

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

+ + + + +

REGULAR MEETING

+ + + + +

MONDAY
JULY 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 6:57 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 G. MAY, Commissioner (NPS)
PETER SHAPIRO, Commissioner

OFFICE OF ZONING STAFF PRESENT:

DONNA HANOUSEK, Zoning Specialist

OFFICE OF PLANNING STAFF PRESENT:

BRANDICE ELLIOTT
JOEL LAWSON
STEPHEN MORDFIN
KAREN THOMAS
STEPHEN COCHRAN
MATT JESICK
ELISA VITALE

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D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALAN BERGSTEIN, ESQ.

HILLARY LOVICK, ESQ.

JACOB RITTING, ESQ.

The transcript constitutes the minutes from
the Regular Meeting held on July 30, 2018.

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

(6:57 p.m.)

1
2
3 CHAIRMAN HOOD: Good evening ladies and gentlemen.
4 This is a public meeting of the Zoning Commission for the
5 District of Columbia. My name is Anthony Hood. Joining me
6 are Vice Chair Miller, Commissioner Turnbull, Commissioner
7 Shapiro, and Commissioner May.

8 We're also joined by the Office of Zoning staff,
9 Ms. Donna Hanousek; Office of Attorney General, Mr.
10 Bergstein, Mr. Ritting, and Ms. Lovick; Office of Planning
11 Staff, we have Ms. Steingasser, Mr. Lawson, and Mr. Cochran.
12 And I saw Ms. Elliott. And I think we have some others who
13 will be coming, joining us at the appropriate time, okay.

14 I wanted to make sure I called Ms. Elliott's name
15 first so I won't get anything mixed up.

16 Okay, all right. I see some different notes here
17 but I'm not going to read those. And everything is always
18 scripted.

19 All right, so we'll begin with any preliminary
20 matters. Ms. Hanousek, do we have any preliminary matters?

21 MS. HANOUSEK: Yes, sir. The Applicant has
22 withdrawn Case 15-13A, which was under Consent Calendar.

23 CHAIRMAN HOOD: Okay. If anyone is here for that
24 case, that case has been withdrawn. I don't think we need
25 any further actions. Anything else?

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1 MS. HANOUSEK: No, sir.

2 CHAIRMAN HOOD: Okay. Let me begin with the
3 agenda. First we have under Minor Modifications and
4 technical correction, Zoning Commission Case 16-19B. Request
5 for Minor Modification of PUD at Square 8. Ms. Hanousek.

6 MS. HANOUSEK: Yes, the Applicant is requesting
7 to add penthouse habitable space. OP supports the request
8 at Exhibit 5. ANC 2A supports the conditions related to the
9 operation of the -- with conditions related to the operation
10 of the roof deck at Exhibit 6.

11 The Applicant responded to the ANC at Exhibit 7.
12 And staff asks the Commission to consider the request.

13 CHAIRMAN HOOD: And let me just say this
14 Commissioners. We have a lot of paper and electronic stuff
15 that we're dealing with going back and forth, so if I'm
16 moving too fast, which I won't be, just let me know, all
17 right?

18 So okay, so we have the request before us.
19 Commissioners, what is your pleasure? Any questions or
20 comments? Commissioner May.

21 COMMISSIONER MAY: Yes, I just want to say I think
22 this has come to us fairly cleanly resolved. I think the
23 only question is how best to incorporate the conditions that
24 the Applicant has agreed to, that the ANC had negotiated with
25 them?

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1 I think there is just in one of those conditions,
2 I think there's some aspects of that that go beyond the issue
3 of mitigations for this modification request. And that has
4 to do with who can use the new community space, or whatever
5 it's called on the rooftop?

6 Certainly the other things having to do with the
7 conditions are the hours. You know, amplification of sound,
8 things like that. Those are all conditions that I think
9 mitigate potential impacts from that change to the original
10 PUD.

11 So I think with the exception of that requirement,
12 I think it's all stuff that can be incorporated into the
13 order.

14 VICE CHAIR MILLER: I concur, Mr. Chair.

15 CHAIRMAN HOOD: Okay. All right, any other
16 questions or comments?

17 (No audible response)

18 CHAIRMAN HOOD: I would agree. I think other than
19 the use, I think everything else is within our bailiwick.
20 So any other questions or comments?

21 (No audible response)

22 CHAIRMAN HOOD: Somebody like to make a motion?

23 COMMISSIONER MAY: Yes, I would move that we
24 approve Zoning Commission Case Number 62-19B, Washreit
25 Watergate 600, request for Minor Modification for PUD at

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1 Square 8 with the conditions as agreed to by the Applicant
2 and suggested by the ANC, with the exception of the condition
3 regarding who gets to use the rooftop community space.

4 CHAIRMAN HOOD: Okay, I'll second that motion.
5 It's been moved and properly seconded. Any further
6 discussion?

7 (No audible response)

8 CHAIRMAN HOOD: All in favor?

9 (Multiple ayes)

10 CHAIRMAN HOOD: Not hearing any opposition of
11 those present, Ms. Hanousek would you record the vote?

12 MS. HANOUSEK: Yes. The Commission approved Case
13 62-19B with a motion made by Commissioner May, and seconded
14 by Hood, with Miller, Shapiro, Turnbull, Hood and May to
15 approve.

16 CHAIRMAN HOOD: Okay. All right. Next is Zoning
17 Commission Case Number 11-15H. Howard University, Minor
18 Modification to Zoning Commission Order No. 11-15F at Square
19 3058. Ms. Hanousek.

20 MS. HANOUSEK: Oh, sorry. The Applicant is
21 requesting to clarify which properties were removed from the
22 Campus Plan in Case 11-15F. There is an OP report in support
23 at Exhibit 4, and nothing from ANC 5E. Staff asks that you
24 consider this request.

25 CHAIRMAN HOOD: Okay, colleagues as stated this

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1 is a request to correct some lot numbers listed in the 11F,
2 or 15F. I think it's pretty straight forward and the record
3 is complete. And some stuff may have been miss identified.
4 And I think we dealt with this previously.

5 If there's no discussion of Zoning Commission 11-
6 15H, unless I left something out, I would move that we
7 approve. This is a Minor Modification to Zoning Commission
8 Case Number 15F at square 3058, Case Number 11-15F. And ask
9 for a second.

10 VICE CHAIR MILLER: Second.

11 CHAIRMAN HOOD: So it's been moved and properly
12 seconded. Any further discussion?

13 (No audible response)

14 CHAIRMAN HOOD: All in favor?

15 (Multiple ayes)

16 CHAIRMAN HOOD: Ms. Hanousek, would you please
17 record the vote?

18 MS. HANOUSEK: Yes. The Commission approved Case
19 11-15H -- oh, I already had --

20 (Off microphone comments)

21 MS. HANOUSEK: The Commission approved Case 11-15H
22 upon motion of Hood, and seconded by Commissioner Miller.
23 And with Shapiro, Turnbull, and May to approve.

24 CHAIRMAN HOOD: Okay. Thank you. Next let's go
25 to Modifications of consequences, we're going to do

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1 Determination of Scheduling, but let me first ask. Does
2 anyone believe any one of these should come off the
3 Modification of -- I mean, reconsider the Modification of
4 Consequence? Anyone believes that this is not a
5 modification?

6 (No audible response)

7 CHAIRMAN HOOD: Okay, so we'll keep all of them
8 on for determination of scheduling. Okay, first we will go
9 to Zoning Commission Case Number 01-01A. BP/CRF 901 New York
10 Avenue, LLC, Modification of Consequence of PUD at Square
11 372. Ms. Hanousek.

12 MS. HANOUSEK: The Applicant is requesting
13 approval to revise the building entrances at New York Avenue
14 and K Street. There is an OP report in support at Exhibit
15 4, and an ANC 2C report in support at Exhibit 5.

16 Citing the support, the Applicant requests
17 deliberation tonight. Staff asks that the Commission
18 determine whether this is a Modification of Consequence and
19 whether it wishes to consider the Applicant's request for
20 approval tonight?

21 CHAIRMAN HOOD: Okay. Colleagues you've heard the
22 Applicant's request and I think actually through my readings
23 of the information that we were given, looks like a lot of
24 work has already been done. I would agree to honor the
25 request of the work that's been done by both the Applicant

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1 and ANC and others. And I would say in this case, I think
2 we can deliberate. Any questions, or somebody that can
3 start? Commissioner May.

4 COMMISSIONER MAY: I think it's not the norm for
5 us to consolidate the scheduling and deliberation, but in
6 this circumstances we already have everything that we would
7 otherwise get if all we did was set the schedule. But I
8 think we are, I'm certainly comfortable going ahead with
9 this, as it's not unheard of. But not the norm either. But
10 we can go ahead.

11 CHAIRMAN HOOD: So with that, unless there are any
12 objections -- did anyone have any deliberations on this? I
13 think the request is warranted. I think that the -- well,
14 we've been asked to consolidate.

15 The Commission has received it with a Modification
16 of Consequence, deliberation and determination meeting in the
17 past. And I think that's what Commissioner May has alluded
18 to, so it's not the norm, but I think we're ready to proceed.
19 Any differences of opinion?

20 COMMISSIONER SHAPIRO: No.

21 CHAIRMAN HOOD: Somebody like to get us started?
22 Vice Chair.

23 VICE CHAIR MILLER: Mr. Chairman, I would. I
24 think the revisions to the design of the lobby entrances are
25 an improvement. And the correction to the order seems

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1 appropriate. So I think I'm ready to move forward with it.

2 CHAIRMAN HOOD: Okay, anything else? I think it's
3 ready. I don't have any notes jotted down for this case, so
4 anybody else?

5 COMMISSIONER TURNBULL: No, I would just concur
6 with the Vice Chair.

7 CHAIRMAN HOOD: All right, someone like to make
8 a motion? I'd like for others to make the motion. I don't
9 want to --

10 COMMISSIONER MAY: I would move approval of Zoning
11 Commission Case 01-01A, DP/CRF 901 New York Avenue, LLC,
12 Modification of Consequence of PUD at Square 372.

13 VICE CHAIR MILLER: Second.

14 CHAIRMAN HOOD: Okay, it's been moved and properly
15 seconded. Any further discussion?

16 (Off-microphone comment)

17 CHAIRMAN HOOD: Miller seconded.

18 MS. HANOUSEK: Okay.

19 CHAIRMAN HOOD: If we're moving too fast, Ms.
20 Hanousek, just let us know.

21 MS. HANOUSEK: No, it's fine.

22 CHAIRMAN HOOD: Because if we don't have to write
23 anything down, we just keep right on going.

24 Any further discussion?

25 (No audible response)

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1 CHAIRMAN HOOD: All in favor?

2 (Multiple ayes)

3 CHAIRMAN HOOD: Any opposition?

4 (No audible response)

5 CHAIRMAN HOOD: Not hearing any, Ms. Hanousek
6 would you please record the vote?

7 MS. HANOUSEK: Yes, upon the motion of
8 Commissioner May, as seconded by Vice Chairman Miller, the
9 commission approved the Modification of Consequence for Case
10 01-01A by a vote of 5-0-0, with Hood, May, Miller, Shapiro,
11 and Turnbull to approve.

