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GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Zoning Commission

Regular Public Meeting  
1406th meeting Session (6th of 2015)

6:30 p.m. to 9:49 p.m.  
Monday, March 30, 2015

Jerrily R. Kress Memorial Hearing Room  
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 Office of Planning:

11 STEPHEN COCHRAN

12 JENNIFER STEINGASSER

13 JOEL LAWSON

14 BRANDICE ELLIOTT

15 ELISA VITALE

16 STEPHEN GYOR

17 ART ROGERS

18 MAXINE BROWN-ROBERTS

19

20 Office of Attorney General:

21 JACOB RITTING

22 ALAN BERGSTEIN

23 LAWRENCE FERRIS

24 KYRUS FREEMAN, ESQ.

25

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

2 CHAIRPERSON HOOD: Okay. This meeting  
3 would please come to order. Good evening, ladies  
4 and gentlemen. Today is Monday, March the 30th,  
5 2015. It's approximately 6:30 p.m. We are  
6 located in the Jerrily R. Kress Memorial Hearing  
7 Room.

8 My name is Anthony Hood and joining me  
9 are Vice Chair Cohen, Commissioner Miller,  
10 Commissioner May, and Commissioner Turnbull.  
11 We're also joined by the Office of Zoning staff  
12 Ms. Sharon Schellin, Office of Attorney General,  
13 Mr. Bergstein, Mr. Ritting, and Mr. Ferris.

14 And we want to -- I think this -- is this  
15 Mr. Ferris's first time on the dais? Well, we're  
16 going to welcome you to the Zoning Commission and  
17 wish you luck and success in your endeavors.  
18 Would you like to say something? I see you  
19 getting ready to key up already.

20 MR. FERRIS: I'm all right. Thank you,  
21 though.

22 CHAIRPERSON HOOD: Okay. Great. Also  
23 the Office of Planning staff. Mr. Lawson, is Ms.  
24 Steingasser going to join us?

25 MR. LAWSON: Yes.

1           CHAIRPERSON HOOD: Ms. Steingasser will  
2 join us shortly. Mr. Lawson, Mr. Cochran, Mr.  
3 Gyor, Ms. Elliott, Ms. Vitale, and Ms. Brown-  
4 Roberts.

5           Copies of today's meeting agenda are  
6 available to you and are located in the bin near  
7 the door. Did I get everyone correct?

8           It's the first time.

9           We do not take any public testimony in  
10 our meetings unless the Commission requests  
11 someone to come forward. Please be advised that  
12 this proceeding is being recorded by a court  
13 reporter. It's also webcast live.

14           Accordingly we must ask you to refrain  
15 from any disruptive noises or actions in the  
16 hearing room, including display of any signs or  
17 objects. Please turn off all beepers and cell  
18 phones.

19           Does the staff have any preliminary  
20 matters?

21           MS. SCHELLIN: No, sir.

22           CHAIRPERSON HOOD: Okay. Colleagues, I  
23 would like to move a few things around. I think  
24 we will do final action first, hearing actions  
25 second. I know we have a correspondence item and

1 everything, and then we would do proposed action  
2 last. Any objections?

3 MS. SCHELLIN: No.

4 CHAIRPERSON HOOD: Okay. Ms. Schellin,  
5 help me to remember that's the way we're going to  
6 organize this evening.

7 Okay. Let's go right into final action,  
8 Zoning Commission case No. 02-38F, District of  
9 Columbia through DMPED, Deputy Mayor for Planning  
10 and Economic Development, two year PUD, extension  
11 at Square 542. Ms. Schellin.

12 MS. SCHELLIN: Yes, sir. The applicant,  
13 which is DMPED, has requested at two-year PUD time  
14 extension which expires -- the current PUD expires  
15 April 15th, 2015. The applicant has stated that  
16 much of the last two years has been spent working  
17 with the community to integrate the Southwest  
18 library into the Northeast building.

19 Additionally, the District has worked to  
20 improve the utility and appearance of the District  
21 parcel by improving it with a paved walkway which  
22 is accessible to the public. So we'd ask the  
23 Commission to consider final action on this case.

24 CHAIRPERSON HOOD: Okay, Commissioners,  
25 we have a request in front of us for a two-year

1 time extension. Any questions or comments at this  
2 time? Vice Chair Cohen.

3 MS. COHEN: Thank you, Mr. Chairman. I  
4 think DMPED did a very good outline of their  
5 attempts to be efficient in establishing the  
6 library as part of this proposal and being also  
7 inclusive with the community. It didn't work out.  
8 Don't know why, but it didn't work out.

9 I think it's important that we grant this  
10 extension. DMPED claims to be prepared to release  
11 a solicitation for a development partner. And I  
12 hope that the act -- that they do that and they  
13 act with a sense of urgency since this is city  
14 owned land. And the income levels can have a  
15 greater depth of affordability since it is city  
16 owned land.

17 So if there are other comments, but if  
18 not I would move to approve the extension of time  
19 for Zoning Commission Order 02- -- great, I can't  
20 read my own handwriting. 02-38F.

21 CHAIRPERSON HOOD: Okay. Is there a  
22 second?

23 MR. MILLER: Second.

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

1 MR. TURNBULL: Yes.

2 CHAIRPERSON HOOD: Mr. Turnbull.

3 MR. TURNBULL: Mr. Chair, I just want to  
4 note that under Exhibit No. 5, we have a report  
5 from ANC 6D and they had a meeting and they are in  
6 favor of this also.

7 THE COURT: Okay. I think in that  
8 letter, I had in my notes that they asked that the  
9 site be serviced. So as we grant this extension  
10 we will request that the site be -- I think  
11 they're talking about the upkeep of it.

12 MR. TURNBULL: Yes. They talked about  
13 including -- they urged the applicant to service  
14 the site during the two-year period of the PUD  
15 extension, including routine landscaping and  
16 adding park benches for the community improvement  
17 purposes.

18 CHAIRPERSON HOOD: Well, I don't know  
19 about -- at least keep it maintained.

20 MR. TURNBULL: Yeah.

21 CHAIRPERSON HOOD: At least that's what  
22 we would ask.

23 MR. TURNBULL: I would think so.

24 CHAIRPERSON HOOD: I'm not sure how far  
25 is in our purview.

1 MR. TURNBULL: Right.

2 CHAIRPERSON HOOD: Okay. Any other  
3 discussion. All those in favor, aye?

4 ALL: Aye.

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

7 MS. SCHELLIN: Yes. Staff records the  
8 vote five to zero to zero to approve final action  
9 in Zoning Commission Case No. 02-38F, Commissioner  
10 Cohen moving, Commissioner Miller seconding,  
11 Commissioners Hood, May, and Turnbull in support.

12 CHAIRPERSON HOOD: Okay. Next, I'm going  
13 to call these two cases together. Zoning  
14 Commission Case No. 03-12Q/03-13Q. And Zoning  
15 Commission Case No. 03-12R and /03-13R. Ms.  
16 Schellin.

17 MS. SCHELLIN: Yes, sir. With regard to  
18 03-12Q/13Q, Exhibit 58 we have an NCPC report  
19 stating that the project would not be inconsistent  
20 with the comp plan for the National Capitol.

21 With regard to the 03-12R/03-13R, which  
22 is the request for a five year PUD time extension,  
23 this case, if you'll recall, was before the  
24 Commission at the February 10th, 2014 public  
25 meeting. And at that time the Commission deferred



1 action until final action was being considered on  
2 the companion case, 03-12Q/13Q.

3 The applicant is requesting a five year  
4 PUD time extension as stated. At Exhibit 7 ANC 6-  
5 D filed a report supporting a two year time  
6 extension and I'd ask the Commission to consider  
7 final action on both cases this evening.

8 CHAIRPERSON HOOD: Okay. Commissioners,  
9 let's open up for any comments. Again, we are  
10 being requested for a five year time year  
11 extension, which to the math, would expire. But  
12 I'm really thinking, the way I did it and this  
13 word problems, and I will tell you I was bad in  
14 word problems. But what I anticipated, all  
15 they're getting out of it is three years. At  
16 least that's the way I see it. Somebody can  
17 correct me if I'm not correct. But anyway, let me  
18 open it up for discussion.

19 MR. TURNBULL: I think you're right, Mr.  
20 Chair. I think maybe there is a misunderstanding  
21 of how when the timing period starts -- well, when  
22 the extension -- do you have another mic on or --

23 CHAIRPERSON HOOD: I'm trying to -- let's  
24 turn our mics off. Okay. Okay, Mr. Turnbull.

25 MR. TURNBULL: Yeah. I think maybe there

1 is, like you said, that maybe there is a  
2 misunderstanding of when the time extension goes  
3 into play. And I think when they hear five years  
4 they're thinking it's from the time at the end of  
5 the order. So like as you said, there's really  
6 only three years here. And maybe that's part of  
7 the misunderstanding.

8 CHAIRPERSON HOOD: So you saw like in a  
9 three year -- were you good in word problems?  
10 Because I wasn't. So, but anyway.

11 MR. TURNBULL: Yeah, I struggle.

12 CHAIRPERSON HOOD: Okay. All right. Any  
13 other questions? Commissioner May?

14 MR. MAY: It's three, but it's three  
15 plus. It's three and nine months or something  
16 like that, as opposed to the Office of Planning  
17 recommended just straight up two, right?

18 So I mean, I don't have strong feelings  
19 either way. But certainly not five years from  
20 today, or whenever the order is issued. So, but I  
21 didn't have any problem with just sticking with  
22 two years from when the order is issued either, to  
23 keep the pressure on. You know, their issue  
24 against solicitation for the developer, shortly.

25 MR. BERGSTEIN: It probably would be

1 helpful if we could maintain it from the  
2 expiration, the prior order, which is December  
3 31st, 2013. So they're asking for five years  
4 which would bring it to December 31st, 2018. So  
5 if you could work with that date of December 31st,  
6 2013 and decide how many years from then, that  
7 would be helpful in keeping these things  
8 standardized.

9 MR. TURNBULL: I think if you go at just  
10 the two years, that's just expiring at the end of  
11 this year then.

12 MR. MAY: Yeah, I wasn't suggesting that.

13 MR. TURNBULL: Okay.

14 CHAIRPERSON HOOD: I think the  
15 recommendation for us is to take it as Mr.  
16 Bergstein has advised us, is to take it in five  
17 years which would expire December 2018, which  
18 would go back to the initial thought, the word  
19 problem that we talked about earlier on. Any  
20 other --

21 MS. COHEN: Yeah.

22 CHAIRPERSON HOOD: Vice Chair Cohen.

23 MS. COHEN: Mr. Chairman, I think for  
24 practical reasons, not only do they need a  
25 developer but they also need to come up with

1 financing and the financing will have certainly  
2 different deadlines. So I think for practical  
3 reasons we should give them until the five year  
4 period. That would be my recommendation.

5 CHAIRPERSON HOOD: Okay. Do we have  
6 anything else in this case, any other comments?  
7 Commissioner Miller.

8 MR. MILLER: Yeah, I would support a  
9 longer period than the expiration -- extension  
10 only happening until the end of this year. So I  
11 know there's a lot of frustration that, you know,  
12 that this project needs to get done, but I think  
13 we saw a lot of evidence that it is moving in the  
14 right direction and it has been done. So, I would  
15 support a longer period than two years, which  
16 would only get it to the end of this year. So I  
17 could support the five, I could support three.  
18 Whatever majority of the Commission wants to do.

19 CHAIRPERSON HOOD: Okay. Any other  
20 comments on this?

21 MR. MAY: Yeah, I would just point out  
22 that normally on a -- you know, when we're dealing  
23 with a first stage to second stage, granting five  
24 years, or in this case three years and nine  
25 months, is more than usual. And granted it may

1 happen a little bit slower because of other  
2 complicating circumstances. I do feel a sense of  
3 wanting to keep it shorter to try to keep the heat  
4 off.

5 So I mean, I would be more in favor of  
6 say four years than five years, but I will go with  
7 the rest of the Commission.

8 MR. TURNBULL: What about three years?

9 MR. MAY: Well, three years specifically  
10 gives them a year and nine months. So three years  
11 is probably not enough.

12 MR. TURNBULL: So you'd rather see a four  
13 year?

14 MR. MAY: Yeah. I'd rather see four  
15 years, but again, I will go with the rest of the  
16 Commission. Most of the Commission seemed to be  
17 indicating five years. But I will go with what  
18 the consensus is.

19 CHAIRPERSON HOOD: Okay. Any other  
20 comments? I will move that we accept the  
21 recommendation of five years, which will expire  
22 December 2018, and ask for a second.

23 MR. TURNBULL: Second.

24 CHAIRPERSON HOOD: It's been moved and  
25 properly seconded, and we would give the two year

1 -- well, the extension as requested in Case No.  
2 12-Q/3-12 -- wait a minute. 12-Q/03- -- is that  
3 13Q?

4 MS. SCHELLIN: Thirteen.

5 CHAIRPERSON HOOD: 13Q. Okay. I thought  
6 it said 123Q. And --

7 MS. SCHELLIN: The time is just 13 --

8 CHAIRPERSON HOOD: I'm sorry? Well, let  
9 me pull that back. I wanted to just write -- hold  
10 on one second.

11 I'm moving both of them. I'm going to  
12 move both of them, okay? As soon as I get my  
13 cases together.

14 Okay. I would move that we approve the  
15 time extension. The time extension as well as the  
16 modification. Are we ready to move on both?

17 MR. MAY: Yes.

18 CHAIRPERSON HOOD: Okay. So let me say,  
19 03-12Q/03-13Q, also 03-12R and 03-13R, and approve  
20 it with the time extension as requested, five  
21 years, and ask for a second. And the  
22 modification, ask for a second.

23 MR. TURNBULL: Second.

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

1 those 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, sir. Staff records  
7 the vote five to zero to zero to approve in blocks  
8 Case Number 03-12Q/03-13Q and 03-12R/03-13R,  
9 approving the time extension for five years.  
10 Commissioner Hood moving, Commissioner Turnbull  
11 seconding, Commissioners Cohen, May, and Miller to  
12 approve.

13 THE COURT: Okay. Next we have -- okay,  
14 Zoning Commission Case No. 14-12 EAJ 1309 5th  
15 Street, LLC., first stage and consolidated PUD and  
16 related map amendment at Square 3591. Ms.  
17 Schellin.

18 MS. SCHELLIN: Yes, sir. At Exhibits 50  
19 through 53 we have the applicant's post-hearing  
20 submissions, at Exhibit 54 we have an NCPC report  
21 advising that the project is not inconsistent with  
22 the comp plan for the National Capitol. I would  
23 ask the Commission to consider final action this  
24 evening.

25 CHAIRPERSON HOOD: Okay. Let's open it

1 up. Any comments, colleagues. Vice Chair Cohen.

2 MS. COHEN: Thank you, Mr. Chairman. I'm  
3 concerned about the open spaces to be accessed by  
4 the public. In particular the Union Market Park  
5 and Plaza. The applicant is stating that they  
6 will maintain the park for five years after the  
7 issuance of a certificate of occupancy. I was  
8 under the impression that they would do this in  
9 perpetuity. It's a public feature that they are  
10 proposing as a proffer. If they don't do it, who  
11 will?

12 So I have a concern about that. I maybe  
13 -- that's my impression that I got from the public  
14 hearing and I would throw this open to my fellow  
15 Commissioners to tap their memory as well.

16 CHAIRPERSON HOOD: Okay. Anybody want to  
17 respond to the Vice Chair's question? Or do you  
18 have your own issues?

19 MS. COHEN: Let me just point everybody  
20 in the direction of, it's page 10, small I; three,  
21 three small Is, or the Roman numeral three.

22 CHAIRPERSON HOOD: And you're looking at  
23 the draft order?

24 MS. COHEN: Yes. Yes. It's cut off so I  
25 can't even say which exhibit it is. Unfortunately



1 --

2 CHAIRPERSON HOOD: It's actually Exhibit  
3 53, I believe.

4 MS. COHEN: Thank you.

5 CHAIRPERSON HOOD: Now what page is that  
6 again? I'm trying to -- page 10?

7 MR. RITTING: It's actually the top of  
8 page 11. The Roman numeral starts on the bottom  
9 of page 10, but the language that Ms. Cohen is  
10 questioning is actually on the carry-over on the  
11 next page.

12 CHAIRPERSON HOOD: Thank you.

13 MR. RITTING: On page 11.

14 CHAIRPERSON HOOD: But it's in Roman  
15 numeral three, but it starts on page 11, right?

16 MR. TURNBULL: So, Vice Chair, let me  
17 just -- it's your understanding that you thought  
18 that it was a longer period than this, then?

19 MS. COHEN: Absolutely. It just seems  
20 like, again, there is no statement to the effect  
21 of, who else is going to do this after the five  
22 years. And I think it's very important as a  
23 public proffer that it be maintained by the  
24 applicant.

25 (Pause.)

1           MS. COHEN: Thank you. I think the  
2 applicant's attorney came up and said that he's  
3 willing -- the applicant is willing to take care  
4 of the public space for the life of the project,  
5 and I would accept that.

6           CHAIRPERSON HOOD: Okay. Any other  
7 issues, comments?

8           MR. TURNBULL: I'm still not that  
9 thrilled with the sign. I don't think that  
10 architecturally it's an enhancement to the  
11 buildings. It's kind of -- the little block  
12 drawings that we have really -- it just looks  
13 offensive to the whole project. I just, I don't  
14 think it's very attractive. I don't think it's a  
15 meaningful element in the whole scope of what  
16 we're -- I just can't get behind this.

17           I mean, it's not on the top of the  
18 building but it still a glaring thing in the  
19 middle of the building and it just doesn't -- I  
20 don't know, I'm just not that excited by it  
21 architecturally. I just don't think it's -- if  
22 we're looking at the architectural qualities of a  
23 project and a development, what it's doing to the  
24 area, I just don't think it's an integral piece of  
25 the architecture and I'm just afraid that it's

1 just -- I think it takes away from some of the  
2 architecture.

3 I just can't get behind the sign, the  
4 size of it and where it is located. I thought we  
5 were going for something in a lower position,  
6 maybe a little bit more tastefully done. But  
7 that's just me.

8 CHAIRPERSON HOOD: I actually would agree  
9 with you, Mr. Turnbull. I actually thought -- and  
10 I do remember another project that we voted on  
11 some years ago, and the sign where it was --  
12 unless I misunderstood it. I think it needs to be  
13 lowered and maybe smaller. Unless I'm looking at  
14 the wrong --

15 (Pause.)

16 CHAIRPERSON HOOD: Okay. I don't see any  
17 difference, to me. I would still go along with  
18 your comments. I know they've lowered it. But I  
19 just think looking at some things and this  
20 particular project that we did, I don't even know  
21 if we approved the sign where it is. It actually  
22 looks very well, but it came down a lot lower.  
23 But it's still an identifier for that particular  
24 area and that particular project.

25 So, but I don't know, let's open it up.

1 It's not a show stopper for me, but --

2 MR. MAY: So, I had a big problem with  
3 the sign when it was on top of the building, as if  
4 it was marking the entire are and was basically  
5 advertising on the roof at that very high  
6 elevation, and was in favor of it being lowered to  
7 the point of being on, you know, on the top of the  
8 theater section of the building, which is what  
9 they have proposed, and they've proposed it in two  
10 potential locations.

11 One was along 5th Street, which they  
12 prefer, and then the other is sort of anchored to  
13 the end of 5th Street but facing south once again.

14 I think honestly, having that thing  
15 facing south on top of the theater block isn't so  
16 good because it's really not that visible and  
17 it's, you know, the building to the south is  
18 actually going to be quite close to it.

19 I actually kind of liked the placement of  
20 the sign that they've proposed along 5th Street  
21 and I would be happy supporting that. I think it  
22 gives it -- you know, it's a very large sign  
23 compared to other things that we often see. But  
24 it has become somewhat iconic for that building  
25 and I think that given everything else that's

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1 happening in that area in the future, I don't  
2 think it's too bad.

3 I do not think that it's significantly --  
4 degrades the architecture of the building overall.

5 MR. MILLER: Mr. Chairman.

6 CHAIRPERSON HOOD: Okay. Commissioner  
7 Miller.

8 MR. MILLER: I would agree with  
9 Commissioner May. I think it is an iconic marker,  
10 not only for the building but for the neighborhood  
11 which is referred to as the Union Market Area by  
12 many people.

13 It's also historically been there, going  
14 back decades and decades. And I didn't have a  
15 problem with -- and I think a lot of the community  
16 didn't have a problem with it being on top of the  
17 building. I didn't have a problem with it being  
18 at a lowered level on 5th Street, or Neal Place,  
19 or anywhere.

20 So I'll go along with where we can get  
21 three votes.

22 MS. COHEN: Mr. Chairman.

23 CHAIRPERSON HOOD: Yes.

24 MS. COHEN: I concur with Commissioners  
25 May and Miller on the location of the signage.

1           CHAIRPERSON HOOD: Okay. Again, there's  
2 more for me that's show stoppers than this, than a  
3 sign. One of the things that I did ask, if you  
4 all remember at the hearing, it was, were we  
5 calling this Union Market. Was that okay with the  
6 neighborhood. I actually never received that. I  
7 know it's been there for years, but you know,  
8 folks in the neighborhood who have been living  
9 around there for years, and sometimes we're so  
10 excited about getting something new and getting  
11 something better than what we had, we really lose  
12 sight and don't get -- some neighborhoods we don't  
13 get the best thing for what's supposed to happen  
14 there. And just because we want to see -- it's  
15 like a vacant house that's been there for so long.  
16 We're so happy to just get something there that  
17 we'll go along with it. So it's not really a show  
18 stopper for me. I'm not sure about you, Mr.  
19 Turnbull.

20           MR. TURNBULL: I still think it should be  
21 smaller.

22           CHAIRPERSON HOOD: Okay. Smaller, but  
23 could it be in the same position but smaller?

24           MR. TURNBULL: Sure.

25           CHAIRPERSON HOOD: Same position?

1 MR. TURNBULL: Yes.

2 CHAIRPERSON HOOD: Okay. You know, I  
3 like to always try to get five votes and it's not  
4 a show stopper. I would like to see it smaller  
5 also. But again, it's not a show stopper. So I  
6 will tell you that I am trying to get Mr. Turnbull  
7 to vote an affirmative, like I do everybody else.  
8 So I'm just making sure that we're clear. I know  
9 we don't have the votes, but I'm trying to get him  
10 to vote in the affirmative. Anyone interested in  
11 sending it back to the applicant to make it a  
12 little smaller?

