

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

+ + + + +

REGULAR MEETING

+ + + + +

MONDAY

OCTOBER 20, 2014

+ + + + +

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 6:30 p.m., Anthony J. Hood, Chairman, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary

OFFICE OF PLANNING STAFF PRESENT:

JOEL LAWSON
MAXINE BROWN-ROBERTS

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

JACOB RITTING, ESQ.

The transcript constitutes the minutes from the Regular meeting held on October 20, 2014.

C O N T E N T S

<u>AGENDA ITEM</u>	<u>PAGE</u>
Call to Order	4
Case No. 07-21B MISCELLANEOUS: PerStar M Street partners, LLC Zoning Commission Request to place item on Consent Action: Removed from agenda	5
Case No. 08-24B/04-25 CONSENT CALENDAR: Bozzuto Group Request for Minor Modification @ Square 3655	6
Vote	12
Case No. 13-18 FINAL ACTION: WBJ Wheeler Road, LLC Consolidated PUD & Related Map Amendment @ Square 5925	13
Discussion	17
Case No. 14-02 PROPOSED ACTION: A&R Development, et al, Barry Farm - 1 st Stage PUD & Related Map Amendment @ Squares 5862, 5865, and 5866	26
Recusal Discussion	28
Discussion	35
Vote	65
Adjournment	

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

2 (6:38 p.m.)

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

5 Good evening, ladies and gentlemen.
6 This is a public meeting of the Zoning
7 Commission for the District of Columbia.

8 My name is Anthony Hood. Joining me,
9 are Vice Chair Cohen, Commissioner Miller,
10 Commissioner May, and Commissioner Turnbull.
11 We=re also joined by Office of Zoning Staff, Ms.
12 Sharon Schellin, Office of Attorney General,
13 Mr. Jake Ritting, Office of Planning, Mr.
14 Lawson, and Ms. Brown-Roberts.

15 Today=s date is Monday, October
16 20th, 2014. It=s approximately 6:40 p.m. We=re
17 located in the Jerrily R. Kress Memorial
18 Hearing Room, 441 4th Street, N.W., Suite 220
19 South.

20 Copies of today=s meeting agenda
21 are relevant to you and are located in the bin
22 near the door. We do not take any public

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1 testimony at our meetings, unless the
2 Commission requests someone to come forward.

3 Please be advised that this
4 proceeding is being recorded by a court
5 reporter and it=s also Webcast live.

6 Accordingly, we must ask you
7 refrain from any disruptive noises or actions
8 in the hearing room, including display of any
9 signs or objects. Please turn off all beepers
10 and cell phones.

11 Does the staff have any preliminary
12 matters?

13 MS. SCHELLIN: No, sir.

14 CHAIRMAN HOOD: Okay. I do have one
15 preliminary matter. We had on the agenda this
16 evening, under Miscellaneous, Zoning
17 Commission Case No. 0721B, PerStar M Street
18 Partners, LLC. Zoning Commission requested to
19 place item on consent calendar. That item has
20 been removed, and that is a appeal case in front
21 of the Board of Zoning Adjustment. So anyone
22 who=s here for that, we will not be discussing

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1 at the Zoning Commission. That=s back at the
2 Board of Zoning Adjustment.

3 Anything else, Ms. Schellin?

4 MS. SCHELLIN: No, sir.

5 CHAIRMAN HOOD: Okay. Let=s go right
6 to the consent calendar item. Before I go to Ms.
7 Schellin, does anyone want to see the consent
8 calendar item come off?

9 VICE CHAIR COHEN: No.

10 CHAIRMAN HOOD: Okay. Ms. Schellin.

11 MS. SCHELLIN: Yes, sir. The
12 applicant has determined that the appearance
13 and operation of the townhouses, as well as the
14 vehicular circulation for the townhouses will
15 be improved if four minor modifications to the
16 plan are approved, and are asking the
17 Commission to approve those modifications.

18 At Exhibit 4, there=s an OP report
19 recommending approval, and Exhibit 5 is a
20 letter in support from ANC SMD 5E-01, and it
21 asks the Commission to consider action on this
22 case this evening.