12 CHAIRMAN HOOD: Okay, next Zoning Commission,
13 which case are we on?

14 COMMISSIONER MAY: 15-15A.

15 CHAIRMAN HOOD: All right. Zoning Commission Case
16 Number 15-15A, JBG/Boundary 1500 Harry Thomas Way, LLC and
17 JBG Boundary Eckington Place, LLC, Modification of
18 Consequence at Square 3576. Ms. Hanousek.

19 MS. HANOUSEK: Yes. The Applicant is requesting
20 to revise the Southern elevation of the Southeast structure.
21 There is OP support at Exhibit 14. Staff asks the Commission
22 to determine whether this is a Modification of Consequence?

23 CHAIRMAN HOOD: Okay. I think we've already done
24 that. So --

25 MS. HANOUSEK: Okay.

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1 CHAIRMAN HOOD: So, I guess --

2 MS. HANOUSEK: Okay, if so, staff will suggest a
3 time table.

4 CHAIRMAN HOOD: Okay.

5 MS. HANOUSEK: Okay?

6 CHAIRMAN HOOD: Yes.

7 MS. HANOUSEK: So if the parties can submit
8 responses by September 10th, the case can be deliberated at
9 the September 17th meeting which is the next meeting.

10 CHAIRMAN HOOD: Okay is everything -- we all on
11 the same page?

12 Okay, all right. So let's move on. Okay, I'm
13 going to skip that, we've already announced that 15-13A has
14 been withdrawn.

15 Zoning Commission Case 15-32A, 1129 9th St. NW,
16 LLC, Modification of Consequence of PUD at Square 369. Ms.
17 Hanousek.

18 MS. HANOUSEK: The Applicant is requesting to
19 modify the project design in several ways. There is an OP
20 report in support at Exhibit 2. And since the Commission has
21 already determined that this is a Modification of
22 Consequence, we would move to the time table if you agree.
23 Okay?

24 CHAIRMAN HOOD: Don't ask us, just go ahead.

25 MS. HANOUSEK: Okay.

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1 CHAIRMAN HOOD: Don't ask this group if they
2 agree. No, I'm just playing.

3 MS. HANOUSEK: Okay, so again, the parties would
4 have until September 10th for any submissions. And we're
5 talking ANC 2F. And then the case would be deliberated at
6 the September 17th meeting. Again, that's the first meeting
7 we have, so.

8 CHAIRMAN HOOD: Okay, thank you. Getting confused
9 on dates, so we're all straight on that one as well. All
10 right, let's go to deliberations.

11 Zoning Commission Case 04-08D/02-45 Verizon
12 Wireless, Modification of Consequence of PUD to allow
13 temporary Cell on Wheels at Square 5868S. Ms. Hanousek.

14 MS. HANOUSEK: Yes. The Commission determined
15 this case to be a Modification of Consequence at its June
16 11th meeting. At that meeting the Commission asked for more
17 information. And the Applicant submitted a response at
18 Exhibit 9 to 9D3.

19 Note, the site is within ANC 8C but directly
20 across the street from ANC 8E, so both are affected ANCs.
21 Staff spoke with ANC Chair Mary Cuthbert today. She said
22 that they voted to support the case, but cannot get a written
23 report in today. There is nothing from ANC 8E. Staff asks
24 the Commission to consider action in this case.

25 CHAIRMAN HOOD: Okay. First, Ms. Hanousek, if you

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1 would let Ms. Cuthbert know that we appreciate all the work
2 that they've done. And we understand sometimes it's hard
3 when you're volunteering to get the -- so if you could tell
4 them we appreciate the work that they've done on this.

5 MS. HANOUSEK: Yes, sir.

6 CHAIRMAN HOOD: Okay, thank you.

7 Colleagues, we have had some submissions, on where
8 we had a number of questions and comments, as to why we
9 didn't deal with it previously. And I'm just curious from
10 my colleagues who asked some of the questions about this
11 tower, and other questions, were you satisfied with the
12 response? Or did you have further deliberations and further
13 comments? Mr. May.

14 COMMISSIONER MAY: All right, so I was unhappy
15 about the maintenance plan. And so the Applicant decided to
16 submit the same maintenance plan over again. So, they're not
17 exactly listening to what I have to say, but I know.

18 However, I did see photos in the record that
19 indicated better, I think, where this is located and what its
20 potential impacts are. And, you know, they're obviously, we
21 should be concerned about how they will maintain the site.
22 And how they will restore it when the cell on wheels goes
23 away.

24 But given that the ANC doesn't have any problem
25 with it, and I guess I'm just, you know, tilting at cell

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1 towers. I'll go along with this. I do appreciate the other
2 information that was in the record about what the
3 alternatives were. And what the permanent circumstance might
4 be from this to provide cell coverage in this area. And I
5 know that it can be challenging in certain parts of the city.
6 So, I do appreciate that information.

7 But I don't want to see another cell tower
8 application without much better attention to the grounds
9 around it. That's just my continued tilting.

10 CHAIRMAN HOOD: Okay. Any other questions or
11 comments? So we're all satisfied?

12 COMMISSIONER TURNBULL: Well, I now have this
13 image of Commissioner May on a horse protecting his cell
14 tower that will stay with me. I'm making that --

15 COMMISSIONER MAY: It's nice to be remembered.

16 CHAIRMAN HOOD: All right. Vice Chair Miller.

17 VICE CHAIR MILLER: Yes, I just wanted to support
18 the continuation of cell phone coverage to Anacostia,
19 including the Department of Homeland Security. And not do
20 anything that would disrupt that.

21 CHAIRMAN HOOD: Okay, so with that and with the
22 information we're provided, with maybe one or two issues with
23 the information, and as the Vice Chair just mentioned make
24 sure we continue to get coverage across the city as well.

25 So, I would move that we approve Zoning Commission

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1 Case Number 04-08D and 02-45. Being noted that the ANC did
2 give a verbal commitment. Was unable to supply anything with
3 him. We'll go on the conversation that was had, and ask for
4 a second.

5 VICE CHAIR MILLER: Second.

6 CHAIRMAN HOOD: So it's been moved and properly
7 seconded. Any further discussion?

8 (No audible response)

9 CHAIRMAN HOOD: All in favor?

10 (Multiple ayes)

11 CHAIRMAN HOOD: Any opposition?

12 (No audible response)

13 CHAIRMAN HOOD: Not hearing any, Ms. Hanousek
14 would you please record the vote?

15 MS. HANOUSEK: Yes. Upon the motion of Chairman
16 Hood, as seconded by Vice Chairman Miller, the Commission
17 approved the Modification of Consequence in Case 04-08D/02-45
18 by a vote of 5-0-0, with Hood, May, Miller, Shapiro, and
19 Turnbull in support.

20 CHAIRMAN HOOD: Okay. Next let's go to Zoning
21 Commission Case Number 79-19A/78-07. This is the BDC Van
22 Ness, LLC, Modification of Consequence of PUD at Square 2047.
23 Ms. Hanousek.

24 MS. HANOUSEK: Yes. The Commission determined
25 this case to be a Modification of Consequence at its June

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1 11th meeting. The Applicant has submitted revised drawings
2 for its Kiss and Ride at Exhibits 5 to 5A. There is a letter
3 in support with conditions from ANC 3F, and a supplemental
4 OP report in support at Exhibit 7. Staff asks the Commission
5 to consider action on this case.

6 CHAIRMAN HOOD: Okay. Thank you, Ms. Hanousek.
7 Colleagues there were a number of things that were worked out
8 with the ANC and the parties on this case, dealing with the
9 bridge, and changes of conditions. But let me open up to any
10 questions. It looks like everybody is on board and that's
11 what we like to see, collaboration. But let me open up to
12 any comments or questions.

13 COMMISSIONER SHAPIRO: Thank you, Mr. Chair. It
14 looks like all of the ANC 3F's conditions were met. And I
15 have no problem. The Applicant concurs, I've no problem
16 proceeding with this case.

17 CHAIRMAN HOOD: Not hearing any other comments,
18 questions, would somebody like to make a motion?

19 COMMISSIONER SHAPIRO: I'll make the motion Mr.
20 Chair that we approve Zoning Commission Case Number
21 79-19A/78-07, BDC Van Ness, LLC, Modification of Consequence
22 of PUD at Square 2047. Look for a second.

23 COMMISSIONER TURNBULL: Second.

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

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1 (No audible response)

2 CHAIRMAN HOOD: All in favor?

3 (Multiple ayes)

4 CHAIRMAN HOOD: Any opposition?

5 (No audible response)

6 CHAIRMAN HOOD: Not hearing any, Ms. Hanousek
7 would you please record the vote?

8 MS. HANOUSEK: Yes. Upon the motion of
9 Commissioner Shapiro, as seconded by Commissioner Turnbull,
10 the Commission approved the Modification of Consequence Case
11 79-19A/78-07 by a vote of 5-0-0 with Hood, May, Miller,
12 Shapiro, and Turnbull in support.

13 CHAIRMAN HOOD: Okay. Let's move right along.
14 Let's go to Zoning Commission Case Number 15-20B, TBSC Owner
15 I, LLC, Modification of Consequence of PUD at Square 620.
16 Ms. Hanousek.

17 MS. HANOUSEK: Yes. This case was originally
18 filed as a Minor Modification, but the Commission determined
19 instead that this case was a Modification of Consequence at
20 its June 25th meeting.

21 The Applicant submitted a response to the
22 Commission's comments at Exhibit 6, and requested to add a
23 modification to another condition at Exhibit 7.

24 And ANC 6E submitted a letter in support to the
25 original change proposed only at Exhibit 8. Staff asks the

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1 Commission to consider action on the case.

2 CHAIRMAN HOOD: Okay Commissioners, the way I
3 understand this thing, a number of things going with the raze
4 permit here and denying building permits, and Certificate of
5 Occupancy, based upon violations. I think this project the
6 way I see it, it's hard enough to get up and going.

7 I would concur with the language as proposed by
8 OAG. I know there are a number of different components
9 moving, but I think we need to do all we can in this case.
10 And try to make sure that that is realized. Especially not
11 just for the Applicant, but for the city as a whole.

12 So, I will open up any other questions or comments
13 on that. And I would move that we -- and I would ask that
14 we accept OAG's language and not try to impose any
15 infractions and fines, I mean fines. That's kind of where
16 I am on this case, on this issue. Any other questions or
17 comments?

18 COMMISSIONER MAY: Yes, I would add that if DCRA
19 elects to impose fines, then they can do that without having
20 our blessing to do so. But I think in this circumstance,
21 again I agree with the Chairman, that, you know, we should
22 do what we can to help this project move forward.

23 Now they amended the original application to
24 include another change of condition. Essentially it relates
25 to the same failure of notice. But given the fact that the

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1 notice has been provided and that there's, the raze permit
2 is still in the future, I think that the concerns about
3 making sure that everybody is well aware of what's happening
4 have been addressed.

5 So I don't have any problem with adding this
6 additional condition and consider our requirements for a
7 Modification of Significance to be satisfied for both of the
8 proposed changes.

9 And again, you know, the changes as recommended
10 would not, would basically, they wouldn't forgive the
11 Applicant for not having done the notice properly. But would
12 acknowledge the fact that not having provided that notice is
13 not grounds for denying a raze permit, or a building permit,
14 or anything else.

