

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

+ + + + +

REGULAR MEETING

+ + + + +

MONDAY

APRIL 30, 2018

+ + + + +

The Regular Meeting of the District of Columbia Zoning Commission convened in the Jerrily R. Kress Memorial Hearing Room, Room 220 South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 6:30 p.m., Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

- ANTHONY J. HOOD, Chairperson
- ROBERT MILLER, Vice Chairperson
- MICHAEL G. TURNBULL, FAIA, Commissioner (AOC)
- PETER SHAPIRO, Commissioner

OFFICE OF ZONING STAFF PRESENT:

- SHARON S. SCHELLIN, Secretary

OFFICE OF PLANNING STAFF PRESENT:

- JENNIFER STEINGASSER, Deputy Director, Development  
Review & Historic Preservation
- JOEL LAWSON
- MATT JESICK
- CRYSTAL MYERS
- ELISE VITALE

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

HILLARY LOVICK, ESQ.  
JACOB RITTING, ESQ.

The transcript constitutes the minutes from  
the Regular meeting held on April 30, 2018.

## CONTENTS

Preliminary Matters . . . . .	4
Case No. 08-06P: Office of Planning -- Request for Technical Corrections to Z.C. Order No. 08-06A for Subtitles C, J, K, U, X & Y . . . . .	5
Case No. 12-15B: Gallaudet University Campus Plan Modification of Consequence @ Parcel 141/69 . . . . .	9
Case No. 17-12: Forest City SEFC, LLC -Text & Zoning Map Amendments @ SEFC-I Zone . . . . .	10
Case No. 08-060: Office of Planning -- Minor Modification to Z.C. Order No. 08-06A re: Subtitle U . . . . .	12
Case No. 07-13G: Lowe -- PUD Modification of Significance @ Square 643S . . . . .	13
Case No. 17-11: 3200 Penn Ave PJV, LLC . . . . .	18
Case No. 02-38A: Waterfront Associates, LLC -- ZA Determination Letter . . . . .	23
Case No. 14-18A: Mid-City Financial Corporation et al. . . . .	27
Case No. 16-23: Valor Development . . . . .	30
Adjourn . . . . .	36

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

(6:35 p.m.)

1  
2  
3 CHAIRMAN HOOD: This meeting will please come to  
4 order. Good evening, ladies and gentleman. This is a public  
5 meeting of Zoning Commissioner of District of Columbia. My  
6 name is Anthony Hood. Joining me this evening are Vice Chair  
7 Miller, Commissioner Shapiro, and Commissioner Turnbull.

8 We have some proxies from Commissioner May. We're  
9 also joined by the Offices only staff, Ms. Sharon Schellin.  
10 Office of Attorney General staff, Mr. Ritting and Ms. Lovick.  
11 Also, we're joined by Office Planning staff, Ms. Steingasser,  
12 Mr. Lawson, Ms. Vitale, Mr. Jesick, and Ms. Myers.

13 Copies of today's meeting and agenda are available  
14 to you and are located in the bin near the door. We do not  
15 take any public testimony in our meetings unless the  
16 Commissioner requests someone to come forward.

17 Please be advised that this proceeding is being  
18 recorded by a court reporter. Also, be aware of web cast  
19 live. The court must ask you to refrain from any disruptive  
20 noise or actions in the hearing room including in the display  
21 of any signs or objects. Please turn off all electronic  
22 devices at this time. Does the staff have any preliminary  
23 matters?

24 MS. SCHELLIN: No, sir.

25 CHAIRMAN HOOD: Okay. Let's move right with our

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1 agenda. First, we have on the Consent Calendar item, minor  
2 modification and technical corrections, Zoning Commission  
3 Case 08-06P. Officer Planning request for technical  
4 corrections is on Commissioner Order Number  
5 08-06A for Subtitle CJKUXNY.

6 Ms. Schellin?

7 MS. SCHELLIN: Yes, as you stated, it is a request  
8 from OP for technical corrections and modifications to  
9 clarify language, language consistency, and citation  
10 corrections. I'd ask the commission to approve this request  
11 as a technical correction, and improve the immediate  
12 publication of a notice of purposed rule making.

13 CHAIRMAN HOOD: Okay. Commissioners there any  
14 comments on this technical correction?

15 COMMISSIONER SHAPIRO: No comments.

16 COMMISSIONER TURNBULL: Mr. Chair, I have a couple  
17 of questions for opening.

18 CHAIRMAN HOOD: Sure.

19 COMMISSIONER TURNBULL: On Page 3 of the OP  
20 report, which is Exhibit Number 1, Item Number 6, top of the  
21 page. Design requirements for -- is basically the Capitol  
22 Gateway, and I had a question.

23 They talk about the, let's see, Part B, "Each new  
24 building will locate in Capital South Capitol Street shall  
25 be set back in entire height, in front of -- not less than

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1 15 feet with the exception of buildings on Square 651 -- 651,  
2 well, I guess, the first part, is 649, you're trying to  
3 clarify that 645 is not in the Capital Gateway. And it's,  
4 I mean, I guess, what the map sort of shows that the Capital  
5 Gateway starts M Street, and so what would be above it, would  
6 not be in that zone.

7           The 649 is above it, so I wonder is, has there  
8 been a lot of confusion about that on the map or --

9           MS. VITALE: I think that it was just noted that  
10 Square 649 was called out specifically, and since it is on  
11 not Zone CG, we just wanted to be clear --

12           COMMISSIONER TURNBULL: B5. You know, it's in B5.

13           MS. VITALE: Correct, so --

14           COMMISSIONER TURNBULL: Well, I was just confused  
15 because it looks like when I look on the zoning map, it looks  
16 pretty clear that it's -- it's north --

17           MS. VITALE: We just wanted to make sure that the  
18 text and the maps were consistent.

19           COMMISSIONER TURNBULL: Oh, okay. The other thing  
20 was that regarding 651, which is in the first block, it's  
21 between M and N Street, and it's on the west side of South  
22 Capital, which then looks like there's an alley and a bunch  
23 of row houses.

