

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

+ + + + +

ZONING COMMISSION

+ + + + +

REGULAR MEETING

+ + + + +

MONDAY

JULY 29, 2013

+ + + + +

The Regular Meeting of the District of Columbia Zoning Commission convened in the Jerrily R. Kress Memorial Hearing Room, Room 220 South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 6:44 p.m., Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairman
MARCIE COHEN, Vice Chair
MICHAEL G. TURNBULL, FAIA,
Commissioner (AOC)
PETER G. MAY, Commissioner (NPS)
ROBERT MILLER, Commissioner

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary

OFFICE OF PLANNING STAFF PRESENT:

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JENNIFER STEINGASSER, Deputy Director,
Development Review & Historic
Preservation
STEPHEN GYOR
JOEL LAWSON
STEPHEN MORDFIN
MAXINE BROWN-ROBERTS
STEVEN COCHRAN
MATT JESICK
BRANDICE ELLIOTT
PAUL GOLDSTEIN

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

JACOB RITTING, ESQ.

The transcript constitutes the
minutes from the Regular meeting held on July 29,
2013.

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

2 6:44 p.m.

3 CHAIRMAN HOOD: This meeting will
4 please come to order. Good evening ladies and
5 gentlemen.

6 This is July 29th, 2013 public
7 meeting for the zoning commission of the
8 District of Columbia.

9 My name is Anthony Hood.

10 Joining us this evening are Vice
11 Chair Cohen, Commissioner Miller, Commissioner
12 May, and Commissioner Turnbull. Office of
13 Zoning staff, Ms. Sharon Schellin, to my left.
14 Office of Attorney General, Mr. Ritting.
15 Office of Planning, Ms. Steingasser, Mr. Lawson,
16 Ms. Elliott, and Ms. Brown-Roberts. As
17 you all know, copies of today's meeting agenda
18 are available to you and are located in the bin
19 near the door.

20 We do not take any public testimony
21 unless we ask someone to come forward.

22 Please be advised that this

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1 recording, is recorded by a court reporter and
2 also webcast live.

3 Please turn off all beepers and cell
4 phones.

5 Does the staff have any preliminary
6 matters?

7 MS. SCHELLIN: No, sir.

8 CHAIRMAN HOOD: If not, let us
9 proceed.

10 This is our last meeting for the
11 summer. Well, until September. And I want to
12 acknowledge Commissioner May has a birthday
13 coming in August. So I think in celebration of
14 it, I think what we'll do, colleagues, is we'll
15 give Commissioner May the whole month of August
16 off for his birthday. And we'll just celebrate
17 with him. Okay.

18 Ms. Schellin, do we have anything
19 --

20 MS. SCHELLIN: No, sir.

21 CHAIRMAN HOOD: Okay. Proposed
22 action -- Commissioner, we didn't start yet. We

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1 still got July. This is the 29th. Okay. All
2 right. Let's go to Proposed Action Zoning
3 Commission Case 13-04. This is an ICG 16th
4 Street Associates LLC - Consolidated PUD and
5 Related Map Amendment @ Square 185.

6 Ms. Schellin.

7 MS. SCHELLIN: Yes, sir. Exhibit
8 52 is a supplemental OP report. Exhibits 53
9 through 54 are the post hearing submissions made
10 by the applicant. And then Exhibit 55 was a
11 response from the party in opposition.

12 We ask the Commission to consider proposed
13 action this evening.

14 CHAIRMAN HOOD: Okay.
15 Commissioners, we have some issues in front of
16 us. Would someone like to get it started? And
17 we're going to take our time, because I tell you,
18 for me, when I was going over these cases, some
19 of them, after you have done you're reading and
20 reading the post hearing submissions, then when
21 you come back at it, it seems like it all runs
22 together. So we're going to take our time, make

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1 sure we get the facts and the issues straight.

2 Vice Chair.

3 VICE CHAIR COHEN: Thank you, Mr.
4 Chairman.

5 There are a few issues that I believe
6 we need to discuss. One has to do with is the
7 payment to the Housing Production Trust Fund a
8 proffer? And I know that in my balancing of
9 everything and reading of the record, I believe
10 that I agree with OP that this is been a been a
11 bitter requirement for Inclusionary Zoning had
12 the project been just a PUD and with mixed
13 income, I mean, with an IZ requirement. And so
14 I don't view this as an extra benefit contributed
15 by the project. Another thing I'd like
16 to bring up is that I think that there is too much
17 descriptive language about the past. And I
18 would recommend deleting paragraph 17 through 20
19 of the draft order.

20 CHAIRMAN HOOD: Okay.
21 Commissioners, as you've heard the two
22 recommendations, I would agree on both of those

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1 recommendations. I think as Vice Chair
2 mentioned 17 through 20 talks a lot about
3 litigation, which I think is a whole lot of
4 description as she's already mentioned. And
5 also, I would concur with her analysis of the
6 Office of Planning's opining about the proffer
7 of the Housing Production Trust Fund.

8 Any other comments?

9 Commissioner Miller.

10 COMMISSIONER MILLER: Yes, Mr.
11 Chairman.

12 I think this is a excellent project.
13 It's been a long time in the making. And I am
14 fully supportive of us moving forward with it.

15 I disagree with my colleagues that
16 the housing, the contribution to the Housing
17 Production Trust Fund, when they said that it
18 does not constitute a public benefit.
19 Typically, I think, I thought this Commission
20 viewed when applicant provides something that
21 wouldn't have been derided in a matter of right
22 case, and there would have been no IZ requirement

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1 in a commercial office. It only applies for
2 when there's residential being proposed. This
3 is a commercial office building and a church.
4 So IZ wouldn't apply. And in this case,
5 OP specifically requested the applicant to
6 satisfy the housing linkage requirement, which
7 means if you get additional density, office
8 density, through the PUD process, you have to
9 make a contribution to affordable housing.

10 And it's based, you can do it one of
11 two ways. A construction option, where you give
12 a contribution to a nonprofit to help, to meet
13 the, half of the additional square footage of the
14 additional office space.

15 Or in this, case OP has said, "Please
16 satisfy the linkage requirement the other way,"
17 which is a direct contribution to the city's
18 Housing Production Trust Fund. Which, in this
19 case, I think is over \$500,000 which is
20 substantially higher in terms of, a
21 substantially more expensive way of satisfying
22 the linkage requirement. So I think that

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1 clearly is a, in my view, a public benefit.

2 On the other point, regarding striking the
3 language, there was some language. I agree
4 with, that most of that language is about history
5 and the litigation. And it doesn't need to be
6 in the findings of fact and conclusions of law.
7 But there were some language in there -- and
8 which I will try to find while others are talking
9 -- from one of the paragraphs that I think needed
10 to be captured because it kind of says why we're
11 here. But I need to find that language.

12 CHAIRMAN HOOD: Okay. Well, let me
13 say this Commissioner Miller. When you find it,
14 I'm certainly not opposed to keeping that
15 inclusive if you think so. And also I will yield
16 on your -- I will hear further discussion.

17 But I'm, you know, in a previous life
18 I know you had a lot to do with the Housing
19 Production Trust Fund. So you know, I always
20 stay in my lane. So anyway, we can still have
21 that discussion.

22 Let me open it up.

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1 Also Commissioner May, I think this
2 is the case where you had some questions. Maybe
3 this is not the one. Okay. Never mind. All
4 right. I got --

5 COMMISSIONER MAY: I always have
6 questions.

7 CHAIRMAN HOOD: Well I know that.
8 But I mean, it was an issue about something we
9 asked for but I don't see it written on my notes.
10 So it's not --

11 COMMISSIONER MAY: I have it in my
12 notes.

13 CHAIRMAN HOOD: Was it this case?

14 COMMISSIONER MAY: Yes. I have it
15 listed.

16 CHAIRMAN HOOD: Oh, well, naturally
17 -- I'm talking about -- okay. Do you remember
18 when we made a special session, once we got a
19 submission, and if you had notes --

20 COMMISSIONER MAY: Oh.

21 CHAIRMAN HOOD: I think it's
22 another case though.

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1 COMMISSIONER MAY: Yes. You are
2 right about that.

3 CHAIRMAN HOOD: Okay. Well, if you
4 forget, I'm not going to remind you. But you --

5 COMMISSIONER MAY: You're welcome
6 to remind me. I'm always -- any opportunity to
7 ask more questions.

8 VICE CHAIR COHEN: He's getting to
9 be a year older. So he should be --

10 CHAIRMAN HOOD: Oh, okay. Thank
11 you. All right.

12 So Commissioner May, on this case.

13 COMMISSIONER MAY: So on the two
14 issues that we've already started discussing, I
15 agree with Commissioner Miller that the Housing
16 Production Trust Fund -- thank you, I am losing
17 my memory -- the Housing Production Trust Fund
18 contribution is significant and I think it
19 should be considered a benefit. Because it
20 would not be there as a matter of right. And
21 this building could be developed as a matter of
22 right office building. And that contribution

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1 would never happen.

2 And I think that's consistent with
3 what we've and how we treated Inclusionary
4 Zoning in the past, when it is or is not
5 considered public benefit in a PUD case.

6 As for some of the other questions,
7 there was an additional submission -- oh, I'm
8 sorry. The other question that was discussed
9 was deleting 17 through 20. I'll wait to hear
10 from Commissioner Miller on the other language
11 that he thinks should be included. But
12 otherwise I'm okay with deleting that.

13 I did asked for some specific
14 information. I needed to see the West
15 elevation. That was submitted. So I'm
16 satisfied on that.

17 And I believe the issue with the
18 next-door property has been largely resolved in
19 terms of the what's happening at the top level
20 of the building.

21 You know, the fact that there's
22 going to be signage advertised in the reading

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1 room, I think that's fine. I'm not thoroughly
2 convinced that the reading room is actually of
3 public benefit. But I will defer to the rest of
4 the Commission on that. And whether it's well
5 signed or not doesn't make a big difference to
6 me.

7 That was it for the issues that I had
8 on this.

9 CHAIRMAN HOOD: Anything else?

10 COMMISSIONER MILLER: Thank you.

11 Mr. Chairman, I was able to find
12 language that I thought we needed to capture when
13 we were striking paragraphs 17 through 20.

14 In paragraph 19, the one we're
15 keeping is it starts out at paragraph 16 talking
16 about HPRB approving the concept design for the
17 project. But I think you have to back up a
18 little but.

19 And the language in paragraph 9 that
20 I thought we maybe should keep, when I don't
21 think -- well, it is, are the sentences that
22 reads, "In 2009, over opposition from the

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1 Committee of 100 on the federal city and the D.C.
2 preservation, the mayor's agent approved the
3 raze permit for issuance on the grounds of
4 economic hardship. The approval was
5 conditioned on Third Church obtaining a building
6 permit for the new church. Which the mayor's
7 agent recognized could not occur until
8 demolition permit is also obtained for the
9 Christian Science Monitor building. A PUD is
10 applied for and approved by the zoning
11 commission. And the PUD design approved by
12 HPRB." I just think that that those factual
13 statements are needed for the background section
14 instead of just jumping right to the HPRB
15 approval. So I would suggest that we keep that.

16 CHAIRMAN HOOD: So your suggestion
17 is to keep all of 19?

18 COMMISSIONER MILLER: No.
19 Everything from the third sentence that begins,
20 "In 2009," and then the following sentence.
21 There's just two sentences. "In 2009," which
22 talks about the mayor's agent approving. And

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1 the next sentence right after, "The approval was
2 conditioned on the Third Church obtaining a
3 building permit for the new church. Which the
4 mayor's agent recognized could not occur until,"
5 -- so those two sentences.

6 CHAIRMAN HOOD: Okay. So you don't
7 have a problem taking out 20 then?

8 COMMISSIONER MILLER: I don't.

9 CHAIRMAN HOOD: Okay.

10 COMMISSIONER MILLER: I don't have
11 a problem with keeping it but I don't have a
12 problem taking it out --

13 VICE CHAIR COHEN: Mr. Chairman, I
14 have no problem with retaining those two
15 sentences in paragraph 19.

16 CHAIRMAN HOOD: Okay. Any
17 objections anyone?

18 Okay.

19 COMMISSIONER MAY: I don't think
20 it's necessary to have that. But I'm not going
21 to, you know, I'm not going to make a big issue
22 of it at this moment. It's not, I don't think

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1 it's relevant to that decision-making that we
2 are doing. Except to imply that somehow, you
3 know, this is somehow being, that our
4 decision-making here might somehow be
5 influenced by that. Which is, of course, it's
6 not. But I just don't see the importance of it.

7 CHAIRMAN HOOD: Okay. So it's
8 still an objection. We will keep that those
9 sentences. Unless there is anyone else who
10 would like to comment.

11 Also --

12 COMMISSIONER TURNBULL: Mr. Chair,
13 I would just, I would like to concur with the
14 Commissioner.

15 I think the 579,000 is a significant
16 benefit to the Housing Production Trust Fund. I
17 think it's a very meaningful amount of money.

18 And I would agree with the changes
19 with the paragraph 17 through 20 with the one
20 comment that Commissioner Miller made about
21 changing those, retaining two sentences.

22 Other than that, I'm fine.

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1 CHAIRMAN HOOD: Okay. What about
2 the Committee off 100's double counting issue?
3 Is anyone moved by discussing that or think
4 that's --

5 COMMISSIONER MAY: No. I mean, we
6 take separate actions. It's two different
7 processes. And --

8 CHAIRMAN HOOD: Okay.

9 COMMISSIONER MAY: -- what works in
10 one or to help one or help the other, it's not
11 double counting. They're just being used for
12 two different things.

13 If we were, you know, giving somehow
14 help double counting it within our approval
15 process, maybe that's reasonable. But I don't
16 see it as double counting.

17 CHAIRMAN HOOD: Okay. All right.
18 Any other outstanding issues?

19 (No audible response.)

20 I think this case with the additions
21 that were proposed by my colleagues tonight is
22 ready for proposed action. I would move

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1 approval of Zoning Commission Case Number 13-04.
2 And as for with any necessary, the corrections
3 that were made here on the dais today, and ask
4 for a second.

5 COMMISSIONER TURNBULL: Second.

6 CHAIRMAN HOOD: So it has been moved
7 and properly seconded.

8 Any further discussions?

9 (No audible response.)

10 Are we asking for anything for
11 final?

12 VICE CHAIR COHEN: Well --

13 CHAIRMAN HOOD: Commissioner Vice
14 Chair.

15 VICE CHAIR COHEN: Okay. I would
16 like everybody to take a look at paragraph 46
17 then. And I know you are all supporting the
18 proffer of the funding for the housing trust
19 fund, housing, yes, housing trust fund.

20 However, I have less experience than
21 many of you sitting on this -- the benefits and
22 amenities package, I think should be, is

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1 commensurate with the level of flexibility
2 requested. And I would ask to strike is a strong
3 one. And just keep the amenities packages
4 commensurate with the level of flexibility.

5 COMMISSIONER MAY: That's fine with
6 me.

7 CHAIRMAN HOOD: Okay. So you want
8 to strike out the word, is it --

9 VICE CHAIR COHEN: Strong one. I
10 just want --

11 CHAIRMAN HOOD: Okay. I can go
12 with that.

13 COMMISSIONER MILLER: I think it is
14 a strong one. But I have no problem with it and
15 no objections to it.

16 CHAIRMAN HOOD: Okay. So what are
17 we going to, what is it going to be read,
18 amenities package and is commensurate --

19 VICE CHAIR COHEN: Just as -- yes.

20 CHAIRMAN HOOD: Okay. So we're
21 taking out a strong one. Okay. All right.

22 So as we move -- any further

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1 discussion?