15 So, I'm comfortable approving the whole thing.

16 CHAIRMAN HOOD: Any other questions, comments?

17 COMMISSIONER SHAPIRO: I concur, Mr. Chair.

18 CHAIRMAN HOOD: All right. And the only reason
19 I said, I know there's a letter from DCRA, but we had another
20 case where I strongly encouraged him to do an infraction.
21 And I think this case is a little different, so that's why
22 I wanted to make sure I justified.

23 Because we're also compared to everything we do
24 around here from case to case. So I wanted to make sure that
25 this case is actually a little different from the case where

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1 I strongly encouraged them to give a civil infraction.

2 Okay, any other comments? Okay, would someone
3 like to make a motion? I mean I could make them all, but I
4 --

5 VICE CHAIR MILLER: Mr. Chairman, I would move
6 that the Zoning Commission approve Zoning Commission Case
7 Number 15-20B with the Applicant's version of the revised
8 conditions. TBSC Owner I, LLC, Modification of Consequence
9 of PUD at Square 620. And ask for a second.

10 COMMISSIONER TURNBULL: Second.

11 COMMISSIONER SHAPIRO: Mr. Chair, under
12 discussion, I just want to make sure we're --

13 CHAIRMAN HOOD: Let me call it first. It's been
14 moved and properly seconded. Thank you. Any further
15 discussion?

16 COMMISSIONER SHAPIRO: Just in relation to the
17 making a motion, I want to make sure that we're approving the
18 right version of the language, because I think Vice Chair
19 Miller said that he was approving -- the motion was for the
20 Applicant's version of language?

21 VICE CHAIR MILLER: Well, that's my understanding,
22 that's what OAG recommended. It's not the original so I --

23 MR. BERGSTEIN: Well, okay, so there two languages
24 out there. So the Applicant came back and responded with
25 language as to the first violation. And we're fine with

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1 that, which is that that it won't furnish grounds for denial
2 of raze permit, building permit, or C of O. We're knocking
3 out the DCRA language.

4 Then with respect to the second violation, the
5 Applicant came back sort of with its original language and
6 said, let's pretend we did this the right way. And so what
7 we're suggesting is that the same language that the Applicant
8 agreed to for the first violation, be used for the second
9 violation.

10 Then in both instances that the violation would
11 not result in denial of a building permit, a raze permit and
12 C of O. So that's the language that's on the table for both
13 of the conditions.

14 COMMISSIONER SHAPIRO: Thank you, Mr. Chair.
15 That's clear. I'm fine.

16 CHAIRMAN HOOD: Okay, great. All right.

17 COMMISSIONER MAY: Mr. Chairman, just to be clear.

18 CHAIRMAN HOOD: Yes.

19 COMMISSIONER MAY: Your motion is inclusive of the
20 amendment that the Applicant requested for the second change,
21 essentially, the same language?

22 VICE CHAIR MILLER: Yes.

23 CHAIRMAN HOOD: Okay, we have an affirmative of
24 this. It's been -- who seconded?

25 COMMISSIONER TURNBULL: And my second is for that

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1 also.

2 CHAIRMAN HOOD: The same thing, okay great. We're
3 on the same page then. It's been moved and properly
4 seconded. That's been done. Any further discussion? Any
5 further clarification?

6 (No audible response)

7 CHAIRMAN HOOD: All in favor?

8 (Multiple ayes)

9 CHAIRMAN HOOD: Any opposition?

10 (No audible response)

11 CHAIRMAN HOOD: Not hearing any, Ms. Hanousek
12 would you record the vote please?

13 MS. HANOUSEK: Yes. Upon the motion of Vice
14 Chairman Miller, as seconded by Commissioner Turnbull, the
15 Commission approved the Modification of Consequence in Case
16 15-20B by a vote of 5-0-0 with Hood, May, Miller, Shapiro,
17 and Turnbull to approve.

18 CHAIRMAN HOOD: All right. Let's go up under
19 Final Action. The Zoning Commission Case Number 13-14A.
20 Jair Lynch Development Partners, Second-Stage PUD at Square
21 3128. This is a decision on remand. Ms. Hanousek.

22 COMMISSIONER SHAPIRO: Actually this is sort of
23 put under by us, so.

24 CHAIRMAN HOOD: Mr. Bergstein.

25 MR. BERGSTEIN: So this was a second-stage

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1 application that was approved by the Zoning Commission under
2 the authority of Order 13-14, which approved a first -- I'm
3 sorry, 13-14 which approved a first-stage and consolidated
4 PUD for the McMillan site.

5 So, Case 13-14 was appealed, as was 13-14A. And
6 then as, you know, the Court of Appeals vacated order 13-14.
7 And after they did that, the Petitioners in 13-14A said, that
8 issue summarily reversed 13-14A because it stands on the
9 first-stage PUD. And you just vacated that.

10 So instead, what the Court of Appeals did was to
11 remand 13-14A. And they remanded it for Court-ordered
12 proceedings if necessary in light of their decision in
13 Friends of McMillan Park.

14 So, you have again approved Case 13-14 and
15 therefore it doesn't seem to be that there's any further
16 proceedings that are necessary in this remand. And so if the
17 Zoning Commission agrees with that, someone can make a motion
18 to that effect.

19 CHAIRMAN HOOD: Okay, Commissioners what is your
20 pleasure?

21 COMMISSIONER SHAPIRO: Mr. Chairman, I move there
22 are no further proceedings in this remand.

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

25 (No audible response)

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1 CHAIRMAN HOOD: All in favor?

2 (Multiple ayes)

3 CHAIRMAN HOOD: Any opposition?

4 (No audible response)

5 CHAIRMAN HOOD: Not hearing any, Ms. Hanousek
6 would you please record the vote?

7 MS. HANOUSEK: I missed who made the motion.

8 CHAIRMAN HOOD: Commissioner Shapiro.

9 MS. HANOUSEK: And the second?

10 CHAIRMAN HOOD: I seconded.

11 MS. HANOUSEK: On a motion by Commissioner
12 Shapiro, as seconded by Chairman Hood, the Commission
13 determined that there is no further proceeding necessary in
14 Case 13-14A.

15 CHAIRMAN HOOD: Okay. Thank you. Moving next we
16 will go to Zoning Commission Case Number 02-38I. Waterfront
17 375 M Street, LLC and 425 M Street, LLC, Second-Stage PUD and
18 Modification of Significance to First-Stage PUD at Square
19 542. Ms. Hanousek.

20 MS. HANOUSEK: Okay.

21 CHAIRMAN HOOD: Am I out of order?

22 MS. HANOUSEK: We are out of order, sir, if you --

23 CHAIRMAN HOOD: Well, it won't be the first time.

24 MS. HANOUSEK: Our next case is 18-01.

25 CHAIRMAN HOOD: Okay. So, all right. We're going

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1 to have to work on putting everything -- I look at one, I've
2 got to look -- because roughly got to look at three things
3 but anyway, okay. All right. Let me look at the agenda.
4 That's what I need to be looking at.

5 Okay, my mistake. Okay, how did I get -- okay,
6 Zoning Commission Case Number 18-01, Community Three
7 Development, LLC, Map Amendment at Square 361. Ms. Hanousek.

8 MS. HANOUSEK: Yes. For this case there is a
9 proposed rulemaking published June 29 at Exhibit 25, an NCP
10 report with no issues at Exhibit 27, and comments from ANC
11 at Exhibit 28. Staff asks the Commission to consider action
12 on this case.

13 CHAIRMAN HOOD: Okay Commissioners, any questions
14 or comments on this case? Give me one second. Okay, here
15 it is. All right.

16 COMMISSIONER MAY: Mr. Chairman, I don't have
17 anything to say other than to make a motion.

18 CHAIRMAN HOOD: Okay, let's go ahead. I defined
19 it, so okay.

20 COMMISSIONER MAY: Here we go, I would make a
21 motion that the Zoning Commission approve Case Number 18-01,
22 Community Three Development, LLC, Map Amendment at Square
23 361.

24 COMMISSIONER SHAPIRO: Second.

25 CHAIRMAN HOOD: Okay, it's been moved and properly

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1 seconded. Any further deliberations, any further comments?

2 (No audible response)

3 CHAIRMAN HOOD: All in favor?

4 (Multiple ayes)

5 CHAIRMAN HOOD: Any opposition.

6 (No audible response)

7 CHAIRMAN HOOD: Not hearing any, Ms. Hanousek will
8 you record the vote?

9 MS. HANOUSEK: Yes. Upon the motion of
10 Commissioner May, as seconded by Commissioner Shapiro, the
11 Commission approved final action in Case 18-01. On a vote
12 of 5-0-0, with Hood, May, Miller, Shapiro, and Turnbull in
13 support.

14 CHAIRMAN HOOD: Okay. Thank you. Next let's go
15 to Zoning Commission Case Number 17-18. Office of Planning,
16 Text Amendments to Subtitles A, B, D, E, F, J, and K,
17 Measurement of Height and Floor Area Ratio. Ms. Hanousek.

18 MS. HANOUSEK: For this case there's a proposed
19 rulemaking published June 29th at Exhibit 36, an NCPC report
20 with no issues at Exhibit 35, comments from ANC 6C at Exhibit
21 37, a Supplemental OP report at Exhibit 42, and comments from
22 the public at Exhibits 38 to 41, and 43 to 44.

23 Staff asks the Commission to consider action on
24 this case.

25 CHAIRMAN HOOD: Okay, any questions or comments

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1 on this case. There were a number of comments that were
2 submitted. Again, I think the Office of Planning, and I know
3 I agree with what's being proposed, and would continue it as
4 proposed, especially in that Exhibit 42.

5 But let me open it up for any comments or
6 questions on this. Anyone see any reason to make any changes
7 or recommendations?

8 COMMISSIONER MAY: Mr. Chairman.

9 CHAIRMAN HOOD: Yes.

10 COMMISSIONER MAY: You know, it was good to see
11 further interest and comments on these. I think some of the
12 ones that were, well in particular the comments that came
13 from ANC's 6C were helpful in refining the language and
14 making clearer what we intended to do.

15 And I think the Office of Planning has endorsed
16 those changes in their supplemental report. And so I think
17 there's just some tweaks in the language that they've
18 suggested.

19 Some of the other suggestions, I think we
20 discussed in earlier deliberations. And I was not convinced,
21 well I was convinced during the hearing that we did not need
22 to take action on limiting the definition of cellar, or
23 providing for habitable space in cellars to be, something
24 that has to be counted in the FAR.

25 I also think some of the other suggestions in

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1 terms of modifications to the height above the natural grade
2 that was suggested, that someone suggested that it go up to
3 six feet instead of five feet, was not persuaded by the App,
4 because I think this is something that comes into play most
5 often in smaller residential developments where the typical
6 floor sandwich is a foot or less.

7 So I'm, I think -- oh, then there were other, some
8 other questions having to do the area ways and so on. Some
9 for the refinement there, but again, I don't see any reason
10 to adopt any further changes as a result of that.

11 So, I am comfortable moving forward with the case
12 as ultimately, the language has been refined in the OP's
13 supplemental report.

14 CHAIRMAN HOOD: And also appreciate, I would
15 agree. Let me just add also and I'm not sure I heard you
16 mention anything on this, but the vesting rule clarification
17 language, I think, is very important in anything that we do
18 around here. It's about vesting and I appreciate the
19 clarifying language. I think that will help clarify.

