

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

+ + + + +

REGULAR MEETING

+ + + + +

MONDAY
NOVEMBER 9, 2009

+ + + + +

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

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairman
WILLIAM W. KEATING, III, Vice-Chairman
KONRAD SCHLATER, Commissioner
PETER MAY, Commissioner (NPS)
MICHAEL G. TURNBULL, FAIA, Commissioner
(AOC)

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN	Secretary
DONNA HANOUSEK	Zoning Specialist

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Board of Zoning Adjustment
District of Columbia
CASE NO. Transcript
EXHIBIT NO. null

OFFICE OF PLANNING STAFF PRESENT:

JOEL LAWSON
STEVE COCHRAN
PAUL GOLDSTEIN
ARLOVA JACKSON
MATT JESICK

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

JACOB RITTING, ESQ.

The transcript constitutes the
minutes from the Regular meeting held on
November 9, 2009.

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

1 6:51 p.m.

2 CHAIRMAN HOOD: This meeting will
3 please come to order.

4 Good evening, ladies and gentlemen.

5 This is the November 9, 2009 public meeting
6 of the Zoning Commission of the District of
7 Columbia.

8 My name is Anthony Hood. Joining
9 me are Vice Chairman Keating, Commissioner
10 May, Commissioner Schlater and Commissioner
11 Turnbull.

12 We're also joined by the Office of
13 Zoning staff, Ms. Sharon Schellin and Ms.
14 Donna Hanousek, the Office of Planning staff
15 under the leadership tonight of Mr. Lawson.

16 Copies of today's meeting agenda
17 are available to you and are located in the
18 bin near the door.

19 We do not take any public testimony
20 at our meetings unless the Commission requests
21 someone to come forward. Please be

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1 advised that this proceeding is being recorded
2 by a court reporter and is also webcast live.

3 Accordingly, we must ask you to refrain from
4 any disruptive noises or actions in the
5 hearing room. Please turn off all beepers and
6 cell phones.

7 Does the staff have any preliminary
8 matters?

9 MS. SCHELLIN: No, sir.

10 CHAIRMAN HOOD: Okay. I do have
11 one preliminary matter.

12 For the sake of efficiency, we
13 would like to do as noted on the agenda,
14 Consent Calendar first, Hearing Action second,
15 Final Action third, and Proposed Action
16 fourth. And we have some other things after
17 that which are not particularly germane. But
18 anyway, in that order -- Consent Calendar
19 first, Hearing Action second, Final Action
20 third, Proposed Action fourth.

21 With that, let me go to the first
22 item on the Consent Calendar, Zoning

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1 Commission Case No. 06-08B, Fort
2 Lincoln/Gateway Village, LLC, Modification to
3 PUD at Square 4325.

4 Ms. Schellin?

5 MS. SCHELLIN: Yes, sir. The
6 Applicant is requesting a couple of changes
7 that they are considering minor. And it's up
8 for the Commission's consideration.

9 CHAIRMAN HOOD: Okay.
10 Commissioners, on Zoning Commission Case No.
11 06-08B, as so noted already by Ms. Schellin,
12 the Applicant has a few bullet points of
13 different modifications they would like to see
14 us make. And I think if you turn behind Tab
15 -- I'm sorry.

16 Well, anyway, we have a request
17 from the Office of Zoning, so noted, which is
18 dated October 19. And it says, "All relief
19 granted by the Commission under this section
20 shall be consistent with the intent of the
21 Commission in approving its original order Map
22 Plan Rulemaking." And it goes on. The

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1 recommendation is, "Recommended the requested
2 modification be granted as consistent with the
3 intent of the Commission in approving its
4 original notice on 06-08 and 06-08A, and does
5 not substantially impair the intent."

6 But if you turn -- actually, it's
7 before Tab A, page -- I think it's page 2.
8 Those are the bullet items. It talks about
9 the PUD project. And as you see it -- I don't
10 want to necessarily read it to you -- but the
11 PUD project will now include 334 residential
12 units rather than the 357. It also talks
13 about the original PUD approval and the first
14 modification application including the
15 majority over two condominiums in the
16 northwest corner of the property, that the
17 area of the property would now be developed
18 with 16 x 20-foot wide townhouses.

19 Then it goes on to say that overall
20 site plant maintains the general configuration
21 that was approved in Zoning Commission Order
22 06-08A. But now it returns to the PUD design

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1 scheme of having consistent townhouse widths
2 in each string of townhomes. And then it goes
3 on and points us to Exhibit C and it tells us
4 that a building permit for Phase II within
5 three years of the date of approval of this
6 Minor Modification Request.

7 I've seen a lot of Minor
8 Modifications, and sometimes some of them have
9 confused me and some of them have not. I
10 would just like to open it up to my colleagues
11 and see if you all kind of have some
12 uncertainty as I do.

13 COMMISSIONER MAY: I would say this
14 one falls in the somewhat confusing category.

15 The information about what actually has
16 changed isn't totally clear.

17 I also think that there's enough
18 here that we might not actually consider it
19 minor.

20 CHAIRMAN HOOD: Okay. Anyone else?

21 (No audible response.)

22 CHAIRMAN HOOD: Okay. I think all

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1 it takes is one really.

2 I think what we'll do now, we'll
3 move this to Hearing Action. And I guess, can
4 we take this up at that point -- a Hearing
5 Action -- or do we have to wait and do it at
6 hearing?

7 MS. SCHELLIN: I think we should
8 wait. We have another item in the Consent
9 Calendar. So we could take that item up
10 first.

11 CHAIRMAN HOOD: Okay. That's going
12 to be moved to Hearing Action.

13 Ms. Schellin, if you could so note
14 and put it second under our Hearing Action.

15 Okay. Next, Zoning Commission Case
16 No. 08-27. We have in our packets Exhibit 35.

17 Ms. Schellin?

18 MS. SCHELLIN: Yes, sir. This is
19 just a technical change to Order No. 08-27.
20 We're to ask the Commission to consider making
21 this technical correction.

22 CHAIRMAN HOOD: And basically, we

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1 don't need to spend a lot of time. If you
2 look at the bottom of Exhibit 35, basically
3 the correction is instead of using the word
4 "immediately," it will change with the words
5 "one block" in the second bullet point of
6 paragraph eight of the order.

7 Any discussion? I would move that
8 we approve the Minor Modification as noted on
9 Exhibit 35 with the changing of the word
10 "immediately" to "one block," and ask for a
11 second.

12 COMMISSIONER TURNBULL: Second.

13 CHAIRMAN HOOD: Moved and properly
14 seconded.

15 Any further discussion?

16 (No audible response.)

17 CHAIRMAN HOOD: All those in favor?

18 (A CHORUS OF AYES.)

19 CHAIRMAN HOOD: Hearing no
20 opposition, Ms. Schellin, would you record the
21 vote?

22 MS. SCHELLIN: Yes. Staff records

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1 the vote five to zero to zero to approve the
2 technical correction to Zoning Commission Case
3 No. 08-27. Commissioner Hood moving;
4 Commissioner Turnbull seconding; Commissioners
5 Keating, May and Schlater in support.

6 CHAIRMAN HOOD: Okay. Next on the
7 agenda, Hearing Action.

8 Let's go to Zoning Commission Case
9 No. 09-15, G.K.D., 1412 Chapin Street, LLC,
10 and Dantes Partners, LLC, Consolidated PUD
11 Related Map Amendment at Square 2661.

12 Mr. Goldstein?

13 MR. GOLDSTEIN: Good evening, Mr.
14 Chairman and Members of the Commission.

15 The Applicant in this case has
16 filed a Consolidated Plan Unit Development and
17 Related Map Amendment to C2B. Plans call for
18 an entirely residential building that would
19 contain 44 affordable units.

20 The site is located at 1412 Chapin
21 Street, Northwest, on the south side of Chapin
22 between 14th and 15th Streets. It is

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1 currently unimproved, and the lot abuts a 20-
2 foot wide alley to the east and the south.
3 It's located about six blocks from the U
4 Street and the Columbia Heights Metro
5 Stations. And the site is currently zoned
6 R5B, and it borders a C2B zone to the east.

7 The proposed map amendment to C2B
8 would accommodate a residential building that
9 would be about 57 feet tall and have an
10 overall floor area ratio of 5.36 or a bit more
11 than 48,000 square feet.

12 The project would need relief from
13 lot area, lot occupancy, rear yard and roof
14 structure requirements.

15 The primary amenity item for this
16 project is the affordable housing. In
17 addition to fulfilling any IZ requirements,
18 the building would be entirely affordable to
19 households earning less than 60 percent of the
20 AMI, would remain affordable for a duration of
21 30 years.

