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GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission

CASE NO.: 14-18 (Mid-City Financial Corporation -
1st Stage PUD & Related Map Amendment at Squares
3953, 4024 & 4025)

6:30 p.m. to 7:19 p.m.
Monday, March 16, 2015

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

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Board Members:

- ANTHONY HOOD, Chairperson
- MARCIE COHEN, Vice-Chairperson
- ROBERT MILLER, Commissioner
- PETER MAY, Commissioner
- MR. TURNBULL, Commissioner

Office of Zoning:

- SHARON SCHELLIN, Secretary

Office of Planning:

- JENNIFER STEINGASSER
- JOEL LAWSON
- MAXINE BROWN-ROBERTS

DDOT:

- RYAN WESTROM
- JAMIE HENSON

Other:

- PAUL TUMMONDS, ESQ.
- M. BELL
- WILLIAM MERRIFIELD, ESQ.
- REGINA JAMES

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

2 CHAIRPERSON HOOD: Okay. Good evening,
3 ladies and gentlemen. This is the public hearing
4 and Zoning Commission for the District of
5 Columbia. Today's date is March the 16th, 2015.

6 My name is Anthony Hood. Joining me are
7 Vice Chair Cohen, Commissioner Miller,
8 Commissioner May, and Commissioner Turnbull.
9 We're also joined by the Office of Zoning staff,
10 Ms. Sharon Schellin, Office of Planning staff, Ms.
11 Brown-Roberts, the District Department of
12 Transportation, Mr. Henson and Mr. Westrom.

13 Ms. Roberts, are we expected by Ms.
14 Steingasser and Mr. Lawson?

15 (No audible response.)

16 CHAIRPERSON HOOD: Okay. This proceeding
17 is being recorded by a court reporter. It's also
18 webcast live. Accordingly we must ask you to
19 refrain from any disruptive noise or actions in
20 the hearing room, including the display of any
21 signs or objects. Notice of today's hearing was
22 published in the D.C. Register and copies of that
23 announcement are available to my left on the wall
24 near the door.

25 Preliminary matters, applicant's case,

1 report of the office -- the hearing will be
2 conducted in accordance with provisions of 11-
3 DCMR-3022 as follows:

4 Preliminary matters, applicant's case,
5 report of the Office of Planning, report of other
6 government agencies, and report of the ANC,
7 organizations and persons in support,
8 organizations and persons in opposition.

9 The following time constraints will be
10 maintained in this meeting. The applicant has
11 asked up to 45 minutes but I see 10 minutes on the
12 clock. Something may have changed.

13 Organizations, five minutes, individuals three
14 minutes.

15 The Commission intends to adhere to the
16 time limits as strictly as possible in order to
17 hear the case in a reasonable period of time. The
18 Commissioner reserves the right to change the time
19 limits for presentations if necessary, notice at
20 no time shall be seated.

21 All persons appearing before the
22 Commission are to fill out two witness cards.
23 These cards are located to my left on the table
24 near the door. Upon coming forward to speak to
25 the Commission please give both cards to the

1 reporter sitting to my right before taking a seat
2 at the table.

3 When presenting information to the
4 Commission please turn on and speak into the
5 microphone, first stating your name and home
6 address. When you are finished speaking please
7 turn your microphone off so that your microphone
8 is no longer picking up sound or background noise.

9 The decision of the Commission in this
10 case must be based exclusively on the public
11 record. To avoid any appearance to the contrary
12 the Commission requests that persons present not
13 engage the members of the Commission in
14 conversation during any recess or at any time. In
15 addition there should be no direct contact
16 whatsoever with any Commissioner concerning this
17 matter, be it written, electronic, or by
18 telephone.

19 Any materials received by the Commission
20 will be discarded without being read and any calls
21 will be ignored. The staff will be available
22 throughout the hearing to discuss procedural
23 questions.

24 Please turn off all beepers and cell
25 phones at this time so not to disrupt these

1 proceedings. Would all individuals wishing to
2 testify please rise to take the oath?

3 Ms. Schellin, would you please administer
4 the oath?

5 MS. SCHELLIN: Yes. Please raise your
6 right hand.

7 (Oath administered to the participants.)

8 MS. SCHELLIN: Thank you.

9 CHAIRPERSON HOOD: Okay. Ms. Schellin,
10 do we have any preliminary matters?

11 MS. SCHELLIN: Yes, sir, we have a couple
12 items. We have a party status request from the
13 Brookland Manor/Brookwood Village Resident's
14 Association in opposition. They're represented by
15 Mr. Merrifield. The applicant has some proffered
16 expert witnesses and also we received the Office
17 of Planning report late and we've asked for -- or
18 they are asking for a waiver for their late
19 filing.

20 CHAIRPERSON HOOD: Okay. I think we will
21 take up the late filing waiver.

22 Any objections to the late filing?

23 No objections. So ordered. We will
24 accept the late filing.

25 Let's deal with the party status request.

1 Let's see which exhibit this is. Thank you.
2 Exhibit 28. Okay. Let me get my file. Okay.
3 This is again the party status request from the
4 Brookland Manor, Brookland Village Resident's
5 Association, and they're going to be represented
6 by Mr. William Merrifield. And this is a request
7 in opposition, and they state in their findings of
8 how they are directly affected as a party to be
9 under consideration.

10 Colleagues, what is your pleasure? Any
11 comments?

12 MS. COHEN: Yes. Mr. Chairman, I think
13 that they should be granted party status. People
14 that he's representing live in the property and so
15 I think that they have -- they should have an
16 opportunity to cross-examine.

