merits of the case here, it's, I think they've --
22 there's enough information in the record to justify
23 granting another two-year time extension. I mean, I
24 know things are happening around there and I think
25 actually there's a lot happening around there, around

1 the site that would explain why, not necessarily
2 everything is getting in -- you know, getting built
3 immediately. So, a little extra time I think is
4 appropriate. Also, shifting in the market from
5 office to residential, because residential seems to
6 be stronger in that neighborhood at this -- I mean,
7 all those things are good reasons so I'd be in favor
8 of just putting this off until we consider the two-
9 year time extension.

10 CHAIRPERSON HOOD: I would agree with that,
11 but let me open it up. Any other comments? Mr.
12 Turnbull?

13 MR. TURNBULL: Yeah, Mr. Chair, I would
14 concur with that also. I think it makes sense.

15 CHAIRPERSON HOOD: Okay. Anybody else?
16 Okay. So, there's no action from us tonight on this,
17 right? Okay. All right. Thank you. Let's keep
18 moving.

19 Zoning Commission Case No. 0-23-8H, PN
20 Hoffman, Inc., two-year PUD time extension at square
21 542 Northeast building. Ms. Schellin.

22 MS. SCHELLIN: Yes. In this case, the
23 applicant is requesting a two-year PUD time extension
24 for the northeast building in order to file a second-
25 stage PUD application by April 15th, 2019.

1 The applicant also requests the waiver of 11-
2 Z-DCMR, Section 705.5, and which again allows two
3 extensions, the second one being for one year.
4 Exhibit 4 is a letter in support from DMPED. Exhibit
5 5, ANC 6D submitted a report in support. And Exhibit
6 6 is an OP report in support.

7 CHAIRPERSON HOOD: Okay. Thank you, Ms.
8 Schelling. Seems like there's a lot of support for
9 this. Let me open it up. Commissioner May?

10 MR. MAY: Okay, yeah. I think the case has
11 been made for a two-year extension again. It's the
12 same initial PUD and it had multiple large buildings
13 on it, and we've seen, you know, much of it realized,
14 but there are a few parcels that still have to be
15 done. And the fact that I was only recently, or
16 within the last year, roughly, awarded to the
17 developer and that the LDN negotiation is ongoing, I
18 think is reason enough to give them a two-year
19 extension.

20 And I would just say that, yeah, I think
21 that's about all. That's it. Thanks.

22 CHAIRPERSON HOOD: Anybody else? Vice Chair?

23 MR. MILLER: I concur with Commissioner May.

24 CHAIRPERSON HOOD: All right. In that case,
25 somebody like to make a motion?

1 MR. MILLER: I would move that the Zoning
2 Commission approve the two-year extension request for
3 PUD case 02-38H, PN Hoffman, and ask for a second.

4 MR. TURNBULL: Second.

5 CHAIRPERSON HOOD: Okay. It's been moved and
6 properly seconded. Do we have to waive our rules, or
7 we already did that, I guess. I guess we already --

8 MS. SCHELLIN: [Speaking off microphone.]

9 CHAIRPERSON HOOD: Yeah, just include the --

10 MR. MILLER: Include the waiver in the motion
11 and whoever seconded it.

12 CHAIRPERSON HOOD: One time only.

13 MR. MILLER: Whoever seconded it can concur
14 with that.

15 CHAIRPERSON HOOD: Okay.

16 MR. TURNBULL: I will concur.

17 CHAIRPERSON HOOD: Okay. It's been moved and
18 properly seconded. And also included is the waiver
19 of our rules. Any further discussion?

20 [Vote taken.]

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

23 MS. SCHELLIN: Yes. Staff records the vote
24 five, to zero, to zero to approve the waiver request
25 regarding the number of time extensions, and for the

1 time period. And approving the two-year time -- two-
2 year PUD time extension for Zoning Commission Case
3 02-38H, Commissioner Miller moving, Commissioner
4 Turnbull seconding, Commissioners Hood, May, and
5 Shapiro in support.

6 CHAIRPERSON HOOD: Okay. Next, let's go to
7 Zoning Commission Case No. 05-28P, Parkside
8 Residential, LLC, first-stage PUD of significance,
9 and second-stage PUD at Square 5056. Ms. Schellin.

10 MS. SCHELLIN: Yes, sir. On this one we have
11 Exhibit 70 through 70D, and 71 through 73, the
12 applicant's post-hearing submissions. Exhibit 75,
13 ANC 7D report; Exhibit 75, ANC 7D report in support
14 and rescinding their February report in opposition.
15 Would ask the Commission to consider action this
16 evening.

17 CHAIRPERSON HOOD: Okay. Commissioners,
18 anything else open on this? Commissioner Turnbull.

19 MR. TURNBULL: Mr. Chair, I did not sit on
20 this case that night so I will not be voting.

21 CHAIRPERSON HOOD: Okay. Anybody else? Vice
22 Chair Miller?

23 MR. MILLER: Thank you, Mr. Chairman. I just
24 wanted to comment on appreciating that the applicant
25 had further conversation with the ANC, and as a

1 result of those conversations the community benefits
2 agreement was revised. And I think the applicant
3 also upgraded the environmental from LEED Silver to
4 LEED Gold. So, that's a good thing.