24           And, I'm just wondering, we're saying that the  
25 guidelines do not apply to that. Are those very like low

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1 rise buildings right now? Or like I can't recall.

2 MR. LAWSON: I can only barely recall, but my  
3 memory is that those are very, very, shallow lots. And, so  
4 it made it very difficult --

5 COMMISSIONER TURNBULL: Difficult to meet the  
6 guidelines.

7 MR. LAWSON: -- to apply to guidelines to them.  
8 Yes. So, they are just in different character to what is  
9 typical along South Capitol Street?

10 And, so the intent was always right from when  
11 Capital Gate was first adopted, that the guidelines would not  
12 have to apply on those very restricted lots.

13 COMMISSIONER TURNBULL: Right, restricted lots.  
14 Okay.

15 MR. LAWSON: Yes, sir.

16 COMMISSIONER TURNBULL: Thank you. That's it for  
17 me, Mr. Chair.

18 CHAIRMAN HOOD: Okay. Any other questions up here?  
19 In section 3.2, we need to make sure -- I'll ask colleagues  
20 attention to 303.2, let's make sure that is a technical  
21 correction. I don't know we -- 303.2.

22 We have a request to hear from the Office of  
23 Planning on that. Somebody can respond and maybe. Ms.  
24 Vitale?

25 MS. VITALE: Yes, that actually was a correction

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1 that came from Office of Attorney General, so we can  
2 certainly, you know, confirm with them that this would --  
3 would, in fact, qualify as a technical correction.

4 CHAIRMAN HOOD: Okay. Who's next? Ms. Lovick?

5 MS. LOVICK: Yes, it would qualify as a technical  
6 correction from OAG's perspective.

7 CHAIRMAN HOOD: Okay. Thank you very much. Okay,  
8 we will actually have to work with, like, one says the  
9 maximum may be, the other one, 303.2, also says about the  
10 maximum may be increased, but we want to just add a D, so  
11 those things we'll just leave up to the staff to make those  
12 corrections with OAG.

13 Anything else? All right. So, it's been moved,  
14 well, no it has not been moved. I'm going to move that we  
15 approve the modifications and technical corrections in the  
16 Zoning Commission Case Number 08-06P, and ask for a second.

17 COMMISSION TURNBULL: Second.

18 CHAIRMAN HOOD: It's been moved and proper second.

19 Any further discussion? All in favor? Aye.

20 (Chorus of ayes.)

21 Any opposition not handled? Ms. Schellin, will  
22 you record the vote and the proxy?

23 MS. SCHELLIN: Yes, staff records the vote of 5  
24 to zero to zero, to recognize these -- the submission as or  
25 the submissions has technical corrections and to authorize

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1 the immediate publication of a purposed rule making.

2 Commissioner Hood moving. Commissioner Turnbull  
3 seconding. Commissioner Miller and Shapiro in support.  
4 Commissioner May in support by absentee ballot.

5 CHAIRMAN HOOD: Next, let's go to Zoning  
6 Commission Case Modification of consequence. Zoning  
7 commission case for our deliberations. Zone Commission  
8 Number 12-15B, Gallaudet University Plan Modification of  
9 Consequence Parcel 141/69.

10 Ms. Schellin?

11 MS. SCHELLIN: Yes, this case was on the  
12 Commission's April 9th agenda for determination in  
13 scheduling. Dates were set for the parties, I believe it was  
14 just the ANC to make a response. No responses were received,  
15 so I'd ask that commission to proceed with final action this  
16 evening.

17 CHAIRMAN HOOD: Okay. Commissioners, I think this  
18 is a very simple ask. One of the -- this is an original in  
19 the Campus Plan. I think this is a simple ask in demolishing  
20 a building, so any questions and comments, or discussion on  
21 that? Somebody like to make a motion?

22 COMMISSION TURNBULL: Mr. Chair, I would move that  
23 we approve the Modification Consequence on the Zoning Case  
24 Number 12-15B, Gallaudet University Campus Plan Modification  
25 of Consequence Parcel 141/69, for second.

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1 VICE CHAIR MILLER: Second.

2 CHAIRMAN HOOD: Okay, it's been moved and proper  
3 second. Any further discussion? And this is dealing with  
4 the Ballard North Dormitory, MSD Dormitory Building, well,  
5 the Ballard North Building. Any further discussion? All in  
6 favor? Aye.

7 (Chorus of ayes.)

8 CHAIRMAN HOOD: Any opposition? Not hearing any,  
9 Ms. Schellin, would you record the vote and the proxy?

10 MS. SCHELLIN: Yes. Staff records the vote 5 to  
11 zero to zero to improve final action Zoning Commissioning  
12 Case Number 12-15B. Commissioner Turnbull moving.  
13 Commission Miller seconding. Commissioners Hood and Shapiro  
14 in support. Commissioner May in support by absentee ballot.

15 CHAIRMAN HOOD: Now, let's go to final action,  
16 Zoning Commission Case Number 17-12, Forest City, Southeast  
17 Federal Center LLC, text and zoning map amendment of Square  
18 SEFC-1 zone.

19 Ms. Schellin?

20 MS. SCHELLIN: Yes, at Exhibit 32, you have an  
21 NCPC report and then at Exhibit 34, you have the notice of  
22 purposed rule making, which was published in the DC Register  
23 on March 23rd.