17 MR. TURNBULL: Mr. Chair, I concur with
18 the Vice Chair and I would agree.

19 CHAIRPERSON HOOD: Okay. Any other
20 comments?

21 MR. MILLER: I also agree.

22 CHAIRPERSON HOOD: Okay. So with that I
23 would move that we grant the Brookland
24 Manor/Brookwood Village Resident's Association
25 party status as an opponent in this case with the

1 representative being Mr. Merrifield, and I ask for
2 a second.

3 MS. COHEN: Second.

4 CHAIRPERSON HOOD: It's been moved and
5 properly seconded. Any further discussion? All
6 those in favor. Aye.

7 ALL: Aye.

8 CHAIRPERSON HOOD: Any opposition? So
9 ordered. Ms. Schellin, would you record the vote?

10 MS. SCHELLIN: Yes. Staff records the
11 vote five to zero to zero to approve party status
12 in opposition for the Brookland Manor/Brookwood
13 Village Resident's Association. Represented by
14 Mr. Merrifield, Commissioner Hood moving,
15 Commissioner Cohen seconding, Commissioners May,
16 Miller and Turnbull in support.

17 CHAIRPERSON HOOD: Okay. Mr. Tummonds, I
18 see you at the table and actually, before we call
19 for the vote, I apologize. Don't take me to court
20 on that but I would ask you, did you have any
21 objections?

22 MR. TUMMONDS: We have no objection.

23 CHAIRPERSON HOOD: Okay. Thank you. Ms.
24 Schellin, did I cover everything? Anything else?

25 MS. SCHELLIN: Next is the expert

1 witnesses.

2 CHAIRPERSON HOOD: Oh, the expert
3 witnesses. Okay. I think everyone has been, with
4 the exception of I think, one -- hold on for a
5 second. Let me pull this file up if it comes up.

6 MS. SCHELLIN: All right. Mr. Bell has
7 been previously approved in architecture. He's
8 been proffered for architecture and urban
9 planning.

10 MR. MAY: We didn't accept him as an
11 expert witness on past cases for urban planning,
12 because that's largely what he's been doing.

13 MS. SCHELLIN: We have him for
14 architecture, I guess.

15 MR. MAY: Oh, okay.

16 MS. SCHELLIN: Or my staff has him down
17 for architecture. Sorry.

18 MR. MAY: Okay.

19 CHAIRPERSON HOOD: So --

20 MR. MAY: I think he should be down for
21 urban planning because I think that's what he's
22 been here to testify about before.

23 CHAIRPERSON HOOD: Have we gave him
24 expert status on architecture or urban planning?
25 Both?

1 MR. TUMMONDS: We're requesting both in
2 this case.

3 CHAIRPERSON HOOD: But what have we done
4 previously?

5 MR. BELL: I have testified frequently to
6 the Zoning Commission on architecture and urban
7 planning.

8 CHAIRPERSON HOOD: Oh, so we verify --
9 you've been here a lot. You're probably down here
10 more than I am so I'm just trying to figure out --

11 MR. BELL: Well, maybe not. But close.

12 CHAIRPERSON HOOD: Yeah. I'm just trying
13 to figure out what we've done in the past because
14 our records show that we have previously accepted
15 you. Have we done it in both I guess is what I'm
16 asking.

17 MR. BELL: That's my understanding.

18 MR. MAY: That's my recollection too.

19 CHAIRPERSON HOOD: Okay. Okay. Let's go
20 with it.

21 So I don't think we have anyone then, Mr.
22 Tummonds. We don't have anyone that we need to --
23 because we previously accepted everyone, I
24 believe, from the list I have.

25 MR. TUMMONDS: That's correct.

1 CHAIRPERSON HOOD: Okay. All right. So,
2 colleagues, unless somebody changes their mind we
3 will go with what we have here as who we've
4 accepted in this application as expert witnesses.

5 Okay. Anything else, Ms. Schellin?

6 CHAIRPERSON HOOD: Colleagues, let me
7 just start off with this; I am very concerned in
8 this case when I read the consistency issue with
9 the Office of Planning. I'm going to put that out
10 front. When I look at what the Office of Planning
11 has said in their report to us, a consistency
12 issue. We're dealing with moderate, as some
13 people know. And I think we have a problem, a
14 fundamental problem here, as far as proceeding.

15 And I'm not inclined to move forward in
16 the case unless we figure out what's going on here
17 with the comp plan. It's a little more to what
18 you have in the ANC letter. I can address that
19 too, but I'm not sure if my other colleagues feel
20 that way. But I have a lot of reservation,
21 hesitation, moving forward here for the comp plan.
22 I don't know if the ANC even considered the comp
23 plan because that's a major issue about density
24 and moderate. And that's a major issue. And this
25 Commission cannot, I don't think, be inconsistent

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1 with the comp plan. So that's kind of where I am.

2 But let me hear from my colleagues first
3 and then I'll come to you, Mr. Tummonds.

4 MR. MAY: So, Mr. Chairman, I agree. I
5 mean, I look back at the notes from set down and
6 the issues that were raised at set down. And the
7 biggest issue that was raised at that time, I
8 mean, there were a number of issues that were
9 raised, including you know, replacement units and
10 how all that is treated and relocation plan and
11 all that.

12 But I think that the big issue was
13 consistency with the comprehensive plan and I
14 don't -- there's just no way that anything close
15 to what's being proposed here in my mind, gets to
16 the point of us saying, it's not inconsistent with
17 the comp plan.