20 Anything else?

21 (No audible response)

22 CHAIRMAN HOOD: All right. Somebody like to make
23 a motion?

24 COMMISSIONER MAY: Mr. Chairman, I would move
25 approval of Zoning Commission 17-18, Office of Planning, text

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1 amendments to Subtitles A, B, D, E, F, J, and K, regarding
2 measurement for height and floor area ratio.

3 COMMISSIONER TURNBULL: Second.

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

6 (No audible response)

7 CHAIRMAN HOOD: All in favor?

8 (Multiple ayes)

9 CHAIRMAN HOOD: Any opposition?

10 (No audible response)

11 CHAIRMAN HOOD: Not hearing any, Ms. Hanousek
12 would you please record the vote?

13 MS. HANOUSEK: Yes. Upon the motion of motion of
14 Commissioner May, as seconded by Commissioner Turnbull, the
15 Commission approved Case 17-18, a text amendment, by a vote
16 of 5-0-0 with Hood, May, Miller, Shapiro and Turnbull in
17 support.

18 CHAIRMAN HOOD: Okay, next let's go to Zoning
19 Commission Case Number 06-11P, Hillel and George Washington
20 University, Modification of Significance and Special
21 Exception to penthouse setback at Square 42E. Ms. Hanousek.

22 MS. HANOUSEK: Yes. For this case, at the close
23 of the public hearing, the Commission just asked for the
24 Applicant draft order, which is at Exhibit 23. And staff
25 asks the Commission to consider action on this case.

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1 CHAIRMAN HOOD: Okay, Commissioner Shapiro, want
2 to start us?

3 COMMISSIONER SHAPIRO: Yes, sure. I have no
4 concerns and I'm happy to make a motion if there's no other
5 questions or comments.

6 COMMISSIONER MAY: If I could before we make --

7 CHAIRMAN HOOD: Commissioner May.

8 COMMISSIONER MAY: Yes I just want to say that it
9 was with great pleasure that I listened to and reviewed the
10 record in this case. So I am fully prepared to participate
11 even though I wasn't there for the hearing, so.

12 CHAIRMAN HOOD: Did anybody say anything about
13 you?

14 (Laughter)

15 COMMISSIONER MAY: I believe somebody did. It
16 wasn't you though.

17 CHAIRMAN HOOD: Oh, about time because I, normally
18 I do.

19 COMMISSIONER MAY: I appreciate the fact that Mr.
20 Turnbull raised questions that he thought that I would be
21 concerned about. And so, I'll leave it at that. Thank you.

22 CHAIRMAN HOOD: Okay. Anything else?

23 VICE CHAIR MILLER: I just want repeat what I said
24 at the hearing. Is that I appreciate everybody working
25 together to get a positive resolution to this case. The

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1 Hillel, the Applicant, St. Mary's and the ANC, and the
2 West End Citizen's Association all working together. And
3 ready to move forward.

4 COMMISSIONER TURNBULL: Mr. Chair, I would move
5 to take final action on Zoning Commission Case Number 06-11P,
6 Hillel and GWU, Modification of Significance and Special
7 Exception to penthouse setback at Square 42E. Look for a
8 second.

9 VICE CHAIR MILLER: Second.

10 CHAIRMAN HOOD: Okay, it's been moved and properly
11 seconded. Any further discussion?

12 (No audible response)

13 CHAIRMAN HOOD: All in favor?

14 (Multiple ayes)

15 CHAIRMAN HOOD: Any opposition?

16 (No audible response)

17 CHAIRMAN HOOD: Not hearing any, Ms. Hanousek
18 would you please record the vote?

19 MS. HANOUSEK: Yes. Upon the motion of
20 Commissioner Shapiro, as seconded by Vice Chairman Miller,
21 Zoning Commission approved Case 06-11P by a vote of 5-0-0,
22 with Hood, May, Miller, Shapiro, and Turnbull to approve.

23 CHAIRMAN HOOD: Okay. Next Zoning Commission Case
24 Number 02-38I, Waterfront 375 M Street, LLC and 425 M Street,
25 LLC, Second-Stage PUD and Modification of Significance to

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1 First-Stage PUD at Square 542. Ms. Hanousek.

2 MS. HANOUSEK: Yes. In this case the Applicant's
3 initial proffers and conditions are at Exhibit 129 and 129A.
4 The parties copy of a signed MOA at Exhibit 130. The
5 Applicant's post-hearing submission at Exhibit 131 to 131I.

6 The Applicant's revised proffers and conditions
7 at Exhibit 132 to 132A. A response to the post-hearing
8 statement from the party at Exhibit 133. A response to the
9 post-hearing statement from the ANC 6D at Exhibit 134.

10 A clarification of the plans from the Applicant
11 at Exhibit 135. And the Applicant's draft order at Exhibit
12 136 to 136A. And staff asks the Commission to consider
13 action on this case.

14 CHAIRMAN HOOD: Okay. Commissioners, I'm going
15 to start off on this. I tell you where I am after reading
16 the ANC letter, and it's looking like -- I don't know if
17 there needs to be more collaboration, or more comments, or
18 more discussion. Because I look at all the issues the ANC,
19 which we have to basically respond to each one of them.

20 The issues of the leases, and the -- let me see,
21 the study, the transportation study. Some of the things may
22 not necessarily be germane, but some of the things are
23 germane, which I think have to be answered by the Commission.

24 The LEED Silver Certification, the certifications,
25 and asking for the 4th and M Street, whether the safety study

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1 4th and M Street -- I don't know if that is necessarily
2 germane to this project because I believe that DDOT and their
3 planning person did a study. But I believe that neighborhood
4 needs to have a little more dialog.

5 So, for me, when I look at this, and what disturbs
6 me was when I read the letter from the ANC. It's like some
7 of the things -- I'm paraphrasing what they said. I believe
8 the way I understood it is that some of the comments and
9 things that they believe were not necessarily that the
10 Applicants were necessarily on page.

11 Now, the Applicant has done a good job, I think,
12 moving forward, but there's still some very critical answers.
13 And I don't want to put myself in the place of answering
14 those questions. I would like to see them have some more
15 time to work on some of those. And I know that's not a
16 popular move, but I think we end up with a better result.
17 Because there's four or five different things I think the ANC
18 and the Applicant necessarily are so far off. And I don't
19 even know if they even talking the same language the way I
20 read this.

21 So, and I think that quoted or mentioned somewhat,
22 it may not be exactly like that but somewhat in ANC's
23 submission to us. So that's where I am. Sometimes, time
24 cures a lot of things. I know they've had time. But
25 sometimes we narrow the scope, but I am particularly not

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1 favorable of making a decision with some of the critical
2 issues.

3 I mean, I could do it, but I'd rather leave it up
4 to the Applicant and those who are going to be enduring these
5 projects. That's kind of where I am, but I would open it up
6 for further discussion and see where everybody else is. Mr.
7 May.

8 COMMISSIONER MAY: Yeah, I just want to say, first
9 of all, I think it is pretty significant, the Applicant and
10 the Waterfront Towers party made peace and they have an MOA.
11 And so those, their particular issues have been addressed.

12 It is concerning of course that the ANC still has
13 issues with the project. But I think it actually was
14 worthwhile for us to have a little bit of discussion of those
15 issues, because I don't think that every one of these is a
16 show stopper from my perspective.

17 There's just a couple of them that I think where
18 there would be substantial benefit from further discussion
19 by the Applicant and the ANC. So, if you don't mind I'll
20 just walk through the issues from the ANC report.

21 CHAIRMAN HOOD: Let me hear if others, because I
22 mean I can go through the issues, but let me hear if others
23 kind of agree with going, and if, let's go.

24 COMMISSIONER MAY: Okay.

25 CHAIRMAN HOOD: Commissioner Shapiro.

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1 COMMISSIONER SHAPIRO: Mr. Chair, I agree with Mr.
2 May. For me there were two or three issues that I think
3 would be worth hearing specifically from the Applicant on.
4 They're the only ones, some of them I just we really can't
5 compel the Applicant to do. So, I think the more specific
6 we are the better. And maybe we can even get some
7 information tonight.

8 CHAIRMAN HOOD: Anyone else?

9 COMMISSIONER TURNBULL: Thank you, Mr. Chair. I
10 think in this particular case the ANC 6D is very thorough in
11 their looking at a project. I think they've been very
12 thorough in a lot of the projects that we've seen over the
13 last few years.

14 So, I think a lot of the things that they look at
15 and pick out, are they're very neighbor, obviously, they're
16 very neighborhood conscious. But I think there is nothing
17 really outrageous. There's nothing really, I think it's some
18 fairly basic things that they want to accomplish.

19 And so I would concur with the counsel of my
20 colleagues.

21 CHAIRMAN HOOD: Okay. All right. Let me start
22 off with one of the issues. The issue of whether to impose
23 a condition of prohibiting leases of less than one year in
24 both the East and West End buildings? The ANC is concerned
25 about the Applicant intends to provide short-term hotel like

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1 rentals at the Waterfront to vacationers and business
2 travelers at each of their two new buildings.

3 So, you know, for me, I would still like to kick
4 that back. But, you know, let's see what others have to say
5 on that. When we can make a decision and say whether or not
6 ANC, whether we agree or disagree, or how we would like the
7 Applicant to deal with this? Some things as I mentioned, we
8 cannot compel them to do. But I think that, even though --
9 well I don't want to get into a soapbox. Let me open it up.

10 COMMISSIONER MAY: So it seems to me that the
11 Applicant and the ANC are not necessarily talking past each
12 other. At least the Applicant is talking the ANC, in terms
13 of the response that we saw back. And I think, I mean one
14 of the essential aspects of this is the change in use in
15 stage two for these buildings.

16 And so I think that the type of residential
17 occupancy actually is something that is worth considering,
18 or worth understanding better. And so I think it would be
19 worth it for the Applicant to make their intentions a little
20 clearer to the ANC to put some of those concerns at ease.
21 And come back to us with an explanation of how that will be.

22 I just have to say that I wouldn't be opposed to
23 anything in particular or that I agree wholeheartedly with
24 what the ANC requests. But I think that getting some, I
25 think having -- the ANC deserves a little bit more clarity

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1 on what the Applicant's intention is.

2 CHAIRMAN HOOD: Anybody else on that issue?

3 COMMISSIONER TURNBULL: Yes, I think one -- I
4 think the big issue for me is, is there, are they actually
5 withholding from market for renting purposes, a certain
6 number, a percentage of units that they want to use this for?
7 Is there a bigger plan that they have that the ANC, or the
8 neighborhood do not know about?

9 I think it would be better for them to explain
10 what the purpose is, and what the concept is that they have
11 in mind for this? I think right now it's a little uncertain.

12 CHAIRMAN HOOD: Okay, Commissioner Shapiro.

13 COMMISSIONER SHAPIRO: Yes, and I think, I mean
14 I'd be curious about the discussion. Because I think that,
15 you know, with the intent the implication for the ANC is that
16 this would somehow destabilize the neighborhood. And I
17 think some of that has to do with quantity. And we just
18 don't know.