13 MR. MAY: I would actually, there's a  
14 question I have for the applicant that could maybe  
15 answer immediately, or tell Ms. Schellin the  
16 answer to this, which is whether they plan to  
17 essentially take the existing sign and relocate  
18 it, as opposed to fabricating an entirely new  
19 sign.

20 MS. COHEN: They are indicating yes.

21 MR. MAY: So they're relocating the  
22 existing sign?

23 MS. COHEN: Yes.

24 MR. MAY: Yeah. So I mean, to me that's  
25 a significant difference. If we were to say make

1 it smaller --

2 CHAIRPERSON HOOD: Okay. That does.

3 Thank you. That makes a difference. Okay. Let's  
4 put this one in the parking lot and remember, what  
5 we said about the sign.

6 MR. TURNBULL: Are we going to agree on  
7 one location?

8 CHAIRPERSON HOOD: Does everybody agree  
9 with the 5th Street location, Mr. Turnbull?

10 MR. TURNBULL: Yeah.

11 CHAIRPERSON HOOD: Okay. All right. So  
12 we've got one location, one sign that's going to  
13 be relocated to the 5th Street the way I  
14 understand it. We want to make sure that the  
15 order says exactly, so we won't come back and have  
16 an issue with two signs. Okay? All right.

17 All right. Somebody like to make a  
18 motion; somebody who --

19 MR. MILLER: I'll make a motion, Mr.  
20 Chairman. I would move that the Zoning Commission  
21 take final action on Zoning Commission Case No.  
22 14-12 EAJ 1309 5th Street, LLC., first stage and  
23 consolidated PUDs and related map amendment. It's  
24 where 3591, with noting the discussion we just had  
25 about the sign being relocated to the 5th Street

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1 location, and ask for a second.

2 MS. COHEN: And the park.

3 MR. MILLER: And with the modification  
4 that the park will be maintained in perpetuity for  
5 the life of the project.

6 MS. COHEN: Second.

7 CHAIRPERSON HOOD: Okay. It's been moved  
8 and properly seconded. And again, we're talking  
9 about one sign, correct? Correct, colleagues,  
10 because this has been the issue in the past.

11 MS. COHEN: Yes.

12 CHAIRPERSON HOOD: Okay. And moved and  
13 properly seconded. Any further discussion? All  
14 those in favor. Aye.

15 ALL: Aye.

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

18 MS. SCHELLIN: Yes, staff records the  
19 vote five to zero to zero to approve the final  
20 action in Zoning Commission Case No. 14-12, as  
21 modified on the dais this evening, Commissioner  
22 Miller moving, Commissioner Cohen seconding,  
23 Commissioner Hood, May, and Turnbull in support.

24 CHAIRPERSON HOOD: Next, let's go to  
25 Zoning Commission Case No. 08-07A, Four Points,

OLENDER REPORTING, INC.

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1 LLC., and Curtis Properties, Inc., PUD  
2 modification and second stage PUD at Square 5785.  
3 Ms. Schellin.

4 MS. SCHELLIN: Yes, sir. At Exhibits 83  
5 through 85 and 87 we have the applicant's post-  
6 hearing submissions. Exhibit 86 we have an NCPC  
7 report advising that the project would not be  
8 inconsistent with the comp plan for the National  
9 Capitol. We'd ask the Commission to consider  
10 final action on this case.

11

12 CHAIRPERSON HOOD: Okay. Commissioners.  
13 Somebody like to get us started? Mr. Turnbull.

14 MR. TURNBULL: Well, I think when we took  
15 proposed action we went through all of the issues  
16 architecturally with this, and I think we all felt  
17 fairly comfortable with the way this thing ended  
18 up so I think architecturally we didn't have any  
19 issues and I'm not sure if there was proffer  
20 issues or not, but I think architecturally we had  
21 settled what the building looked like and I think  
22 we were in agreement that we accepted what changes  
23 had been made.

24 CHAIRPERSON HOOD: Yeah. I think I asked  
25 for something. I'm trying to locate it. I think

1 I asked for something. Is this the case --

2 MS. SCHELLIN: The signed CBA if  
3 possible. You asked for a submission between  
4 proposed and final action.

5 CHAIRPERSON HOOD: Okay.

6 MR. MAY: I had two outstanding items  
7 that were noted. One was outreach to Shannon  
8 Street neighbors and the signed CBA. That was the  
9 first one. And then the second one was the  
10 discussion of the green roof.

11 And I think they addressed the green roof  
12 in their submission. They also explained what  
13 they did with the public outreach, but still could  
14 not complete the community benefits agreement.

15 CHAIRPERSON HOOD: Okay.

16 MS. SCHELLIN: Right. Exhibit 87 they  
17 actually --

18 CHAIRPERSON HOOD: Yeah, I'm actually  
19 looking at that.

20 MS. SCHELLIN: So you're looking at that?  
21 All right?

22 CHAIRPERSON HOOD: I see 87, but you know  
23 again, unless they have the signed copy and we  
24 didn't get it. Do we have a signed copy or did I  
25 miss it because I don't see one signed. I don't

1 see anything.

2 MS. SCHELLIN: Now if you look at --

3 CHAIRPERSON HOOD: So were we ignored or  
4 were we disregarded or what?

5 MS. SCHELLIN: No. If you look at page 1  
6 they actually -- or page 2, I'm sorry.

7 CHAIRPERSON HOOD: Right. I saw that.

8 MS. SCHELLIN: Item 2. The fourth  
9 paragraph, it does state despite the applicant's  
10 good faith efforts the parties have not been able  
11 to reach an agreement. A copy of the  
12 ANC/Community proposed CBA is attached as Exhibit  
13 C as indicated in the notes. The proposed CBA  
14 includes the number of provisions that  
15 substantially exceed the scope of the PUD given  
16 the project's size and affordability commitment.

17 CHAIRPERSON HOOD: Okay.

18 MS. SCHELLIN: And other information.  
19 I've been passed a note from the representative  
20 from the ANC saying that they would be willing to  
21 move forward by the end of the week. The ANC  
22 would have a better understanding of the Community  
23 agreement and sign off on Tuesday at the ANC  
24 meeting.

25 I don't know if the Commission, if it

1 proceeds, if it wants to leave the record open for  
2 assigned CBA.

3 CHAIRPERSON HOOD: My problem with  
4 proceeding tonight on this particular case is this  
5 is final action. And once we proceed it's done.  
6 So the ANC can meet. And I just have a problem,  
7 first of all not seeing anything. And I think  
8 that we were very -- at least I know we very  
9 adamantly about working, and the things that are  
10 out of the scope within the flexibility of this  
11 being requested, I think can be dealt with. This  
12 community doesn't do a whole lot of zoning and I  
13 think it can be worked out. So I don't know why  
14 we're even entertaining this tonight, personally.

15 MR. TURNBULL: We could defer it to our  
16 next meeting. Which is -- I'm not sure when that  
17 would be.

18 MS. SCHELLIN: April 13th.

19 MR. TURNBULL: April 13th. If that's  
20 enough time.

21 CHAIRPERSON HOOD: Does anybody else have  
22 an issue with that, with this? I would like to  
23 hear from the ANC and find out how some of these  
24 things are being resolved.

25 And the ones that are not necessarily

1 germane to what's being asked for, and maybe the  
2 applicant feels out of scope, I don't have a  
3 problem with that. But I think it needs to be a  
4 little more working with that neighborhood, who is  
5 going to endure this. Okay? That's where I am.

6 I don't know if I have the votes, but if  
7 you proceed tonight I will be voting against this.

8 MR. MAY: So I mean, do we actually  
9 believe that there really will be progress on  
10 this? I mean, we heard from the ANC that they're  
11 going to have a vote. Do we know from -- I mean,  
12 do we have a sense that they've actually reached  
13 an agreement or are very close?

14 CHAIRPERSON HOOD: Well, what we just  
15 heard just now, I heard the same thing that we  
16 just heard -- that you just heard. They  
17 apparently feel like they will have a better  
18 understanding. And I assume that means close some  
19 of the gap, I believe.

20 MS. SCHELLIN: I'm getting a nod from the  
21 ANC. Just to confirm, is the meeting tomorrow,  
22 Ms. Fuller?

23 MS. FULLER: Next Tuesday.

24 MS. SCHELLIN: Oh, next Tuesday. But the  
25 applicant is --

1 CHAIRPERSON HOOD: Could you do me a --

2 MS. SCHELLIN: -- in the negative.

3 CHAIRPERSON HOOD: Hold on, Ms. Schellin.

4 The applicant is what?

5 MS. SCHELLIN: Applicant doesn't seem to  
6 think that maybe that can -- a sign when it can  
7 happen.

8 CHAIRPERSON HOOD: Well, I know who the  
9 applicant is now. I didn't know at first. Put  
10 his hands up in the air.

11 MS. SCHELLIN: I was looking at Mr.  
12 Freeman, not the developer.

13 CHAIRPERSON HOOD: Oh, I was looking at  
14 that. Oh, okay. Well maybe I need to look at  
15 you. Is it any hope? No, I believe to look at  
16 the one who did like this. And again, I think now  
17 that I saw the two hands go up, I really think  
18 though that I should try to find -- and again, as  
19 I stated, it might not be all the way but I think  
20 we need to try to close the gap some. That's just  
21 where I am.

22 MS. SCHELLIN: Talk to Sharon.

23 CHAIRPERSON HOOD: Could you talk to  
24 Sharon so we don't have to call you. Yeah, but  
25 that's not signed. You have a signed one? It is?

1 Well, the one I have is not signed. Maybe it  
2 didn't make the record. Did you all upload it?

3 MS. SCHELLIN: My understanding is that  
4 the developer has signed it and the ANC needs to  
5 have a meeting in order to sign it.

6 CHAIRPERSON HOOD: Oh.

7 MS. SCHELLIN: That's the problem.

8 CHAIRPERSON HOOD: Now we've got it.

9 MS. SCHELLIN: And they don't have a  
10 meeting until next Tuesday.

11 (Pause.)

12 CHAIRPERSON HOOD: I'm going to ask the  
13 applicant to come forward and represent what he  
14 has stated what he would do in this order, and  
15 that's the way we will proceed. And they would  
16 have standing because the MOU would be included in  
17 the order. And I think that's a win/win for the  
18 ANC also, if it's done this way. Okay. Mr.  
19 Freeman.

20 MR. FREEMAN: Good evening, Mr. Chairman,  
21 and for the record my name is Kyrus Freeman. I'm  
22 an attorney with the law firm of Holland and  
23 Knight, on behalf of the applicant.

24 As you know, since the Zoning Commission  
25 took proposed action we've been working diligently



1 to try to get this agreement signed. It has been  
2 signed by the applicant, concerned citizens of  
3 Anacostia, Historic Anacostia Preservation  
4 Society, and Historic Anacostia Block Association.  
5 One entity likely will not sign it, and the other  
6 entity the ANC kind of delegated authority to  
7 negotiate the document to Ms. Fuller.

8 We do anticipate that they will sign  
9 this, but what I'm happy to submit is a partially  
10 signed document that we're willing to commit to.  
11 And my understanding is that the ANC likely will  
12 sign the document, but I cannot speak on behalf of  
13 the ANC.

14 CHAIRPERSON HOOD: So the applicant,  
15 you're willing to have this put into our order.

16 MR. FREEMAN: We are willing to reference  
17 this document in your order as something we would  
18 live.

19 UNIDENTIFIED SPEAKER: And we'll be bound  
20 by.

21 MR. FREEMAN: We would reference that.

22 MR. BERGSTEIN: I just want to clarify,  
23 is the applicant willing to state as a condition  
24 of approval, compliance with the MOU, as opposed  
25 to just having the --

1 MR. FREEMAN: Yes.

2 MR. BERGSTEIN: Okay. And but just to  
3 further clarify, once that's done and we had this  
4 issue with the Hines order, then the MOU can't be  
5 modified in terms of the Zoning Commission order.  
6 Whatever is in the Zoning Commission order stands.  
7 If there's further modifications between the  
8 parties, that's fine. But in terms of what the  
9 conditions are, you would have to come back to the  
10 Zoning Commission to get a modification of any  
11 amendments to the --

12 MR. FREEMAN: The applicant is fully  
13 committed to these provisions and are happy to  
14 comply with them as part of the approval.

15 CHAIRPERSON HOOD: Okay. Did everyone  
16 hear that? Any questions of the applicant while  
17 they're at the table? Okay. I want to thank you,  
18 both. Okay.

19 So it looks like that's a moving piece.  
20 We can move with that. Any other questions or  
21 comments?

22 MS. SCHELLIN: I'm going to make sure  
23 that -- I'm going to, so you know, I'm taking this  
24 copy to place it in the record.

25 CHAIRPERSON HOOD: Okay. And that one

1 there is signed.

2 MS. SCHELLIN: And that one is signed.

3 CHAIRPERSON HOOD: Signed by the  
4 applicant. Okay.

5 MS. SCHELLIN: Yes. It's signed by the  
6 applicant and the Historic Anacostia Preservation  
7 Society.

8 CHAIRPERSON HOOD: So far. Okay.

9 MS. SCHELLIN: So far. Correct.

10 CHAIRPERSON HOOD: All right. Any other  
11 comments on this case?

12 MS. SCHELLIN: And the concerned citizens  
13 of Anacostia. So it's signed by three parties so  
14 far.

15 CHAIRPERSON HOOD: Okay. Those must have  
16 been signed this evening, because at least I  
17 didn't see it.

18 MS. SCHELLIN: No, sir, we did not have a  
19 copy of this.

20 CHAIRPERSON HOOD: Okay. Okay.

21 MS. SCHELLIN: They're dated today,  
22 correct.

23 CHAIRPERSON HOOD: That makes somewhat of  
24 a difference for me.

25 Okay. Anything else? Any other

1 comments? Somebody like to make a motion?

2 MR. MAY: I would make a motion that we  
3 approve the final approval to Zoning Commission  
4 Case 08-07A, PUD modification and second stage PUD  
5 at Square 57-85.

6 MS. COHEN: I'll second that.

7 MR. TURNBULL: Okay.

8 CHAIRPERSON HOOD: Okay.

9 MR. TURNBULL: In that motion all of the  
10 things we just talked about with OAG --

11 MR. MAY: Yes.

12 MR. TURNBULL: -- is included.

13 CHAIRPERSON HOOD: Right. It's been  
14 moved and properly seconded. Any further  
15 discussion? All those in favor. Aye.

16 ALL: Aye.

17 CHAIRPERSON HOOD: Any opposition? So  
18 ordered. Ms. Schellin. Would you record the  
19 vote?

20 MS. SCHELLIN: Yes, sir. Staff records  
21 the vote five to zero to zero to approve final  
22 action in Zoning Commission Case No. 08-07A,  
23 Commissioner May moving, Commissioner Cohen  
24 seconding, Commissioners Hood, Miller, and  
25 Turnbull supporting.

1           And just to clarify, if the ANC does sign  
2 this does the Commission want a fully signed copy  
3 in the record or not?

4           CHAIRPERSON HOOD: It should be --

5           MS. SCHELLIN: It does not -- does it  
6 need to be in there or not?

7           CHAIRPERSON HOOD: It should reflect --  
8 what was signed should be in the record at least.  
9 But I'll yield to Mr. Bergstein.

10          MR. BERGSTEIN: Well, we want to get the  
11 order out. And right now what the order would say  
12 is the applicant will comply with the MOU that's  
13 Exhibit, whatever the exhibit you're going to  
14 give. That's it.

15          Now if you want us to wait in terms of  
16 issuing the order, just for the purposes of  
17 getting a signed version of this with the ANC,  
18 then we would put that into the record and that  
19 would become a new exhibit and we'd just change  
20 it. But right now we have enough to have a  
21 legally enforceable order.

22          CHAIRPERSON HOOD: Okay. So I don't see  
23 that. We shouldn't wait. I think we can move  
24 forward.

25          MS. SCHELLIN: I just want to make sure

1 that we don't accept any other documents into the  
2 record.

3 CHAIRPERSON HOOD: Okay. Other than --

4 MS. SCHELLIN: So that's made clear.  
5 Okay. Thank you.

6 CHAIRPERSON HOOD: Let me just thank the  
7 applicant and the community, the ANC, for helping  
8 us resolve that on the dais; on the cuff.

9 So, all right. Let's go up to the next  
10 case. Okay. The next case is -- I lost my place.  
11 Zoning Commission Case 14-05. This is the Forest  
12 City Washington Text Amendment at Square 1803.  
13 Ms. Schellin.

14 MS. SCHELLIN: Yes, sir. In Exhibit 29  
15 we have ANC 6-D's report in support of its  
16 September 2014 resolution, and it's response to  
17 the petitioner's second supplemental post-hearing  
18 submission of January 26t, 2015. Exhibit 31 is  
19 the NCPC report advising the text amendments would  
20 not be inconsistent with the comp plan for the  
21 National Capitol and we'd ask the Commission to  
22 consider final action. Thank you.

23 CHAIRPERSON HOOD: Okay. Commissioners,  
24 let's open it up. Any comments on this text  
25 amendment? Remember this is the one where dealt

1 with the bedrooms, the two-bedrooms and three-  
2 bedrooms, just to rehash. Vice Chair Cohen.

3 MS. COHEN: Mr. Chairman, again, I just  
4 reiterate, ANC 6-D's position with regard to the  
5 three-bedroom units, and it is included in the  
6 draft order.

7 I just want to also state that the  
8 pushback that we have heard from the applicant  
9 about three-bedrooms not being an appropriate --  
10 well, the neighborhood is very dense and being  
11 near the stadium, I think when the ANC comes out  
12 with very specific recommendations they have the  
13 local knowledge. They know that there are people  
14 and there may be some of them who would move into  
15 a three-bedroom unit. So I am pleased that the  
16 applicant has finally agreed to the three-bedroom  
17 requirement.

18 And the granting of relief, if for any  
19 reason they can't be marketed, I really don't see  
20 where that will be a practical difficulty for them  
21 because the ANC probably has more knowledge of  
22 that neighborhood by living there. So I don't  
23 know why we have to really give the applicant an  
24 out on this, but I have no objection to the  
25 wording either, that was proposed in the order.

1 CHAIRPERSON HOOD: Okay. Any other  
2 comments?

3 MR. MAY: Mr. Chairman, I do not believe  
4 that the language really just boils down to  
5 whether or not they can market these units. I  
6 think that the -- you know, the reduction or  
7 elimination of this requirement shall be permitted  
8 by the Commission upon a showing by the applicant  
9 that exceptional circumstances affecting the  
10 property made compliance with this requirement  
11 difficult or impossible.

12 Difficult or impossible is a lot  
13 different than they're not going to be able to  
14 sell them, right? So I don't have any problem  
15 with, you know, leaving this in as it is.  
16 Frankly, I don't think it will ever be used  
17 because I think you're right, they'll be able to  
18 market them. But I, you know, I'm happy to accept  
19 this as it is.

20 MS. COHEN: I was reminded, it's my  
21 language. I love it.

22 CHAIRPERSON HOOD: Okay. Anyone else?  
23 Commissioner Miller.

24 MR. MILLER: Mr. Chairman, yeah, I  
25 support the moving forward tonight with final



1 action. I think we've gotten to a good result.  
2 It's requiring the eight percent of the extra  
3 units that this text amendment would be  
4 facilitating that would be set aside for three  
5 bedrooms. And it's essentially, you know, a very  
6 strict variance test and it probably would apply -  
7 - that kind of variance exception probably would  
8 have applied whether we had the language there or  
9 not, so I'm ready to move forward tonight.

10 CHAIRPERSON HOOD: Okay. Anyone else?  
11 Mr. Turnbull?

12 MR. TURNBULL: I would just echo  
13 everyone's concern, and that I think that with the  
14 language the way it's stated regarding the two-  
15 bedrooms, is going to be fine. I don't think  
16 we're going to have an issue with that and I don't  
17 think the applicants want to come back to a  
18 modification process. They're going to market  
19 that.

20 CHAIRPERSON HOOD: Okay. All right.  
21 Someone like to make a motion? I don't have any  
22 comments, Commissioner.

23 MR. MILLER: Mr. Chairman, I would move  
24 that the Zoning Commission take final action on  
25 Zoning Commission Case No. 14-05 Forrest City,

1 Washington Text Amendment at Square 1803. Oh, no,  
2 not Square 1803. I think it's section 1803 of the  
3 Zoning Regulations. Is that correct?

4 CHAIRPERSON HOOD: It's correct.

5 MR. MILLER: And ask for a second.

6 MR. TURNBULL: Second.

7 CHAIRPERSON HOOD: Second. Okay. It's  
8 been moved and seconded by Mr. Turnbull. Any  
9 further discussion?

10 All those in favor. Aye.

11 ALL: Aye.

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

14 MS. SCHELLIN: Staff records the vote  
15 five to zero to zero to approve final action in  
16 Zoning Commission Case No. 14-05, Commissioner  
17 Miller moving, Commissioner Miller seconding,  
18 Commissioners Cohen, Hood, and May in support.

19 CHAIRPERSON HOOD: Okay. Next is Zoning  
20 Commission case No. 14-16, Office of Planning Text  
21 and Map Amendments to create a new C-2-B-1 Zone.  
22 Ms. Schellin.

23 MS. SCHELLIN: Yes, sir. At Exhibit 15  
24 we have a copy of the proposed rulemaking that was  
25 sent to the D.C. Register for publication. No

1 comments were received during the 30 day comment  
2 period. Exhibit 16 is the NCPC report advising  
3 that the text and map amendments would not be  
4 inconsistent with the comp plan for the National  
5 Capitol, and ask the Commission to consider taking  
6 final action this evening.

7 CHAIRPERSON HOOD: Okay. Colleagues, I'm  
8 not sure what all we asked for in this. But  
9 anyway, let me open it up for any comments.

10 I think the hearing, if I recall, was  
11 very supportive. And I think -- did we do a bench  
12 decision on this? Yeah, we did a bench decision.  
13 But let me open it up. Any comments on this? If  
14 not, I'll take a motion.

15 MS. COHEN: Mr. Chairman.

16 CHAIRPERSON HOOD: Okay. Vice Chair  
17 Cohen.

18 MS. COHEN: I will move to approve Zoning  
19 Commission Case No. 14-16, Text and map  
20 amendments, 11-DCMR to create and implement the C-  
21 2-B-1 Zone district.