22 Concerning the Comprehensive Plan,

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1 the Future Land Use Map designates the site as
2 residential medium density. As detailed in
3 the OP report, the Applicant's proposal is not
4 inconsistent with this designation or the Comp
5 Plans' land use guidance.

6 And finally, OP along with the
7 Department of Transportation and the Fire
8 Department will continue to work with the
9 Applicant regarding issues related to the
10 building's projections above the alley.

11 The Office of Planning recommends
12 that the Commission set down the application
13 for a public hearing. And I'd be happy to
14 take any questions at this time.

15 CHAIRMAN HOOD: Okay. Thank you
16 very much, Mr. Goldstein. Who would like to
17 start off? Mr. Turnbull?

18 COMMISSIONER TURNBULL: Thank you,
19 Mr. Chair.

20 Mr. Goldstein, I don't have a lot
21 of major issues with this. The only thing
22 that troubles me from time to time when I look

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1 is when you start amending the maps to make
2 jogs into neighborhoods.

3 I can remember several years back
4 we looked at Georgia Avenue and we corrected a
5 lot of areas where commercial infringed onto
6 residential neighborhoods. And here I see a
7 fairly straight line along 14th Street for
8 C2B. And now we kind of jumped into Chapin
9 Street here. I'm just concerned that I'm
10 going to see this happening more and more as
11 we go along.

12 And on Exhibit 2 on page 3, when I
13 look at that I'm not as concerned because of
14 the nature of the buildings that are there.
15 But just from a straight mapping, looking at
16 it as an R5B changing neighborhoods like that,
17 I'm just concerned that we're going to get
18 more of these and start juggling the maps a
19 bit.

20 Although as I say, when you
21 actually see the neighborhood -- the aerial
22 view -- I'm not as much against what I see.

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1 But I just worry about these blibits that show
2 up. And is this going to be a continuing
3 review by the Office of Planning?

4 MR. GOLDSTEIN: With this specific
5 property, it would be continuing residential
6 which was at the site, and also replace I
7 think what once was a rather dense residential
8 development that was actually at that site --

9 COMMISSIONER TURNBULL: Right.

10 MR. GOLDSTEIN: -- in the past. So
11 it would actually not be really out of
12 character with historically where that
13 property has been.

14 And also, of course, this zoning
15 map amendment is tied to this particular
16 project. So certainly if anything else is
17 built in the future, it would revert to the
18 previous zoning.

19 COMMISSIONER TURNBULL: Yes. And I
20 look at that whole square. It's a fairly
21 dense square. I mean, it's bordering on C2B I
22 guess from a development standpoint. And I'm

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1 just wondering had you looked further down the
2 road at blocks or squares like this?

3 MR. GOLDSTEIN: I haven't taken a
4 real comprehensive look at this time.

5 COMMISSIONER TURNBULL: Okay.
6 Thank you.

7 CHAIRMAN HOOD: Anyone else?
8 Commissioner May?

9 COMMISSIONER MAY: Yes. I don't
10 have so much questions as I have a few
11 comments. And obviously when we have the
12 hearing, we'll be looking at more detailed
13 drawings and further development of the
14 design. And I'm hoping that the Office of
15 Planning will work vigorously with them on
16 that because what we have to see right now is
17 kind of impressionistic. And we of course
18 want to see this in great detail.

19 I'm glad you mentioned the parts of
20 the building that overhang the alley there
21 because that was something of a concern. But
22 I'm sure you'll get that worked out.

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1 In terms of the areas that need
2 work architecturally, I'm especially concerned
3 about the courtyard because I think that the
4 detailing on that is kind of weak.

5 I'm also very concerned about the
6 very large blank walls on the west side of the
7 development. And I understand why they're
8 blank walls. I mean, they're on the property
9 line. But something needs to be done there to
10 address that because granted you may not want
11 to have lots of banks of windows that would
12 have to go away if the next-door property were
13 eventually developed. But it doesn't mean you
14 couldn't do any windows there with an
15 understanding that they might have to go away.

16 I mean, they're just very large, very blank
17 walls. And it's going to be kind of
18 unsightly.

19 And I think that's just about it
20 for me.

21 CHAIRMAN HOOD: Anybody else? Any
22 comments?

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1 Commissioner Schlater?

2 COMMISSIONER SCHLATER: Mr.
3 Goldstein, I just want to talk to you about
4 the massing of the building. I don't
5 particularly have any problem with the height.

6 It's coming in under the maximum of what's
7 allowed under the PUD guidelines.

8 The lot occupancy is higher than
9 the previous building, is that correct?

10 MR. GOLDSTEIN: I believe it's
11 higher on the ground floor but not above the
12 ground floor.

13 COMMISSIONER SCHLATER: Okay. It's
14 at 100 percent plus some of these overhangs?

15 I guess the only concern I would
16 have about 100 percent lot occupancy is
17 adjacent buildings. So what's going on in
18 that lot immediately to the south of the PUD
19 site? I guess it's lot 824.

20 MR. GOLDSTEIN: Yes. I don't know.
21 It's vacant at the moment. I don't know what
22 the plans for that site are.

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1 COMMISSIONER SCHLATER: Is it
2 conceivable we could see another PUD coming
3 before us that would be 100 percent lot
4 occupancy with an overhang over the alley?

5 I guess my point is that my concern
6 is that you're going to have a lot of units
7 that are very close to one another and how
8 that gets treated.

9 And I also do want to just
10 reiterate a concern about those blank party
11 walls because you've got units in the adjacent
12 building looking right out onto that. It
13 doesn't seem right to give them a big blank
14 wall staring at them. They should put some
15 time and effort into making that more
16 attractive.

17 And in general on the design, I
18 would just say that we've seen a few smaller
19 affordable residential projects come before us
20 as PUDs recently. I'm thinking Dance Place.
21 We had one on Rhode Island Avenue as well.
22 And I feel like the designs on those -- and

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1 I'm no design expert -- did a better job of
2 using quality materials. And I thought the
3 design on those buildings were just a little
4 more innovative.

5 And looking at the material
6 selections here, we've got brick veneer, stone
7 veneer, CMU, fiber siding. This Applicant's
8 going to if the PUD is approved get a
9 significant amount of bonus density on this
10 property. And I think if it's to meet its
11 exceptional merit test, there needs to be
12 something more than just affordable housing
13 that's exceptional about this. And I think
14 that needs to be design. And I would just
15 encourage you to work with the Applicant to
16 improve it.

17 MR. GOLDSTEIN: Okay.

18 COMMISSIONER SCHLATER: The other
19 question I had was about loading. This is a
20 40-plus unit building. No loading docks that
21 I could see, is that right?

22 MR. GOLDSTEIN: There's a space for

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1 loading.

2 MR. LAWSON: There's a space.

3 COMMISSIONER SCHLATER: Subgrade
4 -- grade?

5 MR. LAWSON: It's in the garage.

6 MR. GOLDSTEIN: Yes. It's in the
7 garage which is sort of partly below.

8 MR. LAWSON: It's basically a
9 parking space.

10 MR. GOLDSTEIN: Yes.

11 COMMISSIONER SCHLATER: So could
12 you put a truck in there I guess is the
13 question. Could you fit a moving truck in
14 there?

15 And I guess I would want some
16 feedback from the Department of Transportation
17 that that's going to work. Or are we going to
18 have move-in and move-out on the street at
19 this location, which if that's what it is,
20 just let us know the answer to that.

21 The other thing I'd want to know a
22 little bit about -- and I don't know how to

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1 treat this exactly -- but I think the biggest
2 and most valuable amenity being offered by
3 this building is the affordable housing. And
4 I think it's great that we've got an
5 affordable housing building planned right on
6 14th Street which is gentrifying quickly and
7 needs affordable housing options.

8 But what I don't know how to weigh
9 is if the District government is subsidizing
10 all of that affordable housing, how are we
11 supposed to think about in terms of it being
12 offered as an amenity? I'd be curious to hear
13 what OP thinks about that.

14 And I think --

15 MR. GOLDSTEIN: I think we've
16 typically seen all affordable projects in the
17 past as being an amenity item. I don't know
18 --

19 COMMISSIONER SCHLATER: Here's my
20 point.

21 If you're offering as an amenity to
22 put a new street through your project, and

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1 then DDOT pays for your entire street, are you
2 really offering up something of value? That
3 may not be the perfect analogy. But if you're
4 getting bonus density, and then the amenity is
5 being paid for by somebody else, is it really
6 an amenity? And I'm just struggling with
7 that.