2 (No audible response.)

3 All those in favor.

4 (Chorus of ayes.)

5 CHAIRMAN HOOD: Not hearing any
6 opposition, Ms. Schellin, would you please
7 record the vote.

8 MS. SCHELLIN: The staff records
9 the vote 5-0-0 to approve Proposed Action Zoning
10 Commission Case 13-04. Commissioner Hood
11 moving. Commissioner's Cohen, May and
12 Turnbull in support.

13 And since we no longer issue
14 procedural orders, I'd ask anyone who's not,
15 since we issued order number 12-11, anyone who's
16 not familiar with those new procedures sections
17 2003.15-2003.20, I do have a copy of those
18 sections. So they can be complied with.
19 Anybody who was a party to that case, if they need
20 a copy of those sections they can come forward
21 and get a copy of them.

22 CHAIRMAN HOOD: Okay. Let us move

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1 right on to the Zoning Commission Case Number
2 12-16. This is a CG Market Place LLC -
3 Consolidated PUD and Related Map Amendment @
4 Square 5246, etcetera.

5 Ms. Schellin.

6 MS. SCHELLIN: Yes, Exhibit 44, we
7 had a submission by Create for Community
8 regarding their membership. Exhibits 44 and --
9 I'm sorry. 45 and 47 were the applicant's post
10 hearing submission. Exhibit 46 was the
11 submission by Mr. Kroopnick regarding the
12 organizations he represented that evening.
13 Exhibit 48 was ANC's Seven Seas report in
14 opposition. The applicant then made a request
15 to reopen the record which was approved to accept
16 his response to the ANC's report. Which is in
17 the record at Exhibit 50. Your copy may be
18 marked as Exhibit 49. But it was corrected in
19 IZIS as Exhibit 50.

20 I ask the Commissioner to consider
21 proposed action this evening.

22 CHAIRMAN HOOD: Okay.

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1 Commissioners, let's get started.

2 I will just start off Exhibit 44 for
3 the Create for Community Washington, D.C., I
4 noticed one of the things that the applicant that
5 I saw expanded upon was the members of the group.
6 And typically when we get a petition, we get the
7 name and the address. But in this case, we got
8 the name and the phone number.

9 And you know, while I understand
10 this is provided and I am sure that Mr. Arden and
11 his group would not provide false information,
12 I would have liked to have seen the name and the
13 address. Because this is a group -- that as we
14 know, groups are created all the time. When
15 they come down here in front of us.

16 But my question is, is this a
17 sustaining group or was it just a group that
18 started just for this particular case?

19 So enough said for me on Exhibit
20 Number 44.

21 Also, the ANC, while I thought one
22 item or so was not necessarily germane to zoning,

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1 I think the ANC, prior to the ANC vote, under
2 Chairman Stewart, voted in opposition and
3 reached their conclude -- ANC Seven Sea opposed
4 the applicant for Capitol Gateway Marketplace as
5 if, as it provides no public benefit to the most
6 effected ANC as per PUD guidelines. Home sales
7 are proceeding at a brisk clip regardless of
8 whether the site is developed or not. The
9 submission fails to meet the criteria of 2006
10 comprehensive plan. And therefore, ANC Seven
11 Sea request the Zoning Commission reject the
12 case 12-16.

13 And I think the applicant had some
14 responses. I would like for us maybe to discuss
15 all of those and other things that we asked for,
16 all of those responses.

17 VICE CHAIR COHEN: Mr. Chairman.

18 CHAIRMAN HOOD: Vice Chair.

19 VICE CHAIR COHEN: Thank you, Mr.
20 Chairman.

21 I would just like to address some of
22 the points that the ANC made. I do respect their

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1 point of view. But one of the things,
2 especially with regard to the real value being
3 the proposed restaurant. I know how important
4 it is for the entire neighborhood and the entire
5 ward. They have very few sit down restaurants.

6 However, there's a lot of leakage.
7 The neighborhood is near Maryland and a lot of
8 people leave the District and go to Prince
9 George's County to shop. So I think the leakage
10 of all the tax dollars does have an impact on the
11 community.

12 There's less money in the D.C.
13 budget because of this leakage. So I do
14 disagree with the -- their statement that
15 there's little value to the community of the
16 retail.

17 As far as the affordable housing
18 goes, I believe it's a requirement Capitol
19 Gateway project, there was affordable housing
20 that was demolished. And the housing authority
21 and the city must rebuild this housing. There
22 is a requirement of the Housing Authority

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1 Commission to be a one for one replacement of
2 mixed income housing and the housing that's to
3 be developed is going to address the 60 percent
4 of median through the Low Income Tax Credit
5 Program.

6 So although it may be the rents are
7 going to be higher first of all, they're
8 projected two years or four years in to the
9 future, depending upon the staging of this
10 project.

11 So I do believe that the housing
12 itself will be affordable to people making 60
13 percent of median income.

14 And regarding the employment, the
15 city of Washington D.C., I believe is trying to
16 address the ex-offender issue. I don't think
17 it's a requirement, however, of this particular
18 developer, to do that. But I think that, you
19 know, jobs are needed in the city. I think it's
20 very important to reduce at least a portion of
21 the unemployment. It's not going to eliminate
22 the problem. It's, hopefully, going to address

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1 it somewhat. So I wanted to just comment on
2 that.

3 The other thing that concerns me are
4 the phasing plan for the project. Again, I
5 think the retail is a very important aspect.
6 However, so is the housing. And I think the
7 proposal by the developer to push the housing out
8 four years is unacceptable. I think they should
9 be working on both of the project elements
10 together. And I would to hear from my
11 colleagues about that.

12 And then I just wanted to do a little
13 bit of word smithing. Paragraph 50, "Urban
14 design, architecture, and landscaping. The
15 project implements a number of urban design and
16 architectural best practices." I think that's
17 incorrect.

18 As I have indicated at a public
19 hearing, that I did not think that the project
20 was sufficiently designed. And that the land,
21 that there's some market conditions I understand
22 which impacted the density of the project.

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1 However, I will be more comfortable if it says,
2 "The project will assist in the further
3 development of East Capitol Street in to an
4 enhanced neighborhood center with high quality
5 retail, residential, and office." It doesn't
6 have office uses. So I don't even know why that
7 word is in there.

8 COMMISSIONER MILLER: What
9 paragraph are you on?

10 VICE CHAIR COHEN: 50.

11 COMMISSIONER MILLER: 50.

12 VICE CHAIR COHEN: And then I would
13 state in paragraph 51, as the first visible
14 component of the project with entering the
15 District from the west, the mixed use building
16 acknowledges it's instead of landmark status I
17 would say primary location. Again, I am making
18 those corrections, because as I said, I don't
19 think it is the best practice in urban design and
20 the utilization of land on that site.

21 That's it, thank you.

22 CHAIRMAN HOOD: Okay. Thank you.

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1 Any other comments, Commissioners?
2 Commissioner May?

3 COMMISSIONER MAY: Yes. First of
4 all, the mixed use building, the changes that
5 were shown in the package that was submitted, I
6 think all of that is an improvement. Especially
7 things like the additional balconies.

8 I don't see anything in the package
9 that indicates any attempt to try to address the
10 comments that we had about the WalMart building.

11 Am I missing something? I mean, I
12 had some, I thought some pretty specific
13 comments on things that I thought should be
14 changed. And I don't see anything in here.

15 CHAIRMAN HOOD: Ms. Schellin, is
16 this, were we asked to hold off on consideration
17 for that? Or was that another case?

18 MS. SCHELLIN: For this case?

19 CHAIRMAN HOOD: No. For the, about
20 the WalMart issue.

21 MS. SCHELLIN: No.

22 CHAIRMAN HOOD: Okay.

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1 COMMISSIONER MAY: Well, I'm not
2 sure what to make of that. It's not the most
3 important stuff in the whole project. But it's
4 unusual not to get some sort of response on that.
5 Maybe I'm just missing something here. It's
6 easy enough to --

7 CHAIRMAN HOOD: Well, you know --

8 COMMISSIONER MAY: -- miss
9 something.

10 CHAIRMAN HOOD: -- I don't know how
11 strong you are, but this like asking stuff and
12 not getting it. So --

13 COMMISSIONER MAY: Yes.

14 CHAIRMAN HOOD: -- it depends on how
15 much you want to go. Because we can deal with
16 this in September when we get it.

17 COMMISSIONER MAY: Right.

18 CHAIRMAN HOOD: That's where I am
19 with a lot of this.

20 COMMISSIONER MAY: Yes. Well, I
21 mean, I do find some of the other issues a bit
22 disconcerting. I don't necessarily agree with

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1 the ANC's concerns. And I think Vice Chair
2 Cohen addressed those fairly well. I mean, I
3 would agree with her comments on the ANC report.

4 But it is, it's disconcerting to
5 have, at this stage in the game, such
6 disagreement from the ANC. We usually like to
7 see the ANC more onboard with a project of this
8 scale at this stage. So.

9 CHAIRMAN HOOD: The vote was 3-2.
10 It was a close vote.

11 COMMISSIONER MAY: Yes.

12 CHAIRMAN HOOD: I looked at that
13 too. And I actually, when the, on the first
14 reading, I thought that most of the issues were
15 not necessarily pertaining to what we should
16 deal with. But then, after looking over the
17 responses, I think I would give it 2 out of 3.
18 Two issues are issues that are in front of us.
19 Naturally you would like to have a little more
20 togetherness. Especially when you look at the
21 concern, the ANC as far as jobs.

22 That's what this, that's what

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1 development is all about in the city. And but
2 the applicant says that they entered in to the
3 First Source Agreement. And there's a
4 requirement there which as long as they entered
5 in to an agreement, but even though we need to
6 start putting more teeth in that. And making
7 sure that actually is a reality as opposed to
8 just coming here in front of us and signing
9 paperwork. I don't know. I don't want to go in
10 to the soapbox.

11 But anyway, Commissioner May, you
12 have the floor.

13 COMMISSIONER MAY: No. I don't
14 have anything else to add at this point.

15 CHAIRMAN HOOD: Commissioner
16 Miller.

17 COMMISSIONER MILLER: Thank you,
18 Mr. Chairman.

19 I would agree with the last Chair
20 that the applicant's response on the affordable,
21 well the applicant -- I would agree that the
22 applicant's response to the ANC concerns

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1 addresses each of their concerns. Only
2 affordable housing, not being a public benefit,
3 I would agree with the Vice Chair's comments.
4 This is not, we're talking about a 288
5 residential units. All of which will be at 60
6 percent AMI. Which is a lot more units and a lot
7 deeper afford-ability level then would
8 otherwise than would be required under our IZ
9 standards.

10 I agree with Commissioner May that
11 the design of the mixed use building has been,
12 the applicant has responded to the Commission's
13 concerns. I think all of us expressed the
14 concern that we wanted more balconies. And they
15 added 28 balconies to the building, which I
16 think. Is definitely an improvement. And it
17 will reinforce the residential character of the
18 building.

19 I recall that the Vice Chair asking
20 the question about phasing at the hearing. I
21 thought the answer was that was the time line
22 that the large box retailer wanted. I think,

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1 and whether I'm not saying that that makes it a
2 right answer. I'm just saying that, I think
3 that was the answer that was provided in the
4 record.

5 But I think retail is, the large box
6 retail and the particularly the sit down
7 restaurant are critical. And they're needed
8 right now by the existing residents. And they
9 certainly will serve the new residents there as
10 well.

11 And I think that's -- and on
12 Commissioner May's concern about the, I can't
13 off the top of my head recall what you
14 specifically asked for, maybe you can remind us
15 -- but you usually have very productive
16 suggestions. Maybe between the proposed action
17 and the final action, we can see a response to
18 that. So we can keep this important project for
19 the city and for this Ward 7 community moving
20 forward.

21 COMMISSIONER MAY: Yes. And the
22 concern had mostly to do with the louvers on the

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1 58th Street facade. The design of that facade.
2 Because it looked kind of blank.

3 There was one other thing that I was
4 missing. I noticed this going over my notes one
5 more time.

6 The applicant in the Exhibit Number
7 45, states that they revised the paving plan, the
8 porous pavers and the paving plan. And it's
9 shown on sheet C03-02. And I can't seem to find
10 that plan. Does anybody else have it?

11 MS. SCHELLIN: C03 --

12 COMMISSIONER MAY: Yes. It was not
13 in my --

14 COMMISSIONER TURNBULL: It's not in
15 my --

16 VICE CHAIR COHEN: While everybody
17 is looking for that, I'd just like to state that
18 there are at least 298 families, households in
19 the city looking for housing that meets 60
20 percent of median income. I think that that's
21 a critical need that the city is experiencing.
22 So I would disagree with the Commissioner with

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1 regard to the importance of staging the housing.

2 COMMISSIONER MAY: Sorry Mr.
3 Chairman for jumping all over the place. I
4 found C03-02. It's the very back page. I was
5 expecting something in color. I missed it.

6 CHAIRMAN HOOD: Okay. Any of you
7 want to comment on it?

8 COMMISSIONER MAY: Yes. I mean,
9 basically, they did more or less what we asked
10 for. So I'm okay with that.

11 CHAIRMAN HOOD: Okay. We kind of
12 gotten away from this. But I know in taken in
13 light of what the ANC has asked about as far as
14 jobs, in general, I know that there's a statute,
15 you know, in the First Source. Don't we
16 typically ask for, before final or is it before
17 proposal, don't we typically ask for a signed
18 agreement? Or was there a signed agreement and
19 I just missed it? Because I may still have it
20 just sitting there.

21 VICE CHAIR COHEN: Yes. I didn't
22 see that either.

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1 MS. SCHELLIN: There's no signed
2 agreement.

3 CHAIRMAN HOOD: Okay.

4 MS. SCHELLIN: That the applicant
5 has indicated.

6 CHAIRMAN HOOD: MS. Schellin, can
7 you find out when we are going to get the signed
8 agreement for the record? Because typically,
9 we get a signed agreement.

10 MS. SCHELLIN: By final.

11 CHAIRMAN HOOD: Okay. Then I guess
12 I need to get back on the soapbox that the
13 applicant needs to work with the ANC and the
14 community about the different jobs. This is
15 something that we did some years ago when
16 Chairman Cropp was the Chairman. One of the
17 things that we were pushing on the Zoning
18 Commission was to make sure that actually these
19 things actually happen. Because what we found,
20 colleagues, if you all remember, what we found
21 was people would, applicants would come down and
22 sign a First Source agreement. And the First

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1 Source agreement started in here in the zoning
2 hearing room. And it ended here in the here in
3 the zoning room. So we started pushing that.
4 And I think it's time for us to do that again.
5 And I want to thank ANC 7 Sea for bringing that
6 to light. Even though, that was one of the
7 issues that I do agree with them. So let's see
8 if we can exercise that and make that happen.

9 And also, the key is that the
10 applicant needs to make sure that the Department
11 of Employment Services has the pool or knows in
12 advance so we can get the pool ready. Because
13 one of the other things we heard back at that time
14 was that we don't have qualified personnel. But
15 if we start working in these stages, then by the
16 time you need to hire someone, we can get
17 qualified personnel. And the residents can
18 stop seeing the Texas and the Virginia and the
19 Pittsburgh tags, excuse me, out in front of the,
20 in front of these developments.

21 So anyway, that's enough. I'm on a
22 soapbox.

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1 Anything else?

2 Commissioner Turnbull.

3 COMMISSIONER TURNBULL: Yes.

4 Thank you, Mr. Chair.

5 I just wanted to point that, for the
6 record, that I was not here on the date of the
7 last hearing. I have read the record.

