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GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission

AGENDA

Regular Public Meeting

6:30 p.m. to 7:20 p.m.

Monday, January 12, 2015

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

1 Board Members:

2 ANTHONY HOOD, Chairperson

3 MARCIE COHEN, Vice-Chairperson

4 ROBERT MILLER, Commissioner

5 PETER MAY, Commissioner

6 MR. TURNBULL, Commissioner

7

8 Office of Zoning:

9 SHARON SCHELLIN, Secretary

10

11 Office of Planning:

12 MS. ELLIOT

13 JENNIFER STEINGASSER

14 JOEL LAWSON

15 MAXINE BROWN-ROBERTS

16

17 Office of Attorney General:

18 JACOB RITTING

19 MS. MEYERS

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P R O C E E D I N G S

(6:32 p.m.)

CHAIRPERSON HOOD: This meeting will please come to order.

Good evening, ladies and gentlemen, this is a public meeting of the Zoning Commission for the District of Columbia. My name is Anthony Hood.

Joining me are Vice Chair Cohen, Commissioner Miller, Commissioner May, Commissioner Turnbull.

We're also joined by the Office of Zoning Staff, Ms. Sharon Schellin, Office of Attorney General, Mr. Ritting and Ms. Meyers.

Office of Planning, Ms. Elliott and Ms. Brown-Roberts.

Is Ms. Steingasser going to join us? Ms. Steingasser will be joining us shortly, and also Mr. Lawson.

Copies of today's agenda are available to your and are located in the bin near the door. We do not take any public testimony at our meetings unless the Commission requests someone to please come forward.

Please be advised that this proceeding is

1 being recorded by a court reporter and is also
2 webcast live. Accordingly we must ask you to
3 refrain from any disruptive noises or actions in
4 the hearing room, including display of any signs
5 or objects. Please turn off all beepers and cell
6 phones. Does the staff have any preliminary
7 matters?

8 MS. SCHELLIN: No, sir.

9 CHAIRPERSON HOOD: Okay. If not, let us
10 proceed with the agenda.

11 Okay. First, final action, Zoning
12 Commission case No. 11-13A, Trammell Crow Company,
13 two year PUD time extension at Square 546. Ms.
14 Schellin.

15 MS. SCHELLIN: Yes, sir. This is a
16 request for a two year PUD time extension by the
17 applicant. The applicant requests this extension
18 because of its inability to secure necessary
19 governmental approvals in a time frame that allows
20 the project to proceed as planned. So we'd ask
21 the Commission to consider a final action on this
22 case.

23 CHAIRPERSON HOOD: Okay. We've had a
24 request for the time extension in front of us. We
25 do have an ANC report as well as the Office of

1 Planning's report, and the applicant's response to
2 the ANC's request for delay. As I read the ANC --
3 let me open it up. I think there was a little
4 confusion about where we were in the process. And
5 I know the ANC, I believe, is meeting tonight. I
6 think there was some confusion. At least in their
7 letter dated December 14th, whether this was a
8 hearing or not.

9 This is just an extension of a two year
10 time extension. They've expressed that they'd
11 like to see more engagement, I guess on what's
12 already going on with this extension. But this is
13 actually not a hearing in front of us, and you
14 know, I don't necessarily want to take -- I think
15 that they can have that discussion if it was
16 extended.

17 But I'll tell you what, let me open up to
18 my colleagues because I'm not sure how we probably
19 want to proceed on this; how I think we should
20 proceed. Vice Chair Cohen.

21 MS. COHEN: Thank you, Mr. Chairman. I
22 think the applicant did a very thorough job of
23 outlining the obstacles to moving forward. So, I
24 didn't have a problem with their justification.

25 I do think though, that they should be

1 reminded that all developments and engagement with
2 the community does not stop at the approval of a
3 zoning order. So I would encourage them to
4 continue to engage with the residents, but I see
5 no reason why to not move forward on granting the
6 extension.

7 CHAIRPERSON HOOD: Okay. Commissioner
8 May?

9 MR. MAY: Yeah, I would just say that
10 knowing from the Park Service's own experience in
11 working on the 17th Street Levy and getting that
12 done, I know how difficult a process that has been
13 just getting it completed and I understand
14 completely why this would affect the applicant's
15 ability to move forward with the project. And so
16 I fully support moving ahead immediately. And I
17 would also echo the concern that we never like to
18 hear from an ANC that they feel like they're not
19 being consulted and included. And I think that
20 the applicant should make an effort to make sure
21 that the ANC is well informed about what's going
22 on. But I do support the extension.

23 CHAIRPERSON HOOD: Okay. Anybody else?
24 Commissioner Miller?

25 MR. MILLER: I would just concur with my

1 colleagues, Mr. Chairman.

2 CHAIRPERSON HOOD: Okay.

3 MR. TURNBULL: I'm fine with it, Mr.
4 Chair.

5 CHAIRPERSON HOOD: Okay. All right. I'm
6 hearing from my colleagues, it's not a show
7 stopper for me. But I would go along with the
8 comments that I've heard from my colleagues that
9 continue to work -- but I don't want the ANC to
10 think we're just not -- we're disregarding their
11 comments because we're not, and I realize that
12 there were some uncertainty, some misunderstanding
13 in their letter. But they will have time through
14 these next two years. Hopefully it doesn't take
15 two years for them to come back and tell us that
16 the applicant is not working with them, because I
17 will be here in two years. So hopefully that if
18 everything goes well, hopefully that we will have
19 more of a consensus, or at least more of
20 engagement in which the ANC has asked for.

21 Okay. Someone that can make a motion.

22 MS. COHEN: Mr. Chairman, I move to
23 approve a two year PUD time extension at Square
24 540, moving to approve Zoning Case No. 11-13A,
25 Trammell Crow Company, and ask for a second.

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1 MR. TURNBULL: Second.

2 CHAIRPERSON HOOD: It's been moved and
3 properly seconded. Any further discussion on the
4 two year PUD time extension in Square 546? All
5 those in favor. Aye.

6 ALL: Aye.

7 CHAIRPERSON HOOD: Not hearing any
8 opposition, Ms. Schellin, would you record the
9 vote?

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

15 CHAIRPERSON HOOD: Okay. Next. Zoning
16 Commission Case No. 05-36I, Toll DC II, LP-PUD,
17 modification of Square 749. Ms. Schellin.

18 MS. SCHELLIN: Yes, sir. At Exhibits 28
19 and 31 through 33, we have the applicants' post
20 hearing submissions. Exhibit 30 is an NCPC report
21 stating that the project would not be inconsistent
22 with the comp plan for the National Capitol, and
23 we'd ask the Commission to consider final action
24 on this case this evening.

25 CHAIRPERSON HOOD: Okay, Commissioners,

1 we have a proposed -- well, we have an order in
2 front of us. Any comments, we open it up?

3 And we do have a revised set of -- let me
4 make sure. Revised set of architectural drawings.

5 And then also the applicant's response to
6 RPP. I read it, I appreciate it, I really
7 appreciate it. I didn't say I agree with it or
8 think it was going to really happen. But at least
9 there was an attempt made. I'm hoping that the
10 City follows through with some of the things that
11 they say. And I know, and it's not on this
12 applicant because I really appreciate the thought
13 out -- I thought it was a thought out plan. At
14 least this is this commissioner's opinion, it was
15 thought out of the response to the RPP which is in
16 issue.

17 And I'm going to bookmark that because
18 I'm going to try to see -- I'm going to remember
19 that and see if it works. But I really appreciate
20 the applicant at least responding to that as we
21 had requested.

22 Any other comments or questions?
23 Discussion? Commissioner Miller.

24 MR. MILLER: Yeah, Mr. Chairman, I would
25 agree with you that -- appreciating the

1 applicant's RPP commitments, which is something
2 the ANC also wanted. And I think there are
3 revisions to the design, including the roof level
4 architectural elements and trellises and court
5 yard circulation access was responsive to the
6 Commission's concerns, so I'm ready to move
7 forward.