8 I'm a newcomer on the Commission.
9 So I'm just trying to figure out how to weigh
10 that in my head.

11 MR. LAWSON: That's fine,
12 Commissioner Schlater. We'll certainly get
13 more information and get that to you prior to
14 the public hearing without getting into too
15 much of a discussion of this.

16 The street analogy is actually I
17 think a fairly good one in that if the
18 District wants the street and there's no other
19 way for us to get that street, then there is
20 actually an amenity attached to it no matter
21 who's paying for it. But it certainly gets to
22 the level of the benefit and the level of the

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1 amenity.

2 And as I said, we can get more
3 information from the Applicant and have them
4 present that to you at the hearing.

5 CHAIRMAN HOOD: Commissioner May?

6 COMMISSIONER MAY: Yes. I just
7 want to echo Commissioner Schlater's concern
8 specifically about the materials that are
9 being used, and in particular the 8-inch by
10 16-inch stone veneer which -- I mean, is that
11 actually going to be a stone that's cut to the
12 module of a CMU? In which case, it seems like
13 a waste of stone because it's just going to
14 look like CMU.

15 And I just think that module -- I
16 mean, I guess I have seen it done and the
17 material looks very fine in certain
18 circumstances, and certainly limited
19 circumstances. But there are some very large
20 expanses of what's just going to look like a
21 block wall. And particularly, that western
22 facade, which is a big blank block wall.

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1 That's what it's going to look at. So,
2 thanks.

3 CHAIRMAN HOOD: Okay. Commissioner
4 Turnbull?

5 COMMISSIONER TURNBULL: Mr. Chair,
6 I'd just like to go back to Commissioner
7 Schlater's comments on the loading.

8 It's not a loading dock or a berth.

9 It's basically an expanded parking space.
10 And I don't see how a truck can get in there
11 and make the turn and unload. I think it
12 would simply be parked in the drive of the
13 garage of itself to unload which is not the
14 most well laid out loading dock or garage. I
15 think some more thought has to be made because
16 I can see a truck being down there and
17 nobody's going to get out of that garage.

18 And it is tight. The alley's
19 tight. I mean, even if you've got a 30-foot
20 truck backing in, that's going to be
21 difficult. I think if they're going to go
22 with that, they've got to convince us how it's

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1 going to work. Because right now, I don't
2 think it does work.

3 And I would echo the comments of
4 Commissioner May and Commissioner Schlater on
5 the brick wall that's adjacent to the
6 apartment building. I think it's minimalist
7 architecture at best. And I think they really
8 need to do something to enhance that facade.

9 MR. GOLDSTEIN: Yes. The Applicant
10 and I have begun sort of discussions about
11 that, and we'll continue to work on that going
12 forward.

13 COMMISSIONER TURNBULL: Okay.
14 Good. Thank you.

15 VICE CHAIRMAN KEATING: I just want
16 to make one comment.

17 As I went through the renderings
18 and drawings, there's a lot of inconsistency
19 in terms of the perspective of what's going on
20 at that site currently. And I just want to
21 make sure that when this comes back to us that
22 everything is consistent around what's

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1 actually happening in that neighborhood
2 because that building on Lot 219 -- which I
3 believe is seven stories tall, which is across
4 the 20-foot alley from the east side of this
5 building -- I really want to understand how
6 that's going to look because if I understand
7 these drawings correctly, that side of the
8 building is all windows facing up against what
9 I believe is a blank wall on Lot 219 in the
10 back of that alley. So I really want to see
11 some good detailed drawings when this comes
12 back so we can have a good understanding of
13 what we're dealing with.

14 If I look at the perspective here
15 on A4.2, I would get the feeling that we have
16 a building with a lot of light, open space.
17 But I think what the reality is that there's a
18 seven-story structure towering above this that
19 makes this look very different than it
20 actually is.

21 CHAIRMAN HOOD: Okay. And I would
22 just add that I want to see -- going back to

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1 what Mr. Turnbull said -- I want to see the
2 circulation. I want to see how that's going
3 to work with the loading in the garage. I
4 know we have a servulation plan. But I would
5 like to see how all this is going to work so
6 that when the Applicant comes for the hearing,
7 I want to see how all that's going to work
8 together.

9 Any other questions?

10 (No audible response.)

11 CHAIRMAN HOOD: Okay. I would move
12 that we set down Zoning Commission Case No.
13 09-15, Chapin Street, LLC, and ask for a
14 second.

15 COMMISSIONER SCHLATER: Second.

16 CHAIRMAN HOOD: Moved and properly
17 seconded.

18 Any further discussion?

19 (No audible response.)

20 CHAIRMAN HOOD: All those in favor?

21 (A CHORUS OF AYES.)

22 CHAIRMAN HOOD: Not hearing any

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1 opposition, Ms. Schellin, would you record the
2 vote?

3 MS. SCHELLIN: Yes. Staff records
4 the vote five to zero to zero to set down
5 Zoning Commission Case No. 09-15 as a
6 contested case. Commissioner Hood moving;
7 Commissioner Schlater seconding;
8 Commissioners Keating, May and Turnbull in
9 support.

10 CHAIRMAN HOOD: Okay. Next
11 Commissioners, on Hearing Action, we have
12 Zoning Commission Case No. 06-08B, Fort
13 Lincoln/Gateway Village, LLC, which was
14 presented to us at Consent Calendar. We have
15 asked that this be moved to a Hearing Action
16 item.

17 And I'm not sure, Mr. Lawson, is
18 there anyone that wants to -- Mr. Jesick?

19 MR. JESICK: I can try and answer.

20 Good evening, Mr. Chair and Members
21 of the Commission. My name is Matt Jesick. I
22 can try and answer any questions you might

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1 have.

2 The Office of Planning did feel
3 that this would qualify as a minor amendment.

4 It largely reversed a previous minor
5 amendment that the Commission accepted. It
6 returned the unit sizes -- or this application
7 would return the unit sizes to sizes that are
8 very similar to what was approved with the
9 original PUD. And with the change in the
10 number of two over two units, we felt that
11 there was an increase in what we might call
12 family-size townhouses in this part of the
13 neighborhood which could be valuable for Fort
14 Lincoln.

15 And the amenities remain the same.

16 So we did feel that the project could be
17 considered a minor amendment. But if the
18 Commission chooses to set this down for a
19 hearing, we'd be happy to put together a
20 report for you.

21 CHAIRMAN HOOD: I think, Mr.
22 Jesick, if the Commission would like, we're

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1 going to set this down for a hearing. And we
2 specifically just want to hit the highlights.

3 I read that it reversed back to
4 what we had reversed to begin with. I think
5 sometime when we get that, we want to make
6 sure what we're doing. It may be a 10-minute
7 hearing or a 15-minute hearing, but I think
8 the Commission wants to have that hearing.

9 And also, I would just ask -- I'm
10 not sure. Maybe Mr. Ritting would be able to
11 help me.

12 I noticed that the single-member
13 District Commissioner referred back to the
14 original concurrence of ANC 5A. But I think I
15 want to make sure they give great weight. I'm
16 not sure if we need to re-ask them for another
17 updated letter or can the one that we reversed
18 that we reversed back would serve as the --
19 could we still use that to serve as the
20 approval and give ANC the great weight?

21 MR. RITTING: I think that you
22 could use it as their letter and give it great

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1 weight. However, when the hearing is
2 advertised, they will be notified of the
3 hearing and will have an opportunity to
4 present another letter if they choose to do
5 so.

6 CHAIRMAN HOOD: Okay. And if they
7 don't, we can still refer back to the --

8 MR. RITTING: I think so, yes.

9 CHAIRMAN HOOD: Okay. Good.

10 Okay. Let's open up any questions
11 for Mr. Jesick. And I think this hearing will
12 be just sculpted for those changes. We don't
13 need to get into anything else.

14 Let me open it up. Any other
15 questions?

16 (No audible response.)

17 CHAIRMAN HOOD: Okay. I will move
18 that we set down Zoning Commission Case No.
19 06-08B, Fort Lincoln/Gateway Village, LLC,
20 Modification to PUD at Square 4325, and ask
21 for a second.

22 COMMISSIONER MAY: Second.

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1 CHAIRMAN HOOD: Moved and properly
2 seconded.

3 Any further discussion?

4 (No audible response.)

5 CHAIRMAN HOOD: All those in favor?

6 (A CHORUS OF AYES.)

7 CHAIRMAN HOOD: Ms. Schellin, no
8 hearing any opposition, could you record the
9 vote?

10 MS. SCHELLIN: Yes. Staff records
11 the vote five to zero to zero to set down
12 Zoning Commission Case No. 06-08B as a
13 contested case. Commissioner Hood moving;
14 Commissioner May seconding; Commissioners
15 Keating, Schlater and Turnbull in support.

