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GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission

Public Meeting
1414th Meeting Session (14th of 2015)

6:00 p.m. to 6:17 p.m.
Thursday, July 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 ROBERT MILLER, Commissioner

4 PETER MAY, Commissioner

5 MR. TURNBULL, Commissioner

6

7 Office of Zoning:

8 SHARON SCHELLIN, Secretary

9

10 Office of Planning:

11 KAREN THOMAS

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14 OTHER:

15 JACOB RITTING, OAG

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

2 CHAIRPERSON HOOD: Those who are here for
3 our evening hearing we're going to start that at
4 6:30. We have a special public meeting this
5 evening and we will start at 6:00.

6 Good evening, ladies and gentlemen. This
7 is a public meeting of the Zoning Commission of
8 the District of Columbia. My name is Anthony
9 Hood. Joining me are Commissioner May,
10 Commissioner Turnbull, and Commissioner Miller.
11 Also from the Office of Zoning staff, Ms. Sharon
12 Schellin, Office of Attorney General, Mr. Ritting,
13 and Office of Planning, Ms. Thomas.

14 We do not take any public testimony in
15 these special public meetings unless we ask
16 someone to come forward. We ask you not to
17 display any signs or objects at this time.

18 So let's get right into our special
19 public meeting. Proposed action in Zoning
20 Commission Case No. 14-19, M. Street Development
21 Group, LLC., et al., Consolidated PUD and Related
22 Map Amendment at Square 772. Ms. Schellin.

23 MS. SCHELLIN: Yes, sir. We have
24 Exhibits 35 through 35C, which are the applicant's
25 post-hearing submissions. Mr. Goodman, the SMD

1 for -- presented a letter at Exhibit 36 on behalf
2 of ANC 6-C, and then at Exhibit 37 we have a DDoE
3 supplemental report, we'd ask the Commission to
4 consider proposed action on this case this
5 evening.

6 CHAIRPERSON HOOD: Okay. Thank you, Ms.
7 Schellin. Somebody like to start us off with some
8 of the things we asked for and why we delayed
9 this?

10 MR. MAY: Sure, Mr. Chairman.

11 CHAIRPERSON HOOD: Okay. Thank you.

12 MR. MAY: Got to make sure I grab the
13 right pile of paper. Some of the issues that we
14 had, had to do with the rooftop, in terms of
15 setbacks. And I think those have been addressed
16 for the most part except for the places right at
17 the corners of the courtyard and I think that it
18 seems to me that they've done what they can to try
19 to reduce the setback issues. So I'm satisfied
20 with that.

21 I also know that they met further with
22 the Department of the Environment to address the
23 concerns that were raised in their letter, and it
24 seems like that was a pretty productive discussion
25 we had on the letter from DDoE, basically

1 indicating that they are now satisfied with the
2 further actions that have been taken by the
3 applicant, namely going to the LEED Gold
4 certification level. And then also trying to meet
5 one of two standards, including possibility of
6 generating a certain percentage of the power with
7 the solar panels on the rooftop, and then they
8 gave us a plan for where those solar panels would
9 be and I think that's acceptable. I am always
10 concerned about the growth of penthouses above
11 their height, but in the cases where they've put
12 solar panels on top of penthouses they're at the -
13 - the penthouses themselves are at 16 feet and the
14 panel, the solar panels are essentially flat or no
15 higher than two feet off and they are set two feet
16 back, so I think that that works from my
17 perspective.

18 And there was an issue with the
19 affordability and IZ units and maybe somebody else
20 wants to speak more to that, but they did make
21 some improvements. So, that's what I recall has
22 changed. Does anybody else want to have anything
23 else they would mention?

24 MR. TURNBULL: I guess the only thing new
25 that was added, or that I see are mural options.

1 I don't know if you saw those mural options. I
2 guess I like smaller rather than bigger. And I
3 guess I would be more interested in seeing a mural
4 that was of a community interest or something. I
5 don't think Abbey Road strikes me as something
6 that would be appropriate. I just, I don't -- the
7 Beatles --

8 MR. MAY: I agree with you. I mean, I'm
9 not really fond of the idea of doing large murals
10 high up in the air in the first place --

11 MR. TURNBULL: Right.

12 MR. MAY: -- because they're not as
13 visible to -- and you know, the extent to which
14 they are visible they look more like advertising.
15 And I certainly think that's much more true with
16 the Abbey Road mural proposal. I really don't
17 like that one at all.

18 MR. TURNBULL: Yeah.

19 MR. MAY: I think the other one, you
20 know, might work but I think that we certainly,
21 between now and --

22 MR. TURNBULL: Final.

23 MR. MAY: -- final action we could --

24 MR. TURNBULL: Yeah, and I --

25 MR. MAY: -- ask the applicant to look at

1 some other alternatives.