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1 CHAIRMAN HOOD: Okay.
2 Commissioners, as Ms. Schellin has already
3 mentioned in the exhibits, but I think the
4 modifications, as listed, I'll just read them
5 briefly B the elevations, roof line, the
6 additional curb cut, and the additional stories
7 added to the units on Lots 44 and 45.
8 Let=s open it up. Any discussion?

9 VICE CHAIR COHEN: Mr. Chairman.

10 CHAIRMAN HOOD: Vice Chair Cohen.

11 VICE CHAIR COHEN: Thank you, Mr.
12 Chairman. I was just concerned that the curb cut
13 did not have a reaction from DDOT.

14 COMMISSIONER MAY: I think this is
15 something the record indicated, that DDOT
16 approved it. Post any public space committee,
17 that=s all DDOT, approved this curb cut July
18 2014.

19 VICE CHAIR COHEN: Thank you for the
20 clarification.

21 COMMISSIONER MAY: Mr. Chairman.

22 CHAIRMAN HOOD: Commissioner May.

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1 COMMISSIONER MAY: I just have a
2 comment about this, which is that I have to say
3 that the modification to move mechanical
4 equipment to an attic level, and provide that
5 weird cutout on the roof, I think it does
6 something, to move mechanical equipment off of
7 the ground floor, in the alley, and reduces
8 noise and all that sort of stuff. So that=s a
9 good thing.

10 But, boy, it sure doesn=t do
11 anything for the looks of the townhouses, which
12 I didn=t think were, you know, fantastic, to
13 start with. So it=s not enough to object to it
14 or to move it off of the consent calendar. But
15 I just B it=s unfortunate things like this don=t
16 get fully thought out when they come before us.

17 Because I think it might have gone
18 through some further modification to improve
19 the appearance.

20 CHAIRMAN HOOD: Okay. Any other
21 questions? Comments? Commissioner Turnbull.

22 COMMISSIONER TURNBULL: Thank you,

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1 Mr. Chair. I just would like to be the homeowner
2 that has to maintain equipment on the roof.
3 Knowing what happened to those units on the
4 ground floor, and what you have to do, I can=t
5 B I can=t imagine what you=re going to have to
6 do, but that=s B

7 COMMISSIONER MAY: Well I would have
8 to believe that there=s some sort of access
9 hatch to that little space. I mean, that=s what
10 I was imagining, cause there is no way to get
11 to it otherwise.

12 COMMISSIONER TURNBULL: Right. But
13 if you have to remove it, it=s a pain in the neck
14 to B

15 COMMISSIONER MAY: But that=s what
16 you have to do now with a townhouse. If you have
17 it on your roof, you bring it B

18 COMMISSIONER MAY: You=re going to
19 have an issue. Yes.

20 COMMISSIONER TURNBULL: But getting
21 back to your original comment, I don=t think
22 it=s the most attractive B it adds significant

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1 B it adds more height to the units, which I=m
2 assuming are still within the zone limits for
3 what it=s supposed to be. Otherwise Office of
4 Planning would have said something.

5 But yes, it isn=t the most
6 attractive-looking roof up there now.

7 COMMISSIONER MAY: I just wish, at
8 some point, we might see a townhouse
9 development that actually proposed roofs like
10 the rest of the townhouse developments in the
11 city, which is essentially flat roofs. You
12 know, just a gentle slope from front to back.
13 I know they=re more expensive to build, but they
14 can=t be that much more expensive, and
15 certainly doing all that cut-out, and doing the
16 flashing, and all that sort a stuff, and
17 creating the potential for leaks, you know, is
18 a trade-off there.

19 So hopefully the builder, the
20 developer, might learn a lesson out of this.

21 CHAIRMAN HOOD: Okay. Any other
22 questions or comments?

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1 I too was trying to actually look
2 and see which design I thought was better. I
3 noticed a lot of significance goes in to putting
4 a lot of the HVAC and stuff up on the roof. So
5 I really was torn between both of them, trying
6 to figure out which one was best.