16 COMMISSIONER MAY: Mr. Chairman?
17 Yes, I just have one thought about how to make
18 the hearing go quickly and smoothly which is
19 that what was not clear and what we received
20 is how this PUD was originally approved, how
21 it was modified, and how it was requested we
22 modify it again, and the extent to which they

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1 can actually make that very, very clear
2 including drawings that show this is where it
3 was, this is where it went to, this is where
4 it's back to. I think that would make
5 everything a lot smoother.

6 CHAIRMAN HOOD: And I'm actually
7 wondering -- I'm actually scared to say this.

8 I'm wondering if we could maybe move that
9 hearing to 6:00 o'clock and tie it in with
10 another hearing that we have. And I know that
11 gets us in trouble every time. But I will
12 leave that to the discretion of staff.

13 But it gets us in trouble every
14 time. But let's try it if we can.

15 Commissioner Schlater, do you have
16 something?

17 COMMISSIONER SCHLATER: Mr. Jesick,
18 I think piggybacking on Commissioner May's
19 points, things to hit on, one thing that
20 jumped out for me in this minor modification
21 was the request to extend out our approval to
22 five years from this extension. And no? It

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1 creates a precedent. We're getting a lot of
2 extension requests understandably so given the
3 economy these days. But why are we granting
4 this particular project five years through
5 phasing instead of two which is what we
6 normally give projects? Thank you.

7 CHAIRMAN HOOD: Okay. Let's move
8 right along with our agenda. Let's go to
9 Final Action.

10 Zoning Commission Case No. 09-09,
11 Forest City, SEFC, LLC, which is Southeast
12 Federal Center, Text Amendment to Trapeze
13 School. Commissioner Turnbull, Commissioner
14 Schlater and myself will be participating in
15 this case.

16 Ms. Schellin?

17 MS. SCHELLIN: Yes, sir. This case
18 is before the Commission for Final Action. We
19 did receive an NCPC report at Exhibit 19.

20 CHAIRMAN HOOD: Okay. Thank you.
21 And we have an NCPC report as Ms. Schellin has
22 so noted. And there's no adverse effect on

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1 any identified federal interests, no adverse
2 impacts as reported. And that's in the NCPC
3 report.

4 Colleagues, we have a final draft
5 in front of us. I think a lot of this as
6 usual is fleshed out.

7 Any comments?

8 Also there's an NCPC report dated
9 October 30 included.

10 COMMISSIONER TURNBULL: Mr. Chair,
11 I would move that we approve the Zoning Case
12 09-09, proposed Text Amendment to allow the
13 Trapeze School Facility within the SEFC/R5E
14 district, and look for a second.

15 COMMISSIONER SCHLATER: I'll second
16 that.

17 CHAIRMAN HOOD: Okay. It's moved
18 and properly seconded.

19 Any further discussion?

20 (No audible response.)

21 CHAIRMAN HOOD: All those in favor?

22 (A CHORUS OF AYES.)

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1 CHAIRMAN HOOD: Any opposition?

2 (No audible response.)

3 CHAIRMAN HOOD: So ordered. Staff,
4 would you record the vote?

5 MS. SCHELLIN: Staff records the
6 vote three to zero to two to approve final
7 action in Zoning Commission Case No. 09-09.
8 Commissioner Turnbull moving; Commissioner
9 Schlater seconding; Commissioner Hood in
10 support; Commissioners Keating and May not
11 voting having not participated.

12 CHAIRMAN HOOD: Okay. Next, we
13 will go to Zoning Commission Case No. 04-14,
14 Florida Rock Properties, Inc., Two-Year PUD
15 Time Extension at Square 708.

16 Mr. Lawson would like to say a few
17 words. Mr. Lawson?

18 MR. LAWSON: Just to make sure that
19 it's really clear, the Office of Planning
20 supports this extension request. Our report
21 inadvertently omitted a key word somehow. And
22 I'm not quite sure how that happened, although

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1 I can blame nobody but myself since I wrote
2 it.

3 The Applicant's application is very
4 clear that it's their intention to develop
5 this property. The property is not on the
6 market for sale. Somehow our report
7 accidentally left the word "not" out which is
8 a small word but kind of a key piece of the
9 discussion.

10 So just to clarify and make sure
11 that the Commission truly understands that the
12 property is not on the market. The Applicant
13 is working hard to make sure this project
14 moves forward in as timely manner as possible.

15 And we support the extension request.

16 Thanks.

17 CHAIRMAN HOOD: Thank you, Mr.
18 Lawson. I think you so noted that in your
19 report at the bottom of page 2. And when you
20 start addressing the issues, I think it's A, B
21 and C, bottom of page 2, beginning of page 3.

22 Colleagues, I would just say that

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1 Florida Rock has been around awhile. The
2 Commission has done a major overhaul along
3 with the Applicant. I think I want to say it
4 was about a year or so or maybe two years.
5 But this has been around awhile. It's been a
6 good effort.

7 And as outlined in the Office of
8 Planning's report, an inability to obtain
9 sufficient project financing, and it goes on,
10 "the inability to secure all required
11 government agency approvals," and it goes on
12 and talks about the existence of pending
13 litigation.

14 So I will tell you that I don't
15 know if anyone else is here, maybe
16 Commissioner May. But we did do a major
17 overhaul.

18 Anyway, let me open it up for
19 comments. Any comments, Commissioner
20 Schlater?

21 COMMISSIONER SCHLATER: I have a
22 question for OAG.

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1 Right now the date of order
2 expiration is June 27, 2010. Are we are
3 voting to extend it to June 27, 2012?

4 MR. RITTING: That's my
5 understanding of the request. Yes.

6 COMMISSIONER SCHLATER: I guess I
7 have a question for OP.

8 Why is the request in eight months
9 in advance of the expiration so we're
10 basically a year out from when the PUD was
11 approved and they're already asking for the
12 extension?

13 MR. LAWSON: I didn't discuss that
14 specific issue with them. But I'm sure that
15 it's so that they can plan accordingly.

16 It is a big project. It's a big
17 site. There are a lot of moving parts, a lot
18 of pieces to this puzzle. And I'm sure that
19 they're just finding that they all need this
20 extra time to put all those pieces together
21 and make sure it moves forward properly one,
22 to get before the Commission now so they've

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1 got some level of certainty regarding the
2 timing that they've got before them to get all
3 that worked out.

4 COMMISSIONER SCHLATER: Second
5 question. Mr. Lawson, I know that down
6 adjacent to this site, there's a park being
7 constructed right now -- Diamond Teague Park?

8 MR. LAWSON: That's right.

9 COMMISSIONER SCHLATER: Is a
10 portion of that park actually on the Florida
11 Rock property?

12 MR. LAWSON: No. Although there is
13 a portion of the Florida Rock property right
14 adjacent to Diamond Teague which would also be
15 public open space. So it would complement the
16 park. And there's lots of other open space
17 being offered up on the Florida Rock site. So
18 those spaces would complement each other.

19 But Diamond Teague Park is off of
20 the Florida Avenue site. So that park is, if
21 not completed, it's fairly complete now. And
22 like I said, when this moves forward it'll

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1 complement those efforts.

2 Thank you.

3 CHAIRMAN HOOD: Any other? Mr.
4 Turnbull?

5 COMMISSIONER TURNBULL: Mr. Chair,
6 I just wanted to echo even some of the
7 comments that you had mentioned earlier that
8 this has been a project that's been taking a
9 long time. And I think the Applicant and the
10 Applicant's architect, Davis Buckley &
11 Associates, really went through a lot of
12 hoops. And we made them go through a lot of
13 hoops for us.

14 So it's a very worthy project. I
15 think it's one that we really took a long time
16 on. And I would see granting the extension.

17 CHAIRMAN HOOD: I would agree
18 definitely with what you said. A lot of time
19 that we spent on this.

20 Commissioner May?

21 (No audible response.)

22 CHAIRMAN HOOD: Any other comments?

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1 (No audible response.)

2 CHAIRMAN HOOD: Okay. I would move
3 approval of a two-year time extension from the
4 date of June 10, 2010. I think two years is
5 what they're asking for. And ask for a
6 second.

7 VICE CHAIRMAN KEATING: Second.

8 CHAIRMAN HOOD: Okay. It's been
9 moved and properly seconded.

10 Further discussion?

11 (No audible response.)

12 CHAIRMAN HOOD: All those in favor?

13 (A CHORUS OF AYES.)