8 CHAIRPERSON HOOD: Okay. Do we need more
9 time? Okay. I would move --

10 MR. MILLER: Okay, Mr. Chairman, I would
11 move that the Zoning Commission take final action
12 on Zoning Commission Case No. 05-36I, and ask for
13 a -- Toll DC II, LP-PUD modification of Square 749
14 and ask for a second.

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

18 All those in favor, aye.

19 ALL: Aye.

20 CHAIRPERSON HOOD: Not hearing an
21 opposition, Ms. Schellin, would you record the
22 vote?

23 MS. SCHELLIN: Staff records the vote
24 five to zero to zero to approve final action in
25 Zoning Commission Case No. 05-36I, Commissioner

1 Miller moving, Commissioner Hood seconding,
2 Commissioners Cohen, May, and Turnbull in support.

3 CHAIRPERSON HOOD: Okay. Next is Zoning
4 Commission Case No. 14-15, 1244 South Capital
5 Residential, LLC, Capitol Gateway Overlay review
6 in Square 700. Ms. Schellin.

7 MS. SCHELLIN: Okay. On this one we have
8 an ANC 6D report at Exhibit 26 in support of the
9 applicant's changes. Exhibit 27 and 28 are the
10 applicant's post-hearing submissions, and we'd ask
11 the Commission to consider final action on this
12 case this evening.

13 CHAIRPERSON HOOD: Did we have to do a
14 waiver on anything, or was that already -- maybe
15 this is not the case. Okay.

16 MS. SCHELLIN: These were items the
17 record was left open for, I think.

18 CHAIRPERSON HOOD: Right. I thought some
19 -- maybe this was not -- okay. Still learning how
20 to use this. Okay. Let's open it up for
21 discussion. Colleagues, any discussion on this?

22 MR. MAY: Mr. Chairman.

23 CHAIRPERSON HOOD: Commissioner, May.

24 MR. MAY: I believe that they have
25 addressed the issues that were a concern at the

1 hearing and I appreciate the changes that they've
2 made in order to address those concerns. In
3 particular the penthouse setback. You know, I
4 think the project has been improved substantially
5 and the rooftop plan has been improved
6 substantially as a result. So, I'm in favor of
7 moving forward.

8 CHAIRPERSON HOOD: Okay. Any other
9 comments? I think this is pretty straight
10 forward. The lead issues was addressed. They had
11 Office of Planning's support, the ANC supported it
12 and I'm looking here at my notes. The notes that
13 we have.

14 But anyway, I think it's pretty well
15 straight forward. I think this case is ready for
16 some action. Somebody like to make a motion?

17 MS. COHEN: Mr. Chairman.

18 CHAIRPERSON HOOD: Yes.

19 MS. COHEN: I will move to approve Zoning
20 Case No. 14-15, 1244 South Capital Residential,
21 LLC, C.G. Overly Review at Square 700 and ask for
22 a second.

23 MR. MILLER: Second.

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

1 All those in favor, aye.

2 ALL: Aye.

3 CHAIRPERSON HOOD: Any opposition? Not
4 hearing any, Ms. Schellin, would you record the
5 vote?

6 MS. SCHELLIN: Staff records the vote
7 five to zero to zero to approve final action
8 Zoning Commission Case No. 14-15, Commissioner
9 Cohen moving, Commissioner Miller seconding,
10 Commissioners Hood, May, and Turnbull in support.

11 CHAIRPERSON HOOD: Okay. Let's go to
12 proposed action. This is Zoning Commission Case
13 14-05, this is Forest City Washington Text
14 Amendment at 1803. Ms. Schellin.

15 MS. SCHELLIN: Yes, at Exhibits 23 and 26
16 we have the petitioner's post-hearing submission.
17 Exhibit 24 is ANC 6D's report. Exhibit 25 we have
18 an OP supplemental report where they have
19 requested a waiver for their late filing.

20 CHAIRPERSON HOOD: Okay. Maybe this was
21 the one. Any objections to the late filing?

22 No objections. Okay. Let's open it up
23 for discussion. Vice Chair Cohen.

24 MS. COHEN: Thank you, Mr. Chairman. I
25 have some -- the same concerns that are expressed

1 by the ANC with regard to the three-bedroom units
2 and the argument that is being proposed seems to,
3 you know -- the arguments are in conflict with
4 each other. Either this is an area of active
5 residential development as opposed to what the
6 applicant says in some part of their testimony,
7 versus the fact that it should be more of an
8 office area.

9 I mean, they're trying to have it both
10 ways and I would still think that three-bedroom
11 units would be marketable in this area and are
12 needed throughout the city.

13 CHAIRPERSON HOOD: Any other comments?

14 MR. TURNBULL: Yeah, Mr. Chair. I guess
15 my concern is -- the other concern in addition to
16 the Vice Chair's, is on the Metro entrance
17 paragraph. And I'm not really sure what we get in
18 the standpoint of a commitment out of this and how
19 strong this is in the future, whether they're
20 committing -- they talk about agreeing to set
21 aside property. But without a plan and knowing
22 exactly what they've got I'm not really sure that
23 when the time comes to build this property we're
24 actually going to find them setting aside --
25 actually providing that amount of space.

1 I feel it's weak. I mean, I'm not really
2 sure what we get out of this in the end. And I
3 don't know what is binding in the language that
4 would allow a third Metro rail entrance at this
5 site.

6 CHAIRPERSON HOOD: Well, as we know this
7 is a text amendment.

8 MR. TURNBULL: Right.

9 CHAIRPERSON HOOD: And if we --

10 MR. TURNBULL: I mean, unless OAG feels
11 we've got some strength in that, I'd be willing to
12 hear on that.

13 CHAIRPERSON HOOD: Okay. Were you going
14 to ask for --

15 MR. TURNBULL: I didn't mean to put OAG
16 on the spot, but I'm just concerned that we're
17 moving ahead. If we're moving ahead with this,
18 what do we really get out of it?

19 MS. COHEN: Mr. Chairman.

20 CHAIRPERSON HOOD: Yes.

21 MS. COHEN: I guess maybe I'm thinking --
22 I know this is a text amendment, but I'm thinking
23 maybe it really should be a PUD.

24 CHAIRPERSON HOOD: I don't know if we
25 could --

1 MS. COHEN: Can we insist on that?

2 CHAIRPERSON HOOD: I don't know if we can
3 direct it. We probably should have done that a
4 while back. I don't know if we could have -- I
5 don't know, maybe we shouldn't even set it down.
6 But anyway, all that's done now and I think the
7 proper course, and maybe I ought to yield to OAG,
8 is to -- if we feel like this should be a PUD or
9 we think maybe, you know, we would have to leave
10 that up to the applicant.

11 But maybe we dismiss this and then they
12 could make note of what we did in this action and
13 maybe put together something in another format.
14 But I don't think we can tell them we want to see
15 a PUD. I think what we do is -- I don't think we
16 can tell them that. Am I correct, Mr. Ritter. Or
17 Ms. Myers, whoever's this case is.

18 MS. MEYERS: Yes, Mr. Chairman. That
19 would be the correct course of action in this
20 case. If you feel that it's more appropriate as a
21 PUD case you can suggest that to the petitioner
22 and move to dismiss the case.

23 CHAIRPERSON HOOD: Okay. Does everyone
24 feel that way? Or let me open it up for
25 additional comments. Commissioner Miller.

1 MR. MILLER: Thank you, Mr. Chairman.
2 No, I don't feel that, unless we -- I think we
3 could go along with this text amendment and
4 possibly require the projects to come back to us
5 in the form of a PUD, but I don't see why we
6 should be rejecting this text amendment. I may be
7 a minority view point on this, but when the
8 question has been asked by one or more of my
9 fellow commissioners in previous proceedings on
10 this case, what are we getting out of it? We're
11 getting nearly 300,000 square feet of residential
12 use, housing that's badly needed in this city,
13 some of which will be set aside for affordable
14 housing. Some if it us under the terms of what's
15 of this text amendment will be a minimum, I think
16 for the first time, which is unprecedented, will
17 be requiring a certain percentage. It's a low
18 percentage, but I think it's the first of its kind
19 of three-bedroom units.