7 But I don=t think it=s a
8 show-stopper for me either. Any other comments?
9 Somebody like to make a motion for the consent
10 calendar?

11 Nobody wants to make a motion, so
12 there must be some reservations.

13 COMMISSIONER MILLER: Mr. Chairman,
14 I would move that we B that the Zoning
15 Commission approve Zoning Commission Case No.
16 08-24B/04-25, Bozzuto Group, request for minor
17 modification in Square 3655, and ask for a
18 second.

19 VICE CHAIR COHEN: Second.

20 CHAIRMAN HOOD: Okay. It=s been
21 moved and properly seconded. Any further
22 discussion?

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1 All those in favor, aye.

2 (Chorus of ayes)

3 CHAIRMAN HOOD: Any opposition?

4 Ms. Schellin, would you record the vote.

5 MS. SCHELLIN: Staff records the
6 vote five to zero to zero to approve Zoning
7 Commission, final action in Zoning Commission
8 Case No. 08-24/04-25, Commissioner Miller
9 moving, Commissioner Cohen seconded,
10 Commissioners Hood, May and Turnbull in
11 support.

12 CHAIRMAN HOOD: Okay. Let=s go right
13 along with our agenda. Let=s go to Final Action,
14 Zoning Commission Case No. 13-18. This is the
15 WBJ Wheeler Road, LLC, Consolidated PUD and
16 related Map Amendment in Square 5925. Ms.
17 Schellin.

18 MS. SCHELLIN: Yes, sir. This case
19 is, was deferred from last month=s meeting, to
20 allow the ANC to submit a resolution that
21 complied with the zoning regulations, and that
22 is they=ve submitted a report in opposition at

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1 Exhibit 50.

2 CHAIRMAN HOOD: Okay.
3 Commissioners, as we've noted, or as you can
4 see, I believe when we reviewed it, you reviewed
5 the submissions, as I did, and others. The
6 report still has some technical defects.
7 Commissioner - Chairman Muhammad B is there
8 anyone from ANC 8E here tonight?

9 Okay. Good. So we're going to have
10 a discussion and I'm not sure how it's going to
11 go. But I would hope that B one of the things
12 I think is pivotal, at least from my standpoint,
13 and I'm sure my colleagues probably would
14 agree, or might not, I won't speak for them B
15 is that I think that it's very important that
16 ANCs have great weight, and I think I mentioned
17 this at the last meeting. Matter of fact, I'm
18 pretty sure I did.

19 There are certain requirements in
20 the zoning regulations about the vote, how many
21 people were there, was it properly noticed. And
22 I appreciate the minutes and everything. But

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1 the key is we want to get to the point where this
2 ANC can have great weight in this case.

3 I mean, you know, yes, I know we've
4 probably done this two or three times, but some
5 people come down B some ANCs are down here more
6 often than others, and I think we want to be,
7 at least from my standpoint, be due diligent,
8 and make sure that we allow opportunity for
9 those who want to come down here and see us every
10 week, to be able to get the great weight that
11 we afford others in the city.

12 So I think it's important, and I
13 think I remember asking, I think Chairman
14 Muhammad was here, that they work with the
15 office to find out B if he wasn't sure, work with
16 the office to find out B I think we have a
17 letter. I think we talked about this.

18 There's a letter that we have, or
19 form that we have, that if you answer those, I
20 think they will meet the requirements. Am I
21 correct, Ms. Schellin?

22 MS. SCHELLIN: Yes, sir.

1 CHAIRMAN HOOD: Okay. So really what
2 we have here tonight does not meet the
3 requirements. There are still some technical
4 defects. But there=s some more issues beyond
5 that, more for me, but, you know B but I think
6 that giving me the minutes were great, and
7 seeing the vote. Was that the quorum? What takes
8 a quorum? What constitutes a quorum in this ANC?
9 I didn=t see that in the vote. I just saw the
10 state of quorum. And more than that, what are
11 the particular issues?

12 One of the things I got out of it was
13 B and I=ll open up to my colleagues after this
14 B is I think that the Applicant needs to do a
15 little more outreach in the community, needs to
16 do, have a little more discussion, obviously.
17 It=s sad that we get to final action and this
18 community feels that there=s some things are
19 still missing, and there was not a dialogue.