14 CHAIRMAN HOOD: Not hearing any
15 opposition, Ms. Schellin, would you record the
16 vote?

17 MS. SCHELLIN: I didn't catch your
18 second. I'm sorry. I was checking the date.
19 I believe that's June 27th.

20 CHAIRMAN HOOD: What did I say?

21 MS. SCHELLIN: June 10th. So do
22 you want to correct that to June 27th?

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1 CHAIRMAN HOOD: Yes. Let me amend
2 that to June 27, 2010, two years from that
3 date.

4 MS. SCHELLIN: 2012?

5 CHAIRMAN HOOD: Right. 2012.
6 Where did I get June 10th from?

7 MS. SCHELLIN: I don't know.
8 Because tomorrow's the 10th maybe.

9 And I didn't catch who seconded.
10 I'm sorry.

11 CHAIRMAN HOOD: Vice Chairman
12 Keating.

13 MS. SCHELLIN: Okay. All right.

14 Staff would record the vote five to
15 zero to zero to approve the two-year extension
16 in Zoning Commission Case 04-14A.
17 Commissioner Hood moving; Commissioner Keating
18 seconding; Commissioners May, Schlater and
19 Turnbull in support.

20 CHAIRMAN HOOD: Okay. Thank you,
21 everyone.

22 I think next on our agenda is

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1 Proposed Action, Zoning Commission Case No.
2 08-24. This is Abdo Development and Catholic
3 University, Consolidated PUD and Related Map
4 Amendment at Squares 3654, 3657 and 3831.

5 Ms. Schellin?

6 MS. SCHELLIN: Yes, sir. We had a
7 couple filings that came in after the record
8 closed.

9 The first one actually was Exhibit
10 56. It was dated the same date of the
11 hearing. However, it wasn't stamped in until
12 the day after. So there's some question about
13 whether that actually came in before the
14 record closed or not.

15 However, the other Exhibits --
16 Exhibits 60 through 63 -- definitely came in
17 after the record closed. So Staff would just
18 like to know how the Commission would like
19 Staff to proceed with those exhibits.

20 CHAIRMAN HOOD: Ms. Schellin, is
21 this anything other than --

22 MS. SCHELLIN: They were not

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1 requested documents.

2 CHAIRMAN HOOD: These are not
3 requested? Unless my colleagues object,
4 everything from 60 and above, or 60 to --

5 MS. SCHELLIN: Sixty-three.

6 CHAIRMAN HOOD: -- 60 to 63, I
7 would ask that you return to the senders,
8 unless there's any opposition. Can we do that
9 by general consensus, colleagues? Because we
10 did not ask for it. And typically when we
11 close our record, especially in a contested
12 case, we have a narrow scope of what we've
13 asked for. And that's been submitted. And
14 I'm hearing from Ms. Schellin the rest of
15 those exhibits were things that we did not ask
16 for.

17 MS. SCHELLIN: Correct.

18 CHAIRMAN HOOD: Okay. Unless I
19 hear otherwise from my colleagues, we will
20 return those to the senders with an
21 explanation that the record was closed.

22 Exhibit 56, Ms. Schellin --

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1 MS. SCHELLIN: The sender's fax had
2 the same date of the hearing. However, our
3 Staff did not stamp it in until the day after.

4 So there's some question about whether it was
5 actually received before the record closed or
6 not. So that one, it's up to the Commission.

7 COMMISSIONER MAY: Mr. Chairman, I
8 would tend to just give them the benefit of
9 the doubt. It was clearly intended for the
10 day of the hearing. It wasn't a post-hearing
11 type of filing. It was just a comment from a
12 community member who made an earnest attempt
13 to get it in for the hearing. It didn't quite
14 make it to the dais. But I think we should
15 accept it into the record.

16 CHAIRMAN HOOD: Okay. I can't add
17 anything more to that.

18 Any disagreement with Commissioner
19 May?

20 (No audible response.)

21 CHAIRMAN HOOD: Okay. By general
22 consensus, we will add --

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1 MS. SCHELLIN: Accept that one?

2 CHAIRMAN HOOD: -- it into the
3 record.

4 MS. SCHELLIN: Okay. Thank you.

5 CHAIRMAN HOOD: Okay. Anything
6 else, Ms. Schellin?

7 MS. SCHELLIN: No, sir.

8 CHAIRMAN HOOD: Okay. Again
9 Commissioners, there are a number of things
10 that we did ask for that came in, and
11 particularly dated October 26. I'm not sure
12 who asked for what, but there's some issues
13 about what goes on in Block E, what's
14 happening in Block A2, Block C. And as I look
15 back over my notes, there were some things
16 that we particularly asked for.

17 The Commission asked the Applicant
18 for the following diagrams: more information
19 on the rooftop structures, to put numbers to
20 all the amenities, to provide Block A2
21 elevations of the rear townhouses and
22 perspectives looking into the courtyard. Then

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1 the Commission asked the Applicant to address
2 the size of the buildings in Block E and how
3 it impacts the adjacent single-family houses.

4 A few Commissioners expressly said
5 they thought the building was too tall.
6 Another Commissioner said he wanted to know
7 the dimensions from the townhouses.

8 So I think pretty much this is an
9 earnest attempt to comment on some of the
10 issues. And I think the way they laid it out,
11 and broke it out exactly how we pretty much
12 asked it.

13 So what I would do at this time is
14 open it up, and if you see it's something that
15 you mentioned and if it satisfies you, please
16 don't hesitate to let all of us know.

17 So let's open it up.

18 Okay. Well, I'll start it off.

19 Let's just take it by how we have
20 it here in front of us.

21 Exhibit A, in response to the issue
22 raised by the Commission at the public hearing

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1 -- this is from the Applicant. The Applicant
2 has reduced the height, mass and the scale of
3 the south end of the building on Block E,
4 along Lawrence Street. I'm not sure if all of
5 us raised that concern or -- did all of us
6 raise it?

7 Okay. Well, I'm going to keep
8 moving unless --

9 COMMISSIONER SCHLATER: I think
10 that the Applicant very clearly responded to
11 the concerns that were raised. And I think
12 the scale of the building has been reduced
13 significantly. And it sits more comfortably
14 next to the lower-scale buildings to which it
15 is adjacent along Lawrence Street. So I think
16 that was very clearly and responsively
17 addressed.

18 CHAIRMAN HOOD: Okay. Let me just
19 do this. We have it as Block A2.

20 Commissioner Schlater?

21 COMMISSIONER SCHLATER: I think the
22 concern raised on Block A2 was on the quality

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1 of the materials of the rear of the
2 townhouses. And the Applicant submitted a
3 number of revised elevations. And I think
4 they reflect that all of the rears of the
5 townhouses are either going to have masonry or
6 hardy plank siding in the rear as opposed to
7 vinyl siding which is the concern that we had
8 raised. So I think they've adequately
9 addressed that concern from my perspective.

10 COMMISSIONER TURNBULL: I would
11 agree. I had asked for an interior elevation
12 of that triangular townhouse development. And
13 we have it. It's Exhibit B, Block A2 Alley
14 Elevations.

15 And I'm glad it's hardy plank. I'd
16 be a little bit concerned seeing all of that
17 as vinyl back there. So I'm glad that the
18 Applicant has clarified that.

19 COMMISSIONER SCHLATER: Chairman
20 Hood, can I ask one question of OP and OAG on
21 Block A2?

22 CHAIRMAN HOOD: Sure.

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1 COMMISSIONER SCHLATER: I think in
2 the order somewhere it mentioned that the
3 Applicant is seeking approval to construct
4 garages in the back of these townhouses. Is
5 that correct? And is that something that they
6 need relief from the Zoning Commission on in
7 order to do?

8 MR. JESICK: The Office of Planning
9 actually proposed that relief be granted
10 prospectively for certain lots that were large
11 enough to accommodate detached garages. We
12 didn't want the alley in the rear or in the
13 middle of Block A2 to just have the sense that
14 it was a parking lot. We wanted some
15 definition to the alley wall if possible, and
16 also just frankly to save future homeowners
17 time and effort so they wouldn't have to seek
18 that relief themselves.

19 COMMISSIONER SCHLATER: Okay.
20 That's good to know that it's been looked at
21 by OP. I don't have any particular problem
22 with it. It just jumped out at me as

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1 something that we hadn't discussed before and
2 just wanted some clarification on.

3 COMMISSIONER MAY: I think given
4 the respective view that we have of the
5 interior of Block A2, I think the idea of
6 garages is very good. So I think the idea
7 that you want to incorporate that relief makes
8 a lot of sense.