18 And I think that, you know, the fact that
19 Office of Planning has said as much in their
20 report, and the Office of Planning is, in my view,
21 generally very good at sort of balancing out all
22 of the various directives that are in the
23 comprehensive plan. And if something overrides --
24 you know, one aspect of it becomes more important
25 than another and allows certain flexibility in

1 areas, I mean, this is not one of those cases.
2 This is pretty black and white that it's
3 inconsistent with the comp plan. I mean, maybe
4 you could shave off a piece of it and treat it as
5 consistent, but you know, that's not what's before
6 us.

7 And if that is what's going to come
8 before us then I think they need to go back and,
9 you know, go away and make it somehow consistent
10 and then bring it back to us because I think it's
11 a waste of our time and it's a waste of the time
12 of everybody in the audience.

13 CHAIRPERSON HOOD: Let me hear from other
14 colleagues. Mr. Turnbull.

15 MR. TURNBULL: Well, Mr. Chair, I was a
16 little bit concerned when I read this earlier
17 today on page 1, OP says that they could make a
18 recommendation for the Stage 1 PUD, on the first
19 page.

20 And then on page 4 they basically are
21 saying -- or they do say that the comprehensive
22 plan should be changed before, first, before the
23 proposed zoning can be determined, fully not
24 inconsistent. So, I mean, it's right there. OP
25 is very concerned that this site really does not

1 fully satisfy the comp plan and that puts us in a
2 very awkward position as to even hearing this
3 case.

4 CHAIRPERSON HOOD: Okay. Any other --
5 Vice Chair Cohen?

6 MS. COHEN: Thank you, Mr. Chairman.
7 Again, we're in a position where I do concur with
8 my colleagues. It's very unfortunate because
9 again, preserving affordable housing and having
10 the opportunity to expend housing in general is
11 critical in our city. And I think a lot of the
12 design of the project is to retain that affordable
13 housing that exists.

14 The project has lived through its useful
15 life and something has to be done and it's timely
16 because the FHA loan is going to be due in two
17 years. So, it's a big dilemma because again, the
18 policy and the -- I think it's the political
19 desire to house people who are low-income and to
20 ensure that they are retained in the city, does
21 contradict what exists in the comprehensive plan.

22 So it's a big dilemma. I don't know how
23 to proceed. I probably would punt this a little
24 bit to the Office of Planning to see if there is
25 any way to work towards the goal of modifying the

1 comprehensive plan. It's due for public
2 discussion and legislative approval. But the
3 timing is off. And it's unfortunate because it
4 could put this property at risk of retaining
5 affordable housing in the city.

6 CHAIRPERSON HOOD: Okay. Anybody else?
7 Any comments? Commission Miller?

8 MR. MILLER: Thank you, Mr. Chairman.
9 Yeah, I would totally agree with the Vice Chair's
10 comments about -- all of her comments. And I
11 think it is a timing issue and the -- I had raised
12 some of the concerns about some of the density and
13 height at set down being no consistent with some
14 of the -- with the comp plan. But it's a very
15 important project; very important affordable
16 housing project and to be transformational for
17 this community. And the Office of Planning does
18 discuss on page 4, a path forward, talking about
19 redesigning the PUD at this time so it's not
20 inconsistent with the existing comp plan, which
21 will allow for Phase 1 construction as shown on
22 the submission.

23 The applicant has requested the Stage 1
24 approval for three years, while the revised -- the
25 OP goes on to say, while the revised PUD is in

1 progress the applicant should simultaneously be
2 working with the city-wide planning division of OP
3 in the neighborhood on amendments to the
4 comprehensive plan. And their final bullet is,
5 once the comp plan is amended, or if and when it
6 is amended, the PUD could be modified to reflect
7 the new designations in densities and the PUD
8 could continue.

9 And they conclude by saying, based on the
10 time frame represented by the phasing plans and
11 the need to close and rededicate public streets
12 there should be minimum or no delay in the overall
13 timing of the redevelopment.

14 So I guess I would also concur with the
15 Vice Chair that I would like to hear from the
16 Office of Planning on what the process could be
17 from the applicant as to what the process could
18 be. I mean, they have all these people here too
19 tonight, and it's kind of a shame not to hear from
20 them.

21 But I would like to hear from the Office
22 of Planning as to how they see us proceeding.
23 Putting the PUD in abeyance, or proceeding with
24 the hearing. Or are they suggesting we proceed
25 with the hearing tonight and then have the

1 applicant come back with a revised PUD that's not
2 inconsistent with the existing plan?

3 CHAIRPERSON HOOD: Well, let me do this
4 before we go to the Office of Planning, I think
5 with all due respect I want to go to the applicant
6 first and then we'll hear from the Office of
7 Planning.

8 MR. MILLER: Okay.

9 CHAIRPERSON HOOD: Because, whether we
10 proceed or not is going to be up to the
11 Commission. And I just want to make sure it's
12 clear because we have a lot of people here first
13 time. The Commission will decide whether we
14 proceed or not in this application tonight.

15 I mean, what I've heard from all my
16 colleagues is important. We all want to make sure
17 affordable housing is there and obviously looking
18 at the relocation, we need to tweak some of that.
19 There's some issues that we've had in other cases.
20 I've seen that this applicant obviously has tried
21 to address some of that, but those are some
22 outstanding issues because the people who are
23 there now, we have concerns, and this Commission
24 has always had a concern, particularly this
25 Commissioner, about making sure that they come

1 back. Not just here, but all over the city.