5 CHAIRPERSON HOOD: Okay. Anything else?
6 Commissioner May?

7 MR. MAY: I agree with Vice Chair on all
8 points.

9 CHAIRPERSON HOOD: All right. So, any other
10 comments? Okay.

11 Well, in the next case I would move that we
12 approve Zoning Commission Case No. 05-28P, and ask
13 for a second.

14 MR. MILLER: Second.

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

17 [Vote taken.]

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

20 MS. SCHELLIN: Staff records the vote four,
21 to zero, to one to approve proposed action in Zoning
22 Commission -- I'm sorry. Final action in Zoning
23 Commission Case No. 05-28P, Commissioner Hood moving,
24 Commissioner Miller seconding, Commissioners May and
25 Shapiro in support, Commissioner Turnbull not voting,

1 having not participated.

2 CHAIRPERSON HOOD: Okay. Next, we have
3 Zoning Commission Case No. 06-14D, Mid-Atlantic
4 Realty Partners, LLC, PUD modification of
5 significance at Square 3854. Ms. Schellin.

6 MS. SCHELLIN: Exhibits 43 through 48 are the
7 applicant's post-hearing submissions. Exhibit 49,
8 ANC 5E report in support with conditions. Exhibit
9 50, ANC 6C report in support. Exhibits 51 through
10 52, the applicant's proof of service of additional
11 documents to ANC 5D. That ANC was left off of some
12 of the additional -- or some documents in the end,
13 and so the applicant just followed up with some --
14 with serving them with those documents. And that's,
15 we'd ask the Commission to consider action this
16 evening.

17 CHAIRPERSON HOOD: Okay. Commissioners, any
18 comments or questions? Somebody could get us started
19 off on this?

20 [Pause.]

21 CHAIRPERSON HOOD: Mr. Ritting, can you help
22 me understand all that I need to do with this one, or
23 we need to do with this one?

24 MR. RITTING: Well, I think you're alluding
25 to the discussion we were having earlier about the

1 expiration of this PUD modification, as the draft
2 order was prepared by the applicant, it doesn't
3 include an expiration condition, which is unusual and
4 I inquired why that was. And they responded that
5 they believed that the PUD was fully vested when they
6 filed for a building permit and commenced
7 construction on the building that's on the site. Of
8 course, there are unbuilt buildings on the site and
9 the question is what to do about those.

10 The applicant's position is that the PUD is
11 fully vested, and I don't have anything else to say
12 other than, that would be a point for you to begin
13 your discussion.

14 CHAIRPERSON HOOD: Okay. Thank you. I
15 guess, Commissioners, we need to -- I'd like to give
16 the applicant a chance to give us a date, but if not,
17 we'll give them one. And I understand what their
18 concern is about being vested. But there needs to be
19 some kind of cutoff point to this.

20 So, let me open it up and see what others
21 think.

22 MR. SHAPIRO: Mr. Chair, I concur. I would -
23 - I think we should set a timeline for this. I'd be
24 happy to hear from the applicant on it, but
25 regardless, I think we -- that's an action that we

1 should take to maintain some measure of control over
2 the process. A two-year time frame seems normal and
3 appropriate for what we do.

4 CHAIRPERSON HOOD: So, I'm hearing two years,
5 Commissioner Shapiro. Do we have a date? Come up
6 with a date for us?

7 MS. SCHELLIN: Well, they have some dates and
8 they're willing to come up and address it if you want
9 them to.

10 CHAIRPERSON HOOD: Some dates.

11 MR. SHAPIRO: I'm happy to hear some dates,
12 Mr. Chair.

13 CHAIRPERSON HOOD: Okay. Come on, let's play
14 multiple choice. Come on up. You're by yourself and
15 you can just give us some dates.

16 MS. BLOOMFIELD: Good evening. For the
17 record, my name is Jessica Bloomfield from the law
18 firm of Holland and Knight. I would just reiterate
19 that it is our position that the PUD is vested since
20 the original PUD approval and subsequent extensions
21 provided a date by which we had to submit a building
22 permit and begin construction, and we met those
23 dates. There was no phasing involved in any of those
24 prior PUD approvals. That's our position. We're --
25 the applicant is here, Matt Robinson, and he's

1 prepared to provide a proposal for what we would
2 suggest dates would be if the Commission decides to
3 impose them.

4 MR. ROBINSON: My name is, for the record, is
5 Matthew Robinson. I'm a principal with MRP Realty.

6 This issue just came up really today, from my
7 perspective. We always believed that our PVD
8 (phonetic) was fully vested with the first
9 construction, and started construction on that first
10 building, and it seemed very late in the game to kind
11 of come up with such a material change, or material
12 difference from where we thought we were going.

