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GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission

Regular Public Meeting
1463 Meeting Session [14th of 2017]

6:41 p.m. to 7:27 p.m.
Monday, June 12, 2017

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

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1 Board Members:

- 2 ANTHONY HOOD, Chairman
- 3 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 MATTHEW JESICK
- 15 KAREN THOMAS
- 16 MAXINE BROWN-ROBERTS

17

18 Office of the Attorney General:

- 19 ALAN BERGSTEIN
- 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 for the Zoning Commission
5 for the District of Columbia.

6 My name is Anthony Hood. We're located in
7 the Jerrily R. Kress Memorial Hearing Room.

8 Joining me are Vice Chair Miller,
9 Commissioner Turnbull, Commissioner Shapiro, and
10 Commissioner May, as well as the Office of Zoning
11 staff, Ms. Sharon Schellin, as well as the Office of
12 Attorney General, Mr. Bergstein and Mr. Ritting. And
13 also, the Office of Planning, Ms. Steingasser, Mr.
14 Lawson, Mr. Jesick, Ms. Thomas, and Ms. Brown-
15 Roberts.

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

1 Does the staff have any preliminary matters?

2 MS. SCHELLIN: Just the one matter, if the
3 Chairman would please consider the closed meetings?

4 CHAIRPERSON HOOD: Okay. Let me find that
5 here. Okay. In accordance with 405(c) of the Open
6 Meetings Act, D.C. Official Code 2-575(c), I move
7 that the Zoning Commission hold closed meetings on
8 June 22nd and 29th, 2017, at 5:00 p.m. for the
9 purpose of obtaining legal advice from our counsel
10 and to deliberate upon, without voting on, Zoning
11 Commission Case No. 13-14, Vision McMillan Partners,
12 LLC and Office of the Deputy Mayor for Planning and
13 Economic Development remand from the Court of
14 Appeals.

15 Is there a second?

16 MR. MILLER: Second.

17 CHAIRPERSON HOOD: Will the secretary please
18 take the roll call in the motion before us now that
19 it has been seconded?

20 [Roll call vote taken.]

21 MS. SCHELLIN: Motion carries.

22 CHAIRPERSON HOOD: Okay. I request that the
23 Office of Zoning provide notice for these closed
24 meetings in accordance with the act.

25 Also, I'd like to also announce that we will

1 tentatively schedule a special exception public
2 meeting for 7:00 p.m. on June the 29th, to deliberate
3 on this case, Case No. 13-14. Ms. Schellin, would
4 you notify the parties of this date and let me just
5 repeat that?

6 I'd like to also announce that we will
7 tentatively schedule a special public meeting for
8 7:00 p.m. on June the 29th, to deliberate on this
9 case, Case No. 13-14. Ms. Schellin, would you notify
10 the parties?

11 MS. SCHELLIN: I will, thank you.

12 CHAIRPERSON HOOD: Thank you. Anything else,
13 Ms. Schellin?

14 MS. SCHELLIN: No, sir.

15 CHAIRPERSON HOOD: Let's go to the first case
16 on tonight's agenda. I don't think we need to move
17 anything around. We can just leave it as it is.

18 Consent calendar item, Zoning Commission Case
19 No. 15-34A. Ms. Schellin.

20 MS. SCHELLIN: Yes. At Exhibits 8 and 8A the
21 applicant provided the additional information or
22 provided some additional information regarding their
23 loading plan. Would ask the Commission to consider
24 final action on this case this evening.

25 CHAIRPERSON HOOD: Okay, Commissioners. Who

1 would like to make any comments? I'm not sure who
2 asked for this. I think we all may have this. But
3 anyway, let me open it up for any discussion.

4 MR. TURNBULL: Mr. Chair, I would just make
5 reference to Exhibit No. 7, which is the Office of
6 Planning report, and I think the Office of Planning
7 is -- has gone through an analysis of this and feels
8 comfortable with it and I have no objections to it.

9 CHAIRPERSON HOOD: Okay. Vice Chair Miller?

10 MR. MILLER: Thank you, Mr. Chairman. I just
11 had one question for the Office of Planning. Is this
12 kind of truck detection equipment operational
13 elsewhere in the city? I assume that it is, but I
14 don't recall seeing it myself.

15 MS. BROWN-ROBERTS: I'm not aware of any that
16 is currently operating in the city. But this was
17 something that was negotiated with DDOT.

18 MR. MILLER: So, DDOT, I guess we can assume
19 that they have some confidence that it will be
20 effective?

21 MS. BROWN-ROBERTS: They submitted a report
22 and said they were comfortable.

23 MR. MILLER: Okay. All right. Thank you.

24 CHAIRPERSON HOOD: Okay, any other comments?
25 I think this is pretty straight forward. We've got

1 the loading plan. Anybody like to make a motion?

2 MR. TURNBULL: Mr. Chair, I would move that
3 we take action on Zoning Case No. 15-34A,
4 modification of consequence, Sherman Avenue, LLC PUD
5 at Square 2873 and look for approval of this.

6 MR. MILLER: Second.

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

9 [Vote taken.]

10 Ms. Schellin, would you record the vote?

11 MS. SCHELLIN: Staff records the vote five,
12 to zero, to zero to approve decisive action in Zoning
13 Commission Case No. 15-34A, Commissioner Turnbull
14 moving, Commissioner Miller seconding, Commissioners
15 Hood, May, and Shapiro in support.