20 So I'm prepared to move forward tonight,
21 but if a majority of the Commission wants to see
22 the individual project come back in the form of a
23 PUD and at that time we could make a judgment
24 whether it needs a PUD or whether it can just
25 proceed as is, because it meets what we envisioned

1 by this text amendment, that's kind of where I am.
2 I'm prepared to go forward with the text amendment
3 as is. But I'm willing to also add to it that
4 additional projects should come back if that's
5 where majority of the Commission is.

6 CHAIRPERSON HOOD: Anyone else? I would
7 say that -- let me just see, who all would be in
8 favor of -- because here's the thing, Commissioner
9 Miller. Instead of coming back to us and we
10 figure out whether it's a PUD or a text amendment,
11 I think the action before we would dismiss the
12 text amendment before us tonight and send a
13 signal, I guess to the applicant, let them know we
14 would suggest, those are the words that have to be
15 careful, suggest that you come back at a PUD and
16 work with the Office of Planning, and come back in
17 front of the Commission.

18 But I don't think we would have the
19 option of looking at the text amendment and
20 looking at both of them at the same time and
21 picking which one we think is the better course of
22 action. I think we would be doing that tonight as
23 opposed to dismissing the text amendment, and
24 suggest that they come back as a PUD. I just want
25 to make sure we're on the same page. Anybody

1 else?

2 MR. MAY: So, I don't know that I have a
3 great deal of clarity to add to the discussion,
4 but there are a few things that I've been thinking
5 about with this.

6 First of all, when this walks in the
7 door, an additional 264,000 square feet of
8 residential space in itself is beneficial. But
9 it's also beneficial to the developer, giving them
10 1.0 FAR in the property that they have, and you
11 know, there is something of a windfall there.
12 What they're essentially giving in return is
13 reserving space for the Metro station in not
14 perfectly clear language. I mean, maybe what we
15 need is something clearer there in terms of what
16 it means to hold this space for this purpose and a
17 fairly meager proffer of larger rental units or
18 larger housing units that would be available.

19 And that's driven largely by the ANC's
20 interest in having more family suitable units.
21 You know, on the one hand we could simply not act
22 on this, or vote it down at this moment. But then
23 we, you know, we give up the things that are
24 fairly certain here. I mean, if we up zone these
25 properties and give them the extra 1.0 FAR we're

1 giving up that additional housing as a -- it's
2 pretty much a guarantee. We're also giving up the
3 possibility of reserving the Metro station space
4 on some level.

5 On the other hand, if we simply say in
6 order to get from 6.0 or 6.5 to 7.0 FAR you're
7 going to have to come back and do a PUD, maybe
8 they will, maybe they won't. And maybe we won't
9 see the Metro station, maybe we won't see the
10 additional three-bedroom units. It's a hard
11 thing.

12 I mean, I think I'm -- it helped me a lot
13 to see what the financial impact is of reserving
14 the space for the Metro station, and I think
15 that's not insignificant. But I am also reluctant
16 to simply say, well, we'll just take this up as a
17 PUD because I think we're gambling on a fairly
18 uncertain future as well as guaranteeing us many
19 more nights of hearings on this topic.

20 So, I don't know. I mean, I think I'm
21 inclined to try to move forward, but I do think
22 that having a little bit more clarity from the
23 applicant about what the Metro language really
24 means would be helpful. And I also think it
25 wouldn't hurt them to take another look at what

1 they've offered in the way of the housing units of
2 more bedrooms. If they can get a little bit
3 better on that and if they can clarify the Metro
4 language then I think I'd be -- I would have a
5 very easy time of moving forward.

6 CHAIRPERSON HOOD: Okay. Let's see if we
7 can get somebody who hasn't spoken on this issue.
8 Okay. Vice Chair.

9 MS. COHEN: I think that Commissioner May
10 put it very clearly and concisely, and if the
11 applicants -- since this is proposed action, if
12 the applicant can give us greater comfort and more
13 specificity as Commissioner May mentioned, they
14 did make the argument about the cost to them to
15 the project for setting aside the land for Metro
16 entrance.

17 I think that I would be able to support
18 this as a text amendment. But at this stage I'm
19 very uncomfortable with supporting it unless I can
20 get assurances from the developer that they're
21 willing to provide that additional information.

22 CHAIRPERSON HOOD: Okay. I actually can
23 go along with the suggestion of Commissioner May.
24 Maybe that will give me a better comfort level.
25 But I'm also reminded, I was listening to him, I'm

1 also reminded of a game called Monopoly. And
2 there's two things when you pass go sometimes you
3 land on a thing called Chance. And I know that
4 when you do a text amendment, I know there's a lot
5 of uncertainty, the things that can be done, which
6 we then will have made legal.

7 So I think that I would allow more time
8 to get that information and maybe that will give
9 us a better comfort level. But again, I'm
10 reminded in this case of the Monopoly game called
11 chance. And I'm not saying that this applicant is
12 dishonest and would do something different, but at
13 the end of the day if it's allowable, and I'm not
14 saying this applicant, but I know that that has
15 been done. People have done things and made
16 changes, and it's all perfectly legal because this
17 Commission did it as a text amendment.

18 But anyway, that's a whole other
19 argument. Anybody else?

20 MR. TURNBULL: Well, it sounds like we
21 have two options. Either we're going to take
22 proposed action with a lot of stuff coming in on
23 final action, or we're going to defer a proposed
24 action until we get revised information.

25 CHAIRPERSON HOOD: I would strongly

1 encourage us to do the later.

2 MR. TURNBULL: Defer?

3 CHAIRPERSON HOOD: Defer.

4 MR. TURNBULL: Okay.

5 CHAIRPERSON HOOD: Yes.

6 MR. TURNBULL: I could go along with
7 that.

8 CHAIRPERSON HOOD: Okay. Okay, are we
9 all in agreeance with deferring, everyone? Except
10 for one who would move forward. But I think to
11 give the other four of us a comfort level, we
12 would defer.

13 Ms. Schellin, could you tell me when
14 we're going to defer this? Until when?

15 MS. SCHELLIN: I think if we give the
16 applicant two weeks to provide their information,
17 so if they could provide that by January 26th,
18 then the ANC would have until February 2nd to
19 provide a response if they choose to do so, and we
20 could put this on the February 9th agenda.

21 MR. TURNBULL: Would that mean that we --

22 MS. SCHELLIN: Do you also want -- oh,
23 I'm sorry. Do you also want OP to provide a
24 response to what they provide if they choose to do
25 so?

1 CHAIRPERSON HOOD: I think that would be
2 helpful.

3 MR. TURNBULL: Well, I would think also
4 the Office of Planning and OAG are going to weigh
5 in on the language for the text amendment too, I
6 would assume.

7 MS. SCHELLIN: Well, OAG will always give
8 you --

9 MR. TURNBULL: Always.

10 CHAIRPERSON HOOD: I think both of them.

11 MR. TURNBULL: Both of them.

12 MS. SCHELLIN: Yes, that's
13 attorney/client privilege. Yes.

14 CHAIRPERSON HOOD: Anything else on this?
15 Do we have the dates?

16 MS. SCHELLIN: Yes.

17 CHAIRPERSON HOOD: I'm not sure who the
18 applicant is. But --

19 MS. SCHELLIN: Yes.

20 CHAIRPERSON HOOD: Oh, okay. All the way
21 in the back.

22 MS. SCHELLIN: I got the nod.

23 CHAIRPERSON HOOD: Okay. All right.

24 Let's move on to Zoning Commission Case No. 13-12,
25 1333 M Street, LLC, first stage PUD related map

1 amendment and consolidated PUD at Squares 1025E
2 and 1048S.

3 Ms. Schellin.

4 MS. SCHELLIN: Yes, sir. At Exhibit 32
5 we had a submission from Karen Harris, which was
6 something that Commission asked her to submit
7 after she testified. Exhibit 33 is the
8 applicant's response to Ms. Harris's submission.
9 And then Exhibits 34 and 35, through 35, we have
10 the applicant's post-hearing submission. Exhibit
11 36 was ANC 6B's report. Exhibit 37 was the OP
12 supplemental report. And last we have Exhibit 38
13 which was a DDOT supplemental report, and we'd ask
14 the Commission to consider proposed action on this
15 case this evening.