2 But first, let me hear from Mr. Tummonds.
3 You've heard our comments.

4 MR. TUMMONDS: Absolutely.

5 CHAIRPERSON HOOD: And you know the --

6 MR. TUMMONDS: Sure.

7 CHAIRPERSON HOOD: -- consistency issue
8 we're dealing with.

9 MR. TUMMONDS: Yes. Thank you.
10 Absolutely. And yes, and we agree. The
11 presentation that we are prepared to give this
12 evening is focused on addressing the issues of
13 consistency with the comprehensive plan and also
14 providing the additional details with regards to
15 the affordable housing program, the tenant
16 relocation plan, and the construction phasing
17 plan. We believe that tonight is the appropriate
18 time to flesh out those issues.

19 I too look back at the set down comments.
20 And there were comments from some of the
21 commissioners that raised an issue of, I'm not
22 sure that having C2A south of Saratoga is
23 appropriate, but I'm maybe okay with C2B. Other
24 people said, I'm fine. The C2B doesn't cause me
25 as much concern, but the C2A south of Saratoga

1 does.

2 We believe that this forum, this public
3 hearing, is the appropriate opportunity for the
4 Zoning Commission to address those specific
5 questions and comments that you have for us, for
6 us to respond, and then also to work with the
7 Office of Planning moving forward through the comp
8 plan process.

9 Truthfully, some of the concerns that we
10 have is that the comp plan process, the amendment
11 process was supposed to start last year. We're
12 already roughly a year behind. This is a comp
13 plan amendment process that is city-wide.

14 Best case scenario, that is a process
15 that takes 18 to 24 months. It is potentially a
16 long process. We believe that it's important to
17 have some basic parameters established through
18 this Stage 1 PUD process that deal with the urban
19 -- excuse me, the site planning of this project;
20 the urban design.

21 If what we're here to talk about this
22 evening, and if we can give you some confidence
23 that, you know what, we have proposed C2B along
24 Rhode Island Avenue, and if we say C2B is not
25 appropriate but we can maybe work with C2A there,

1 if we can remove the C2A south of Saratoga so that
2 it is R5B, we believe that those are the kind of
3 things that we can present to you this evening,
4 based on what you've said, and move forward and
5 then have an appropriate and constructive dialog
6 this evening.

7 In addition, just as you mentioned,
8 there's a lot of people here this evening to talk
9 about this project and the benefits of this
10 project, and the urgency of this project moving
11 forward. And I don't think that there's going to
12 be a lot of discussion about what is moderate,
13 what is medium density. I think there will be a
14 lot of discussion about what is the future of this
15 community going to look like, and how is the
16 future of this community going to work with the
17 surrounding community?

18 So for those reasons I do think that
19 there is a benefit to have this hearing tonight;
20 to hear the questions and concerns of the Zoning
21 Commission, and then to move forward appropriately
22 from that point on. I think one of the issues
23 that was raised on the OP report was with the
24 construction phasing plan, with the street
25 dedication reclosing plan, you could move forward

1 with your first phase, which is the Senior's
2 building. And then we could come back to look at
3 the C2B Zone in Blocks 2 and 3.

4 When in fact we, the developer here, we
5 need to have some sense of maybe we're not getting
6 90 feet along Rhode Island Avenue through the C2B.
7 But we think that perhaps the C2A zone, which is
8 existing on a large portion of that site that
9 we're talking about, maybe is appropriate. We
10 think that kind of dialog in a first stage PUD
11 application is appropriate, can occur tonight, and
12 will be a benefit for everyone in this room.
13 Thank you.

14 CHAIRPERSON HOOD: Okay. Mr. Tummonds,
15 I'm just going to say this. We understand we have
16 a lot of people, a lot of interest in this
17 particular case. But I know we do cases all over
18 the city and we've had this room packed before and
19 we have not moved forward.

20 I don't want to do this neighborhood any
21 different than what we do other neighborhoods in
22 this city. And to move forward tonight we'll be
23 doing this neighborhood different than what we do
24 in other neighborhoods in the city. And I think
25 this neighborhood deserves the same respect that

1 we do in other neighborhoods in the city. And I'm
2 going to make sure of that. At least this
3 commissioner is.

4 So I think I'm going to hear from the
5 Office of Planning, but I think we don't need to
6 put the cart before the horse. We need to fine-
7 tune a few things, as we've done in other PUDs,
8 first stages. This is not the first first stage
9 and I'm sorry if anyone came down here, we don't
10 move forward. I'm not sure which way we're moving
11 yet, but I'm sorry however -- let me apologize up
12 front. If you came down here tonight ready for us
13 to go for the hearing and we didn't do it tonight,
14 forgive us because at the end of the day this
15 Commission is trying to do what's for the best
16 interest of the city as a whole, and that's where
17 we are. Okay?

18 Okay. Let me just say this. While I
19 said it, I would love the applause, but we don't
20 have applause here and I didn't say that for that,
21 because we do this a lot down here. So we do not
22 have applause in the hearing room. So if you feel
23 good, just keep it to yourself and just be happy.

24 Okay. Ms. Steingasser.

25 MS. STEINGASSER: Chairman Hood,

1 Commissioners, the Office of Planning as we've
2 stated in our report, strongly supports the
3 redevelopment of the site and the catalytic
4 efforts that this will have in the neighborhood,
5 as well as the retention of the very low AMI for
6 the affordable housing.