13 But, if the Commission sees fit that you do
14 want to go in this direction, a couple things that I
15 think you should take into account. First, there are
16 two different towers that could be built, so this
17 next phase can be phased, since there's a north and
18 south, and we need time. And also, there is a --
19 because of the very tight constraints of that site we
20 should look at that the second -- the, what is the
21 third phase on the site, can't -- if the first -- the
22 second phase is built, we can't start that until --
23 let me take that back.

24 If the second phase is in construction, we
25 can't build the third phase until it's done, unless

1 they both go at the same time. So, there needs to be
2 a time lag between phase two and phase three as well.

3 And so, what we would consider is three years
4 for the first phase to get to -- to submit for
5 building permit, with a one year to start
6 construction for phase two. And then, a similar time
7 frame that would start from the certificate of
8 occupancy from the first building, to start on the
9 second building.

10 MR. MAY: You want a three-year lag between
11 the completion of phase 2, and the start of phase
12 three?

13 MR. ROBINSON: That's correct.

14 MR. MAY: So, you're saying that --

15 MR. ROBINSON: For building --

16 MR. MAY: -- it started in --

17 MR. ROBINSON: -- (simultaneous speech).

18 MR. MAY: -- 2006, you're asking for another
19 six years, plus construction time. Right? Three
20 years to file for a building permit.

21 MR. ROBINSON: Right.

22 MR. MAY: The fourth year to start
23 construction. Oh, it's even more than that. And
24 then three more years to file for the next building
25 permit, and a fourth year to start construction. So,

1 we're at eight years. And then you have the time it
2 takes to build the building, and be generous, only a
3 year. So, you're talking about nine more years on
4 something that's already been around for 11 from when
5 you first filed.

6 MR. ROBINSON: That is correct. But also,
7 coming from the perspective that right now, the
8 office buildings, there are no time limits on those.
9 They're fully vested. Correct.

10 MR. MAY: I understand that's your
11 interpretation of what happened. Clearly that must
12 have been an oversight. Either we weren't
13 considering the phasing of the project when it was
14 first approved. I can't remember when it was first
15 approved. I can't remember whether I was on that
16 vote or not.

17 But in any case, it's been a long time and
18 that's not what we would normally do. We would
19 normally want to know what the phasing of the entire
20 project is and establish that in the order.

21 MR. ROBINSON: Uh-huh.

22 MR. MAY: So, the fact that it wasn't done is
23 not -- the only thing it's due to seems to be an
24 oversight on somebody's part, or you know, whatever.
25 In any case, it's something that should have been

1 done.

2 I don't think that that's a really good
3 schedule to go out another, you know, nine years to
4 the completion of the project. Again, after it's
5 already been around for, you know, and was probably
6 approved originally in 2008, maybe. Something like
7 that. So, it's --

8 MR. ROBINSON: 2007, I believe. It was
9 even --

10 MR. MAY: Seven, yeah. So, it's 10 years,
11 plus another nine. This is a really long time.

12 So, I mean, we could do one of two things, we
13 could shorten it because it's our prerogative to
14 shorten it to what we think it should be, or you
15 could go back to the drawing board and maybe come
16 back for the next meeting and have a better more
17 thought out timeframe, because I understand, this is
18 a very recent development.

19 MR. ROBINSON: Yeah. I mean, I guess in that
20 the gap for the second building, the concern being is
21 if -- listen, it's taking long for us. We do not
22 want -- we did not want this project to be 10 years
23 before we're coming back. But circumstances change,
24 the office market really doesn't hold up, and since
25 we're almost held hostage when we're trying to build

1 this project that I believe everybody likes, into a
2 triangle bounded by railroad tracks and we have so
3 many site constraints between major arterials,
4 bridges, and so forth, and there is a sequence we
5 have to go to that if it comes to the point where I'm
6 ready to build the office building but there's no
7 office market, I don't know that until after I finish
8 -- I have to finish phase 2 in order to know that.

9 MR. MAY: I mean, unless you build them both
10 at the same time, of course.

11 MR. ROBINSON: Unless I build them both at
12 the same time.

13 MR. MAY: Right. But --

14 MR. ROBINSON: Which is what we'd like to do,
15 but --

16 MR. MAY: No, I understand that this has been
17 an unusual site and how it is bounded by, you have
18 one phase that's completely landlocked, if you will,
19 by the rest of the project, right?

20 MR. ROBINSON: Uh-huh.

21 MR. MAY: In essence. So, I mean, I
22 understand that's more complicated and that's why I'm
23 not, you know, immediately saying, oh no, you know,
24 two years plus one year to do the whole thing. But
25 again, since you had -- you said it only came up

1 today, maybe you want to think about it a little bit
2 longer before we decide one way or the other. That's
3 my suggestion. Of course, it's up to the Commission
4 to really grant that extra time.