16 CHAIRPERSON HOOD: Okay. Next, let's go to
17 final action in Zoning Commission Case No. 08-06J,
18 Office of Planning text amendment to Subtitles B, C,
19 D, G, K, and X. Ms. Schellin, you have anything else
20 to add?

21 MS. SCHELLIN: Yes. We received comments at
22 Exhibits 8, 9, and 10, after the notice of proposed
23 rulemaking was published, so we'd ask the Commission
24 to consider final action this evening.

25 CHAIRPERSON HOOD: Okay, Commissioners, I

1 think we have some -- as you've seen from, I think
2 from the Bates Area Civic Association who is saying
3 that they don't believe that this is a minor mod. I
4 think they think it's more extravagant. Then you
5 have a letter from Ms. Barbara Donaldson. And you
6 also have a letter from the Committee of 100 who's
7 actually raising our attention to some issues that we
8 may have overlooked, and I don't necessarily --
9 personally, I'll be honest, I don't remember all this
10 when we were doing the ZR, but we may have overlooked
11 or may not have overlooked.

12 But let me ask first, Ms. Steingasser, if you
13 can kind of give us a reference of what's going ahead
14 with this added structure and what we did -- how we
15 need to get it consistent and all, you know. Just
16 give us a quick rundown if you don't mind.

17 MS. STEINGASSER: The issue that's been
18 raised by the Committee of 100 and ANC 2B has to do
19 with the definition of lot occupancy, and where OP
20 meant to take the definition of lot occupancy from
21 the 1958 regs and move that into the Zoning 16 regs,
22 we added the phrase, "and structures." And that
23 phrase, "structures," is not included in the lot
24 occupancy definitions under the 58 regs.

25 So, that would change the way lot occupancy

1 has historically been calculated. The rules of
2 measurement also reflected that. However, the rules
3 of measurement also refer to it as building area.
4 So, there is an inherent conflict because when you
5 look at the definition of building area, the phrase
6 does not include structures.

7 So, there's several places where it crosses
8 over. In 08-06E, we had proposed correcting the
9 definition based on our error at the time that the
10 rules of measurement had taken out the word
11 structure. We then found that the word structure had
12 been left in the rules of measurement and so we
13 referenced back to the definition that it was no
14 longer in the definition.

15 That cross-referencing of using each mistake
16 as justification for the next mistaken is what upset
17 and created kind of a circular argument. The
18 definition of building area, however, does leave out
19 that phrase. So, it needs to be corrected, whether
20 it's done through as a technical correction or the
21 commission takes some kind of emergency action and
22 considers this as a set-down. We have no objection
23 to that either. But we do believe it needs to be
24 clarified, and the phrase, "and structure," needs to
25 be removed from the calculation and definition of lot

1 occupancy.

2 CHAIRPERSON HOOD: Okay, Commissioners. Any
3 questions or comments of Ms. Steingasser?

4 MR. TURNBULL: So, taking it out makes it
5 consistent with the '58 regulations?

6 MS. STEINGASSER: Yes, sir. And the way it
7 has always been calculated.

8 MR. TURNBULL: So, we could do that, and if
9 we wanted to pursue it further you could take another
10 look and see if any other changes had to be made?

11 MS. STEINGASSER: We believe we've caught
12 them all. But yes, if the Commission is more
13 comfortable with this being considered more of a set
14 down than a final action as a technical correction,
15 we're happy to proceed that way as well. It's such a
16 small enough -- none of the comments submitted into
17 the record seem to have any issue with actually
18 removing that phrase. It was more the procedure that
19 OP went through.

20 MR. TURNBULL: Oh.

21 MS. STEINGASSER: That circular argument that
22 was created by us not recognizing we had removed it
23 from one section and not from another. So --

24 MR. TURNBULL: But from the Office of
25 Planning's standpoint, to be -- you're basically

1 saying, it's a technical correction, it was an error
2 that was made, and we should correct it and take it
3 out?

4 MS. STEINGASSER: Yes, sir. And whether you
5 do it as a technical correction or if you want to go
6 forward and have an actual hearing, we're good either
7 way.

8 MR. TURNBULL: Okay.

9 CHAIRPERSON HOOD: Okay. Any other comments
10 or questions?

11 MR. MAY: Yeah. So, how did the error occur
12 in the first place? Do you know?

13 MS. STEINGASSER: We don't know. We had
14 changed the definition of building area to remove the
15 five feet that was counted, even, you know, it was
16 five feet of land area and it was an incentive to
17 fill in a lot of these doglegs.

18 MR. MAY: Uh-huh. Right.

19 MS. STEINGASSER: And then, at one point
20 somewhere over the course of the many years, the --
21 what was included as building area was called out and
22 defined. But how the words and structures got placed
23 in there, we were unable to find whether that was
24 intentional or not intentional.

25 MR. MAY: But it's certainly not an issue

1 that you had raised as a point of discussion during
2 the whole ZRR process?

3 MS. STEINGASSER: We did not. And we did not
4 intend to change that definition of lot occupancy
5 except for the removal of the dogleg space.

6 MR. MAY: Right.

7 MS. STEINGASSER: And as one of the comments
8 pointed out, Goulston and Storrs had submitted a
9 comment into the zoning rewrite record, pointing it
10 out that there was some inconsistencies. But we did
11 not go far enough to get that all corrected.