7 We can't conclude that it is consistent
8 with the comp plan and we're -- I guess this is
9 where I would disagree with the argument made that
10 planning on the fly from the dais in this type of
11 environment is not the right type of place.
12 That's what the comprehensive plan is for is to
13 have that dialog, and then go forward with the
14 zoning. Not having Zoning set a preemptive type
15 of policy ahead of the comp plan. That undermines
16 the assurance and transparency of the
17 comprehensive plan process.

18 And that's why we thought, based on the
19 materials submitted, that there was a way to
20 rework the master plan and the construction
21 phasing so that they could get some assurance on
22 the site plan elements, and then work through the
23 construction. There was an extended Phase 1 --
24 I'm sorry, Stage 1 requested to allow -- excuse
25 me, instead of one year, a three year, so that

1 there could be the staging of construction. And
2 what was shown as Phase 1 construction was in the
3 moderate category and did meet the moderate
4 proposals of 60 feet and some row houses.

5 So we felt if we could start working with
6 the applicant to revise the PUD so that it was
7 consistent with the moderate designation, they
8 could continue to work with the comprehensive plan
9 staff on any future designation of the site, as
10 well as work through then, some of the housing
11 commitments that could be more clear and continue
12 forward with that.

13 I'm not being particularly clear, but
14 we've spelled it out in our path forward segment
15 of our report. Am I missing any?

16 So, that's our conclusion.

17 CHAIRPERSON HOOD: Okay. Let's do this,
18 let me first explain for those who may not be all
19 familiar with the process down here. I understand
20 from Ms. Schellin that there was a question about
21 how come we don't respond to your submissions.
22 Well, we don't respond. We actually do everything
23 from the dais. We take testimony, we won't send
24 you a letter back. We don't respond back to your
25 letters. We read your letters and then we take

1 them into consideration and maybe ask the Office
2 of Planning, the applicant, or we deliberate among
3 ourselves.

4 So hopefully that clarifies any issues or
5 concerns about how come we have not responded back
6 to you. It's not that we don't take note of it.
7 We have it in our file, we read it, we know who is
8 in support, we know who is in opposition, we know
9 what the issues are, we know who is in favor,
10 who's not, who likes it for the neighborhood, the
11 retail. We have all that.

12 But we are not going to give you a return
13 letter because that's not within our purview to do
14 that. But what we do is discuss it here on the
15 dais as we're doing here tonight. Okay? So
16 hopefully that clears up any misunderstandings
17 that may be out because I know everybody doesn't
18 do zoning every day, 24 hours a day like some. So
19 I wanted to make sure that was clear.

20 Okay. Let's open it up. Vice Chair
21 Cohen.

22 MS. COHEN: Thank you, Mr. Chairman. I
23 guess my reaction to the Office of Planning, if I
24 understand you properly because the comprehensive
25 plan hopefully will not experience the same thing

1 that the zoning rewrite experience, which was, you
2 know, an eight year period of time for modifying
3 it, meaning significant changes and you do want
4 significant public input.

5 But in the case of the comprehensive plan
6 I don't know what the timing is, so maybe you can
7 give us some idea of, is the process underway
8 today, and based on the past, how long does
9 something like this take?

10 And the reason why I'm asking this,
11 because I'm going to actually tell you what my
12 concern is, is that in two years from now with all
13 the changing that has been happening in the city,
14 I don't want the city to lose the opportunity that
15 the market presents. I mean, the market is driven
16 -- the Ford Company has been -- and as a housing
17 person I've known about them for many years. They
18 basically have been very socially conscious in
19 their business. I guess it's enlightened self-
20 interest that they have pursued.

21 But in two years they can take this
22 property and sell it. And I would hate to see
23 somebody else come in and change the whole fabric
24 of the affordability. It's likely that the hab
25 contract will be renewed if the owner remains in

1 place because HUD is comfortable with their
2 management style.

3 So I think time is of the essence.
4 That's the point I need to make to everyone
5 tonight. Time is of the essence to be able to
6 save this project for the residents that live
7 there. And my fears are that in time, if we wait
8 too long, the market opportunity can provide the
9 developer with, you know, a very lucrative out.
10 And I'd hate to see that happen.

11 MS. STEINGASSER: I agree, Vice Chair
12 Cohen, that I also -- and I think the entire
13 Office of Planning and the City would hate to see
14 that happen. However, the predictability and the
15 process of the comprehensive plan doesn't allow
16 for market forces to sway it without
17 predictability. And that is the purpose of the
18 public outreach, and that is the purpose of the
19 comprehensive plan, so that people can look at it,
20 can understand the general trend of development in
21 their neighborhood within a certain amount of
22 flexibility.

23 I can't guarantee you that in two years
24 it will be done. I know the process is getting
25 ready to hit the street. There's a scope of work

1 out there that they're getting ready to release.
2 I don't control that so I can't say for sure what
3 it is. But I can say that the zoning won't change
4 significantly. So what we're seeing here today
5 won't be the matter or right default in two years.
6 It will be the R5A and the C2A that's there now.

7 And the Office of Planning is willing to
8 work to set a -- to maximize the moderate category
9 for the applicant so that they do get some level
10 of assurance that they can move forward with
11 certain construction phasings, that there is a
12 street plan, that the utility alignment -- so the
13 predictability that they need going forward can be
14 set in place in those -- that level.

15 But when we're starting to talk about the
16 high density, the 90 feet, that's where the
17 comprehensive plan really has to be there first.
18 And the law requires that zoning must not be
19 inconsistent with the comprehensive plan, not the
20 other way around. And so that's really our
21 struggle.

