

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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REGULAR PUBLIC MEETING

+ + + + +

MONDAY

NOVEMBER 19, 2018

+ + + + +

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

ZONING COMMISSION MEMBERS PRESENT:

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

OFFICE OF ZONING STAFF PRESENT:

- SHARON S. SCHELLIN, Secretary

OFFICE OF PLANNING STAFF PRESENT:

- JENNIFER STEINGASSER, Deputy Director, Development  
Review & Historic Preservation
- JOEL LAWSON
- STEPHEN COCHRAN
- ARTHUR ROGERS

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D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALAN BERGSTEIN, ESQ.

HILARY LOVICK, ESQ.

JACOB RITTING, ESQ.

The transcript constitutes the minutes from  
the regular public meeting held on November 19, 2018.

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

6:33 P.M.

1  
2  
3 CHAIRMAN HOOD: Good evening, everyone. We're  
4 ready to get started. This is the public hearing of the  
5 Zoning Commission for the District of Columbia. Today's date  
6 is Monday, November 19, 2018. It's approximately 6:30 p.m.  
7 We're located in the Jerrily R. Kress Memorial Hearing Room.

8 My name is Anthony Hood. Joining me is Vice Chair  
9 Miller, Commissioner Shapiro, Commissioner May, and  
10 Commissioner Turnbull. We're also joined by the Office of  
11 Zoning Staff, Ms. Sharon Schelling, as well as the Office of  
12 the Attorney General at this time Mr. Bergstein, and we have  
13 others to follow. Office of Planning, Ms. Steingasser. Glad  
14 to see Ms. Steingasser back. Mr. Lawson, Mr. Cochran, and  
15 Mr. Rogers.

16 Notice of today's hearing was published in the  
17 D.C. Register and copies of that announcement are available  
18 to my left on the wall near the door.

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

23 Please be advised this proceeding is being  
24 recorded by a court reporter. It's also webcast live.  
25 Accordingly, I must ask you to refrain from any disruptive

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1 noise or actions in the hearing room including the display  
2 of any signs or objects. Please turn off all electronic  
3 devices.

4 Does the staff have any preliminary matters?

5 MS. SCHELLIN: No, sir.

6 CHAIRMAN HOOD: Okay, if not, let us proceed with  
7 the agenda as noted.

8 First we have Modifications of Consequence,  
9 Deliberations, Zoning Commission Case No. 11-02C, University  
10 of the District of Columbia Campus Plan Modification of  
11 Consequence at Square 1964.

12 Ms. Schellin?

13 MS. SCHELLIN: Yes, the Applicant is requesting  
14 modifications to condition numbers 8 and 15A of Zoning  
15 Commission Order No. 11-02/11-02A. Condition 8 involves  
16 students living on or off the Van Ness campus complying with  
17 the University Code of Conduct and the University working  
18 with the task force to collect data that will address any  
19 impacts thereof.

20 Condition No. 15A involves parking restrictions  
21 on or near the Van Ness campus. At Exhibit 7A, ANC 3F has  
22 submitted a report in support.

23 And Exhibit 8 is an OP report in support of the  
24 request. They ask the Commission to consider this request  
25 before you.

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1 CHAIRMAN HOOD: Thank you, Ms. Schellin.

2 Again, as stated by the Secretary, the proposed  
3 modification would amend two conditions, Condition 8 and  
4 Condition 15A. And I think we've already so noted and read  
5 them.

6 The ANC is supportive and a lot of that language  
7 has been worked out and it looks like we have agreement  
8 between the two, the ANC and community, as well as with the  
9 University.

10 Any discussion of any one of these conditions?

11 Commissioner May?

12 COMMISSIONER MAY: Yes. So I think there's an  
13 issue with 15A. I mean I appreciate the fact that they're  
14 struggling with how they enforce it, but this clause is  
15 similar to ones we've used in other campus plans and it does  
16 have the caveat and the existing clause about the extent --  
17 that this is legal. I don't know why that's necessary and  
18 it sort of undercuts this sort of condition that again that  
19 we've applied in other campus plan cases. So I think we need  
20 to discuss and resolve that.

21 CHAIRMAN HOOD: University response regarding  
22 regulating student parking on residential streets around the  
23 University. Okay, maybe I didn't understand. I thought they  
24 had -- we had worked that out and they had an agreement on  
25 how they were going to resolve that.

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1           COMMISSIONER MAY: Well, there's agreement between  
2 the Applicant and the ANC.

3           CHAIRMAN HOOD: Right.

4           COMMISSIONER MAY: But it's been noted to us by  
5 the Office of the Attorney General that there's -- this is  
6 inconsistent with what we had done in other campus plan cases  
7 to relax this particular standard. And what's in there  
8 already, it says is prohibit to the extent permitted by law.  
9 What more of a qualifier do they need there? The University  
10 says they can't enforce it because it's not legal, well,  
11 again, it's to the extent permitted by law that they should  
12 prohibit.

13           MR. BERGSTEIN: I guess just to be clear, I'm not  
14 -- the position I took as you discussed it is not that you  
15 couldn't on the merits decide that this condition is no  
16 longer needed. My concern was the request, the basis, one  
17 of the bases was that it's illegal.

18           COMMISSIONER MAY: Right. I understand that. I  
19 mean we could decide that it's no longer needed because this  
20 is no longer needed as a mitigation or that strongly  
21 discourages somehow magically enough to be a sufficient  
22 mitigation. But I don't know that we've necessarily -- we've  
23 only heard the legal argument. We've not heard a case based  
24 on what's necessary to mitigate the circumstances of students  
25 parking in a neighborhood.

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1 CHAIRMAN HOOD: Well, I think they already had  
2 mitigations, so that's why I was just going on with agreement  
3 because that has not just started being an issue up in that  
4 area. And I know what we've done in other campus plans and  
5 sometimes we have to tailor it, tailor it for the specific  
6 areas. But I do know, at least it was a two hour parking  
7 restriction up there. I'm not sure if it's still that way.  
8 It was in the '80s. I'll say that. I didn't think it was  
9 that involved. But let me open it up.

10 Commissioner Shapiro.

11 COMMISSIONER SHAPIRO: Thank you, Mr. Chairman.  
12 I'm just trying to separate out the two issues. One is what  
13 mitigation that's being suggested where there seems to be  
14 agreement with the community and the Applicant. I'm trying  
15 to separate that out from what action we can take that is not  
16 going to endorse some kind of unenforceable or legal piece.  
17 So perhaps OAG could help us out with this. How do we honor  
18 the agreement that's been made without us endorsing something  
19 that's illegal?

20 MR. BERGSTEIN: Well, in other words, you won't  
21 need to reach the issue of illegality.

22 COMMISSIONER SHAPIRO: I can't hear you.

23 MR. BERGSTEIN: I'm sorry. You won't need to  
24 address the issue of illegality. If you feel that based upon  
25 the ANC support and lack of opposition from the other two

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1 parties that would signify that, in fact, this particular  
2 condition is not needed, you could simply make that  
3 determination without having to reach the issue whether or  
4 not it's illegal or not.