12 MR. MAY: Thank you.

13 CHAIRPERSON HOOD: Okay. Any other questions
14 or comments? Okay, I think moving in line with --
15 now, what I'm hearing from Ms. Steingasser, I'm not
16 sure if this is even -- and I know some of the
17 submissions we have are talking about having a
18 hearing. I'm not even sure we need to go that far
19 because if we go back consistent to the '58
20 regulations and make everything consistent, I think
21 that should suffice. I don't know what others think.

22 MR. MAY: Yeah, I'm okay with that.

23 MR. TURNBULL: I would agree too.

24 CHAIRPERSON HOOD: Okay. So, if we can just
25 make everything consistent, Mr. Bergstein, and Ms.

1 Steingasser, and Ms. Schellin, if we can just make
2 everything consistent now? I don't know how you --
3 I'll leave that up to you all, but we want to go back
4 to represent what we did in '58. Well, not what we
5 did in '58, but what the '58 regulations represented.

6 Does somebody need to make a motion on that?
7 Hold on, Vice Chair, you have something?

8 MR. MILLER: No, I was just going to say,
9 then, I think if that's the direction we're going, we
10 need to take the final action on the case as
11 presented to us.

12 CHAIRPERSON HOOD: Okay. So, somebody like
13 to make a motion, or any other comments?

14 MR. SHAPIRO: Happy to make a motion, Mr.
15 Chair.

16 CHAIRPERSON HOOD: Sure.

17 MR. SHAPIRO: I'd move final action in Zoning
18 Commission Case No. 08-06J, Office of Planning text
19 amendment, Subtitles B, C, D, G, K, and X.

20 MR. MILLER: Second.

21 CHAIRPERSON HOOD: Okay. It's been moved and
22 properly seconded. Anything else? Any other
23 comments?

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 approve final action in Zoning
4 Commission Case No. 08-06J, Commissioner Shapiro
5 moving, Commissioner Turnbull seconding,
6 Commissioners Hood, May, and Miller in support.

7 CHAIRPERSON HOOD: Okay, next we have Zoning
8 Commission Case No. 08-06K. This is the Office of
9 Planning text amendment to Subtitle U. Ms. Schellin.

10 MS. SCHELLIN: No comments were received, so
11 we'd ask the Commission to consider final action this
12 evening.

13 [Pause.]

14 CHAIRPERSON HOOD: Okay, I think this one is
15 pretty straight forward. I think we took a bench
16 decision on this case, so -- and this is, again, this
17 is some things that we inadvertently omitted as far
18 as child, elderly, and development centers. I
19 believe we took a bench decision. But if not, I
20 think the record is complete for us to move forward
21 and take a final action on this.

22 So, with that, I would move, unless there is
23 some discussion, approval of Zoning Commission Case
24 No. 08-06K, and ask for a second.

25 MR. MILLER: Second.

1 CHAIRPERSON HOOD: Moved and properly
2 seconded. Anything -- any other comments or
3 discussion?

4 [Vote taken.]

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

7 MS. SCHELLIN: Yes. Staff records the vote
8 five, to zero, to zero to approve final action in
9 Zoning Commission Case No. 08-06K, Commissioner Hood
10 moving, Commissioner Miller seconding, Commissioners
11 May, Shapiro, and Turnbull in support.

12 CHAIRPERSON HOOD: Okay. Next is Zoning
13 Commission Case No. 16-13, JS Congress Holdings, LLC,
14 consolidated PUD and related map amendment at Square
15 748. Ms. Schellin.

16 MS. SCHELLIN: Yes, sir. On this case we
17 have, at Exhibit 53, a letter from Mr. Irby
18 withdrawing his objection. At Exhibits 54 through
19 57, we have the applicant's proffers and conditions.
20 At Exhibit 58A, we have an NCPC delegated action
21 advising of no adverse actions. And I must advise
22 the Commission, at 4:58 p.m. today I received an e-
23 mail from a nonparty filing a motion requesting a
24 delay of action this evening. I did respond and
25 advise the group that they were not a party and it

1 was not allowed.

2 CHAIRPERSON HOOD: Okay. Thank you, Ms.
3 Schellin, for advising whoever that was of our rules.
4 I think this is flavored right. One of the things
5 that I do appreciate is how Mr. Irby and the
6 applicant work together, because that was one of the
7 issues. I think Ms. Irby was the only person in
8 opposition of this case, but it seems to me that he
9 has now withdrawn his objections and I think that was
10 major, at least for me.

11 But let's see if we have any other comments
12 or questions. If not, I think this is ripe for
13 moving forward. Somebody like to make a motion?

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

19 MR. SHAPIRO: Second.

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

22 [Vote taken.]

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

25 MS. SCHELLIN: Staff records the vote five,

1 to zero, to zero to approve final action in Zoning
2 Commission Case No. 16-13, Commissioner Miller
3 moving, Commissioner Shapiro seconding, Commissioners
4 Hood, May, and Turnbull in support.

5 CHAIRPERSON HOOD: Okay, next. Okay. Zoning
6 Commission Case No. 14-02A, A & R Development
7 Corporation, Preservation of Affordable Housing, Inc.
8 and DCHA two-year PUD time extension at square 5862,
9 5865, through 5867. Ms. Schellin?