8 I would concur with the Vice Chair
9 on paragraphs 50 and 51.

10 But I also, but I would also
11 recognize Commissioner Miller's point about the
12 schedule. As much as we want certain things to
13 happen in a certain way, there is an economic to
14 some of these PUDs and how they're developed.
15 So I'm not, as much as I would like to see housing
16 go in, I do understand, I do recognize the
17 financial problems that are inherent in a large
18 production such as this. So it's a toss up.

19

20 VICE CHAIR COHEN: I just wanted to
21 share with my colleagues though that this will
22 be, again, a project that applies for low income

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1 housing tax credits, 4 percent. And they will
2 get them with 4 percent, tax exempt bonding.
3 Yes, they need to have financing. Yes, I
4 believe this is part of the HOPE VI Project. I
5 may be wrong. I stand to be corrected if it is
6 not.

7 But I think that, again, we can sit
8 here and say, housing. It's a financing factor.
9 But I think the applicant owes us at least a
10 commitment to pursue the housing as hard as they
11 will be pursue the retail. It's just that
12 important for the city. Especially when we're
13 trying to meet the critical need of housing,
14 affordable housing.

15 And everybody pays lip service to
16 it. I think everybody now should start
17 recognizing that it is a moral crisis.

18 CHAIRMAN HOOD: In this case,
19 colleagues, just to make sure, are we all in
20 agreeance with the responses of the for the most
21 part exception except for the First Source?
22 Everything we are in agreeance with what the

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1 applicant has responded to the ANC? Or any
2 objections?

3 (No audible response.)

4 Okay. So noted. We will that as
5 validity. And just ask for that information
6 before final. And what the ANC had asked for,
7 we're going to ask for it too. The First Source
8 agreement, signed agreement.

9 And also, I want to know, I'm sure
10 that the applicant is going to say if we enter
11 in to the First Source, that's should be good
12 enough. But I want to know how we're reaching
13 out to make sure that pool comes from that
14 effected area, the effected ANC. Okay.

15 Commissioner Miller.

16 COMMISSIONER MILLER: If it's
17 appropriate, Mr. Chairman, I'd like to move
18 approval that we move forward, that I'd like to
19 move forward with proposed, propose that we move
20 forward with proposed action and ask the
21 applicant to respond to a few of the issues that
22 have been raised by the Commission today. Your

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1 points about the First Source, the Vice Chair's
2 points about the phasing, just a response. Not
3 necessarily -- I mean, it doesn't have to be an
4 executed agreement.

5 CHAIRMAN HOOD: Some --

6 COMMISSIONER MILLER: At least a
7 response on the phasing. And a response to
8 Commissioner May's concern about the louvers on
9 that somewhat blank wall. So I would, for me,
10 for the applicant to provide that before final.
11 I move approval. And for ANC to have an
12 opportunity to respond. I would move approval
13 that we take proposed action on Zoning
14 Commission Case Number 12-16 CG Market Place LLC
15 - Consolidated PUD and Related Map Amendment for
16 Various Lots @ Squares 5276, 5272, 5277 and 5246.
17 And ask for a second.

18 COMMISSIONER TURNBULL: Second.

19 CHAIRMAN HOOD: Okay. It's been
20 moved and properly seconded.

21 Any further discussion?

22 (No audible response.)

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1 Are you ready for the question, all
2 those in favor?

3 (Chorus of ayes.)

4 Not hearing any opposition, Ms.
5 Schellin, would you please record the vote.

6 MS. SCHELLIN: Yes, sir. And after
7 recording the vote, I'd like to set some dates
8 for those submissions and response.

9 Commissioner Miller, the staff
10 records there were 5-0-0 to approve proposed
11 action Zoning Commission Case Number 12-16.
12 Commissioner Miller moving. Commissioner
13 Turnbull seconding. Commissioners Cohen, Hood
14 and May in support.

15 Once again, any of the parties not
16 familiar with sections 2403.15-2403.20, there
17 are copies of those sections up here for them.

18 And if we could set dates for those
19 additional documents coming in on final action.
20 It could occur at the first September meeting.
21 Of course, the ANC is off in August. So what
22 does the Commission want to do about getting a

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1 response from the ANC to these additional
2 documents?

3 CHAIRMAN HOOD: They meet in
4 September, right?

5 MS. SCHELLIN: They do.

6 CHAIRMAN HOOD: Yes, they do. So
7 maybe our last meeting in September?

8 MS. SCHELLIN: For final action.

9 CHAIRMAN HOOD: Yes.

10 MS. SCHELLIN: Okay.

11 CHAIRMAN HOOD: By the end of our,
12 at our last meeting, they probably should have
13 met by then.

14 MS. SCHELLIN: They should, yes.

15 So we could have -- and that will
16 give the applicant some additional time to get
17 that First Source agreement.

18 So if we could have those additional
19 documents by September 16th. And then the ANC
20 could file their response by September 23rd.
21 Then we can put this on for final action on
22 September 30th.

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1 And of course, they still have the
2 Section 243.15-.20 to follow also.

3 CHAIRMAN HOOD: Are we all straight
4 on that case, Ms. Schellin?

5 (No audible response.)

6 Okay. Let's go to Zoning
7 Commission Case Number 05-36G. This is K Street
8 Developers PUD Modification Related Map
9 Amendment @ Square 749.

10 Ms. Schellin.

11 MS. SCHELLIN: Yes, sir.

12 At Exhibits 36 and 37, we have the
13 applicant's post hearing submissions. Exhibit
14 38 is a letter from the party in opposition
15 asking that the Sher report be stricken from the
16 record. Exhibit 39 is the ANC 6C report in
17 opposition. Exhibit 40 is the applicant's
18 response to the party in opposition. Exhibit 41
19 is the applicant's response to ANC 6C report.

20 We'd ask the Commission to consider
21 proposed action this evening.

22 CHAIRMAN HOOD: Okay. Thank you,

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1 Ms. Schellin.

2 Let's go right to the main point.
3 At the hearing, I was under the assumption, never
4 assume, that we were all in agreeance to how we
5 were going to handle party status and expert
6 witnesses. Well, expert witnesses more less
7 than part status.

8 Let me just say this. Because the
9 applicant is exactly correct. They should have
10 had an opportunity to cross-examine Mr. Sher.
11 Even though I thought we were in agreement. I
12 think we, what we can do is arrange some time,
13 and I know staff has been trying, so we can help
14 try to rectify this. Is arrange some time. And
15 we can have the party, the applicant and Mr. Sher
16 come in for -- any parties that may be involved
17 -- to come in and do like a 10 or 15 minute limited
18 scope hearing on Mr. Sher's testimony. So he
19 can be cross-examined.

20 Can we all agree to that?

21 VICE CHAIR COHEN: Yes, sir.

22 CHAIRMAN HOOD: Ms. Schellin, when

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1 we get through with our comments, if you can give
2 the dates on that limited hearing, that 10 or 15
3 minute hearing. Do we have to say how many
4 minutes -- not in cross, no. Never mind. Just
5 -- I answered my own question.

6 Yes. We'll talk about that at the
7 end. But I just want to say up-front that we
8 will have a limited scope hearing on that
9 particular issue. And so that will give the
10 applicant time to be cross-examined.

11 And maybe we may have some
12 additional questions of Mr. Sher's testimony.

13 The motion to strike -- the motion
14 -- I would move that we deny the motion to strike.
15 And backfill it with what, all the things I just
16 said a few moments ago. And ask for a second.

17 VICE CHAIR COHEN: Second.

18 CHAIRMAN HOOD: It's been moved and
19 properly seconded.

20 Any further discussion?

21 (No audible response.)

22 All those in favor.

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1 (Chorus of ayes.)

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

4 MS. SCHELLIN: Yes. The staff
5 records the vote 5-0-0 to deny the motion to
6 strike that was submitted by Attorney Pat Brown
7 on behalf of the party in opposition.
8 Commissioner Hood moving. Commissioner Cohen
9 seconding. Commissioners May, Miller and
10 Turnbull in support of denial.

11 CHAIRMAN HOOD: Okay. So we know
12 who we're going to proceed on that issue.

13 Let's open it up. We'll just give
14 the dates and everything at the end. Let's open
15 it up for any discussion.

16 Commissioners.

17 VICE CHAIR COHEN: Okay. I'll
18 start. Thank you, Mr. Chairman.

19 A couple of things that I had asked
20 for and I was terribly disappointed in the
21 response. Because sometimes, you know the
22 answers to your own questions. But you're

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1 trying to -- and it's not my job -- to make an
2 argument on behalf of the applicant.

3 But the ANC did feel that the proffer
4 package was very light.

5 It's one of the things I did ask for,
6 if you recall is that there is data on employment
7 and training opportunities from an earlier phase
8 on this project. And what I was provided by the
9 applicant was, well, we were like not we were not
10 told we weren't in compliance. That is, in my
11 opinion, very circular reasoning. And it's
12 very lawyerly.

13 All I wanted -- I think it would have
14 been wise to submit your last quarterly report
15 on that project. It just would have helped to
16 say, yes, we met our goals. As opposed to
17 saying, well, we weren't, we didn't not not meet
18 our goals. You know, double negatives don't
19 work with non-lawyers.

20 The second thing that I asked for was
21 just a simple mathematic problem. Let me know
22 what it's going to cost you to provide that

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1 additional Inclusionary Zoning unit. All you
2 had to do was provide simply what is the market
3 rate. What is the subsidized rate. What is the
4 difference. Present value it for 30 years.
5 That's not so hard. And I think that everybody
6 might have been surprised at the number. And
7 given you greater weight on your proffers.

8 Just again, got a non-answer, in my
9 experience and opinion, as a former finance
10 person of housing and other types of development
11 projects.

12 So I just really wanted to say I'm
13 disappointed in the responses that I got. I
14 just don't think that they were appropriate or
15 they didn't really respond in a thorough way that
16 I think would have been of help to you. I mean,
17 I didn't get the ANC to state that, you know, this
18 isn't a package that doesn't provide enough
19 proffers.

20 In addition though, I do want to
21 state for the record that the ANC is very
22 uncomfortable with the loading plan when there

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1 is no place to actually provide move-ins and this
2 is common throughout the city. No every
3 apartment building has a loading plan. At
4 least, in neighborhoods that I visited. They
5 just have to get that special exemption from the
6 parking or police department. So I have seen
7 that in numerous areas. And that didn't trouble
8 me so much.

9 CHAIRMAN HOOD: Any other comments?

10 (No audible response.)

11 Let me ask Vice Chair, you're not
12 satisfied with -- and I would concur with you,
13 I think we need more information. I'm not
14 circular. I like the way you put it. I'm not
15 going to try to redesign what you said. But the
16 circular motion around the -- I do think we need
17 some additional -- there's enough track record
18 that we could have gotten a much better response
19 than what we had. And this is rough, when we
20 send and ask for stuff, and we don't get any
21 responses.

22 So particularly, in this case and

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1 maybe one or two more that's coming behind me,
2 I'm ready to hold it off and doing it in September
3 or October until we get information that we need.

4 Let's open it up for more
5 discussion.

6 Commissioner May.

7 COMMISSIONER MAY: Yes. I just
8 want to say that I was really surprised, almost
9 shocked, to see the ANC report with unanimous
10 opposition. I mean, I had every reason to think
11 based on the ANC's past statements about the
12 overall PUD and generally speaking the way we've
13 seen some other PUDs go in this particular
14 neighborhood, I was just really surprised.
15 There's something off here. And I
16 know that it's a very difficult site to try to
17 provide parking within the building.

18 And you know, I'm not sure what the
19 right solution is. But I think that, you know,
20 my reaction to that was that I think that the
21 developer needs to go back to the ANC and try to
22 figure out what can be done to make sure that

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1 their concerns about parking are taken care of,
2 their concerns -- I mean, to some lesser extent,
3 loading I think. I tend to generally agree with
4 the Vice Chair on the issue of loading. But and
5 if that were the only thing, I wouldn't be as
6 concerned about it.

7 And then there's also the amenities
8 package. And I think that that's, that is
9 significant. You know, this is additional
10 density that's being rendered here. And it's
11 being added on to the, to an existing PUD. And
12 it makes sense that it be so. But the amenities
13 have to be commensurate with what's being added
14 here.

15 So, I don't, I don't feel as strongly
16 that is at this point. So I'd like them to work
17 a little bit more on it. And come back with a
18 hopefully a more favorable response from the
19 ANC.

20 CHAIRMAN HOOD: I would agree with
21 on that because the first phase, if you look, it
22 was a love letter. And I don't know what

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1 happened between that and where we are now with
2 ANC.

3 Okay. Any other comments?

4 Commissioner Miller?

5 COMMISSIONER MILLER: Thank you,
6 Mr. Chairman.

7 I think that the applicant's July 19
8 letter, which is in response to the July 12th ANC
9 letter in opposition, does adequately address
10 the ANC's concerns regarding the lack of
11 parking, and the lack of loading, and the
12 benefits package.

13 I think this was always a missing
14 piece of this square's development. And I think
15 the applicant who was involved with, who was
16 involved with the first phase but doesn't,
17 apparently not the owner, apparently, any more
18 did a good job of using the same architect and
19 designing to integrate it in to that whole
20 development.

21 But I think some of the commitments
22 they make about the parking in the letter is

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1 something they probably could somehow
2 memorialize with an agreement with the ANC. And
3 maybe get them to send a different kind of
4 letter. Whether it's the building not being
5 able to go -- it's only 41 units to begin with.
6 For this phase. But whether it's the RPP not,
7 program not being eligible and any agreements
8 they get with, you know, with the tenants in
9 making the covenant like in other cases. The
10 fact that the, it appears that phase one is over
11 part -- but that phase, that phase apparently
12 won't be available to this phase because of the
13 disagreement now between the current owner of
14 that phase and the current owner of this phase.

15 But phase two, which is yet to be
16 developed, the applicant did make an effort to
17 get a commitment for additional parking there,
18 if it's available. And it appears that, based
19 on what happened with phase one, that it would
20 be.

21 So I would be, I don't share, I mean,
22 I'm concerned that the ANC has the letter that

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1 it has written that is has. But I think the
2 applicant's letter does adequately address
3 those concerns. And I would be prepared to move
4 them forward tonight. And like the last case,
5 ask for an effort to be made to memorialize with
6 the ANC or otherwise meet with them to try to get
7 a different response from them. So that would
8 be my posture in this case.

9 VICE CHAIR COHEN: Ms. Chairman, I
10 actually would support moving ahead subject to.

11 COMMISSIONER MAY: Can I ask, I
12 guess a process question. I mean, wouldn't be
13 have to, if we're going to have a continued
14 hearing on this, wouldn't that hearing have to
15 occur before we do any decision making?

16 COMMISSIONER MILLER: I wasn't
17 asking for a hearing. I was asking for a
18 submission --

19 COMMISSIONER MAY: No, I know. But
20 we're going to have another hearing for Mr. Sher
21 to be cross-examined.

22 COMMISSIONER MILLER: Oh, I see.

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1 CHAIRMAN HOOD: I actually would
2 rather for us to delay any action. I mean, not
3 just -- because if we vote for it tonight, and
4 I don't like to, I like to work things out. But
5 a vote for tonight, I would vote, I would deny
6 this case right now, tonight. So I don't want
7 to be pushed to that point. I would like for
8 some more reconciliation --

9 COMMISSIONER MILLER: I forgot
10 about the limited hearing that we have to have
11 anyway.

12 CHAIRMAN HOOD: But that's on a
13 narrow scope. And that could change.

14 COMMISSIONER MILLER: That's going
15 to be in September anyway. So --

16 CHAIRMAN HOOD: Yes.

17 COMMISSIONER MILLER: -- it all
18 could stay on the same schedule.

19 CHAIRMAN HOOD: So I would like for
20 us to put a little more pressure on this
21 applicant and the community to work together to
22 try to make -- and then when I look behind Tab

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1 in response to Commissioner Miller's concern,
2 well his assurances, even when the applicant
3 can't give me assurances and it's behind Tab D,
4 and I know it talks about phase three. And it
5 also talks about phase two and memorialization
6 of a telephone conversation. I don't think
7 that's very valid for a community. And I just,
8 I'm sorry. I can't move forward on it in a case
9 of a situation like this. I think more hashing
10 out, better flavor when it comes in front of us.
11 Because right now, this is not right for me to
12 even vote a proposed action.