20 One thing that this Commission has
21 never done is shoved anything down anybody=s
22 throat, and I don=t plan on doing it now. Been

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1 here a long time, and I'm not going to do it 16
2 years later.

3 So let me open up for any comments.

4 Commissioner May.

5 COMMISSIONER MAY: Mr. Chairman, I
6 would agree with you, that the first thing we
7 want to do is make sure that we give the ANC
8 great weight on this. I would also say that what
9 we received from the ANC tells a very strange
10 story, and it would be helpful to have much
11 greater clarity from the ANC, not just meeting
12 the particular requirements in order to get
13 great weight, but spell out what the issues are,
14 because what we got was kind of a jumble of
15 things, and didn't really go to the, directly
16 to the points of contention.

17 I also think that B I agree with you,
18 Mr. Chairman B it would behoove the Applicant
19 to have further conversations with the ANC to
20 see if there=s some agreement that can be
21 reached, because it=s B you know, it is rather
22 odd, we=ve gotten this far along, and now we=re

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1 having these strenuous objections from the ANC,
2 and I would hope that the Applicant could do a
3 little more work, and try to get closer on this.
4 I mean, if not, if the ANC is completely
5 uncooperative, and we need to move ahead, well,
6 then, we=ll, you know, we=ll make our vote, one
7 way or another. But still, I think it=s worth
8 the extra effort to get this over the finish
9 line, and do it in a way that is B that at least
10 reflects a genuine discussion of the issues
11 that the ANC and members of the community seem
12 to be having.

13 CHAIRMAN HOOD: Okay. And you know,
14 Mr. Lawson, before we go to B Mr. Lawson, we also
15 need to have the Office of Planning, I=m not
16 sure what role at this point, but it looks like
17 maybe some clarification may be helpful, coming
18 from the Office of Planning standpoint. When I
19 read the unacceptable lack of transparency in
20 the letter, I=m not saying the Office of
21 Planning was not transparent, but it looks like
22 maybe some of the questions asked, not

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1 necessarily germane to this application, but
2 just in general, may be able to help assist this
3 process further along.

4 I'm not sure whose case this is. Ms.
5 Brown-Roberts, is this your case?

6 Oh, okay. Well, that may be
7 something to help move things along also. Okay.
8 Mr. Chairman.

9 COMMISSIONER TURNBULL: Thank you,
10 Mr. Chair. I would agree with both yourself and
11 Commissioner May, and I think although the ANC
12 has got their resolution, which was attached in
13 the package, I think it really doesn't B I think
14 if you hit the high points, and you've got the
15 categories there, whether it's the building
16 plan, the limited parking, the building height,
17 Comprehensive Plan consistency B but I think a
18 very simple two to three - one sentence, or just
19 hit the bullet points on all of the items that
20 you don't B not too wordy, just to hit the high
21 points that you think that are wrong with what
22 you see, so that when it comes back to us, we've

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1 got some B a very A meaty@ piece of language that
2 we can work with, and it can go to the applicant.

3 But I would agree also with you, Mr.
4 Chair, that I think B and Commissioner May B
5 about we need to have B there may be some more
6 dialogue needed between the Applicant and the
7 ANC. I think there may have to be some more
8 communication just to go back through this,
9 because as you say, it=s sad to see that in final
10 action we=re having issues that are rising,
11 that are still there, and I think we need some
12 more dialogue on this.

13 CHAIRMAN HOOD: Vice Chair Cohen.

14 VICE CHAIR COHEN: Yes. I would
15 concur with my colleagues. There are very
16 fundamental issues here that should have been
17 covered a long time ago. So I think it behooves
18 the Applicant to meet with the community, to
19 focus in on what are their major concerns, I
20 mean, building materials.

21 I think we, as a Commission, felt
22 some comfort in the application, but it seems

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1 like the community just can=t get their arms
2 around it, and feel very uncomfortable with the
3 entire project. If it boils down to the benefits
4 package, then I think again, the Applicant
5 needs to meet with the ANC and go over what they
6 can iron out. So I think we need to postpone
7 acting tonight.