24 No comments were received, so we'd ask for the  
25 Commission to consider to taking final action this evening.

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1 CHAIRMAN HOOD: Okay. Colleagues any additional  
2 information or questions? Comments?

3 COMMISSIONER TURNBULL: No, sir.

4 CHAIRMAN HOOD: Okay. Hold on one second. Is  
5 this okay? Yes, this is the one where -- I don't want to  
6 demote him -- was he an admiral?

7 COMMISSIONER: He was a captain in the Navy.

8 CHAIRMAN HOOD: Oh, okay, well, I'm glad to see  
9 that worked out. I guess I promoted him. But, anyway, I'm  
10 glad to see that worked out. So I think on that thing --

11 COMMISSIONER SHAPIRO: I think he would like the  
12 promotion though.

13 CHAIRMAN HOOD: Only problem is if I get in  
14 trouble, I mean, it like -- okay, so, somebody like to make  
15 a motion?

16 COMMISSIONER SHAPIRO: Mr. Chair, I move that we  
17 take the final action on Case Number 17-12 Forest City, SEFC  
18 LLC text and zoning map amendment SEFC-1 zone. Look for a  
19 second.

20 VICE CHAIR MILLER: Second.

21 CHAIRMAN HOOD: So moved and approved for second.  
22 Any further discussion? All in favor? Aye.

23 (Chorus of ayes.)

24 CHAIRMAN HOOD: Any opposition? Not hearing any,  
25 Ms. Schellin, would you record the vote and the proxy?

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1 MS. SCHELLIN: Yes, staff records the vote 5 to  
2 zero to zero, to approve final action in Zoning Commission  
3 Case Number 17-12. Commissioner Shapiro moving.  
4 Commissioner Miller seconding. Commissioners Hood and  
5 Turnbull in support. Commissioner May in support by absentee  
6 ballot.

7 CHAIRMAN HOOD: Okay. Next, let's go to Zoning  
8 Commission Case Number 08-060. Office of Planning minor  
9 modification Zoning Commissioner Order Number 08-06A,  
10 Subtitle U.

11 Ms. Schellin.

12 MS. SCHELLIN: At Exhibit 3, I have the notice of  
13 purposed rule making, which was published in the DC Register  
14 on March 23rd. No comments were received in this case, so  
15 we'd ask the commission to consider to taking final action  
16 this evening.

17 CHAIRMAN HOOD: Okay, again. I also think this is  
18 pretty straightforward. Any questions or comments? Okay.  
19 Somebody like to make a motion?

20 COMMISSIONER TURNBULL: Mr. Chair -- I just  
21 changed you. Mr. Chair, I would move to that we take final  
22 action on Zoning Case Number 08-060 Office of Planning minor  
23 modification to Zoning Commission Order Number 08-06A  
24 regarding Subtitle U.

25 COMMISSIONER SHAPIRO: Second.

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1 CHAIRMAN HOOD: It has been moved in proffered a  
2 second. And, again, this is a modification to include large  
3 format retail, especially exception to use in the production  
4 PDR zones. I just wanted to make sure that I had that on the  
5 record. It is moved and proffered a second. Any further  
6 discussion? All in favor?

7 (Chorus of ayes.)

8 COMMISSIONER HOOD: Any opposition? Not hearing,  
9 Ms. Schellin, record the vote and absentee.

10 MS. SCHELLIN: Yes. Staff records the vote 5 to  
11 zero to zero to approve final action in Zoning Commission  
12 Case Number 08-060. Commissioner Turnbull moving.  
13 Commissioner Shapiro seconding. Commissioners Hood and  
14 Miller in support. Commissioner May in support by absentee  
15 ballot.

16 CHAIRMAN HOOD: Okay. Thank you. Let's go to  
17 Zoning Commission Case Number 07-13G, Lowe PUD modification  
18 in significance in square 643-S.

19 Ms. Schellin?

20 MS. SCHELLIN: Yes. At Exhibits 32 through 32C,  
21 34, and 35, we have the applicant's post hearing submissions.  
22 Then at Exhibit 33, we have a letter in support from the SMD  
23 6D02 Commissioner. At Exhibit 36, we have ANC 6Ds rebuttal  
24 of protest of the DC for reasonable developments submission.

25 However, it is unsigned and not on ANC letterhead,

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1 and we'd ask that Commission to consider to taking final  
2 action this evening.

3 CHAIRMAN HOOD: Okay. Let me open up. Ms.  
4 Schellin, are we going to ask for the ANC to give us a signed  
5 copy?

6 MS. SCHELLIN: Not if you take action this  
7 evening. It's very close to the SMD's letter. I will say  
8 that. I looked at it and the two of them say a lot, not  
9 exact, but --

10 CHAIRMAN HOOD: Right.

11 MS. SCHELLIN: -- they do say a lot of the same  
12 things.

13 VICE CHAIR MILLER: And the SMD letter is signed  
14 by the SMD Commissioner.

15 MS. SCHELLIN: Although, it cannot be given great  
16 weight. It's just considered letter in support.

17 CHAIRMAN HOOD: And I'm going to give -- I  
18 actually, the way things going, I'm going to make sure we get  
19 as much weight as possible. I don't know.

20 Colleagues, what do you think about that? I see  
21 -- are you the chair of the ANC?

22 MS. PALMER: No, I'm not, but I can --

23 CHAIRMAN HOOD: Lisa, can you come to the table.  
24 I just want to understand why the letter is not signed  
25 because we like the record to be complete.

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1 MS. PALMER: Sure.