5 MS. BLOOMFIELD: What is the date of the next
6 meeting?

7 MS. SCHELLIN: May 8th.

8 CHAIRPERSON HOOD: May the 8th. And I would
9 agree with what I heard Commissioner May said about -
10 - I hear him trying to extrapolate what the plan is,
11 but it would be better for me to just have it worked
12 out on a one-pager. Anybody else?

13 MR. SHAPIRO: Mr. Chair, I mean, we have a
14 process in place for granting extensions that would,
15 if we set a timeline that this would kick in as well,
16 wouldn't it?

17 MR. MAY: It would, but it's, under the new
18 regulations, it's much more limited than it used to
19 be. We used to do, you know, give out two-year
20 extensions like they were candy. So --

21 MR. SHAPIRO: If we set out two or three
22 years and they came back to us and said they needed
23 an additional two-year extension, an additional two-
24 year extension after that, that would be within our
25 purview. So that's --

1 MR. MAY: Yeah, it's always within our
2 purview to grant extensions, even if they're
3 inconsistent with the way our rules call them out.

4 I mean, I think one of the things that I am
5 struggling with is that even after the -- you know,
6 you've got three years, plus one year, that's only
7 the start of construction. Then you've got like a
8 year or two to build the building. So, that's like
9 four or five years.

10 So, four or five years from now you're not
11 even ready to file the building permit for the next
12 one? I mean, it seems to me that there should be --
13 you know, it's that extra three years between them
14 that is most concerning. This is why I just think it
15 needs a little bit more thought, and I think we need
16 to understand the logic.

17 CHAIRPERSON HOOD: Okay. Did you have
18 something else --

19 MR. RITTING: Sorry to make a situation even
20 more confusing, but I wanted to respond to one thing
21 that the witness said, where he was requesting that
22 the expiration date for phase three to be tied to the
23 issuance of a certificate of occupancy for the second
24 phase, if I understood that correctly.

25 While that's understandable, that's something

1 we usually advise you not to do because we recommend
2 a date certain tied to the issuance of this order.
3 So, it's my recommendation that whatever that amount
4 of time that needs to be built in to allow that
5 phased construction process, that it be triggered
6 from the date of the issuance of the order and not
7 from the issuance of a subsequent C of O because
8 there's less control over when that C of O issuance
9 occurs.

10 So, in developing a further schedule that
11 would be my recommendation.

12 MS. BLOOMFIELD: Can I add one more wrinkle
13 in the fact that these next two phases is one
14 building for zoning purposes. And so, is there any
15 reason why submitting for a building permit the first
16 time for phase two, and beginning construction within
17 a year from that doesn't vest phase 2 and phase 3?

18 MR. MAY: Yeah, but it still doesn't
19 guarantee that you're going to build a phase 3.
20 That's what we're trying to keep the pressure on.

21 I don't know. Is there a reason why we can't
22 just give -- allow you a little more time to give it
23 some thought and come back on May 8th?

24 MS. BLOOMFIELD: Yeah, let's do that.

25 MR. MAY: Okay.

1 MS. BLOOMFIELD: Thank you.

2 MS. SCHELLIN: So, if we could have your
3 submission by 3:00 p.m. on May 1st, that would be
4 great.

5 CHAIRPERSON HOOD: Okay. I think we're all
6 on the same page with that one. Anything else on
7 this? Vice Chair Miller?

8 MR. MILLER: Thank you, Mr. Chairman. Isn't
9 this the one where the ANC 5E submitted a report
10 which was, they quote, "Recommends the approval of
11 the modification if the developer increases the
12 affordable housing component to eight percent at 80
13 percent of AMI, and two percent at 60 percent of
14 AMI."

15 The project, as it appears before us now,
16 includes six percent at 80 percent AMI, and two
17 percent at 60 percent of AMI, which I think was
18 changed from the time of the original application to
19 add in those 60 percent AMI units, which I'm
20 appreciative of.

21 But I, of course, would have liked to have
22 seen more of a half and half split between the 60
23 percent AMI and 80 percent AMI units. But I just
24 wanted to comment on that. And that's -- and the
25 ANC, obviously, was in that same kind of posture.

1 So, while they're paring out dates of
2 construction for this one building, which has a
3 meaningful connection, so it kind of should be built
4 at the same time, you would think. Anyway. Maybe
5 they can just take another look at the set-aside,
6 affordable housing set-aside and AMI levels to see if
7 there's any way they can increase that.

8 CHAIRPERSON HOOD: Okay. Anything else in
9 this case?

10 Okay, let's go to proposed action. Zoning
11 Commission Case No. 16-13, JS Congress Holdings, LLC,
12 consolidated PUD and related map amendment at Square
13 748. Ms. Schellin.

14 MS. SCHELLIN: Yes. Exhibits 47 through 48
15 are the applicant's post-hearing submissions.
16 Exhibit 49 is an OP supplemental report. Exhibit 51
17 is a letter from Mr. Irby, a party, detailing
18 negotiations with the applicant. The record was
19 reopened to accept that submission. Exhibit 2 is a
20 letter from the applicant advising that they have
21 come to an agreement in principle with Mr. Irby,
22 which they hope to finalize in the next 24 to 48
23 hours, and they will be able to provide documentation
24 prior to final action. So, we'd ask the Commission
25 to consider this, this evening.