10 MS. SCHELLIN: Yes, the applicant is
11 requesting a two-year PUD time extension to May 29th,
12 2019, by which the second-stage PUD applications
13 would have to be filed for at least four parcels
14 within the PUD site. The applicant states the good
15 cause for which the extension is being requested is
16 that an appeal of the Commission's decision was filed
17 with the courts and they are awaiting a decision on
18 that court case, and therefore they need it to go
19 ahead and file the time extension.

20 CHAIRPERSON HOOD: Okay, commissioners.
21 You've heard the requests. Any comments or
22 questions? Vice Chair Miller?

23 MR. MILLER: Yes, Mr. Chairman. I would
24 agree that there is good cause for the extension for
25 this PUD extension.

1 CHAIRPERSON HOOD: Any other comments? Vice
2 Chair, would you like to make a motion?

3 MR. MILLER: Sure. I would move that the
4 Zoning Commission take final action on Case No. 14-
5 02A, A & R Development Corporation, Preservation of
6 Affordable Housing, Inc., and DCHA two-year PUD time
7 extension at Squares 5862 and 5865, through 5867, and
8 ask for a second.

9 MR. SHAPIRO: Second.

10 CHAIRPERSON HOOD: Okay. 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: Staff records the vote five,
16 to zero, to zero to approve final action in Zoning
17 Commission Case No. 14-02A, Commissioner Miller
18 moving, Commissioner Shapiro seconding, Commissioners
19 Hood, May, and Turnbull in support.

20 CHAIRPERSON HOOD: Okay. Next, Zoning
21 Commission Case No. 14-12A, EAJ 1309 5th Street, LLC,
22 two-year PUD time extension at Square 3591. Ms.
23 Schellin?

24 MS. SCHELLIN: Yes, sir. On this one, the
25 applicant again filed for a two-year PUD time

1 extension to May 8th, 2019, in which to file for the
2 building permit for the south building. However, the
3 applicant anticipates filing a modification to the
4 first-stage PUD and a second-stage PUD for the north
5 building later this month, I believe by June 23rd,
6 and is asking the Commission to wait and take action
7 on the time extension at the time it takes final
8 action, if approved, on the to-be-filed case.

9 At Exhibit 4, OP recommends approval of the
10 time extension. Would ask the Commission to consider
11 this time extension that's before them.

12 CHAIRPERSON HOOD: Okay, we have the --

13 MS. SCHELLIN: And the request to delay
14 taking action. I'm sorry.

15 CHAIRPERSON HOOD: And they're asking us, and
16 let me make sure I understand this. I want to make
17 sure I get it right because I've gotten a lot of
18 things wrong lately. They're asking us to wait for
19 taking action on this case, until we set down the
20 other case.

21 MS. SCHELLIN: Until final action.

22 CHAIRPERSON HOOD: Final action of the other
23 case.

24 MS. SCHELLIN: That's to be filed, yes. By
25 June --

1 CHAIRPERSON HOOD: That's to be filed.

2 MS. SCHELLIN: Yes.

3 CHAIRPERSON HOOD: So, it hasn't been filed?

4 MS. SCHELLIN: Not yet.

5 CHAIRPERSON HOOD: I don't know whose case
6 this is, but I'm trying to figure out how they even
7 think that's going to -- that may not even happen
8 around here. But anyway, I don't know. Let me open
9 it up for discussion. I mean, that's really putting
10 things out there and thinking, this is going to
11 happen and that's going to happen and --

12 MS. SCHELLIN: They anticipate filing that
13 application by June 23rd per Exhibit No. 5 in the
14 record.

15 CHAIRPERSON HOOD: I don't know,
16 Commissioners. What you want to do? You want to
17 wait until we set down the other case? It's
18 automatically going to be set down?

19 MR. MILLER: Yes. Well --

20 CHAIRPERSON HOOD: I don't think it's
21 automatic.

22 MR. MILLER: Not really, but yeah, I think we
23 should wait. It seems like it's going to happen
24 soon, so --

25 MR. SHAPIRO: I concur.

1 MR. MILLER: -- we'll be able to make that
2 decision then.

3 CHAIRPERSON HOOD: Well, I just want to make
4 sure that, nothing is automatic around here.
5 Nothing.

6 Okay. So, we don't need to do anything then.

7 MS. SCHELLIN: So, you want me to just put it
8 back on the agenda when that case is filed and is
9 brought forward for a set down, put this back on and
10 at that time you'll decide whether you'll defer it
11 until final action on that case if it's set down?

12 CHAIRPERSON HOOD: So, yeah. If it's set
13 down. And if we don't set it down and it moves to --
14 then we'll just move that case too.

15 MS. SCHELLIN: Then you'll take this case up.
16 Okay.

17 CHAIRPERSON HOOD: Should we take the case
18 up, or should we just keep moving it until we're
19 ready to set it down?

20 MS. SCHELLIN: Well, if you don't set down
21 the other case, if you dismiss it, then you'll take
22 up the case, or you'll defer it.