13 Anybody else?

14 Commissioner Turnbull.

15 COMMISSIONER TURNBULL: Thank you,
16 Mr. Chair.

17 For the most part, I like this
18 project. I think it, I think I'm echoing some
19 of your comments. And other comments of the
20 other Commissioners.

21 I think it fits in. It's the
22 missing link on this block.

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1 Architecturally, I have no issues.
2 They went back. They made some improvements on
3 it.

4 I would like to see some more work
5 with the ANC. It would be good to get a letter
6 in support from them on this.

7 So for the most part, I'm in favor
8 of this. With maybe a little extra work.

9 What irritates me is Tab B, Exhibit
10 B, on the applicant's, which was in response to
11 my whole thing about the zoning regs, the front
12 yard, rear yard. And I guess I'm venting.
13 It's a construct. It's just this artifice
14 created to define what's rear and what's front.
15 And I understand the flexibility. And maybe
16 it's the, in the inexactitude of our zoning regs,
17 what is the troubling thing with this. But it
18 just irritates the hell out of me.

19 And I'm not going to oppose this
20 project. But I just, to me, this is just
21 something that if the zoning regulations do not
22 correct this, by definitions and terms, and who

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1 we define those things, we're going to be, find
2 ourselves in a lot more serious issues as we go
3 forward.

4 It may not be a big issue -- maybe
5 it's the Vulcan in me that wants logic. But I
6 like to see something very clear that I can
7 follow through and make sense. And not come up
8 with, as I said, a construct where I have to have
9 this means of analyzing something that doesn't
10 make sense.

11 But that's between me and the zoning
12 regs. And I'm going to be very seriously
13 looking at this. As we go forward. Because it
14 really irritates the hell out of me.

15 But I like the project. I think the
16 project makes sense in a lot of issues. The
17 parking is a problem. And if we can get
18 something from the applicant that's maybe a
19 little bit firmer, and the ANC understands is
20 that maybe that would make us all feel better.

21 But this whole thing about rear
22 year/front yard just, it just bothers me.

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1 CHAIRMAN HOOD: I don't want us to
2 lose -- on the first thing that the Vice Chair
3 asked for and I was going to ask with her, is the
4 data on the track record already on the
5 employment opportunities that have already been
6 had in I think phase one. We should move on that
7 nobody told us we were out of compliance. I
8 forgot how it was worded. But I think that's
9 just as crucial for me as the ANC report. I
10 mean, ANC I know we have to great weight. But
11 when we come down here, and we answer to these
12 agreements, we say what we're for the city. And
13 really, we live in the city. So we know what
14 goes on. So we can't sit up here and just push
15 the paper. Let's make it happen.

16 So anyway, any other comments on
17 this case?

18 Mr. Miller.

19 COMMISSIONER MILLER: I just wanted
20 to add one other positive note. That, in terms
21 of refinement that the applicant made.
22 Although it didn't change the square footage of

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1 the affordable housing provided, the applicant
2 did increase, since our hearing, the number of
3 units by one again, from what it was originally
4 three. Then it went to four. And now it's five
5 of the 41 units. It's still only 10 percent of
6 the total square footage. But it's five of the
7 41 units will be IZ restricted. Which is a
8 perpetual requirement. Phases one and two
9 didn't have that kind of a -- it was pre-IZ and
10 didn't have any perpetual commitment to the
11 affordable housing that was brought in those
12 parts of the project.

13 CHAIRMAN HOOD: Okay.
14 Commissioners, are we all in agreeance with
15 dealing with this at a later time? After we have
16 our limited scope hearing. Any objections. If
17 not, somebody make a motion. (No
18 audible response.)

19 Okay. Ms. Schellin, do we have any
20 dates?

21 MS. SCHELLIN: Yes. Can you tell
22 me specifically what you're looking for them to

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1 submit? So I can -- or anyone want to tell me
2 what specifically they're looking for.

3 VICE CHAIR COHEN: Again, I think
4 they can strengthen their proffer's argument
5 with regard to what they are providing. I just
6 think the ANC would be able to make a better
7 judgement if they were more specific. Okay.
8 Anyone else looking for --

9 CHAIRMAN HOOD: Well, we want to
10 look for something more than just the statement
11 of their employment. I forgot exactly, Vice
12 Chair, how it was worded. I think you were the
13 expert on the how it was worded.

14 VICE CHAIR COHEN: Well, they have
15 actual data that they could -- their final
16 submission to the Department of Employee
17 Services with regard to their employment of
18 First Source and minority hiring.

19 CHAIRMAN HOOD: Right. But they
20 should have a track record more or less. Not
21 just --

22 VICE CHAIR COHEN: They give a

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1 report that they might want to submit.

2 CHAIRMAN HOOD: Okay. All right.
3 Anything else?

4 MS. SCHELLIN: So just --

5 CHAIRMAN HOOD: I think more
6 conversation with the ANC.

7 MS. SCHELLIN: Okay. Meet with the
8 ANC regarding the issues.

9 CHAIRMAN HOOD: Was there anything
10 specific Commissioner May or anyone? Was there
11 anything --

12 COMMISSIONER MAY: I would like to
13 see some progress with that.

14 MS. SCHELLIN: Commissioner May,
15 were you looking for anything?

16 COMMISSIONER MAY: No. Not, I mean
17 --

18 MS. SCHELLIN: You weren't --

19 COMMISSIONER MAY: I'm hoping that
20 they will meet again with the ANC --

21 MS. SCHELLIN: ANC.

22 COMMISSIONER MAY: -- to make some

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1 progress. And that will get them --

2 MS. SCHELLIN: So you're looking
3 for --

4 COMMISSIONER MAY: -- report from
5 the ANC.

6 MS. SCHELLIN: -- so another report
7 from the ANC. Okay.

8 CHAIRMAN HOOD: And then they know
9 what the outstanding issues are.

10 MS. SCHELLIN: Okay. All right. So
11 if we've scheduled that limited scope hearing
12 that's been made mention of, it's supposed to be
13 for the purpose of Mr. Sher testifying. And Mr.
14 Brown having an opportunity to cross-examine
15 him. And that's all that's supposed to happen.

16 CHAIRMAN HOOD: Right.

17 MS. SCHELLIN: At that hearing.

18 CHAIRMAN HOOD: And at the
19 conclusion of that hearing, then if we are
20 sufficient and satisfied, then we can go in to
21 our proposal, our deliberations. Or do we have
22 to notice that?

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1 MS. SCHELLIN: We have to allow an
2 opportunity for the ANC to provide their
3 response.

4 CHAIRMAN HOOD: All right. Well,
5 we'll just have to go with their schedule. We
6 were trying to see if we could do what we --

7 MS. SCHELLIN: Is that Mr. Litsky's
8 --

9 CHAIRMAN HOOD: -- trying to do
10 tonight.

11 MS. SCHELLIN: -- case? No?

12 CHAIRMAN HOOD: That Ms. Wirt.

13 MS. SCHELLIN: They're not here.

14 CHAIRMAN HOOD: No.

15 MS. SCHELLIN: So we don't know when
16 they meet?

17 CHAIRMAN HOOD: Well, I'm sure
18 they'll meet by the time we take this back up
19 again.

20 MS. SCHELLIN: Okay. Which will be
21 the 30th.

22 So we could have the applicant then

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1 provide those, meet with the ANC and maybe
2 provide those additional responses by August
3 30th. The ANC can provide a response by
4 September 16th. And we'll have that limited
5 hearing on the 19th at 6 p.m. And proposed
6 action on the 30th of September.

7 CHAIRMAN HOOD: Okay. Ms.
8 Schellin, do we have anything else on this one?

9 MS. SCHELLIN: No, sir.

10 CHAIRMAN HOOD: Did we leave
11 anything else on this one?

12 MS. SCHELLIN: No.

13 CHAIRMAN HOOD: Okay. All right.
14 Let's go to -- all right. Okay.

15 The next Zoning Commission Case
16 Number 02-38D. This is the Waterfront 1001 4th
17 Street LLC Second Stage PUD and Square 542.

18 Ms. Schellin.

19 MS. SCHELLIN: Yes, sir.

20 Exhibits 40 and 41, the applicant's
21 post hearing submissions.

22 And I will make note that the

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1 applicant requested in their submission to be
2 able to file a final set of architectural plans
3 if the Commission allows them to do so. I would
4 suggest that we allow until August 19th for them
5 to do that.

6 Exhibit 42, ANC 60s response to the
7 post hearing submission was made.

8 Exhibit 43, the party in
9 opposition's response to the post hearing
10 submission was made.

11 And that's it.

12 CHAIRMAN HOOD: Okay.
13 Commissioners, we can hear from others. But let
14 me, well, let me just start off.

15 I was disappointed in this case in
16 what I received. There was some things that we
17 asked for that we were not given. And I don't
18 think it's too late to ask for it.

19 I know there was a mention of shadow
20 studies and some other things which leads me to
21 only come to the conclusion that there is some
22 adverse impacts. To make the evaluation of the

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1 light and air. And not getting that information
2 leads me to believe that, to infer that there is
3 some adverse impacts. And some influences.

4 So I would just -- I have a problem
5 with not getting the information that we asked
6 for. We spent a lot of time reading and
7 reviewing.

8 And this is a case tonight that I'm
9 actually not prepared to move forward with.

10 And then, out of all of that, when
11 I asked the applicant, and I think they made hits
12 and jabs and stabs at it. But it was not -- I
13 was not influenced that there was even a meeting
14 had. There was -- what we asked them to do. Try
15 to work out some of the differences. Because
16 when I look at the opponent, the church has been
17 there for I think they said they're 136 years
18 old. And they've been there for over 50 years.
19 They, I think, are due some due diligence in
20 trying to help reconcile some of their light
21 issues. And I don't have any -- there's no
22 evidence for me in this record of what we asked

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1 for as far as the shadow studies and the light
2 impacts is going to have on that community.
3 That's been in this city for over, at least in
4 that spot, for over 50 or 60 years as noted at
5 the hearing.

6 So, that's what I say on that.

7 I would be, I'm ready actually to
8 deny this. But I'd be willing to take the
9 applicant's, the opponent's view and allow more
10 time as they've suggested. But I thought that's
11 what we were doing when we were doing this to
12 begin with.

13 But let me open it up for the
14 discussion. Anybody?

15 COMMISSIONER MAY: Mr. Chairman.

16 CHAIRMAN HOOD: Commissioner May.

17 COMMISSIONER MAY: Yes. There
18 were a number of things that we didn't ask for
19 where they did do some work. We asked them to
20 look at refining the heights of the penthouse
21 structures. And that was done. And it was
22 refined.

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1 They did provide a drawing that
2 depicts where the church is. And some analysis
3 of what could be seen from their, the window
4 which was so important.

5 Honestly, I don't recall us actually
6 requesting a shadow study per say. I'm a little
7 surprised at that since that was an issue
8 blocking in to that window. But my notes don't
9 reflect the fact that we've asked for a shadow
10 study.

11 I'm also, frankly, quite
12 comfortable with the placement of the building,
13 the height of the building, and the what I would
14 think is a minimal impact on the church in terms
15 of the direct sunlight that can reach that
16 particular window.

17 The church is set fairly far to the
18 north. It's a hundred feet away from the
19 building. It's angled, as I understand it, the
20 glass is angled in such a manner that it's really
21 facing east. And is you know, the idea is to get
22 that eastern sunlight in the morning. And I

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1 think that this, I think that that, I think that
2 the shadow study would probably show that
3 there's actually not that much impact.

4 But regardless, I don't know that,
5 you know, given that this is done to height that
6 was approved in the stage one, that the impact,
7 the light impact, or the impact to the direct
8 light to the church is, should really be an issue
9 for us at this moment.

10 And so I'm quite prepared to move
11 ahead tonight. I mean, I would have liked to
12 have had further conversation and try to resolve
13 things. That would have been good. You
14 certainly asked for that directly. But
15 nonetheless, I'm still prepared to move ahead
16 based on what I see.

17 I do think it's a little bit
18 disappointing that we're not seeing even more
19 retail along 4th Street than -- I mean, there is,
20 there has been some improvement, some attempt to
21 address that concern of the Commission from the
22 hearing. But that's about the only thing that

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1 really is a disappointment for me at this stage.

2 CHAIRMAN HOOD: Okay. Vice Chair.

3 VICE CHAIR COHEN: Thank you, Mr.
4 Chairman.

5 I didn't think that we asked for the
6 study. But then, I believe I reviewed my
7 records and we just suggested that it be shared
8 with the Westminster people.

9 I concur actually with Commissioner
10 May. I believe that they, you know, answered
11 the noise issue.

12 You could also say that, you know,
13 the church in many ways, for their jazz concerts
14 could disturb the neighborhood. But you know,
15 the one or two nights that they have large
16 attendance.

17 But I think that again, the distance
18 between the two buildings and the fact that the
19 building faces east as Commissioner May stated,
20 I don't think there would be major shadows
21 blocking light. So I'm willing to move ahead on
22 this as well.

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1 CHAIRMAN HOOD: Well, I appreciate
2 my two colleagues. But one of the things that
3 I noticed it when I asked for some of them to get
4 done, I don't appreciate just like other
5 commission members, when you ask for stuff, and
6 it doesn't get done, you all don't appreciate it
7 either. And I try to take in to consideration
8 your way of thinking as opposed to making you
9 have to vote against it. I'm not taking it
10 personal. But I want to remind you that I don't
11 see any difference in this one than the case we
12 just did over in 6C. So we need to be
13 consistent. We need to be consistent across
14 town.

15 Commissioner Miller.

16 COMMISSIONER MILLER: Thank you,
17 Mr. Chairman.

18 One difference is that the ANC in
19 their post hearing submission said that they
20 believe that to a large extent their concerns
21 have been, many of their concerns have been
22 adequately addressed in their post hearing

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1 submission. The original letter was
2 conditionally support and their testimony was to
3 that effect. And they were particularly
4 pleased with the increase in the retail from 4400
5 to 5300 along 4th Street. And the, I like to
6 think the leasing space went around the corner
7 to the private drive to allow that, allow for
8 that additional space.

9 So I would just note that, that the
10 ANC seems largely satisfied. Not totally.
11 There could be a tightening of the RPP
12 commitments that has been made by the applicant.

13 But in general, I would agree with
14 the comments of the Vice Chair and Commissioner
15 May in this case. And would be prepared to move
16 forward. But to ask for a, ask for the shadow
17 study.

18 I reviewed the record as well. I
19 think it was somewhat, we wanted to, we
20 definitely wanted something. We definitely
21 wanted them to work together with the church,
22 with the party of opposition. And we definitely

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1 wanted to see some renderings that showed the
2 building, the new building, which is a hundred
3 feet -- this wall as Commissioner May and Vice
4 Chair point out, that wall, that building is a
5 hundred, almost a hundred feet, about a hundred
6 feet away from the wall of the church.