9 CHAIRMAN HOOD: I'm not sure who
10 else may have asked or actually asked for the
11 truck turning diagrams. Vice Chair, did you
12 ask for them? I think you asked for them.
13 Okay.

14 Because I will tell you that
15 looking at it, I wasn't sure whether I asked
16 for it or not. But the Vice Chair, that's why
17 I let him comment first because I'm looking at
18 what was given to us -- not that we like to
19 have color copies. Because sometimes when you
20 have tracks and lines run over the top of
21 lines, it makes it a little more difficult to
22 -- at least for this Commissioner's

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1 perspective -- to look at. But anyway, if the
2 Vice Chair asked for it, I will see if it
3 meets his needs.

4 VICE CHAIRMAN KEATING: Yes. I
5 don't see any problem with what they've
6 described here.

7 CHAIRMAN HOOD: Okay. Great.
8 Let's keep moving.

9 Analysis and projection of
10 community amenities. We have again a letter
11 from the Advisory Neighborhood Commission. I
12 think we asked them to pinpoint and nail it
13 down.

14 Mr. Ritting, you've had a chance to
15 review -- I think specifically we asked how
16 things are going to be administered typically.

17 Could you kind of help us with that? Because
18 I don't think we actually got it.

19 MR. RITTING: Are you talking about
20 how the Commission is going to craft
21 conditions in the order that will implement
22 the benefits and amenities that the Applicant

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1 has proffered?

2 We had a short amount of dialogue
3 today with the Office of Planning about that.

4 And we have a suggested process to apply in
5 this case and in future cases. And if I could
6 read it to you now.

7 CHAIRMAN HOOD: Let me just ask my
8 colleagues. Do you all think from what we've
9 got that we need a process? Obviously, we do.
10 Okay. Thank you, Mr. Ritting.

11 MR. RITTING: Sure. And the
12 process would work in broad outlines like
13 this, and I'd have to ask Ms. Schellin to sort
14 of supplement what I'm suggesting with some
15 specific dates. And maybe the Commission
16 could have some dialogue with her to fill it
17 in.

18 What we're suggesting is that by a
19 date certain, the Applicant must file with the
20 Office of Zoning, serve the Office of
21 Planning, OAG and the parties with a final
22 list of proffered public benefits for the

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1 consolidated PUD, and for each public benefit,
2 provide a draft condition that is both
3 specific and enforceable, and the conditions
4 applicable to the first stage PUD that must be
5 satisfied in the second-stage application.

6 In this particular case, they did a
7 pretty good job of doing that in their draft
8 order. But we feel that there isn't really
9 one place that the Commission can look at to
10 be certain that all the benefits and amenities
11 are specified in the conditions.

12 Then we would go to a second step
13 where by date certain, OAG and OP would
14 complete dialogue with the Applicant that they
15 feel is needed with respect to any
16 deficiencies in the Applicant's proposed
17 conditions. That would happen by a date
18 certain.

19 By a third date certain, the
20 Applicant would then file with the Office of
21 Zoning, serve on OP, OAG and the parties any
22 revisions to the proffers and conditions or a

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1 statement that none have been made.

2 Then we'd go to a fourth stage
3 where by date certain, OAG, OP and the other
4 parties must file any responses that they have
5 had to the Applicant's final proffers and
6 conditions. And the OAG response would be
7 treated as a confidential attorney-client
8 communication.

9 CHAIRMAN HOOD: Okay. Commissioner
10 Schlater?

11 COMMISSIONER MAY: I'm sorry, Mr.
12 Ritting. You mentioned first-stage, second
13 stage. In this particular case, it's not a
14 first-stage, second-stage.

15 MR. RITTING: Yes. This is a --

16 COMMISSIONER MAY: So this is just
17 a generic process, right?

18 MR. RITTING: Yes. That's right.

19 COMMISSIONER SCHLATER: Mr.
20 Ritting, I would say that this is definitely
21 something that when we review the orders, it
22 would be great to know that it's been done

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1 before the order comes to us, that there's
2 been this process that people have gone
3 through outlining specifically what proffers
4 and amenities are being provided, and then
5 what's going to be going into the order.

6 I did notice in this particular
7 case, there was some discussion and we asked
8 for further information regarding reduced rent
9 for artists' loft space. And somewhere in
10 these materials, it was addressed trying to
11 come up with the value of that amenity. But
12 then I looked at the order itself and there
13 was no mention of reduced rent in art spaces.

14 Without it being in the order, is
15 it an enforceable benefit for the community?

16 MR. RITTING: Likely not. The way
17 that PUD orders are usually enforced is that
18 there's a covenant recorded that attaches the
19 order with the conditions. And what are
20 listed in the conditions are the conditions of
21 the PUD that must be complied with.

22 COMMISSIONER SCHLATER: Well, from

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1 my perspective, that particular condition
2 needs to find it's -- I guess we're not
3 allowed to be prescriptive. But it is
4 something that I was looking for in reviewing
5 the order, and it's not there.

6 CHAIRMAN HOOD: I guess what we
7 probably need on that may be some
8 clarification before final. Would that be
9 okay? Okay. Find out -- I don't know why it
10 disappeared or where is it or -- the
11 underline. Because it was proffered, right?

12 MR. RITTING: That's my
13 understanding. I think the next step would be
14 that the Commission and the Secretary would
15 set forth some dates.

16 CHAIRMAN HOOD: Okay. But I'm
17 talking in terms of Mr. Schlater -- about the
18 market rate of the artists' studios.

19 We probably need to maybe get some
20 finalization on that before final. That's
21 what I'm just trying to make sure if we move
22 tonight, we've proposed. I want to make sure

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1 we have everything before we do final.

2 MR. RITTING: Yes. I envision that
3 that process would occur between proposed
4 action and final action.

5 CHAIRMAN HOOD: So that's outlining
6 your process? Okay. Good.

7 All right. So Ms. Schellin, do we
8 need to do dates now?

9 MS. SCHELLIN: I have some dates.
10 If you take Proposed Action, I'll give you
11 some dates.

12 CHAIRMAN HOOD: Oh, you'll give us
13 the dates after?

14 MS. SCHELLIN: Yes.

15 CHAIRMAN HOOD: Okay. Anything
16 else? I noticed that going through this
17 quickly, there were some architectural issues
18 -- the rooftop structures.

19 COMMISSIONER MAY: I think that's
20 been addressed.

21 CHAIRMAN HOOD: Okay. Anything
22 else? No other comments?

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1 (No audible response.)

2 CHAIRMAN HOOD: Ms. Schellin, could
3 you give us the dates?

4 Oh, we need to do Proposed Action
5 now -- first?

6 Okay. I would move approval of
7 Zoning Commission Case No. 08-24, Abdo
8 Development and Catholic University,
9 Consolidated PUD and Related Map Amendment at
10 Squares 3654 and 3657 and 3831, and ask for a
11 second.

12 VICE CHAIRMAN KEATING: Second.

13 CHAIRMAN HOOD: It's moved and
14 properly seconded.

15 Any further discussion?

16 (No audible response.)

17 CHAIRMAN HOOD: All those in favor?

18 (A CHORUS OF AYES.)

19 CHAIRMAN HOOD: Not hearing any
20 opposition, Ms. Schellin, would you record the
21 vote?

22 MS. SCHELLIN: Yes. Staff records

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1 the vote five to zero to zero to approved
2 Proposed Action, Zoning Commission Case No.
3 08-24. Commissioner Hood moving; Commissioner
4 Keating seconding; Commissioners May, Schlater
5 and Turnbull in favor.

6 CHAIRMAN HOOD: And again -- I'm
7 sorry.

8 MS. SCHELLIN: And you want to go
9 over --

10 CHAIRMAN HOOD: I want to go over
11 some dates.

12 MS. SCHELLIN: Okay. And they need
13 to do this before Final Action.

14 CHAIRMAN HOOD: Before Final
15 Action.

16 MS. SCHELLIN: The first date would
17 be November 16th in which the Applicant must
18 file with the Office of Zoning and serve OP
19 and OAG with its final list of proffered
20 public benefits and the conditions applicable
21 that must be satisfied would be November 16.

22 And then November 23rd would the

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1 date in which OP and OAG must complete any
2 dialogue they feel is needed with the
3 Applicant to address the Applicant's proposed
4 conditions.

5 November 30th would be the next
6 date by which the Applicant must file with OZ
7 and serve OP, OAG and the parties with any
8 revisions to the proffers and conditions, or a
9 statement that none have been made.