23 CHAIRPERSON HOOD: Okay.

24 MS. SCHELLIN: I got it.

25 CHAIRPERSON HOOD: Right. Okay.

1 MS. SCHELLIN: Got it.

2 CHAIRPERSON HOOD: Do we need to do anything
3 else on this?

4 MS. SCHELLIN: No.

5 CHAIRPERSON HOOD: Okay.

6 MS. SCHELLIN: I got it.

7 CHAIRPERSON HOOD: All right. Thank you.
8 Let's go to hearing action, Zoning Commission Case
9 No. 02-38I, Waterfront 375 M Street, LLC and
10 Waterfront 425 M Street, LLC, second-stage PUD and
11 modification of significance to first-stage at Square
12 542.

13 Mr. Jesick?

14 MR. JESICK: Thank you, Mr. Chairman and
15 members of the Commission. Forest City has submitted
16 an application for a first-stage PUD modification and
17 second-stage PUD for the two vacant sites along M
18 Street Southwest within the waterfront station PUD.

19 And the purpose of the first-stage PUD
20 modification is to change the primary use from
21 office, as approved by the Commission in 2007, to
22 residential and to adjust the massing of the
23 buildings to accommodate the residential use. The
24 modification would not change the height of the
25 buildings, nor significantly change the FAR, and the

1 applicant has requested no areas of zoning
2 flexibility.

3 The concept of a change in use is directly
4 supported by the Southwest Small Area Plan, which
5 states and I quote, "The developer should have the
6 flexibility to request a modification to the approved
7 PUD to incorporate residential uses within the
8 buildings."

9 The proposed change would also not be
10 inconsistent with the Comprehensive Plan, which calls
11 for the site to be the neighborhood center for
12 Southwest. In addition -- or, excuse me. In order
13 to fully meet the vision of a neighborhood center,
14 however, OP encouraged the applicant to incorporate
15 office space within the project; office space that
16 could be leased to small businesses, local
17 businesses, local serving uses. That would help
18 increase daytime foot traffic, while also potentially
19 providing valuable services to the neighborhood. And
20 as you can see from the plan, some office space has
21 been incorporated in the second floor of the
22 buildings.

23 Most benefits and amenities of the project
24 were established with the original applications for
25 the PUD, including the reopening of 4th Street,

1 provision of retail and residential uses, provision
2 of affordable housing and maintenance of the park
3 site north of the PUD.

4 In Case 02-38A, the Commission found that the
5 amount of amenity provided was sufficient given the
6 amount of flexibility gained through the PUD.

7 With this particular project, the applicant
8 proposes some additional benefits, including some
9 family-sized IZ units, as well as First Source and
10 CBE agreements.

11 OP encourages the applicant to examine a
12 greater IZ commitment, more three-bedroom residential
13 units, and a higher LEED level.

14 OP has also identified some other areas where
15 more information is needed prior to a public hearing,
16 including examining certain aspects of the
17 architecture, and provision of more information on
18 materials.

19 But overall, OP finds that the application is
20 not inconsistent with the Comprehensive Plan, and
21 recommends that the case be set down for a public
22 hearing. Thank you.

23 CHAIRPERSON HOOD: Thank you, Mr. Jesick. Do
24 we have any comments or questions up here?
25 Commissioner May?

1 MR. MAY: Yeah, do you have any response to
2 the ANC's concern that these buildings should remain
3 as office use? I mean, I now you cited the Comp Plan
4 policies and the Small Area Plan policies that
5 support inclusion of housing, but their argument is
6 that there really isn't enough office to strike the
7 right balance in the neighborhood. So, do you have
8 response to that?

9 MR. JESICK: Well, I certainly think the ANC
10 presents a valid viewpoint. OP came to a different
11 conclusion, obviously, than the ANC. And we feel
12 that the application, at least for the purposes of
13 set down is not inconsistent with the Comprehensive
14 Plan. We think that this would further some
15 important policies of the Comprehensive Plan,
16 including you know, providing housing which is, you
17 know, an important need in the city right now. The
18 provision of office space is not as important in the
19 city at this moment.

20 So, just you know, weighing all of the
21 policies before us and the evidence supplied with the
22 application in terms of the office market, as well as
23 the guidance of the Small Area Plan, we felt on
24 balance it was -- the application was not
25 inconsistent with the Comprehensive Plan, and

1 suitable for set down.

2 MR. MAY: Thank you.

3 CHAIRPERSON HOOD: Okay. Any other
4 questions, comments? Vice Chair Miller?

5 MR. MILLER: Thank you, Mr. Chairman. I
6 just wanted to agree with OP's comments on the
7 applicant taking another look at the percentage of
8 set-aside for IZ and the -- and adding more three-
9 bedroom units overall, including IZ units, and
10 providing us with a breakdown of the unit types by
11 the number of bedrooms. And I always agreed with the
12 comment that a residential design should include more
13 private balconies. So, I would hope to see -- so
14 that it looks residential, so that it feels
15 residential, and in a dense area, residents can get
16 outside without having to leave their apartment.

17 So, those are my only comments, Mr. Chairman.
18 I think the ANC's concerns should be explored at a --
19 it concerns me that we got the recommendation from
20 that ANC, again, set down. And I can see how, you
21 know, reducing this particular component from 600,000
22 office -- square feet of office space, to 60,000, is
23 a big change and doesn't necessarily support the
24 concept of a town center that was originally going to
25 have a mix of half and half, kind of, of office and

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1 residential.

2 But I think we can explore that further at a
3 hearing and not have to turn down the set down
4 request. But that's just where I am at the moment.