5 I'm just saying that their basis that it's illegal  
6 is one basis which I don't think that they've met in terms  
7 of the statement they've given you. But separate and apart  
8 from that, you could still decide it's legal, but not  
9 necessary. And that is how you could resolve the tension  
10 there, if you care to.

11 COMMISSIONER MAY: Well, again, we didn't -- we  
12 don't have information in the record saying that it's not  
13 necessary except that maybe we could construe the ANC support  
14 of this modification as proof that what's being done or  
15 what's being proposed here is sufficient.

16 MR. BERGSTEIN: You could do that or you could  
17 request the University to provide information as to whether  
18 or not the actual -- I mean the whole point is to require the  
19 students to use the parking garage and the staff to use the  
20 parking garage.

21 COMMISSIONER MAY: Right.

22 MR. BERGSTEIN: And what they're saying is is that  
23 could be accomplished without some sort of enforcement  
24 mechanism to make sure that those same folks are not parking  
25 on the streets.

1           So the question is can they show you that, in  
2 fact, the staff and the students are using the parking  
3 facilities as envisioned by the order without the need for  
4 them to go through this exercise and impose penalties if they  
5 find that staff or their students are parking on the street?

6           You can always ask for further information.  
7 That's what a modification consequence is built to do.

8           COMMISSIONER MAY: Sure. I mean I don't feel too  
9 terribly strongly about it. I mean, again, because there is  
10 agreement between the Applicant and the ANC. If we want to  
11 construe that as an indication that the need for this  
12 mitigation, since it was instituted when this decision was  
13 made on a case that was introduced in 2011 that it's -- if  
14 they didn't think it was legal for them to do the enforcement  
15 as it was described in the condition, then, you know, there  
16 have been several years to test this out to determine whether  
17 it's necessary. So if ANC is okay with this change of  
18 condition, I mean I guess we could interpret that as meaning  
19 that they don't think it's necessary to have the language the  
20 way it was originally drafted as a mitigation. They don't  
21 think that's necessary to achieve as mitigation.

22           And what they're substituting instead is  
23 sufficient which is strongly discourage and deploying a  
24 system of monitoring and notices. So they're going to keep  
25 a lookout and write nasty notes on cars and that will be

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1 sufficient discouragement that it won't be a problem for the  
2 neighbors.

3 I mean if the rest of the Commission wants to go  
4 that way, I'm fine with that. I would also be okay if we  
5 wanted to request that the Applicant submit further  
6 information to demonstrate that the mitigation as originally  
7 -- that this language as originally drafted is no longer  
8 necessary as mitigation for the problem of students parking  
9 in the neighborhood.

10 CHAIRMAN HOOD: Vice Chair Miller?

11 VICE CHAIR MILLER: Thank you, Mr. Chairman. I  
12 understand what Commissioner May is saying, but whenever an  
13 ANC and a University are in agreement, I'm inclined to go  
14 along with what they've agreed to and not prolong this. So  
15 I'm ready to move forward with the agreement. And I think  
16 we can construe that as a way that you suggested,  
17 Commissioner May, and they'll come back if it's a problem in  
18 the neighborhood.

19 COMMISSIONER MAY: So I think it's important to  
20 make that distinction. OAG is advised that we're not basing  
21 our decision on the Applicant's rationale that this is not  
22 a legally- enforceable condition because that's not our  
23 domain to determine that.

24 CHAIRMAN HOOD: Okay, so we're back to the  
25 agreements of the ANC and the University. Any objections?

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1 Are we ready to move forward?

2           Okay, I would move that we approve, as adopted  
3 between the agreement of the ANC and the University on the  
4 Commission Case No. 11-02C, University of the District of  
5 Columbia Campus Plan Modification of Consequence, Square  
6 1964, and ask for a second.

7           COMMISSIONER TURNBULL: Second.

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

10           All in favor?

11           (Chorus of ayes.)

12           Any opposition?

13           Not hearing any, Ms. Schellin, will you please  
14 record the vote?

15           MS. SCHELLIN: Yes, staff records the vote 5  
16 to 0 to 0 to approve Zoning Commission Case No. 11-02C for  
17 final action. Commissioner Hood moving, Commissioner  
18 Turnbull seconding, Commissioners May, Miller, and Shapiro  
19 in support.

20           CHAIRMAN HOOD: Okay, next we have Zoning  
21 Commission Case No. 16-09A. It's 1200 3rd Street, LLC,  
22 PUD Modification of Consequence, Square 747.

23           Ms. Schellin?

24           MS. SCHELLIN: Yes. At Exhibit 6, today, an  
25 ANC 6C report was received in support of two of the three

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1 modification requests, the change in materials for the  
2 east facade of the hotel use tower in the southwest  
3 portion of the site and to modify the below grade parking  
4 plan.

5 They oppose the change shown at Exhibit 1C,  
6 Sheets 10 through 11, for the Level B1 parking that shows  
7 the exterior door for the vehicular entry point on M  
8 Street Northeast.

9 So we'd ask the Commission to consider this  
10 request before you.

11 CHAIRMAN HOOD: Okay. The third issue that  
12 they have, I'm going to need to come up to speed on it,  
13 but let me -- this was filed -- you said this was filed  
14 when?

15 MS. SCHELLIN: This afternoon. And I don't  
16 think that request was actually in the application. That  
17 request was not made in the application.

18 COMMISSIONER MAY: I'm sorry, the request to  
19 modify the garage entrance?

20 MS. SCHELLIN: Correct.

21 COMMISSIONER MAY: Okay.

22 CHAIRMAN HOOD: So is that not -- that's not  
23 being under consideration here?

24 MS. SCHELLIN: Per Ms. Prince, that is correct.

25 CHAIRMAN HOOD: Okay, so we're back to the same

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1 two that we -- at least that I reviewed.

2 MS. SCHELLIN: Right.

3 CHAIRMAN HOOD: Are we sure? I want to make  
4 sure that the third is not a request. Okay.

5 MS. SCHELLIN: Ms. Prince is indicating no.

6 COMMISSIONER MAY: The drawing that we received  
7 or that the ANC reviewed was in error.

8 MS. SCHELLIN: Yes. She is indicating the  
9 drawing was in error.

10 CHAIRMAN HOOD: Okay. Any issues with that?

11 COMMISSIONER SHAPIRO: No, sir.

12 CHAIRMAN HOOD: Okay, so again, the material  
13 on the eastern wall of the hotel and the vehicle parking,  
14 we have what is approved before us.

15 Any issues on what's being proposed in this PUD  
16 modification? Any comments? Would someone like to make  
17 a motion? I think it's pretty straight forward, as long  
18 as that third one is not in there.

19 COMMISSIONER SHAPIRO: Mr. Chair?

20 CHAIRMAN HOOD: Yes.

21 COMMISSIONER SHAPIRO: I move that we approve  
22 the Zoning Commission Case No. 16-09A, 1200 3rd Street,  
23 LLC, PUD Modification Consequence at Square 747. I ask  
24 for a second.