10 And then the date by which OAG, OP
11 and the other parties must file any responses
12 each has to the Applicant's final proffers and
13 conditions would be December 7th, noting that
14 OAG's response will be treated as attorney-
15 client privilege.

16 And then we can consider this at
17 our December 14th meeting for Final Action.

18 CHAIRMAN HOOD: Did I mention the
19 letter from the Vice Chairman of ANC 5C? Did
20 I mention that?

21 MS. SCHELLIN: That was an item
22 that we had requested.

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1 CHAIRMAN HOOD: Oh, okay. Okay.

2 And it just --

3 MS. SCHELLIN: You may not have
4 mentioned it but it was one of the items that
5 we had requested.

6 CHAIRMAN HOOD: Right. Exhibit 57.

7 MS. SCHELLIN: Yes.

8 CHAIRMAN HOOD: And it says, "The
9 Applicant, Catholic University and Abdo, Inc.
10 have met several times with the communities.
11 Specifically, they have met on several
12 occasions with ANC 5C about this project and
13 with respect to the Catholic University Campus
14 future plans, we are pleased to support these
15 cases and applications on behalf of ANC 5C."

16 Okay.

17 COMMISSIONER SCHLATER: Mr.
18 Chairman, can I?

19 CHAIRMAN HOOD: Yes.

20 COMMISSIONER SCHLATER: As we go
21 and we're going to make some modifications to
22 the order, could I ask OAG to take a look at

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1 -- I guess it's in the decision section. And
2 it's number 9. And I just want to make sure.

3 My recollection is hazy on the topic. But it
4 has to do with the affordable housing. It's
5 reserving 63,000 square feet. Is that going
6 to be in each building? Is it going to be
7 done by phase? Or does the Applicant have the

8 -- I'd just like more specifics about how
9 that's going to work.

10 MR. RITTING: You anticipate that I
11 would provide that information then -- Final
12 Action?

13 COMMISSIONER SCHLATER: I would
14 anticipate to work with the Applicant to
15 clarify exactly what's going on with respect
16 to the affordable housing.

17 MR. RITTING: Okay. I can do that.

18 COMMISSIONER SCHLATER: And also,
19 just out of curiosity, it says the project's
20 going to be designed to satisfy LEED
21 certification, but not be required to actually
22 pursue the certification. I'm just wondering

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1 how that determination is made. Thanks.

2 CHAIRMAN HOOD: Okay. We're ready
3 to move on. Let's go to Zoning Commission
4 Case No. 06-10, the Morris & Gwendolyn Cafritz
5 Foundation, 1st Stage PUD and Related Map
6 Amendment and Consolidated PUD at Squares 3765
7 and 3769.

8 Ms. Schellin?

9 MS. SCHELLIN: The first thing I
10 believe that we need to make on the record is
11 to make a note that Mr. Turnbull who missed
12 the last hearing that he was provided a copy
13 of all of the documents that came into the
14 records, that he has reviewed that and read
15 the transcript from that last hearing. If he
16 could please state that he has done that?

17 COMMISSIONER TURNBULL: Do you want
18 me to raise my right hand?

19 MS. SCHELLIN: No. You have to
20 swear to it.

21 COMMISSIONER TURNBULL: I have read
22 the record.

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1 MS. SCHELLIN: Okay.

2 CHAIRMAN HOOD: Okay. Thank you,
3 sir.

4 MS. SCHELLIN: And then we had some
5 documents that came in after the record
6 closed. We had Exhibit 87.

7 And then at Exhibit 90, we have a
8 request from the Applicant asking that the
9 Commission not receive a portion of Exhibit 91
10 which was the filing from the Lamond Riggs
11 Citizens Association which was their findings
12 of facts, conclusions of law. It had an
13 attachment to it titled Critical Concerns
14 Regarding Cafritz PUD by the Lamond Riggs
15 Citizens Association. It was a five-page
16 attachment to their findings of fact.

17 And then Exhibit 93 was a filing
18 that came in from the Applicant opposing the
19 October 27th submission from Lamond Riggs.

20 I'd like to know how the Commission
21 would like Staff to treat those documents.

22 CHAIRMAN HOOD: I think being

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1 consistent, what the Commission has done in
2 the past and what we actually just did, things
3 that come in that we have not requested or we
4 don't ask for, we usually ask the Staff to
5 send them back. I want to make sure my
6 colleagues don't have any issues with us
7 asking Staff to return it to the sender
8 because the record was officially closed.

9 MS. SCHELLIN: Okay.

10 CHAIRMAN HOOD: Okay? Thank you.

11 Anything else, Ms. Schellin?

12 MS. SCHELLIN: No, sir.

13 CHAIRMAN HOOD: Okay. So as was
14 given to us, we did accept 91 in part.

15 MS. SCHELLIN: That's correct.

16 CHAIRMAN HOOD: Exhibit 91 in part.
17 The rest was not accepted. Okay.

18 Again colleagues, as you know, this
19 was a hearing with the Morris & Gwendolyn
20 Cafritz Foundation. We had a first-stage PUD
21 and Related Map Amendment. It's right off of
22 South Dakota Avenue and Galloway Street. I

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1 think we had two or three hearings. I think
2 we had two hearings -- two hearing nights.
3 And there were some things that we asked for.

4 If we look at Exhibit 92, this is a
5 letter from Dennis Hughes which has their
6 findings of fact. And then if you look at
7 Exhibit 91 which is the Lamond Riggs Citizens
8 Association's findings of fact, and then if we
9 look at Exhibit 88, which is some of the
10 things that we asked for which is from the
11 Applicant.

12 And also they have a summary of
13 revisions of updates made to drawings
14 submitted. I think we will start with that.

15 And there's kind of a roll call
16 sheet that has a number of things. And it
17 tells you exactly the page and what
18 refinements or updates were made. And we can
19 start with that.

20 Okay. Let's open it up. And we
21 can take our time. I know sometimes you have
22 to remember the thoughts because the cases

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1 sometimes run together up here.

2 Commissioner May?

3 COMMISSIONER MAY: I just would
4 note that there were certain additional
5 drawings that I had requested -- some
6 elevations, and then perspective views -- or a
7 perspective view. And that's been submitted,
8 and I think that's fine.

9 CHAIRMAN HOOD: Okay.

10 COMMISSIONER SCHLATER: Chairman
11 Hood?

12 CHAIRMAN HOOD: Commissioner
13 Schlater?

14 COMMISSIONER SCHLATER: I also want
15 to talk about as Exhibit A of the Applicant's
16 submission on October 22nd, they summarize the
17 package of amenities and community benefits
18 proffered. I have two general comments on
19 this.

20 The first comment is there's
21 actually 17 community benefits listed in this
22 where they try to quantify value. And I know

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1 it's a hard exercise to go through, to put a
2 value to all of these items.

3 One thing that's just clear and
4 speaks to the need that OAG has brought up
5 tonight is we need to make sure that all of
6 these benefits proffered are reflected in the
7 order as a condition so that they're actually
8 going to be delivered on and enforceable.

9 So one thing I would ask either
10 before we take proposed action or before we
11 take final action is that we make sure that
12 the order reflects these benefits proffered by
13 the Applicant.

14 MR. RITTING: I would encourage the
15 Commission to use the same process that I
16 outlined in the previous case in this case.
17 And I can read it again for you if you're
18 interested. No? Okay.

19 That would really make the process
20 easier for us and I believe the Commission.

21 CHAIRMAN HOOD: I think that's a
22 great process. We just want to make sure that

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1 this Applicant knows that they'll be going
2 along with the same process that was read in
3 the other cases. It seems like that's going
4 to be a standard process. Maybe we'll just
5 tape it up here and we'll know what it is.

6 Okay, Commissioner Schlater,
7 anything else?

8 COMMISSIONER SCHLATER: The only
9 other comment I would have just looking at
10 this -- I just want to say it on the record
11 because I don't want you to take it as assumed
12 that the Commission is accepting all of these
13 benefits that are being proffered. I think
14 this project has more than enough benefits
15 being offered to the community. So they don't
16 necessarily need to include things like the
17 business center in the apartment building and
18 the fitness center in the apartment building
19 as benefits proffered as part of the overall
20 development because I think that's limited to
21 people who are paying a lot of money for an
22 apartment who rightfully want those amenities.

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1 But it's not a benefit of the overall
2 project.

3 And likewise, I think just
4 generally I'd like to understand better how
5 things like the daycare center are going to
6 work. Are we talking about offering free
7 space to a daycare center -- a nonprofit? Or
8 are we talking about renting the space at
9 market rate? I think the daycare center is an
10 amenity. But how we weigh that amenity in the
11 final analysis depends on what's being
12 offered.