5 CHAIRPERSON HOOD: Okay. Any other comments?
6 Commissioner Shapiro?

7 MR. SHAPIRO: Yeah, I just agree with the
8 comments of my colleagues around exploring this more
9 in a public hearing because I have some of the same
10 concerns.

11 I would also say that I wanted to also
12 amplify the comments in the OP report around the
13 applicant working with DOEE to achieve -- to explain
14 or achieve LEED Gold status, and also to explore the
15 installation of solar panels on the rooftops as well.
16 Thank you.

17 MR. MILLER: Yeah, I purposely left that out
18 of my enumeration of the OP comments so that you --

19 MR. SHAPIRO: Because that's my script.

20 MR. MILLER: Yeah.

21 MR. SHAPIRO: Thank you.

22 CHAIRPERSON HOOD: I'm starting to notice
23 that. Solar panel guy. Okay. Commissioner
24 Turnbull.

25 MR. TURNBULL: Yeah, thank you, Mr. Chair.

1 I'm not opposed to setting it down but I really think
2 this applicants needs to go back to the ANC and
3 create a -- have a better dialog with them. I think
4 there's -- to have this kind of a letter come in
5 telling us not to set it down, shows that there is a
6 great divide between what the ANC is -- it almost
7 sounds like there are feelings that I'm getting from
8 this letter is that this applicant is not listening
9 to them at all. So, whether that's true or not, I'm
10 not sure, but I think they really need to go back,
11 sit down with the ANC, and really have a better
12 dialog and understand the needs of what they're
13 looking for.

14 But I would agree with the comments of my
15 other commissioners. And the other thing I think Mr.
16 Jesick talked about is that they should take another
17 look at the architecture and try to design, make it a
18 little bit more balanced and agree with Commissioner
19 -- with the Vice Chair on more balconies.

20 But, if they're going to make it more -- if
21 it's going to be more residential, it ought to look
22 more residential I think. Which may not totally go
23 along with what the ANC wants, but I think we need to
24 create a balance of a design where we have it.

25 But other than that, I'm not opposed to

1 setting it down.

2 CHAIRPERSON HOOD: And I think we -- I'm
3 sorry. Commissioner May, go ahead.

4 MR. MAY: Yeah, I just want to say, I didn't
5 really comment on it before. I just had a question
6 for OP, but I appreciate all the comments that I've
7 heard so far and I agree with everything I've heard
8 so far, and I agree with Mr. Jesick's comments in
9 terms of what we need further from here. I don't
10 really think I have anything to add.

11 With regard to the ANC's issues, I really do
12 appreciate the fact that took the time to debate this
13 and give us a strong voice on their concern. And the
14 fact that I think that we're likely to go ahead and
15 set it down anyway, I would not want that to
16 discourage them to continuing to consider these
17 matters at the set down stage. I mean, it's very
18 good to hear from the ANCs when we are considering
19 setting something down for a hearing. And I am
20 confident that we will explore this fully when it
21 comes to a hearing. So, that's it.

22 CHAIRPERSON HOOD: And I too want to add, I
23 don't think this is the first time we've heard this
24 from this ANC, of cases in that area. So, as has
25 already been mentioned, we're looking forward to do a

1 little more discovery and have that conversation.
2 And as Commissioner May just said, I would agree. I
3 want them to stay engaged. But then again, when I
4 look at the ANC, I don't really need to say anything
5 about asking them to stay engaged. That's going to
6 happen anyway.

7 So, we'll just be looking forward to having
8 this conversation. And I think this is -- I know for
9 a fact, this is not the first time we've heard this
10 in this ANC. At some point in time I think we wanted
11 to strike that balance.

12 So anyway, somebody like to make a motion?

13 MR. SHAPIRO: Mr. Chair, I move that we set
14 down Zoning Commission No. 02-38I, Waterfront 375 M
15 Street, LLC, and Waterfront 425 M Street, LLC,
16 second-stage PUD and modification of significance to
17 first-stage PUD at Square 542, and look for a second.

18 MR. MILLER: Second.

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

21 [Vote taken.]

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

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

1 Case No. 02-38I as a contested case, Commissioner
2 Shapiro moving, Commissioner Miller seconding,
3 Commissioners Hood, May, and Turnbull in support.

4 CHAIRPERSON HOOD: Okay. Next, we have
5 Zoning Commission Case No. 17-08, Providence I, LLP,
6 consolidated PUD and related map amendment at Square
7 5194. Ms. Thomas.

8 MS. THOMAS: Good evening, Mr. Chair and
9 members of the Commission. Providence Place, LLP has
10 submitted an application for a consolidated PUD and
11 related map amendment from the RA-1 to the RA-2 Zone
12 to construct a 100-unit multifamily building on the
13 west side of the headquarters campus of the
14 Providence National Baptist Church.

15 This campus is located in the Lincoln Heights
16 neighborhood at the corner of 50th Street and Fitch
17 Place.

18 We have a report which details the design and
19 functionality of the project, but I would highlight
20 that the interrelationship among the Comp Plan
21 elements, the maps, and the Small Area Plan provide
22 sufficient planning context to meritous set down of
23 the application for public hearing.

24 The important aspect of this project to the
25 District is that 35 of the 100 units would be set

1 aside as replacement units for the Lincoln Heights
2 Richardson dwelling residents at 60 percent median
3 family income for the life of the project.

4 The project would provide apartments in a
5 range of mixes, including three and four-bedroom
6 units, the majority of which will be included as part
7 of the replacement units.