25 VICE CHAIR MILLER: Second.

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1 CHAIRMAN HOOD: Okay, it's been moved and  
2 properly seconded for those proposed PUD changes which are  
3 exhibited -- you can look at the Office of Planning report  
4 which talks about the sheets. Any further discussion?

5 COMMISSIONER SHAPIRO: It's under discussion  
6 to be clear that the issue that the ANC has brought up  
7 that it's not an issue for us because that was actually  
8 an error on the part of the Applicant. There is no change  
9 in where the garage entrance is.

10 CHAIRMAN HOOD: Okay, that's the information  
11 that's been presented to us and that's how we move it  
12 forward. Any further discussion? All in favor?

13 (Chorus of ayes.)

14 Any opposition?

15 Not hearing any, Ms. Schellin, would you please  
16 record the vote.

17 MS. SCHELLIN: Yes. Chairman Hood, if I may,  
18 would you like for the Applicant to make that indication  
19 in the written order to clarify that that drawing, that  
20 indication --

21 CHAIRMAN HOOD: Good idea.

22 MS. SCHELLIN: -- since -- if they could do  
23 that in the order?

24 CHAIRMAN HOOD: That's a good idea. Yes, yes.

25 MS. SCHELLIN: Okay. If Ms. Prince would do

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1 that. So staff records the vote 5 to 0 to 0 to approve  
2 final action Zoning Commission Case No. 16-09A.  
3 Commissioner Shapiro moving, Commissioner Miller  
4 seconding, Commissioners Hood, May, and Turnbull in  
5 support.

6 CHAIRMAN HOOD: Okay. Thank you, everyone.  
7 Let's go to Zoning Commission Case No. 15-18B, Initio, LP,  
8 Modification Consequence at Square 1194.

9 Ms. Schellin?

10 MS. SCHELLIN: Yes, if the Commission will  
11 recall, this case was on the agenda last month to -- it  
12 had some additional relief that was requested and we were  
13 just waiting for the ANC to weigh in. So at Exhibits 10  
14 and 11, we have two ANC 2E reports, two different dates,  
15 both reports advising that it met and voted to not take  
16 a position on the revised application. So it asked the  
17 Commission to consider final action this evening.

18 CHAIRMAN HOOD: Okay. Thank you. Colleagues,  
19 I noticed that we have three exhibits from the ANC saying  
20 not to take a position, so they really have nailed that  
21 home that they don't want to take a position on this, so  
22 I think that may have been one of the reasons we held it  
23 up to begin with. They've definitely sent us a very clear  
24 message. So three times is a charm.

25 Any comments or questions on what's being asked

1 for?

2 If not, it's pretty straight forward. Would  
3 someone like to make a motion?

4 VICE CHAIR MILLER: Mr. Chairman, I would move  
5 that the Zoning Commission take action on Zoning  
6 Commission Case No. 15-18B, Initio, LP, modification  
7 consequence at Square 1194 and ask for a second.

8 COMMISSIONER SHAPIRO: Second.

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

11 All in favor, aye?

12 (Chorus of ayes.)

13 Any opposition?

14 Not hearing any, Ms. Schellin, would you please  
15 record the vote?

16 MS. SCHELLIN: Staff records the vote 5 to 0  
17 to 0 to grant final action on Zoning Commission Case No.  
18 15-18B. Commissioner Miller moving, Commissioner Shapiro  
19 seconding, Commissioners Hood, May, and Turnbull in  
20 support.

21 CHAIRMAN HOOD: Okay, now we go to final action  
22 Zoning Commission Case No. 18-05, WMATA Map Amendment at  
23 Square 487 and Text Amendment to Subtitle I Section 547.3.

24 Ms. Schellin?

25 MS. SCHELLIN: For 18-05, the proposed

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1 rulemaking was published in the D.C. Register on October  
2 26th. No comments were received from the public. NCPC  
3 submitted a delegated action in Exhibit 27 advising of no  
4 issues and asked the Commission to consider final action  
5 this evening.

6 CHAIRMAN HOOD: Thank you. Any comments on  
7 this? Questions?

8 I think we had a very thorough examination and  
9 you did mention NCPC, didn't you, Ms. Schellin? Okay.

10 Would someone like to make a motion? I think  
11 it's pretty straight forward.

12 COMMISSIONER TURNBULL: Mr. Chair, I would move  
13 that we approve the Zoning Case -- or take final action  
14 on the Zoning Case No. 18-05, WMATA map amendment at  
15 Square 487 and text amendment to Subtitle I at Section  
16 547.3. Move for a second.

17 VICE CHAIR MILLER: Second.

18 CHAIRMAN HOOD: Okay, it's been moved and  
19 properly seconded. Any further discussion? All in favor?

20 (Chorus of ayes.)

21 Any opposition?

22 Not hearing any, Ms. Schellin, would you please  
23 record the vote?

24 MS. SCHELLIN: Staff records the vote 5 to 0  
25 to 0 to approval final action on Zoning Commission Case

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1 No. 18-05. Commissioner Turnbull moving, Commissioner  
2 Miller seconding, Commissioners Hood, May, and Shapiro in  
3 support.

4 CHAIRMAN HOOD: Okay, next we have Zoning  
5 Commission No. 17-18, Office of Planning Text Amendments  
6 to Subtitle B, Measurement of Floor Area -- did I skip  
7 one? Oh, for some reason I'm trying to get to that 17-18.

8 Zoning Commission Case 18-09, Office of  
9 Planning, Text Amendments to Subtitle B, Measuring Height  
10 in Non-Residential Zones for Buildings 90 feet plus to  
11 Subtitle U, adding Art Gallery & Museum to Matter-of-Right  
12 Use Group A.

13 Ms. Schellin.

14 MS. SCHELLIN: On this one, the proposed  
15 rulemaking was published in the D.C. Register on September  
16 28th. No comments were received from the public. Once  
17 again, NCPC submitted delegated action at Exhibit 11  
18 advising them no issues and asked the Commission to  
19 consider final action this evening.

20 CHAIRMAN HOOD: Again, I think -- thank you,  
21 Ms. Schellin. Again, I think this is one of those  
22 hearings that we had that was pretty straight forward, but  
23 let me see if there are any comments or questions. If  
24 not, we can take a motion.

25 Would someone like to make a motion?

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1 COMMISSIONER SHAPIRO: Mr. Chair, I would move  
2 that we take final action on Zoning Commission Case No.  
3 18-95, Office of Planning, Text Amendments to Subtitle B,  
4 re: Measuring Height in Non-Residential Zones for  
5 Buildings 90 foot plus to Subtitle U, re: adding Art  
6 Gallery & Museum to Matter-of-Right Use Group A. Look for  
7 a second.

8 CHAIRMAN HOOD: I'll second that. It's been  
9 moved and properly seconded. Any further discussion?

10 All in favor, aye.

11 (Chorus of ayes.)