16 CHAIRPERSON HOOD: Okay. Thank you, Ms.
17 Schellin. Let's open it up for any comments.

18 Commissioners, if I can refresh your
19 memory. We did have some expert witnesses in this
20 case. This was done by Holland and Knight. Some
21 of the things confirmed by the applicant,
22 anticipated the project taking 12 to 14 years to
23 complete. I'm not sure if they told us yes or no,
24 but I know there's a phase, a time limit that
25 we're looking at.

1 I think a number of us were concerned
2 about the maximum phase length; the phasing
3 length, which appeared to be 17 years at the time
4 of the hearing.

5 Issues about the roadway and the private
6 road. And we also had some concern -- also the
7 issues about the Capitol Bike Share stations
8 confirmed with the applicant. There were some
9 issues dealing with that. So that kind of brings
10 you back up to where we were with some of it.

11 And then also we had some of the
12 neighbors. Ms. Karen Harris, Exhibit 33. If
13 anybody else would like to point out something
14 they're more than happy to do it. I don't have to
15 point out everything, Vice Chair. Anything else?

16 MS. COHEN: Yeah, I think that again, a
17 major concern was the length of the first stage
18 PUD and I believe that a 10 year term is much more
19 acceptable. And then there was the perimeter
20 lighting. I think we need a lighting plan for
21 Phase 1. And on subsequent second stages we
22 should get supplemental plans.

23 I believe that the information that the
24 applicant provided on the issues that I was very
25 concerned about with regard to the -- oh, this is

1 another case.

2 Well, the information provided by the
3 applicant was acceptable and then they are going
4 to go for Silver. This is the project, right?

5 And I think again we need more
6 information or potential view sheds of the design
7 for the Boathouse Row side. I think we just need
8 to see that from different perspectives. And I
9 think OP's report reflects that.

10 And the contribution to the Anacostia
11 Watershed Association, we have to push it forward.
12 They're saying that they're going to pay it after
13 the issuance of the C of O, and this would violate
14 our 2403.6 of our regulations. So I think that
15 also expands some of the items you were
16 mentioning, Mr. Chairman.

17 CHAIRPERSON HOOD: Any other comments?

18 Commissioners, we do have in the file,
19 Exhibit 32, which we asked for. And this is a
20 petition from some of the neighbors, which I know
21 that the applicant did respond to. And they
22 raised a number of concerns. These are the most
23 impacted neighbors and it looks as though they
24 have quite a few neighbors who have signed on to
25 this, some of the concerns. And that's our

1 Exhibit 32, this letter. I think it was testimony
2 and notes of Ms. Karen Harris.

3 Transportation, intended residence, light
4 impact as Vice Chair just mentioned. There are a
5 number of issues that are in this letter. Retail
6 space. The drawings in this space, the benefits,
7 the pedestrian bridge, flood the train, and I just
8 tried to run through that.

9 This is proposed and I'm not sure how --
10 I don't recall if we asked the applicant to work
11 with the neighbors. Did we do that in this case?

12 MS. SCHELLIN: I'm sure you did.

13 CHAIRPERSON HOOD: I usually do.

14 MS. SCHELLIN: Yeah.

15 CHAIRPERSON HOOD: But I'm trying to
16 think, did we do that in this case? We did.
17 Okay.

18 MS. SCHELLIN: I would bet on you did.

19 MR. MAY: Mr. Chairman.

20 CHAIRPERSON HOOD: Yes, Commissioner May.

21 MR. MAY: So I appreciate all the
22 additional information that's been submitted in
23 the petition that was also submitted. I have to
24 say, I think that the notion that somehow this
25 building is so tall that it's going to block the

1 light of the closest neighbors, I think it's
2 pretty clear from the solar study that it's not
3 really going to have an effect of any substance on
4 the closest neighbors because they are still
5 fairly far away.

6 It will be a very visible thing from
7 those homes and it will obstruct the view, but of
8 course we've dealt with issues of views across
9 other people's property and you know, that's not
10 something that any of us have a right to. So, you
11 know, it kind of is what it is.

12 I think that generally speaking, now that
13 we have clarity on the phasing I'm pretty
14 comfortable with the project and I think there are
15 a few smaller things that need to be clarified
16 just a little bit further, including the sign. I
17 mean, I was one of the more vocal commissioners
18 when it came to the Boathouse Row sign on the
19 penthouse. And it's because of my general
20 philosophy that penthouses are supposed to be --
21 they're not supposed to be the really visual and
22 prominent features of the building. And, you
23 know, having a tower, dome, or spire, or something
24 like that is something that's recognized as an
25 embellishment that adds value.

1 But, you know, putting large signage on
2 penthouses just draws attention to what otherwise
3 is a part of the building that should be as
4 invisible as possible.

5 I mean, it may simply be that there is no
6 vantage point at which one can really see this,
7 except from very tall buildings, very far away, in
8 which case I wouldn't be as concerned.

9 I would say I don't think that the
10 renderings that were submitted as an alternate
11 design where they try to show it looking more like
12 an aged sign, I don't think that was done very
13 well. I think that the technique may be valid,
14 but what's shown in the rendering is not very
15 effective.

16 I also simply think that part of the
17 issue is just the size of this. I mean, having --
18 you know, they submitted some examples of other
19 signs that have been put on to the sides of
20 buildings. And first of all, those are on the
21 sides of the buildings and on the penthouses, and
22 they are relatively small signs. I mean, they may
23 be big when you stand next to them, but you know,
24 the examples that were submitted most of them
25 were, I don't know, a quarter the size of this

1 sign.

2 So, I guess I would be open to looking at
3 other alternatives but I'm really not enumerative
4 of this sign as it is and I think that having some
5 -- maybe having some views of it from street
6 level, from certain areas, would address my
7 concern having to do with visibility. But then
8 again maybe not and maybe in the end I just simply
9 can't -- I can't accept the sign and would not
10 want to see it there.

11 CHAIRPERSON HOOD: Okay. When I looked
12 at the -- let me just say that Exhibit 33, when I
13 looked at it earlier, I don't know what we had
14 initiated some of that. So obviously I haven't
15 had a response from Ms. Harris, but it's obviously
16 that there have been some concessions made. I do
17 realize about the height of the building and some
18 of the things as the applicant pointed out. But I
19 was just not sure if we were the ones who
20 initiated them having that discussion. It seems
21 like there has been some progress made on this,
22 and I didn't know that we had pushed that. But
23 from what I'm reading from the applicant. Now
24 again, I haven't heard from Ms. Harris.

25 So it looks like we are making some

1 progress. Sometime -- in the shadow studies. At
2 least the shadow studies that we have, I would
3 have to agree with Commissioner May and I'm going
4 by what's in the record. At least from the
5 studies that were given to us, and I think -- I
6 forgot what exhibit number it is, doesn't look
7 like it's going to be that much of a shadow on the
8 houses on the other side. But I can tell you that
9 the Supreme Court has already said that you don't
10 buy a view. And I've heard that enough that now
11 I'm starting to repeat it.

12 So anyway, that's all I have on this.
13 Anything else? I am going to ask that they
14 continue to have discussions depending upon how we
15 move tonight. While it may not be all in what the
16 -- now I think that the neighbors who are most
17 affected still should be worked with because when
18 everybody goes home those neighbors have to endure
19 what we sit up here and approve. And I think the
20 better discussions from a legal standpoint, I
21 think this project is ready to move forward.
22 There still are some outstanding issues with the
23 community. I'm more concerned about the community
24 and what they're going to have to endure. That's
25 where I am. Any other comments or questions?

1 Commissioner Miller?

2 MR. MILLER: Yeah. Thank you, Mr.
3 Chairman. Yeah, I would concur that the applicant
4 has provided a lot of information in response to
5 previous concerns expressed by both the Commission
6 and the neighbors, and the Office of Planning, and
7 DDOT. And I think we could move forward tonight
8 with proposed action and ask for the additional
9 items that Office of Planning and some of my
10 commissioners and fellow commissioners had
11 mentioned be provided between now and final
12 action, including the appearance and impact of the
13 rooftop lighting, including ambient lighting and
14 lighting -- highlighting rooftop structures,
15 recreation areas, and signage.