2 CHAIRMAN HOOD: Did you sign the letter?

3 MS. PALMER: Yes, I did sign the letter on the SMD  
4 letterhead. they should be virtual identical because they  
5 were both from me. At the previous meeting, prior to our  
6 April meeting, I had been approved to take any action on this  
7 by the rest of the ANC. That's in the original ANC letter.  
8 I circulated this among my Colleagues, but because it had  
9 come up after our most recent meeting --

10 CHAIRMAN HOOD: Right.

11 MS. PALMER: -- I was -- business meeting, that  
12 was what I was searching for. It was unable to get a vote,  
13 but I had already been authorized to write it. It was  
14 circulated among my Colleagues. No comments.

15 It's absolutely -- it should be given great  
16 weight, I think, because it had been approved for me to do  
17 the speaking.

18 CHAIRMAN HOOD: Right. And you did the speaking  
19 at the hearing. correct?

20 MS. PALMER: Yes, I did.

21 CHAIRMAN HOOD: Right. So, we -- we gave your  
22 testimony great weight.

23 MS. PALMER: Correct.

24 CHAIRMAN HOOD: Ms. Lovick, could we leave -- even  
25 if we take action tonight, can we leave the record open just

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1 for that? Or -- I'm sorry, Mr. Ritting.

2 MR. RITTING: You're asking if -- if you could  
3 leave the record open for --

4 CHAIRMAN HOOD: A signed copy.

5 MR. RITTING: -- a revised signed ANC letter --  
6 no. I mean, once you take action, the record's closed.

7 COMMISSIONER TURNBULL: Mr. Chair, I mean, we do  
8 have a letter from, I mean, they had a meeting on March 19th.

9 MS. PALMER: Yes.

10 COMMISSIONER TURNBULL: And their letter of March  
11 27th, they voted 5 to zero to zero to support the  
12 modification of significance, so I think --

13 MS. PALMER: And I believe in that letter they  
14 gave me authorization to do any further --

15 COMMISSIONER TURNBULL: Right.

16 MS. PALMER: -- testimony, including written  
17 testament.

18 COMMISSIONER TURNBULL: So, so my feeling is that,  
19 that letter back on March 19th where they gave their vote to  
20 support it, is maybe more -- it is important.

21 CHAIRMAN HOOD: Okay. And I think the testimony  
22 will take of it. So, we'll be fine.

23 COMMISSIONER TURNBULL: I agree, Mr. Chairman.

24 VICE CHAIR MILLER: And I think -- and I think the  
25 Commissioner's letter was very well written.

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1 MS. PALMER: Thank you so much.

2 CHAIRMAN HOOD: Okay. Thank you very much for  
3 coming up. Okay. Would someone like to -- any other issues?  
4 Hold on, let me see. Okay. Let me just ask, is anyone --  
5 we do have -- did anyone -- was anyone persuaded by DC for  
6 Reasonable Development's submission? I think we -- we've all  
7 respond to that in our deliberations and discussions, so I --  
8 I don't think that arise to the occasion of the request, so  
9 anything else. Somebody can make a motion?

10 VICE CHAIR MILLER: Mr. Chairman, I would move  
11 that the Zoning Commission take final action on Case Number  
12 07-13G Lowe PUD modification of significance square 643S and  
13 ask for second.

14 COMMISSIONER TURNBULL: Second.

15 CHAIRMAN HOOD: I'm hearing things and right next  
16 to me, I'm sorry. So we moved and properly second. Any  
17 further discussion? All in favor?

18 (Chorus of ayes.)

19 COMMISSIONER HOOD: Any opposition? Not hearing  
20 any, Ms. Schellin, would you record the vote and the proxy?

21 MS. SCHELLIN: Yes, sir. Staff records the vote  
22 5 to zero to zero, to approve final action Zoning Commission  
23 Case Number 07-13G. Commissioner Miller moving.  
24 Commissioner Turnbull seconding. Commissioners Hood and  
25 Shapiro in support. Commission May in support by absentee

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1 ballot.

2 CHAIRMAN HOOD: Okay, now we go to hearing action.  
3 Let's go to Zoning Commission Case Number 18-06. This is  
4 Office of Planning text amendment to Subtitle G to recreate  
5 new MU-4A zone, and to rename the MU-4 to the MU-4B zone.  
6 Ms. Myers?

7 VICE CHAIR MILLER: Mr. Chairman --

8 CHAIRMAN HOOD: I'm sorry, Ms. --

9 VICE CHAIR MILLER: -- are you going to call the  
10 related Case 17-11, so that we can consider these together?

11 CHAIRMAN HOOD: Okay.

12 VICE CHAIR MILLER: I thought that was what --

13 CHAIRMAN HOOD: Yes, yes. All right. Also, let  
14 me, sorry. Let me also call Zoning Commission Case Number  
15 17-11, 3200 Penn Avenue PJV, LLC. Let me go to Ms. Myers and  
16 then, I don't know, do I need to come to your Ms. Schellin  
17 for anything? Let me go to Ms. Myers first, and then we'll  
18 figure it out. Okay.

19 MS. MYERS: Good evening, Commissioners. On  
20 October 2nd, 2017, the Zoning Commission held the public  
21 hearing for Case 17-11 to consider re-zoning the property at  
22 3200 Pennsylvania Avenue Southeast from MU-3, which is low  
23 density mix use, and R-1-B, which is low density residual to  
24 MU-4, which is moderate density mix use.

25 At the hearing, the owners of the adjacent single

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1 family residences along O Street expressed concern about  
2 having a new mixed use development immediately adjacent to  
3 their lower density single family residential properties.

4           Since the hearing, the petitioner for 17-11 has  
5 been working with these adjacent neighbors to discuss a new  
6 zone to address these concerns. The new zone would be a  
7 modified version of the MU-4 zone.