1 CHAIRPERSON HOOD: Okay. I did see the
2 letter from Mr. Irby, and I think it was dated the
3 20th. And then I saw that we had a letter today,
4 dated from the applicant, I believe, that stated that
5 they worked an agreement. But I didn't see the 24 to
6 48 hours. Is that a continuation of that, or did
7 they come to agreement?

8 MS. SCHELLIN: No, they came to an agreement.
9 It was actually in the applicant's letter that they
10 expected. My understanding is that the property is
11 now no longer owned by just Mr. Irby. It's in both
12 his name and his father's name. And so, the issue is
13 that both he and his father would need to sign the
14 agreement. No? Not necessarily.

15 So, anyway, they just got some finalization
16 on the agreement.

17 CHAIRPERSON HOOD: Well, let me do this. Ms.
18 Brown and Mr. Irby are here. Let me hear from them,
19 because they know what's going on. We can speculate.
20 We do our best.

21 So, we're not going to make this a hearing.
22 This is going to be very quick. Mr. Irby, your
23 letter on the 20th, I think it was the 20th.

24 MR. IRBY: Yes.

25 CHAIRPERSON HOOD: There were still some

1 issues there. But obviously from the 20th to today,
2 you all worked it out. So you all in agreement now,
3 whatever the issues were.

4 MR. IRBY: The majority of them, yes. I can
5 get into details.

6 CHAIRPERSON HOOD: No. No, don't get into
7 details.

8 MR. IRBY: Okay.

9 CHAIRPERSON HOOD: Because here's the thing,
10 we're ready to dispose of this now.

11 MR. IRBY: I understand.

12 CHAIRPERSON HOOD: Okay?

13 MR. IRBY: So, the main issue just concerns
14 timing of payment. And on my end, kind of echoing
15 what Jacob said, I wanted the payment to be related
16 to the approval of the order, whereas they wanted
17 payment of it to be approval upon issuance of
18 building permits. And --

19 CHAIRPERSON HOOD: And what did you say
20 again, Mr. Ritting, about that, that you commented
21 on, because I don't know if we'd get into payments
22 and --

23 MR. RITTING: My comments had to do with a
24 different case and a very different issues.

25 CHAIRPERSON HOOD: Oh, okay. Okay.

1 MR. RITTING: So, I don't think that they're
2 directly applicable here.

3 CHAIRPERSON HOOD: Yeah, because typically we
4 don't usually get into payments.

5 MR. IRBY: I understand.

6 CHAIRPERSON HOOD: And all that. So, that's
7 something you -- but you all have an agreement.

8 MR. IRBY: Well, we haven't come to terms on
9 that term yet. Of the agreement, correct.

10 MS. BROWN: Mr. Hood, if I may?

11 CHAIRPERSON HOOD: Yes.

12 MS. BROWN: Carolyn Brown with the law firm
13 of Donohue and Stearns on behalf of the applicant.

14 Mr. Irby and I, I think, are in agreement
15 that we have reached an agreement in principle and it
16 is just the finetuning of the details of when things
17 will occur. We've had communication as late as 5:45
18 today, trying to come up with some alternative ways
19 so the both of us can be in agreement on it. And I
20 believe we're close, so that I think it is something
21 that can be resolved, and it is a private agreement
22 between the parties and not something that is to be
23 part of the record. So, I don't think that there's
24 any -- we can work it out privately about the timing
25 of issues.

1 CHAIRPERSON HOOD: So, it's really not
2 germane to our proceedings. Is that the issue?

3 MS. BROWN: Only to the extent that we're
4 hopeful that if we reach an agreement that Mr. Irby
5 will withdraw his party status in opposition.

6 CHAIRPERSON HOOD: Okay. I don't want to say
7 it's not in our jurisdiction. I say that enough. I
8 seem to be the, it's not in our jurisdiction, guy
9 now.

10 Let me open it up. Any other questions or
11 comments. Oh, not in our purview. I'm getting it
12 mixed up. I have to make sure I get it right. Not
13 in our purview. Okay. I'm going to have some fun
14 with that.

15 Okay. Any other questions or comments? Vice
16 Chair Miller?

17 MR. MILLER: Yeah, and I'm the one who
18 usually says, what a wonderful revitalization
19 project. So, I'll say it again here.

20 My question --

21 CHAIRPERSON HOOD: Thank you, all. Do you
22 have a question for them?

23 MR. MILLER: Well --

24 CHAIRPERSON HOOD: Because they left.

25 MR. MILLER: Yeah, don't -- maybe they might

1 not want to leave. I just, at least hear the
2 comments.