12 Any opposition?

13 Not hearing any, Ms. Schellin, would you please  
14 record the vote?

15 MS. SCHELLIN: Staff records the vote 5 to 0  
16 to 0 to approval final action in Zoning Commission Case  
17 No. 18-09. Commissioner Shapiro moving, Commissioner Hood  
18 seconding, Commissioners May, Miller, and Turnbull in  
19 support.

20 CHAIRMAN HOOD: Okay. Next, Zoning Commission  
21 Case No. 17-18, Office of Planning, Text Amendments to  
22 Subtitle B, Measurement of Floor Area Ratio.

23 Ms. Schellin.

24 MS. SCHELLIN: Yes, this was the second Notice  
25 of Proposed Rulemaking. It was published in the D.C.

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1 Register on September 28th. No comments were received  
2 from the public. I would ask the Commission to consider  
3 final action this evening.

4 CHAIRMAN HOOD: And we did that. Ms. Schellin  
5 or someone can help me to understand. I was looking at  
6 the second proposed rule or publication. We did that as  
7 a result of what happened in our first, if I remember  
8 correctly.

9 MS. SCHELLIN: Right, that was correct. It  
10 inadvertently left out some text in Subtitle B, Section  
11 304.6 and so that was re-advertised.

12 CHAIRMAN HOOD: Re-advertised.

13 MS. SCHELLIN: Right.

14 CHAIRMAN HOOD: And we received no comments on  
15 the re-advertisement.

16 All right, Commissioners, any questions or  
17 comments on this?

18 Okay. All right, would somebody like to make  
19 a motion?

20 COMMISSIONER MAY: I move that we take final  
21 action on Zoning Commission Case No. 17-18, Office of  
22 Planning, Text Amendment to Subtitle B regarding  
23 Measurement of Floor Area Ratio.

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

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1 All in favor, aye?

2 (Chorus of ayes.)

3 Any opposition?

4 Not hearing any, Ms. Schellin, would you please  
5 record the vote?

6 MS. SCHELLIN: Yes. Staff records the vote 5  
7 to 0 to 0 to approval final on Zoning Commission Case No.  
8 17-18. Commissioner May moving, Commissioner Hood  
9 seconding, Commissioners Miller, Shapiro, and Turnbull in  
10 support.

11 CHAIRMAN HOOD: That was a two-vote case,  
12 wasn't it?

13 MS. SCHELLIN: Yes.

14 CHAIRMAN HOOD: Okay, now let's do time  
15 extension. Zoning Commission Case No. 14-19A, M Street  
16 Development Group, LLC, Two-Year Time Extension at Square  
17 772, Lots 803 and 804.

18 Ms. Schellin.

19 MS. SCHELLIN: Yes, the Applicant is requesting  
20 a two-year time extension, as you stated. And this is the  
21 Order No. 14-19 in order to extend the time to begin  
22 construction. That would extend the time to November 20,  
23 2020. The Applicant cites significant delay due to  
24 ongoing negotiations with BP Oil Company, the responsible  
25 party for completing soil remediation measures on the

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1 southeastern portion of the property which was the site  
2 of a former Amoco gas station. At Exhibit 5, there's an  
3 OP report in support. We would ask the Commission to  
4 consider taking action this evening.

5 CHAIRMAN HOOD: Okay, Commissioners, we a  
6 request before us for an extension of two additional years  
7 and we noted part of the delay is noted by Ms. Schellin  
8 is the soil remediation because of the prior use. So any  
9 questions or comments?

10 All right, so I would move the two-year  
11 extension to the date noted, November 20, 2020 of Zoning  
12 Commission Case No. 14-19A and ask for a second.

13 COMMISSIONER TURNBULL: Second.

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

16 All those in favor, aye?

17 (Chorus of ayes.)

18 Any opposition?

19 Not hearing any, Ms. Schellin, would you please  
20 record the vote.

21 MS. SCHELLIN: Staff records the vote 5 to 0  
22 to 0 to approve the two-year time extension to November  
23 20, 2020. Commissioner Hood moving, Commissioner Turnbull  
24 seconding, Commissioners May, Miller, and Shapiro in  
25 support.

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1 CHAIRMAN HOOD: Okay, next, let's go to  
2 proposed action. Zoning Commission Case No. 04-33I,  
3 Office of Planning, Text Amendments re: Inclusionary  
4 Zoning (Subtitles A-H & K).

5 Ms. Schellin.

6 MS. SCHELLIN: Yes, the new exhibits in this  
7 case are Exhibit 14, an ANC 3D report; and Exhibit 15, an  
8 OP supplemental report. We ask the Commission to consider  
9 taking proposed action.

10 CHAIRMAN HOOD: Okay. Let me start off and  
11 maybe others didn't have half as much confusion as I've  
12 had.

13 As I was reading -- this was supposed to be a  
14 clarifying measure and as I was reading from two of the  
15 people, I think it was two. One of them was the ANC and  
16 one of them was Ms. Simon as we asked Office of Planning  
17 to revisit.

18 Ms. Steingasser or Mr. Lawson, in simple terms,  
19 I understood -- let's go to your report, if I can get it  
20 to come back up. Give me one moment, please.

21 Let's go to your supplemental report. 103.1  
22 I think was very clear, I mean it was straight on. So I  
23 didn't have any issues with that. And when I started  
24 looking at it, I guess maybe when I started looking at  
25 some of the submissions from Ms. Simon, it was like we

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1 were taken away -- we were taken away and then I think the  
2 ANC was basically saying that Ms. Simon's analysis or her  
3 findings were incorrect. So I was going back and forth  
4 trying to figure all that out.

5 For me though, 103.2. And I think if I'm not  
6 mistaken, the reason we even went this way was to try to  
7 clarify it so lay persons would be able to understand it.  
8 I think that's what our whole intent was to begin with.

9 Oh, I'm sorry, should I be going to somebody  
10 else?

11 MS. STEINGASSER: Well, Mr. Rogers is here who  
12 was the principal on that.

13 CHAIRMAN HOOD: Okay. Thank you. Mr. Rogers,  
14 wasn't that our intent?

15 MR. ROGERS: Yes, the intent of 04-33I was to  
16 make things more clear and correct omissions and errors  
17 that were a result of the big translation of the 58 to the  
18 2016 code and also at the same time we were doing the 04-  
19 33G.

20 CHAIRMAN HOOD: So did you have a chance to  
21 read from ANC, I think it's 3D?

22 MR. ROGERS: Yes.

23 CHAIRMAN HOOD: Did you have a chance to read  
24 Ms. Simon's --

25 MR. ROGERS: Their analysis of Ms. Simon's --

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1 CHAIRMAN HOOD: Yes, it looked like that was  
2 their analysis, but they also gave their own analysis with  
3 the charts. There was a lot of work put into it.

4 MR. ROGERS: Yes.

5 CHAIRMAN HOOD: A lot of work put into it. So  
6 when I looked at that and when I looked at 103.2, I was  
7 wondering did we achieve our goal, I mean, from your  
8 professional opinion from trying to clarify for the lay  
9 person? Did we achieve our goal after the two submissions  
10 that really were total opposites?