19 To Commissioner Turnbull's point, is there some
20 kind of a set aside? Could, you know, this is not an Airbnb
21 issue. This is more a broader short-term rental issue.
22 There are lots of reasons why it's appropriate to have short-
23 term rentals, but I'm not hearing any clear response with the
24 Applicant about what their intentions are? So, I would be
25 curious to hear that.

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1 CHAIRMAN HOOD: Okay, any other comments on that?
2 Okay.

3 COMMISSIONER TURNBULL: A number of these issues
4 have been addressed, Mr. Chair.

5 CHAIRMAN HOOD: Okay. Let's see, I just wonder
6 if we have to comment on each one of them. I really didn't
7 want to go this route, but let's -- I wanted it to come back
8 more confined. Yes, let's go to the 30 years following
9 issuance of the Certificate of Occupancy for the Community
10 Center within the East. I thought that had been agreed to.

11 COMMISSIONER TURNBULL: Yes, the Applicant is okay
12 with cutting out any cap.

13 CHAIRMAN HOOD: But when I looked at the ANC
14 letters, it still talked about, you know, the Community
15 Center about charging for -- at least the latest letter --
16 charging for electricity or something.

17 COMMISSIONER MAY: Yes, but the Applicant followed
18 up, and indicated that, I mean they basically want to have
19 some sort of, or they were suggesting that having a cap of
20 some sort would force some restraint on the utility usage.
21 But in the end, they agreed that if the Commission elects --

22 CHAIRMAN HOOD: Which Commission?

23 COMMISSIONER MAY: If our Commission decides we
24 want to, you know, have electricity paid for, for the entire
25 term. Then they would agree to that. So, essentially

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1 they've agreed to it. I don't think it's --

2 (Simultaneous speaking)

3 CHAIRMAN HOOD: Okay, but I want the -- I want
4 them to work that out with the ANC.

5 COMMISSIONER MAY: I think they've agreed to the
6 ANC's condition is what they said in the letter to us.

7 CHAIRMAN HOOD: So maybe I need to go to the ANC
8 meeting and get clarification with them.

9 COMMISSIONER MAY: Well.

10 CHAIRMAN HOOD: Because when I read the letter,
11 I didn't see that.

12 COMMISSIONER MAY: It was after the letter from
13 ANC, that we get that.

14 CHAIRMAN HOOD: So in that case, if that's the
15 case, when they come back --

16 COMMISSIONER MAY: Yes.

17 CHAIRMAN HOOD: I want to make sure everybody is
18 on the same page. The ANC, and the Applicant on the same
19 page, even about that issue. That's kind of the lines I'm
20 going down.

21 Now, this next one whether to require a safety
22 study on 4th and M Street Southwest, prior to approval of
23 this application? There are a lot of things going on around
24 4th and M.

25 I don't know if we can necessarily just point to

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1 just this particular project. But I think it should be
2 inclusive. And I think, I'm sure that the ANC has probably
3 had DDOT out there. As a matter of fact with all that
4 development, I know they've been out there.

5 Well, I better not say, I know they've been out
6 there. I hope they've been out there and have worked with
7 the community on the full study for they're asking. As far
8 as the request for us is not to approve this project until
9 this 4th and M Street study, at least the way I understand
10 it, has been dealt with. But let me open up. Any other
11 discussions --

12 COMMISSIONER MAY: Yes, Mr. Chairman on this
13 circumstance, I was concerned about the timing of the traffic
14 study as well.

15 But because of a general concern about what
16 happens to that intersection. And I think that in terms of
17 the evidence in the record, there's not really any evidence
18 in the record that these projects in particular are going to
19 exacerbate any situation at 4th and M. But it is something
20 that needs to be studied.

21 So I think that now that we've done the timeline
22 for getting it studied, we have a commitment from the
23 Applicant to spend money on that study, I do think that it
24 is sufficient. And it should not be a pre-condition of the
25 PUD being approved, that the study be done.

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1 CHAIRMAN HOOD: Any other comments on that, on the
2 study?

3 (No audible response)

4 CHAIRMAN HOOD: All right, another thing is
5 whether to require LEED Silver Certification as a condition
6 of approval? Any comments on that?

7 COMMISSIONER MAY: I mean that, you know, that is
8 something that has been -- we don't have a means of
9 compelling the Applicant to doing that. And I think if they
10 are serious about building a good building, they're going to
11 at the very least do something that would qualify for LEED
12 Silver. So I don't see that there's really a whole lot to
13 be gained by pressing the Applicant to commit to LEED Silver
14 Certification at this stage.

15 CHAIRMAN HOOD: We always ask Applicants to
16 achieve the highest certification possible. And I think in
17 this case again, we'll just throw that out there since
18 they're going back for one or two more items. We'll just
19 throw it back out there again.

20 COMMISSIONER MAY: Right.

21 CHAIRMAN HOOD: If they come back with the same
22 thing, then we understand that's where they are. Again, we
23 can't compel them for that.

24 The next thing is whether to impose a condition
25 requiring the Applicant to pay for the bus shelter on M

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1 Street?

2 The Zoning Commission can do a lot of things, but
3 there are a number of things -- the Zoning Commission cannot
4 do a lot of things. And this is one of the things that we
5 cannot compel this Applicant to do.

6 I would encourage you to try to work with the
7 Applicant, the city, Metro, whoever. You know, people give
8 us a lot more authority and credit for certain things that
9 are not within our jurisdiction. And I don't, I probably
10 shouldn't have said that because that will be repeated back
11 to me. But some things, we just cannot do. And I don't
12 think this is within our jurisdiction. But let me open it
13 up. Any questions on that?

14 COMMISSIONER MAY: This was one that was a little
15 bit unclear from the ANC. It seemed like they might actually
16 have been stating that the Applicant is still willing to do
17 it. So, I mean I think some clarity, just to understand what
18 it is. I don't think we are going to push one way or the
19 other. But it would be good to have clarity. And for the
20 ANC to state clearly that they're okay with what the
21 Applicant intends to do.

22 CHAIRMAN HOOD: I think that would be a good
23 gesture, but I just wanted to make it clear, that basically
24 we cannot compel --

25 COMMISSIONER MAY: Right.

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1 CHAIRMAN HOOD: -- the Applicant to do it.
2 Because if it doesn't happen then the Zoning Commission do
3 it, no, we can't.

4 All right, at least that's what the legal minds,
5 and that's what my teaching has taught me. Okay, Vice Chair
6 Miller.

7 VICE CHAIR MILLER: Did you mention the ANC
8 condition regarding retail?

9 CHAIRMAN HOOD: Oh, no, I have not. Is it 25
10 percent?

11 PARTICIPANT: 35.

12 CHAIRMAN HOOD: Is it 35 or 25? Well, whatever
13 it is, somebody want to start the conversation on that? I
14 thought it was 25.

15 COMMISSIONER MAY: I think you just need more work
16 on this one. This is another one where I think the Applicant
17 and the ANC are not seeing eye to eye. And I think further
18 discussion is important. I think the intentions are aligned.
19 It's a question of what conditions get imposed on this.

20 And so it may be that the Applicant is, you know,
21 with further discussion can satisfy the ANC's concerns.

22 CHAIRMAN HOOD: Okay. Any other comments on that.

23 VICE CHAIR MILLER: I would concur with Commission
24 May. And I think the Applicant, the Applicant's intentions
25 and the ANC's intentions to have a neighborhood town center

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1 are in alignment. And maybe they just need more dialog to
2 realize that.

3 CHAIRMAN HOOD: Okay. Am I leaving anything out,
4 do we need to add anything? Anything else you want to
5 discuss?

6 COMMISSIONER SHAPIRO: I think that's the ANC
7 list.

8 CHAIRMAN HOOD: Okay, that was the list. Anything
9 else on this? Since we're going to ask them to -- I believe
10 we're going to ask them to work on refining some of those
11 issues. Anything else?

12 COMMISSIONER TURNBULL: Are you asking about from
13 the ANC standpoint?

14 CHAIRMAN HOOD: Just in general, ANC or anything.
15 I know we have to respond to the ANC's.

16 COMMISSIONER TURNBULL: There's only, I noticed
17 one thing in the draft order.

18 CHAIRMAN HOOD: Okay, let's talk about that.

19 COMMISSIONER TURNBULL: They got in flexibility,
20 it doesn't, it talks about flexibility for color and
21 material, when really the flexibility is only for color of
22 the materials that have been approved. So, I think that
23 needs to be changed.

24 CHAIRMAN HOOD: Okay. Anything else?

25 (No audible response)

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1 CHAIRMAN HOOD: So what I would ask and I know
2 that August, ANCs don't meet. So do we have two meetings in
3 September?

4 Okay, so this is actually probably going to go to
5 October, okay. I know --

6 COMMISSIONER MAY: Well, so meeting in September
7 17th, I wonder when the ANC meeting is?

8 CHAIRMAN HOOD: They probably don't meet before,
9 all that --

10 COMMISSIONER MAY: Before the 17th, 9th.

11 CHAIRMAN HOOD: The 9th. Mr. Litsky, can you
12 come? Or whoever is going to represent, I want to ask you
13 a question. Do you think that's sufficient time for you to
14 work along -- and it's the Applicant as well if they want --
15 Ms. Shiker, if you want to come up as well. Mr. Litsky,
16 whoever is representing ANC.

17 Let's just -- and I don't, typically don't do this
18 but I want to make sure that -- because if we set a date for
19 the 17th for everything you heard us talking about is that
20 doable to both?

21 MS. SHIKER: On the 17th, 7-17?

22 MR. LITSKY: We meet the 17th.

23 CHAIRMAN HOOD: You all meet the 17th?

24 MR. LITSKY: We meet the 17th.

25 CHAIRMAN HOOD: So we'll take the Zoning

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1 Commission on the road. We'll come out. No, I'm just --

2 (Laughter)

3 CHAIRMAN HOOD: So again, like I said it looks
4 like we're going to go to October, okay. Because if you all
5 meeting the same night we meet. That's not going to work.

6 MS. SHIKER: I would ask the ANC, we've been
7 working with a small group of the ANC Commissioners. And
8 this hasn't been going back to the full ANC every month. I
9 would ask that the ANC would consider allowing us to continue
10 in that format, so then we wouldn't have to wait another two
11 months.

12 MR. LITSKY: I'm happy to have that discussion.
13 But I also want to make sure that the ANCs completely
14 approving what it is that the group has approved.

15 CHAIRMAN HOOD: That can be very troubling waters
16 there, if you don't take it to the full ANC. So we want to
17 make sure that we don't put anybody in a bad position. So
18 unfortunately, Ms. Shiker, it looks like we're going to be
19 dealing with in October. All right.

20 And you all heard our conversation. You know,
21 what we'll be trying to look at pertaining to your letter as
22 well. And trying to at least -- if you don't agree on
23 everything, at least try to be closer and make sure that
24 there is clarification and understanding. Because that's
25 key, communication is very key. And it looks like some of

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1 that wasn't happening.

2 Okay, all right. Anybody else want to add
3 anything?

4 (No audible response)

5 CHAIRMAN HOOD: Okay.

6 Ms. Shiker, you had something you wanted to add?

7 MS. SHIKER: I think that the ANC is determining
8 whether it is the 10th or the 17th. So it just, if they
9 could just have a moment to figure that out, because the 17th
10 would be much preferable to us.