13 And likewise, we've got a host of
14 others, and we shouldn't just skip over them
15 because they're important. We've got a
16 children's museum that's being offered as a
17 benefit proffered here. We need to understand
18 how that's going to work. A senior center,
19 cultural arts building. We've got a potential
20 library that we don't think the library has
21 even expressed an interest in building yet.
22 So how is that going to work if the library

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1 says no, we don't want to go into that space?
2 What's going to be provided in the
3 alternative?

4 But overall, I want to say that the
5 project itself is a great project for that
6 neighborhood. I think high quality design. I
7 think the changes that were made to the design
8 were good. I think that the materials that
9 have been selected are great. And I think
10 that the amount of retail that's being offered
11 as part of the project is something that is
12 great for this part of the city, and the
13 Applicant's done a great job pulling it all
14 together.

15 So I look forward to working
16 through these final issues and hopefully
17 getting this approved.

18 CHAIRMAN HOOD: Okay. Any other
19 comments?

20 Commissioner Turnbull?

21 COMMISSIONER TURNBULL: Mr. Chair,
22 we've had projects before us in the past where

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1 we struggled with a long elevation or a
2 building or multitudes of buildings. And
3 there's a conflicting view on how you look at
4 that whether it's unified, they're separate.
5 And we've had a lot of discussion going back
6 and forth about how you design that. Do you
7 pick something historical? Do you pick
8 something modern and how that relates?

9 I just want to say that when I was
10 reviewing these drawings -- and I always enjoy
11 reviewing drawings by Mr. Baronis. I think he
12 does a very excellent job. I just want to say
13 that the perspective on South Dakota I think
14 is one that is contemporary and yet it shows a
15 lot of flexibility of the elevation. I like
16 the way it goes in and out. I think it's
17 going to be a very exciting street I think
18 with this building on it. It's got a lot of
19 vibrant quality to it.

20 So I just want to comment from the
21 architecture. Mr. Baronis, thank you very
22 much. That's very nice.

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1 CHAIRMAN HOOD: Any other comments?

2 I would just say that there were
3 some things -- and I may have missed it but I
4 don't see it. I know I asked the Applicant to
5 make the relocation on the scenes as less
6 burdensome as possible. I didn't see anything
7 in there about that. Maybe I didn't
8 particularly ask for it. I would like to see
9 exactly how that process is working out.

10 And also I'm trying to remember,
11 the issue with Food and Friends. Did that get
12 resolved in the hearing? I just don't
13 remember if that issue even got resolved. I
14 think we asked for some information on that
15 Food and Friends I think about the exit. They
16 couldn't get in or couldn't get out or
17 something of that nature.

18 It got resolved at the hearing? So
19 let the record reflect that it got resolved at
20 the hearing, and I just missed it.

21 I would actually like to see
22 something about how the relocation is going.

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1 I actually asked for it at the hearing. I
2 think that was through the testimony that was
3 provided. I'd like to know how that actually
4 is going before final -- make sure there's
5 something in place, and it's working out fine.

6 Colleagues, let me just ask. In
7 looking at the proposed findings of fact from
8 Lamond Riggs Citizens Association, is there
9 anything that just pops out at you that you
10 may want to consider here or propose? When it
11 basically talks the ANC office and some of the
12 certain public areas that are being proffered.

13 It talks about the brick colors within a
14 color range that is either complementary or
15 similar.

16 But I just so note that it did take
17 some of what -- did review the submission
18 which is part of Exhibit 91.

19 Okay. Anything else?

20 (No audible response.)

21 CHAIRMAN HOOD: Not hearing
22 anything, we have some things that we need to

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1 do before final, am I correct? The new
2 process, how the relocation is going on.

3 Commissioner Schlater, do you have
4 anything? Okay.

5 COMMISSIONER SCHLATER: I just want
6 to see a revised order and make sure the many
7 bountiful amenities being provided by this
8 project are in the order and enforceable.
9 Thanks.

10 CHAIRMAN HOOD: Okay. The same
11 processes, that seems to be our standing
12 process -- the same process.

13 Okay. With that, I don't hear
14 anything else from my colleagues, I would move
15 approval of Zoning Commission Case No. 06-10,
16 and ask for a second.

17 COMMISSIONER TURNBULL: Second.

18 CHAIRMAN HOOD: Moved and properly
19 seconded.

20 Any further discussion?

21 (No audible response.)

22 CHAIRMAN HOOD: All those in favor?

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1 (A CHORUS OF AYES.)

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

5 MS. SCHELLIN: Yes. Staff records
6 the vote five to zero to zero to approve
7 Proposed Action Zoning Commission Case No. 06-
8 10. Commissioner Hood moving; Commissioner
9 Turnbull seconding; Commissioners Keating, May
10 and Schlater in support.

11 And since we're going to use the
12 same process, we could use the same dates.
13 November 16, by which the Applicant must file
14 with OZ and serve on OP and OAG and the
15 parties its final list of proffered public
16 benefits and the conditions.

17 And November 23rd would be the date
18 by which OP and OAG would have their dialogue
19 that they feel is needed with the Applicant
20 with respect to any deficiencies that they
21 feel and the Applicant's proposed conditions.

22 November 30th would be the date by

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1 which the Applicant must file with OZ and
2 serve OP and OAG and the parties any revisions
3 to the proffers and conditions or a statement
4 that none have been made.

5 December 7th would be the date by
6 which OAG, OP and the other parties must file
7 any responses each has to the Applicant's
8 final proffers and conditions. Again, OAG's
9 response will be treated as attorney-client
10 privilege.

11 December 14th would be the next
12 date that the Commission would consider this
13 case for final action.

14 And I would say that November 30
15 should be the date by which the Applicant
16 should file those additional requests that the
17 Commission has asked for. And they should
18 also file those -- do you want those served on
19 -- actually this isn't something that needs to
20 be served on the parties. It is something
21 that the Commission has asked for before final
22 action.

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1 COMMISSIONER SCHLATER: Chairman
2 Hood, I'm just wondering in terms of the
3 relocation of the seniors what we're actually
4 going to look to get. I just want to be
5 clear with the Applicant.

6 Are we asking for another plan for
7 the relocation of the seniors? Or is it a
8 broader request on relocation of all the
9 existing tenants?

10 CHAIRMAN HOOD: Typically, in terms
11 of the seniors is what I was -- I think that
12 was the testimony. I'd like to see what's
13 laid out, where they're going to be relocated
14 to, how much time frame is going back for
15 those that are not coming back, what's being
16 offered to them, are they going somewhere
17 else, are they getting assistance in finding
18 another place to live? That's kind of what
19 I'm looking for. I'm looking for a plan.

20 In the past, that has been
21 proffered to this Commission to give us some
22 assurance and also having in the record to let

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1 folks who are being moved -- let them get them
2 a comfort level knowing there's an opportunity
3 to come back. That's basically what I'm
4 looking for.

5 MS. SCHELLIN: Okay. I want to
6 stand corrected that the Applicant should
7 serve the parties with those additional
8 filings on November 30th as well. And the
9 parties have until December 7th to file any
10 responses that they may have to those
11 additional filings only.

12 CHAIRMAN HOOD: Right. Only that.

13 MS. SCHELLIN: Right.

14 CHAIRMAN HOOD: Please don't give
15 us or try to submit anything other than that.

16 MS. SCHELLIN: Right. If they
17 don't have any responses, they don't need to
18 file anything.

19 CHAIRMAN HOOD: Thank you.

20 Commissioner Schlater, did I answer
21 your question? Did you want to add something
22 or take it away?

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1 COMMISSIONER SCHLATER: I'm good.

2 CHAIRMAN HOOD: All right.

3 Anything else?

4 (No audible response.)

5 CHAIRMAN HOOD: Okay. That's over.

6 Let's move to the Status Report --

7 Office of Planning Status Report. Mr. Lawson?

8 MR. LAWSON: Thank you, Mr. Chair.

9 I have no status report per se but
10 I'm happy to try to answer any questions you
11 might through my way.

12 CHAIRMAN HOOD: Any questions of
13 Mr. Lawson of anything that's coming down the
14 pike or any questions?

15 (No audible response.)

16 CHAIRMAN HOOD: Okay. With that,
17 Ms. Schellin, do we have anything else, other
18 than we're behind the schedule?

19 MS. SCHELLIN: No, sir.

20 CHAIRMAN HOOD: Okay. I want to
21 thank everyone for their participation
22 tonight. Have a safe trip home.

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1 And this meeting is adjourned.

2 (Whereupon, at 8:06 p.m., the
3 hearing was adjourned.)

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