3 CHAIRPERSON HOOD: Okay.

4 MR. MILLER: This is the one that has the
5 inclusionary zoning off-site as a component of the IZ
6 is off-site. You're doing 12 percent instead of the,
7 I guess eight percent set-aside, and you're doing
8 four percent of the set-aside on site. I forget the
9 AMI levels. But you want to do eight percent of the
10 affordable housing set-aside, and off-site project
11 that you have some agreement with, Habitat for
12 Humanity.

13 And I think all that is fine in my mind, but
14 I'm not sure I -- there are a couple details that
15 maybe could be worked out between proposed action and
16 final action that might need to be worked out between
17 proposed action and final action. One was the -- I
18 think you tied the -- you linked the off-site
19 construction to site control.

20 The applicant has also agreed to link the
21 issuance of a building permit for the 1109 Congress
22 Street site, to site control for the affordable units
23 and to link the C of O for the Congress Street
24 building to occupancy of the off-site units.

25 I just wanted to take a look at that to see

1 if that was consistent with our other off-site
2 housing linkage requirements. I think instead of
3 site control, it may be a building permit that it's
4 linked to. So, I just wanted to look at that with
5 counsel and with Office of Planning perhaps, because
6 I think it may be -- I think there was a reason why
7 the linkage was with building permit, apart from your
8 linking something with building permit.

9 And the other thing was, I think you wanted
10 flexibility to not have a draft covenant. I thought
11 I saw something in your letter. But I'm not -- I
12 kind of think that there should be, so I think I just
13 need more information from -- between proposed and
14 final as to why there shouldn't be a draft covenant
15 that would enforce that off-site linkage, housing
16 linkage from the city standpoint.

17 MS. BROWN: May I respond briefly?

18 MR. MILLER: Yeah, that would be -- is that
19 okay, Mr. Chair?

20 MS. BROWN: The covenant is required when you
21 file the application, so we wouldn't have met that
22 requirement. If you want us to try to submit
23 something for the record, I don't think that we would
24 object to that, a draft for the record. But it was
25 just that it wasn't part of the initial application.

1 MR. MILLER: There would be a covenant that
2 would run with the land for the 1109 Congress that
3 links the off-site to it?

4 MS. BROWN: Yes, there would always be a
5 requirement for an IZ covenant, so we -- that's part
6 of the law and the regulations. It's just that the
7 regulations require that an applicant submitted
8 immediately, if they're requesting off-site provision
9 of the IZ units. So, we just aren't able to comply
10 with that, because it came after the hearing.

11 MR. MILLER: Okay. I just wanted to bring
12 the issue up and ask the question about it, and maybe
13 after the conversation with OP and counsel, just to -
14 - because this is -- we haven't done very many of
15 these off-site housing linkages and we just need to
16 make sure we get it right.

17 CHAIRPERSON HOOD: Okay. Any other comments
18 or questions? Okay. Thank you all. Very much
19 appreciate it.

20 And I forgot, we do have two votes on this
21 one. So, even if you all come to an agreement,
22 hopefully you will come to the agreement by the time
23 we take final action.

24 Anything else on this case, anybody?

25 MR. TURNBULL: Mr. Chair, you know, we've had

1 this case before us for a while. We've gone through
2 a lot so I'm comfortable in going ahead with this.

3 CHAIRPERSON HOOD: I was just simply saying
4 that it sounds like they're so close to an agreement
5 it would be good --

6 MR. TURNBULL: Yeah.

7 CHAIRPERSON HOOD: -- maybe to put in the
8 file while we always point to it, we don't
9 necessarily put it in our order. But we can point to
10 the individual agreement, just to let them know that
11 we're aware of an agreement between Mr. Irby and the
12 applicant.

13 Okay. Anything else on this? Somebody like
14 to make a motion?

15 MR. MILLER: Mr. Chairman, I would move that
16 the Zoning Commission take proposed action on Case
17 No. 16-13, JS Congress Holdings, LLC, consolidated
18 PUD and related map amendment at Square 748, and ask
19 for a second.

20 MR. SHAPIRO: Second.

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

23 [Vote taken.]

24 CHAIRPERSON HOOD: Ms. Schellin, would you
25 record the vote?

1 MS. SCHELLIN: Yes. Staff records the vote
2 five, to zero, to zero to approve proposed action in
3 Zoning Commission Case No. 16-13, Commissioner Miller
4 moving, Commissioner Shapiro seconding, Commissioners
5 Hood, Turnbull, and May in support.

6 CHAIRPERSON HOOD: Okay.

7 MS. SCHELLIN: And we would just ask the
8 applicant, remind them that they need to go through
9 the proffer and condition process.

10 CHAIRPERSON HOOD: Okay. Let's do the two
11 correspondence items right quick.

12 Zoning Commission Case No. 15-31, 777 17th
13 Street, LLC. Ms. Schellin.

14 MS. SCHELLIN: Are you going to do hearing
15 action last?

16 CHAIRPERSON HOOD: Yeah, I'm going to do
17 hearing action last.

18 MS. SCHELLIN: Okay.

19 CHAIRPERSON HOOD: Because it shouldn't take
20 us that long with this correspondence.

21 MS. SCHELLIN: So, I'm sorry. For the first
22 correspondence item, at Exhibit 51 there's a
23 submission filed by Ms. Cole and others to accept an
24 untimely filing for request for a reconsideration and
25 to reopen the record to rehear the case.