8           OP believes that the new zone could apply city-  
9 wide in other areas where MU-4 abuts low density residual  
10 properties, therefore, OP is submitting it as a text  
11 amendment and naming the new zone the MU-4A zone.

12           Mu-4A would have a maximum FAR of 2.0 or 2.4 with  
13 inclusion area zoning. The MU-4A zone would also include  
14 transitional setbacks from adjacent residual properties.

15           OP further purposes that the existing MU-4 zone  
16 be renamed to MU-4B, as it would have a higher FAR than the  
17 MU-4A zone. The petitioner for 17-11, also submitted a  
18 request to set down an amended petition to re-map only lots  
19 840 and 835 of square 55-39, 3200 Pennsylvania Avenue  
20 Southeast from R-1-B to the new MU-4A zone.

21           The rest of zone, the rest of the site, lots 838  
22 and lots 839, would remain in the MU-3 zone. OP supports  
23 setting down this amended petition and having the two cases  
24 be heard on the same day.

25           In conclusion, the Office of Planning finds that

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1 the purposed MU-4A text amendment, and it's related 17-11 map  
2 amendment are not inconsistent with their comprehensive plan.  
3 Both are in support of many of the comprehensive plan's  
4 policies, goals, and principals, therefore, OP recommends  
5 that the commission sit down this subject application. Thank  
6 you.

7 CHAIRMAN HOOD: Thank you, Ms. Myers. Ms.  
8 Schellin, do you have anything else to add?

9 MS. SCHELLIN: Just to simple say that, at Exhibit  
10 15-51A is the petitioner's request to amend their  
11 application, and they provided an revised application form  
12 asking that it be set down if the commission proceeds to set  
13 down 1806.

14 CHAIRMAN HOOD: Okay. Commission May, open up.  
15 Thank you, Ms. Schellin and Ms. Myers. Any questions or  
16 comments? Commissioner Shapiro?

17 COMMISSIONER SHAPIRO: Thank you, Mr. Chair. I  
18 have no questions or comments on whether or not we should set  
19 this down. I have little questions or comments about the  
20 procedure. I'd look to my Colleagues to how to word this to  
21 set these both down, but I have no objection to doing it.

22 CHAIRMAN HOOD: Okay. Any other question,  
23 comments. Vice Chair Miller?

24 VICE CHAIR MILLER: Thank you, Mr. Chairman. I  
25 just wanted to thank Office of Planning for their report, and

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1 thank the petitioners for working with the community, the O  
2 Street Neighbors and Friends to work out a somewhat creative  
3 map -- mapping solution, which makes -- which, I think it  
4 does make sense beyond this particular area.

5           It may apply in other situations across the city,  
6 so I think that was a -- I appreciate everyone working  
7 together to come up with that, and I'm prepared to move  
8 forward with a set down with both of these cases.

9           CHAIRMAN HOOD: Okay. Mr. Turnbull, any other  
10 questions or comments? Okay, I would associate myself with  
11 the vice chair's comments as well. I really appreciate all  
12 the work that has went into it, and looking forward to  
13 sitting down and having an hearing to really vet out some of  
14 the things I know, particularly this Commission had asked for  
15 in the very beginning. So, I think moving forward, I think  
16 I -- I would first like to move to set down Zoning Commission  
17 Case Number 18-06, and ask for a second.

18           VICE CHAIR MILLER: Second.

19           CHAIRMAN HOOD: It's been moved and proper second.  
20 Any further discussion? All in favor?

21           (Chorus of ayes.)

22           COMMISSIONER HOOD: Any opposition? Not hearing  
23 any, Ms. Schellin, will you record the vote and the proxy.

24           MS. SCHELLIN: Staff records the vote 5 to zero  
25 to zero to set down Zoning Commission Case Number 18-06 as

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1 a rule making case. Commissioner Hood moving. Commissioner  
2 Miller seconding. Commissioners Shapiro and Turnbull in  
3 support. Commissioner May in support by absentee ballot.

4 CHAIRMAN HOOD: Okay. And next would be -- I'm  
5 not going to say the sisters of the case -- the other piece  
6 of this -- they requested an amended application as well as  
7 request to set down the amended application, which is Zoning  
8 Commission Case Number 17-11. And I would ask that we hear  
9 those the same night. We'll work all that out with the staff  
10 and others to work all that out as we move forward. So I  
11 would move that we also set down 17-11, and also, as well as  
12 the amended application.

13 VICE CHAIR MILLER: Second.

14 CHAIRMAN HOOD: Okay, it's been moved and  
15 seconded. Mr. Ritting, have I covered everything?

16 MR. RITTING: Yeah, I think so.

17 CHAIRMAN HOOD: So it's been moved and properly  
18 second. Any further discussion? All in favor? Aye.

19 (Chorus of ayes.)

20 COMMISSIONER HOOD: All right. Any opposition?  
21 Not hearing any, Ms. Schellin, will you record that and the  
22 proxy?

23 MS. SCHELLIN: Staff records the vote 5 to zero  
24 to zero to approve allowing the applicant to amend their  
25 application in Zoning Commission Case Number 17-11, allowing

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1 set down as a rule making case, and allowing the case to be  
2 heard on the same night as case number 18-06. Commissioner  
3 Hood moving. Commissioner Miller seconding. Commissioner  
4 Shapiro and Turnbull in favor. Commissioner May in favor by  
5 absentee ballot.

6 CHAIRMAN HOOD: Okay. Thank you. Let's go to  
7 Zoning Commission Case Number 02-38A, Waterfront Associates,  
8 LLC, ZA determination letter.