11 MR. ROGERS: I believe we've achieved our  
12 mission of making the regulations more clear. Much of  
13 this was at the request of DCRA and their long-standing  
14 interpretation of how the program worked and so we were  
15 instituting the clarifications they requested.

16 CHAIRMAN HOOD: So 103.2, everyone who is  
17 probably going to have a hand in it, reviewed that and  
18 thought that that would work for us moving forward.

19 MR. ROGERS: Correct.

20 CHAIRMAN HOOD: I was going to actually ask you  
21 all to simplify it even more, but I think those who have  
22 to operate within it then have to make it into compliance  
23 and have to administer it, believe that that language is  
24 clarifying enough. I'll leave it at that.

25 Let me -- thank you.

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1 Ms. Steingasser?

2 MS. STEINGASSER: I just wanted to confer with  
3 you. There was a lot of post-hearing information  
4 submitted, some of it was very complex.

5 I found one sentence in the ANC's report to be  
6 very, very concise and that was on page 11 where they  
7 concluded that OP's proposed clarification of the formula  
8 is exactly that, a clarification.

9 CHAIRMAN HOOD: I saw that.

10 MS. STEINGASSER: And of all the stuff that was  
11 in there, I understood that sentence.

12 (Laughter.)

13 CHAIRMAN HOOD: I understood because it was a  
14 whole -- and I appreciate all of the work that Ms. Simon  
15 did, as well as the ANC because the ANC had charts. They  
16 had graphs. They really took and depicted what the Office  
17 of Planning was doing versus Ms. Simon. So I really  
18 appreciated the work that they did and I did read that  
19 sentence.

20 After I went through all of that, I saw that  
21 sentence. So I just wanted to make sure that we achieved  
22 that for the end users who are going to be coming down  
23 using it that we don't cause more confusion. But if  
24 everyone has examined this, then it gives me a comfort  
25 level to move forward, even though I have to keep reading

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1 it myself. I kept reading 103.2 over and over again.

2 Anyway, okay, let me open it up. Any  
3 questions?

4 Mr. May?

5 COMMISSIONER MAY: So going back to the report  
6 that Office of Planning submitted now for 1005.7,  
7 clarifying the inclusionary units of apartment houses  
8 shall not be located in cellar space, so that's a new  
9 proposal or was that something that was part of what you  
10 had originally submitted in this case?

11 MR. ROGERS: That was a new proposal.

12 COMMISSIONER MAY: Yes.

13 MR. ROGERS: And it was filling a gap that we  
14 saw in the regulations.

15 COMMISSIONER MAY: Well, I see all the reasons  
16 for it and it made a lot of sense to me. It's somewhat  
17 disheartening to read that there actually has been a  
18 disproportionate number of IZ units being located in  
19 cellar spaces. It's just the way things have played out  
20 and so I'm all for not locating them in cellar space. So  
21 I'm glad to see that change.

22 And I think that's the way we should do it.  
23 You had alternate language that was, you know, more  
24 complicated and I think that's not necessary. I think we  
25 just not include it.

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1 CHAIRMAN HOOD: Any other questions or  
2 comments?

3 Vice Chair Miller?

4 VICE CHAIR MILLER: Thank you, Mr. Chairman.  
5 And I agree with the -- I appreciate all the work that's  
6 been done on this by OP and Ms. Simon and ANC 3F. And I  
7 agree that what's been proposed is a clarification.

8 I appreciate OP look at the cellar issue to see  
9 if we could come up with a more equitable formula there.  
10 But I think ease of administration is important and so I'm  
11 fine with the proposal as put forward by Office of  
12 Planning and think that their analysis makes sense as does  
13 ANC 3F's analysis.

14 So I guess you are going to look at maybe at  
15 some point ANC 3F at the end offered some alternative  
16 formulas which they thought might produce some more  
17 affordable units without disrupting the basic mathematical  
18 calculations or assumptions that are in the inclusionary  
19 zoning formula.

20 And I think there's something in OP's report  
21 that says you might look at that, either in the future or  
22 after the next comp plan amendments are done. So I think  
23 that that's fine. I wouldn't -- I think we should always  
24 be looking for ways to maximize the affordable housing  
25 that's produced in the inclusionary zoning program.

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1 We know that developers do come in and proffer  
2 more than what's minimally required and even when there  
3 isn't the bonus density to compensate. So to the extent  
4 we can look at alternatives, that might produce that more  
5 affordable housing, more -- raise the minimum. I think we  
6 should look at it. But I'm ready to go forward tonight,  
7 Mr. Chairman.

8 CHAIRMAN HOOD: Any comments, questions?

9 Mr. May, did you put forward a change?

10 COMMISSIONER MAY: No, I mean, I think we would  
11 be voting on the latest proposal.

12 CHAIRMAN HOOD: Okay.

13 COMMISSIONER MAY: From the Office of Planning  
14 which incorporates that new language regarding prohibiting  
15 IZ units in cellars.

16 CHAIRMAN HOOD: Okay. Would someone like to  
17 make a motion on this? Unless there's some additional  
18 discussion, I think it's ready for us to move forward.

19 Would somebody like to make a motion?

20 COMMISSIONER MAY: I would move that we take  
21 proposed action Zoning Commission Case 04-33I, Office of  
22 Planning text amendment regarding inclusionary zoning,  
23 subtitles A through H and K.

24 VICE CHAIR MILLER: Second.

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

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1 properly seconded. Any further discussion?

2 All in favor, aye.

3 (Chorus of ayes.)

4 Any opposition?

5 Not hearing any, Ms. Schellin, would you please  
6 record the vote?

7 MS. SCHELLIN: Staff records the vote 5 to 0  
8 to 0 to take proposed action on Zoning Commission Case No.  
9 04-33I. Commissioner May moving, Commissioner Miller  
10 seconding, Commissioners Hood, Shapiro, and Turnbull in  
11 support.

12 CHAIRMAN HOOD: Okay. Before we go to Hearing  
13 Action, I'd like to go to the correspondence item. This  
14 is Zoning Commission Case -- if that's okay -- Zoning  
15 Commission Case No. 08-07D. Four Points, Two-Year PUD  
16 Time Extension at Square 5785, Request for Reconsideration  
17 from CARE, Current Area Residents East of the River, and  
18 that's the correspondence.

19 Ms. Schellin, do you have anything to add?

20 MS. SCHELLIN: Just that CARE is a non-party.  
21 They've asked the Commission to waive the rule that only  
22 parties to a case can file a request for reconsideration  
23 and if the Commission does grant that, to rule on its  
24 request for a reconsideration. That's at Exhibit 8 and  
25 then at Exhibit 9, the Applicant has filed opposition to

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1 the waiver request stating reasons for good cause to grant  
2 that request -- or grant that waiver has not been shown.  
3 And that -- and also that Exhibit 9, the Applicant has  
4 stated how granting the waiver would prejudice the  
5 Applicant.

6 So if the Commission could first decide on the  
7 waiver request, that would be appreciated.

8 CHAIRMAN HOOD: Commissioners, I think our past  
9 practice has actually taught us through discovery and just  
10 knowing that we need to follow our rules. I think this  
11 is a rule that I don't think we've ever waived.