22 Okay. Yeah, that's it.

23 MR. MILLER: I'll second that.

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

1 All those in favor. Aye.

2 ALL: Aye.

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

5 MS. COHEN: Yes, staff records the vote  
6 five to zero to zero to approve proposed -- excuse  
7 me, final action in Zoning Commission Case No. 14-  
8 16, Commissioner Cohen moving, Commissioner Miller  
9 seconding, Commissioners Hood, May, and Turnbull  
10 in support.

11 CHAIRPERSON HOOD: Okay. Next Zoning  
12 Commission Case No. 14-09. This is the QC369,  
13 LLC., consolidated PUD and related map amendment  
14 at Square 369. Ms. Schellin.

15 MS. SCHELLIN: Yes, sir. On this case at  
16 Exhibit 66 through 68 we have the applicant's  
17 post-hearing submissions. At Exhibit 69 we have  
18 an NCPC report advising the project would not be  
19 inconsistent with the comp plan for the National  
20 Capitol. Exhibit 70 is an OP supplemental report  
21 and Exhibit 73 the records was reopened to accept  
22 a letter from the Friends of Gompers Park and  
23 would ask the Commission to consider final action  
24 on this case.

25 CHAIRPERSON HOOD: Okay. Commissioners,

1 as Ms. Schellin has already mentioned, we do have  
2 a letter from friends of Gompers Park. A thank  
3 you letter, basically, is the way I read it. So  
4 let me open up any questions or comments.

5 MS. COHEN: Yes, Mr. Chairman.

6 CHAIRPERSON HOOD: Vice Chairman.

7 MS. COHEN: I have a few comments.

8 First of all, the proposed zoning order  
9 on page 11, I think that they talk about jobs.  
10 This is paragraph 39, employment and training  
11 opportunities. And that they would seek qualified  
12 applicants residing in the District. That could  
13 be subject to definition of District being Metro  
14 area so I would prefer that we add the District of  
15 Columbia so that our citizens get priority, not  
16 necessarily the District which could be  
17 interpreted to be the Metro area.

18 Let's see. I think that on page 14, the  
19 Office of Planning report, paragraph 57, by report  
20 dated March 24th, OP commented on the changes the  
21 applicant made to the design of the project's roof  
22 structure. I think that should be -- we should  
23 elaborate on that because somebody may have to go  
24 back and look for the March 24th report, so I  
25 think that that would be important to elaborate



1 the proposed amount and timing of the housing.

2 I also understand that the number of  
3 units that we have discussed is just chipping away  
4 at a severe problem facing D.C. citizens. A lack  
5 of affordable housing, which cannot be addressed  
6 by the public sector alone. The federal  
7 government has eliminated its resources and  
8 financial support so we must seek private  
9 partnerships to help us alleviated this massive  
10 problem.

11 According to the Bureau of Labor  
12 Statistics the average salary for a hotel worker  
13 is about 19,535, which equates to about 18 to 20  
14 percent of the AMI of our area.

15 Finally, the creation of these jobs,  
16 which I'm appreciative of, they're of considerable  
17 benefit to the District but these jobs do not pay  
18 a high enough wage for people to live within the  
19 city that they work. One of the purposes of the  
20 Zoning Commission is to manage the built  
21 environment and to assure that development does  
22 not impede the wellbeing of its citizens.

23 However, when the development community  
24 does not provide its fair share of affordable  
25 housing units to set off the impacts of an

1 overburdened road and transit system, this weighs  
2 in as a negative impact. It was my hope to have  
3 the applicant sharpen their pencils to determine a  
4 reasonable amount of affordable units and  
5 affordability time frame.

6 The applicant did not ignore this  
7 request. They just brushed it aside.

8 Finished.

9 CHAIRPERSON HOOD: Okay. Thank you. Any  
10 other comments? Commission Miller?

11 MR. MILLER: Mr. Chairman, this is a  
12 beautifully designed project that has a lot of  
13 historic preservation which is a substantial cost  
14 to the applicant. And the benefits of having  
15 these two hotels and the 200 additional  
16 residential units is great and substantial for the  
17 District and for this neighborhood.

18 There was not an affordable housing -- I  
19 understand Vice Chair's concerns, and I too would  
20 have liked to have seen a deeper affordability  
21 level than 80 percent AMI, and a greater number.  
22 However, there wasn't a requirement that there be  
23 affordable housing on this site. That's really  
24 maybe up to us in the future including -- it's an  
25 area zoning case to make sure that certain areas



1 of the city do their fair share of inclusionary  
2 zoning as opposed to being exempt, which this  
3 downtown area was exempt as I understand it.

4           So they are offering, as one of their  
5 alternatives -- they did respond to our concerns  
6 at the hearing when we asked, could you like,  
7 consider doing some kind of affordable housing.  
8 They did come back and they've provided at this  
9 point two alternatives. I certainly prefer the  
10 original proffer which is, I believe, four units  
11 in the Lurgan Apartment Building which they were  
12 preserving that façade too. Or maybe they're  
13 preserving even more than the façade.

14           And so four of the 18 units in that  
15 building itself would be at the 80 percent AMI  
16 level for five years. And then they said to the  
17 tenants, if they continue to qualify -- as long as  
18 they continue to qualify can continue to be there  
19 as long as they continue to qualify. So it may be  
20 a longer year, a longer period of time. I hope a  
21 longer time than 5 years for those 80 percent AMI  
22 units.

23           But in any event I'm prepared to --  
24 they've made a number of revisions and previous  
25 iterations at our request. Particularly with

1 regards to what was happening on the roof. They  
2 simplified it, they increased the setbacks and  
3 made a number of other changes. So I'm prepared  
4 to move forward tonight with this very exciting  
5 project.

6 CHAIRPERSON HOOD: Okay. Any other  
7 comments on this case?

8 MR. MILLER: Yeah, Mr. Chair. I just go  
9 back. I forgot what -- the Vice Chair mentioned  
10 something about the roof too, I think in your  
11 comments, didn't you? Maybe not. Okay.

12 But we had a lot of questions on the roof  
13 plan and Commissioner May very ably dissected the  
14 roof, drawings, and there was a lot of issues.  
15 And I think they've come back with their  
16 supplemental post-hearing submission and addressed  
17 all those concerns. In fact I think the Office of  
18 Planning issued a supplemental report, Exhibit No.  
19 71, in which they clarified the fact they even  
20 went to the ZA, the ZA agreed that the railings  
21 would not be approved. They went back, the  
22 applicants changed all that.

23 I think the only relief that they're  
24 looking for as OP has addressed, is the setback  
25 requirements along the east wall of the courtyard.

1 And I don't think, unless Commissioner May has got  
2 an issue with that I don't think -- I think it's  
3 fine. I think that they've hit all the high  
4 points of what we saw and what Commissioner May  
5 noted. So I think we're good to go on the roof.

6 MR. MAY: I agree. I was going to bring  
7 up the OP report. I appreciate their looking into  
8 it and getting confirmation from the Zoning  
9 Administrator on some of the questions that were  
10 raised, and I think it's been adequately  
11 addressed. You know, I think it's an open  
12 question in my mind about how we should be  
13 treating handrails and how we should be treating  
14 that, you know, less than four foot plinth space  
15 which seems to be kind of magic free space not  
16 subject to the height act in some way. Or, you  
17 know, it's a gray area in my mind that may need  
18 clarification as we try to sort out what's a  
19 penthouse and what's not. But I think that for  
20 this case, what we've gotten from the applicant  
21 and what we've gotten from OP is sufficient and  
22 I'm prepared to move ahead.

23 CHAIRPERSON HOOD: Okay. Any other  
24 comments? I would associate myself to a certain  
25 point -- while I'm not going to vote against this

1 project, I think it moves in the right direction.  
2 But I would like to see, as the Vice Chair  
3 mentioned, District of Columbia I think is how she  
4 said it, residents.

5           But again what concerns me is I see this  
6 in the order, and then when I ride by the  
7 construction sites I see the Pennsylvania tags.  
8 And I've been noticing that. So again, that's  
9 what I asked and my colleagues remember, I'm going  
10 to start asking this early on. Are we getting our  
11 pool together and making sure that Employment  
12 Services has a pool together to give some of these  
13 450 full-time temporary construction jobs? Do we  
14 have the pool together in the city because I know  
15 we have the need for the jobs, but do we have our  
16 pool together? If not, we need to get them  
17 together and we need to do that stuff in advance.

18           It looks good here. It's even highlighted  
19 in blue for the corrections. It looks great. But  
20 I just don't see that and maybe the folks that I  
21 see work on some of these sites just haven't  
22 changed their tags over, they're residents of the  
23 city. But I just don't see that. And I think we  
24 need amongst our precedence again, because that is  
25 an issue. We've got 450 full-time temporary

1 construction jobs. I think that it should be  
2 District residents and we should know and have our  
3 pool ready so when they come looking for it we can  
4 disburse those people to the sites.

5           Anyway, any other questions or comments?  
6 Commission Miller.

7           MR. MILLER: Just on your point I would  
8 note that this particular applicant, quadrangle,  
9 on the previous project that they did in this area  
10 at the Marriott Marquis Convention Centers  
11 Headquarters Hotel, they did a pretty good job  
12 compared to other projects, of having high goals  
13 for District of Columbia residents, performing  
14 apprentice hours and unskilled labor hours, and  
15 meeting those goals. So I just wanted to note  
16 that I hope that that record will be matched and  
17 exceeded again.

18           CHAIRPERSON HOOD: Okay. I appreciate  
19 you bringing it in light. I actually know about  
20 that project. I've heard that before. But my  
21 comments remains the same. Okay? And that's not  
22 the first time I said it so I'm not just picking  
23 on this applicant.

24           Okay. Any other questions? And I think  
25 the applicant knows of the hearing. I mentioned

1 the same thing and I'm going to mention it again  
2 from this point out because I think it's  
3 important, until we really start making it really  
4 happen.

5 Okay. Someone like to make a motion?

6 MR. TURNBULL: All right. Mr. Chair, I  
7 would move that we approve Zoning Case No. 14-09,  
8 QC369, LLC., Consolidated PUD and Related Map  
9 Amendment at Square 369, and look for a second.

10 CHAIRPERSON HOOD: Second.

11 MR. MAY: Can I ask which --

12 CHAIRPERSON HOOD: Hold on. It's been  
13 moved on. I'll do it in order. It's been moved  
14 and properly seconded. Any further discussion?

15 MR. MAY: Sorry about that.

16 CHAIRPERSON HOOD: Parliamentary  
17 procedures.

18 MR. MAY: I was just trying to get a  
19 clarification of what the motion was so that I  
20 could maybe second it. But anyway, that ship  
21 sailed.

22 CHAIRPERSON HOOD: Yeah, we had two.

23 MR. MAY: The question -- yeah, I know,  
24 you already had two.

25 CHAIRPERSON HOOD: Any further

1 discussion?

2 MR. MAY: So the question is, which  
3 affordable housing proffer are we accepting? I  
4 mean, Commission Miller had suggested the original  
5 proffer was better.

6 MR. MILLER: I had actually four --

7 MR. MAY: So, and I'm inclined in the  
8 same direction, so.

9 MR. MILLER: Yeah, I was going for the  
10 four also.

11 CHAIRPERSON HOOD: Right. I thought that  
12 -- okay. Yeah. Thanks for the clarification.  
13 Four. I would agree because I think that's what  
14 was mentioned in his discussion. Any further  
15 discussion?

16 All those in favor. Aye.

17 ALL: Aye.

18 CHAIRPERSON HOOD: Any opposition?

19 MS. COHEN: Opposed.

20 CHAIRPERSON HOOD: Okay. We have one in  
21 opposition, four in support. Ms. Schellin, would  
22 you record the vote?

23 MS. SCHELLIN: Yes. Staff records the  
24 vote four to one to zero to approve proposed --  
25 excuse me, final action in Zoning Commission Case

1 No. 14-09, Commissioner Turnbull moving,  
2 Commissioner Hood seconding, Commissioners May and  
3 Miller in support, Commissioner Cohen opposed.

4 CHAIRPERSON HOOD: Okay. I have asked to  
5 move proposed actions last. Let's go to hearing  
6 action. Let's go, we have a hearing action and  
7 correspondence. Let's go to Zoning Commission  
8 Case No. 15-03, Aria Development Group,  
9 Consolidated PUD and related map amendment at  
10 Square 2866. Ms. Vitale.

11 MS. VITALE: Good evening, Mr. Chair and  
12 Members of the Commission. Office of Planning is  
13 recommending set down of the consolidated PUD and  
14 related map amendment requested by Aria  
15 Development group to permit redevelopment of the  
16 properties at 1309 and 1315 Clifton Street  
17 Northwest.

18 The PUD related map amendment from the  
19 R5B to the R5C zone would allow for the  
20 replacement of two existing market rate rental  
21 apartment buildings containing a total of 48  
22 units, with a six story apartment building with  
23 155 to 170 units.

24 The proposed FAR of 4.0 is consistent  
25 with the maximum FAR permitted for an R5C PUD.



1 The proposal would exceed the IZ requirements and  
2 would set aside 10 percent of the gross floor area  
3 for affordable units with no less than 8 percent  
4 of the GFA targeted to tenants at 50 percent of  
5 the area median income.

6 A tenant relocation plan has been  
7 established by the applicant.

8 This proposal conforms to the  
9 comprehensive plans, policy objectives for the  
10 mid-city area, which include retaining the mixed  
11 income character of the neighborhood.

12 The site is within a neighborhood  
13 conservation area as identified in the  
14 comprehensive plan's future land use map.

15 Based on site constraints the applicant  
16 is requesting flexibility from the general  
17 requirements for rear yards, side yards, parking,  
18 loading, and roof structures.

19 OP has requested that the applicant  
20 provide additional information regarding the  
21 following items: revised plans for the treatment  
22 of public space along Clifton Street; additional  
23 information regarding the requested parking  
24 flexibility; detailed information regarding the  
25 unit mix and the location of the affordable units;

1 a more robust array of environmental benefits;  
2 additional information regarding the extent of  
3 employment and training opportunities; and a  
4 refined amenities package. This would be based on  
5 ongoing discussions with the ANC that is  
6 commensurate with the requested flexibility.

7 The proposed PUD is not inconsistent with  
8 the comprehensive plan, therefore OP is  
9 recommending that the application be set down for  
10 public hearing. Thank you, and I can answer any  
11 questions that you might have at this time.

12 CHAIRPERSON HOOD: Okay. Thank you, Ms.  
13 Vitale. Colleagues, any questions of Office of  
14 Planning?

15 MS. COHEN: Mr. Chairman.

16 CHAIRPERSON HOOD: Yes.

17 MS. COHEN: I just want to commend Ms.  
18 Vitale and her thorough review. I have no  
19 additional questions other than what she has  
20 brought up.

21 CHAIRPERSON HOOD: Okay. Anyone else?

22 MR. MILLER: Mr. Chairman, I have no  
23 questions either. I appreciate -- I agree with  
24 all of the requests for additional information  
25 that the Office of Planning has set forth. I

1 think that's a very attractive project which has a  
2 preservation element, has the right to return by  
3 existing tenants at the same rent levels. And  
4 it's just, I think there's been a lot of work with  
5 the existing tenants and with the community and  
6 I'm ready to -- I'm personally ready to set it  
7 down for hearing by the Zoning Commission.

8 CHAIRPERSON HOOD: Any other comments?

9 MR. TURNBULL: Yeah, Mr. Chair, I've just  
10 got -- I'm ready to set it down, I just have -- we  
11 have a mix of zones here. We've got R-4-B, R-4 on  
12 the one side, C-2-B. What is on the left? I am  
13 not sure by your map on page 3, what is on the --  
14 what is on the other side? I've got R-5-B on one  
15 side, but what's on the other side? There's three  
16 buildings and then it's C-2-B. So what's in the  
17 middle? Is that R-4 or --

18 MS. VITALE: That area is also R-5-B and  
19 that's another multifamily development there to  
20 the west --

21 MR. TURNBULL: Okay.

22 MS. VITALE: -- of the subject property.

23 MR. TURNBULL: Okay. I think we're going  
24 to need some more -- I'd like to see some better  
25 sections of the roof and some idea of what's going

1 on up there. I'm just concerned about -- I mean,  
2 they want relief. I want to see exactly what that  
3 relief is, and I'm just concerned about the impact  
4 on the adjoining buildings on either side and how  
5 much of an intrusion it's going to have on their  
6 life. So I really need to know what's really  
7 going on on the roof as far as lighting and  
8 everything else up there. Some sections and some  
9 views up there.

10 Other than that, I'm ready to set it  
11 down.

12 CHAIRPERSON HOOD: Okay.

13 MR. MAY: Mr. Chairman.

14 CHAIRPERSON HOOD: Yes.

15 MR. MAY: I would just agree with  
16 Commissioner Turnbull's comments. I had the same  
17 sort of questions about what's going on on the  
18 roof and the set backs and any other relief that  
19 might be required.

20 And I think, you know, it's -- this is a  
21 -- well, you know, in the broader context it's not  
22 a huge building compared to the things that  
23 surround it. It is a very large building and at  
24 least in terms of what's happening in one  
25 direction versus the other.

1           And, you know, these are buildings with  
2 some setbacks and so on. So I think that it's  
3 very important that it fit -- that it feel like it  
4 fits into the context well. And I think that's  
5 one of the things that I really want to understand  
6 about it in addition to, you know, what's going  
7 on, on the roof is its relationship in terms of  
8 height and bulk with the rest of the neighborhood,  
9 really on both sides. So.

10           But other than that I think it's well  
11 worth setting down and look forward to what we see  
12 at hearing after the Office of Planning has  
13 continued to work with the applicant.

14           CHAIRPERSON HOOD: Okay. I would agree  
15 with setting this down. Again, as I stated  
16 earlier in another case, let's make sure our pool  
17 is ready for these full-time temporary jobs in  
18 construction. I know this applicant is also  
19 saying the same thing. So we need to make sure  
20 that pool is ready so that the residents of this  
21 city will be ready to get those jobs and we don't  
22 have to go back to Pennsylvania.

23           And I mean, I've been saying this for  
24 years, it's a serious situation. There's a lot of  
25 jobs here for folks that live right here in this

1 city and this applicant is saying the same thing.  
2 So I'll be asking those questions probably from  
3 here until my tenure is up. So, I would move that  
4 we set down Zoning Commission Case No. 15-03 with  
5 the comments as spoken and ask for a second.

6 MR. MILLER: Second.

7 CHAIRPERSON HOOD: It's been moved and  
8 properly seconded. Any further discussion? All  
9 those in favor. Aye.

10 ALL: Aye.

11 CHAIRPERSON HOOD: Any opposition? Ms.  
12 Schellin, would you record the vote?

13 MS. SCHELLIN: Staff records the vote  
14 five to zero to zero to set down Zoning Commission  
15 Case No. 15-03 as a contested case. Commissioner  
16 Hood moving, Commissioner Miller seconding,  
17 Commissioners Cohen, May, and Turnbull in support.

18 CHAIRPERSON HOOD: Okay. Next we have  
19 Zoning Commission Case No. 15-08. This is the  
20 Office of Zoning text amendment at Square 3180.1C.  
21 Ms. Schellin.

22 Oh no, hold on. Do I go to the office of  
23 -- who is doing it. I'm confused. Office of  
24 Planning? Oh, Office of Zoning, Ms. Schellin.

25 MS. SCHELLIN: Yes, sir. The Office of

1 Zoning is asking that the Commission approve  
2 emergency action in the immediate publication of  
3 the proposed rulemaking for this case to allow for  
4 a new section or a new subsection for 3180.1C and  
5 to set this case down and allow for a shortened  
6 notice period for a public hearing.

7           This is to add a fee to where chancery  
8 cases that come before the Board of Zoning  
9 adjustment that do not involve square footage can  
10 be charged a fee and proceed before the Board of  
11 Zoning adjustment.

12           We've had three cases filed recently.  
13 One of them did have a little bit of square  
14 footage because there was a guard shack. But the  
15 other two did not and my understanding is the  
16 State Department is requiring the chanceries to  
17 erect fences, and therefore we want them to go  
18 through a BZA process. And so this is urgent need  
19 and we've been told that there are going to be  
20 several more cases coming our way.

21           CHAIRPERSON HOOD: Okay. Thank you, Ms.  
22 Schellin. Colleagues, we have an emergency action  
23 request, immediate publication of proposed  
24 rulemaking asking us to set this down, and also  
25 shorten the notice period.

1           Any questions or comments for Ms.  
2 Schellin?

3           Okay. I would move that we -- I guess I  
4 can do all of the bullet points that I see in  
5 front of me. Move that we set down Zoning  
6 Commission Case No. 15-08 as an emergency action,  
7 and the publication of proposed rulemaking, that  
8 we set this down and also we shorten the notice  
9 period to meet the report described by Ms.  
10 Schellin, and ask for a second.

11           MS. SCHELLIN: Second.

12           CHAIRPERSON HOOD: It's been moved and  
13 properly seconded. Any further discussion? All  
14 those in favor. Aye.

15           ALL: Aye.

16           CHAIRPERSON HOOD: Not hearing any  
17 opposition, Ms. Schellin would you record the  
18 vote?

19           MS. SCHELLIN: Yes, sir. Staff records  
20 the vote five to zero to zero to approve Zoning  
21 Commission Case No. 15-08 as a rulemaking case,  
22 and also the emergency action, immediate  
23 publication of the proposed rulemaking and the  
24 shortened notice period. Commissioner Hood  
25 moving, Commissioner Cohen seconding,



1 Commissioners May, Miller, and Turnbull in  
2 support.

3 CHAIRPERSON HOOD: Okay. I'm going to do  
4 the correspondence item and then I'm going to take  
5 about a three minute break.

6 MS. SCHELLIN: Sure.

7 CHAIRPERSON HOOD: And then we're going  
8 to come back. And I think that's it, right? That  
9 we just have those last two proposed items on the  
10 agenda. Do we have anything else before I get to  
11 -- okay.

12 Let's do the correspondence item. This  
13 is on the Commission Case No. 08-06C, West End  
14 Citizens Association request for a postponement of  
15 hearing. Ms. Schellin.

16 MS. SCHELLIN: Yes, sir. At Exhibit 7 we  
17 have a request from WECA to postpone the hearing  
18 until after the 90 day comment period expires on  
19 the ZRR Text in case number 08-06A, and would ask  
20 the Commission to consider this request.