16 And the alternatives to the alternative
17 designs -- additional alternative designs for the
18 Boathouse Row rooftop sign, including renderings
19 from -- or prospective renderings from ground
20 level locations as OP suggested, and the other
21 items that Vice Chair Cohen mentioned and you've
22 mentioned. Including the 10 year term for the
23 first year, first stage PUD validity. So with all
24 that additional information -- with the additional
25 information that has been provided and with the

1 additional information that we're requesting I
2 think we could move forward tonight on proposed
3 action and expect to get some more stuff at final
4 reading; final action.

5 CHAIRPERSON HOOD: Any other question?
6 Mr. Turnbull.

7 MR. TURNBULL: Yes. Thank you, Mr.
8 Chair. I would agree with the comments of my
9 commissioner, fellow commissioners, that the
10 applicant has made some progress and proposed some
11 of the changes that we had requested before.

12 I guess my biggest concern is still the
13 rooftop. Looking at their plan of the roof where
14 they're showing some lighting, they don't give us
15 everything. But what I'm concerned about is that
16 a rooftop is -- we're talking about a rooftop as
17 an amenity for the residents of the building to
18 enjoy. But we've always stressed that it should
19 be for the residents. It should not be -- the
20 down lighting is critical. It should not be
21 something that is imposing itself upon any
22 adjacent neighbors, even though there may not be
23 anything right here and now.

24 But I'm concerned about up lighting. And
25 I'm concerned about having a big sign that would

1 be up lit and being a glaring -- it be an
2 attractive nuisance in the future. So I am
3 reluctant to agree with having big lighted signage
4 areas on the tops of buildings. I think a
5 residential structure is not meant to be that and
6 I am looking more for the enjoyment of the
7 residents themselves. There is a character up
8 there that you're looking for, for them to enjoy
9 it.

10 So I would want to see a bit more than
11 just down-lighting and not this up-lighting for
12 this building.

13 I guess the only other issue, and I don't
14 know, did we talk about the Department of
15 Transportation's -- they had some other issues in
16 it and I'm not sure what my fellow colleagues
17 comment are on. I mean, there's some additional
18 thing about bike sharing, and I don't know how far
19 we want to get into that. But maybe we should
20 take a few minutes and just talk about it.

21 Maybe it looks like the Vice Chair has a
22 few comments. So.

23 MS. COHEN: Yeah. I was just going to
24 say that I think the applicant should address why
25 the DDOT recommendations are not needed to

1 mitigate potential adverse transportation impacts.
2 So I think that that would sort of tie up some
3 loose ends between DDOT and the applicant.

4 CHAIRPERSON HOOD: I would agree because
5 I really think that that goes right to one of the
6 concerns of the neighbors. And I will tell you,
7 I'm very bothered by the neighbors, the petition.
8 And I know that some things have been resolved.
9 And I know the parking space issues was an issue
10 and I understand the height and some of the things
11 that the applicant has brought out. One of them
12 is not even a matter of right. I understand all
13 that. But I still think some of it we can't deal
14 with because it's not within it. It can do it as
15 a matter of right, and they can go forward in a
16 situation like this, a first stage PUD. And
17 that's the way the gamut is put together, to come
18 and ask for something additional. But you can't
19 give them anything less than it's already what the
20 code is; what the zoning is.

21 The other issue that I'm having is, I
22 just have a -- while I would move forward tonight,
23 I just have some unreadiness with the community
24 still having the issues. I don't know if more
25 discussion needs to be had, but I would also agree

1 with the Vice Chair. But I think one of the
2 things that might mitigates of the community's
3 concern is the DDOT recommendation. How do we do
4 that? How do we allow for all these parking --
5 for the 600 -- I don't remember the number right
6 off, the 647 residents in the 200 something
7 spaces. So some of those things we need to
8 tighten up, we need to find out where we are so we
9 can make an informed decision as we move forward.

10 So I would agree with the Vice Chair, and
11 again I'm going to ask again that the applicant,
12 as well as the neighbors, continue to have
13 conversations. Not that you're going to come in
14 here holding hands, because as you can see the
15 Commission will make the decision. But it needs
16 to be something that's reasonable and feasible for
17 the folks who are going to endure whatever is
18 going on in that neighborhood.

19 Any other questions or comments?

20 MS. COHEN: Yeah, I just want to
21 emphasize again that the contribution to the
22 Anacostia Waterfront Association needs to be
23 addressed, that currently it doesn't meet the
24 2403.6, so I think we need to go back to it and
25 work this out with the ANC.

1 CHAIRPERSON HOOD: Yeah. Okay. All that
2 needs to be tightened up between now and -- well,
3 I'm not going to say final because I don't know --
4 I think it will probably pass tonight. So we need
5 to make sure that that's taken care of. Okay.
6 I'm looking at that. I know who the applicant is
7 on this one so you need to work with Ms. Harris,
8 who is sitting here, and do what you can. I'm not
9 going to say you all are going to hold hands the
10 next time. As a matter of fact, next time you all
11 come down, sit together so I know that you all
12 been working together. Okay?

13 All right. Commissioner, somebody that
14 can make a motion.

15 MS. COHEN: Mr. Chairman, I will move to
16 approve for Proposed Action Zoning Case No. 13-12,
17 1333 M Street, LLC, first stage PUD related map
18 amendment and consolidated PUD at squares 1025D
19 and 1048S, and subject to the submission of
20 additional information addressing the concerns of
21 the commissioners as stated tonight.

22 MR. MILLER: Second.

23 CHAIRPERSON HOOD: Okay. So it's been
24 moved and properly seconded. Any further
25 discussion?

1 All in favor?

2 ALL: Aye.

3 CHAIRPERSON HOOD: Any opposition. Not
4 hearing any, Ms. Schellin, would you record the
5 vote?

6 MS. SCHELLIN: Yes. Staff records the
7 vote five to zero to zero to approve Proposed
8 Action Zoning Commission Case No. 13-12,
9 Commissioner Cohen moving, Commissioner Miller
10 seconding, Commissioners Hood, May, and Turnbull
11 in support, and if we could set some dates for
12 these submissions?

13 CHAIRPERSON HOOD: Do we need to go over
14 the submissions so everybody knows exactly what
15 the Commission is looking forward to? Or looking
16 for?

17 MS. SCHELLIN: Well, I was not taking
18 notes, so --

19 CHAIRPERSON HOOD: Okay. Well, I hope
20 that --

21 MS. SCHELLIN: -- she can listen to the
22 recording.

23 CHAIRPERSON HOOD: I hope both sides kind
24 of know what the Commission is looking for, and I
25 also want to get a response back in the

1 conversations from Ms. Harrison. Conversations
2 that were being had with the applicant. Okay?

3 MS. SCHELLIN: Okay. So if we could --
4 since final action will be at the February 23rd
5 meeting, if we could have the submissions because
6 I think that some of those things will probably
7 come out through the process that the applicant
8 has to go through with the amenities and
9 conditions that she has to go back and forth
10 through, that she has to submit. So she has that
11 process to do. Or the applicant has that process
12 to do.

13 And but any other submissions that was
14 asked for would be due by February 2nd, and then
15 we could have the ANC make its submission by
16 February 9th. And Ms. Harris's response that
17 you're asking for would also be due by February
18 2nd. All submissions due by 3:00 p.m. And I
19 don't believe there were any other parties to this
20 case, other than the ANC.

21 CHAIRPERSON HOOD: Okay. All right,
22 anything else from this case? Everybody is on the
23 same page? Okay.

24 All right. Let's go to the next one,
25 agenda.

1 Okay. It's hearing action, Zoning
2 Commission Case No. 14-21, Barry Place Partners,
3 LLC. Consolidated PUD and related map amendment
4 at Square 2882. Ms. Brown-Roberts.