12 I will go out on a limb to say that I can  
13 always stand to be corrected, but I didn't think this was  
14 a rule that I'm ready to waive. I don't believe we've  
15 ever done this. We've always had Commission rules  
16 provided the only party, parties may request  
17 reconsideration. But I will entertain any comments if  
18 someone disagrees with that. If not, we will just -- I  
19 think we'll just leave it. I don't think we need to vote  
20 on that. But let me see what others have to say.

21 COMMISSIONER SHAPIRO: I concur with the chair.

22 CHAIRMAN HOOD: Any additional analysis. Do  
23 we have to vote on it? Okay, so we have to deny -- okay,  
24 I move to deny the reconsideration of -- I move to deny  
25 the waiver. So I don't need to do anything with the

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1 request.

2 I was going to move to deny the request to  
3 waive -- is that the same thing?

4 Let me ask everybody, is that the same thing?  
5 Somebody else make the motion then. I think it all ends  
6 up the same place. Is that the same? Was my wording  
7 incorrect?

8 Who do I go to? I want to make sure I'm  
9 legally correct.

10 MR. RITTING: I don't remember what you said,  
11 but I think what you meant --

12 (Laughter.)

13 CHAIRMAN HOOD: That's how important it was.

14 MR. RITTING: -- was that you are denying the  
15 request for the waiver.

16 CHAIRMAN HOOD: That's what I was doing, right.  
17 Okay, so I would move to deny the request for the waiver  
18 and ask for a second.

19 VICE CHAIR MILLER: Second.

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

22 All in favor, aye?

23 (Chorus of ayes.)

24 Any opposition?

25 Not hearing any, Ms. Schellin, would you please

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1 record the vote?

2 MS. SCHELLIN: Yes, staff records the vote 5  
3 to 0 to 0 to deny the request for the waiver.  
4 Commissioner Hood moving, Commissioner Miller seconding,  
5 Commissioners May, Shapiro, and Turnbull in support of  
6 opposition.

7 CHAIRMAN HOOD: And Mr. Ritting, Ward 5 folks,  
8 you are not Ward 5 folks. We at least wait five minutes  
9 to forget what the next person has said. So anyway.

10 All right, let's go to hearing action, Zoning  
11 Commission Case No. 18-19, Poplar Point RBBR, LLC, map  
12 amendment, petition at Square 5860 and 5861.

13 Ms. Steingasser?

14 MS. STEINGASSER: Yes, sir. In October of this  
15 year, the Office of Planning submitted a text amendment  
16 to the zoning regs to create a new zone, the northern  
17 Howard Road zone. The Commission set that case down on  
18 October 22nd.

19 The Applicant for this property is within the  
20 geographic location of that new zone and they have  
21 requested a map amendment to that new zone with some  
22 supporting text submitted by the Office of Planning which  
23 would be Section 1011.1. The Office of Planning  
24 recommends that they both be set down.

25 CHAIRMAN HOOD: Thank you, Ms. Steingasser.

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1 Any questions or comments on this case?

2 I am in favor of setting down what's being  
3 requested. But let me hear from others, any comments?

4 COMMISSIONER SHAPIRO: No objection, Mr. Chair.

5 CHAIRMAN HOOD: Okay. If there's no further  
6 discussion, Commissioner May?

7 COMMISSIONER MAY: We do have a letter in the  
8 record from ANC Chair. I thought maybe we should address  
9 that.

10 CHAIRMAN HOOD: Which exhibit is that again?

11 MS. SCHELLIN: Chairman Hood, if I may, that  
12 letter was from -- originally, this case was put on last  
13 month's agenda and because of that ANC submission, I  
14 believe if I remember correctly, Exhibit 22 with some  
15 subparts, we took it off of the October 22nd agenda and  
16 moved it to November to make sure that they had the  
17 correct days, 30 days, in order to submit an ANC set down  
18 report. That's why it was not considered last month.

19 CHAIRMAN HOOD: Got it.

20 MS. SCHELLIN: With the text amendment.

21 COMMISSIONER MAY: It was 45 days is what they  
22 cited.

23 MS. SCHELLIN: They were citing 45 days for the  
24 Applicant to come out to them, but that was not -- that's  
25 not required in the rulemaking.

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1 COMMISSIONER MAY: So in any case, they've  
2 gotten sufficient notice?

3 MS. SCHELLIN: Yes, sir.

4 COMMISSIONER MAY: Okay, all right. That was  
5 confusing. Thank you.

6 CHAIRMAN HOOD: So that's not germane to our  
7 proceeding today then?

8 MS. SCHELLIN: That time limit has been met.

9 CHAIRMAN HOOD: Okay. All right. So if  
10 there's nothing else, I move approval of Zoning Commission  
11 Case No. -- sorry.

12 Let me try this again. I move approval of Case  
13 No. 18-19 for set down with the text amendment proposed  
14 by OP. I mean I really appreciate everybody's help. I  
15 really do. Can I get a second?

16 COMMISSIONER SHAPIRO: Second.

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

19 VICE CHAIR MILLER: Mr. Chairman, I would  
20 encourage the Applicant to meet with the ANC and request  
21 and brief them on this so they have an opportunity to come  
22 to the public hearing informed about what's being proposed  
23 and in support of that set down.

24 CHAIRMAN HOOD: Okay. All right. Any further  
25 discussion? And I'm just having fun. I appreciate you

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1 all helping me out, especially if you're helping me to do  
2 it right. If you're going to help me do it wrong, I don't  
3 appreciate it.

4 Okay, so it's moved and properly seconded. Any  
5 further discussion?

6 All in favor, aye?

7 (Chorus of ayes.)

8 Any opposition?

9 Not hearing any, Ms. Schellin, will you please  
10 record the vote?

11 MS. SCHELLIN: Yes, staff records the vote 5  
12 to 0 to 0, the set down Zoning Commission Case No. 18-19  
13 as a rulemaking case. Commissioner Hood moving,  
14 Commissioner Shapiro seconding, Commissioners May, Miller,  
15 and Turnbull in support.

16 I believe this also includes the addition of  
17 the text amendment that OP --

18 CHAIRMAN HOOD: Correct, proposed by OP.

19 MS. SCHELLIN: Yes. Thank you.

20 CHAIRMAN HOOD: Okay, I'm sorry, I left that  
21 out, text amendment proposed by OP. That includes --  
22 okay.

23 Let's go to Zoning Commission Case No. 18-12,  
24 Keep Meridian Hill Green Civic Association Map Amendment  
25 at Square 2568.

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1 Mr. Lawson.

2 MR. LAWSON: Yes, thank you, Mr. Chair. Very  
3 briefly, Zoning Commission Case 18-12 is a petition filed  
4 by a group called Keep Meridian Hill Green Association and  
5 that's to rezone a portion of the property at Square 2568  
6 in Lot 808 from the currently zoned RA-4 to RA-2. The  
7 remainder of the property is already zoned RA-2.