8 CHAIRMAN HOOD: Any other questions?
9 Commissioner Miller.

10 COMMISSIONER MILLER: Thank you, Mr.
11 Chairman. I would note, for the record, that
12 the Applicant has met with the ANC at least
13 once, by my reading of the record, maybe more,
14 and has met with the single member district
15 commissioner whose support for this project is
16 in the record. And we do have Office of
17 Planning=s recommendation to support the
18 project as well.

19 But I think it=s always a good idea
20 to encourage dialogue between an Applicant and
21 the community, and if some of their issues can
22 be more focused, and then addressed perhaps by

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1 the Applicant, and an Applicant can send us
2 something that shows what they tried to do, at
3 least, or what they did do to address the
4 community concerns that have been expressed,
5 that would be helpful. And if OP can facilitate
6 that as well, that would be great.

7 CHAIRMAN HOOD: Okay. Again, even
8 when I look at the petition, it=s kind a here
9 attached to the letter from the ANC. Some of the
10 comments, need a store. I mean, let=s talk about
11 zoning issues. Let=s talk about impacts, and
12 let=s talk about the case.

13 And I=m not putting it all on the
14 Applicant. But again, at the end of the day,
15 when I get a page like this with all this B
16 petition B don=t close B when I get this kind
17 of information, then it is a problem because the
18 Applicant=s going to come and go, and the
19 neighborhood=s going to have to endure. So
20 that=s where my concern is.

21 You know, I=m not going to be over
22 three. I=m in Ward 5. But the people right

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1 there, that live around there, that are most
2 affected, and they should be able to have more
3 input than anybody in how their neighborhood
4 is done, what things B will this improve? I
5 think so. But they need to have some input, and
6 when I see this, and I get a petition like this,
7 I can tell you, again, I'm not forcing anything
8 down anybody's throat.

9 So anyway, that's where we are. Do
10 we have any dates, Ms. Schellin? And we need to
11 allow time for the ANC to be able to meet, which
12 I know that's usually 30 days. I'm not sure when
13 8C meets. Is this 8C or 8E? 8E. This is 8D.

14 MS. SCHELLIN: When is the next
15 meeting? First Monday in November. So we'll
16 have to put this on for our November 24th
17 meeting, then. So if we could get the B so the
18 first Monday would be, actually, November 3rd.
19 That's when your meeting is going to be.

20 If we could B in the meantime, I take
21 it, you want the Applicant and the ANC to meet,
22 is what I've heard. I'm assuming the Applicant

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1 heard that.

2 CHAIRMAN HOOD: Ms. Schellin, can
3 you find out what the commissioner=s name B I
4 don=t want to ask her from the audience cause
5 I don=t want B but could you just find out what
6 her name is, so we=ll know.

7 MS. SCHELLIN: Ms. Armstead.

8 CHAIRMAN HOOD: Okay.

9 MS. SCHELLIN: She=s the SMD member.

10 CHAIRMAN HOOD: Right. Okay.

11 MS. SCHELLIN: Chairman Hood, you=re
12 asking, and other Commissioners, you=re asking
13 the Applicant B

14 CHAIRMAN HOOD: I=m going to also
15 need to make sure that the SMD commissioner
16 knows what we=re saying, and we=re going to have
17 to make sure that the chairman knows what we=re
18 saying.

19 MS. SCHELLIN: Right, cause it=s the
20 full ANC that needs to respond.

21 CHAIRMAN HOOD: The chairman=s going
22 to need to know also.

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1 MS. SCHELLIN: Right. I'll notify
2 him. So Ms. Moldenhauer, you understand that
3 you guys are going to meet with the ANC, and try
4 to work something out. So we need a submission
5 back from the Applicant. If we could have those
6 submissions by November 12th, cause I
7 understand with the elections, and then
8 responses could be due by November 19th. Then
9 we could take this up on the 24th.