1 At Exhibit 52, the applicant's opposition to
2 the request stating that it should be denied because
3 it was untimely, the filers were not parties, and the
4 request doesn't specifically state how the order was
5 erroneous and it does not proffer new evidence that
6 was not available at the time of the hearing.

7 Ask the Commission to consider this request.

8 CHAIRPERSON HOOD: Okay, Commissioners. I
9 would rule this untimely and I would deny the
10 request. But let me open it up for any comments or
11 questions, or even a motion.

12 MR. SHAPIRO: I would so move, Mr. Chair.

13 CHAIRPERSON HOOD: Okay. It's been moved and
14 properly -- and I'll second. Any further discussion?

15 [Vote taken.]

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

18 MS. SCHELLIN: Staff records the vote five,
19 to zero, to zero to deny the motion for
20 reconsideration and to reopen the record as being
21 untimely. Commissioner Shapiro moving, Commissioner
22 Hood seconding, Commissioners May, Miller, and
23 Turnbull in support of the denial.

24 CHAIRPERSON HOOD: Okay. Next Zoning
25 Commission Case No. 16-07, W-G 9th & O, LLC. Ms.

1 Schellin.

2 MS. SCHELLIN: Yes, Exhibit 46 is a request
3 from One D.C. to accept an untimely filing for
4 request for reconsideration and reopen the record to
5 rehear the case. Exhibit 47 is the applicant's
6 opposition to the request stating that the request
7 should be denied because One D.C. didn't demonstrate
8 good cause to justify reopening the record, that they
9 didn't provide any good cause to justify the
10 Commission waiving the rule to allow a non-party to
11 file for reconsideration, and doing so would
12 prejudice the applicant, and the request was untimely
13 filed. It should have been filed no later than March
14 20th, and would ask the Commission to rule on this
15 request.

16 CHAIRPERSON HOOD: I would again rule this
17 one untimely and also the requester is not a party,
18 and I would kind of mirror the same one we just did.
19 And let me open it up for any comments.

20 MR. SHAPIRO: Mr. Chair, I would move to deny
21 the request.

22 CHAIRPERSON HOOD: Okay. Second. Any
23 further discussion?

24 [Vote taken.]

25 CHAIRPERSON HOOD: Ms. Schellin, would you

1 record the vote?

2 MS. SCHELLIN: Staff records the vote five,
3 to zero, to zero to deny the request by One D.C. as
4 being untimely and because they were not a party.
5 Commissioner Shapiro moving, Commissioner Hood
6 seconding, Commissioners May, Miller, and Turnbull in
7 support of denial.

8 CHAIRPERSON HOOD: Okay. Now, let's go to
9 hearing action. Zoning Commission Case No. 05-28T,
10 SCCI Parkside One, LLC, modification of significance
11 to first-stage PUD and second-stage PUD at Square
12 5055. Mr. Mordfin.

13 MR. MORDFIN: Good evening, Chairman and
14 members of the Commission.

15 The applicant requests set down of this
16 second-stage PUD application to construct an office
17 building with ground floor retail, including the
18 construction of a pedestrian promenade with a grand
19 stairway, connecting Kenilworth Terrace with a soon
20 to be constructed pedestrian bridge over Kenilworth
21 Avenue and the Minnesota Avenue Metro Station.

22 Excuse me. Modifications to the first-stage
23 approval include refinement of the lot occupancy from
24 what was approved for all of the blocks between
25 Kenilworth Avenue and Kenilworth Terrace, to 88

1 percent for this lot only. Two, refinement of the
2 office gross floor area approved for all of Block H,
3 to approximate 500,000 square feet for this lot only.
4 And three, permit habitable penthouse space, which
5 was not permitted at the time of the adoption of the
6 first-stage application.

7 Excuse me. Flexibility is required from
8 Section 2116 of the Zoning Regulations to permit
9 parking within the structure abutting a street to be
10 less -- okay, less than 20 feet from the street, when
11 the ceiling of the garage is above the grade of the
12 adjacent sidewalk.

13 The first-stage approval stage said all
14 parking should be below grade to the extent that it
15 is economically feasible. As some of the parking is
16 proposed to be above grade, this documentation should
17 be submitted, as well as a final determination of how
18 much parking and how many parking garage levels are
19 proposed.

20 Public benefits and amenities associated with
21 this application include provision of a LEED ND Gold
22 building with a green roof, and addition of daytime
23 employment and retail space to Parkside. The
24 application is consistent with a Comprehensive Plan
25 and the first-stage PUD approval, and that will

1 MR. MILLER: Thank you, Mr. Chairman. Yeah,
2 I'm supportive of setting down this case for a public
3 hearing. And the -- some additional information
4 which I would like the applicant to provide at or
5 prior to the hearing is, on the habitable -- one of
6 the modifications is to permit habitable penthouse
7 space. So, this is habitable penthouse office space.
8 Is that correct? It's a fitness center, I think is
9 what it is.