11 CHAIRMAN HOOD: Okay.

12 VICE CHAIR MILLER: While they're figuring that
13 out, I was going to ask Ms. Shiker a question.

14 CHAIRMAN HOOD: Sure.

15 VICE CHAIR MILLER: What is your intention about
16 the hotel like, what is the Applicant's intention regarding
17 short-term hotel like occupancy of this building?

18 MS. SHIKER: So there isn't an intention to have
19 a lodging use here. It would be a short-term, less than 30
20 day. We actually clarified this. It came up in discussions
21 later and we clarified it in our letter submitting our
22 proposed order.

23 If you look at Pages 2 and 3, we specifically
24 stated that the residential use, approved by the PUD, would
25 be at as residential use as defined, which is a 30 day or

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1 longer stay.

2 The intent was not to make this a lodging use.
3 And in fact we're happy to talk further with the ANC about
4 that, but we had thought that we had made that clear in our
5 further discussions with the ANC --

6 COMMISSIONER MAY: So that letter was part of the
7 reason why it seemed like you were not talking directly to
8 each other.

9 MR. LITSKY: That's right, and --

10 COMMISSIONER MAY: Because you were, the ANC was
11 asking for one year lease minimums. And you were saying, you
12 know, anything more than 30 days is considered residential,
13 which is, you know, you're not answering the same question
14 that they're asking. So, and I don't want to continue the
15 debate here tonight.

16 You all can continue to talk about it. I mean,
17 unless I mean of course it was Commissioner Miller's
18 question, or Vice Chair Miller's question. So maybe he does
19 want to continue the debate tonight. I don't know.

20 VICE CHAIR MILLER: No, I think they should
21 continue the, so they can get further clarification and maybe
22 come up with something that they both can live with.

23 MR. LITSKY: And actually as it turns out, our
24 meeting is on the 10th. So, we could have this on the 17th.

25 CHAIRMAN HOOD: So, you will have, you'll be ready

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1 to have something for us on the 17th?

2 MR. LITSKY: Yes, well I'll be ready, if they're
3 ready. So, yes.

4 MS. SHIKER: We will be ready.

5 CHAIRMAN HOOD: And if we're not ready, we'll move
6 to October, okay? All right, but I think we'll be, we're
7 looking forward to proceeding and dealing with this September
8 17th.

9 MS. SHIKER: Thank you.

10 CHAIRMAN HOOD: Okay Ms. Hanousek, so we're
11 looking at September 17th? And actually I think we want to
12 also do the time extension as well, on the 17th. Okay.

13 MS. HANOUSEK: Okay, do you have dates that you
14 want the Applicant to have their submissions in by? For then
15 the ANC to have the material, or?

16 CHAIRMAN HOOD: Well, yes I know the ANC will
17 probably have to have it by the 11th or 12th. Well, whenever
18 they get it to us. But I don't know what the dates are. I
19 don't know. Can you get accurate when they should have it?

20 COMMISSIONER MAY: So the 17th is a Monday. If
21 we can get it sometime before the end of that week before.

22 CHAIRMAN HOOD: From the ANC, but we need --

23 COMMISSIONER MAY: From the ANC, so like the --

24 MS. HANOUSEK: But the ANC needs to have something
25 from the Applicant for its meeting.

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1 CHAIRMAN HOOD: Right, so that's what we're going
2 to focus on. And let me work this. Let me be Ms. Schellin
3 tonight. So, today's date is the 3rd, so she would normally
4 give them what, 14 days? I'm looking at you, Ms. Shiker.
5 Is it 14 days?

6 You can do it in seven. Okay, so seven days the
7 Applicant, this is what she says, I hope she doesn't watch
8 this. The Applicant will have seven days, and whatever that
9 date is. Ms. Hanousek. Whatever that date is from seven
10 days from today, right?

11 COMMISSIONER MAY: Ms. Schellin can I interrupt?

12 CHAIRMAN HOOD: Yes.

13 COMMISSIONER MAY: I thought we were encouraging
14 discussion between the Applicant and the ANC? So, I don't
15 know where days --

16 MS. HANOUSEK: Oh.

17 CHAIRMAN HOOD: Well, maybe I need to stay in my
18 lane. That's exactly what we're doing. But what I know, the
19 ANC has to -- well you know, what? Maybe we don't have to
20 go that route because -- we don't have to go that route.
21 Because what we just need is something from the Applicant and
22 the ANC before our next meeting the 17th. So we'll give them
23 as much time as possible. We can read in two days.

24 MS. HANOUSEK: Okay.

25 CHAIRMAN HOOD: It may take me three, but we can

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1 read it in a couple days. So let's give them some time the
2 week of the 10th, after the 10th.

3 MS. HANOUSEK: Okay.

4 CHAIRMAN HOOD: Do we have a date? I think we
5 have to give them the date now, or don't we have to give them
6 the date?

7 COMMISSIONER MAY: The 14th is Friday of that
8 week.

9 CHAIRMAN HOOD: Friday, at 12 noon?

10 COMMISSIONER MAY: Yes.

11 CHAIRMAN HOOD: Okay.

12 MS. HANOUSEK: Okay, so everything is due
13 September 14th at noon.

14 CHAIRMAN HOOD: That's it. Thank you to my
15 counterpart down there. All right. So, 17th. That's fine
16 with everybody? Okay, good. And again, we'll do the Time
17 Extension at that time.

18 Okay. Let's go to, we all on the same page? All
19 right. Let's go to proposed actions on the Commission Case
20 Number 17-14, UM 500 Penn Street NE, LLC and UDR, Inc.,
21 consolidated PUD and related map amendment at Square 3594.
22 Ms. Hanousek.

23 MS. HANOUSEK: Yes. For this case the Applicant's
24 post hearing submission is at Exhibit 35 to 35E. A
25 supplemental DDOT report is at Exhibit 36. A supplemental

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1 OP report is at 37. And a revised supplemental OP report,
2 recommending approval is at 37A. And the Applicant's draft
3 order is at Exhibit 38. And staff asks the Commission to
4 consider this case.

5 CHAIRMAN HOOD: All right. Okay. All right,
6 colleagues, any questions or comments?

7 (No audible response)

8 CHAIRMAN HOOD: I would concur with all the
9 Applicant's responses. And I want to thank the Applicant in
10 this case for their responses.

11 I know DDOT and others had different responses.
12 But I would go along in this case with all the, everything
13 for the Applicant, especially with the affordable parking
14 issue. So anyway, that's why. Any other comments or
15 questions? Commissioner May.

16 COMMISSIONER MAY: Yes. So, I mean, I guess what
17 they've given us is acceptable. I think it's sort of
18 minimally so. I don't think that they looked carefully
19 enough, or certainly didn't demonstrate that they'd looked
20 carefully at alternatives for how the building is accessed,
21 and how the loading works, and all that sort of stuff.

22 I also think that the, their study of how the, you
23 know, the entrance works, and how the, how the line of the
24 building aligns with the portal of the door. I mean, they
25 made a minor change there. But I still, it's still quite

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1 jarring in my view. But as I said, minimally acceptable.

2 I do think that they addressed the DDOT concerns
3 generally acceptably. But, you know, the market rate for
4 retail parking, I mean, I still think that the DDOT has a
5 point on that. But I'm willing to go along on that issue.

6 So, this is all just to say I have, you now, I'm
7 not in love with all the solutions. But I can go along.

8 CHAIRMAN HOOD: Okay. Any other questions or
9 comments?

10 (No audible response)

11 CHAIRMAN HOOD: All right. Someone like to make
12 a motion on this case? I would move that we approve Zoning
13 Commission Case Number 17-14 for proposed action, and ask for
14 a second.

15 VICE CHAIR MILLER: Second.

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

18 (No audible response)

19 CHAIRMAN HOOD: All in favor?

20 (Multiple ayes)

21 CHAIRMAN HOOD: Any opposition?

22 (No audible response)

23 CHAIRMAN HOOD: Not hearing any, Ms. Hanousek,
24 would you record the vote?

25 MS. HANOUSEK: Yes. On a motion from Chairman

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1 Hood, as seconded by Commissioner Miller, the Commission
2 approved proposed action in Case 17-14, by a vote of 5-0-0,
3 with Hood, May, Miller, Shapiro, and Turnbull in support.

4 CHAIRMAN HOOD: Okay. Thank you. Let's look at
5 the correspondence right quick. So, if anybody's here for
6 that we can just, I think that will be pretty quick.

7 Zoning Commission Case Number 15-12, J River, 1401
8 Pennsylvania Avenue, LLC, determination letter from the
9 Zoning Administrator about some deductions that he had within
10 his jurisdiction.

11 I forget exactly what the count of reduction in
12 units. And basically this is in our statute 304.7 and 304.8
13 that he needs to send us something letting us know when he's
14 expressed, as long as it doesn't change the purpose and
15 intent of what we approved in the application.

16 So, Ms. Hanousek, do you have anything you want
17 to add to that?

18 MS. HANOUSEK: No, sir.

19 CHAIRMAN HOOD: Okay. So, Commissioners, I don't
20 think we need a vote. I think we just can concur. Do we
21 have anybody that does not concur with his, that's he's not
22 --

23 COMMISSIONER TURNBULL: No, I think, Mr. Chair,
24 I think he's fine with what he's, in going along with it.

25 CHAIRMAN HOOD: Okay. Any objections?

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1 (No audible response)

2 CHAIRMAN HOOD: Okay. So, we will concur with the
3 Zoning Administrator that he's flex -- using his flexibility.
4 And I was about to say flexing. But he's using his
5 flexibilities. And we all concur with that. So, I think
6 that's all we need to do.

7 Okay. All right. Let's go to hearing action on
8 Zoning Commission Case Number 18-07, Lean Development, LLC,
9 map amendment in Square 750. Mr. Cochran.

10 MR. COCHRAN: Thank you, Mr. Chair. OP recommends
11 that the Commission set down the petition for a zoning map
12 amendment in Square 750, which is at the corner of 2nd and
13 K Street NE.

14 The petitioner seeks to have most of the site
15 rezoned from PDR-1 to MU-4, and a small remaining portion of
16 the site rezoned from PDR-1 to MU-5A.

17 The petition would not be inconsistent with the
18 comprehensive plan's generalized future land use map, with
19 its generalized policy map, with the policies and the land
20 use, Capitol Hill and Central Washington area elements. And
21 it would also be consistent with the normal smaller area
22 plan.

23 With the exception of the petitioner's lots, all
24 of Square 750 is already zoned MU-5A. The zoning of the
25 petitioner's property is an anomaly left over from when the

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1 area immediately east of the rail tracks was reserved for
2 light industrial and warehouse uses.

3 The future land use map indicates this site and
4 adjacent sites are appropriate for moderate density
5 residential, and low density commercial uses. The rest of
6 this square is already developed with moderate density
7 residential uses, mostly in row houses.

8 However, the existing zoning prohibits new
9 residential development, while the proposed zoning would help
10 to encourage the retention of residential use. That
11 concludes our testimony, and we recommend you set it down.

12 CHAIRMAN HOOD: Okay. Thank you, Mr. Cochran.
13 Colleagues, any questions or comments?

14 COMMISSIONER MAY: Yes.

15 CHAIRMAN HOOD: Commissioner May.

16 COMMISSIONER MAY: So, your report requests that,
17 or states that the, you'll talk to the Applicant about clear
18 understanding of how this is consistent with the
19 Comprehensive Plan, or something to that effect. I'm
20 summarizing.