21 CHAIRPERSON HOOD: Okay. Commissioners,  
22 we have a request from West End Citizens  
23 Association as a request to us postponing our  
24 April the 6th hearing until the public has had an  
25 opportunity to review and comment on the proposed

1 draft and ZRR text which is still not available.  
2 And you see, and this comes from Ms. Maddox  
3 actually.

4 MS. SCHELLIN: Yes, West End.

5 CHAIRPERSON HOOD: West End, yeah. Ms.  
6 Maddox, who is the president. Yeah, we know -- my  
7 friend. Hope she's my friend and have to say my  
8 position. Okay.

9 Any comments on this? Actually, my issue  
10 was not necessarily with Ms. Maddox, it's with Ms.  
11 Kaylow (phonetic). I'm looking here at all these  
12 e-mail exchanges. Any request should come -- if a  
13 request is made it doesn't come from the director.  
14 The director doesn't make requests of this  
15 magnitude to this Commission. And I just, I'm  
16 looking at all these e-mail exchanges.

17 And let me just say, I want to thank the  
18 Office of Zoning for how they deal with all this  
19 because there were e-mails -- when I'm looking at  
20 the times, 2:06, 3:08, 3:21, 3:30, about something  
21 that should have been in front of this Commission.  
22 So if you can pass that to Ms. Kaylow, ask her to  
23 watch this because I think this is out of the  
24 jurisdiction of the director. As a matter of  
25 fact, I know it's out of her jurisdiction.

1           So anyway, and I want to thank Ms.  
2 Barden. And the whole Office of Zoning staff of  
3 how they deal with certain things. But this  
4 particular issue should not have went on this  
5 long. We might have been able to get more to ZRR  
6 if she didn't spend a lot of time during this --  
7 this should have come in front of this Commission  
8 and I'm just sorry that our director had to go  
9 through a lot of this. But the customer service  
10 office that they have, they did it. But this is a  
11 lot of exchange going back and forth with one  
12 citizen when she has a whole city to deal with as  
13 far as zoning. So, and she can watch this hearing  
14 and get upset with me later.

15           Let's open it up. Any comments?

16           Okay. We have a request from -- I think,  
17 though, there is another opportunity to deal with  
18 this, Ms. Maddox. I really do. While I  
19 understand what we're saying, but I think there's  
20 going to be another opportunity after the draft  
21 text comes out. This particular case is dealing  
22 with fees and mapping, which should be pretty  
23 straightforward. And I think we talked about a  
24 lot of this early on in the beginning anyway.

25           So I don't know how other -- let me ask

1 this, let me ask it this way instead of me just  
2 giving my point. Does anyone else would like to  
3 move forward the request from West End about  
4 postponing our hearing on April the 6th?

5 Do I need to make -- do we need a motion?

6 MR. BERGSTEIN: I think not because  
7 motions are permitted in rulemakings. There are  
8 no parties. So I think you could just, by  
9 consensus, not you know, decide not to delay the  
10 proceeding.

11 CHAIRPERSON HOOD: Yeah. I think we're  
12 not going to delay it, Ms. Maddox, but I think it  
13 would be an opportune time for you to come down,  
14 and once we get to this point, especially during  
15 the comment period, after the draft text, and  
16 there will be another opportunity to comment.  
17 Okay? We still friends? Okay. All right.

18 So we don't have to do anything. All  
19 right. Let's take about three minutes and we'll  
20 come right back.

21 (Off the record from 7:48 p.m. until 7:53  
22 p.m.)

23 CHAIRPERSON HOOD: Okay. Let's go back  
24 on the record. Okay. We're going to go up under  
25 the proposed action. I want to thank everyone's

1 indulgence for us moving this around. We thought  
2 this would be a little quicker. These cases may  
3 take us a little longer, possibly.

4 Zoning Commission Case No. 13-08, Square  
5 5914, LLC., consolidated PUD and related map  
6 amendment and Square 5914 and various parcels.  
7 Ms. Schellin.

8 MS. SCHELLIN: Yes, sir. Exhibit 48 is a  
9 letter from the SMD Commissioner for 8E06, and  
10 then Exhibits 50 through 52F, we have the  
11 applicant's post-hearing submissions, Exhibits 53  
12 through 55. We have the party in opposition's  
13 post-hearing submissions, Exhibit 57. The record  
14 was reopened to accept a supplemental report from  
15 DDOT and ask the Commission to consider proposed  
16 action this evening.

17 CHAIRPERSON HOOD: Okay, Commissioners,  
18 we had an exhaustive hearing on this case. And  
19 let me just start off by saying that we -- at  
20 least from my standpoint, I believe all this, we  
21 move and deal with the merits of the case. There  
22 were a lot of accusations made which I think --  
23 and not just in front of this Commission but also  
24 in front of the City Council which I think were  
25 not just to this Commission and the work that we

1 do. We spend many nights down here working hard.  
2 If you don't agree with us -- because what happens  
3 in this high tech world, some of what you say and  
4 the accusatory actions need to have some substance  
5 behind it and need to be actually factual because  
6 years from now my kids may Google it and they'll  
7 see that there was an insinuation made that some  
8 of us were taking checks from a developer. And I  
9 take exception to that. I work hard down here  
10 with what I try to do. You may not agree with it,  
11 but I take exception to it. I really do take  
12 exception to it.

13           And that's just my personal comment. I  
14 know that's not what I was supposed to say but I  
15 think that was just due. I figured I would do it  
16 in this forum as opposed to doing it in front of  
17 the counsel, but if I need to I'll go back at the  
18 budget hearing on April the 20, and do it at that  
19 point. But I really take exception to that  
20 because we work hard down here.

21           Okay. Let me open it up for any  
22 comments.

23           Take your time. Don't rush. We're going  
24 to take our time and go through both of these  
25 cases.

1 Vice Chair.

2 MS. COHEN: Thank you, Mr. Chairman.

3 Again, reviewing all the testimony and exhibits  
4 there still seems to be, you know, differences of  
5 opinion by the single member district and the ANC  
6 itself. But I think that the applicant has  
7 provided some information that is of importance,  
8 including that they will not require the residents  
9 to give up their TOPA rights. And that, to me, is  
10 a very very important step.

11 I think it needs to be reflected in the  
12 proposed zoning order, appropriately stating that  
13 specifically, that the applicant will not require  
14 the residents to give up their tenant's rights  
15 under TOPA. Their tenant purchase right.

16 The Community Benefits Agreement -- oh,  
17 God, I can't read my notes sometimes. The article  
18 on the LEED standards, I think it needs to be  
19 strengthened, and we're looking for certification  
20 for Silver. Let's see, page 41. There seems to  
21 have been some kind of a contradiction between two  
22 points that I hope to be able to find, in 6.1, 6.2  
23 I'm stating. Right.

24 Under the Affordable Housing that the  
25 existing tenants have the absolute right to return

1 within eight months of the issuance of the  
2 certificate of occupancy. And then 6.2 talks  
3 about the set aside of 8 percent of the square  
4 footage for up to 80 percent of the area median  
5 income. I think it needs to be explained that in  
6 addition there will be these units available on  
7 top of the existing tenants, opportunity to  
8 return. It just, I think, needs to be spelled out  
9 and clarified.

10           The concern that I have is the period of  
11 time that the tenants can go back to the property.  
12 It seems quite long and unreasonably long. I  
13 don't understand why that the applicant -- I think  
14 it's up to like five years and I just didn't get  
15 that. I think the construction will be a minimal  
16 amount of time after demolition -- not a minimal  
17 but you know, maybe 18 months. So I didn't get  
18 the whole timeline. And maybe that needs to be  
19 explored more carefully.

20           Again, we need all parties who have  
21 participated in this, these are the parties that  
22 are related to providing services and those are  
23 the proffers. I didn't see signatures from all of  
24 them. They may be here, but there was a ton of  
25 information that we had to go through. So those



1 were my comments.

2 I just want to emphasize once again that  
3 the residents have been very uncomfortable with  
4 the applicants' negotiations. I think that they  
5 need to look at this as an opportunity somewhat to  
6 improve their housing. I'm concerned about the  
7 length of time of course, that they'll be able to  
8 return. And I'm also concerned about -- and I  
9 think that we should emphasize, which the  
10 applicant has done, that their protections under  
11 the D.C. rent laws, that they won't be paying more  
12 money when they come back. That's been noted and  
13 it's noted in, I believe, the draft order, and  
14 that they're only subject to the percentages that  
15 are required by law for rent increases.

16 But keep in mind, at least the rent  
17 increases will enable them to have an improved  
18 better housing, more decent housing, and hopefully  
19 it remains affordable throughout their tenure for  
20 them. That's very very important because it's  
21 unlikely that people, you know, win the lottery  
22 and can afford much higher rents in the city. So  
23 preserving the rents for this, I think it's 34  
24 households, is very very important. So those are  
25 my comments.

1 Mr. Chair.

2 CHAIRPERSON HOOD: Okay. Anyone else  
3 have any comments?

4 MR. TURNBULL: Mr. Chair, there was  
5 Department of Transportation was requesting an  
6 escrow account from the applicant of \$350,000.  
7 And as you know we've had problems in the past, we  
8 can't legally enforce an escrow account. So  
9 that's not going to work. So we need some -- we  
10 need to talk about what we're going to look at  
11 with the applicant for -- and maybe we can all  
12 talk about it now, about what we think the  
13 applicant ought to provide to go forward with  
14 this, then.

15 MR. MAY: Well, I think the bigger issue  
16 is the applicant is only offering to put up, you  
17 know, a quarter of the cost roughly --

18 MR. TURNBULL: Right.

19 MR. MAY: -- of the new signal. And you  
20 know, I understand DDOT's perspective on this and  
21 I would like DDOT and the applicant to have come  
22 to some agreement at this point.

23 MR. TURNBULL: Yeah.

24 MR. MAY: Rather than us trying to figure  
25 out here --

1 MR. TURNBULL: Or for us to solve it.

2 Yeah.

3 MR. MAY: Yeah. And I, for one, would  
4 not have any heartburn about deferring action on  
5 this so that we can allow them a little more time  
6 to --

7 MR. TURNBULL: To talk about it. Yeah.

8 MR. MAY: -- figure that out. But  
9 otherwise the rest of this information has been  
10 submitted for our consideration in response to the  
11 hearing I think is generally responsive. I think  
12 I have a little bit of unease because we don't  
13 actually have the full ANC's letter. And you  
14 know, we have a negotiated community benefits  
15 agreement. But I believe with an ANC signature.  
16 But it still -- I would like to have the full ANC  
17 letter submitted. So --

18 MR. TURNBULL: I would agree.

19 MR. MAY: I mean, other than that I, you  
20 know, I would be prepared to move ahead other than  
21 the fact of the DDOT issue.

22 CHAIRPERSON HOOD: I think -- are you all  
23 finished? I'm sorry.

24 I would agree with you on the DDOT case.  
25 But I think one of the things that comes out is,

1 not just in this case but all cases, the  
2 relocation. I know the Vice Chair kind of alluded  
3 to the unease. But one of the things that's been  
4 signaled is how relevant is the relocation of  
5 PUDs, and I don't know if this is a case I need to  
6 get that answer, but we have a lot of cases where  
7 relocation and the reality of it is, it doesn't  
8 happen. That's the reality of it is.

9           But I'm not going to hold this applicant  
10 responsible. At some point in time this  
11 Commission needs to decide or we need the legal  
12 advice, or figure out something as far as moving  
13 forward. I'm not asking for it today, but I have  
14 problems with all these cases come down here. And  
15 we have communities who are being relocated and  
16 who will not return. The way I see it, now. I'm  
17 not saying that they're not going to return. But,  
18 you know, I hear this on promise land all the  
19 time, but it doesn't happen.

20           And this is not the only case that I'm  
21 talking about. We have others that are coming up  
22 with these relocation plans and talk about -- it  
23 just does not happen.

24           So what is the relevance to the  
25 relocation. I've heard over the years that the

1 housing authority, their federal regulations,  
2 fellow guidelines, not necessarily in this case,  
3 but some cases when it's public and when it's  
4 private. At some point in time we need to figure  
5 out where this Commission is as far as relocation  
6 plans. That's kind of where I am on this. I'm  
7 more interest in what is the actual plan. I see  
8 the promises and I hear them, but actually what  
9 kind of teeth is that? You know, and I know the  
10 applicant may not appreciate it. But that's not  
11 my issue.

12 My issue is making sure the people who  
13 were there, who would like to return, can return.  
14 You know? So anyway. Is that some advice for me?  
15 Some --

16 MS. SCHELLIN: The applicant has advised  
17 that they are willing to pay the full \$350,000 for  
18 the traffic if -- traffic signal if that is a  
19 concern of the Commission.

20 MR. MAY: Well, going back to the  
21 Chairman's point about relocation plans, you know,  
22 it is a very difficult thing for us to address  
23 because we are, you know, we're just at -- these  
24 projects are just at the entitlement stage.  
25 They're not -- there's a whole lot of things that

1 have to happen for the project to actually be  
2 realized. And I think that, you know, some of the  
3 things that we struggle with when we see  
4 relocation plans that are integral to the project,  
5 that there really aren't any guarantees that the  
6 folks who have to move out will be able to return  
7 to that building.

8           But I think part of that has to do with  
9 the fact that the -- you know, how many times do  
10 you want to have to move? And very often I think  
11 people will move and find that where they've been  
12 relocated to is as good as what they had before.  
13 So I think that it's -- I'm not saying that that  
14 happens in the majority of the cases, but it  
15 happens enough that it makes it very hard to  
16 evaluate how successful the programs are. But I  
17 think we just have to evaluate what's been  
18 submitted based on how reasonable we think that  
19 plan is because we really don't have a way of  
20 judging the success of it.

21           CHAIRPERSON HOOD: Well, I agree with  
22 that in part and disagree with that in part.  
23 Okay. But let me go to Vice Chair Cohen.

24           MS. COHEN: No, my only comment is  
25 towards Commissioner May's concern is that again

1 the applicant has committed to paying for the  
2 relocation both to the chosen site, but again they  
3 are owned by the same owner. It's very hard to  
4 relocate somebody where you don't control and the  
5 timing. And they're going to be paying the  
6 relocation -- the request back and they're having  
7 other people do the packing, which for me would  
8 be, you know, a great thing.

9           But the point is, is that it's the five  
10 year timeline so that I don't get it that it's  
11 going to take that long for people to live in one  
12 place and then come back to the next. You're  
13 right. Some people prefer maybe moving and  
14 settling into a new neighborhood. Others do want  
15 to come back because it's the familiar  
16 neighborhood, their church, their shops, their  
17 neighbors that they really enjoy being with are  
18 moving back.

19           And it is, you know, a 50/50 chance.  
20 It's choice. And that's the most important thing  
21 is providing choices for people and we don't  
22 always have that in this city because of the  
23 unaffordable rents that are out there. So people  
24 will likely want to come back at their rent level  
25 that they would have been paying. And I think

1 that again, the applicant made that commitment and  
2 I think it will be memorialized in the zoning  
3 order.

4 MR. MAY: So is your early anxiety the  
5 fact that they're suggesting that it could be up  
6 to five years for the relocation to occur; the  
7 return to occur.

8 MS. COHEN: My only anxiety?

9 MR. MAY: No, I'm sorry. On this one --

10 MS. COHEN: From this case.

11 MR. MAY: With regard to the relocation  
12 plan, because everything else you said seemed to  
13 be very positive.

14 MS. COHEN: Yeah. No, and that's why I  
15 agree with you.

16 MR. MAY: Right.

17 MS. COHEN: But the timing is the issue  
18 that I have a problem with.

19 MR. MAY: So I mean, ordinarily a PUD  
20 order is good for two years before they have to  
21 file for permit, and then a year to start  
22 construction, so that's three years. And it  
23 probably takes the better part of two years to  
24 build the project, particularly when you're  
25 building over Metro. So it's very easy for me to



1 understand why it might take five years.

2 MS. COHEN: All right. Well I was hoping  
3 the applicant would have provided that, but thank  
4 you, Commissioner May.

5 MR. MAY: Right.

6

7 MR. BERGSTEIN: Mr. May, they actually  
8 are asking for a longer period than that for this  
9 one.

10 MR. MAY: Oh, well but then -- I was just  
11 talking about the typical circumstance. So if  
12 they're talking about a longer period before they  
13 start construction, or before they file for  
14 permit?

15 MR. BERGSTEIN: Well, it's going to be in  
16 phases so --

17 MR. MAY: Yeah.

18 MR. BERGSTEIN: -- first there's a three  
19 year phase, and then an application -- a building  
20 permit application gets filed for one building,  
21 construction begins in four years, and then as to  
22 the second building they filed a building permit  
23 for a second building within five years of the  
24 effective date, and construction begins six years  
25 after date of the order.

1 MS. COHEN: Yeah, I'd like to hear from  
2 the applicant.

3 CHAIRPERSON HOOD: Okay. Commissioner  
4 Miller, you had something?

5 MR. MILLER: Yeah. I hadn't spoken yet,  
6 Mr. Chairman. Thank you.

7 I just wanted to thank the applicant for  
8 indicating tonight that they will, as a condition  
9 of this order, fully fund the traffic signal at  
10 Alabama Avenue and 15th Street Southeast. That  
11 was a DDOT request and it was something that was  
12 important to the ANC and the community as well.

13 And on the affordable housing I agree,  
14 Madam Vice Chair, that the affordable housing  
15 needs to be laid out in the order, in the draft  
16 order, carefully to reflect the fact of the  
17 returning residents. And I would note that on the  
18 applicant's March 16, 2015 post-hearing submission  
19 on pages -- at the bottom of page 5 and top of  
20 page 6, I think if we put this language, if it  
21 isn't already in the draft order, that this might  
22 address that concern where it says, "In sum the  
23 affordable housing package for the project  
24 includes 15,655 square feet of residential gross  
25 floor area will be reserved as affordable housing,

1 10,877 square feet for people making up to 80  
2 percent of AMI, and 4,778 square feet for people  
3 making up to 50 percent of AMI, all in perpetuity.  
4 And there are currently 24 tenants in the existing  
5 buildings along the property, and if all those  
6 tenants exercise their right to return to the new  
7 project, that would result in approximately 17,405  
8 square feet of affordable housing provided in the  
9 project, with 70 percent of the returning tenants  
10 at rent levels at no more than 30 percent of AMI  
11 and 30 percent of the returning tenants at rent  
12 levels that are no more than 50 percent AMI."

13           There are a lot of numbers in there, but  
14 it's on pages 5 and 6 of the applicant's post-  
15 hearing submission and I think that needs to be  
16 incorporated into the draft order if it isn't  
17 already there. I think that would address the  
18 Vice Chair's concern.

19           On the concern about LEED, I would also  
20 direct the -- mention the paragraph in the  
21 applicant's post-hearing submission on page 3,  
22 where they say "The applicant has agreed that the  
23 residential product will be designed to achieve a  
24 LEED Silver level of certification and the office  
25 component of the project will be designed to

1 achieve a LEED Gold level of certification. Both  
2 buildings will go through the LEED certification  
3 process."

4 So I felt that was an important response  
5 that the applicant had given as a result of our  
6 concerns at the hearing. I think that's -- there  
7 were a number of architectural modifications as  
8 well that I think were responsive to OP and  
9 requests by OP and ourselves.

10 So, thank you, Mr. Chairman.

11 CHAIRPERSON HOOD: Okay.

12 MR. TURNBULL: Mr. Chair, I just want to  
13 -- in the draft order on page 33, C8, it says,  
14 "The PUD shall remain valid for three years from  
15 the effective date of the order and the applicant  
16 must file for a building permit for construction  
17 of the first building and construction must begin  
18 within four years after the effective date of the  
19 order."

20 And then it said, "The PUD shall be  
21 vested as to any building or buildings which  
22 construction is timely. Again thereafter the PUD  
23 to remain valid the applicant must file for a  
24 building permit for the second building within  
25 five years after the effective date of this

1 order."

2           So it sounds like Building One is going  
3 to start within three years. Building Two starts  
4 within five years. If I'm reading correctly what  
5 their draft order says.

6           CHAIRPERSON HOOD: All right. I  
7 appreciate all that. I know everybody went around  
8 everything else. But still for me it's the  
9 relocation issue and I will not be voting in  
10 support of this project the way it is now. I know  
11 there's some things that are germane and some  
12 things that aren't. But I still look at Exhibit  
13 55, which still has some concerns. And it looks  
14 as though one minute it says they didn't have  
15 enough time. I don't know if I buy that.

16           But you know, there's still some issues  
17 and I'm just not going to ramrod and shove  
18 anything down anybody's throat and displace them.  
19 I just don't agree with that philosophy. So any  
20 other comments? Okay.

21           MR. MILLER: Is this application that we  
22 need to make sure that all the contributions that  
23 are being made are done before the CFO, the second  
24 building, so we comply with our Zoning  
25 Regulations? I think it is. I think I found

1 that, so I just would note that we would need to  
2 have those payments all be made at least prior to  
3 the CFO for the second building, and proof at that  
4 time that the money was used for the specific  
5 purpose identified because there are a number of  
6 organizations which the applicant worked out with  
7 the ANC would get specific payments. I think  
8 totaling \$70,000 each for -- well, for  
9 approximately four organizations.

10 So I think that's -- we need to make sure  
11 that's incorporated into our draft order as well.

12 CHAIRPERSON HOOD: Okay. The other thing  
13 is, I don't think also -- and I know the applicant  
14 came up to get it approved and said that they  
15 would pay the \$350,000. I don't think that's the  
16 way we need to zone. We shouldn't sit here and do  
17 that. I don't think we should -- this is  
18 contradicting what I'm saying about us moving  
19 forward. But I don't think -- no, it's not  
20 contradicting because this is a different issue.  
21 I don't think that we should have the applicant,  
22 they -- I saw Mr. Thomas come up, oh we'll pay the  
23 350 -- I don't think we should do that. If they  
24 have 75,000 or whatever they plan -- I mean, there  
25 are other issues. Maybe they go back to DDOT. I

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1 don't think that's the way we zone. We don't zone  
2 to get the case through, we'll pay the \$350,000.  
3 And that's maybe detrimental to DDOT but I don't  
4 think we do that on the cuff.

5 I think there are more important issues  
6 like relocation. But obviously nobody is biting  
7 at that. Everybody is talking about everything  
8 else but that. If you all want the \$350,000 and  
9 we don't ensure people to come back to this city  
10 who have been here through the tough times, then  
11 that's the way we'll proceed. So if I hear a  
12 motion, just put it on the table.

13 MR. TURNBULL: Mr. Chair, I'm going back  
14 to you when you looked at me about trying to get -  
15 - what would it take for your approval on this?  
16 What do you want to see from the applicant?