8 The property in question was recently the  
9 subject of the Board of Zoning Adjustment case where the  
10 Board approved specific relief that allowed the  
11 development generally consistent with the RA-4  
12 regulations.

13 While OP analysis indicates that the existing  
14 RA-4 Zone is generally not inconsistent with the  
15 comprehensive plan as a whole, if the Commission feels  
16 that the proposal has sufficient merit, OP would recommend  
17 the following: that the case be set down for a public  
18 hearing to allow the issue to be fully vetted in a public  
19 form.

20 OP also recommends that an accompanying text  
21 amendment to Subtitle F, Section 304 also be set down and  
22 that would essentially make the property with the  
23 development that was approved through the BZA case  
24 conforming to the zoning regulations.

25 And thirdly, OP would recommend that since the

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1 property owner is not part of the petition to down zone  
2 their property, we would recommend that the property owner  
3 also be given an opportunity to present their case as part  
4 of the public hearing and be allowed whatever time is  
5 allowed for the petitioner to also present their case to  
6 the Commission.

7 With that, I'm happy to take any questions.  
8 Thank you.

9 CHAIRMAN HOOD: Thank you, Mr. Lawson. Let me  
10 just ask a question. The Keep Meridian Hill Green  
11 Citizen's Association is really the Meridian Hill Civic  
12 Association. Are they under this city charter? I'm just  
13 curious. I think that's a requirement.

14 MR. LAWSON: Honestly, I do not know, but we  
15 can certainly have -- if you do set this down, we can have  
16 them clarify that.

17 CHAIRMAN HOOD: I would like to have that  
18 clarified. Let me open it up. Commissioner May.

19 COMMISSIONER MAY: Yes, Mr. Chairman, thank  
20 you. So I was the Zoning Commission representative on the  
21 BZA case where the project was heard for this one. So I  
22 have probably more of a background on it than most of us.

23 Having reviewed the Office of Planning's report  
24 and the petition that was submitted by the Keep Meridian  
25 Hill Green Civic Association, I have to say that I agree

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1 primarily with the Office of Planning's analysis that  
2 while the zone that is mapped in this stretch of 16th  
3 Street on its face could be regarded as inconsistent with  
4 the comprehensive plan. There are plenty of reasons why  
5 it is consistent with the comprehensive plan. The  
6 comprehensive plan is not a zoning map. It's a series of  
7 policies and recommendations. And the intention of the  
8 plan, I think, is clear and frankly, I don't see any  
9 inconsistency between the zone that is currently mapped  
10 there or even the case that was approved by the BZA which  
11 did not involve a substantial amount of relief in order  
12 to get built. And it was a building that was approved by  
13 the Historic Preservation Review Board after significant  
14 changes that were made. There were even changes that were  
15 made in the process of the BZA's review.

16 And I do appreciate the fact that the Office  
17 of Planning brought this question to us and recommends  
18 set down out of respect for the ANC's support for the  
19 petitioner's case. But I would say that it is -- this is  
20 very different from other zoning map consistency cases  
21 where there's a very clear discrepancy and a damaging  
22 discrepancy between the way a -- or potentially damaging  
23 inconsistency between the way a map is drawn versus what  
24 the comprehensive plan recommends.

25 I can remember another one not too long ago

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1 where there was a PDR use that was mapped in an area that  
2 was the comprehensive plan recommended as residential and  
3 we did take action to down zone that property. And that's  
4 the sort of thing I think we're accustomed to seeing.

5 I honestly don't see that this is the sort of  
6 case that we should take up. It's a down zoning with no  
7 real benefit in the end and we have an approved BZA case,  
8 that building that has been well designed and is  
9 satisfactory to the Historic Preservation Review Board and  
10 its development there is, I think, consistent with the  
11 purposes of the comprehensive plan.

12 So I would recommend that we deny this petition  
13 and not set down the case.

14 CHAIRMAN HOOD: Okay, others? Vice Chair Miller.

15 VICE CHAIR MILLER: Thank you, Mr. Chairman.  
16 I totally concur with Commissioner May. I watched that  
17 entire BZA case that he participated in and I would not  
18 be in favor of setting down the down zoning. When the  
19 Office of Planning's own report -- against the property  
20 owner's wishes, when there's an Office of Planning report  
21 says that the -- I'm quoting on page 10, "There are many  
22 sections within the text of the comprehensive plan that  
23 support retention of a long-existing zoning of this  
24 property and area."

25 And in the next paragraph: "OP's analysis

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1 concludes that the existing RA-4 zoning is not  
2 inconsistent with the comprehensive plan, particularly  
3 when the policy statements are read on bounds with the  
4 future land use map and policy map that designates the  
5 zoning history of the site."

6 It goes on to say that "the proposed RA-2  
7 zoning would also not be inconsistent." But I don't see  
8 the point in taking up a lot of time at a set down hearing  
9 for this type of down zoning. So I am not in favor of  
10 setting this down for a public hearing.

11 CHAIRMAN HOOD: Okay. Mr. Shapiro.

12 COMMISSIONER SHAPIRO: Thank you, Mr. Chair.  
13 Having read the record before us and hearing the comments  
14 of my colleagues, I have no objection to that petition,  
15 while I would concur with my two colleagues.

16 CHAIRMAN HOOD: Okay. Mr. Turnbull.

17 COMMISSIONER TURNBULL: Commissioner Shapiro,  
18 are you not in favor of setting down, is that right?

19 COMMISSIONER SHAPIRO: Yes.

20 COMMISSIONER TURNBULL: I would just say I  
21 would concur with my colleagues on that.

22 CHAIRMAN HOOD: Okay. All right. Would  
23 somebody like to make a motion?

24 COMMISSIONER MAY: Mr. Chairman, I would move  
25 that we deny set down -- is that the right terminology?

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1 CHAIRMAN HOOD: I don't know around here.

2 COMMISSIONER MAY: I'm looking at OAG. I  
3 wasn't asking you.

4 CHAIRMAN HOOD: Don't ask me.

5 (Laughter.)

6 MS. LOVICK: Yes.

7 COMMISSIONER MAY: Deny the request to set down  
8 Zoning Commission Case 18-12, Keep Meridian Hill Green  
9 Civic Association Map Amendment at Square 2568.

10 VICE CHAIR MILLER: Second.

11 CHAIRMAN HOOD: It's been moved and properly  
12 seconded. And I didn't weigh in further discussion. I  
13 will say that, as the Vice Chair mentioned, I looked  
14 through the policies and the Office of Planning report  
15 which guides me to go along with the denial of this set  
16 down.

17 Any further discussion? All in favor, aye?

18 (Chorus of ayes.)

19 Any opposition?

20 Not hearing any, Ms. Schellin, will you please  
21 record the vote.

22 MS. SCHELLIN: Staff records the vote 5 to 0 to  
23 0 to deny set down in Zoning Commission Case No. 18-12.  
24 Commissioner May moving, Commissioner Miller seconding,  
25 Commissioners Hood, Shapiro, and Turnbull in support of

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1 denial.