7 So we did get one rendering. It
8 might have been nice to get more. But I think
9 we could get that between proposed action and
10 final action. But I'll see where the rest of my
11 colleagues are.

12 CHAIRMAN HOOD: Commissioner
13 Turnbull.

14 COMMISSIONER TURNBULL: Yes.
15 Thank you, Mr. Chair.

16 One of the things that I was
17 concerned about, which we did get information on
18 was what the lighting on the roof. And we did
19 have a roof plan. Page 40A. And they did put
20 down a hours of operation.

21 Although, I was a little bit
22 concerned about the sound though that would be

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1 generated from the roof. And the only thing
2 that they've said here is all music for the pool
3 deck will be controlled by the onsite -- first
4 of all, the hours are 9 to 9, 9 a.m. to 9 p.m.
5 And they talk about all music for the poll deck
6 will be controlled by the onsite property
7 manager.

8 I'd like t see that tightened up a
9 bit. I think there ought to be a contact for the
10 community. I'm just concerned about how much
11 this is going to be used. We all want it to be
12 used. But again, I don't know what -- there are
13 levels that you can have and what you can't have.
14 I'd just like to see that tightened up a little
15 bit more.

16 And as reiterating what
17 Commissioner Miller said, I think we could,
18 between now and final action, we can add whatever
19 we need to that would supplement your request.
20 For additional information.

21 CHAIRMAN HOOD: Okay. I'm not
22 actually ready to move in that direction. But

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1 I can count the votes. I've been doing this a
2 long time. I won't forget it but I can count the
3 votes. I don't mind being the only person out
4 there. I would do that.

5 But also, in response to
6 Commissioner Miller, he said the difference was
7 about the ANC. But see, that's why I like to
8 read it all. Because it says at the May 13th,
9 2013 meeting, ANC 60 voted to conditionally
10 support. To me, there's still some outstanding
11 issues. But I mean, it says conditionally. It
12 didn't say ANC 60 voted to support. Are we
13 reading from the same --

14 COMMISSIONER MILLER: In the next
15 sentence they say that in our response to the
16 post hearing submission by the applicant, they
17 believe that to a large extent many of their
18 concerns have been adequately addressed.

19 CHAIRMAN HOOD: Right. And they
20 mention that early on. But again, I look at what
21 the final thing says. And it says, relative to
22 conditionally.

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1 I mean, you know, I guess that's why
2 the Board has five of us. Because we have five
3 different opinions. So we can read one sentence
4 and have five different opinions. And that's my
5 thing. And it says conditionally.

6 I have just have more of a problem
7 with the way that the church is being worked
8 with. I specifically asked that. And I see,
9 and it seems like they did everything but that.
10 And I will acknowledge, they did work on some
11 other things. But for me, an organization that
12 has been there all that time, I think should get
13 some type of respect, or at least, have some type
14 of conversation. Not a telephone call. A
15 meeting. So that's just where I am. So.

16 COMMISSIONER MAY: Mr. Chairman.

17 CHAIRMAN HOOD: Yes.

18 COMMISSIONER MAY: I would like to
19 point out that, well, I can understand the
20 reading of what was presented as more or less an
21 explanation, or explaining away the church's
22 issues, the applicant did note in their filing

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1 that after the hearing they did meet with the
2 church on June 18th. And then had multiple
3 follow-up phone calls after that. I understand
4 the difference between meetings and phone calls.

5 But they did meet. And that's why
6 I think they, it was, at least, some attempt to
7 work with the church. It may not have been as
8 whole-hearted as you, as we might have liked.

9 Honestly, I didn't hold out that
10 much hope that they were going to come to some
11 agreement on this without making major changes
12 to the building. And I don't think that's
13 really called for here. So.

14 CHAIRMAN HOOD: Okay. All right.
15 All right.

16 Obviously, my request is not going
17 to be honored. So you all can make a motion
18 where you see fit.

19 VICE CHAIR COHEN: I would like to
20 move for the proposed action Zoning Case Number
21 02-38D Waterfront 1001 4th Street LLC - Second
22 Stage PUD @ Square 542. Is there a second?

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1 COMMISSIONER MILLER: Second.

2 CHAIRMAN HOOD: This is moved and
3 properly seconded.

4 Any further discussion?

5 COMMISSIONER MILLER: Yes. Did
6 your motion include the request for --

7 VICE CHAIR COHEN: Sorry.

8 COMMISSIONER MILLER: -- status
9 studies and perhaps --

10 VICE CHAIR COHEN: No. Could you
11 please amend it.

12 COMMISSIONER MILLER: So if you, if
13 you just add to that motion that between the
14 proposed action and final action and Ms.
15 Schellin will provide us with the appropriate
16 dates that they would provide the shadow studies
17 that the Chairman referenced as well as any other
18 additional response to the issues that have been
19 raised here. And to give the ANC a further
20 opportunity to respond if they need to.

21 That was --

22 VICE CHAIR COHEN: That's exactly

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1 what I was going to say.

2 CHAIRMAN HOOD: Okay. It's been
3 moved and --

4 COMMISSIONER MAY: I would second
5 that again.

6 CHAIRMAN HOOD: -- properly
7 seconded. And amendments have been moved and
8 properly seconded.

9 All those in favor.

10 (Chorus of ayes.)

11 Any opposition.

12 Opposed

13 Ms. Schellin, would you record the
14 vote.

15 MS. SCHELLIN: Yes, sir. The staff
16 records the vote 4-1-0. Commissioner
17 Cohen moving. Commissioner May seconding.
18 Commissioners Miller and Turnbull in support.
19 Commissioner Hood opposed to approve Zoning
20 Commission Case Number 02-38D.

21 I have two items down.
22 Commissioner Turnbull brought up then looking at

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1 the tightening up the pool deck hours. And
2 providing some more information on that, I
3 believe. Tightening up that. And then the
4 shadow studies that I believe have already been
5 shown to the church but have not been submitted
6 to the record. And so I think that they just
7 need to be submitted to the record.

8 And anything else that you guys
9 wanted?

10 CHAIRMAN HOOD: And also, the
11 further work with the conditional support, as my
12 colleagues think, the support, the conditional
13 support.

14 MS. SCHELLIN: The ANC.

15 CHAIRMAN HOOD: Commissioner --

16 MS. SCHELLIN: Okay.

17 CHAIRMAN HOOD: All right.

18 MS. SCHELLIN: Maybe working with
19 the ANC on any additional issues they may have,
20 outstanding issues.

21 CHAIRMAN HOOD: Just try to see if
22 we can get the word conditional removed.

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1 The other thing is, if we get those
2 two issues, maybe I, not that they need my vote,
3 maybe I might vote for it in final. But I just
4 don't -- okay.

5 MS. SCHELLIN: Okay. So let me
6 just give some dates real quick. I'm looking at
7 Ms. Shiker. Do you want to still shoot for the
8 September 9th meeting or do you think the 30th
9 is going to be better?

10 MS. SHIKER: The 9th.

11 MS. SCHELLIN: Okay. So if we can
12 have --

13 CHAIRMAN HOOD: I think the 30th
14 because the 9th, I mean, let's be considerate of
15 at least the community.

16 MS. SCHELLIN: Okay.

17 CHAIRMAN HOOD: They don't need
18 meet in August like we don't.

19 MS. SCHELLIN: All right. All
20 right. Then based on that, let's have those
21 additional submissions by September 9th. And
22 we can have the ANC submission or response by or

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1 actually, I guess we need to, are we going to
2 allow the church also to provide a response to
3 those additional filings? I guess since
4 they're a party. So we can have those parties
5 respond by the 16th. Then we can take this up
6 for final action on the 30th. Does that work?

7 (No audible response.)

8 Okay. Thank you.

9 CHAIRMAN HOOD: Okay. Let's move
10 right along.

11 MS. SCHELLIN: And again, if you,
12 any parties need copies of the sections to know
13 that they're supposed to do, since proposed
14 action was taken.

15 CHAIRMAN HOOD: Okay. Let's move
16 right along. Zoning Commission Case Number
17 08-07 Four Points LLC - First Stage PUD and
18 Related Map Amendment @ Square 5772.

19 I know this is kind of late, but I
20 know a lot of times you move away from the mic,
21 if you move away from the mic, you can't hear.
22 Just raise your hand and let us know. Because

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1 I know a lot of times, we move away from the mic.
2 I've just been notified that we need to stay --
3 well, I need to stay in the mic. Okay.

4 MS. SCHELLIN: Yes, sir. Exhibit
5 44 is the supplemental DDOT report that was
6 submitted to the record. Exhibits 45 through
7 45D, the applicant's post hearing submissions.

8 And I ask the Commission to consider
9 proposed action on this case this evening.
10 Thank you.

11 CHAIRMAN HOOD: Okay.
12 Commissioners, we have submissions in front of
13 us as stated by Ms. Schellin. Who would like yo
14 open up any comments?

15 (No audible response.)

16 And we do have a supplemental report
17 from DDOT.

18 COMMISSIONER MAY: Mr. Chairman, I
19 would just note that we received a lot of the
20 things that we asked for. I'm not sure I can
21 check off everything. But we received an
22 axonometric drawing of the project and the

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1 neighborhood, a massing drawing. The aerial
2 photo showing more of the context. A better
3 description of the benefits and amenities. The
4 time table for stage two submissions. And the
5 DDOT submitted alignment diagrams for a
6 streetcar. And there were a few other things
7 having to do with the back end loading on Shannon
8 Place. I'm not sure that's completely
9 resolved. I'm not sure I completely understand
10 it. But I'll look at that again. And that's it
11 from what I saw on the list.

12 CHAIRMAN HOOD: Any other comments?

13 (No audible response.)

14 Okay. I think this one is pretty
15 straight forward for me. I would move approval
16 with the additions of DDOT report supplemental
17 and everything else has been supplied, the first
18 stage PUD, the related map amendment @ square
19 5772, Zoning Commission Case Number 08-07. And
20 ask for a second.

21 VICE CHAIR COHEN: Second.

22 CHAIRMAN HOOD: It has been moved

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1 and properly seconded.

2 Any further discussion?

3 (No audible response.)

4 All those in favor.

5 (Chorus of ayes.)

6 Not hearing any opposition, Ms.
7 Schellin record the vote.

8 MS. SCHELLIN: The staff reports
9 5-0-0 to approve proposed action in Zoning
10 Commission Case Number 08-07. Commissioner
11 Hood moving. Commissioner Turnbull seconding.
12 Commissioners Cohen, May and Miller in support.

13 CHAIRMAN HOOD: Okay. We're ready
14 to move in to hearing action. Zoning Commission
15 Case -- I'm sorry. Hearing Action Zoning
16 Commission Case Number 06-40C Gateway Market
17 Center Inc. - PUD Modification @ Square 3587.

18 Give me the first initial of your
19 name. I'm sorry.

20 MR. GYOR: Stephen. It's S.

21 CHAIRMAN HOOD: Gyor. Mr. Gyor.

22 MR. GYOR: Yes. Yes.

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1 CHAIRMAN HOOD: Gyor. Okay. Yes.
2 Commissioner May and Vice Chair Cohen got me all
3 messed up, up here. Okay.

4 Mr. Gyor, you can go ahead.

5 MR. GYOR: Good evening, Mr.
6 Chairman and members of the Commission.

7 Stephen Gyor with the Office of
8 Planning.

9 OP recommends set down for a public
10 hearing of the modification for a consolidated
11 PUD and PUD related map amendment to facilitate
12 redevelopment of the property at the northwest
13 corner of Florida Avenue and 4th Street,
14 Northeast.

15 The Zoning Commission approved the
16 applicant's previous PUD at the site in 2008
17 which proposed the project with the residential
18 office and retail components. The applicant
19 experienced delays in obtaining financing and
20 leasing commitments. And the PUD was twice
21 extended by the Commission.

22 The applicant proposes to replace a

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1 vacant lot with a six story mixed use building
2 dedicated to residential uses and ground floor
3 retail use fronting Florida Avenue, 4th, and
4 Moore Streets.

5 Among the proposed modification,
6 the applicant proposes to eliminate the
7 project's office component, reduce the
8 project's maximum height from 120 to 80 feet,
9 reduce the project's FAR, redesign the project's
10 two story retail in to one story, and increase
11 the residential use to between 170 to 216
12 residential units.

13 In addition, the applicant proposes
14 to eliminate the hotel option included in their
15 most recent application.

16 The project would also include
17 approximately 215 parking spaces below grade.
18 The applicant is proposing that the garage
19 parking would be accessed from Florida Avenue to
20 the south of the property. And after
21 discussions with OP and DDOT, restrictions to
22 the operations and design of the curb cut,

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1 loading would be accessed from Moore Street.

2 The application requests
3 flexibility from loading features and roof
4 structure set back requirements.

5 The benefits and amenities are
6 consistent with the previously approved PUD.
7 The applicant lists items such as: a community
8 room, a traffic management plan, environmental
9 benefits, and employment and training
10 opportunities.

11 OP encourages the applicant to
12 continue to work with the ANC to develop the
13 benefits and amenities package.

14 The proposal for the mixed use
15 residential retail project is not inconsistent
16 with the comprehensive plan's objectives for the
17 area and to the generalized land use and policy
18 maps.

19 The Office of Planning recommends
20 that the Commission set down the modification
21 for a public hearing.

22 I would be happy to take any

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1 questions.

2 Thank you.

3 CHAIRMAN HOOD: Okay. Thank you,
4 Mr. Gyor.

5 Is there any questions on this?

6 Commissioner May.

7 COMMISSIONER MAY: First of all, I
8 have, we had heard or started discussing Zoning
9 Commission Case 06-40B, which was the request
10 for the extension on this.

11 I don't recall whether we actually
12 acted on that. But I don't think we did. Was
13 that something that we deferred anticipating
14 that this, we'd have a hearing on these extensive
15 changes?

16 CHAIRMAN HOOD: All right. You
17 said we deferred?

18 COMMISSIONER MAY: 06-40B, which we
19 originally --

20 MS. SCHELLIN: We deferred it till
21 December 9th until this case was set down.

22 COMMISSIONER MAY: Got it. That's

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1 what it is. Okay.

2 MS. SCHELLIN: December 9th of this
3 year. Okay. And we did that. Finish this
4 case.

5 COMMISSIONER MAY: Anticipating
6 that we're doing this. Got it.

7 CHAIRMAN HOOD: Okay. Okay.

8 COMMISSIONER MAY: Now, I
9 understand what my notes said.

10 MS. SCHELLIN: To allow this case to
11 come forward for final action. So we could take
12 it up at the same time.

13 COMMISSIONER MAY: Got it.

14 CHAIRMAN HOOD: DO you put dates on
15 your notes?

16 COMMISSIONER MAY: I do. But I
17 apparently -- I didn't put the year on it. So.

18 CHAIRMAN HOOD: Oh, okay.

19 COMMISSIONER MAY: Got a little
20 confused.

21 So the -- you know, I think there's
22 a lot to be said for the new approach on this

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1 project. I think there are a lot of aspects of
2 the old project that were, that I was not
3 entirely comfortable with. And so I appreciate
4 the idea of simplifying this.

5 And not having a lot of different
6 options, you know, we have three different
7 options that are in this package that's a little
8 bit unusual for us to have that many possible
9 alternatives within a project. Usually when
10 we're options, it's sort of minor tweaks to go
11 one way or the other.

12 I would appreciate when we actually
13 have the hearing seeing more information about
14 the original case that we had approved. Just
15 some sort of summary drawing so we have a sense
16 of what that was. And that can come from the
17 applicant or from you. It doesn't really
18 matter. But just to see what it was before that
19 we had approved. I have certain memories of it.
20 And it may be helpful to actually have real
21 information on it rather than relying on my fuzzy
22 and rapidly aging memory.