17 CHAIRPERSON HOOD: I want to understand  
18 what's going on. And here's the other thing, as  
19 Commissioner May already mentioned, I still don't  
20 see it, unless I missed it. I don't see the ANC.  
21 I think this is Chairman Mohamed. Here we go  
22 again. Is there a letter in here from the ANC?  
23 These are the people that's going to be impacted.  
24 But we all there talking about everything else.  
25 We don't even consider the ANC. It's because it's

1 in eight?

2 And I know that's probably is going to  
3 make people upset, but is that the reality because  
4 I hear a lot of us all the time asking about, what  
5 happened to the ANC in Ward 2. Or where is the  
6 ANC in Ward -- I didn't hear that today.

7 MR. MAY: Mr. Chairman, the ANC has  
8 indicated their support. Or at least Chairman  
9 Mohamed has by assigning the Community Benefits  
10 Agreement. So I think there was a reasonable  
11 expectation that there is some support within the  
12 ANC for this. However, you know, we don't have  
13 the instrument that allows us to give the ANC's  
14 position great weight.

15 CHAIRPERSON HOOD: A great weight. But  
16 yeah, we're going to forward.

17 MR. MAY: And that's why we asked for it  
18 at hearing and I'm disappointed that we don't have  
19 it. And I would like to have it before we get  
20 final.

21 CHAIRPERSON HOOD: I have asked for that  
22 a number of times.

23 MR. MAY: Right.

24 CHAIRPERSON HOOD: From ANC Commissioner  
25 Mohamed.



1 MR. MAY: Yeah.

2 CHAIRPERSON HOOD: I've asked, I've  
3 stated at the last meeting, we need to have in  
4 this record so they can have -- they support it,  
5 and he was given the position to move forward with  
6 it, we need that. So this record will be  
7 complete, so on down the line if it's challenged.  
8 The community, the ANC by law, which we're  
9 supposed to give great weight, this record is  
10 complete. That's one issue.

11 Again, I don't know how we fine tune this  
12 relocation plan. I know there aren't any  
13 assurances, but I heard the Vice Chair, who I  
14 consider an expert on housing, affordable housing,  
15 say 50/50. And, you know, I understand that. But  
16 I think it needs to be something clear. At least  
17 I don't see it, clear on this record on who that's  
18 going to happen. What assurances do we have?

19 All I see is Exhibit No. 55, opponent's  
20 response to applicant's post-hearing saying that  
21 they got some three days, which was back in  
22 February. Some others. I don't know if anything  
23 has happened since then. I just need assurance  
24 before I move forward on this. That's just my  
25 position.

1           But I'm only one person. It sounds like  
2 you had a vote, so --

3           MS. COHEN: Mr. Chairman, I just reflect  
4 on the same thing that Commissioner May had said  
5 about Mr. Mohamed signing the community benefits  
6 agreement, so I gave ANC the benefit of the doubt.

7           I agree that, you know, before we take  
8 final action on this we must have a complete  
9 record. So I don't want you to think that I  
10 didn't in any way consider the ANC, but I saw his  
11 signature on that agreement with the developer.

12           CHAIRPERSON HOOD: Okay. Any other  
13 comments?

14           MR. MILLER: Mr. Chairman, I would agree  
15 with the Vice Chair. I think that between -- if  
16 we were to take proposed action tonight with the -  
17 - on the premise that we're going to get some  
18 further written assurances on the relocation plan,  
19 which might give you a greater comfort level --  
20 give everyone a greater comfort level, and get the  
21 written comments on the DDOT conditions regarding  
22 the traffic signal. And getting the ANC letter, I  
23 think we could move forward tonight with the  
24 expectation that we would not proceed to final  
25 until we get those types of written information

1 and assurances.

2 CHAIRPERSON HOOD: Okay. You know, I can  
3 count votes. I would be voting against this if  
4 proposed, and I hate to do this because I think  
5 this project is going to be enlightening to that  
6 neighborhood. And this is what I mean, I might --  
7 I like the architecture, I like the way the  
8 building is done. It just troubles me to have to  
9 vote against something that which I think is going  
10 to jumpstart this area, but I'm concerned about  
11 the relocation plan.

12 So somebody like to make a motion?

13 MR. MAY: Can I just ask for a quick  
14 clarification? I mean, I agree with Commissioner  
15 Miller's suggestion that there are important bits  
16 of information that we should have before we take  
17 final action on this, and I'm not sure if we need  
18 further clarification on the traffic signal,  
19 because if the applicant has offered to include  
20 that I expect them to honor that offer. Even  
21 though the chairman may have concerns about doing  
22 that on the fly.

23 CHAIRPERSON HOOD: Yeah, because he did  
24 it to get our approval. I mean --

25 MR. MAY: Well, I understand that but --

1           CHAIRPERSON HOOD:  -- let's be fair to  
2 this applicant too, now.

3           MR. MAY:  Right.  So and, you know, what  
4 I had suggested was that we would defer taking  
5 action in order for them to work out some kind of  
6 a deal with DDOT, which is what we always prefer,  
7 that there is an agreement between the agencies  
8 and the applicants before we actually have to make  
9 a decision rather than trying to figure out here.

10           But you know, they essentially took that  
11 off the table by offering to pay for the whole  
12 thing.  So I'm just -- you know, if we are moving  
13 forward tonight I would like to think that we're  
14 moving forward tonight with the expectation that  
15 the applicant is going to pay for the entire cost  
16 of the signal.

17           But I'm not, you know, I haven't made the  
18 motion, so --

19           CHAIRPERSON HOOD:  Yeah, I really -- you  
20 know, that's the applicant.  I think you all did  
21 that because you wanted to get your project  
22 through.  I really, I mean you know, I think you  
23 did, but I don't think we should hold you for  
24 \$350,000.  I don't think that's fair.  That's just  
25 my opinion, but I have a bigger issue with the

1 relocation plan. So anyway. That's just my  
2 opinion. You all buy the 350 for the traffic  
3 light, that's fine.

4 MS. COHEN: Mr. Chairman, in  
5 acknowledging that you do have an issue with the  
6 relocation plan, I will still suggest that we  
7 approve proposed action on this project and at  
8 final strengthen the relocation plan and confirm  
9 that the offer of paying for the traffic light as  
10 well as the timing -- well, it's all related to  
11 the relocation.

12 So I move to approve for proposed action,  
13 Zoning Case Number 13-08, Square 5914, LLC.,  
14 consolidated PUD and related map amendment at  
15 Square 5914 and various parcels and ask for a  
16 second.

17 MR. MAY: Second.

18 CHAIRPERSON HOOD: You made the motion.

19 MS. COHEN: Oh, so I get to say --

20 CHAIRPERSON HOOD: No. No, so any  
21 further discussion? My discussion again, I think  
22 being fair to this applicant. I guess they've  
23 made it loud and clear about the 350,000. I'm  
24 sorry. I have a problem with that. I have a  
25 problem with you all being held to paying 350 -- I

1 think you all paying a portion of it is being  
2 respectful. I just want us to look at the  
3 relocation plan. I'm going to lose on this, but I  
4 have a problem with this Commission. Let Mr.  
5 Thomas come up and say, okay, 350,000, that's not  
6 what you -- did you all propose that at first?  
7 No.

8 So I think to be fair to this applicant,  
9 whatever they're proposing first, so making a  
10 payment to it is what they asked to do, I think is  
11 fair. And DDOT and the city might not like that,  
12 but I don't think we should hold this applicant  
13 responsible for that. I want to see the  
14 relocation plan.

15 It's been moved and properly seconded.  
16 Any further discussion?

17 All those in favor.

18 ALL: Aye.

19 CHAIRPERSON HOOD: Any opposition,  
20 opposed? Ms. Schellin, would you record the vote?

21 MS. SCHELLIN: Yes. Staff records the  
22 vote four to one to zero to approve proposed  
23 action in Zoning Commission Case No. 13-08,  
24 Commissioner Cohen moving, Commissioner May  
25 seconding, Commissioners Miller and Turnbull in

1 support, Commissioner Hood opposed. And ask the  
2 applicant to provide the proffers and conditions.  
3 Thank you.

4 MR. TURNBULL: And the whole thing as we  
5 talked about for final action.

6 MS. SCHELLIN: Right. The additional  
7 information also.

8 CHAIRPERSON HOOD: Okay. Next let's go  
9 with proposed action, Zoning Commission Case No.  
10 14-11. This is the Office of Planning text  
11 amendment to Chapters 1 and 4. Ms. Schellin.

12 MS. SCHELLIN: Yes, sir. We have one  
13 submission in this, that's Exhibit 193 which is  
14 the OP supplemental report. We ask the Commission  
15 to consider proposed action on this case this  
16 evening.

17 CHAIRPERSON HOOD: Okay. We have  
18 something we're going to go through. But I will  
19 tell you that what I would like to do is, if the  
20 Office of Planning can walk us through this and we  
21 will make a -- try to make a -- the majority of us  
22 will make a decision how we'd like to proceed in  
23 this fashion.

24 So what I'll do is turn it over to Ms.  
25 Steingasser. We can kind of walk through this

1 worksheet.

2 MS. STEINGASSER: Chairman Hood,  
3 Commissioners. You have before you both kind of a  
4 more elaborate worksheet within the supplemental  
5 report. It begins on page 7. And it frames the  
6 advertised text and options that we heard at the  
7 public hearing, and there's an intro to each  
8 section that identifies the questions that need to  
9 be asked relative to those sections.

10 You also have, provided by the Office of  
11 Attorney General, a much more streamlined version  
12 of this that identifies the real principle  
13 questions and moves you through each one and I'm  
14 happy to -- I don't want to lead your discussion.  
15 But, you know, the first issue was height and  
16 whether you wanted to go with the matter of right  
17 or a special exception, and lower that height to  
18 35 feet, maintaining a 40 foot height as a matter  
19 of right for nonresidential buildings and  
20 construction of row structures when there's three  
21 structures in a row.

22 And that reflects what we commonly see  
23 around D.C., which is the way row houses were  
24 built historically. They were built in small  
25 groups, so it alleviated that one-off, that odd



1 inappropriate addition.

2           The next we went into the issue of  
3 mezzanine, and here I am, I'm glad to be able to  
4 talk to the Commission. I'm glad to be able to  
5 talk to the Commission. I did hear from one of  
6 the ANCs just late Friday who asked that we  
7 distinguish on the Mezzanine between the principle  
8 building and the accessory building. Especially  
9 the garages where it's allowed to be 15 feet, but  
10 it's limited to one story and that mezzanine  
11 allowed for an accessory building to have some  
12 real usable space and not violate that story  
13 limitation. For storage I think there was, you  
14 know, whatever people use it for.

15           So we do agree with that and if the  
16 Commission wants to consider that this evening, or  
17 we can add it after any proposed action, that that  
18 comment will be coming and we did agree most of  
19 this is focused on the principle structure,  
20 residential structures.

21           CHAIRPERSON HOOD: Ms. Steingasser, let  
22 me just say I envision this kind of going much  
23 like we did the ZR and the worksheet, if that's  
24 okay?

25           MS. STEINGASSER: Okay. And --

1 CHAIRPERSON HOOD: Because you can help  
2 us refrain because I'm not going to be able to  
3 elaborate back on those issues. So if you can do  
4 like, kind of like we did that, that would be  
5 great.

6 MS. STEINGASSER: Okay. I'm happy to do  
7 it, but in that case the Commission led its own  
8 discussion and we were available for questions.

9 CHAIRPERSON HOOD: Is that the way we did  
10 that?

11 MR. MAY: Yeah.

12 CHAIRPERSON HOOD: Are you sure? I  
13 thought the --

14 MR. MAY: Right. I think you led us  
15 through it point by point, and then if we had any  
16 questions on each of these then we would ask --

17 CHAIRPERSON HOOD: Oh, that was the night  
18 I was real tired. Okay. Now, that's what it was.  
19 Okay. Let's try it again.

20 I thought you led us on -- maybe you  
21 didn't. We have so many ZR and -- okay, come on.  
22 All right. I'll do it.

23 Residential row house, additions to  
24 existing row houses, and new construction of two  
25 or fewer adjoining row houses. Existing

1 provisions says 40 feet as -- yeah, I did do this.  
2 Forty feet of the matter of right height. The set  
3 down proposal establishes height at 35 feet as a  
4 matter of right, and 40 feet by special exception.  
5 The recommendation is established height of 35  
6 feet as a matter of right, and 40 feet by special  
7 exception.

8           The second recommendation is maintain the  
9 matter of right height at 40 feet for three or  
10 more adjoining structures built simultaneously.

11           Let's open it up for comments, questions.

12           MS. COHEN: Yes. Mr. Chairman, I still  
13 support that we retain 40 feet as a matter of  
14 right. I do believe, and I know we're not there  
15 yet, but we will be talking about some of the  
16 proposals that were made by OP that give further  
17 guidance to the Zoning Administrator in assuring  
18 that there is consistency and integrity to  
19 neighborhood blocks.

20           I also strongly believe that the  
21 demographic information that was provided  
22 indicates that families with children are  
23 remaining in the city. Maybe not in great  
24 amounts. The school situation is still not at its  
25 best. But a lot of it, I think, has to do also

1 with not having enough space. We're really  
2 shrinking a lot of our housing, and I think again  
3 the R4 Zone and 40 feet enables some expansion of  
4 space.

5 So I still am strongly in favor of  
6 retaining 40 feet as a matter of right height.

7 CHAIRPERSON HOOD: Okay. Any other  
8 comments, Commissioners? Commissioner May?

9 MR. MAY: Yeah, I honestly do not believe  
10 that reducing the matter of right height from 40  
11 to 35 would impede in any way whatsoever, the  
12 ability of a townhouse owner to add a third floor  
13 to their house. It's a question of whether they  
14 get to add a third floor, or add a third floor  
15 with, you know, a 16 foot ceiling or a mezzanine  
16 if that was -- you know, if we decide to continue  
17 to allow mezzanines. Because that's what's  
18 happening. You know, it's you're taking a 22 or  
19 24 foot high building and people are adding  
20 additions that are 16 or 18 feet tall. And I'm  
21 not saying that happens in every case but it  
22 happens in a number of cases and sometimes it's --  
23 you know, you can take a third of that floor and  
24 make it into a mezzanine and so therefore you have  
25 your loft bedroom within the -- you know, within

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1 the master suite.

2           And, you know, honestly I don't believe  
3 that that's really what we should be trying to  
4 promote. I have no problem with the idea of being  
5 able to add on a third floor for those people who  
6 want it and who need it. Particularly for  
7 families needing more space. But I don't think  
8 that limiting it to 35 feet is going to make a  
9 significant dent in people's ability to expand for  
10 their families to be able to make the most of that  
11 property.

12           And besides, if there is a circumstance  
13 where they've already got a house that's -- you  
14 know, it's two stories and it's already 30 feet  
15 tall, it should be pretty much a slam dunk to get  
16 a special exception if you have -- you know, if  
17 you want to add that third floor because you can't  
18 add that third floor without it and you're  
19 entitled to three floors in an R4, still.

20           CHAIRPERSON HOOD: Okay. Any other  
21 comments on this? Commissioner Miller?

22           MR. MILLER: Thank you, Mr. Chairman.  
23 For a lot of -- well, let me first thank Office of  
24 Planning for this decision matrix. I think it's  
25 very helpful and both for us and for the public to

1 see each of the issues laid out.

2 I continue to believe that the issue with  
3 pop-ups is primarily a design issue and I don't  
4 think that these -- this kind of downzoning  
5 without the design development standard, which the  
6 Office of Planning is proposing in other issues  
7 that we're going to get to, I think it's not  
8 necessary for the R4 zone to have a more strict  
9 height limit than the R1, single family zone.  
10 You've carved out this --

11 So, in any event, I would support keeping  
12 it. I think it's mostly a design issue. I think  
13 that the design development standards that the  
14 Office of Planning has proposed in the later  
15 proposals that we're going to get to will help get  
16 to that problem; get to that issue, a special  
17 exception process before the BZA where those -- if  
18 that's the direction we go in would also provide  
19 an opportunity for the neighbors to look at  
20 whether there is an adverse impact on the  
21 residential character of the neighborhood. You  
22 know, I always thought it's those many cases where  
23 the ANC was supportive, the neighbors were  
24 supportive, it's well designed. We don't need to  
25 change a whole zoning framework. We may need to

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1 add design development standards or a special  
2 exception process. But I know where the votes are  
3 on this, but I just wanted to make those comments.

4 CHAIRPERSON HOOD: Okay. Mr. Turnbull.

5 MR. TURNBULL: Yeah. Thank you, Mr.  
6 Chair. I'm in support of the set down proposal by  
7 OP. I think we had a lot of comments from the  
8 community. We had a lot of concern from a lot of  
9 neighborhoods worried about the heights and the  
10 pop-ups, and I think OP had done an excellent  
11 demographic report showing that most of these row  
12 house neighborhoods are actually well below, 80 or  
13 90 percent or something are well below that height  
14 anyways.

15 So I think this is a corrective zoning  
16 measure. I think the special exception gives the  
17 option and I would agree with Commissioner May.  
18 This is not deterring homeowners for adding on.  
19 This is simply establishing some better guidelines  
20 and I think the design guidelines could be an  
21 option, but I'm worried about how that really gets  
22 enforced, how the Zoning Administrator gets  
23 involved in that, and I really don't know if  
24 that's going to -- it may or may not safeguard us  
25 depending on how well we can write something like

1 that and whether that's enforceable by the Zoning  
2 Commission.

3 So, I'm in favor of the set down proposal  
4 by OP.

5 CHAIRPERSON HOOD: Okay. I would agree  
6 with the set down proposal from the Office of  
7 Planning as stated by my colleagues.

8 But also, I think the record is complete.  
9 And again, this is not a popularity contest, but I  
10 think the record is complete. It shows that this  
11 city and residents of the city are very concerned.  
12 And then for me, to talk about housing, I think  
13 the jury is still out because when you look at  
14 some of the things that are going on, you know, I  
15 hear it up here but I don't see it. So that's  
16 where I am. I will be voting for the set down  
17 proposal.

18 With that I make a motion that we accept  
19 and residential row house we accept an established  
20 height and 35 feet as a matter of right, and 40  
21 feet by special exception, which is a set down  
22 proposal, and ask for a second.

23 MR. TURNBULL: Second.

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



1 Commissioner May?

2 MR. MAY: Mr. Chairman, yeah. So I'm  
3 curious, we didn't really discuss the notion of  
4 allowing three or more adjoining buildings when  
5 they're built at the same time, to be at the full  
6 height of 40 feet. And I'm wondering if that --  
7 whether the chairman or Commissioner Turnbull are  
8 willing to consider that.

9 I mean, I think that there is some  
10 rationale for doing that. The only concern I  
11 would have is that if that's, you know, three in a  
12 row that are sandwiched between, you know, two 25  
13 foot buildings it might look a little odd. But I  
14 don't think that's the norm. I think that when  
15 we're talking about three or more it's typically  
16 going to be a pretty large chunk of a block.

17 So anyway, I'm just curious about what  
18 your opinions are on that since you elected to  
19 move the set down proposal rather than OP's  
20 recommendation.

21 CHAIRPERSON HOOD: I actually was going  
22 to come and talk about that separately, but I  
23 guess maybe we could talk about those together,  
24 because maybe we might have some support,  
25 different support for those, right? Possibly.

1 MR. MILLER: Well, I support that second  
2 component.

3 CHAIRPERSON HOOD: That's what I'm  
4 talking about.

5 MR. MILLER: The second component, but  
6 when combined with the first --

7 CHAIRPERSON HOOD: No.

8 MR. MILLER: Okay.

9 CHAIRPERSON HOOD: So that's why I'm  
10 breaking --

11 MR. MILLER: So we can vote on it  
12 separately.

13 CHAIRPERSON HOOD: Yeah, let's break it  
14 up, Commissioner May. That way we --

15 MR. MAY: Fine by me. Okay.

16 CHAIRPERSON HOOD: Okay. All right. All  
17 right. Mr. Turnbull, did you want to add  
18 anything? We just, we're going to break it up.  
19 Right.

20 MR. TURNBULL: We can break it up.

21 CHAIRPERSON HOOD: Okay. Okay. So all  
22 those in favor of the set down proposal say aye.

23 ALL: Aye.

24 CHAIRPERSON HOOD: Any opposed?

25 MS. COHEN: Opposed.

1 CHAIRPERSON HOOD: Okay. Ms. Schellin,  
2 you know, three in support, two opposed.

3 MS. SCHELLIN: Yes. Yes. Staff records  
4 the vote three to two to zero to accept the set  
5 down proposal, Commissioner Hood moving --  
6 regarding height that is, residential row house.  
7 Commissioner Hood moving, Commissioner Turnbull  
8 seconding, Commissioner May in support,  
9 Commissioners Cohen and Miller opposed.

10 CHAIRPERSON HOOD: Okay. Let's go to the  
11 other recommendation, maintain the matter of right  
12 height of 40 feet for three or more adjoining  
13 structures built simultaneously.

14 Okay. Commission May, if you can --

15 MR. MAY: So I actually would like to  
16 turn things over to the Office of Planning to get  
17 their rationale for this and whether they, you  
18 know -- whether my worst case scenario that I had  
19 imagined where this is sandwiched between other  
20 shorter row houses, whether that's a real concern  
21 or whether it's just me always worrying about the  
22 worst.

23 MS. STEINGASSER: I suppose it could be a  
24 possibility. You could always buy -- you know, it  
25 may have incentive of people buying lower ones to

1 tear them down to get to 40 feet. But they would  
2 also -- you know, it's somewhat reflective of the  
3 way we've seen the older parts of the city  
4 develop. In those areas where it is two and a  
5 half stories, typically the entire block was built  
6 and yes, there could be an incentive where three  
7 would be bought and torn down and it would stand  
8 out.

9 MR. LAWSON: If I can add to that? I  
10 think it's probably more likely to happen as part  
11 of new developments, which is I think what you  
12 were getting at earlier. It is possible, I guess,  
13 in some instances, there could be an in fill  
14 project of an existing large vacant site or a  
15 former church site or something that was multiple  
16 blocks that gets subdivided into row house lots.  
17 But I think that would be very much the exception  
18 rather than the rule.