21 But, so, I mean, to me that signaled an unease
22 with this, with what they have provided so far. And frankly,
23 I was uneasy as well. Because this is, it seems to be
24 contrary to zone this, I mean, it may be consistent with
25 other things in the area, generally.

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1 But it is a neighborhood conservation area on the
2 FLUM, and so, you know, what was the -- what's your concern?
3 And what do you think you're going to get out of it? And is
4 it reasonable for us to wait until the hearing for that? Or
5 should we require that? I mean, I'm wondering if I want to
6 require that before we get to set down.

7 MR. COCHRAN: I think the concern is more a slight
8 gap between perhaps OP's interpretation and the Applicant's
9 demonstration of non-inconsistency with the Comprehensive
10 Plan. We feel quite comfortable with, the Applicant hadn't
11 necessarily demonstrated it themselves.

12 It's already in a residential area. Certainly
13 rezoning it to a residential use would be consistent with the
14 idea of a neighborhood conservation area in the policy map.

15 Certainly much more consistent than allowing for
16 future development that would be a PDR use, and wouldn't
17 allow residential at all, on a site that has row houses right
18 now.

19 COMMISSIONER MAY: All right. Thank you.

20 CHAIRMAN HOOD: Any other questions or comments?

21 (No audible response)

22 CHAIRMAN HOOD: Okay.

23 COMMISSIONER TURNBULL: Mr. Chair?

24 CHAIRMAN HOOD: Yes.

25 COMMISSIONER TURNBULL: I just have one. Mr.

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1 Cochran, there's going to be two new zones, MU-4 and MU-5A.
2 Why the split in basically the same area? I mean, it looks
3 like there's MU-5As all around it.

4 MR. COCHRAN: MU-5A is all around it. But there,
5 MU-4 gives a bit greater certainty that the scale of row
6 house development would remain.

7 Where the MU-5A is, is directly across Parker
8 Street from a building that has already been redeveloped with
9 a slightly larger scale building. So, it didn't seem
10 inappropriate for that portion to go to MU-5A.

11 COMMISSIONER TURNBULL: Okay. Thank you.

12 COMMISSIONER MAY: That raises a good question
13 though. I mean, I think that it's hard to, sometimes to
14 appreciate this in the abstract. So, it might be good to get
15 some, I don't know whether it's with aerial photography, or
16 something else.

17 But just to understand what is happening already
18 in the neighborhood, and the heights of buildings, and mass
19 of buildings, and things like that. Because it was a little
20 hard to just picture this as, abstractly as MU-5A.

21 MR. COCHRAN: Be happy to provide that.

22 COMMISSIONER MAY: Yes. Thank you.

23 CHAIRMAN HOOD: Okay. Any other questions or
24 comments? Vice Chair Miller.

25 VICE CHAIR MILLER: Yes, Mr. Chairman. This is

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1 the case I believe where the ANC 6C asked that we set, if
2 we're going to set it down, then we set it down as a
3 contested case.

4 Although, yes, I think the main reason why I think
5 they wanted, or one of the main reasons why they wanted it
6 set down as a contested case was so that all the owners
7 within 200 feet would get direct notice, as if it, direct
8 notice, which they do in a contested case. But they don't
9 in a rulemaking case. They get the placarding. They get the
10 DC Register.

11 But, so I was going to suggest that we set it down
12 as a rulemaking. It seems more like a legislative, rather
13 than a adjudicatory proceeding.

14 But that we give notice that the Office of Zoning,
15 that the Applicant, that we give, that notice be given as if
16 it were a contested case to the 200 foot property owners, if
17 that can be accomplished, in addition to the other types of
18 notice that we would be giving.

19 CHAIRMAN HOOD: Okay. I would agree. It's
20 already been, the fact finding, as Vice Chair Miller
21 mentioned, we can do a rulemaking also, so send out to 200
22 feet.

23 Because I think in the case law from "Chevy Chase
24 Citizens Association versus DC Council" it talks about
25 adjudicative facts in this case. So, we can set this down

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1 as a rulemaking.

2 Because on contested cases I think under their
3 guidance under the DC Court of Appeals has given direction
4 on how we should move forward. And we're going to take that.
5 And I think we can split both of them as was stated through
6 the rulemaking.

7 And also ask our staff to make sure that they do
8 the contested rules, and send it out to the folks within 200
9 feet. So, we're going to assign that to the Office of
10 Zoning. Ms. Hanousek, can you make sure that gets assigned?

11 MS. HANOUSEK: Yes, sir.

12 CHAIRMAN HOOD: Okay. Any objections to setting
13 this down in rulemaking, and sending out to 200 footers?

14 PARTICIPANT: No objection.

15 CHAIRMAN HOOD: Okay. Somebody can make a motion,
16 if there's nothing else? Okay.

17 VICE CHAIR MILLER: Mr. Chairman, I would move
18 that the Zoning Commission set down for public hearing Zoning
19 Commission Case Number 18-07, Lean Development, LLC Map
20 Amendment at Square 750 as a rulemaking case, but give the
21 notice to the 200 footers as would be provided in a contested
22 case, and ask for a second.

23 COMMISSIONER TURNBULL: Second.

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

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1 (No audible response)

2 CHAIRMAN HOOD: All in favor?

3 (Multiple ayes)

4 CHAIRMAN HOOD: Any opposition?

5 (No audible response)

6 CHAIRMAN HOOD: Not hearing, Ms. Hanousek, would
7 you record the vote?

8 MS. HANOUSEK: Okay. On a motion made by Vice
9 Chairman Miller, as seconded by Turnbull, the Zoning
10 Commission approved set down of Case 18-07 as a rulemaking
11 case, with the notice, the public hearing notices to be given
12 out to 200 footers as in a contested case. And they voted
13 5-0-0, Hood, May, Miller, Shapiro, Turnbull, to approve.

14 CHAIRMAN HOOD: Okay. Thank you, Ms. Hanousek.
15 Next let's go to Zoning Commission Case Number 18-08, BSREP
16 II Dupont Circle, LLC, map amendment at Square 72. Ms.
17 Thomas.

18 MS. THOMAS: Yes. Good evening, Mr. Chair. OP
19 is recommending the Commission set down Dupont Circle's LLC
20 petition for a map amendment from the RA-5 zone to the MU-10
21 zone for total property at 1143 New Hampshire Avenue N.W.

22 For background purposes we recall that the most
23 recent approval was for a consolidated, pardon, map amendment
24 under the 1958 regulations. The current request as a map
25 amendment would permit matter of right adjunct uses for the

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1 hotel, which is currently not permitted in the RA-5 zone.

2 The MU-10 district would not be inconsistent with
3 the future land use map for mixed use high density
4 residential and commercial uses. It is a mixed use zone that
5 permits a wider variety of commercial uses, consistent with
6 the mixed use high density designation of the comp plan.

7 And again, OP supports set down of the petition
8 as request. Thank you. And I'd be happy to take your
9 questions.

10 CHAIRMAN HOOD: Okay. Thank you, Ms. Thomas.
11 Colleagues, any questions or comments?

12 VICE CHAIR MILLER: In this case we don't have a
13 request from the ANC that it be set down either way. We
14 don't have any comments from the ANC, as I'm looking through
15 the record.

16 I'm just wondering whether we should be at least
17 consistent with the notice action that we just took toward
18 the previous rulemaking map amendment case. Whether that's
19 necessary or not, I just don't, we don't have a request from
20 the neighborhood.

21 But I, there seemed to be value in doing that in
22 one case. I don't see the harm in doing it again here. I'll
23 see what my colleagues say. We don't have a request --

24 MS. LOVICK: Excuse me.

25 VICE CHAIR MILLER: -- for that type of notice.

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1 MS. LOVICK: Excuse me. I just want to interject.
2 So, this case, it was filed with an application.

3 VICE CHAIR MILLER: Yes.

4 MS. LOVICK: It was filed as a contested case.

5 CHAIRMAN HOOD: Filed as a contested case.

6 MS. LOVICK: Yes. So, there's --

7 VICE CHAIR MILLER: Oh, okay.

8 MS. LOVICK: -- no request for it to be a
9 rulemaking.

10 VICE CHAIR MILLER: So, it will. Okay. Sorry.
11 I retract all of that.

12 CHAIRMAN HOOD: Okay. No problem. Anything else?
13 Any other comments or questions? Okay. I think that, I
14 don't know if we have anything else to add. But, okay.

15 One of the things in this case though, I've been
16 advised that as we proceed in this hearing the hearing should
17 focus on the potential impacts of the map amendment, based
18 upon the most intensive use of the property allowed by right
19 or special exception. And not based upon the project
20 described.

21 And I think that's already been conveyed. But
22 it's in my notes. Anything else on this? Someone like to
23 make a motion?

24 COMMISSIONER TURNBULL: Mr. Chair, I would move
25 that we set down Zoning Case 18-08, proposed map amendment

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1 to rezone Lot 74, Square 72 from RA-5 zone to MU-10 zone, as
2 a contested case. Look for a second.

3 COMMISSIONER MAY: Second.

4 CHAIRMAN HOOD: Okay. Again we're on 18-08. It's
5 been moved and properly seconded. Any further discussion?

6 (No audible response)

7 CHAIRMAN HOOD: All in favor?

8 (Multiple ayes)

9 CHAIRMAN HOOD: Any opposition?

10 (No audible response)

11 CHAIRMAN HOOD: Not hearing any, Ms. Hanousek,
12 would you please record the vote?

13 MS. HANOUSEK: Yes. Upon the motion of
14 Commissioner Turnbull, as seconded by Commissioner May, the
15 Zoning Commission voted 5-0-0 to approve a set down in Case
16 18-08 of a map amendment as a contested case. Hood, May,
17 Miller, Shapiro and Turnbull to approve.

18 CHAIRMAN HOOD: Okay. Next, Zoning Commission
19 Case Number 02-38J, WFS2, LC and District of Columbia, Second
20 Stage PUD at Square 542. Ms. Hanousek. I mean, I'm sorry,
21 Mr. Mordfin.

22 MR. MORDFIN: Good evening, Chair and Members of
23 the Commission. The subject property is located at the
24 northeast corner of the Waterfront Station PUD, and is the
25 last parcel of this two stage PUD to come before the

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1 Commission for second stage approval.

2 As a mixed use residential and commercial building
3 proposed to be built on vacant site it will complete the
4 rebuilding of 4th Street as a town center for this
5 neighborhood, consistent with the future land use map and the
6 generalized policy map.

7 The proposed high rise building will be 11 stories
8 in height. Its facade will be designed to complement the
9 mid-century modern architecture prevalent throughout much of
10 Southwest, with retail space fronting Fourth Street, a black
11 box theater, and a day care center.

12 An outdoor play area for young children will be
13 available to the public at select times. Below grade will
14 be two levels of parking for vehicles and bicycles, with
15 additional bike racks for visitors.

16 A green roof and solar panels would make the
17 building environmentally friendly. And its location near the
18 Waterfront Metro rail station would make the site easily
19 transit accessible.

20 Affordable housing would be provided in excess of
21 that required under the first stage approval for a longer
22 period of time, and at a lower AMI.