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1 And then, overall, I would just say
2 that the project while it shows, I think, some
3 significant promise, still needs a lot of work.
4 I think the drawings are not very refined at this
5 point. And there's a lot of thinking that needs
6 to go in to this before we get to the actual
7 hearing. And I'm hopeful that the Office of
8 Planning will be working closely with the
9 applicant to try to make those final.

10 Thanks.

11 CHAIRMAN HOOD: Vice Chair.

12 VICE CHAIR COHEN: Thank you, Mr.
13 Chairman.

14 Again, I concur with Commissioner
15 May that there needs to be more elaboration on
16 the plans including a roof plan. I didn't see
17 one.

18 The west elevation, which is page
19 A202, it was really hard to see all that black.
20 It needs more articulation, I believe.

21 And again, working closely with the ANC on
22 the proffers.

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1 Those are my comments.

2 CHAIRMAN HOOD: Okay. Any other
3 comments.

4 Commissioner Miler.

5 COMMISSIONER MILLER: Thank you,
6 Mr. Chairman.

7 I'm prepared to set this down for a
8 hearing. It does look -- I wasn't here for the
9 original but it does look like it is an improved
10 design and use. It's got 170 to 216 residential
11 units. With 20 percent of them set aside. Or
12 around 40 units assigned to 80 percent AMI. And
13 27,500 square feet of ground front of retail
14 fronting Florida Avenue, 4th Street, and Moore
15 Streets.

16 I think this project will do a lot
17 to contribute to the continuing revitalization
18 of that area. That is very exciting, what is
19 going down there. And I think this will just
20 continue that revitalization effort.

21 CHAIRMAN HOOD: Okay.
22 Commissioner Turnbull, do you have anything?

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1 COMMISSIONER TURNBULL: Yes.
2 Thanks, Mr. Chair.

3 I would just echo some of the other,
4 some of the concerns of my fellow commissioners.

5 I wouldn't mind seeing what the
6 previous project was. I can't -- it seems to me
7 it was fairly, it was a lot, the scope was -- this
8 is a complete change. And I'd like to see
9 exactly what we had previously.

10 I would also agree, I guess you're
11 looking at one of the drawings. This is -- they
12 talk about they wanted flexibility in
13 maintaining the same general level of quality.
14 And the only thing, and again, I can't, looking
15 at these drawings it's hard to tell what that
16 quality really is. So we're going to need a
17 sample board, we're going to need some better
18 drawings.

19 And I don't know if the Vice Chair
20 mentioned about the faux wood composite panel.

21 VICE CHAIR COHEN: I'm older than
22 Commissioner May. So I forgot.

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1 COMMISSIONER TURNBULL: But I'm not
2 sure what that is. And I'm a little bit
3 concerned about a faux wood composite panel. I
4 mean, we all know what fiber board is or -- but
5 I'm not sure what this faux wood is. Yes, I'm
6 a little bit concerned about what that quality
7 is. So I need, I would like the applicant to
8 show us a little bit more about the quality that
9 they're looking at. The materials.

10 And really have some blow up
11 sections that show how the material is joined
12 together. I think that would be very helpful.

13 VICE CHAIR COHEN: I actually had
14 googled that material. And I couldn't find
15 really anything regarding it's sustainability
16 and maintenance. And make sure that, you know,
17 it holds up throughout the life of the project.
18 I couldn't find anything to help me.

19 CHAIRMAN HOOD: I am, I associate
20 myself with Commissioner Miller. I'm excited
21 about this project. I know there's some other
22 things that we have to probably fine tune and

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1 work out as we get to the hearing process. But
2 I think the program and the things that are
3 evolving right there in that neighborhood are
4 spectacular. And I'm looking forward to having
5 this hearing.

6 Any other questions or comments?

7 (No audible response.)

8 Okay. I would move that we set down
9 Zoning Commission Case Number 06-40C Gateway
10 Market Center Inc. - PUD Modification @Square
11 3587 with the comments and ask for a second.

12 COMMISSIONER MILLER: Second.

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

15 Any further discussion?

16 (No audible response.)

17 All those in favor.

18 (Chorus of ayes.)

19 Not hearing opposition, Ms.
20 Schellin would you please record the vote.

21 MS. SCHELLIN: The staff records
22 the vote 5-0-0 to set down Zoning Commission Case

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1 Number 06-40C as a contested case.
2 Commissioner Hood moving. Commissioner Miller
3 seconding. Commissioners Cohen, May and
4 Turnbull in support.

5 CHAIRMAN HOOD: Okay. Next, let's
6 got to Zoning Commission Case Number 07-13D.
7 This is TR SW 2 LLC - Modification to PUD @ Square
8 643S.

9 Ms. Schellin. I'm sorry. Mr.
10 Jesick.

11 MR. JESICK: Thank you, Mr.
12 Chairman and members of the Commission.

13 This is a proposed modification to
14 an approved PUD at the site of the Randall School
15 on I Street and Southwest.

16 The Commission approved the
17 original PUD in 2008. And it consisted of an art
18 school and residences in a new building behind
19 the historic part of the Randall School.

20 The proposed modification is very
21 similar. There will be an arts use. In this
22 case, a museum and museum related uses in the

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1 historic part of the Randall School along I
2 Street. And residential uses in the new portion
3 of the building constructed to the north.

4 Some aspects of the modification
5 would be identical to the original. The total
6 FAR would remain the same at 4.32. The new
7 construction would maintain the historic right
8 of way lines on 1st Street and 8th Street.

9 There are some notable changes.
10 There would be an increase in the number of
11 residential units. A decrease in the number of
12 parking spaces. The height of the building
13 would increase by 10 feet. And of course, the
14 design for the residential portion of the
15 building would be completely revised.

16 The Office of Planning supports the
17 revised design including routed corners at the
18 edges of the building, the ground floor units
19 that open directly on to the street, and putting
20 most of the loading underground. We also
21 support the uses along I Street. We feel those
22 will help enliven I Street.

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1 And we have asked however for more
2 information from the applicant as described in
3 our report but we don't view those items as big
4 obstacles. We will certainly work with the
5 applicant between now and a public hearing to be
6 sure that those items are addressed.

7 The benefits for the project are
8 also very similar to those originally approved
9 by the Commission. There is a package of
10 benefits, arts benefits geared toward the
11 community. There's 20 percent affordable
12 housing. And of course, historic preservation.

13 And overall, the project would
14 further many goals and policy of the
15 comprehensive plan. And it also not
16 inconsistent with the policy may and future land
17 use map of the plan. And the future land use map
18 calls for high density residential and medium
19 density commercial on the site.

20 The Office of Planning therefore
21 recommends that it be set down for a public
22 hearing.

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1 And I'd be happy to take any
2 questions.

3 CHAIRMAN HOOD: Okay. Thank you,
4 Mr. Jesick.

5 Who would like to start off asking
6 questions or comments?

7 Commissioner Turnbull.

8 COMMISSIONER TURNBULL: Thank you,
9 Mr. Chair.

10 It's nice, you come down to this end
11 of the dias to start first. Thank you.

12 I think it's a welcome that we've got
13 the Randall School going again. I think this
14 property is, it's gone through many iterations.
15 And they seem to rise and fall. So it's good to
16 see that we have a project back on the board here.

17 I think it's going to be very welcome
18 for the community.

19 I guess, I'm ready to set it down.
20 I think, architecturally, I need to know a little
21 more about it. It looks very much like aluminum
22 and glass.

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1 MR. JESICK: It is metal panel and
2 glass.

3 COMMISSIONER TURNBULL: Metal
4 panel and glass.

5 It looks very pristine. At first
6 glimpse, it almost looks office building like.
7 But it, I was just worried that it may be, it's
8 too cold looking. But it's an interesting
9 structure. I mean, but it's a, I'd like to know
10 a little but more about it. And, but
11 I'm ready to, I think it's, if you could work with
12 them and just get us a little bit better feel for
13 what this building is really going to look like.

14 CHAIRMAN HOOD: Commissioner
15 Miller.

16 COMMISSIONER MILLER: Thank you,
17 Mr. Chairman.

18 Yes. I support setting it down.
19 And would look forward to getting the
20 information and all the additional details.
21 And questions answered that are listed in that,
22 in OP's report, I think on pages 9 and 10 in their

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1 summary.

2 In addition, I would be, I think
3 architecturally, I think the concept seems to be
4 Randall School building to shine. And it will
5 as a new art museum. It certainly, as a matter
6 of use. But I think architecturally, it's kind
7 of, have that background, somehow fade away.

8 I agree, though, that the massing is
9 very, does read as office. And I would want to
10 see -- I see that there are balconies on the first
11 floor above the ground floor units. There seems
12 to be all those balconies. But I'm not sure
13 they're balconies anywhere else. And I think it
14 would read more residential and break up the
15 massing to have balconies on this building. And
16 I don't think that would take away from the
17 concept of having this, if that is the concept,
18 to have this kind of plan background to the
19 smaller historic Randall School building.

20 I'd be interested in getting
21 renderings of how the project looks from all of
22 the adjacent properties. I mean, there are some

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1 in here. But particularly, I want to just see
2 how it looks from the adjacent public property,
3 the Randall Recreation Center to the east, the
4 historic church to the northwest, and also from
5 the church to the south. Just to see how big it
6 looks from their front doors or their, from their
7 ground level.

8 From the applicant, I would want to
9 see what the unit mix is for these 550
10 residential units. 20 percent of which are
11 affordable. I just would like to see the unit
12 mix for that. And where the, the assurance that
13 the -- maybe it's in here, where they are located
14 throughout the building.

15 From OP, I would like to just get a
16 sense of where are the public school facilities
17 in the southwest and near southeast area for all
18 these new residents that we're adding here and
19 in so many other projects. I just want to make
20 sure that -- I know the disposition of this
21 property has already been made. And this is
22 simply a modification. But I'd like to

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1 understand the public facility capacity of this
2 particular neighborhood since it's slated to add
3 so many thousands of residents when you combine
4 it with the southwest waterfront, and the yards,
5 and everything else. It's just phenomenal.

6 I think that's about all that I'm
7 looking forward to. I'm sure there's other
8 stuff that I'm looking forward to.

9 Does OP know whether there's been a
10 presentation to the ANC or the community yet and
11 what their reaction has been?

12 MR. JESICK: Well, a couple of years
13 ago, they had the agreement on the benefits
14 package. I don't know if there's been a recent
15 presentation. I know that applicant is
16 planning on having several meetings with the
17 ANC.

18 COMMISSIONER TURNBULL: Right.
19 I'm sure we'll see something from, prior to the
20 hearing.

21 I also would be, since there's a
22 reference to, in your report, I believe, to --

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1 I know there's been council legislation to
2 authorize the changes that are here in terms of
3 the use, and at least the use, of a museum rather
4 than the Corcoran School, educational facility
5 that was going to be there.

6 There's a reference that additional
7 legislation is needed. And I just would be
8 interested in more information on what other
9 actions are needed to facilitate this project in
10 terms of relaxing existing conditions on the
11 current disposition. And what the terms are of
12 that, of the disposition. I would just be
13 interested to know what the terms and conditions
14 are --

15 MR. JESICK: Could you --

16 COMMISSIONER TURNBULL: -- to our
17 zoning decision. But I would just be interested
18 to see that.

19 MR. JESICK: -- could you point me
20 towards that reference? I don't --

21 COMMISSIONER TURNBULL: Maybe it
22 was in the applicant's statement. That there

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1 would need to be additional restrictive
2 covenants removed or changed. And, but maybe
3 that was only referring to the 2011 legislation
4 that's already been done. So I just need more
5 information on what the conditions were that had
6 been removed, or that needed to be removed in the
7 future, and what the current deal is. Even
8 though that I don't think that's necessarily
9 relevant to our zoning decision.

10 CHAIRMAN HOOD: All right. Vice
11 Chair.

12 VICE CHAIR COHEN: Thank you, Mr.
13 Chairman.

14 I actually think this is an exciting
15 design. I was getting very worried about the
16 southwest that everything was beginning to look
17 alike. I think this building fits in. It looks
18 like a lot of the other buildings. But with
19 different materials. I really personally feel
20 that it's just going to be a terrific addition
21 to the neighborhood. Including the use of the,
22 you know, the museum. I think that's exciting

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1 for this neighborhood as well.

2 The couple of things. Again, I
3 would like -- and I don't recall seeing a LEED
4 checklist. So if that's not there, I would like
5 to see it. And I think we should go for LEED
6 platinum. But of course, I'm very bias towards
7 certification.

8 I think the Commissioners Miller and
9 Turnbull did mention a few things regarding the
10 location of portable units.

11 I'd like to know more about the
12 penthouse feature.

13 And I would also, again, encourage
14 all projects in development to take in to account
15 the youth that live right now in Greenleaf. The
16 reason being that there is a lot of continuous
17 criticism about, you know, the kids coming home
18 from school, and you know, being very unruly.
19 And I just think that this is, needs to serve
20 their needs as well. So I was excited to read
21 about some of the programs for schools. And I
22 think that should be commended.

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1 Thank you.

2 CHAIRMAN HOOD: Any other
3 questions?

4 Commissioner May.

5 COMMISSIONER MAY: Thank you.

6 Has this project or will this
7 project go before HPRB?

8 MR. JESICK: They've had one
9 hearing so far. In my report, I mention that
10 they had been planning on going to another
11 meeting in July. That got pushed back to
12 September.

13 COMMISSIONER MAY: Okay. I missed
14 that in your report.

15 But what was the reaction the first
16 time around?

17 MR. JESICK: In my discussions with
18 the state historic preservation officer, I would
19 say, well, I don't want to characterize their
20 opinion necessarily. But his characterization
21 I would say is there were different opinions.
22 Nothing hating the project outright. Maybe one

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1 or two folks who weren't as excited about the
2 architecture. But I think, overall, it was a
3 positive reaction.

4 COMMISSIONER MAY: Okay. The --
5 what is the, what's going to happen with 1st
6 Street? I mean, it's shown as a private street.
7 And it looks like it's, I mean, right now, it's
8 essentially a parking lot for the health clinic,
9 right? Is it going to be restored in some
10 fashion to a real street?

11 MR. JESICK: I believe most of that
12 parking lot, as you accurately described it, is
13 actually on this property.

14 COMMISSIONER MAY: Yes.

15 MR. JESICK: I believe they're
16 going to, this project will to some extent
17 reconstruct the street. It would be open to the
18 public. I don't know that their property line
19 goes the entire way to the west --

20 COMMISSIONER MAY: I mean, it looks
21 like it goes kind of down the middle of the road.

22 MR. JESICK: Right. So I don't

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1 think they have any control over what happens
2 offsite.

3 COMMISSIONER MAY: Right. But
4 across the street, that's a city owned property;
5 is it not?

6 MR. JESICK: I believe so.

7 COMMISSIONER MAY: Yes. Do you
8 know what the future holds for that building?

9 MR. JESICK: I do not. But --

10 COMMISSIONER MAY: Okay. I'd be
11 interested knowing what might happen there.
12 Because right now, it's, you know, we're talking
13 about a very large building. And then that
14 small health clinic. And then next to that,
15 there's a very large apartment building as well.
16 And, so this tall building kind of fits in with
17 the context of the building one block over.

18 I mean, this is not unusual in
19 southwest where you have high, you know, tall
20 buildings and lower buildings, and so on.

21 I can understand there might have
22 been a bit of a mixed reaction at HPRB. I mean,

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1 undoubtedly the project has a lot to recommend
2 it. Certainly the museum use and the
3 restaurant, all great things.