2 MR. TURNBULL: Alternatives for that.
3 Right. And I mean, that would basically --
4 actually the ANC in their letter specifically
5 mentions that it not mention any leasing
6 advertisements --

7 MR. MAY: Yeah.

8 MR. TURNBULL: -- on that, so I would
9 mention that.

10 MR. MAY: Yeah. I mean, I think that we
11 want to stay away from anything that could vaguely
12 seem like signage.

13 MR. TURNBULL: Right.

14 MR. MAY: But I think the -- it's an
15 interesting concept, incorporating some sort of
16 mural. I do think it needs to be subtle and --

17 MR. TURNBULL: Some more development too
18 because --

19 MR. MAY: -- appropriate. Yeah.

20 CHAIRPERSON HOOD: Okay. Commissioner
21 Miller?

22 MR. MILLER: Thank you, Mr. Chairman.
23 Yeah, I agree that the -- I appreciate all the
24 changes that the applicant made in response to the
25 Commission and think that they are all

1 improvements, including the deeper level of
2 inclusionary zoning. So the inclusionary zoning
3 units.

4 And on the mural, I actually do like the
5 Abbey Road mural. I think it's kind of an iconic
6 picture. It reminded me of the other iconic
7 murals that are around town like, I think there's
8 Marilyn Monroe I think in Cleveland -- I mean
9 Woodley Park. And I think there's a head of
10 George Washington along U Street somewhere. So I
11 didn't have a problem with that. I could hardly
12 see the industrial -- I mean, you make it so small
13 you can't even see it.

14 But I'm prepared to move forward, Mr.
15 Chairman.

16 CHAIRPERSON HOOD: Okay. I'm also
17 prepared to move forward. I appreciate -- and I'm
18 not sure if this was mentioned, the work that --
19 let's see. I was having a few technical
20 difficulties. The work with the District
21 Department of the Environment. I appreciate the
22 response that I think we asked him to kind of
23 clarify some of that language. Looked like they
24 did to me, with the applicant. And they made a
25 lot of headway.

1 And as far as changing the LEED and some
2 other things that we had asked for. So I'm ready
3 to move forward with this.

4 MR. MAY: Mr. Chairman.

5 CHAIRPERSON HOOD: Yes.

6 MR. MAY: I also -- they did actually
7 make some improvements to the proffered amenities,
8 the donations and such, clarified some of those
9 things and ANC is satisfied with that. I think it
10 is an improvement as well.

11 CHAIRPERSON HOOD: Okay. Anything else?
12 All right. So with that I would make a motion
13 that we approve -- for proposed action, approve
14 Zoning Commission Case No. 14-19, M Street
15 Development Group, LLC., et al., Consolidated PUD
16 and Related Map Amendment at Square 772 and ask
17 for a second.

18 MR. MILLER: Second.

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

21 MR. MAY: Mr. Chairman.

22 CHAIRPERSON HOOD: Mr. May.

23 MR. MAY: I would just mention, you know,
24 I think that a little more on the mural would be
25 helpful, whether it includes the Abbey Road or

1 not, which, you know, a couple of us don't really
2 like but I think maybe some other options might be
3 worth looking at as well. And a little bit, you
4 know, closer up view of what things look like so
5 we can appreciate a little more.

6 CHAIRPERSON HOOD: Okay. We'll do that.
7 We'll incorporate that and do that final.

8 MR. MAY: All right.

9 CHAIRPERSON HOOD: Okay. Any other, any
10 further discussion?

11 [Vote taken.]

12 CHAIRPERSON HOOD: Not hearing any
13 opposition of those present, Ms. Schellin, would
14 you please record the vote?

15 MS. SCHELLIN: Yes. Staff records the
16 vote four to zero to one to approve proposed
17 action in Zoning Commission Case No. 14-19,
18 Commissioner Hood moving, Commissioner Miller
19 seconding, Commissioners May and Turnbull in
20 support, Commissioner Cohen not present and not
21 voting. And we would just remind the applicant to
22 respond to 2403.15 through 20, the first filing
23 being due in seven days.