10 Is that good? Okay. And I'll send an
11 email to Mr. Muhammad.

12 CHAIRMAN HOOD: Okay. And if they
13 need help, Ms. Schellin, this office is
14 available to help with their quorum, and maybe
15 B

16 MS. SCHELLIN: I'll send it in the
17 email. I'll attach it.

18 CHAIRMAN HOOD: Yes. And PDF the
19 sheet, so we can get it right this time.

20 MS. SCHELLIN: Yes.

21 CHAIRMAN HOOD: Because if not, at
22 some point we're going to have to move forward

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1 and make a decision. Okay.

2 All right. Anything else on this?

3 MS. SCHELLIN: No, sir.

4 CHAIRMAN HOOD: Okay. Are we all
5 straight? Okay. Thank you.

6 Let=s go to the next agenda item,
7 which is Proposed Action.

8 Zoning Commission Case No. 14-02.
9 This is the A & R Development, et al, Barry Farms
10 1st-Stage PUD and related Map Amendment in
11 Square 5862, 5865, and 5866.

12 Ms. Schellin.

13 MS. SCHELLIN: Yes. I=ll go down the
14 list. We do have a motion before us, but I=ll
15 go down the list and give you all of the
16 exhibits. We do have an Exhibit 100, a motion
17 for recusal that was filed by BFTAA to be taken
18 up as a preliminarily matter. But in addition
19 to that, BFTAA did file a request for extension
20 of time to file their draft findings, facts,
21 conclusions of law, which was granted. In
22 Exhibit 92, ANC 8C=s resolution, Exhibit 93,

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1 Notice of Appearance on behalf of BFTAA, was
2 filed Exhibits 96, 97, the Applicant=s cover
3 letter, and draft findings, facts, conclusions
4 of law. Exhibit 98 is BFTAA=s draft findings,
5 facts, conclusions of laws, and ask the
6 Commission to consider this case this evening,
7 first considering the motion for recusal.

8 CHAIRMAN HOOD: Okay. Ms. Schellin,
9 what was the last exhibit?

10 MS. SCHELLIN: 100.

11 CHAIRMAN HOOD: No. The last exhibit
12 was B you said 98 or something. That was B

13 MS. SCHELLIN: Ninety-eight is the
14 BFTAA=s draft findings, facts, conclusions of
15 law.

16 CHAIRMAN HOOD: I=m asking so I can
17 go back and forth. I=ve read it, but, you know,
18 maneuvering that B

19 MS. SCHELLIN: Yes. All the B right.

20 CHAIRMAN HOOD: New innovation.
21 We=re moving back and forth, and the stuff
22 closes up on you without you telling it to. And

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1 so anyway. Maybe it=s the operator=s problem up
2 here. Okay. Let=s open it up.

3 Vice Chair Cohen.

4 VICE CHAIR COHEN: Thank you, Mr.
5 Chairman, and fellow members of the Commission.
6 At the public hearing, I disclosed my prior role
7 as a Commissioner of the District of Columbia
8 Housing Authority. My term ran from 2000 to
9 2008.

10 During those years, the DCHA did not
11 plan for the redevelopment of Barry Farms, so
12 I have no knowledge of any of the disputed
13 evidentiary facts at issue in this case. I do
14 know a great deal about public and subsidized
15 housing laws, regulations, procedures, and
16 housing finance.

17 Affordable housing has been an
18 important part of my career, and I have not been
19 opaque about my strong support for affordable
20 housing within the District of Columbia.

21 However, some members of the public
22 have questioned my knowledge of the proposed

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1 Barry Farm PUD, and again, I have not had prior
2 knowledge of this proposal.

3 I do believe that my participation
4 in this case B I do not believe that my
5 participation in this case, in any way,
6 violates any ethical rule or the judicial court
7 code of conduct.

8 My conclusions will be based on the
9 evidence of this case. Thank you.

10 CHAIRMAN HOOD: Okay. Colleagues,
11 any objections to what we've heard from Vice
12 Chair Cohen? Or any questions?

13 Commissioner Miller.

14 COMMISSIONER MILLER: Thank you, Mr.
15 Chair. No, I have no objection. I'm very pleased
16 to hear that you're not recusing yourself,
17 because I agree with what you've said, that
18 having observed you in this case, and in other
19 cases, that you do base your decisions on the
20 record, what's in the record, and we all bring,
21 you know, knowledge, our own set of knowledges
22 and experiences that guide our decisions, but

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1 the decisions are, in the end, based on the
2 record.