5 MS. BROWN-ROBERTS: Mr. Chairman and
6 members of the Commission. Barry Place Partners
7 proposes a development at Barry Place and Sherman
8 Avenue Northwest with a mixed use six story
9 building to accommodate 319 units and
10 approximately 11,000 square feet of retail space,
11 and an overall FAR of 5.0.

12 The development would provide 10 percent,
13 or 32 affordable units at up to 8 percent of AMI.
14 The proposed uses would be supported by 146
15 parking spaces, and 107 secured bicycle spaces.

16 To accommodate the development the
17 applicant has requested a consolidated PUD and a
18 related map amendment to rezone the property from
19 the R5B zone to the C2B.

20 A portion of the development area is
21 within the HUD University Campus plan and the
22 University has submitted a request for campus plan
23 amendment under Zoning Commission Case 11-15D.

24 The building would have entrances on
25 three sides with the upper floors encircling the

1 central court, enhanced with various recreational
2 amenities for the residents. The modern
3 architectural style of the building is similar to
4 that seen in many areas of the city, including
5 along Florida Avenue, U Street, Georgia Avenue,
6 and would complement the adjacent Howard
7 University dormitories, and Garfield Towers
8 Apartments.

9 The development would introduce new
10 sidewalks enhanced with landscaping to improve
11 pedestrian connections to the Shaw Howard
12 University, and the U Street Metro Stations.

13 The applicant has requested the
14 flexibility for the associated map amendment from
15 R5B to C2B zone. In addition flexibility is
16 requested for the 93 percent ground floor lot
17 occupancy, where 80 percent is allowed. The
18 provision of a 30 foot loading berth where a 55
19 berth is required and multiple roof structures of
20 one equal height and substandard setback.

21 The amenities associated with the
22 development would include 32 affordable units,
23 lead for midrise multifamily, the gold standard,
24 various tedium measures and a first sort
25 employment agreement.

1 Regarding the comprehensive plan the
2 future land use map designates a site for mixed
3 medium density commercial and medium density
4 residential, while the generalized policy map
5 designates the property as a land use change area.

6 The proposed C2B zone and the change from
7 the existing warehouse, row houses and surface
8 parking uses are not inconsistent with these
9 designations. The proposed development would meet
10 or further many of the policies of the
11 comprehensive plan.

12 OP recommends that the application be set
13 down for public hearing and OP has advised the
14 applicant to provide a fully dimensional roof plan
15 and address the transformer boxes which are within
16 public space with DDOT.

17 Thank you, Mr. Chairman, and I'm
18 available for questions.

19 CHAIRPERSON HOOD: Okay. Thank you, Ms.
20 Brown-Roberts.

21 Commissioners, any questions? Any
22 questions or comments?

23 MR. TURNBULL: Yes, Mr. Chair.

24 CHAIRPERSON HOOD: Mr. Turnbull.

25 MR. TURNBULL: I've got just one question

1 and maybe Ms. Brown-Roberts -- we've had lots of -
2 - according to your report, Howard University is
3 still a partner in this project. Is a partner in
4 this project.

5 MS. BROWN-ROBERTS: That's correct.

6 MR. TURNBULL: Is there still ownership
7 of the land by Howard University?

8 MS. BROWN-ROBERTS: Yes, sir. As far as
9 I know, yes.

10 MR. TURNBULL: Well, I'm just wondering.
11 We've gotten into cases before where whether it's
12 American University Georgetown where there was
13 property zoned by the University that they're now
14 saying are not campus plan, but that they're being
15 owned. Do we have any conflicts here with what
16 we've been talking about in previous cases about
17 Universities owning land adjacent but being used
18 for other interests?

19 MS. BROWN-ROBERTS: No, they --

20 MR. TURNBULL: I mean retail, they've got
21 -- we had some cases with American University
22 owning retail and commercial properties, and the
23 concern by the residents about what they're being
24 used for. I'm assuming here that since it's
25 basically strictly residential there's not an

1 issue. But I just want to maybe clarify that from
2 where we're going with the regulations.

3 MS. BROWN-ROBERTS: The Howard property
4 is zoned R5B currently.

5 MR. TURNBULL: Right.

6 MS. BROWN-ROBERTS: And so they're being
7 a part of this and with the rezoning to the C2B.
8 Under the C2B zone the university would not
9 necessarily need a campus plan for that, because
10 it's a commercial use.

11 So, that's one of the reasons why they're
12 taking it out of the campus plan.

13 MR. TURNBULL: Okay. Well, maybe we can
14 bring it up in the hearing too. Have some
15 questions on it maybe.

16 MS. STEINGASSER: Get some clarification,
17 Commissioner Turnbull.

18 Also the pending text amendment that
19 addresses commercial properties owned by
20 universities for university use is limited to a
21 C2A and the C1, and this is a C2B.

22 And as far as we know, last we talked
23 with the applicant, the university was not going
24 to be part of the commercial ground floor, but we
25 can get more clarification at the hearing.

1 MR. TURNBULL: Okay. I'd appreciate
2 that. And I agree with your --

3 CHAIRPERSON HOOD: Can I go on that note?

4 MR. TURNBULL: Sure.

5 CHAIRPERSON HOOD: Going on the same
6 note, because I wanted to make sure, Ms.
7 Steingasser, that didn't go against, you know, the
8 language we talked about in the other area, that
9 we put the text amendment from councilmember Chay
10 who talked about that. I want to make sure we're
11 not going against that. While I know this is a
12 different area and different circumstances, but I
13 wanted to make sure we weren't going against
14 something that we were -- we are in the process of
15 putting in place.

16 MS. STEINGASSER: No, sir. This would
17 not and we'll put an appendix to the next report
18 that clarifies that for you.

19 CHAIRPERSON HOOD: Okay. Thank you.
20 Okay. I'm sorry, Mr. Turnbull.

21 MR. TURNBULL: No, that's fine, Mr.
22 Chair.

23 I guess the only other -- and I do agree
24 with the needing more information on the roof
25 plan. That there was one in the elevator which it

1 looked by the way they had done an overhang, I
2 think it's on 9th street, that they're okay from
3 the standpoint of setbacks, but it just looked a
4 little strange so I'd really like some
5 clarification. I'm just agreeing with what your
6 comment was on that. Thank you.

7 CHAIRPERSON HOOD: Commissioner Miller.

8 MR. MILLER: Thank you, Mr. Chairman.
9 I'm not sure I have any questions, but I do agree
10 with the comments set forth by Ms. Brown-Roberts,
11 and the Office of Planning in their report. And
12 Commissioner Turnbull in asking for additional
13 information on the roof plan, on the range of
14 units for which flexibility is requested, the
15 rationale for not providing a CB agreement.
16 Including, back to the roof plan, including more
17 information on that overhang and whether there are
18 one -- whether the setback requirements are being
19 fully met, and if not, why not, for all the
20 rooftop structures.

21 And as OP noted in its report, why no
22 landscaping at all is provided along Barry Place,
23 and clarification of -- well, a rendering of the --
24 - I think we need a rendering of the north
25 elevation. I'm not sure that was in there. I

1 guess that's
2 the -- I guess that may be an at risk wall, but
3 just to see what that looks like because it may be
4 up a while.

5 And then in relation to that, that vacant
6 surface parking lot to the north of this site,
7 what the status is of Howard's development of
8 that. What is -- I didn't look at the campus plan
9 to see what's actually planned there, but if we
10 could get more information on what is planned
11 there and when, and did I mention the rendering of
12 the loading parking trash collection entrance on
13 9th Street, I guess. The northern part of 9th
14 Street. That's to see exactly what that looks
15 like.

16 I think it's great that they've
17 consolidated that all in one -- with one curb cut
18 and everything being internal to the building and
19 not visible from the street. I think that's
20 great.

21 I think the project as a whole, the 319
22 units on this vacant underutilized space and
23 activation of Sherman Avenue is really a benefit
24 to the neighborhood and of the District.

25 To set aside for compliance with

1 inclusionary zoning, I realize that they're doing
2 10 percent at 80 percent AMI instead of the
3 minimum 8 percent that's required. But I would
4 like to see if it's at all possible if they could
5 get to a lower AMI level for some of these units,
6 and commit to that just because 80 percent AMI in
7 this neighborhood, in most neighborhoods in the
8 District is market rate or above market rate, so
9 it's just not meeting a need.