24 And also with regard to the items that
25 Commissioner May noted, if they would provide

1 those prior to final action which would be, if
2 they could provide those final action would not
3 occur until September 21st. If they could provide
4 those by September 8th? Are you looking for a
5 response? I don't think a response is necessary
6 from the parties, but do you want to --

7 CHAIRPERSON HOOD: I'm not looking.
8 Anybody looking for a response?

9 MS. SCHELLIN: Okay.

10 CHAIRPERSON HOOD: No.

11 MS. SCHELLIN: So if they can provide
12 those by September 1st that would be great.

13 CHAIRPERSON HOOD: Okay. Anything else
14 on this case?

15 MS. SCHELLIN: No, sir.

16 CHAIRPERSON HOOD: Okay. Let's go to
17 correspondence. Zoning Commission Case No. 14 --
18 I mean, sorry, 13-14. This is ANC 5-E's request
19 for reconsideration and waiver of 3029.5. Ms.
20 Schellin.

21 MS. SCHELLIN: Yes, sir. We have a
22 request from the ANC asking for a reconsideration.
23 They've also asked for a waiver from Section
24 3029.5 for the late filing past the 10 day period,
25 and we also have a response or an opposition to

1 the request for reconsideration that's been filed
2 by the applicant. Would ask the Commission to
3 consider this this evening.

4 CHAIRPERSON HOOD: Okay. Commissioners,
5 as you know the Commission, we have a waiver
6 request, and then if we move past the waiver
7 request then we have a motion for reconsideration.
8 Let's deal with the waiver request first.

9 As you know, the Commission must first
10 consider whether to grant the ANC's request to
11 waive its rules and as stated our rules say that
12 reconsideration has to be done within 10 days.
13 That obviously was not done and normally we
14 usually yield to our ANCs, but you know, I don't
15 think it's good cause shown here. I think there
16 has been a change in leadership. And the way I
17 view this, because when we did McMillan we spent
18 many nights. I think we hashed out a lot of the
19 issues. It may not be what everyone likes but I
20 see that when the -- well, when the chairman or
21 the leadership of this particular ANC changed it
22 looks like now they're asking for a request and it
23 looks like some of the items that were dealt with
24 previously have shown back up again. Or the
25 request that may not have gotten in under the old

1 administration seem to be trying to get in here.
2 So I'm not necessarily in favor of granting this
3 waiver because of the merits that's in front of
4 me. But let me open it up for any discussion.

5 MR. MILLER: Mr. Chairman, I would agree
6 with you. I think the, you know, the order became
7 final upon publication in the Register on April
8 24th, 2015, and the 10 day deadline to file a
9 reconsideration motion expired on May 4th, 2015.
10 And this request is dated July 22nd, 2015, over
11 two months, 79 days later. So I think while there
12 might be some good points that might have been
13 helpful if we'd had them when we had the public
14 hearings, or when we had comments on the proposed
15 action, on the propers at that time, I think it's
16 really too late at this point. And I believe this
17 matter has -- that an appeal has already been
18 filed with the D.C. Court of Appeals as well. So.

19 CHAIRPERSON HOOD: I think from my
20 standpoint I think we have some jurisdictional
21 issues at this point because of where this case
22 actually lies at this point. So anyone else? Mr.
23 Turnbull.

24 MR. TURNBULL: Yeah. And although we
25 give great -- although we listen to the ANC quite

1 a bit, you know, we give a little leeway for a lot
2 of different things. And the fact that it is two
3 months, it is an awful long time. And I don't
4 want to get into the issue of what they're
5 requesting. That's kind of a separate issue, but
6 I just think it's the timeliness of when we got
7 this. I mean, the merits, that would be a whole
8 other thing of what's in that, as you had said.
9 But I think just the merits of the fact that it is
10 so late I would not want to go along with this or
11 allow it.

12 CHAIRPERSON HOOD: Okay. Anybody else
13 have anything? Commissioner May?

14 MR. MAY: I agree. I don't really have
15 anything else to add to the discussion. But I
16 agree with the consensus.

17 CHAIRPERSON HOOD: Okay. I would make a
18 motion that we deny this request on timeliness,
19 and ask for a second.

20 MR. TURNBULL: Second.

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

23 [Vote taken.]

24 CHAIRPERSON HOOD: Not hearing an
25 opposition of those present, Ms. Schellin, would

1 you please record the vote?

2 MS. SCHELLIN: Yes, sir. Staff records
3 the vote four to zero to one to deny the waiver of
4 Section 3029.5 and the request for reconsideration
5 due to timeliness, Commissioner Hood moving,
6 Commissioner Turnbull seconding, Commissioners May
7 and Miller in support of denial.

8 CHAIRPERSON HOOD: Okay. Ms. Schellin,
9 do we have anything else?

10 MS. SCHELLIN: For the special public
11 meeting? No, sir.

12 CHAIRPERSON HOOD: Okay. It's 6:30. The
13 Commission will come back and we'll begin our case
14 for this evening. So with that this special
15 public meeting is adjourned.

16 [Hearing adjourned at 6:17 p.m.]

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