4 And the approach the building is
5 very very interesting and different. But it
6 can't help but on a certain level conjure up some
7 of the less successful early preservation work
8 that happened in the city. I mean, I'm thinking
9 about Red Lion Row. Where you have a very large
10 kind of steam ship up behind the historic
11 buildings. This looks better than that to me.
12 But I'm just a little bit concerned.
13 Particularly with some of the views that we have
14 where it really looks like the building is
15 looming over the top of it. And a building like
16 that on Pennsylvania Avenue where there's, you
17 know, something sort of stepping up to the
18 Spanish Embassy or something like that.

19 So there is some things in here that
20 just make me a little bit nervous. Although I
21 am interested in seeing how things develop with
22 HPRB.

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1 I'm also interested in, I mean, the
2 architecture again, itself, I think has
3 tremendous potential. I mean, there's a lot
4 about it that I like. And in many ways, I think
5 it would be quite fitting for southwest.

6 But there is some, there are these unusual
7 moves, like the fact that it sort of appears like
8 it's hovering over the school. But then also,
9 there are the moves where they have these
10 indentations. And there are no windows on any
11 of the occupied spaces. I mean, there's just,
12 that's the bridge space. And I don't,
13 I'm not exactly sure why there wouldn't be some
14 windows in some of those spaces in those courts,
15 if you will. And maybe it's, you know, just not
16 appropriate. But it seems to me, that there
17 could be some windows, some staggered windows,
18 some high windows, things like that.

19 And then, you have these lovely
20 curved corners. And not one of them has a window
21 on itself. And that's maybe a missed
22 opportunity. Where you wind up with, you know,

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1 you have these curved surfaces, but -- I don't
2 know. I thought we might see something like
3 that.

4 But again, you know, I'll wait to
5 hear what HPRB has to say about it. And how that
6 goes before we get too far in to the architecture
7 on this.

8 I would be interested also in
9 seeing, you know, just a short summary of what
10 the original project was that we had approved.
11 Here again, I have some memory of it but it would
12 be useful just to see what was there before.

13 And then, overall, I think the
14 drawing package is a little bit thin. I mean,
15 what's done here is very, obviously, very well
16 done. But some of the detail information that
17 I think we would like to see is not necessarily
18 there. It's hard to see, you know, what's going
19 on in some of the elevations. And I won't go in
20 to great detail here. You know, the only reason
21 we would know there are even balconies anywhere
22 is because of some of the prospective views. So

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1 it's king of a thin package.

2 Thanks.

3 CHAIRMAN HOOD: I'm just weighing
4 in on that. I kind of like what I see here. I'm
5 not sure if I would go all the way some of the
6 comments I heard about the architecture.
7 Because what I see here, I kind of like. Some
8 of those comments may help, to send to the
9 applicant that that was one of our, one
10 Commissioner's views. But I kind of like what
11 I see here. Again, I know HPRB has the way --
12 and I do like the way the effect is with the
13 school and the way it kind of corresponds with
14 the building. I kind of like that. It's
15 different, as the Vice Chair mentioned.

16 And the other thing is, I want to
17 make sure that I don't believe this is going to
18 have any impact on the baseball field. Because
19 I saw that's totally not even involved with the
20 project. But I was just curious, were there any
21 plans on the rec -- I know that field is used a
22 lot, down in Randall, down in that area. It's

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1 used by a lot of folks. I was just there myself
2 a week or so ago. So I was just curious to what
3 impacts that may have.

4 But I like what I see here. And
5 maybe some of the refinements that my colleagues
6 have mentioned, may make it better. But or
7 whatever the HPRB comes back with. But I do like
8 what I see here. And I think this is a good
9 project. I think it's right near the highway.
10 And I think it's good. I don't know. But we'll
11 wait and see what the findings are when it comes
12 from the people who live right there, the ANC and
13 the community at large.

14 Any other comments?

15 Commissioner Turnbull.

16 COMMISSIONER TURNBULL: Yes, Mr.
17 Chair.

18 I just want to go back on
19 Commissioner May's comments. And as Mr. Jesick
20 -- on Section A19, it shows the historic section
21 of the school. And then it shows a section
22 going through the residential. What's nice,

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1 it's kind of interesting, as you talked about at
2 the corners on I Street, how it sort of leads you
3 in to the center. But you have a five story
4 opening, which at times, can be exciting. It
5 can also be like going under a highway. So it's
6 got to be treated with a certain kind of -- but
7 were there any studies done on how the
8 relationship, how far the building got to the
9 school? Do you know if they did studies that
10 sort of looked at that relationship?

11 MR. JESICK: I'm not aware of any
12 studies exactly as you've described. But we've
13 asked for more information about that.

14 COMMISSIONER TURNBULL: If you
15 could, I think that gets the idea of how, you
16 know, how would -- what is the total impact on
17 the school. How you read the historic building.
18 And how close it gets.

19 And I guess my only other view was
20 that on A26 as you're looking on I Street and
21 you're looking at the restaurant on the corner,
22 and it leads you through, it looks like there are

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1 some windows on the upper like, it looks like
2 third, fourth, and fifth floor. And I'm just --
3 they would appear to be almost always in shade,
4 I guess. But maybe there is some sun. It would
5 be interesting to know how the sun, there's some
6 kind of shade studies on this. And how it
7 effects the whole area.

8 That's it, Mr. Chair. Thanks.

9 CHAIRMAN HOOD: Okay.
10 Commissioner Miller.

11 COMMISSIONER MILLER: Yes, I
12 actually have one more comment.

13 But I will move that we set down for
14 report, set down for the Zoning Commission case.
15 Set down for hearing, the Zoning Commission Case
16 07-13D Randall School Redevelopment
17 Modification Planned Unit Development and
18 Related Map Amendment. And ask for a second.

19 VICE CHAIR COHEN: Second.

20 CHAIRMAN HOOD: It has been moved
21 and properly seconded.

22 Any further discussion.

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1 COMMISSIONER MILLER: Yes. My, I
2 only meant to mention, I think the idea is, it
3 is a very exciting project. I think, and I think
4 the idea is to invite the public in to that
5 courtyard where the building cantilevers are,
6 doesn't have the first six floors next to the
7 Randall.

8 But I guess, I might want to see some
9 more renderings that show how inviting it is in
10 terms of lighting and if the bollard lighting,
11 if that's what that is, could be removed and
12 replaced with some other kind of lighting on
13 Section A29. On page A29. I just, the bollards
14 would not be an inviting thing to see with, that
15 would be telling the public no, maybe you
16 shouldn't come in there. And we have too many
17 bollards in the city, obviously.

18 CHAIRMAN HOOD: It's been moved and
19 properly seconded.

20 Any more discussion?

21 (No audible response.)

22 All those in favor.

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1 (Chorus of ayes.

2 Any opposition?

3 (No audible response.)

4 So the staff, would you record the
5 vote.

6 MS. SCHELLIN: The reports the
7 5-0-0 set down Zoning Commission Case Number
8 07-13D as the contested case. Commissioner
9 Miller moving. Commissioner Cohen seconding.
10 Commissioners Hood, May, and Turnbull in
11 support.

12 CHAIRMAN HOOD: Okay. Thank you
13 Ms. Schellin.

14 Let's go to Zoning Commission Case
15 Number 08-34C Capitol Crossing IV LLC &
16 Archdiocese of Washington Rosary Church Second
17 Stage PUD @ Square 566.

18 Mr. Goldstein.

19 MR. GOLDSTEIN: Good evening, Mr.
20 Chairman and members of the Commission.

21 Capitol Crossing IV LLC is
22 requesting that you review and approve a second

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1 stage planned unit development at Capitol
2 Crossing.

3 Some background, briefly. About
4 two years ago, the Zoning Commission approved a
5 first stage PUD consolidate PUD and a related map
6 amendment to C4 zoning for the Capitol Crossing
7 project.

8 Essentially, three new blocks of
9 development were approved. Occupying both land
10 and air rights about the sunk in I-395 freeway.
11 The approval prescribed the height, bulk,
12 location, and use of the future buildings on the
13 site. In addition to the freeway platform and
14 the centralized parking and loading design.

15 Subsequent to the approval, the
16 Commission has also reviewed and approved a
17 second stage PUD for a building on the south
18 block. And also, recently approved an
19 extension of time for the overall PUD.

20 Tonight, the application before you
21 proposes to develop a small portion of the site's
22 center block. It calls for the construction of

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1 a new rectory and annex facilities for the Holy
2 Rosary Church. To replace facilities that
3 presently are located in the F Street right of
4 way.

5 The addition would rise five stories
6 and 58 feet in height. Which is 8 feet taller
7 than originally anticipated in the first stage
8 PUD. Although neighboring buildings in the
9 center block were approved for 130 feet in
10 height.

11 The application also would remove a
12 curb cut along F Street approved as part of the
13 first stage PUD.

14 In spite of these minor deviations,
15 OP feels the proposal is substantially
16 consistent with the intent and parameters of the
17 first stage PUD. However, if the Commission
18 determines that the modification, that a
19 modification is needed, to the first stage PUD
20 the applicant could supplement their
21 application.

22 More generally, the Commission has

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1 already determined that the Capitol Crossing
2 project is not inconsistent with the
3 comprehensive plan.

4 Tonight's proposal generally
5 conforms to already approved development
6 parameters.

7 The public benefits and amenities
8 are not changed since the original approval.

9 As such, OP recommends the Zoning
10 Commission set down the proposed second stage
11 PUD for public hearing.

12 And I'm available for any questions
13 you may have.

14 Thank you.

15 CHAIRMAN HOOD: Okay.
16 Commissioners, is there any questions? But I
17 think we want to deal with the issue about the
18 substantial change in the 8 feet first. So, we
19 want to have a discussion on that. Can we deal
20 with that discussion first? We would like to
21 start -- do we think it's substantial enough that
22 we need to -- as Mr. Goldstein has already

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1 mentioned the applicant is willing to supplement
2 the, supplement the application for a
3 modification.

4 Am I correct, Mr. Goldstein?

5 MR. GOLDSTEIN: I believe if, they
6 would be willing to supplement.

7 CHAIRMAN HOOD: Or do we think that
8 it's consistent with the first stage as we did
9 previously? Let's just have a discussion on
10 that.

11 Vice Chair.

12 VICE CHAIR COHEN: Well, I was
13 reading the zoning order but we only got every
14 other page of it. So that was not helpful. So
15 I can't really comment on that.

16 CHAIRMAN HOOD: You always ask for
17 -- don't you ask for double sided?

18 VICE CHAIR COHEN: I did. But I
19 want, you know, the whole thing.

20 CHAIRMAN HOOD: That would you save
21 even more.

22 Commissioner Miller.

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1 VICE CHAIR COHEN: Never had --

2 COMMISSIONER MILLER: Thank you,
3 Mr. Chairman.

4 I think this is an excellent
5 project.

6 But I am somewhat concerned about a
7 16 percent in height being considered minor.
8 And that setting some kind of precedent for other
9 cases.

10 In this case, it may be. Given that
11 going from 50 to 58, for a church that's going
12 to be surrounded by 130 foot buildings all over
13 the place.

14 But I think I would be more
15 comfortable with a supplemental first stage
16 modification that we could consider at the same
17 time. That's just my own first impression.

18 CHAIRMAN HOOD: Okay. Anybody
19 else?

20 COMMISSIONER TURNBULL: Yes, Mr.
21 Chair.

22 I would concur with Commissioner

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1 Miller. I think in the best case, looking at our
2 interests and the zoning regulations in general,
3 I would prefer a modification.

4 CHAIRMAN HOOD: Commissioner May.

5 COMMISSIONER MAY: Chairman, yes, I
6 tend to agree in principle.

7 The thing that's not clear to me is
8 whether this really is a modification from the
9 first stage. And that's just because I don't
10 remember enough about the first stage.

11 Maybe the Office of Planning can enlighten
12 us at all and whether they think this is actually
13 consistent with the first stage.

14 MR. GOLDSTEIN: Well, I don't
15 believe the order actually addressed the
16 specific height of these facilities. It was
17 shown in the design plans.

18 I asked the applicant what's the
19 basis for the 8 additional feet. They told me
20 slightly increased floor to floor height,
21 slightly taller parapet, and the incorporation
22 of mechanical equipment in the elevator over on

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1 within the structure instead of a penthouse on
2 top of the structure.

3 It's remaining five stories. It's
4 substantially the same footprint. Actually
5 it's gone down about 200 square feet in size,
6 overall, toward the center block square footage.

7 It seems to be consistent with the
8 intent. But I can understand some of the
9 reservations I'm also hearing.

10 COMMISSIONER MAY: So within the
11 drawings themselves, this was indicated but it
12 was indicated in the drawings at 50 feet.

13 MR. GOLDSTEIN: It was indicated --
14 correct. It was indicated in the drawings.

15 COMMISSIONER MAY: All right.
16 Well, that was my basic question.

17 So I would agree, you know, a
18 modification of the first stage would be
19 appropriate.

20 COMMISSIONER TURNBULL: Mr.
21 Goldstein, where is the measuring point? Where
22 are we measuring this from?

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1 MR. GOLDSTEIN: I suspect the
2 measuring point is -- now, I probably shouldn't
3 -- my guess is 3rd Street. But I would, I
4 probably should check on that before saying
5 definitively.

6 COMMISSIONER TURNBULL: Okay.

7 MR. GOLDSTEIN: To see if I can see
8 a nod. Okay. Oh, F Street. Pardon me.

9 COMMISSIONER TURNBULL: Okay.

10 MR. GOLDSTEIN: Not a nod. But a
11 hand gesture.

12 CHAIRMAN HOOD: Okay. I would also
13 agree with both, with all of my commissioners.
14 Especially Commissioner Miller who started the
15 conversation off.

16 Now, Commissioner Turnbull, I knew
17 we had the votes. But I was being nice to my
18 other two colleagues unlike what they do for me.

19 But anyway, anyway, you know, I got
20 to drag you on there for a minute.

21 But anyway, I think we will do that.

22 Any other comments on this case

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1 besides the modification? I think we can really
2 set this down and wait for the modification to
3 come afterwards. So since we all agree with the
4 modification.

5 Vice Chair.

6 VICE CHAIR COHEN: Thank you, Mr.
7 Chairman.

8 Mr. Goldstein, this is, this needs
9 the platform to be built, to be able to proceed?

10 MR. GOLDSTEIN: Correct. I
11 believe that's correct, yes.

12 VICE CHAIR COHEN: So I would like
13 more information on the timeliness since I think
14 the platform is something that we discussed at
15 great length earlier sometime this last few
16 months. With regard to when they believe they
17 can get that platform. There's a lot of
18 infrastructure work that needs to be done prior
19 to that. So I would like much more information
20 on timeliness of this.

21 And then, I would also like to know
22 more about the north elevation, 3.3, I believe

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1 is the number of the, on the drawing. It just
2 seems so plain. I'm not sure that I'm really
3 able to relate well to the wall. And you know,
4 maybe that's something they could, again,
5 provide me with more information on. There's a
6 large blank face.

7 CHAIRMAN HOOD: Any other comments?
8 Questions?

9 (No audible response.)

10 Okay. So I would move that we set
11 down Zoning Commission Case Number 08-34C
12 contingent upon a filing of the modification for
13 the 8 feet tall, height taller than the permitted
14 by the first stage PUD. A 16 percent increase.
15 For that modification to be filed. But I would
16 move that we set down Zoning Commission 08-34C
17 contingent upon the modification of the first
18 stage coming to the Commission.