10 But anyway, what I'd like the applicant to
11 provide is an estimate of the Housing Production
12 Trust Fund contribution that that triggers. I know
13 there's a timing issue that it gets determined at a
14 later time. The building permit, I think. But in
15 the case we recently had, just voted on, an estimate
16 was able to be provided of what that amount of
17 contribution to Housing Production Trust Fund. And
18 so, I think that would be useful.

19 And then the only thing I'd like to hear from
20 the applicant is what kind of -- well, one other
21 thing I would like to hear from them is, I think the
22 retail component is important for this site, in this
23 ward, so I just wanted to hear what they were trying
24 to -- what kind of retail they were trying to get in
25 there. Thank you.

1 CHAIRPERSON HOOD: Okay. Commissioner
2 Shapiro.

3 MR. SHAPIRO: Thank you, Mr. Chair. Thank
4 you, Mr. Chair. And I apologize if I missed this,
5 but I appreciate that it's going to be LEED Gold
6 certified. I didn't see any mention of solar panels,
7 and I'd like to ask the applicant to work with OP,
8 work with DOEE to explore the possibility of that
9 further, come up with a good justification for why it
10 wouldn't work if it can't work. But I'd like to hear
11 that.

12 Thank you, Mr. Chair.

13 CHAIRPERSON HOOD: Okay. Commissioner May.

14 MR. MAY: Yeah. I agree with the Office of
15 Planning's comments on this. You know, I have to
16 say, I'm a little uninspired by the design of the
17 building. It looks like it's sort of -- I wouldn't
18 say that it's like completely out of place. I mean,
19 it does look sort of like a fairly ordinary you know,
20 boxy glass building with a little bit of precast on
21 it. So, I mean, I'm not sure what to suggest in
22 terms of any direction. Certainly, the use of more
23 color in the façade might help; some darker colors
24 might help. Right now it's the glass that appears
25 dark, and I'm not sure that's the right approach. I

1 don't know. It just, like I said, I'm uninspired.

2 The other thing that I have a concern about
3 is this treatment at the end, you know, where the
4 building or the plaza between the two buildings
5 connects to the street level on the west side. And,
6 I don't know what the grade change is there, but it
7 looks like you've got just a massive, massive set of
8 ramps there to accommodate for that grade difference.

9 And by, I just feel like there has to be a
10 better solution than that. I'm not sure what it is,
11 again. And it's not -- I mean, it is not practical
12 to think that anybody who is self-propelled in a
13 wheelchair would ever be able to make it up that
14 ramp. That's simply just way too far. And, you
15 know, is there something more that can be done with
16 the grade changes within the plaza?

17 And I understand that part of the reason it
18 is the way it is, is to capture the space beneath for
19 parking. It's the space beneath the plaza, so you
20 don't want to be carving too much into that in terms
21 of ramps and so on. But you know, honestly with
22 what's showing up there is just -- it's like the
23 worst kind of switchback ramp, and it's just a whole
24 lot of switchback ramp. So, surely there can be a
25 better more creative solution to that to make that,

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1 the experience of going through the ramps not
2 terrible.

3 So, anyway. Again, I don't know what the
4 solution is but there's got to be something better.
5 I mean, it may even make more sense to just bite the
6 bullet and provide elevator access. I don't know.
7 Those are my thoughts.

8 CHAIRPERSON HOOD: Okay. Anything else? I
9 don't have anything. I'm in support of setting this
10 down. Any issues I have, I'll work through them with
11 the applicant as we have the hearing, after I hear
12 their presentation.

13 So, anything else on this? Somebody like to
14 make a motion?

15 MR. MILLER: Mr. Chairman, I would move that
16 the Zoning Commission set down for public hearing,
17 Case No. 05-28T, SCCI Parkside One, LLC, second-stage
18 PUD and related map amendment and modification of a
19 significance to first-stage PUD at Square 1055, and
20 ask for a second.

21 MR. SHAPIRO: 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: Staff records the vote five,
3 to zero, to zero to set down Zoning Commission Case
4 NO. 05-28T as a contested case. Commissioner Miller
5 moving, Commissioner Shapiro seconding, Commissioners
6 Hood, May, and Turnbull in support of set down.

7 CHAIRPERSON HOOD: Okay. Do we have anything
8 else, Ms. Schellin?

9 MS. SCHELLIN: No, sir.

10 CHAIRPERSON HOOD: Does the Office of
11 Planning have anything?

12 MS. STEINGASSER: No, sir.

13 CHAIRPERSON HOOD: Okay. I want to thank
14 everyone for their participation in this meeting
15 tonight. And with that, this meeting is adjourned.

16 [Whereupon, the regular public meeting
17 adjourned at 8:22 p.m.]

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