22 CHAIRPERSON HOOD: Okay. So, Ms.
23 Steingasser, so basically there are some parts of
24 this that the Office of Planning and the
25 applicant, as you stated in your submission to us,

1 can kind of start moving forward with so we don't
2 have to wait for the full two years the way I
3 understood it. Am I correct?

4 MS. STEINGASSER: We think we could work
5 with the applicant to maximize the PUD under the
6 current designation, then allow for the applicant
7 to come back after working through the
8 comprehensive plan with the neighborhoods and
9 going through the City Council if need be, and
10 then up that designation at that point.

11 CHAIRPERSON HOOD: Okay. And the first
12 part of it is not the two year piece. We're not
13 looking at the comp plan and all that, because you
14 know, there is an urgency here. But we have to be
15 right because our hands are tied. We cannot be
16 inconsistent with the comp plan, and that's the
17 bigger point for me. Because if not, something
18 will go to court and then we'll have some more
19 issues. So we need to make sure we're doing
20 what's legally required of us under our purview.

21 So we want -- all of us wants to move
22 forward. I think the Office of Planning has it in
23 every port. We want to see it. I'm sure the
24 community wants to see some development with maybe
25 some tweaks. So all of us want the same thing.

1 We just have to make sure we're doing it legally
2 correct.

3 Commission Miller?

4 MR. MILLER: Thank you, Mr. Chairman. I
5 just wanted to ask Ms. Steingasser, I'm not sure I
6 heard you right about, did you say that your
7 office thought that the first building as proposed
8 is not inconsistent with the existing
9 comprehensive plan? Or were you saying that you
10 could work with the applicant to change it to make
11 it not inconsistent with the comp plan, that first
12 building?

13 MS. STEINGASSER: What was shown on Phase
14 1 construction plan was a 60 foot high senior
15 building, which would be consistent with an R5B,
16 which is the high end of a moderate density
17 category. So we could work with the applicant
18 through the PUD process to permit those densities
19 in that particular area, without comprehensive
20 plan changing. And then while that piece is
21 moving forward the comprehensive plans would be
22 also in play and the applicant could work with
23 that division of the agency to get that
24 designated, go through the public process, work
25 with the community as well.

1 MR. MILLER: Okay. Well --

2 MS. STEINGASSER: I didn't answer it very
3 clearly.

4 MR. MILLER: No. Well, I think --

5 MS. STEINGASSER: I cleared the mud.

6 MR. MILLER: I think that may lead to a
7 path forward that either we can just limit the
8 hearing this evening to that first building, which
9 you find not to be not inconsistent. Or we can,
10 in a relatively short period of time, hopefully
11 revise the whole site so it's not inconsistent.

12 But if we're going to put this off I
13 would want that to be very soon because it looks
14 like that first building is not inconsistent from
15 the Office of Planning standpoint and so I would
16 urge us to go forward as quickly as possible.

17 CHAIRPERSON HOOD: Okay. Any other
18 comments. Let me just say --

19 MR. TURNBULL: Mr. Chair.

20 CHAIRPERSON HOOD: Mr. Turnbull.

21 MR. TURNBULL: I just want -- but you did
22 say, Ms. Steingasser, it's the high end of
23 moderate.

24 MS. STEINGASSER: It is and it would --
25 but in R5B --

1 MR. TURNBULL: Mr. Chair, I brought this
2 up for your --

3 CHAIRPERSON HOOD: I got in trouble for
4 that. Here we go, high end.

5 MR. TURNBULL: Yeah.

6 CHAIRPERSON HOOD: You didn't say that,
7 did you, Ms. -- oh, high end not -- okay, upper.

8 MS. STEINGASSER: The most dense end of
9 the --

10 MR. TURNBULL: So it's at the high end.
11 So we have to be careful still, going forward with
12 this.

13 So you think that the applicant came back
14 -- I would like to see some clarified drawings.
15 Not that I -- again, I would just reiterate that
16 this is a very important project, significant
17 project, significant area that needs to be
18 redeveloped.

19 But I think you're totally right. I
20 think we need to be careful going forward. Do you
21 think the applicant could come back with some
22 revised drawings? I mean, what would they show
23 for the rest of the site, I guess? Is something
24 compatible with --

25 MS. STEINGASSER: I mean, we'd have to

1 work with them as in regards of what they need to
2 move forward to whatever they're financing --

3 MR. TURNBULL: Would it mainly be
4 infrastructure, streets --

5 MS. STEINGASSER: The streets are
6 significantly different.

7 MR. TURNBULL: Right.

8 MS. STEINGASSER: So I would imagine the
9 water, sewer lines, infrastructure --

10 MR. TURNBULL: Right.

11 MS. STEINGASSER: -- utilities, that kind
12 of thing would also need to be reworked. The uses
13 also carry --

14 MR. TURNBULL: Right.

15 MS. STEINGASSER: -- significantly into
16 the site of beyond what the comp plan calls for.
17 So we would look to do a little bit larger review
18 of, what does it mean to make this a type of
19 commercial center versus what's going on
20 immediately to the east.