10 And I guess, I guess more information on
11 what the percentage of -- it may be here, but what
12 percentage of the units are being set aside for
13 faculty and staff of Howard and what percentage
14 are being set aside for graduate students, if any.
15 It's mentioned that it's graduate student
16 workforce housing at one point, and then there's a
17 reference to faculty and staff, and I just want
18 more information on what percentage is being set
19 aside for Howard and then what's going to be left
20 for the public.

21 With that I would be prepared to set
22 down, depending upon what I hear from my
23 colleagues.

24 CHAIRPERSON HOOD: Okay. Any other
25 comments? Anything different?

1 MR. MAY: Yes.

2 CHAIRPERSON HOOD: Okay. Commissioner
3 May.

4 MR. MAY: So I'm confused about the
5 loading circumstance. I mean, I like the fact
6 that there is loading interior to the building,
7 but it doesn't connect to -- it only connects to
8 the service elevator for the apartments. It
9 doesn't seem to connect to the retail space. Am I
10 missing something?

11 MS. BROWN-ROBERTS: I'll have to check.

12 MR. MAY: You don't know?

13 MS. BROWN-ROBERTS: I don't know.

14 MR. MAY: Well, I think that's a real
15 issue. I mean, I think we've seen other projects
16 where there's, you know, there's a loading space
17 and then there is retail and they don't connect,
18 and the inevitable result of that is that they
19 wind up loading from the street or something like
20 that, which I don't think we want to be
21 encouraging.

22 So, I couldn't see a route from where the
23 trucks unload to the retail space. They're on the
24 same level and then it just looks like the only
25 way to get from one to the other is through the

1 garage.

2 MS. BROWN-ROBERTS: It doesn't. You're
3 right. You're correct, it doesn't show a pathway.

4 MR. MAY: So that needs to be fixed. I
5 also, I would echo the concerns about the rooftop
6 structures. I mean, I think that just needs to be
7 cleaned up a little bit. They're asking for
8 relief about stuff that, you know, with a little
9 bit more attention to the design they could clean
10 it up and not need that relief. Which would be
11 desirable.

12 I mean, they are going to need relief for
13 separate structures because we've got separate
14 elevator -- I mean, separate stairways that are
15 distant from one another and it doesn't make sense
16 to, you know, do a full continuous penthouse to
17 cover those up. But I think that just, you know,
18 getting the setbacks should be something they can
19 accomplish within the design.

20 The only other thing that I would add, I
21 agree with, you know, all the other comments that
22 I heard from my colleagues. But I would just add
23 that the design of the facades in general seems
24 like a very -- a really extensive palette of
25 materials deployed in a way that are expressing

1 many, many different architectural ideas. And I'm
2 not trying to make the project boring, but it
3 seems to me that a little bit of focus would be
4 helpful, because it just, it feels like there are
5 too many things that they're trying to accomplish.

6 I also have a little bit of concern about
7 the quality of materials, and it's a little bit
8 hard to tell, given the size of the drawings. But
9 I'm sure that, you know, if they give us a full
10 PUD type set that we will see enlarged elevations
11 with good representations in the materials and so
12 on.

13 But I just think that, you know, if the
14 Office of Planning will continue to work with them
15 to try to refine the design I think it would be
16 helpful in the long run. Again, I think it's not
17 -- I don't see what's there as really
18 unattractive. It just seems like they're just
19 trying to do too much; too many different
20 materials. So.

21 CHAIRPERSON HOOD: Okay. Vice Chair
22 Cohen.

23 MS. COHEN: Thank you, Mr. Chairman. I
24 actually concur with all of my colleagues.
25 However, for me when I first looked at this, I had

1 a feeling that it felt again, and I guess this
2 goes to Commissioner May, a heavy building and a
3 fortress like. And so I don't know, you know,
4 maybe it was just the materials that made me feel
5 this way, but it doesn't feel light and accessible
6 to the street. It feels like once you're in it
7 you're sort of closed in.

8 So I need a little bit more articulation,
9 maybe, about the -- during the presentation about
10 the achievement of this design. But it just feels
11 to me, very fortress-like.

12 CHAIRPERSON HOOD: Okay. Anybody else?

13 Okay. I would also echo some of what I
14 heard about the architecture, and I usually don't
15 get into this, but we need to revisit some of the
16 things that we have architecturally.

17 While I don't think it's too far off,
18 maybe I just need to hear it to understand it.
19 But I think this will continue to help revitalize
20 that area. But we just want to make sure we get
21 it right and we do a good job because this could,
22 again, be the catalyst again, to help jumpstart
23 some of the things that's going on down in that
24 area. Anything different? Anybody else? If not,
25 I would move that we set down Zoning Commission

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1 Case No. 14-21, Barry Place Partners, LLC,
2 consolidated PUD and related map amendment in
3 Square 2882, and ask the applicant to take our
4 comments into consideration and ask for a second.

5 MR. TURNBULL: Second.

6 CHAIRPERSON HOOD: It's been moved and
7 properly second by four people, I believe. All
8 those in favor. Wait, hold on, hold on. Further
9 discussion.

10 MR. MILLER: Just since other people got
11 into materials and if they're going to reduce
12 materials, which I try not personally asking for,
13 but I think a better description of rationale for
14 them would be good. But I don't get rid of, from
15 my perspective, that wood panel-like -- I like
16 that. So I --

17 CHAIRPERSON HOOD: I actually would
18 agree. I didn't say get rid of anything else.

19 MR. MILLER: I know, I know, but there
20 was a suggestion, like Mr. May, to reduce.

21 CHAIRPERSON HOOD: Right.

22 MR. MILLER: And focus. And I just --

23 MR. MAY: Yeah.

24 MR. MILLER: -- think if they're going to
25 focus and get rid of something, that I happen to

1 just like that and maybe --

2 MR. MAY: I mean, what I'm talking about
3 mostly is the fact that there are seven different
4 types of cementitious panels. I mean, one of them
5 is the wood printed one. But I mean, really six
6 different shades of gray is --

7 CHAIRPERSON HOOD: It's kind of busy.

8 MR. MAY: -- iffy shades, right.

9 CHAIRPERSON HOOD: It's a little -- it's
10 busy.

11 MR. MAY: It's a bit much, and so.

12 CHAIRPERSON HOOD: I agree with you about
13 the wood.

14 MR. MILLER: Okay.

15 CHAIRPERSON HOOD: Don't get rid of the
16 wood.

17 MR. MILLER: Yeah.

18 MS. COHEN: At least it's not 50.

19 MR. MILLER: Fifty shades of gray.

20 CHAIRPERSON HOOD: Okay. All right.
21 It's moved and proper, so any further discussion.
22 All those in favor, aye.

23 ALL: Aye.

24 CHAIRPERSON HOOD: Ms. Schellin, would
25 you -- not hearing any opposition. Any

1 opposition? Not hearing any, Ms. Schellin, would
2 you record the vote?

3 MS. SCHELLIN: Yes. Staff records the
4 vote five to zero to zero, Chairman Hood moving,
5 and I'll give Commissioner Turnbull the second
6 since he hasn't had a lot of them this evening.
7 Commissioners Cohen, May, and Miller in support
8 and we're setting this case down as a contested
9 case, Case No. 14-21.

10 CHAIRPERSON HOOD: But we have confused
11 the applicant because I am --

12 MS. SCHELLIN: And that's five to zero to
13 zero by the way.

14 CHAIRPERSON HOOD: I hope they know what
15 to bring, and they'll probably have seven sheets
16 of paper with different versions. But anyway.
17 Okay. Thank you.

18 Let's move on to correspondence, Zoning
19 Commission Case No. 10-28, 901 Monroe Street,
20 LLC., remand from D.C. Court of Appeals.