19 MS. STEINGASSER: And I'm going to add  
20 just a little bit more now that he's reminded me  
21 of -- that does dovetail with the nonresidential,  
22 and we have had many cases where they have tried  
23 to fill in parking lots or old playgrounds with  
24 row houses, and around schools or churches. And  
25 it's been very difficult because of the 900 foot

1 rule. And so this would allow a type of infill in  
2 that situation that would be compatible with the  
3 nonresidential structure.

4 CHAIRPERSON HOOD: Okay. Any other  
5 comments? Commissioner May, are you straight on  
6 this one?

7 MR. MAY: Yeah, I mean, I think it's a  
8 bit of a risk given the concerns that we heard  
9 about. Taller buildings in R4 neighborhoods, but  
10 I think that based on the Office of Planning's  
11 recommendation and their explanation of the  
12 situation, I think I can support the matter of  
13 right height for three or more adjoining units  
14 built simultaneously.

15 CHAIRPERSON HOOD: Okay.

16 MR. TURNBULL: I guess I could go along  
17 with that but my only concern is developers buying  
18 three or more units that would get into the habit  
19 now of buying three or more units just so they can  
20 get the 40 feet.

21 MR. MAY: Well, you know, I think the  
22 other thing that we can do to make sure that  
23 that's done in a sensible manner is to -- is kind  
24 of how we act on the mezzanine question because  
25 again, the major thing that you get at 40 feet is,

1 as an addition on a building, is you know, that  
2 ability to have a very tall top story and it's  
3 most usable if you have a mezzanine.

4 I mean, you know, you're still going to  
5 be limited to three stories so I don't see that  
6 there's going to be a huge incentive. Even if you  
7 do a seller unit with a 3-11 --

8 MR. TURNBULL: Yeah.

9 MR. MAY: -- ceiling, you know, that's  
10 five feet of height and then you've got maybe 11  
11 between the stories, so that's 33 and five is at  
12 38 feet. And it's not -- I mean, then it's still  
13 not a huge building. I mean, that's not too much  
14 bigger than many of the older high ceilinged row  
15 houses.

16 CHAIRPERSON HOOD: Okay. Any other  
17 comments on this? We accept what's the  
18 recommendation? Someone like to make a motion?

19 MR. MAY: I would move that we maintain  
20 the matter of right height of 40 feet for three or  
21 more adjoining units built simultaneously with the  
22 -- I think we want to make it clear that this is  
23 new construction. This is not you know, a façade  
24 job or something like that. This is a complete  
25 new construction.

1 CHAIRPERSON HOOD: Okay. New  
2 construction. Anybody second -- I'll second that.  
3 It's been moved and properly seconded. Any  
4 further discussion?

5 All those in favor. Aye.

6 ALL: Aye.

7 CHAIRPERSON HOOD: Any opposition?

8 MS. COHEN: Opposed.

9 CHAIRPERSON HOOD: Okay. Ms. Schellin,  
10 would you record the vote?

11 MS. SCHELLIN: Staff records the vote  
12 four to one to zero to approve maintaining the  
13 matter of right height of 40 feet for three or  
14 more adjoining structures built simultaneously for  
15 new construction only. Commissioner May moving,  
16 Commissioner Hood seconding, Commissioners Miller  
17 and Turnbull in support, Commissioner Cohen  
18 opposed.

19 CHAIRPERSON HOOD: Okay. Next.  
20 Nonresidential buildings, new construction, and  
21 additions to existing. Existing provisions say 40  
22 feet is the matter of right height. The set down  
23 proposal establishes height of 35 feet as a matter  
24 of right and 40 feet by special exception.

25 The recommendation, and again this is

1 nonresidential buildings, the recommendation is  
2 established height of 35 feet as a matter of right  
3 and 40 feet as a special exception.

4 Let's open it up for comments. Any?

5 MR. TURNBULL: Well, Mr. Chair, I think  
6 my comments are the same as the residential  
7 section. I think OP has explained this very well  
8 and we've had the comments and I'm in favor of the  
9 OP recommendation.

10 MS. COHEN: And, Mr. Chairman, I still  
11 remain, my position that we should not be  
12 downzoning in the city.

13 CHAIRPERSON HOOD: Okay. Would somebody  
14 like to make a motion?

15 MR. MAY: Could I ask a question first of  
16 the --

17 CHAIRPERSON HOOD: Yes. Sure.

18 MR. MAY: -- of the Office of Planning?  
19 So, I mean, what are the buildings that would be  
20 affected by this? I mean, the only other  
21 nonresidential buildings -- it's a limited range  
22 of nonresidential buildings that are permitted in  
23 R4 so this is churches and schools.

24 MS. STEINGASSER: Firehouses.

25 MR. MAY: Firehouse.



1 MS. STEINGASSER: Excuse me, old post  
2 office. We see a few of those around the city.  
3 So yeah, they're mostly institutional or  
4 educational buildings.

5 MR. MAY: Right. So I mean, typically  
6 they're often, if not typically, they're actually  
7 free standing buildings as opposed to a row  
8 construction.

9 MS. STEINGASSER: That's correct.

10 MR. MAY: And yet you still recommend  
11 that 35 feet is the appropriate height limit for  
12 those.

13 MS. STEINGASSER: For new -- yes.

14 MR. MAY: Because?

15 MS. STEINGASSER: We were just evening --

16 MR. MAY: Evening things out.

17 MS. STEINGASSER: Right.

18 MR. MAY: For the context. Okay.

19 Thanks.

20 CHAIRPERSON HOOD: Okay. Somebody like  
21 to -- any other comments? Somebody like to make a  
22 motion on this?

23 MR. TURNBULL: Mr. Chair, I would move  
24 that we accept the OP's recommendation for  
25 nonresidential buildings and establish a height of

1 35 feet as a matter of right, and 40 feet by  
2 special exception.

3 CHAIRPERSON HOOD: I'll second that.  
4 It's been moved and properly seconded. Any  
5 further discussion? All those in favor. Aye.

6 ALL: Aye.

7 CHAIRPERSON HOOD: An opposition?

8 MS. COHEN: Opposed.

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

11 MS. SCHELLIN: Yes, staff records the  
12 vote three to two to zero to accept the  
13 recommendation by OP for the nonresidential  
14 buildings, Commissioner May moving, Commissioner  
15 Hood seconding, Commissioners Turnbull in support,  
16 Commissioners Miller and Cohen oppose.

17 CHAIRPERSON HOOD: Okay. Let's go to  
18 conversions.

19 MR. MAY: You're going by the --

20 CHAIRPERSON HOOD: I'm going by --

21 MR. MAY: The OAG one? So we don't take  
22 up the mezzanine question there?

23 CHAIRPERSON HOOD: We probably could have  
24 took up the mezzanine question, I believe, when we  
25 first started, if we go by the OP report.

1 MR. MAY: Yeah.

2 CHAIRPERSON HOOD: I think this was  
3 simplified. At least that's what I was told.

4 MR. MAY: Right. So I mean, I would like  
5 to take up the mezzanine question before we go to  
6 conversions if we could.

7 CHAIRPERSON HOOD: Okay. Well, I wonder  
8 if we should have done that with these other two.  
9 But anyway, let's do that now because there are a  
10 list with the mezzanine and some others that are  
11 listed in the OP section as well. So go ahead,  
12 Commissioner May.

13 MR. MAY: All right. So the existing  
14 provision is to not include mezzanine from -- I'm  
15 sorry. Do not include a mezzanine from within the  
16 limit on the number of stories. Set down proposal  
17 was to include the mezzanine limit -- mezzanine  
18 within the limit on the number of stories and that  
19 remains the OP recommendation.

20 I guess I do have a question about this,  
21 which is that we are really talking about  
22 mezzanines within the principle structure in R4  
23 zones as opposed to across the board.

24 MS. STEINGASSER: That is correct.

25 MR. MAY: Okay. So I think this is a

1 pretty modest change and I certainly support the  
2 OP recommendation.

3 MR. MILLER: I have a question.

4 CHAIRPERSON HOOD: Sure.

5 MR. MILLER: And I'm wondering if Office  
6 of Planning has seen well designed mezzanines  
7 within the 40 foot limit in the R4 neighborhoods  
8 where a problem isn't being created that's  
9 adversely impacting the residential character of  
10 the neighborhood.

11 MS. STEINGASSER: I mean this with all  
12 due respect, but no, people have not called us to  
13 identify anything but the ones that they find  
14 offensive. All right? So if it's -- and we have  
15 seen some that have been --

16 MR. MILLER: Well, could it be well  
17 designed and not create a problem? I guess the  
18 point I'm getting at is, I was wondering if it  
19 would be possible to allow a special exception  
20 valve to allow it, and let that be subject to some  
21 kind of parameters that the BZA would consider and  
22 the neighbors would be able to weigh in and if  
23 they have a problem with it I would think -- and  
24 the ANC has a problem with it, I think that should  
25 be given great weight. So.

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1           MS. STEINGASSER: I think that could  
2 easily -- easily that a mezzanine could be  
3 considered as a special exception. It would still  
4 count towards a story but it would be a permitted  
5 use as a special exception.

6           MR. MILLER: So I mean, I could support  
7 the proposal if it has that special exception,  
8 relief valve.

9           MR. MAY: I mean, I would admit that it's  
10 probably within the realm of possibility that  
11 there can be a well-designed three-story building  
12 with a mezzanine, three-story house with a  
13 mezzanine. But I really don't see the purpose of  
14 it. Essentially, even by doing a special  
15 exception we're incentivizing people to go for the  
16 special exception for the additional height  
17 because they need that mezzanine for whatever  
18 reason. And I think it's sort of undermining the  
19 whole purpose of this.

20           I think we heard a strong message about  
21 limiting the height within row house neighborhoods  
22 and I think that mezzanine spaces are a driver of  
23 that. And I don't want to support that. I think  
24 we need to consider those as part of the story  
25 count.

1 CHAIRPERSON HOOD: Okay. I think I heard  
2 the last part of that, Commissioner May, that --

3 MR. MAY: Well, Commissioner Miller was  
4 advocating for a special exception to allow a  
5 mezzanine in R4 neighborhoods, and setting some  
6 criteria I guess. But I was just arguing against  
7 that.

8 CHAIRPERSON HOOD: I'm sorry. I was  
9 trying to get something straight.

10 MR. MAY: Sure. Well, anyway, I still  
11 support the OP language as it was set down and as  
12 it is still recommended, without a special  
13 exception.

14 CHAIRPERSON HOOD: Okay. Any other  
15 questions or comments?

16 MR. TURNBULL: I support the same thing.

17 CHAIRPERSON HOOD: All right. Somebody  
18 like to make a motion so that --

19 MR. MAY: I would move that we include a  
20 mezzanine within the limit on the number of  
21 stories within R4 neighborhoods and in the  
22 principle building.

23 MR. TURNBULL: Second.

24 CHAIRPERSON HOOD: It is moved and  
25 properly seconded. Any further discussion? All

1 those in favor? Aye?

2 ALL: Aye.

3 CHAIRPERSON HOOD: Any opposition?

4 MR. MILLER: No.

5 CHAIRPERSON HOOD: Okay, Ms. Schellin  
6 would you record the vote?

7 MS. SCHELLIN: Staff records the vote  
8 four to one to zero to approve the set down  
9 proposal that was made by the Office of Planning  
10 within the principle building, Commissioner May  
11 moving, Commissioner Turnbull seconding,  
12 Commissioners Hood and Cohen in support,  
13 Commissioner Miller opposed.

14 CHAIRPERSON HOOD: Okay. The next one,  
15 now we are at conversions and there are a number  
16 of questions, and I guess we would take the  
17 questions one by one and it looks like we're going  
18 to have to vote on each question before us.

19 Okay. Let's start off with -- hold on a  
20 second.

21 (Pause.)

22 CHAIRPERSON HOOD: Okay. What I would  
23 like to do is number 1, and the first time we'll  
24 talk about it for residential, the second time  
25 we'll talk about it for nonresidential, and then

1 we'll move to number 2 and do it that way. I  
2 think that's the best way to move forward, okay?

3 First answer again will be for  
4 residential, and then we will answer the same  
5 question for nonresidential. And then if we have  
6 any questions we'll go to the Office of Planning.

7 Should conversions be a matter of right  
8 or subject to a special exception?

9 MS. COHEN: Mr. Chairman.

10 CHAIRPERSON HOOD: Vice Chair Cohen.

11 MS. COHEN: Thank you. In the fact that  
12 we have a challenge in meeting our housing needs  
13 within the city I think that conversion should be  
14 subject to special exception. Conversions from  
15 residential to nonresidential. Is that what we're  
16 --

17 CHAIRPERSON HOOD: No, that's not -- I  
18 don't think that's exactly what's being asked.  
19 Maybe we need some clarification.

20 Ms. Steingasser, can you enlighten us on  
21 it because I don't interpret it that way. Unless  
22 I may be wrong.

23 MS. STEINGASSER: The conversion is from  
24 a flat to an apartment building, which is three  
25 units or more. Sorry.



1 CHAIRPERSON HOOD: Right. Okay.

2 MS. COHEN: Okay.

3 CHAIRPERSON HOOD: So should conversions  
4 be a matter of right or subject to a special  
5 exception?

6 MS. COHEN: Okay. Then I'm going for  
7 matter of right on this issue.

8 MR. MAY: I can see matter of right up to  
9 a certain number and it was suggested -- well, I  
10 mean, I can go to three or four conceivably.

11 MR. MILLER: I would support the matter  
12 of right conversion up to four. I think I --  
13 yeah. I think we need to -- we have an existing  
14 row house housing character that can accommodate  
15 additional units, a couple additional units  
16 without adversely impacting the neighborhood.

17 I would join, if you went -- if you added  
18 that to it, I could go along with that. Then we  
19 can get to the other issues beyond that.

20 MR. MAY: I'm sorry. If you added what  
21 to it?

22 MR. MILLER: Four.

23 MR. MAY: Four. If we went to four?

24 MR. MILLER: Yeah.

25 MR. MAY: Yeah, so I mean, I could

1 support four. You know, we have good language  
2 that was suggested by the Office of Planning that  
3 put other controls in place on this, such as you  
4 know, the you know, limitations on the rear  
5 addition, just in terms of what would be a matter  
6 of right.

7           So in order to make sure that we have  
8 good controls over the bulk of such a conversion  
9 that you know, at 900 square feet of land per  
10 dwelling unit up to four, that the conversion  
11 would not result in the demolition of more than 30  
12 percent of the gross floor area of the original  
13 structure, the rear addition could not extent more  
14 than 10 feet past the rear of any adjacent  
15 residential row structure, and upper floor  
16 addition should not result in the removal of  
17 significant alteration of a rooftop architectural  
18 element original to a house such as a turret or a  
19 tower. And upper floor addition should not block  
20 of impede the functioning chimney or other  
21 external vent. I assume that that means that  
22 those can be extended in order to get above the  
23 roof, which is a common practice.

24           And then an upper or rear addition shall  
25 not interfere with the operation of a neighboring

1 solar energy system.

2 So I mean, I think with those conditions  
3 and a matter of right I think I can go along with  
4 that because I think it puts a substantial  
5 controls and establishes what can be done without  
6 having an undue impact on adjacent row houses.

7 CHAIRPERSON HOOD: Ms. Steingasser, if  
8 you can help me, what do we do now? Isn't it two  
9 -- or is it up to three units? What do we do now?

10 MS. STEINGASSER: So right now in the R4  
11 you're allowed, by right, flats, which are two  
12 units per building. You're only allowed a  
13 conversion for those situations where you have 900  
14 square feet of land per unit.

15 And then you can go to as many units as  
16 you want, provided there's 900 feet of land. But  
17 those are the ones where we are seeing the biggest  
18 concern over inappropriate additions and where the  
19 principle flat or principle single family dwelling  
20 is being cut into, to multiple dwellings turned  
21 into an apartment mid-block with an inappropriate  
22 addition. So that's what this was trying to  
23 provide you with both, a matter of right provision  
24 limitations as well as a special exception.

25 CHAIRPERSON HOOD: Okay. I am not in

1 support, colleagues, of the matter of right. But  
2 my issue is the four units. That's where I am.  
3 I'm trying to figure out as now we have two flats.  
4 You know, we can convert now as the existing code  
5 to two flats.

6 I heard the conversation of three. How  
7 did we go to four because for me it's  
8 infrastructure. You know, it's like we're piling  
9 people on top of people and I hear this argument  
10 about housing in the city. But for me it's an  
11 infrastructure issue.

12 I would be no more than -- and I don't  
13 know if it's even reasonable. I was thinking more  
14 like three, if we wanted to give an opportunity by  
15 special exception to go from two to one more  
16 additional. But four is just --

17 And then what happens in the historic  
18 neighborhoods? I'm just curious.

19 MS. STEINGASSER: Well, there's less of a  
20 problem in the historic neighborhoods because they  
21 have a built in mandatory design review. So the  
22 issue of character, the issue of roof lines and  
23 visibility from the public ways, and that includes  
24 both alleys as well as streets, are reviewed and  
25 then if there's a disagreement they go to the

1 HPRB, the Historic Preservation Review Board.

2 CHAIRPERSON HOOD: So for those of us who  
3 don't have historic neighborhoods, we have no  
4 recourse. It will just be, either in this case a  
5 matter of right or special exception basically?

6 MS. STEINGASSER: Yes, sir.

7 CHAIRPERSON HOOD: Which I think is -- I  
8 don't want to use the word pathetic because I'll  
9 get in trouble.

10 MR. MAY: Well, it's worth pointing out  
11 that in some of the older historic neighborhoods  
12 there are very large homes that have -- you know,  
13 that might have more than 3600 -- or sorry, 32 --  
14 3,600 square feet of land, and they're just very  
15 large houses and they're not really that practical  
16 to use as just flats. And they could be  
17 converted, you know, without an addition to the  
18 property. They could be converted to apartments  
19 now.

20 So I mean, there's not a really huge  
21 difference necessarily in terms of what's being  
22 granted as a matter of right. I mean, yeah, there  
23 is an extra layer of review if you put an addition  
24 on. But you could also do it without an addition  
25 in some homes.

1           CHAIRPERSON HOOD: But that layer of  
2 review is there and then we're talking about going  
3 now from two flats, to four. Three would be the  
4 most I would want to do by special exception. I  
5 understand that argument, but there are a lot of  
6 neighborhoods here who, in the '70s, '60s and  
7 '70s, didn't get those historic precaution and  
8 cautions in their neighborhood. And those are the  
9 ones who we heard the most from at the hearing.

10           MR. MAY: So, I'm sorry. You said three  
11 is the most you could do by special exception or  
12 did you mean to say matter of right?

13           CHAIRPERSON HOOD: No. No, no. No, I --

14           MR. MAY: No more than --

15           CHAIRPERSON HOOD: I don't want any of  
16 that to be a matter of right.

17           MR. MAY: Nothing matter of right.

18           CHAIRPERSON HOOD: Nothing matter of  
19 right. I'm talking about the special -- and I  
20 think the conversation between you and  
21 Commissioner Miller was four. And I'm trying to  
22 figure out how we got to four. Three to me is  
23 stretching it. So that's kind of where I am.

24           MR. MAY: Okay.

25           MR. MILLER: One of the ways we got to

1 four is that it's seen as a compromise. All the  
2 development controls that OP is recommending with  
3 those matter of right that would have to be  
4 complied with, which aren't there now, and we also  
5 have the small developer community which indicated  
6 its support for inclusionary zoning applying to  
7 the fourth unit at 80 percent AMI if we kept a  
8 matter of right process.

9 So how we got there is because it's a  
10 compromise from both perspectives, people who are  
11 very concerned about conversions and those who  
12 want to limit it, and those who want to allow it.

13 So that's a just a well allotted offer  
14 and I could support that compromise, although I do  
15 have a question about one of the development  
16 controls. But we'll get to that in a later  
17 question.

18 CHAIRPERSON HOOD: Okay. Commissioner  
19 Turnbull.

20 MR. TURNBULL: Thank you, Mr. Chair. Ms.  
21 Steingasser, by what I'm reading is that a rear  
22 addition -- so you've got the existing structure.  
23 It could only go 10 feet past that. It can't go -  
24 - how much lot occupancy can it take up, then?

25 MS. STEINGASSER: Well, it would maintain

1 its current matter of right lot occupancy. But  
2 what this intended to do is to keep a 35 foot wall  
3 projecting all the way back. We've seen in some  
4 cases where it's not a pop-up, it's a pop back.  
5 And so this is aimed at 10 feet past the furthest  
6 wall of the adjoining property.

7 And to be fair, the developers that we  
8 did meet with that agreed to the compromise, did  
9 not agree to these design standards. They wanted  
10 a clean matter of right. So I want to accurately  
11 represent that.

12 MR. TURNBULL: So that they want to go to  
13 like 90 percent lot occupancy or whatever.

14 MS. STEINGASSER: No, they just didn't  
15 want the restrictions.

16 MR. TURNBULL: Okay.

17 MS. STEINGASSER: The 10 foot  
18 restriction, the 30 percent gross floor area. And  
19 where we came to that was we were seeing cases  
20 where the principle building was being demolished  
21 completely, and an addition was being put on a  
22 garage. And that was still being called a  
23 conversion. And we were trying to focus in and  
24 disincentivize demolishing the principle building  
25 and maintaining that relationship of character to



1 what's on the block.

2           So both in front, and then in back where  
3 we've seen some really egregious, you know, three,  
4 four stories that shoot back when the -- you know,  
5 they may double or triple the back yard of the  
6 adjoining properties. So that's why we tried to  
7 make that relationship.

8           MR. TURNBULL: I guess my only other  
9 concern, I really empathize with the chair on  
10 this, is infrastructure and parking. If you now  
11 have four units, you know, and each unit has at  
12 least a car, you're going to add one or two more.  
13 You're going to probably add three or four -- I  
14 don't know, depending upon how many people are  
15 driving still.

16           MS. STEINGASSER: There would be a  
17 parking requirement that would trigger at four.

18           MR. MAY: I think it triggers at two  
19 units, doesn't it?

20           MS. STEINGASSER: Well, it's one parking  
21 --

22           MR. MAY: There's a -- yeah.

23           MS. STEINGASSER: -- space per two and  
24 there is the credit for the fact that they were  
25 built prior to the zoning regs. So it would be

1 one for the next two units.

2 MR. TURNBULL: Right. Okay. I guess my  
3 feeling is I emphasize -- as I say, I empathize  
4 with the Chair on this and I think three units --  
5 I mean, no more than three for a matter of right  
6 and maybe four by special exception. But that  
7 would be my -- I'm just concerned that we're  
8 impacting the neighborhoods a lot. But I could  
9 see three as a matter of right and maybe four as a  
10 special exception.