19 And I ask for a second.

20 VICE CHAIR COHEN: Second.

21 CHAIRMAN HOOD: Moved and properly
22 seconded.

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1 Any further discussion?

2 COMMISSIONER MILLER: So we would
3 be, like, in a previous case, we would be
4 delaying advertising of this.

5 CHAIRMAN HOOD: Right. We would
6 deal with the modification first. The way I
7 understand it. We would have to deal with the
8 modification. That will be filed. Once we
9 deal with that, then we will go in to this case.

10 MR. RITTING: Yes. I think --

11 CHAIRMAN HOOD: It may be on the
12 same night. I don't know.

13 MR. RITTING: -- I believe what Mr.
14 Miller was referring to is in previous cases,
15 where there has been a expectation that a first
16 stage modification will be filed with the -- I'm
17 sorry. I lost my train of thought. With the
18 second stage application that you will hold off
19 advertising the hearing notice until that's
20 received. And that would be what would insure
21 that that request I actually filed. If for some
22 reason, I can't imagine that this would happen,

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1 if such a modification request is not filed, then
2 you would have revisit the issue. But there
3 seems to be no reason to expect that that would
4 occur.

5 CHAIRMAN HOOD: Don't we do that at
6 the same hearing? Haven't we done that in the
7 past in the same hearing?

8 MR. RITTING: I don't see any reason
9 why you wouldn't hear them both tat the same
10 time.

11 CHAIRMAN HOOD: Okay. I might have
12 said it like that but that's what I meant. Okay.

13 All right. It's moved. Was it
14 seconded?

15 MS. SCHELLIN: Yes.

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

18 Any further discussion?

19 (No audible response.)

20 All those in favor.

21 (Chorus of ayes.)

22 Not hearing any opposition, Ms.

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1 Schellin, would you record the vote.

2 MS. SCHELLIN: The staff records
3 the vote 5-0-0 to set down Zoning Commission Case
4 Number 08-34C contingent upon holding
5 advertisement until a modification to the first
6 stage is filed. Commissioner Hood moving.
7 Commissioner Cohen seconding. Commissioners
8 May, Miller, and Turnbull in support.

9 And if I didn't say so, this is set
10 down as a contested case.

11 CHAIRMAN HOOD: I know that the
12 Office of Planning has, well, something they're
13 going to hand us tonight. But can I do that
14 last? As we have two other issues. Can we go
15 to the correspondence? The letter from
16 Councilmember Cheh who has actually written to
17 us twice. Even though my name is on it, but it
18 is really us. One of the, all of our names are
19 on it.

20 We have responded -- and I think we
21 had asked the Office of Planning to respond to
22 her. Have you all -- did you all respond to her?

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1 MS. STEINGASSER: Yes, sir. We
2 did respond to the Councilwoman directly during
3 the case. That it was first raised.

4 And we've also taken a stab at
5 addressing some of the issues through the zoning
6 re-write proposals.

7 CHAIRMAN HOOD: I just didn't want
8 her to think that we were ignoring her. Because
9 we're definitely not. And I think now there are
10 two letters that we sent letting her know. I
11 don't want her to think that we have ignored her.

12 I appreciate her staying on top of
13 it for her constituents. Because she's
14 definitely on this issue. This is the third
15 letter. And she let's us know this is the third
16 time she wrote to us.

17 Again, we will be handling this
18 during the ZRR. And I'm sure nobody is going to
19 let that fall off our radar screen. I'm sure
20 she's not going to let that fall off our radar
21 screen.

22 So that is something that we're

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1 going to get to. We are almost there.

2 Councilwoman Cheh, if you are
3 watching, but when we get there, believe me, this
4 will be one of the things that we all will be
5 bringing up. Because she has definitely made
6 sure it stayed on our radar screen. And I
7 appreciate her efforts in stick-to-it-ness to
8 make sure that this gets dealt with.

9 Okay. Commissioner Miller.

10 COMMISSIONER MILLER: On that
11 point, I would be interested in seeing the Office
12 of Planning's response to Councilmember Cheh.
13 And maybe you were going to make that part of ZRR
14 presentation at some point. When you, since
15 you're saying it's addressed in part, to the ZRR.

16 And what we're talking about, since
17 we haven't really said, it's a request, is saying
18 that the commercially zoned property used by
19 universities should be considered, somehow
20 considered in the whole campus plan process.

21 CHAIRMAN HOOD: Okay. Thank you,
22 Commissioner Miller.

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1 I was more concerned to make sure we
2 responded to it. And I know we have.

3 But thank you for bringing this to
4 light, exactly what the issue was.

5 Okay. Any other comments on that?

6 (No audible response.)

7 Okay. Let's go to Zoning
8 Commission Case Number 05-28K. This is a letter
9 from the applicants requesting a waiver of
10 3042.5.

11 Is this the case of -- I don't
12 remember a case number. Is this something we
13 already dealt with? Or is this something from
14 --

15 VICE CHAIR COHEN: I do have some
16 information.

17 This case was submitted May 13th.
18 And at that time, the request for the waiver of
19 the hearing fee was made. As required by
20 Section 3042.3.

21 Then on June 24th, the Commission
22 set the case down for a hearing.

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1 And on July 1st, we received the
2 request from DHCD asking that the waiver from
3 paying the fees.

4 Tonight, you have a request from the
5 applicant asking for a waiver of 3042.5, which
6 requires that the waiver of the fees be granted
7 at the same time that you consider set down.

8 However, they also need a waiver of
9 3042.3, which requires that they file that
10 request at the same time they submit their
11 application. Which they did not do.

12 CHAIRMAN HOOD: Commission, I'll
13 open it up. But I don't have problems with
14 granting either one of those waivers.

15 VICE CHAIR COHEN: I don't either.

16 CHAIRMAN HOOD: Any objections?

17 (No audible response.)

18 Okay. So I move that we grant
19 everything requested in Exhibit Number 11.

20 And ask for a second.

21 COMMISSIONER TURNBULL: Second.

22 CHAIRMAN HOOD: That's moved and

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1 properly seconded.

2 Any further discussion?

3 (No audible response.)

4 All those in favor.

5 (Chorus of ayes.)

6 Not hearing any opposition, Ms.
7 Schellin, would you record the vote.

8 MS. SCHELLIN: Yes. The staff
9 records the vote 5-0-0 to grant the waiver
10 requested by the applicant from 3042.5 but also
11 if I understand correctly, you're also granting
12 the waiver from 3042.3. Commissioner Hood
13 moving. Commissioner Turnbull seconding.
14 Commissioners Miller, Cohen, and May in support
15 of the waiver.

16 CHAIRMAN HOOD: Okay. Ms.
17 Schellin, do we have anything else other than
18 going to the Office of Planning?

19 MS. SCHELLIN: No.

20 CHAIRMAN HOOD: Okay. I'm going to
21 the Office of Planning for the status report and
22 anything else they want to --

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1 MS. STEINGASSER: We would just
2 like to point out, we did bring copies of the
3 draft zoning regulation proposals to the
4 Commission tonight.

5 I just want to make really clear what
6 these are besides bulky. They are draft
7 proposals. The Office of Attorney General will
8 be getting their copy tomorrow for the first
9 time. They have not been professionally
10 edited. So they are very much a working
11 document. But we felt it important for you to
12 have them. So that you had as much time as
13 possible to look through them.

14 We tried to make, to format them in
15 a uniform way. There is some differentiations
16 between chapters depending on how the
17 information worked best together. We're still
18 going to probably comb through that a little bit.

19 And most importantly, is we work
20 with the Office of Attorney General.
21 Obviously, there will be a lot of language
22 adjustments.

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1 But it does have, it is the
2 comprehensive set. We have addressed a lot of
3 the issues raised through the guidance.

4 Additionally, there is a, as you
5 open the book, there will be a copy -- what we're
6 calling a name conversion table. To show you
7 how the old names and the new names work. We
8 tried to use the new names with the old names
9 behind it throughout the code. So as you move
10 through it Sunday morning, you won't get lost.

11 And a lot of times, as you read from
12 text to table and then from table to general
13 standards, it allows you to kind of keep moving
14 through with those. So that you can translate
15 in your head.

16 There's also a copy of the guidance
17 here that the Zoning Commission gave us at all
18 the hearings. There's about 43 pages of
19 guidance on different issues that the Commission
20 gave us. All of that guidance is in there. We
21 did not go through and identify which ones we did
22 and which ones we didn't do. But we'll be doing

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1 that at the time of set down.

2 And you'll see a lot of this, a lot
3 of the issues GAR, height, you guys have already
4 addressed through other cases. But that is all
5 there for you.

6 And there's one, there's a third --
7 I guess, a general index that lays out all the
8 chapters and all the subsections. And how they
9 work together. So you'll see the general layout
10 of the different chapters.

11 It will be a lot more familiar than
12 you are led to believe. In the way it's
13 arranged. We've introduced subtitles so that
14 it allows things to be grouped a little bit
15 differently. And all of that is in there.

16 But as you work through the summer,
17 we'll also be working with the Attorney General,
18 like I said, to rework things. And then, in
19 September, we'll decide how to, how you want to
20 proceed.

21 We're also finishing up our
22 crosswalk. And we'll be e-mailing that to the

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1 Office of Zoning. And they'll be distributing
2 that. And attaching that to the final as well.

3 And the crosswalk is a section by
4 section cross from the existing code to the new
5 code proposals. And that's been an ongoing
6 process probably for the last, I don't know, ten
7 days. Where the staff has been going back and
8 forth. And then we've moved something on one
9 end. And so they got to go back and do that. So
10 that will -- we will be finishing that up this
11 week. And be sending that via Ms. Schellin.

12 CHAIRMAN HOOD: Ms. Schellin, we're
13 taking this up our last meeting in September?

14 MS. SCHELLIN: First meeting.
15 September 9th.

16 CHAIRMAN HOOD: We just having a
17 discussion on our first --

18 MS. SCHELLIN: No. We're setting
19 it down on September 9th in order to stay, to get
20 it, to have the hearing before the holidays.

21 CHAIRMAN HOOD: All right. So
22 we'll see how it goes September the 9th.

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1 Okay. So we will get our -- how many
2 pages is it?

3 MS. STEINGASSER: It is
4 surprisingly not that, not that much larger than
5 the current code.

6 CHAIRMAN HOOD: Okay.

7 MS. STEINGASSER: It's got a lot of
8 filler in there with it. It's got --

9 VICE CHAIR COHEN: What's the font
10 size?

11 MS. STEINGASSER: Hmm?

12 VICE CHAIR COHEN: The font size.

13 MS. STEINGASSER: The font size is
14 12, 10, and 14.

15 VICE CHAIR COHEN: Okay.

16 MS. STEINGASSER: The tables are
17 10. The text is 12. The headings are all 12
18 and 14.

19 There's also a searchable disk in
20 the front pocket. So you can --

21 VICE CHAIR COHEN: Bring it on
22 vacation.

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1 MS. STEINGASSER: -- bring it on
2 vacation.

3 We will also be uploading -- we'll
4 be down, we'll be moving everything on our
5 website and our blog site in to our archive.
6 Which everybody will still have access. And
7 this will be the only version that will be up on
8 the website as the active document.

9 As we continue to work with OAG and
10 we make changes, we'll be re-posting those with
11 a cover sheet saying what exactly it is we've
12 been changing. So everybody can follow along.

13 COMMISSIONER MILLER: I'm sorry.
14 Can you repeat when it would, when that notebook,
15 that document you are presenting to us tonight
16 will be on your website? And maybe Ms. Schellin
17 can say when it might be accessible from --
18 there's going to be -- if it's going to
19 accessible --

20 MS. STEINGASSER: It will be up on
21 our website this week.

22 COMMISSIONER MILLER: And on OP's

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1 website as well?

2 MS. STEINGASSER: They've started
3 loading it this evening. And they'll probably
4 finish in the morning. Yes.

5 VICE CHAIR COHEN: And you mean it
6 will --

7 COMMISSIONER MILLER: All right.

8 VICE CHAIR COHEN: -- tomorrow --

9 COMMISSIONER MILLER: Are any other
10 copies being distributed --

11 MS. STEINGASSER: We are. We're
12 going to do one more sweep for grammar and typos,
13 and little things like that, that we keep
14 finding. And we are going to put one copy in
15 every public library in the District. So that
16 will probably be going out next week. And then
17 of course, the CDs will be available for all of
18 the ANCs.

19 COMMISSIONER MAY: This is a minor
20 question. But when it gets posted, is it going
21 to be posted as a single document? Or is it
22 going to be posted as all 26 subtitles?

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1 MS. STEINGASSER: It will be posted
2 in both ways.

3 And the disk is a merged complete
4 document.

5 CHAIRMAN HOOD: So any other
6 questions right now?

7 MS. SCHELLIN: I can say from our
8 standpoint, we are planning to serve the public
9 notice.

10 Our plan is to put it up in IZIS. So
11 that most people are familiar with IZIS. So
12 that going forward, people will have access to
13 it that way. And going forward, people will be
14 able to file documents that way. In this case,
15 even though at this point, text amendments are
16 not -- currently you don't file documents for
17 text amendment cases through IZIS. Only at this
18 point, contested map amendments and PUD cases.
19 However, for this case only, we are going to
20 allow people to upload documents through IZIS to
21 make it as accessible as possible going forward.
22 So we will be doing that for this case.

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1 CHAIRMAN HOOD: And also, I know we
2 said we're going to set this down in September,
3 but you know, the Commission can do anything it
4 wants on these kind of rules. So anything may
5 happen in September. I don't want anybody to
6 leave away with any thinking that we're going to
7 set down everything on September the 9th. Don't
8 walk away here thinking that. Because of the
9 discussion that the five of us had. I want to
10 make sure that that's clear. So long as -- in
11 other words, expect the unexpected. But don't
12 come here with no expectations. I'll leave it
13 at that.

14 I know -- hopefully, that confused
15 it even more.

16 Commissioner Miller.

17 COMMISSIONER MILLER: I just wanted
18 to note that -- I wanted to congratulate Office
19 of Planning on reaching this date of presenting
20 the zoning re-write to the zoning, even if it's
21 in the draft working document form. It's been
22 a long time coming. And congratulations in all

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1 your effort.

2 CHAIRMAN HOOD: I'm going to
3 congratulate everyone once we finish. But I
4 know, I know the Office of Planning has worked
5 hard. The community has worked hard. The task
6 force. The neighbors. The citizens. The
7 Zoning Commission. Officers and all the staff.
8 I can go through a whole list, a cadre list of
9 folks who worked hard. And I know -- but I will
10 echo Commissioner Miller's comments. Because
11 the Office of Planning took the lead on this when
12 we first started in 2006. I seem to think you
13 started in 2006. I've hear `7. But it seems to
14 me it was `6. But anyway, it's been a long time
15 coming. And now we have something that we all
16 can work with. And thanks to all the Office of
17 Planning's efforts along with all those who had
18 a part to play in it.

19 So, okay. Anything else?

20 VICE CHAIR COHEN: Yes. I would
21 just like to say that I think this is a very very
22 important step, a necessary step. And a good

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1 step for the city. And as my grandmother used
2 to say, "No good deed goes unpunished."

3 CHAIRMAN HOOD: All right. So any
4 other comments?

5 (No audible response.)

6 Do we have anything else?

7 (No audible response.)

8 Okay. So again, in honor of
9 Commission May's birthday, we will take the
10 month of August off. We have two months off.

11 So I wish everyone a restful and
12 enjoyable August month. And we'll see you in
13 September.

14 Thank you.

15 This meeting is adjourned.

16 (Whereupon, the above-entitled
17 matter was concluded at 9:06 p.m.)

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