23 Therefore, the subject application would further
24 many of the city wide elements of the comprehensive plan,
25 including land use, transportation, housing, environmental

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1 protection, economic development, urban design, community
2 services and facilities, and arts and culture.

3 In addition to the lower Anacostia waterfront near
4 southwest area element, and the Southwest Neighborhood Plan,
5 OP recommends the Commission set the application hearing, and
6 is available for questions. Thank you.

7 CHAIRMAN HOOD: Okay. Any questions or comments
8 for Office of Planning?

9 (No audible response)

10 CHAIRMAN HOOD: Okay. All right. We look forward
11 to the hearing. Some more work for the ANC. All right.
12 Sorry about that. But thank you for what all you all do.
13 So, with that, someone like to make a motion?

14 COMMISSIONER TURNBULL: Well, Mr. Chair, the only,
15 I guess the only, one comment. It could be directed at the
16 Office of Planning. We do have a submission, Exhibit Number
17 10, SMD 60-05.

18 Roger Moffatt had a lot of concerns about traffic.
19 And I think he's sort of, if you go through his letter he's
20 taking aim at a lot of the traffic reports we get from a lot
21 of the consultants.

22 And he's very concerned that it's not taking into
23 account a lot of the new structures, the new buildings that
24 are being built. And take a look at what's really happening
25 in the neighborhood. So, he really wants a traffic report

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1 that's going to reflect.

2 CHAIRMAN HOOD: Right. Well, we hopefully get
3 that in all of them. But I have to agree with him. But let
4 me ask you. Which exhibit? For some reason mine goes from
5 2M3, then it jumps to 11. So, I'm missing.

6 COMMISSIONER TURNBULL: Yes.

7 CHAIRMAN HOOD: Is anybody else like that? Or is
8 it just my computer?

9 PARTICIPANT: No.

10 CHAIRMAN HOOD: Maybe it's an operator's problem.
11 Yes? Everybody has the same problem?

12 PARTICIPANT: Yes.

13 CHAIRMAN HOOD: Well, Mr. Turnbull, you have some
14 exhibits that we don't have.

15 (Pause)

16 COMMISSIONER TURNBULL: Mr. Chair, I will withdraw
17 my comments, and look forward to the hearing.

18 CHAIRMAN HOOD: Okay. But that exhibit, was that
19 --

20 MS. HANOUSEK: It's not supposed to be.

21 CHAIRMAN HOOD: Oh, it's not? Okay. Okay. All
22 right. All right. Okay. I think I know where -- All right.
23 Anything else up here? Okay. So, I would move that we set
24 down Zoning Commission Case Number 02-38J, and ask for a
25 second.

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1 COMMISSIONER SHAPIRO: Second.

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

4 (No audible response)

5 CHAIRMAN HOOD: All in favor?

6 (Multiple ayes)

7 CHAIRMAN HOOD: Any opposition?

8 (No audible response)

9 CHAIRMAN HOOD: So, it is. Staff, I mean,
10 Hanousek, would you record the vote?

11 MS. HANOUSEK: Could you tell me who --

12 CHAIRMAN HOOD: I made the motion.

13 MS. HANOUSEK: And who seconded?

14 CHAIRMAN HOOD: Commissioner Shapiro, you seconded
15 it? Commissioner Shapiro seconded.

16 MS. HANOUSEK: On a motion made by Chairman Hood,
17 as seconded by Commissioner Shapiro, the Commission approved
18 Case 02-38J for set down as a contested case by a vote 5-0-0,
19 with Hood, May, Miller, Shapiro and Turnbull in support.

20 CHAIRMAN HOOD: Okay. Thank you, Ms. Hanousek.
21 Let's go to Zoning Commission Case Number 17-23, Text
22 Amendment re: Subtitle B, Definitions, Rules of Measurement
23 and Other Changes and Correlating Rules in Subtitles D, E,
24 and F. Ms. Vitale.

25 MS. VITALE: Good evening, Mr. Chair and Members

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1 of the Commission. The Office of Planning first brought
2 forward a proposed text amendment related to side yard
3 regulations in the R, RF, and RA zones. That was set down
4 in September of 2017.

5 A public hearing was held on April 19th, 2018.
6 At the public hearing the Commission discussed the proposed
7 revisions at length, and also took public testimony.

8 Based on the discussions at the public hearing OP
9 investigated various alternatives for the treatment of side
10 yards, including regulating side yards based on lot width,
11 or based on the presence of a side yard on the adjacent
12 property.

13 However, OP has determined that both approaches
14 could result in a development pattern not contemplated by the
15 zone. For example, that approach could result in requiring
16 the construction of a detached building in a zone where a
17 semi-detached or a row building was truly contemplated and
18 permitted.

19 Furthermore, discussions with Office of Zoning
20 Administrator staff highlighted concerns about the
21 application of a varied side yard requirement based on lot
22 width, or based on the side yard condition on an adjoining
23 property.

24 So, OP is not bringing forward those proposals.
25 So, the proposed text amendments before you this evening are

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1 actually very close to the text that was previously set down,
2 with two changes.

3 OP has proposed use of the term row building in
4 place of attached building. And the proposal would not
5 permit an existing conforming side yard to be eliminated or
6 reduced to a non-conforming width. And non-conforming side
7 yards also could not be reduced or eliminated.

8 As previously set down, the proposal would allow
9 construction of new row buildings in the R-3 and RF zones,
10 with no side yards. Therefore, a row building could be built
11 lot line to lot line, and would not require sharing a common
12 division wall.

13 OP is also proposing to increase the minimum non-
14 conforming side yard from two to three feet, to ensure
15 adequate separation for routine maintenance.

16 And finally, OP is also proposing formatting
17 changes to the development standards that would consolidate
18 the side yard regulations where appropriate.

19 OP has been working very closely with the Zoning
20 Administrator and his staff on the revised proposal. And
21 Zoning Administrator staff will attend the public hearing
22 should this be set down.

23 OP will also continue to work with the Office of
24 the Attorney General to finalize language for the public
25 hearing notice. OP Asks that the Zoning Commission set down

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1 the proposed text amendment for public hearing.

2 This concludes my report. And I'm happy to take
3 any questions. Thank you.

4 CHAIRMAN HOOD: Thank you, Ms. Vitale.
5 Commissioners, you heard the report, and you heard the
6 requests. Any questions or comments? Or, what is your
7 pleasure?

8 PARTICIPANT: No questions.

9 CHAIRMAN HOOD: No questions? No comments?
10 Someone like to make a motion?

11 COMMISSIONER SHAPIRO: Mr. Chair, I move that we
12 set down Zoning Commission Case Number 17-23, and look for
13 a second.

14 CHAIRMAN HOOD: I'll second. It's been moved and
15 properly seconded. Any further discussion?

16 (No audible response)

17 CHAIRMAN HOOD: All in favor?

18 (Multiple ayes)

19 CHAIRMAN HOOD: Any opposition?

20 (No audible response)

21 CHAIRMAN HOOD: Not hearing any, Ms. Hanousek,
22 would you record the vote?

23 MS. HANOUSEK: Yes. Upon a motion of Commissioner
24 Shapiro, as seconded by Chairman Hood, the Zoning Commission
25 set down Case 02 17-23, the text amendment as a rulemaking

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1 by a vote of 5-0-0, with Hood, May, Miller, Shapiro, and
2 Turnbull to approve.

3 CHAIRMAN HOOD: Okay. Thank you, Ms. Hanousek.
4 Next we have Zoning Commission Case Number 18-05. This is
5 a WMATA text amendment to Subtitle I, and map amendment at
6 Square 487. Just a note, the request by the Office of
7 Planning for revisions of the June 11, 2018 set down. Mr.
8 Cochran.

9 MR. COCHRAN: Thank you, Mr. Chair. On June 11th
10 the Commission voted to set down a petition by WMATA for a
11 map amendment and a text amendment for Square 487, where
12 WMATA's headquarters building is located.

13 The map amendment would change the zoning of that
14 square from D-2 to D-5-R. And if that were approved the text
15 amendment would make the square subject to inclusionary
16 zoning, a requirement that doesn't now apply to any property
17 in the D-5-R zone. So, we clearly see that as a good thing.

18 OP had also recommended the Commission set down
19 an alternative text amendment that would, in effect, extend
20 the IZ provisions to any credits that might be purchased as
21 part of meeting the site's housing requirement under the new
22 zone.

23 After further discussions with WMATA about the
24 subway infrastructure that's under the building on the site,
25 and the need for flexibility for the site's future

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1 development, we're now recommending that the OP alternative
2 not be advertised, and that the Commission set down only the
3 petitioner's original map amendment and text amendment to
4 remap the square to D-5-R, and to still make it subject to
5 IZ.

6 This would be a straightforward hearing notice,
7 since it hasn't already been advertised. That is to say, the
8 OP alternative has been advertised. And this would just be
9 a clean advertising for a hearing.

10 CHAIRMAN HOOD: Okay. Thank you, Mr. Cochran.
11 Commissioners, you've heard the request as noted. And back
12 to the original, I believe. So, any questions? No problems?

13 (No audible response)

14 CHAIRMAN HOOD: Somebody can make a motion then.

15 VICE CHAIR MILLER: Mr. Chairman, I would move
16 that the Zoning Commission approve the reset down of this
17 case, 18-05, WMATA Text Amendment to Subtitle I and Map
18 Amendment at Square 487, as, with the language as revised by
19 OP in Exhibit 11 of the case record, and ask for a second.

20 COMMISSIONER TURNBULL: Second.

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

23 (No audible response)

24 CHAIRMAN HOOD: All in favor?

25 (Multiple ayes)

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1 CHAIRMAN HOOD: Any opposition?

2 (No audible response)

3 CHAIRMAN HOOD: Not hearing, Ms. Hanousek, would
4 you please record the vote?

5 MS. HANOUSEK: Yes. On a motion by Vice Chairman
6 Miller, as seconded by Turnbull, the Commission reset down
7 Case 18-05 as a text amendment, eliminating the OP
8 alternative language by a vote of 5-0-0. Oh, Hood, May,
9 Miller, Shapiro, Turnbull to approve.

10 CHAIRMAN HOOD: Okay. Ms. Hanousek, do we have
11 anything else before us?

12 MS. HANOUSEK: No.

13 CHAIRMAN HOOD: All right. I want to thank our
14 Office of Zoning staff, as well as, and I hope everyone will
15 convey this to their colleagues.

16 I want to thank Office of Zoning staff. I want
17 to thank the Office of Planning, and the Office of Attorney
18 General staff for making sure that we are prepped and ready
19 when we come out here from our own reading. I want to thank
20 also my colleagues for the hard work that they do.

21 I'm saying this like we're going to be gone a long
22 time. But a month for us is a long time. I think it's a
23 well-deserved time off. So, I hope everyone has a safe time
24 off.

25 So, I want to thank the public, and all the

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1 parties involved that may be watching this. Well, not the
2 public here tonight. But I'm saying this for, just in case
3 somebody may be watching this. I want to thank them as well.

4 But I want to thank every party that gives up all
5 for us to help make the best decision possible for the
6 District of Columbia. So, with that, everyone have a safe
7 summer. And with that, this hearing is adjourned, I mean,
8 this meeting is adjourned.

9 (Whereupon, the above-entitled matter went off the
10 record at 8:29 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: 07-30-18

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.



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