21 Ms. Schellin.

22 MS. SCHELLIN: Yes, sir. At Exhibit 356
23 we had a request from the applicant in case number
24 10-28 to hold a hearing to address the issues that
25 were raised by the D.C. Court of Appeals. And

1 then at Exhibit 357 we had a letter from the
2 attorney representing the 200 footer stating among
3 other things that they thought it would be
4 appropriate to schedule oral arguments on this
5 case. So we'd ask the Commission to consider
6 these two letters, or not, decide how they want to
7 proceed with this case.

8 CHAIRPERSON HOOD: Okay.

9 MS. SCHELLIN: Or with this remand,
10 rather.

11 CHAIRPERSON HOOD: All right,
12 Commissioners. This case is still around. Still
13 a lot of legal issues that have been going on with
14 this case, a decision that we made a while back.
15 Now we have in front of us some things that are on
16 remand back to this Commission. And I think
17 everyone agrees that we do something. So, in
18 moving forward, I'm not sure. You know, we have -
19 - do we have a hearing, do we have oral arguments?
20 Do we just deliberate on what's been in front of
21 us?

22 I would be in favor of having oral
23 arguments. That's where I fall down on it, but
24 I'll open it up and see what others that
25 participated may want and possibly one who may not

1 have participated may have to read the record, who
2 knows.

3 Mr. Chair, I would concur with you. I
4 don't believe we need a limited scope even. I
5 think if we just had the oral arguments that would
6 be sufficient for us to be able to then review
7 what's on the docket and then proceed.

8 CHAIRPERSON HOOD: Okay. Anybody else?
9 So do we need to make a motion for oral arguments?
10 It looks like that's the agreement.

11 MR. RITTING: What I was going to propose
12 is, if I could work with the parties to sort of
13 get a sense for how much time they need, and then
14 we'll develop a procedural order that will set
15 forth what the time limits are and what the --
16 when it will occur and so forth, and I can
17 circulate that to the commissioners to see if you
18 approve it.

19 CHAIRPERSON HOOD: So you will basically
20 do rules of the day for how we're going to
21 proceed, and then we're going to make the decision
22 on the time limits. You're going to work with
23 both sides (indiscernible)**1:06:51.

24 MR. RITTING: Right. And once you
25 reviewed the draft procedural order, that would be

1 your -- constitute your action here.

2 CHAIRPERSON HOOD: Okay. And we would
3 vote at that time on how we're moving forward.

4 MR. RITTING: Well, you're just
5 authorizing me to develop it and then I'll share a
6 draft with you and then you'll just issue the
7 order to the parties.

8 CHAIRPERSON HOOD: So do we need to vote
9 on anything tonight?

10 MR. RITTING: No.

11 CHAIRPERSON HOOD: Okay. All right. So
12 we all on the same page? Any further discussion
13 on that?

14 (No audible response.)

15 CHAIRPERSON HOOD: Okay. Thank you.
16 Okay, next let's go to the letter from the
17 Coalition for Smarter Growth, et al., inclusionary
18 zoning. Ms. Schellin.

19 MS. SCHELLIN: Yes, sir. We received a
20 letter from the Coalition for smarter growth
21 requesting the Commission to take actions to
22 strengthen the IZ program. And so we'd ask the
23 Commission to consider this correspondence.

24 CHAIRPERSON HOOD: Okay. Commissioners,
25 we have the request in front of us. Typically I

1 think we need to be petitioned. Or I know when we
2 had those hearings we had mentioned to the Office
3 of Planning, if issues came up to bring it back to
4 us. But I would think that -- I don't know, do we
5 ask the authors of the letter to petition the
6 Commission? I mean, do we go out and ask them to
7 do that or how should we -- I'm just throwing it
8 out there for discussion.

9 Mr. Ritting, if you --

10 MR. RITTING: Well, I mean, I guess the
11 issue you are grappling with is that there is no
12 pending case before the Commission.

13 CHAIRPERSON HOOD: There's nothing in
14 front of us, so --

15 MR. RITTING: And the authors of the
16 letter, while raising a number of points, they
17 haven't filed an actual petition to initiate a
18 case. So you could indicate this evening that
19 you're not going to take any further action unless
20 you receive a petition. You could initiate -- you
21 know, initiate a zoning case on your own action,
22 or you could ask the Office of Planning to provide
23 a report that could serve as such a petition.

24 CHAIRPERSON HOOD: Okay. Vice Chair
25 Cohen.

1 MS. COHEN: Thank you, Mr. Chairman. I
2 think that the correspondence was very compelling.
3 I mean, we're in a crisis situation. It's
4 acknowledged by the present administration, the
5 new administration, and I would like to see the
6 most expeditious way of moving forward. I know
7 that there is -- it's not a simple matter.

8 I know that the Office of Planning has --
9 and maybe I should ask them directly, that they
10 have been working on this; that they haven't been
11 sitting on their hands. But I think that it's
12 really extremely urgent to move ahead with the IZ
13 program, to make sure that it is maximizing its
14 production, and I think that there's some serious
15 work that needs to be done. And I'd like to see
16 it happen as soon as possible.

17 CHAIRPERSON HOOD: Any other comments?

18 Yeah, Commissioner Miller.

19 MR. MILLER: Thank you, Mr. Chairman.
20 Yeah, I would concur wholeheartedly with the Vice
21 Chair's comments, and we know that OP has been
22 working on amendments to strengthen the IZ
23 program, both with stakeholders for a long time
24 now because I think they've promised for a long
25 time now that a case was about to be filed by them

1 too.

2 So I guess, if they could give us an
3 update right now as to where they are now in terms
4 of, I think the last -- I remember at the July
5 meeting we heard that it was coming at the first
6 meeting in September. I think we heard in the
7 fall it was coming in January. Or coming by the
8 end of the year, or January. So, if they could
9 just give us an update on where they are in terms
10 of filing a case --

11 MS. STEINGASSER: We do have draft
12 language. We've been working with some of the
13 development community to work through some of the
14 pro formas on cost to make sure that what we bring
15 forward has some solid foundation. We also have
16 been contacted by the author of the letter to work
17 together so that their concerns can be
18 incorporated into the text, and we have not been
19 able yet to set up a meeting with them. But we're
20 hoping to do that, to meet with them around the
21 20th or 22nd of January. So we'd be bringing
22 something back, probably thereafter.

23 MR. MILLER: Well, I appreciate that you
24 have been working hard on this and that you will
25 meet with the authors who I think can comprise

1 largely many of the same folks who brought the
2 original -- the campaign for mandatory
3 inclusionary zoning to your office and to the
4 Zoning Commission, which you then ended up
5 proposing the case, as I recall. Is that right?
6 Or did you just change what they proposed.

7 Well, that doesn't have to be resolved at
8 this point, but I would agree with Vice Chair
9 Cohen that many of their -- without hearing the
10 other arguments on the other side, I think many of
11 their arguments are compelling and that the
12 changes, the direction of the changes that they
13 are suggesting sound exactly like the changes that
14 many of us have been talking about here, and
15 especially in terms of deeper affordability levels
16 that just make more sense for our city and that
17 are more compatible with best practices in other
18 jurisdictions.

19 So I look forward as soon as possible,
20 you bringing something to us.

21 CHAIRPERSON HOOD: Okay. So I guess I
22 also would concur with the comments that I heard
23 that Ms. Steingasser just spoke about. I think if
24 they've already got something in motion, and also
25 what comes to mind for me is also they have a new

1 director. And I know that we want to give him
2 time to come in and get his feet wet and find out
3 where his office is and all that kind of stuff.

4 So I think that would be the -- and I'm
5 glad she already has those, the AFLCIO. I also
6 see they have assigned this letter as well as the
7 Smart Growth, Ms. Cheryl Cort and others.

8 So I think they're already well ahead of
9 where I thought we were as was mentioned
10 previously. So I would think that we would allow
11 that time on this sequence, and I don't know if we
12 need to do anything else on this. Any other
13 comments?

14 Okay. So we're all on the same page. We
15 don't need to do any motion. We've heard the
16 report from Ms. Steingasser.

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

19 MS. SCHELLIN: No, sir.

20 CHAIRPERSON HOOD: Okay. So I want to
21 thank everyone for their participation and this
22 meeting is adjourned.

23 (Hearing adjourned at 7:46 p.m.)

24

25