9 Oh, Ms. Schellin?

10 MS. SCHELLIN: Yes. Exhibit 109, Attachment A is  
11 a request for a modification plans approved by the Zoning  
12 Commission that the applicant's submitted to the Zoning  
13 Administrator. The ZA approve the modification and then  
14 forwarded it to the commission per regulations for it to  
15 concur or not. And you have that before you, and I'd ask the  
16 commission to make a decision on that.

17 CHAIRMAN HOOD: Okay. Any comments on this,  
18 Commissioners? This is again a format that we would put out  
19 some years ago, make sure that the ZA stays within its  
20 flexibility, but let me open up any questions or comments.  
21 Well, I guess the question is, do we concur or not?

22 COMMISSIONER TURNBULL: Well, you mean, do we  
23 concur on his authority --

24 COMMISSIONER HOOD: Right.

25 COMMISSIONER TURNBULL: -- to do it?

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1           COMMISSIONER HOOD: To do what his request what  
2 he did temporary.

3           COMMISSIONER TURNBULL: Yeah, I mean, part of all  
4 of this is timing. Those two lots on M Street, which we just  
5 had before us a couple of weeks ago, I think, the case, those  
6 two buildings.

7           There is -- there's also and the timing is  
8 critical on this because of the new Southwest Library. And  
9 they've got -- it looks like the both the library and the  
10 developers on M Street have looked at each other, have met  
11 and I think scheduling is very critical, and they seem to be  
12 in agreement on this.

13           And the library is in dire need of a place to go  
14 to serve the needs of the neighborhood while the new library  
15 is under construction.

16           I mean, I guess, I would just ask OAG if they also  
17 feel that the ZA is totally correct in his -- I think he is,  
18 but I would, maybe if OAG wants to comment on it.

19           MS. LOVICK: Well, it's a question if you believe  
20 that this temporary use qualifies as a minor modification to  
21 the approve plans. And if you do, then you would concur that  
22 this a minor modification pursuant to Subtitle A, Section  
23 304.5, but if you don't think that this is a modification to  
24 the approved plans then this is something that the ZA could  
25 approve by right, and there's no need to concur.

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1 COMMISSIONER HOOD: Okay. Commissioner Shapiro?

2 COMMISSIONER SHAPIRO: Thank you, Ms. Chairman.

3 My read is that the Commissioner has the right to do this,  
4 but I'm wondering if OAG has a position on whether this is --  
5 you would consider this to be a modification at all?

6 MS. LOVICK: We don't.

7 COMMISSIONER SHAPIRO: Okay. Thank you.

8 MS. LOVICK: We don't consider this to be a  
9 modification to the approved plans.

10 COMMISSIONER SHAPIRO: Thank you.

11 MS. LOVICK: No, that would fall under the --  
12 under the ZA's authority pursuant to Subtitle A, Section  
13 304.5. We think this is something that is, by right, that  
14 he could approve this temporary use.

15 COMMISSIONER SHAPIRO: Thank you. And Mr.  
16 Chairman, I would concur with that. That makes sense to me.

17 COMMISSIONER HOOD: Okay. Any other questions?  
18 Vice Chair Miller?

19 VICE CHAIR MILLER: Thank you, Mr. Chair, I would  
20 concur that the temporary trailer use for the Southwest  
21 Library is something that its own administrator can do as a  
22 matter of course, especially in this case because the  
23 testimony we've had in that case, was they wanted to see that  
24 phase activated as long as it can be activated, so I guess  
25 we'll activate that space.

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1 COMMISSIONER HOOD: Okay, well.

2 VICE CHAIR MILLER: I think it's on cases.

3 COMMISSIONER TURNBULL: I think it's in excellent  
4 use. I mean, they're both, I mean, there's a need for the  
5 city to have a temporary library there while the new one is  
6 in construction. I think it's a perfect fit. I think it's  
7 an excellent use of it.

8 COMMISSIONER HOOD: Okay, and I think he's  
9 actually right because I know in other areas in the city  
10 where they don't have to come down to see us. It works out  
11 well for temporary use and I think we're already doing it,  
12 so I think the ZA has been right about OAG. Ms. Lovick, they  
13 can do it as matter. He can do it has a matter of right.  
14 All right. Anything else on this? Someone like to make a  
15 motion?

16 COMMISSION SHAPIRO: Mr. Chair.

17 MS. LOVICK: There's no need to make a motion.  
18 This is just something that --

19 COMMISSIONER HOOD: We have to concur or not  
20 concur?

21 MS. LOVICK: Yes.

22 COMMISSIONER HOOD: Well, we can do it has a  
23 matter of right --

24 MS. LOVICK: So, you would just not concur.

25 COMMISSIONER HOOD: Not concur. That seems

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1 backwards to me, but okay. Well, I not concur. Everything  
2 then is backwards sometimes. Okay, so I not concur. Does  
3 anybody else not concur?

4 VICE CHAIR MILLER: I appreciate them coming to  
5 us, to ask whether he can do that as a matter of right, so  
6 I'm glad he did that then we put it on the record that --

7 COMMISSIONER HOOD: Okay.

8 VICE CHAIR MILLER: -- that he can do it.

9 COMMISSIONER HOOD: Okay. So, we don't have to  
10 do any motion, so we all not concur. I'm still -- maybe I'll  
11 get that one on the way home. Okay. So, let's go -- I mean,  
12 get it when I was reading it, so anyway, let's go to Zoning  
13 Commission Case Number 14-18A, Mid-City Financial Corporation  
14 and all.

15 Ms. Schellin?

16 MS. SCHELLIN: Yes, at Exhibit 195, Brookland  
17 Manor, Brentwood Village Residents filed a motion to  
18 reconsider and ask that the Commission reconsider and reverse  
19 its order, or in the alternative order re-hearing on the  
20 issues raised in its motion.