2 CHAIRMAN HOOD: Next, we go to Zoning  
3 Commission Case No. 06-10D, The Morris and Gwendolyn  
4 Cafritz Foundation, 2nd-Stage PUD and Modification of  
5 Significance of 1st-Stage PUD at Squares 3765 & 3767.

6 Mr. Cochran?

7 MR. COCHRAN: Thank you, Mr. Chair. OP  
8 recommends that the Commission set down the application  
9 for the approval of a second stage PUD and modifications  
10 to orders 06-10A and 06-10C to accommodate changes to  
11 earlier PUD orders that govern the second stage site.

12 In 2009, the Commission approved and  
13 consolidated in a preliminary PUD with related map  
14 amendments for the 16 and the third acre site near the  
15 Fort Totten Metro. The scope of the original approval is  
16 summarized in our report. You've approved three  
17 modifications to the orders since 2009.

18 The consolidated PUD portion is finished and  
19 it's described in OP's report. The present application  
20 is for phase B which would be the first of three second  
21 stage PUD phases. This part of the site was approved for  
22 a single 450,000 square foot, 3-story building which would  
23 have contained retail, grocery, and cultural uses. The  
24 new application somewhat reduces the site size, marginally  
25 increases the amount of development, and that results in

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1 a less than 2.5 increase in the phases FAR.

2 But the more significant changes are in the  
3 site plan and in the program. Phase B would now be a two-  
4 building complex that also contains residential uses.  
5 Along South Dakota Avenue, there would be a four-story  
6 building containing a smaller grocery and a smaller  
7 children's museum than was originally envisioned, but a  
8 much larger entertainment component called the Family  
9 Entertainment Zone. There would also be 30 units of live-  
10 work space for artists reserved at what the applicant says  
11 would be an affordable rate.

12 4th Street, which is parallel to South Dakota  
13 Avenue would be closed and it would become a private type  
14 street with intensive pedestrian uses. And across this  
15 street would be a 7-story building with about 250  
16 apartments and ground-floor retail.

17 Details on this new proposal and how it differs  
18 from what is currently approved are on pages 2 to 6 of our  
19 report.

20 The new Phase B proposal is not inconsistent  
21 with the comprehensive plan and its intensity of use  
22 appears to be generally consistent with the approved  
23 preliminary PUD. The modifications respond to the  
24 neighborhood's changed retail and residential profile  
25 since you approved the overall PUD.

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1           There are, however, several questions that the  
2 Applicant would need to address via public hearing. These  
3 are noted on page 7 of our report and after set down, OP  
4 and other agencies would continue working with the  
5 Applicant to more fully understand the possible impacts  
6 of that Family Entertainment Zone to refine design  
7 details, to place Phase B within a context of subsequent  
8 proposed stage 2 phases and to encourage the provision of  
9 additional affordable housing in a PUD that predates IZ  
10 requirements.

11           That concludes our report.

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

14           COMMISSIONER MAY: Mr. Chairman, I appreciate  
15 the Office of Planning's thorough report and I know there  
16 are a few things that need to be figured out, but I  
17 certainly would not want to stand in the way or slow this  
18 project down. It's already moving slowly, so as soon as  
19 we see some energy, we want to make sure that it's  
20 maintained and I appreciate the fact that Mr. Cochran will  
21 be working with the Applicant and will be getting all  
22 those questions answered and I agree with the questions  
23 that he's asked in the report. So I look forward to it.

24           CHAIRMAN HOOD: Okay. Any other comments?  
25 Commissioner Turnbull?

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1                   COMMISSIONER TURNBULL: I just had a couple.  
2 I think I would agree with Mr. Cochran's report and  
3 analysis.

4                   I would like some more information on the  
5 trivision panel on South Dakota. It looks like a screen  
6 of some sort that's going to be moving. So I'm just  
7 curious on what that really does.

8                   And the other thing are the GRFC panels,  
9 whatever -- what's really happening there. If we could  
10 get a little bit more information.

11                  MR. COCHRAN: We'd be happy to and we're  
12 already working with DDOT because we have mutual  
13 questions.

14                  COMMISSIONER TURNBULL: Thank you, Mr. Cochran.

15                  CHAIRMAN HOOD: Any other questions for Mr.  
16 Cochran?

17                  Vice Chair Miller.

18                  VICE CHAIR MILLER: I just wanted to concur  
19 with my colleagues and the Office of Planning report  
20 asking for that additional information and working with  
21 the Applicant between now and the public hearing,  
22 especially on the impacts of the Family Entertainment  
23 Zone, the facade materials and encouraging increased  
24 proffer of affordable housing beyond the original PUD  
25 order.

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1 CHAIRMAN HOOD: Okay, I don't think we have  
2 anything else, so with that, would somebody like to make  
3 a motion to set this down?

4 VICE CHAIR MILLER: Mr. Chairman, I would move  
5 that the Zoning Commission set down for public hearing  
6 Zoning Commission Case No. 06-10D, The Morris and  
7 Gwendolyn Cafritz Foundation Second Stage PUD and  
8 Modification of Significance to First Stage PUD at Squares  
9 3765 and 3767 and ask for a second.

10 COMMISSIONER SHAPIRO: Second.

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

13 All in favor, aye?

14 (Chorus of ayes.)

15 Any opposition?

16 Not hearing any, Ms. Schellin would you please  
17 record the vote?

18 MS. SCHELLIN: Staff records the vote 5 to 0  
19 to 0 to set down Zoning Commission Case No. 06-10D as a  
20 contested case. Commissioner Miller moving, Commissioner  
21 Shapiro seconding, Commissioners Hood, May, and Turnbull  
22 in support.

23 CHAIRMAN HOOD: Okay. Ms. Schellin, do we have  
24 anything else before us?

25 MS. SCHELLIN: No. I believe OP may have an

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1 update.

2 CHAIRMAN HOOD: Okay, Office of Planning, you  
3 have an update?

4 MS. STEINGASSER: Yes, sir. I just wanted to  
5 briefly remind the Commission that we have moved forward  
6 with the case to rename the zoning district names. That's  
7 coming up on December 3rd. We will be following that with  
8 actual revised text depending on the action taken by the  
9 Zoning Commission that evening and hopefully we'll be  
10 moving that forward very quickly thereafter, so there will  
11 be a lot of reconfiguring of chapters.

12 We've been starting our work with the Office  
13 of Zoning and the Office of the Attorney General to make  
14 sure that that gets aligned, and all the new text that's  
15 been going through gets incorporated.

16 CHAIRMAN HOOD: All right, any questions? All  
17 right, thank you, Ms. Steingasser.

18 Anything else? Ms. Schellin, do we have  
19 anything else?

20 MS. SCHELLIN: No, sir.

21 CHAIRMAN HOOD: All right, I want to thank  
22 everyone for their participation tonight and this meeting  
23 is adjourned.

24 (Whereupon, the above-entitled matter went off  
25 the record at 7:32 p.m.)

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In the matter of: Public Meeting

Before: DCZC

Date: 11-19-18

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