8 The provision of affordable housing would
9 exceed a matter of right development and at a deeper
10 level of affordable.

11 Zoning related flexibility has not been
12 requested, but the applicant is requesting
13 flexibility to various aspects of the design
14 elements, and OP requested refinements and details of
15 the request. Especially since the project's design
16 is subject to character considerations by HP staff.

17 In conclusion, as I outlined in our report,
18 we believe that the application merits set down for a
19 public hearing, and we will work with the applicant
20 to address concerns noted in our report, and any
21 other concerns expressed by the Commission here
22 tonight. Thank you.

23 CHAIRPERSON HOOD: Okay. Any questions or
24 comments?

25 Okay, Commissioner Shapiro.

1 MR. SHAPIRO: Thank you, Mr. Chair. First, I
2 would just, I would agree with the OP set down report
3 that this does merit set down, and I'm excited to see
4 not just the amount of affordable housing but the
5 much needed three and four-bedroom units that are
6 being proposed.

7 And it may come as a surprise to my
8 colleagues, but I would also encourage the applicant
9 to continue to work with OP to explore achieving LEED
10 Gold certification and specifically to look at solar
11 panels on the roof top, with the incentives that D.C.
12 provides. It actually can be a way to make an
13 affordable housing project even more affordable for
14 the residents and for the developer as well.

15 And that's all; my only comments, Mr. Chair.

16 CHAIRPERSON HOOD: Any other comments?

17 MR. TURNBULL: Mr. Chair.

18 CHAIRPERSON HOOD: Mr. Turnbull.

19 MR. TURNBULL: I would agree with
20 Commissioner Shapiro's comments. It's an exciting
21 project with a lot of housing, which is well needed.
22 But I think -- I guess my only concern is
23 architecturally is that until we actually some, a
24 little bit better drawings, I mean, the drawings
25 we've got are okay so far. But I'd like to see some.

1 I really don't have much of a view of the campus
2 drive elevation. And what I'm concerned about is
3 it's such a long elevation and I am just worried that
4 it's going to be just this monolithic looking back at
5 the public buildings, at the campus. And I'd like to
6 see it may be broken up a bit or to have some better,
7 maybe a view down the campus drive to see what the
8 building actually looks like.

9 I don't have that we've got mainly the ones
10 on 50th that have got different views, which are
11 okay. But I don't see anything of the real campus
12 drive, what the building's really going to look like.
13 And I'd like to see some more of the architectural
14 elements broken down. It looks like they're
15 highlighting the light brick, which looks like it's
16 trying to compliment the brick of the institutional
17 buildings. And they've interjected some darker
18 brick.

19 So, I'd like to see some, a little bit better
20 clarity in what they actually are looking to do
21 there. And maybe there's something -- I say, the
22 east elevation is a very long expanse and it's not as
23 well broken up as the west elevation. So, I'd like
24 to maybe see a little bit better idea of how they can
25 maybe relieve some of the monotony of it.

1 CHAIRPERSON HOOD: Any other comments? I
2 think that after dealing with a lot of ministers in
3 this city, whether they be in the National Baptist
4 Convention or Progressive National Conventions, I've
5 talked to many ministers and being of the Baptist
6 faith, and I know that the Baptist ministers -- and I
7 don't want to make this a religious issue, but I
8 know, we deal with Catholics, I deal with Jewish, and
9 whomever, but I think for them to come forward with
10 this in this area and have this type of -- I want us
11 to do all we can to make sure that we can help them
12 move this along because this is one of the cries that
13 I've been hearing for years about the Baptist
14 ministers in this city. For years I've been hearing
15 this, and I'm glad to see this come forward.

16 I know there's some things that we are
17 looking for up here. But like, in other cases, we
18 can craft and make these things work. So, I'm hoping
19 this will move forward. I think this is good for not
20 just for the Baptist faith, but it's for the city as
21 a whole, I think this is a good piece. And now it's
22 bringing other religious institutions into the
23 development business.

24 So, I think this is right down the line with
25 what I've been waiting to see for years, and I'm glad

1 to see it. So, those are my comments, and I'm going
2 to make the motion to set this down. I'll move that
3 we set down Zoning Commission Case No. 17-08,
4 consolidated PUD and related map amendment at 601
5 50th Street Northeast, and ask for a second.

6 MR. MILLER: I would second that, Mr.
7 Chairman, and I wanted to comment that I concur with
8 all of the comments that you made and other
9 commissioners made in the request for information
10 that OP had.

11 I also wanted to -- do we have to consider
12 the waiver?

13 CHAIRPERSON HOOD: That's right. That's
14 right.

15 MR. MILLER: The waiver request for the
16 hearing. Waiving -- we have a letter from the
17 Department of Housing and Community Development at
18 Exhibit 12.

19 CHAIRPERSON HOOD: That's right.

20 MR. MILLER: Requesting a waiver of the
21 Zoning Commission fee, and I would be supportive of
22 that.

23 CHAIRPERSON HOOD: I would add that to my
24 motion, and thank you for -- I'm so happy to see this
25 case. I would add that to my motion.