21 At Exhibit 196, the applicant provided a response  
22 to the motion stating that the Commission should deny the  
23 motion for the reasons listed in its response. So we'd ask  
24 the commission to consider the motion and the response before  
25 you.

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1           COMMISSIONER HOOD:    Okay.    Let me open up any  
2 questions or comments on this -- this reconsideration.    Mr.  
3 Shapiro?

4           COMMISSION SHAPIRO:   Thank you, Mr. Chairman, I  
5 don't have any questions about it.    I feel that the, you  
6 know, in looking at what the applicant said and what the  
7 opposition said that the, you know, the language that the  
8 applicant stated about the -- that the issues that are being  
9 raised are really arguments that were previously raised  
10 during the public hearing process.

11           And that, you know, the issues that were, that  
12 were pertinent were raised in the first stage PUD  
13 modification.    It's not -- it's not relevant to the second  
14 stage PUD application.    There's really no new evidence, so  
15 I don't -- so anyway, Mr. Chair, that's where I am with this.

16           COMMISSIONER HOOD:    Any other comments?    I would  
17 just concur with Commissioner Shapiro.    I think we vetted  
18 this, and I think there's no new evidence, no new issues  
19 being brought to our attention.    And I think all the issues  
20 have been vetted thoroughly, and I think the order speaks for  
21 itself.

22           It shows all the work that's been put into has  
23 been moved forward on -- on that case.    Anything else?    Okay.  
24 So, with that, I would move to deny the reconsider -- is that  
25 the correct motion or do I need to make a motion on this one?

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1 I would move that we deny the request for reconsideration and  
2 ask for a second.

3 VICE CHAIR MILLER: I would second that. And  
4 you're including in it the motion to deny both the request  
5 for reconsideration and the request for re-hearing?

6 COMMISSIONER HOOD: Okay. Yes, correct, both.

7 VICE CHAIR MILLER: I thought you were.

8 COMMISSIONER HOOD: Okay. Reconsideration and re-  
9 hearing.

10 VICE CHAIR MILLER: Thank you.

11 COMMISSIONER HOOD: Okay. You second?

12 VICE CHAIR MILLER: Second.

13 COMMISSIONER HOOD: Okay. So, we moved and  
14 properly second. Any further discussion?

15 COMMISSIONER SHAPIRO: Just to be, if I can, under  
16 discussion it. I'm curious if, if there's OAG comments about  
17 whether our position on this is clear enough or do we need  
18 to be more specific about why we are denying the motion for  
19 reconsideration and re-hearing?

20 MR. RITTING: I think it was very clear.

21 COMMISSIONER SHAPIRO: Okay. Thank you, Mr.  
22 Chair.

23 COMMISSIONER HOOD: Okay, it's been moved and  
24 properly second. Any further discussion? Thank you. All  
25 in favor? Aye.

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1 (Chorus of ayes.)

2 COMMISSIONER HOOD: Any opposition? No hearing  
3 any, Ms. Schellin, record the vote and the proxy?

4 MS. SCHELLIN: Yes. I do not have a proxy from --

5 COMMISSIONER HOOD: Oh, I'm sorry.

6 MS. SCHELLIN: -- Commissioner May on this one.  
7 So I've record the vote 4 to zero to 1 to deny the motion for  
8 reconsideration or in the alternative re-hearing.  
9 Commissioner Hood making the motion. Commissioner Miller  
10 seconding. Commissioners Shapiro and Turnbull in support of  
11 denial. Commissioner May not present; not voting.

12 COMMISSIONER HOOD: Okay. Next let's go to Zoning  
13 Commission Case Number 16-23, Valor Development.

14 Ms. Schellin?

15 MS. SCHELLIN: At Exhibit 234, we have Valor  
16 Development submitting a second motion for deferral for  
17 deliberations and they're asking to be able to submit a  
18 revised set of plans by June 18th.

19 At Exhibit 235, the Citizens for Responsible  
20 Development submitted a response to the applicant's motion,  
21 and while they're not opposed, they would like to have 30  
22 days instead of the three weeks granted prior by the  
23 commission to be able to respond to what comes in based on  
24 the applicant's description.

25 And, in Exhibit 234, it sounds like this is going

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1 to be a major revision to the project. So it sounds like  
2 it's going to be big, so they're asking for more time.

3 So we would ask the commission to consider the  
4 applicant's motion for deferral and the submission of plans  
5 and then the requests for more time to respond.

6 COMMISSIONER HOOD: Okay. Let me start the  
7 discussion. I would -- this is really easy for my  
8 discussion. I don't mind giving everybody everything what  
9 they ask for in this case. Any further comments?

10 VICE CHAIR MILLER: I concur, Mr. Chairman. And  
11 just note that I think there has been some positive movement  
12 in this that will address some of the community's concerns  
13 going forward.

14 COMMISSIONER HOOD: Okay. Any other questions or  
15 comments? Okay. Ms. Schellin, do we need to set the  
16 schedule now or do we -- or, oh do we -- what do we need to  
17 do? We need to make a motion.

18 MS. SCHELLIN: Yes.

19 COMMISSIONER HOOD: Okay. I would move the  
20 request. Everything that has been asked for in this second  
21 deferral request, under Zoning Commission Case Number 16-23,  
22 and it also includes a request for Citizens for Reasonable  
23 Development, and that time I think may increase, I'm not  
24 sure, but anyway, I will leave that up to staff. Can I get  
25 a second?

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1 VICE CHAIR MILLER: Second.

2 COMMISSIONER HOOD: It's been moved and properly  
3 second. Any further discussion? All in favor? Aye

4 (Chorus of ayes.)