21 MR. TURNBULL: Right.

22 MS. STEINGASSER: The other thing I'd
23 point out is, this is just a phase, Stage 1. So
24 they would still need to come back for Stage 2 --

25 MR. TURNBULL: Two.

1 MS. STEINGASSER: -- that showed the
2 exterior --

3 MR. TURNBULL: Right.

4 MS. STEINGASSER: -- of the building and
5 the materials. There's not a consolidated piece
6 here. So there's still several steps and we think
7 that those steps create enough timeline that we
8 could work to --

9 MR. TURNBULL: To be able to do it.

10 MS. STEINGASSER: -- revise that.

11 MR. TURNBULL: Okay. And if we could do
12 this fairly quickly then we could try to keep some
13 kind of sense of timing and get this urgency to
14 keep it going, then. Okay.

15 CHAIRPERSON HOOD: Okay. Commissioners,
16 I have heard from all of us, I think, unless
17 somebody have anything different they want to add.
18 I have some proposed dates and I would ask the
19 party. Is Mr. Merrifield here? If you can come
20 forward and have a seat to your left, you're
21 representing the party in opposition.

22 Who is representing the ANC? Is it
23 Chairperson -- is it the chairperson? Or who is
24 representing -- Regina James. Who is representing
25 the ANC? Is somebody representing the ANC?

1 Okay. Commissioner James, if you could
2 come forward too, so you can be involved with this
3 discussion because we may have some things we
4 might want to say to the Commission as well.

5 What I have here, a proposed date, I
6 think April the 9th is too soon. I'm looking at
7 Ms. Steingasser too. She did like, she jumped, so
8 I already knew that was too soon. But I wanted
9 people to know the urgency we have too, to kind of
10 move this thing along as my colleagues have
11 already mentioned.

12 The next date I have is May the 7th. I
13 have a few dates. I'm just going to look.

14 MS. STEINGASSER: We're happy to meet
15 whatever timeline the applicants can meet.
16 They've got to provide the materials. We need to
17 sit down with them and do the revised drawings and
18 look at that. So as soon as that information gets
19 to us we can respond accordingly.

20 CHAIRPERSON HOOD: Mr. Tummonds, do you
21 need a minute to talk to Mr. Meres (phonetic) and
22 others, others who are on the applicant team,
23 because I think you see where this Commission is
24 coming from. You need time to speak with them?

25 MR. TUMMONDS: Yes, I do.

1 THE COURT: Okay. We'll take about two
2 minutes.

3 (Off the record from 7:09 p.m. until 7:11
4 p.m.)

5 CHAIRPERSON HOOD: Okay. Mr. Tummonds.

6 MR. TUMMONDS: Yeah. Thank you. We can
7 make May 7th work.

8 CHAIRPERSON HOOD: April 9th wouldn't
9 work for you? May 7th?

10 MR. TUMMONDS: April 9th, no.

11 CHAIRPERSON HOOD: Okay.

12 MR. TUMMONDS: There needs to be, I think
13 some --

14 CHAIRPERSON HOOD: May 7th.

15 MR. TUMMONDS: -- understanding of what
16 this means. And truthfully, what a lot of this --
17 the concerns, the issues that Mid-City is going to
18 have is the -- and I don't want to say it's the
19 financial return but it's, how do you finance all
20 of this infrastructure to then, how do you make
21 retail happen without the density?

22 And we recognize that, you know, the
23 proposal of the C2B is pushing. We think that we
24 can, in the next few weeks, work on our financials
25 to make sure that we can in fact do what we say

1 we're going to do without that higher density,
2 waiting for the comp plan to catch up. And I
3 think that's truly what we're talking about here.
4 This is all about the comp plan catching up.

5 We think that we can come back in those
6 next couple of weeks, for us internally, and then
7 also working with OP to give OP enough time to
8 look at our revised proposal so that OP can submit
9 their report end of April, 10 days in advance of
10 May 7th. I think we can make that happen. I
11 think that it will be beneficial that we can, just
12 as you said, us moving forward doing this as
13 expeditiously as possible because it is about the
14 urgency, making sure that this can happen.

15 And again, I think that the urban
16 planning, the urban design, the site planning, the
17 ideas for this proposal are correct. We're
18 talking about massing and building heights. And I
19 think that's a lot of what this comp plan concern
20 is based on. So I think that we need to make sure
21 that we can provide the proposal that we're
22 offering here.

23 And we appreciate your time and energy.
24 I know that this is not something you do lightly,
25 Commissioner Hood, to make sure that, you know,

1 when we have everyone down here, but to make sure
2 we do it right. We want to do it right as well.

3 CHAIRPERSON HOOD: Okay.

4 MR. TUMMONDS: And we can do it right on
5 May 7th.

6 CHAIRPERSON HOOD: Okay. And I have
7 every bit of confidence that you will get with the
8 applicant and you all will come back down here on
9 May the 7th and we will have something that we can
10 work with and tweak and work with the community
11 and we're going to make it right.

12 And I will tell you this for the record,
13 colleagues, we get accused all the time of
14 approving every PUD. For those accusers who
15 always accuse us of approving -- the Zoning
16 Commission has never seen a PUD it hasn't liked.
17 So noted tonight. Okay? Not that we don't like
18 it. It needs to be refined. And I said that, and
19 I'm not pointing at this applicant. I'm pointing
20 at some others because as Mr. Tummonds already
21 said, this Commission and this office takes what
22 we do seriously. We try to do the best we can for
23 the best interest of the residents of the District
24 of Columbia.

25 So those naysayers who always say --

1 maybe one or two of them are in here, who always
2 say that this Commission doesn't take what we do
3 seriously and whatever comes down here we rubber
4 stamp. You all may have seen my head around,
5 posted in bathrooms at the Wilson Building with a
6 rubber stamp. We don't rubber stamp. We take
7 what we do seriously.