11 CHAIRPERSON HOOD: I think I was looking  
12 at, it's three as the special exception. Maybe  
13 I'm a little --

14 MR. TURNBULL: Oh, three is the special -  
15 -

16 CHAIRPERSON HOOD: Yeah. I probably  
17 could go with that, with the parking requirement.  
18 That gives me a little ease. But again, I think  
19 we're doing some -- I don't want to be going down  
20 as the worst Zoning Commission. I honestly don't.  
21 There's nowhere -- well, okay.

22 So what's on the table? Is anyone  
23 interested in my proposal? Two and one is the  
24 special exception? If not I could compromise and  
25 go with what Mr. Turnbull just mentioned, and no

1 more.

2 MR. MAY: Well, I'm not ready to say that  
3 we should only allow two as a matter of right and  
4 that everything else is a special exception.

5 I think that the Office of Planning has  
6 done a good job of trying to institute the right  
7 kinds of conditions with a -- when we have a  
8 matter of right option. I think the only one that  
9 I had -- I mean, the one that I had the biggest  
10 question about was the fourth unit being subject  
11 to IZ at 80 percent AMI.

12 But if that is something that we've  
13 gotten some feedback from the development  
14 community that that's a reasonable possibility,  
15 then you know, the more the better obviously. You  
16 know, we support trying to create additional  
17 affordable housing.

18 So I mean, if I had my druthers I would  
19 go with the Office of Planning's recommendation,  
20 which appears on page 9, which spells out all of  
21 those conditions I previously mentioned, plus the  
22 fourth unit being subject to IZ at 80 percent.  
23 And that would allow, you know, four units.  
24 Again, the fourth would be an IZ unit but it would  
25 allow four units, assuming lot size is at least

1 3,600 square feet.

2 CHAIRPERSON HOOD: And as Ms. Steingasser  
3 just disclosed, that those who will be doing that  
4 type of development do not agree with any of the -  
5 - from what I just heard, do not agree with any of  
6 the recommendations of the conditions to get that  
7 accomplished. Am I correct?

8 Okay. So --

9 MR. MAY: They agree to the IZ one.

10 CHAIRPERSON HOOD: At 80 percent AMI?

11 MS. STEINGASSER: They agreed to, I'm  
12 going to call it a clean matter of right, where it  
13 was 900 square feet, fourth unit subject to IZ.  
14 They did not agree to -- and they also agreed to  
15 the 35 feet of height. But they did not agree to  
16 the 30 percent demolition, 10 percent past the  
17 adjacent rear yard.

18 But they did agree to the architectural  
19 turret. The solar and chimney are kind of like --  
20 it was hard to -- I think right now the chimney  
21 situation is unresolved at DCRA as to who has the  
22 responsibility. What's happening is people are  
23 putting a second or third story on and it's  
24 causing the adjacent property's existing chimney  
25 to now be nonconforming because the chimney comes

1 out and it's mid-wall, where as if it were new  
2 construction it would have to be so many feet  
3 above that.

4 So there's several cases that are  
5 currently under a stop-work order, while the  
6 builder is trying to negotiate resolution with the  
7 adjoining property owner.

8 MR. MAY: So, Mr. Chairman, if I can just  
9 say, you know, I support this. Not because the  
10 development community came in and agreed with the  
11 Office of Planning on it, I just think it's a  
12 reasonable compromise that allows some matter of  
13 right ability and has the proper controls on what  
14 can be built.

15 You know, again, we're talking about a  
16 situation now where you know, if you have 3,600  
17 square feet you can convert to, you know, four  
18 units as a matter of right. And if you go, you  
19 know, if you have 4,500 square feet you can go to  
20 five units. And we saw some really incredible  
21 examples where they're just really really large  
22 lots that wound up with really, really large  
23 buildings on them in an R4 neighborhood. And I  
24 think this effectively stops those really  
25 egregious ones and allows a certain modest amount

1 of development to occur. And I think that it's  
2 good to -- you know, I'd rather have the controls  
3 than to force everybody through a special  
4 exception process.

5 CHAIRPERSON HOOD: Okay. Again, I think  
6 we're not off as far as the special exception  
7 process. I'm in line with you. I think the only  
8 issue is when does the special exception trigger?  
9 I said after three units. You're saying four. Am  
10 I correct?

11 MR. MAY: After four, yeah.

12 CHAIRPERSON HOOD: Yeah, after four.  
13 And, Mr. Turnbull, you kind of go along after  
14 three? Okay. I'm going to stay with three.

15 MS. COHEN: And I go for the fourth.

16 CHAIRPERSON HOOD: Okay.

17 MR. MILLER: As I would too. I think  
18 it's a reasonable compromise and will get at the -  
19 - all those controls will help get the design  
20 issues.

21 CHAIRPERSON HOOD: Okay. So somebody  
22 make a motion.

23 MR. MAY: Mr. Chairman, can I ask one  
24 more clarification of the Office of Planning?

25 CHAIRPERSON HOOD: Yes.

1           MR. MAY: So anything above four units  
2 would be treated how?

3           MS. STEINGASSER: It would be treated as  
4 a special exception regardless of how large the  
5 lot was.

6           MR. MAY: Well, regardless. But it would  
7 still be subject to the 900 square feet, right?

8           MS. STEINGASSER: Yes.

9           MR. MAY: Yeah, I mean, somebody has  
10 4,500 square feet and they want to put in five  
11 units, they have to get a special exception.

12           MS. STEINGASSER: They would have to get  
13 a special exception.

14           MR. MAY: And it would be subject to the  
15 same kind of design guidelines.

16           MS. STEINGASSER: Yes.

17           MR. MAY: Right. Okay.

18           MR. MILLER: But they wouldn't have to  
19 get any variance.

20           MR. MAY: Would not be a variance, no.  
21 But again, right now it's something that's a  
22 matter --

23           MR. MILLER: I'm just clarifying --

24           MR. MAY: Yes.

25           MR. MILLER: -- with the proposal --

1 MR. MAY: Right.

2 MR. MILLER: -- as it's evolving, is.

3 MR. MAY: Right. I would move that we  
4 allow up to four units of -- four unit conversions  
5 as a matter of right, subject to the following  
6 conditions; maximum height of 35 feet, mezzanine  
7 counts towards the maximum number of floors, 900  
8 square feet of land per dwelling unit and no more  
9 than four units permitted, fourth unit shall be  
10 subject to IZ at 80 percent AMI, conversions shall  
11 not result in demolition of more than 30 percent  
12 of the gross floor area of the original structure,  
13 the rear addition shall not extend further than 10  
14 feet past the rear of any adjacent residential row  
15 structure, and upper floor additions shall not  
16 result in the removal or a significant alteration  
17 of a rooftop architectural element original to the  
18 house, such as a turret or tower, any upper floor  
19 addition shall not block or impede the functioning  
20 of a chimney or other external vent required by  
21 any municipal code or on an adjacent property, and  
22 an upper or rear addition shall not interfere with  
23 the operation of any neighboring solar energy  
24 system. And I think that we want to say,  
25 immediately adjacent solar energy system, rather

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1 than just saying, any neighboring one because that  
2 means, you know --

3 MS. COHEN: Three doors down.

4 MR. MAY: -- three doors down, which I  
5 don't think is going to have an effect.

6 MS. COHEN: I will second that and I just  
7 want to state that I feel that the strength of  
8 this proposal is a matter of right, is there are  
9 strong restrictions. So I think that it will not  
10 negatively impact on any neighboring homes.

11 CHAIRPERSON HOOD: I would ask Commission  
12 May that you take back that motion, and that the  
13 seconder take back that motion because honestly I  
14 would like to vote in favor of the special  
15 exception. It's just the second part that you put  
16 in about the number of units.

17 I think as we're moving forward some of  
18 this is very tedious as we did previously. I am  
19 in favor of this being a special exception and not  
20 a matter of right. So I want to be recorded as  
21 voting this as a special exception, and not the  
22 amount of units. I would vote against that. And  
23 I think that's --

24 MR. MAY: That's fine. I mean, I  
25 withdraw my motion if you want to make a

1 substitute one. I only made it because I thought  
2 you asked if anybody had a motion to make.

3 CHAIRPERSON HOOD: Right. Right, well,  
4 the question in front of us says, "Should  
5 conversions be a matter of right or subject to  
6 special exception?" Doesn't say anything about  
7 the units. That's the question and then we can  
8 get into --

9 MR. MAY: You're right. But I --

10 CHAIRPERSON HOOD: And then we can get  
11 into the units. We bought that conversion that is  
12 --

13 MR. MAY: I went straight for all of the  
14 conditions because I thought it was --

15 CHAIRPERSON HOOD: You brought them all?

16 MR. MAY: Well, I'm not in favor of  
17 matter of right conversions as a rule.

18 CHAIRPERSON HOOD: And neither am I.

19 MR. MAY: So it would be subject to  
20 conditions.

21 CHAIRPERSON HOOD: Right. Well, the  
22 question right now is, should conversions be a  
23 matter of right or subject to special exception.  
24 I think that gives all of --

25 MR. MAY: Okay. So I'm --

1 CHAIRPERSON HOOD: -- us a turn to vote  
2 and then you can go second part to the numbers,  
3 and we can go down. Break it up.

4 MR. MAY: All right. So may I suggest  
5 that? I'll withdraw my motion if you would like  
6 to make a motion --

7 CHAIRPERSON HOOD: Okay.

8 MR. MAY: -- that say that it would be a  
9 special exception, then please make that motion.

10 CHAIRPERSON HOOD: I would move that --  
11 well, I would make a motion that the conversions  
12 be a special exception and ask for a second.

13 MR. TURNBULL: Second.

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

16 All those in favor, aye.

17 ALL: Aye.

18 CHAIRPERSON HOOD: Any opposition?

19 MS. COHEN: Opposed.

20 CHAIRPERSON HOOD: Opposed. Ms.  
21 Schellin, would you record the vote?

22 MS. SCHELLIN: Yes. Staff records the  
23 vote two to three to zero. The motion fails to  
24 make conversions by special exception,  
25 Commissioner Hood moving, Commissioner Turnbull

1 seconding, Commissioners May, Cohen, and Miller  
2 opposed.

3 CHAIRPERSON HOOD: Okay. So you want to  
4 put both of them together, so go ahead  
5 Commissioner May.

6 MR. MAY: Would you like me to read all  
7 those conditions again?

8 CHAIRPERSON HOOD: Yes. No, actually,  
9 not. I didn't want you to read them the first  
10 time because it's in the Office of Planning's  
11 report.

12 MR. MAY: Okay. I'll try to do a  
13 shortened version of it.

14 So I move that we allow conversions of up  
15 to four units subject to the conditions drafted by  
16 the Office of Planning on page 9, having to do  
17 with maximum height, mezzanines, the 900 square  
18 foot minimum, fourth unit subject to IZ, no  
19 demolition of more than 30 percent of the gross  
20 floor area, rear addition not extending more than  
21 10 feet past adjacent buildings, not resulting in  
22 demolition of a turret or tower, any upper floor  
23 addition not block or impede a functioning chimney  
24 or other vent, and not interfering with an  
25 adjacent solar energy system.

1 Can I get a second?

2 MS. COHEN: Second.

3 CHAIRPERSON HOOD: It's been moved and  
4 seconded. Any further discussion? Commissioner  
5 Miller?

6 MR. MILLER: I just wanted to note that -  
7 - I mean, we all can read letters from various  
8 groups and there obviously was a lot of ANCs that  
9 supported the Office of Planning proposal. But I  
10 wanted to note one ANC 6-B, that did not support  
11 the -- their statement is, while they recognize  
12 the development process to turn row houses into  
13 multifamily units and the shortage of multifamily  
14 units in the R4 zone, we are uncomfortable with  
15 repealing the matter of right conversion to  
16 residential apartment house at a time when the  
17 city needs as much affordable housing as possible.

18 And then they go on to talk about needing  
19 -- still wanting the 900 foot rule to apply and IZ  
20 to apply to the fourth unit. And those other kind  
21 of development controls. And this ANC actually  
22 did support the height reduction that OP proposed.  
23 But I just wanted to note that for the record.

24 But I had one question about the turret,  
25 or tower.

1 CHAIRPERSON HOOD: Actually, there's a  
2 motion on the floor, right?

3 MR. MILLER: Well, it's --

4 CHAIRPERSON HOOD: The motion has been  
5 moved. The discussion is among us.

6 MR. MILLER: Right.

7 CHAIRPERSON HOOD: So parliamentary  
8 procedures now, we need to carry the motion. But  
9 the question I think -- you're going to go to  
10 Office of Planning, correct?

11 MR. MILLER: No, I don't --

12 CHAIRPERSON HOOD: Okay. You have a  
13 question.

14 MR. MILLER: Mr. May might be able to  
15 answer the question.

16 CHAIRPERSON HOOD: Oh, okay.

17 MR. MILLER: Thank you for directing me  
18 in that direction.

19 CHAIRPERSON HOOD: I'm just parliamentary  
20 down here.

21 MR. MILLER: The removal of the rooftop  
22 architectural element original to the house such  
23 as turret or tower, I was just wondering if there  
24 should be -- if it were replaced on top of  
25 whatever addition was being built, would that

1 allow for some -- would that be some kind of --  
2 would that be a relief valve or a design parameter  
3 which we'd want to allow for?

4 MR. MAY: So I think the essential  
5 difficulty with that is that architects and  
6 builders today don't do turrets and towers as well  
7 as they did when they were originally built. And  
8 so I think that simply replicating it --

9 MR. MILLER: We're actually using the one  
10 that's --

11 MR. MAY: Well, I mean, it's not the sort  
12 of thing that you can just pick up and lift up.

13 MR. MILLER: Okay.

14 MR. MAY: So I think it would --

15 MR. MILLER: I knew you'd be able to  
16 answer this questions. So I appreciate it.

17 MR. MAY: Yeah. I think it's something  
18 that has to be done.

19 MR. MILLER: Okay.

20 MR. MAY: If you're going to do it, it  
21 would be a replication and I would suggest that  
22 maybe that's something that could be handled as a  
23 special exception where you actually get to see  
24 what it looked like and how well it was done.

25 I have actually seen some facades

1 extended at least, with very highly decorative  
2 brick work where they did do a good job of  
3 replicating what was happening on the lower floor,  
4 so it's possible. It's just --

5 MR. MILLER: Right. And the process  
6 would allow for that to happen.

7 MR. MAY: Yeah.

8 MR. MILLER: So thank you for that  
9 answer.

10 MR. MAY: Sure.

11 CHAIRPERSON HOOD: Okay. Any --

12 MR. MAY: I appreciate the fact that  
13 you're pointing out that my vote is consistent  
14 with my ANC.

15 UNIDENTIFIED SPEAKER: It's all for you.

16 CHAIRPERSON HOOD: Okay. And then I'm  
17 sure -- well, any further discussion? And I'm  
18 sure we can go on the record and find something  
19 totally different anyway. Any further discussion?

20 All those in favor.

21 ALL: Aye.

22 CHAIRPERSON HOOD: Any opposition,  
23 oppose? Ms. Schellin, would you record the vote?

24 MS. SCHELLIN: Staff records the vote  
25 three to two to zero to approve the recommendation



1 to allow matter of right up to four units with the  
2 conditions on page 9 of the Office of Planning  
3 report with the fourth unit triggering IZ,  
4 Commissioner May moving, Commissioner Cohen  
5 seconding, Commissioner Miller in support,  
6 Commissioners Hood and Turnbull opposed.

7 CHAIRPERSON HOOD: Okay. I would just do  
8 for the record that I did not have a problem with  
9 it being special exception. And I'm sure Mr.  
10 Turnbull also would agree with that, if we had  
11 broken it up.

12 Okay. Let's go to Number 2. Am I  
13 correct, Mr. Turnbull, for the record? Because  
14 somebody may read this transcript --

15 MR. TURNBULL: No, you are correct.

16 CHAIRPERSON HOOD: -- 30 years from now  
17 and say, what did Hood and Turnbull do. Okay.

18 MR. MAY: So I'm sorry, can I ask for  
19 clarification? I mean, does that cover the  
20 question adequately or do we need to vote  
21 specifically on conditions for special exceptions  
22 having to do with units, with five or more units?  
23 Do we know?

24 CHAIRPERSON HOOD: I don't know. My  
25 motion --

1 MS. STEINGASSER: I think it would be  
2 helpful as we work with the language to have it on  
3 the record that anything more than four would  
4 require a special exception.

5 MR. MAY: Okay. So, is your  
6 recommendation that we use the guidance that's  
7 shown also on page 9 with regard to the special  
8 exception option?

9 MS. STEINGASSER: Yes, sir.

10 MR. MAY: Okay. So then I would go ahead  
11 and make a motion that for conversions of five or  
12 more units that it be allowed a special exception  
13 subject to the following conditions -- I'm sorry,  
14 Mr. Chairman, is this okay, that I go ahead and  
15 make this motion?

16 CHAIRPERSON HOOD: Yeah, I wonder, can we  
17 also make it applicable to historic districts  
18 where some of us may live?

19 MR. MAY: Certainly does apply.

20 CHAIRPERSON HOOD: Can we do that?

21 MS. STEINGASSER: It absolutely would  
22 apply to --

23 MR. MAY: It certainly does apply.

24 CHAIRPERSON HOOD: Yeah. Okay. Well,  
25 okay, let's even the keel. Okay. Sure. Go

1 ahead. It's in the order.

2 MR. MAY: So for units of -- conversions  
3 of five or more units a special exception would  
4 apply with the following conditions; minimum of  
5 900 square feet for each dwelling unit, conversion  
6 shall not have a substantially adverse effect on  
7 the use of enjoyment of any abutting or adjacent  
8 dwelling or property, and particularly light and  
9 air available to neighboring properties shall not  
10 be unduly effected. The privacy of use and  
11 enjoyment of the neighboring property shall not be  
12 unduly compromised. The effectiveness of any  
13 chimney, vents, or solar system on neighboring  
14 properties shall not be substantially reduced, and  
15 the resulting structure as viewed from the street,  
16 alley, or other public way shall not substantially  
17 visually intrude upon the character, scale, and  
18 pattern of the houses along the subject street  
19 frontage, and upper floor additions shall not  
20 result in the removal of signature alteration of a  
21 roof top architectural element original to a house  
22 such as a turret or tower, any upper floor  
23 additions shall not block or impede the  
24 functioning of a chimney or other external vent  
25 required by any municipal code on an adjacent

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1 property and upper or rear addition shall not  
2 interfere with the operation of any adjacent solar  
3 energy system. And the board may require a  
4 special treatment in the way of design, screening,  
5 exterior, interior lighting, building materials  
6 and other features -- or other features for the  
7 protection of adjacent or nearby properties.

8           So I think it's essentially everything  
9 that the Office of Planning recommended except I  
10 changed the word neighboring to adjacent with  
11 regard to the bullet point. But not with regard  
12 to the not having a substantially adverse effect  
13 on the use and enjoyment of abutting properties.  
14 So I think it's okay within that second bullet to  
15 be a neighboring property when it comes to solar  
16 property; solar energy. But not when it comes to  
17 interfering with the operation.

18           And I would ask for a second.

19           MS. COHEN: I'll second it.

20           CHAIRPERSON HOOD: Okay. It's been moved  
21 and properly seconded. I think this is what, five  
22 or more?

23           MR. MAY: Yes.

24           CHAIRPERSON HOOD: Moved and properly  
25 seconded. Any further discussion?

1           MR. MILLER: I had a question for  
2 Commissioner May. Is the 900 square foot  
3 limitation condition -- would one be able to get  
4 special exception relief from that in the special  
5 exception process?

6           MR. MAY: No, I think that would require  
7 a variance, to use anything less than 900 square  
8 feet. At least that's the way I would want it to  
9 be.

10           Really all we're doing is when there is  
11 900 feet per unit, that's what we're voting on  
12 right now.

13           CHAIRPERSON HOOD: Right. And we have  
14 that coming right up and that's one of our next  
15 questions.

16           MR. MILLER: Okay.

17           MS. COHEN: I have a question.

18           CHAIRPERSON HOOD: We're in the middle of  
19 -- is it germane to the motion?

20           MS. COHEN: Yeah.

21           CHAIRPERSON HOOD: Okay. Is it a  
22 question or is it deliberation, because in a  
23 motion it's discussion?

24           MS. COHEN: Let me ask it and you can  
25 tell me.

1 I'm just not sure unduly affected, what  
2 that means, actually. And maybe OP can --

3 CHAIRPERSON HOOD: We're in discussion so  
4 we want to --

5 MS. COHEN: All right.

6 CHAIRPERSON HOOD: Where is that? Is  
7 that germane to what he's just mentioned?

8 MS. COHEN: Yeah, didn't you --

9 MR. MAY: It's one of the words that I  
10 used, yeah.

11 MS. COHEN: Yeah.

12 MR. MAY: Hold on a second.

13 MS. COHEN: Unduly affected, unduly --

14 CHAIRPERSON HOOD: Go ahead. And I  
15 didn't do that for Commissioner Miller, but you  
16 know, we have a motion. Parliament procedures, we  
17 have a second. Discussion. Discussion is among  
18 us because the public, if we bring the Office of  
19 Planning into our discussion, then they have  
20 participated.

21 MS. COHEN: I will hold that question.

22 CHAIRPERSON HOOD: Right. Okay. It's  
23 moved and properly -- any further discussion? All  
24 those in favor?

25 ALL: Aye.

1 CHAIRPERSON HOOD: Aye. Any opposition?  
2 So ordered. Ms. Schellin -- hold on. Hold on for  
3 a second. I'm getting confused up here. I didn't  
4 mean to vote for that. I meant to vote against  
5 it. Thank you, Vice Chair.

6 Okay. We have motion on the table. It's  
7 moved and properly seconded. Any further  
8 discussion?

9 All in favor.

10 ALL: Aye.

11 CHAIRPERSON HOOD: All opposed. Opposed.  
12 Ms. Schellin, would you record the vote?

13 MS. SCHELLIN: Staff records the vote  
14 three to two to zero to approve by special  
15 exception, five or more units subject to the  
16 conditions on page 9 of OP's report with the  
17 modifications that Commissioner May read. And I  
18 believe this is also applying to historic  
19 districts, Commissioner May moving, Commissioner  
20 Cohen seconding, Commissioner Miller in support,  
21 Commissioners Turnbull and Hood opposed.