5 COMMISSIONER HOOD: Any opposition? Not hearing  
6 any, Ms. Schellin, will you record the vote and the proxy?

7 MS. SCHELLIN: Okay. Staff records the vote 5 to  
8 zero to zero to grant the deferral action on this.  
9 Commissioner Hood moving. Commissioner Miller seconding, and  
10 Commissioners Turnbull and Shapiro in support. Commissioner  
11 May in support by absentee ballot.

12 And, if we could, that would mean that the  
13 applicant is going to provide their plans by, I'm assuming,  
14 on June 18th, and that would give the parties until July 18th  
15 to provide their responses. And we would have to schedule  
16 a date for the Commission then to take this up, unless the  
17 Commission thinks it's going to be so major that you're going  
18 to want to schedule something else.

19 COMMISSIONER HOOD: No. I think -- let me just  
20 ask and see if -- it looks we won't hear this until after our  
21 August break. Correct?

22 MS. SCHELLIN: No. That would only be, unless you  
23 want to schedule another hearing on it. If you're scheduling  
24 another hearing than, yes, that's true.

25 VICE CHAIR MILLER: But, otherwise we could

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1 schedule it for the end July, tentatively?

2 MS. SCHELLIN: For deferral.

3 VICE CHAIR MILLER: Tentatively.

4 MS. SCHELLIN: Yes, but it would go on with  
5 everything else. We have a July 30th meeting.

6 COMMISSIONER HOOD: Okay. I'm just trying to  
7 think what we want to get.

8 VICE CHAIR MILLER: This case has had a lot  
9 delays.

10 COMMISSIONER HOOD: It does, but I'm just --

11 VICE CHAIR MILLER: And if -- and if it's not  
12 ready to go for we can take it off of the agenda once we see  
13 the responses.

14 COMMISSIONER HOOD: Right. Okay. Do you agree  
15 with that -- do you agree with that, Mr. Shapiro?

16 COMMISSIONER SHAPIRO: I agree.

17 COMMISSIONER HOOD: Okay. All right. Let's try  
18 that route, and I'm just thinking about the comments, but it  
19 looks like the community and the applicant working together,  
20 so maybe might be able stay on. If not, we'll be prepared  
21 to do deal with it at that time and move forward.

22 I tell you, I see some hands raising, so maybe  
23 might go back to my first thing, but I don't know, we're  
24 going to try that first. And I saw the hands raised, so I  
25 know what that means. It means slow down, but we're going

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1 to try that first, and let's see what the responses that we  
2 get on, I guess, July the 18th, or whatever date it was.  
3 And, then, we will know whether we're going to move forward.

4 MS. SCHELLIN: July 30th, you mean?

5 COMMISSIONER HOOD: Was it July 30th?

6 MS. SCHELLIN: The meeting?

7 COMMISSIONER HOOD: No, the date that you gave?

8 MS. SCHELLIN: July 18th is the date for them to  
9 provide their responses.

10 COMMISSIONER HOOD: And that's the party?

11 MS. SCHELLIN: The parties.

12 COMMISSIONER HOOD: Okay.

13 MS. SCHELLIN: That would give them 30 days.

14 COMMISSIONER HOOD: Right. Okay. That will give  
15 them the time that you requested us for and we'll see what  
16 those responses are, so hopefully we can move forward on  
17 whatever date.

18 MS. SCHELLIN: July 30th.

19 COMMISSIONER HOOD: July 30th.

20 MS. SCHELLIN: Okay. And that's just for further  
21 deliberations.

22 COMMISSIONER HOOD: Correct.

23 MS. SCHELLIN: Not for a vote, correct?

24 COMMISSIONER HOOD: Because we originally set this  
25 out for deliberations anyway.

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1 MS. SCHELLIN: Right.

2 COMMISSIONER HOOD: So, maybe some of what it looks  
3 like, some of the work is going on, maybe those deliberations  
4 will be condensed because --

5 MS. SCHELLIN: Well, I think that the plan was  
6 further deliberations and if you --

7 COMMISSIONER HOOD: First.

8 MS. SCHELLIN: -- if you choose to take a vote that  
9 evening, you could.

10 COMMISSIONER HOOD: Okay. Well, let's just wait.  
11 I can't predict the -- what's going to happen. So, I think  
12 that's the path forward. Thank you, Vice Chair, Commissioner  
13 Shapiro and Turnbull. I think that's the path forward.  
14 Let's try that and see what happens on that date.

15 COMMISSIONER TURNBULL: Mr. Chair, would the  
16 Office of Planning also be taking a look at these new plans  
17 for submissions and reporting it?

18 MS. STEINGASSER: Yes, yes sir, we will.

19 COMMISSIONER TURNBULL: Thank you.

20 COMMISSIONER HOOD: So do we need to do anything  
21 else?

22 MS. SCHELLIN: No. You voted on it. OP's report  
23 will come in 10 days prior to the meeting.

24 COMMISSIONER HOOD: Okay. All right. So, we're  
25 good on that. All right. So, do we have anything else

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1 before us tonight?

2 MS. SCHELLIN: No, sir.

3 COMMISSIONER HOOD: Ms. Steingasser, do you have  
4 anything else?

5 MS. STEINGASSER: No, sir.

6 COMMISSIONER HOOD: All right. I want to thank  
7 everyone for their participation and attendance tonight, and  
8 this meeting is adjourned.

9 (Whereupon, the above-entitled matter went off the  
10 record at 7:16 p.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Regular Meeting

Before: DCZC

Date: 04-30-18

Place: Washington, DC

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.

*Neal R Gross*

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Court Reporter

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