1 MR. MILLER: And I would second that.

2 CHAIRPERSON HOOD: Okay. So, it's been moved
3 and properly seconded.

4 MR. MILLER: Just one other issue I wanted to
5 have explored at the hearing. And in that letter, it
6 refers to all of the units being affordable and for
7 40 years, and that ties in with the low-income
8 housing tax credits. I think we've had, in other
9 cases, when the expiration of that 40 years occurs,
10 the IZ in perpetuity minimum requirement, has to kick
11 in. And so, now that's -- IZ is at a much higher AMI
12 level than what's being proposed here. So, but that
13 is the regulation that we have.

14 And so, I just wanted to bring that to the
15 applicant's and our own attention.

16 CHAIRPERSON HOOD: Okay. We can hash all
17 that out and get an understanding of that at the
18 hearing.

19 MR. MILLER: Okay.

20 CHAIRPERSON HOOD: Okay? Anything else?

21 MR. MILLER: No, thank you.

22 CHAIRPERSON HOOD: It's been moved and
23 properly seconded, and that includes the waiver and
24 also the comments of Vice Chair Miller. Any further
25 discussion?

1 [Vote taken.]

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

4 MS. SCHELLIN: Yes. Staff records the vote
5 five, to zero, to zero to approve Case No. 17-08 for
6 set down as a contested case, and to grant the waiver
7 of the hearing fee, Commissioner Hood moving,
8 Commissioner Miller seconding, Commissioners May,
9 Shapiro, and Turnbull in support.

10 CHAIRPERSON HOOD: Okay. The next we have is
11 a correspondence item. 06-10B. Ms. Schellin.

12 MS. SCHELLIN: Yes. Staff contacted the
13 applicant's attorney asking for an update. Their
14 letter of July 2014 indicated they would provide
15 semi-annual updates starting with January 2015, and
16 since then we had not received any updates in the
17 record, and they had also indicated that they would
18 file a prehearing statement for Building B by
19 September 2016, which also had not been received.
20 So, again, staff asked for an update and they
21 provided one for the Commission at Exhibit 17.

22 CHAIRPERSON HOOD: So, okay. Commissioner
23 Shapiro.

24 MR. SHAPIRO: I just wanted to, at the risk
25 of sounding a bit snarky, it sounds like we've been

1 doing a lot of chasing of the applicant. And it's
2 maybe a bit ironic that the applicant isn't even here
3 as we're having this discussion.

4 So, just have some concerns about that, Mr.
5 Chair. But I will look forward to hearing comments
6 from my colleagues.

7 CHAIRPERSON HOOD: Okay. Any other comments?
8 I think we need to come up with a hard-fast date, I
9 believe, for a phasing plan. Maybe we'll give them a
10 date, since they're obviously leaving it to us
11 because I don't see anyone present. So, I'm not sure
12 how we want to go down those lines.

13 So, I guess lack of attendance shows me that
14 whatever the Commission decides is fine. I would not
15 be inclined to dismiss this case. I would be
16 inclined to just get a hard date to keep the first --
17 from when the first-stage PUD will end.

18 But let me open it up for comments or
19 questions.

20 MR. MAY: Just to clarify. So, you're
21 thinking we give them a date by which they give us
22 the phasing plan, and if not then we would go back
23 and modify the first phase, and set an expiration
24 date for Stage One.

25 CHAIRPERSON HOOD: Correct.

1 MR. MAY: Yeah.

2 CHAIRPERSON HOOD: Correct.

3 MR. MAY: Okay, I'd be in favor of that.

4 CHAIRPERSON HOOD: Okay. Do we need to come
5 up with a date? Next week?

6 MS. SCHELLIN: How much time do you want to
7 give them to provide a hard set -- from what I
8 understand from Commissioner May, you want them to
9 give you a definite date by which the -- is it the
10 first stage would expire, or would be finished? Or,
11 what is it exactly?

12 MR. MAY: It's the complete phasing plan that
13 we've been asking for that they've not given. Right?

14 MS. SCHELLIN: Okay.

15 MR. MAY: Isn't that what we're missing at
16 this point?

17 CHAIRPERSON HOOD: That's what we want,
18 right. The phasing plan.

19 MS. SCHELLIN: Okay.

20 MR. MAY: Yeah.

21 CHAIRPERSON HOOD: So, what we can do is give
22 them a date. I don't think it needs, what, two,
23 three weeks?

24 MR. MAY: Well, I mean, sometime in July, we
25 ought to be able to make a decision on this.

1 MS. SCHELLIN: Make it for the first meeting
2 in July, in time for that?

3 CHAIRPERSON HOOD: How many meetings do we
4 have in July?

5 MS. SCHELLIN: We have two. But, yes.

6 CHAIRPERSON HOOD: The first week? Okay.

7 MS. SCHELLIN: The first meeting is July
8 10th, so --

9 CHAIRPERSON HOOD: The first meeting in July.

10 MS. SCHELLIN: If we could have it then by
11 July 3rd, they could submit it online by July 3rd,
12 and then we'd have it in time for the meeting.

13 Okay. Thank you.

14 CHAIRPERSON HOOD: All right. So, is there
15 anything else we need to do with that?

16 MS. SCHELLIN: No, sir.

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

19 MS. SCHELLIN: Nothing else.

20 CHAIRPERSON HOOD: Office of Planning, you
21 have anything else?

22 Okay. So, I want to thank everyone for
23 participation and this meeting is adjourned.

24 [Whereupon, the regular public meeting
25 adjourned at 7:27 p.m.]