22 CHAIRPERSON HOOD: Okay. Vice Chair, you  
23 had a question?

24 MS. COHEN: Yeah, I'd like to ask the  
25 Office of Planning what unduly compromised means.

1 MS. STEINGASSER: That's the phrase from  
2 Section 222 in the Zoning Regs that allows for  
3 special exception expansion of nonconforming  
4 buildings. And we stayed with that phrase because  
5 it's one that the city has worked with for the  
6 last 25 years.

7 MS. COHEN: I know. But still I think  
8 that's what gives people the mistake and belief  
9 that unduly -- you know, what does unduly mean to  
10 them versus what does unduly mean to me and the  
11 architect and the developer and so I think that  
12 that's something that creates confusion amongst  
13 the population.

14 MS. STEINGASSER: That is why we left it  
15 in the special exception. When you start getting  
16 into these qualitative assessments that aren't --  
17 it does become a balancing act of the decision  
18 maker as they work with the -- as they review the  
19 application put forward by the architects and the  
20 applicant's.

21 The quantitative, the 30 percent, 10  
22 feet, that's easy. But when these qualitative  
23 type things, whether we change it to unreasonable  
24 or excessive, there's always a quality that has to  
25 be evidenced by the showing in front of the Board.



1 So that's why we stayed with that standard because  
2 it's one that the Board is very familiar with.

3 CHAIRPERSON HOOD: And I think most of  
4 the time we talk about appropriateness,  
5 inappropriate and appropriateness. So, okay. Any  
6 other questions?

7 MR. TURNBULL: I just had one question,  
8 Mr. Chair. On the motion that was just approved,  
9 the fifth unit, is that IZ?

10 MS. STEINGASSER: The fifth unit would be  
11 market. The sixth unit would be -- every even  
12 number would be IZ.

13 MR. TURNBULL: IZ. Okay.

14 MS. STEINGASSER: Six would be IZ, seven,  
15 market, eight, IZ.

16 CHAIRPERSON HOOD: And that's at 80  
17 percent on the AMI?

18 MS. STEINGASSER: Yes, sir. Until they  
19 hit ten, in which case then the standard  
20 inclusionary zoning regs would kick in and then  
21 there would be -- half the IZ units would be at 50  
22 percent. Is that -- 50 percent of the AMI.

23 CHAIRPERSON HOOD: Okay. Any other  
24 questions of the Office of Planning?

25 Did we do the nonresidential?

1 MS. STEINGASSER: No.

2 CHAIRPERSON HOOD: Okay. Let's go back  
3 to the -- so we need to do question number one,  
4 nonresidential.

5 Should conversions be matter of right or  
6 subject to a special exception? Commissioner May?

7 We might as well go to -- because it's  
8 going to --

9 MR. MAY: So, you know again, this is a  
10 question that's hard to answer without some  
11 discussion of what the potential conditions might  
12 be. You know, the existing situation is that if  
13 we keep the existing matter of right provisions  
14 it's subject to the 900 square foot of land per  
15 dwelling unit and IZ is applicable at 10 units.  
16 And the only way to get relief from the 900 square  
17 feet per dwelling unit would be by variance. What  
18 was set down was the permit, nonresidential  
19 properties only by special exception, and allow  
20 for relief from the 900 square feet of land per  
21 unit requirement as part of that special  
22 exception.

23 But now there's a new recommendation from  
24 the Office of Planning to allow matter of right  
25 conversions and IZ would be applicable on the 10th

1 unit, so it's sort of a -- it's a mix of both.  
2 It's allowing matter of right conversions at 900  
3 square foot of land per dwelling unit. But then,  
4 you know, if you want to -- excuse me -- have  
5 relief from the 900 square foot of land per  
6 dwelling unit, you'd have to comply with  
7 advertised design standards. And you know, pretty  
8 much as we had referenced before. But it would  
9 allow you to do less than 900 square foot per unit  
10 as a special exception. Not just as -- not as a  
11 variance, which is the current regulation.

12 So it is, again, it's something of a  
13 compromised position. But I'm interested in what  
14 you have to say, Mr. Chairman.

15 CHAIRPERSON HOOD: I think that the --  
16 one of the question is, can they get relief. I  
17 think that was one of the questions that was posed  
18 to us. Should there be a mechanism to get that  
19 relief from that 900 square foot land to dwelling  
20 unit requirement? Or should there be a hard fast  
21 rule.

22 MR. MAY: Which could be waived by  
23 variance.

24 CHAIRPERSON HOOD: We're not delivering  
25 yet. Ms. Steingasser, is that it or are we

1 talking about should we even allow a variance? I  
2 guess that was the way I interpreted the question.  
3 Maybe I was --

4 MS. STEINGASSER: In this case everybody  
5 is right. We were trying to make the development  
6 of the nonresidential buildings easier. Right now  
7 they have an enormous burden and it comes from the  
8 fact that most of these large institutional or  
9 educational buildings aren't easily divided. The  
10 walls are thick and they don't move easily. And  
11 so there's kind of a -- the building tells you how  
12 many units are going to go there. And more times  
13 than not that eats up all the 900 square feet per  
14 land.

15 And so then you end up with these kind of  
16 gap teeth in the street wall or in the  
17 neighborhood. So we were trying to find a way to  
18 incentivize the redevelopment and adaptive reuse  
19 of these structures as an alternative to looking  
20 at the residential row houses.

21 So we thought, as we worked through it,  
22 we found that the trigger was the 900 square feet.  
23 And so rather than make that go through a  
24 variance, to try to do that by special exception.  
25 Was that clear as mud?

1 CHAIRPERSON HOOD: Yeah. And I think --  
2 and I'm trying to remember. A lot of the BZA  
3 cases had to be denied because of that fact, I  
4 believe. Okay. Okay.

5 I think I could support this.

6 MR. MILLER: Can I ask a question?

7 CHAIRPERSON HOOD: Commissioner Miller.

8 MR. MILLER: So, I mean, I think I can  
9 support it too, but I'm just wondering why we  
10 wouldn't do the same; at least the same treatment  
11 for nonresidential as we just did on a divided  
12 vote for residential structures that are allowing  
13 the third and fourth -- well, I guess this doesn't  
14 apply to third and -- up to four units, I guess,  
15 as a matter of right with all the design controls.  
16 At least to be consistent.

17 MS. STEINGASSER: The matter of right  
18 that we recommended here was that it just simply  
19 be 900 square feet, and that the regular IZ regs  
20 would kick in and they kick in at 10.

21 And again, we're trying to incentivize  
22 the adaptive reuse of these buildings, and that's  
23 why we're making it a little bit easier for these  
24 buildings to be redeveloped.

25 MR. MILLER: Okay. Thank you.

1 CHAIRPERSON HOOD: And this is with some  
2 of the smaller developers. I think we heard that  
3 from some of the smaller developers, correct,  
4 about this being a tough hurdle?

5 MS. STEINGASSER: Yes. Yes.

6 CHAIRPERSON HOOD: Okay. Okay.

7 MR. TURNBULL: Ms. Steingasser, what  
8 about the height on these?

9 MS. STEINGASSER: The height would be 35  
10 feet --

11 MR. TURNBULL: Still.

12 MS. STEINGASSER: -- except for when they  
13 build more than three units, and those could now  
14 be 40 feet.

15 MR. TURNBULL: Okay.

16 MS. STEINGASSER: Based on pending  
17 action.

18 MR. MAY: But they may well be taller  
19 than that because it's a conversion of an existing  
20 building, right? Sometimes?

21 MS. STEINGASSER: The existing building  
22 could be taller.

23 MR. TURNBULL: Could be taller.

24 MR. MAY: Whatever it is.

25 MS. STEINGASSER: New construction that

1 might surround the school or church, that would be  
2 limited to 40 feet, if there are more than three  
3 units.

4 MR. TURNBULL: Would the rear additions  
5 be held the same limit as previously in the  
6 residential?

7 MS. STEINGASSER: They would not. That's  
8 not proposed as part of this.

9 MR. TURNBULL: That's not proposed.

10 CHAIRPERSON HOOD: Okay. Any other  
11 questions?

12 MR. MAY: Is the only -- I'm sorry.  
13 Yeah. I'm sorry to interrupt. The only question  
14 -- sorry, the only condition on this would be the  
15 requirement not to interfere with neighboring  
16 chimneys and solar energy systems. Is that right?

17 MS. STEINGASSER: And we're also  
18 recommending the general design standards set out  
19 in the special exception.

20 MR. MAY: Okay.

21 MS. STEINGASSER: So light and air would  
22 not be unduly affected --

23 MR. MAY: Got it.

24 MS. STEINGASSER: -- privacy use.

25 MR. MAY: Got it. Got it. But not the

1 30 percent demolition or the 10 feet past --

2 MS. STEINGASSER: No, sir.

3 MR. MAY: Right. Got it. Okay. I can  
4 get behind the latest recommendation as well.

5 CHAIRPERSON HOOD: Okay. Would somebody  
6 like to make a motion on this nonresidential?

7 MR. TURNBULL: Mr. Chair, I would make a  
8 recommendation. I would propose that we accept  
9 OP's latest recommendation for nonresidential  
10 structures, allow matter of right conversions  
11 subject to the 900 square foot land dwelling unit  
12 requirement, and IZ would be applicable for the  
13 10th unit, and permit special exception relief  
14 from the 900 square foot land dwelling unit  
15 requirement with the advertised design standards  
16 in reference to the neighboring rooftop chimneys  
17 and solar energy systems.

18 CHAIRPERSON HOOD: I'll second it. It's  
19 been moved and properly seconded. Any further  
20 discussions?

21 All those in favor. Aye.

22 ALL: Aye.

23 CHAIRPERSON HOOD: Any opposition? Not  
24 hearing any, Ms. Schellin, would you record the  
25 vote?



1 MS. SCHELLIN: Yes. Staff would record  
2 the vote five to zero to zero to accept OP's  
3 recommendation regarding the nonresidential  
4 structures for new construction and additions to  
5 existing structures. Commission Turnbull moving,  
6 Commissioner Hood seconding, Commissioners May,  
7 Cohen, and Miller in support.

8 CHAIRPERSON HOOD: Okay. The next  
9 question we have is, should there be 900. We've  
10 covered that, right?

11 MR. MILLER: No, we haven't. I would  
12 like to be recorded on that, even though I  
13 probably won't have the support.

14 CHAIRPERSON HOOD: Okay. I thought that  
15 went along with what we've already done. Okay. I  
16 guess not. Okay.

17 We finished number 1, let's go to number  
18 2. Should there be 900 feet of land area for each  
19 unit? If yes there should be a special exception  
20 relief available from that limit.

21 That's the question mark. Let's do  
22 residential first and then we'll do  
23 nonresidential. Commissioner Miller.

24 MR. MILLER: I guess my question -- well,  
25 I don't mind if there's the 900 foot land area

1 requirement as long as there is a special  
2 exception process that allows the neighbors and  
3 the ANC to weigh in, and if it's objectionable to  
4 them, then it shouldn't happen.

5           So that's where I am on that. So I would  
6 either -- but my question to OP is that I know  
7 that -- well, that's where I am on that.

8           MS. COHEN: I would concur with that. I  
9 think that's very reasonable. As long as it's  
10 supported during the special exception process.

11           MR. MAY: So are we talking about in the  
12 context of residential buildings?

13           MS. COHEN: Yes, residential.

14           CHAIRPERSON HOOD: Residential.

15           MR. MAY: Okay. So we did just vote for,  
16 you know, the circumstances of you know, when  
17 there is -- you know, when we have to have a  
18 special exception, which would be above four units  
19 that there would be a minimum lot area of 900  
20 square feet, meaning that it would require a  
21 variance to go less than 900 square feet.

22           So in my mind I think we have already  
23 decided this.

24           CHAIRPERSON HOOD: That was my question  
25 but if --

1           MR. MILLER: Well, when I said that  
2 before you said, we're going to get to that in the  
3 next question so I was hoping that we would -- I  
4 would have forced the issue so we could separate  
5 it out or added the special exception process to  
6 the condition and lost on the three to two vote.

7           I just want to be able to vote on it.

8           CHAIRPERSON HOOD: Well --

9           MR. MAY: And that's fine. I don't mind  
10 voting on it.

11           CHAIRPERSON HOOD: Okay. Well, I thought  
12 we covered it, but to make you happy, go ahead.  
13 Make a motion.

14           MR. MILLER: For residential structures I  
15 would support the continuation of the 900 feet of  
16 land area for each unit in the row house zone,  
17 except allow a special exception relief valve to  
18 assess the objectionable impact on neighbors.

19           MS. COHEN: I second that.

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

22           All those in favor.

23           ALL: Aye.

24           CHAIRPERSON HOOD: Any opposition?

25           MR. TURNBULL: Opposed.

1 CHAIRPERSON HOOD: Ms. Schellin, would  
2 you record the vote?

3 MS. SCHELLIN: Staff records the vote two  
4 to three to zero to -- the motion was for  
5 residential zones, for special exception to allow  
6 relief from the 900 square feet as a special  
7 exception instead of variance. Commissioner  
8 Miller moving, Commissioner Cohen seconding,  
9 Commissioners May, Hood, and Turnbull opposed.  
10 Motion fails.

11 CHAIRPERSON HOOD: Let the record reflect  
12 the chair allowed that, unlike what was not  
13 allowed for him earlier when he wanted to vote for  
14 a special exception. Anyway, I'm just getting my  
15 digs in, Commissioner May.

16 MR. MAY: Did you not get your vote on  
17 special exception? Did I not withdraw my motion?

18 CHAIRPERSON HOOD: Yeah, but you voted  
19 against it. So it wasn't counted. So let's not  
20 go there. Okay. Matter of fact, from now on  
21 we're going to put Commissioner May on time limit.

22 Okay. Okay. What do we need to do next?  
23 Did we need to do nonresidential on the same  
24 thing?

25 MR. MAY: If someone wants to make a

1 motion, I guess.

2 CHAIRPERSON HOOD: Does anybody like to  
3 make a motion?

4 MS. SCHELLIN: It was one of the  
5 conditions already, but --

6 CHAIRPERSON HOOD: What? For  
7 nonresidential?

8 MS. SCHELLIN: I think they all had that  
9 900 square feet in there, but if somebody wanted  
10 to -- so that's why I was confused.

11 MR. MAY: Actually, yes. I think you're  
12 right, that it is already allowed for  
13 nonresidential as part of the special exception  
14 process.

15 CHAIRPERSON HOOD: Okay. And then we  
16 covered the issue about the -- you did the number  
17 of units. We've done that already and we did the  
18 IZ. What else do we have left, Ms. Schellin?

19 MS. STEINGASSER: I think you've covered  
20 it all. The additional items were freestanding  
21 from what had been set down, but they've been  
22 incorporated through the motions you've been  
23 making so there's no additional.

24 CHAIRPERSON HOOD: Okay.

25 MR. MAY: Can I ask a question of the

1 Office of Planning?

2           Somewhere, and I can't remember where, I  
3 read some concern about how this gets phased in  
4 and the timeline the developers operate on. And  
5 I'm, you know -- unless we make some special  
6 provision these will go into effect when we take  
7 final action.

8           MS. STEINGASSER: That's correct.

9           MR. MAY: And you have no issue with  
10 that?

11           MS. STEINGASSER: Well, the developers'  
12 representatives that met with us requested an 18  
13 month vesting. I felt that was excessive. That  
14 was almost a full year past anything we have ever  
15 done.

16           If the Commission wants us to look at,  
17 you know, a few more months, but considering we  
18 set this down in June of 2014 we felt that there  
19 was really sufficient notice as to what was  
20 coming, what was going on. And as the Commission  
21 said earlier, you know, it was your desire to move  
22 quickly to address these issues. So we didn't  
23 propose anything excessive.

24           MR. MAY: Okay. I agree with that.  
25 Thank you.

1           CHAIRPERSON HOOD: Another thing I would  
2 suggest. I know this was -- as I've stated, I've  
3 heard about it since '98. I think it's moving  
4 forward. If we find out like we did when we did  
5 the IZ back in the '90s and the early 2000s, if  
6 something that is detrimental, I would hope that  
7 the Office of Planning would bring it to our  
8 attention if need be. That's the same thing we  
9 did when everybody talked about IZ and how great  
10 it was in Montgomery County. And I do want to  
11 thank the Office of Planning for being on top of  
12 this issue, because this has been an issue, it's  
13 been rough.

14           Again, but I would just ask that if you  
15 see something out there that we need to deal with,  
16 bring it back to the Commission and let us tweak  
17 it and let's get it right, like we did with IZ.

18           MS. STEINGASSER: Yes, sir.

19           CHAIRPERSON HOOD: Okay. Commissioner  
20 Miller.

21           MR. MILLER: Just for the record I would  
22 support some kind of transitioning beyond it just  
23 going into effect at the time of final action.  
24 Six months given -- or some minimal amount given  
25 the time it takes for a development to get done in

1 the city and how the lead time that's already  
2 happened.

3           So I know we have some phase-in proposed  
4 in the ZRR. Of course that's a comprehensive  
5 rewrite of the whole zoning regulations. But this  
6 is a comprehensive major significant amendments to  
7 a whole zoning category throughout the entire  
8 city. I'm sure that given all the controversy I  
9 just think that some kind of delay effective --  
10 some kind of vesting period would be appropriate  
11 and there's one other point I wanted to make but  
12 I've lost my train of thought.

13           Well, I'll mention it later. Thank you,  
14 Mr. Chairman.

15           CHAIRPERSON HOOD: Okay. You're not  
16 asking for any action on that tonight, are you?

17           MR. MILLER: No. I was asking OP to  
18 consider to look at it and --

19           CHAIRPERSON HOOD: Oh, asking OP. Okay.

20           MR. MILLER: To consider looking at a six  
21 month or some kind of appropriate transitional.

22           You know, I suspect that most, even  
23 though we heard a lot of testimony, we've receive  
24 a lot of comments, I suspect that most owners of  
25 R4 property in the city are not aware of this



1 proposal. And which is a substantial change in  
2 their existing property rights.

3 CHAIRPERSON HOOD: I don't know what  
4 we're going to do. You know, just like the ZRR, a  
5 lot of people said they weren't aware of us doing  
6 the ZRR. I don't know what we -- maybe we can buy  
7 a spot and we can ask the mayor if we can buy a  
8 spot on Channel 9 and 4 and 7, so we can make  
9 people aware because I know that this issue has  
10 been out there. I think if people have an  
11 interest they get involved. But we heard that on  
12 the ZRR but we didn't you know -- I know that  
13 Office of Planning has been all over the city. I  
14 went with them to Ward 7 a few times.

15 So I don't know, I hear that a lot, that  
16 nobody knew about it and now I'm hearing it from  
17 the dais and I'm not commenting on what  
18 Commissioner Miller said, but that's scary.

19 But the testimony, I can tell you this,  
20 we had more people down here for this particular  
21 case for the most part, than I think we did for  
22 some of the cases we had in the ZRR. So I think  
23 from my standpoint it's equivalent. I'm not  
24 deliberating or arguing the point. But I don't  
25 know what we'd do to get the word out better. I

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1 don't know. I think we've -- I have been  
2 grappling with that for a long time and I really  
3 don't know what else to do. Even to the point  
4 that I go to some meetings. I know, Ms. Cohen, I  
5 think you went with me to maybe one or two didn't  
6 you?

7           And we talk about it at the meetings.  
8 And we don't get into the specifics, but we  
9 mention that this is what we're doing. We ask  
10 people to come down. We even went out into the  
11 community under the ZRR. So, you know, I don't  
12 know what we do, Commissioner Miller, for all  
13 those people that don't know about it.

14           We've even taken ads out in the  
15 Washington Post. But then again, I don't read  
16 that myself, so.

17           MR. MILLER: Right.

18           MS. COHEN: I think we have to learn how  
19 to Twitter.

20           CHAIRPERSON HOOD: I've just learned how  
21 to do that, but I guess --

22           MS. COHEN: And get Facebook pages and,  
23 you know.

24           CHAIRPERSON HOOD: I'm just saying, we  
25 need to come up with ways of how we can ask the

1 Office of Zoning and Office of Planning because I  
2 know they have grappled with it. They've done all  
3 they can do. I don't know what else to do.

4 MS. SCHELLIN: We actually do have a  
5 Facebook page and we always put on there which  
6 cases are coming up for hearings. So the case was  
7 put on there.

8 CHAIRPERSON HOOD: But all the seniors in  
9 my neighborhood don't usually use Facebook. So I  
10 really don't know how we get there. But anyway,  
11 that's something that we need to also take up.  
12 Okay?

13 MS. SCHELLIN: An advertisement.

14 MR. MILLER: I just want to point out  
15 something, Mr. Chairman. You know, just a quick  
16 story.

17 Last week someone called me about a  
18 zoning case from several years ago. You were  
19 here, I'm sure, when --

20 CHAIRPERSON HOOD: Were they mad with me?

21 MR. MILLER: Well, they just found out in  
22 their Ward 8 neighborhood that it had changed,  
23 when you did that comprehensive rezoning from all  
24 five neighborhoods and Ward 7 and 8, maybe  
25 elsewhere, to R5, because that's what the comp

1 plan called for.

2 CHAIRPERSON HOOD: Uh-huh.

3 MR. MILLER: And the community had asked  
4 for that in the comp plan.

5 But this person -- and this case was done  
6 at least five years ago. They just found out last  
7 week that they were in an R4 property rather than  
8 R-5-A, and it was going to affect how they wanted  
9 to do an addition.

10 I'm just saying it -- people don't  
11 necessarily know. The individual houses haven't  
12 been placarded in this case.

13 CHAIRPERSON HOOD: I agree. And we did a  
14 waive on that, and I think Ms. Steingasser -- that  
15 was when John Moore was here. And we redid that I  
16 think three or four times, dealing with that to  
17 try to make those corrections.

18 So I'm not discounting it. I'm just  
19 saying, what do we do as a commission to deal with  
20 that? I agree, that happens. It happens.

21 So I just throw that out there because I  
22 know that Office of Planning, Office of Zoning,  
23 we've been grappling with that trying to figure  
24 out what to do. That's why the ad was in the  
25 Washington Post. That didn't work. That's why we

1 -- I think I even asked Mike DeBonis when he was  
2 doing stuff, write a story. You know. I even  
3 went to him and asked him to do it.

4           But anyway, that's a whole other  
5 argument.

6           Any other questions for the night?

7           All right, I want to thank everyone for  
8 their participation. This meeting is adjourned.

9           (Hearing adjourned at 9:49 p.m.)

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