8 Any other comments, Commissioners?

9 I do want to do this, though. Are there
10 any other things that are in the record, like the
11 ANC letter? I will tell you, I looked at the ANC
12 letter. I would just ask the ANC to work with the
13 applicant to make sure what they put in their
14 letter is enforceable. That's all I would -- I
15 would just ask that. That's all I would ask.

16 If you have any questions, we're not open
17 to the -- you can speak to the zoning secretary.
18 She'll help you with anything.

19 Commissioner May.

20 MR. MAY: Yeah, I just want to make a
21 suggestion. 10 days before May 7th is April 27th,
22 the date of our second meeting of the month. And
23 I think that it would be very helpful to make sure
24 that we actually have the report on April 27th so
25 that -- and actually put it on the agenda for that

1 day for us to consider whether we go forward on
2 the 7th because I don't want to have everybody
3 down here on the 7th and go through the same thing
4 again because the Office of Planning, you know,
5 needed a couple more days and then maybe we're not
6 totally comfortable with it. I mean, I want to
7 know in advance before we all come down here that
8 it's going to work because, you know, frankly
9 there's a lot to fix and I think that you know,
10 the notion that we would actually try to do the
11 planning here on the spot from the dais doesn't
12 make any sense whatsoever.

13 So you know, it's just a happy
14 coincidence. That happens to be 10 days
15 beforehand and I would ask that, you know, even if
16 the Office of Planning is not ready to make a
17 complete recommendation at that moment that we get
18 a letter by the 27th of some sort, stating, you
19 know, how confident you are that we should be
20 going ahead on the 7th.

21 CHAIRPERSON HOOD: I think that's a good
22 idea. We don't want to have a large number of
23 people come down again for nothing. Tonight --
24 and I apologize, but again, my colleagues and I,
25 we want to make sure we do this right.

1 Okay. Any other -- Vice Chair Cohen.

2 MS. COHEN: Thank you, Mr. Chairman. I
3 just wanted to ask the applicant, if we move
4 ahead, at least with the first building, is that
5 the senior building? And if so, do you need to
6 relocate anybody to clear that site?

7 MR. TUMMONDS: Yes. The first building,
8 the proposal for the first -- we'd obvious come
9 back for the consolidated, is to have a seniors
10 building.

11 One of the reasons why we chose that site
12 and that seniors building is because there are
13 only 64 units on that property and by the time
14 through natural attrition, by the time we get to
15 the point where we will be looking to move forward
16 with that building, we would not have to move
17 anyone off site because the natural attrition in
18 the remaining buildings on the campus would allow
19 us to find those 64 people who live there now, 64
20 apartments elsewhere. Those are, you know, that
21 is -- we'll be prepared to address those issues to
22 you on May 7th. Obviously this is a big moving --

23 MS. COHEN: And that's a very important
24 issue. So I'm glad we discussed it today so that
25 you will be prepared, because I think that --

1 MR. TUMMONDS: We were prepared this
2 evening to address that.

3 MS. COHEN: -- may concern a number of
4 the residents as well. Thank you.

5 MR. TUMMONDS: Absolutely.

6 CHAIRPERSON HOOD: Was that one of the
7 issues you worked out with the ANC? I did see
8 that in their letter. Is that something you
9 worked out with the ANC?

10 MR. TUMMONDS: Yes.

11 CHAIRPERSON HOOD: Okay. Good. Okay.
12 But again, I encourage the ANC to look at what
13 they have in there to make sure it's enforceable.
14 Okay. Any other comments up here?

15 Are we all on the same page, Mr.
16 Tummonds?

17 MR. TUMMONDS: Yes, we are.

18 CHAIRPERSON HOOD: Ms. Steingasser.

19 MS. STEINGASSER: Yes.

20 CHAIRPERSON HOOD: Mr. Merrifield?

21 MR. MERRIFIELD: Yes.

22 CHAIRPERSON HOOD: Ms. James.

23 MS. JAMES: Yes, sir.

24 CHAIRPERSON HOOD: Okay. Ms. Schellin,
25 anything else?

1 MS. SCHELLIN: I just want to make sure
2 that since we've already done the party status
3 that anything that's filed by any of the parties,
4 that they make sure that they serve the other
5 parties, the ANC, the applicant, Mr. Merrifield's
6 group.

7 MR. TUMMONDS: Absolutely. Absolutely.

8 And I think since -- and this is very
9 technical in nature, but since the Zoning
10 Commission has announced that we're having a May
11 7th hearing --

12 MS. SCHELLIN: No further posting.
13 That's correct, because we've already announced
14 the date in the public. There will be no further
15 notice. Correct.

16 CHAIRPERSON HOOD: Okay. But
17 Commissioner May brought up a good issue. We're
18 going to figure out a way to notify if May the --
19 you know what? If you go to a Plan B that means A
20 wasn't going to never work. So, but I think you
21 bring up a good point. We'll deal with it
22 internally on April the 27th. Okay.

23 And based on what happens then we'll put
24 out the notice appropriately.

25 CHAIRPERSON HOOD: Okay. Great.

1 Anything else? Anybody have any questions?

2 Ms. Schellin, do we have anything else?

3 MS. SCHELLIN: No, sir.

4 CHAIRPERSON HOOD: I want to thank
5 everybody for their participation tonight and this
6 hearing, it will reconvene, May the 7th, at 6:30.
7 Good night.

8 (Hearing adjourned at 7:19 p.m.)

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