3 But I think your knowledge and
4 experience is very valuable in this case, in
5 every case, so I'm glad to hear that you're not
6 B I agree with you, that you do not need to
7 recuse yourself, that you can remain, that you
8 are impartial.

9 CHAIRMAN HOOD: Okay. Any other
10 comments?

11 Okay. I would also agree with
12 Commissioner Miller. We all bring something to
13 the table. I always use myself. For example, for
14 the folks I know to come down here, I probably
15 would never sit here. But, you know, I don't B
16 you know, you make it a point of staying away
17 from anything that=s outside of the hearing
18 room. You really have to go hard, and I think
19 I would agree B Vice Chair Cohen, you bring a
20 lot to the table, and your prior experience was
21 just B you know, I was a civic association for
22 20 years. So, you know, I've worked with the

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1 community and been down here on that side, and
2 done the same thing.

3 So, you know, I think, as
4 Commissioner Miller has mentioned, we all bring
5 unique stuff to the table, and together, the
6 five of us, I think some time, while we may
7 disagree, but I think the five of us some time,
8 we come out with a better outcome.

9 Okay. All right. Any other
10 comments?

11 So do I need to make a motion or
12 something? Or does somebody need to make a
13 motion?

14 CHAIRMAN MILLER: Mr. Chairman, if
15 it=s appropriate, I would move that we deny the
16 motion requesting recusal of Vice Chair Cohen
17 from this case, and ask for a second.

18 CHAIRMAN HOOD: I=ll second. Okay.
19 It=s been moved and properly seconded by me.
20 Okay. Moved and properly seconded. Any further
21 discussion?

22 All those in favor, aye.

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1 (Chorus of ayes)

2 CHAIRMAN HOOD: Any opposition?

3 Ms. Schellin, record the vote.

4 MS. SCHELLIN: Yes. Staff records
5 the vote five to zero to zero to deny the motion
6 for recusal, Commissioner Miller moving,
7 Commissioner Hood seconding, Commissioners
8 May, Cohen, and Turnbull in support of denial.

9 CHAIRMAN HOOD: Okay. Anything else,
10 preliminary, we need to do?

11 Okay. Let's get in to the merits and
12 talk about the first stage PUD. One of the
13 things that I wanted to do was to use the
14 findings of fact and conclusions of law by Barry
15 Farms Tenants Alliance Association. And I'll
16 tell you why, because I think they captured some
17 of their concerns in the back. I mean, my
18 colleagues, we can go back and forth. I haven't
19 figured out to split the screen yet. But anyway,
20 we can go back and forth.

21 But I would like to really use that
22 as the model, because I would like to take that

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1 concern, those concerns, and let=s discuss
2 those. Let=s discuss those in that order
3 tonight. Okay? Is everybody in agreement with
4 that? And I think that=s Exhibit 98.

5 And I=m going to start at page B it
6 goes to page 11. I want to start at page 11,
7 second. So if we can go down B let me get there
8 first. You know what? If we go to the reader,
9 we can make it larger. Okay. Maybe I should
10 have brought my granddaughter, so she can help
11 me a little bit. But I=ll get there.

12 Okay. Page 13. Findings of fact. No.
13 96. I want to start with incompatibility with
14 the Comprehensive Plan.

15 We=re actually going to go back to
16 11. I want to talk about that later. The
17 measures to avoid dislocation or a hardship. I
18 thought we would talk about that last. Okay. Is
19 that in agreeance with everyone? Okay. Let=s
20 go back to page 12 - 96. Oh. I=m sorry. Yes.
21 Findings of fact, 96, Page 13. It=s the bottom
22 of page 13.

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1 And I'm not going to B some of them
2 B I'm not going to go through all of them. I
3 think they're here, in the D.C. Code. But
4 Applicant's project is incompatible with the
5 Comprehensive Plan because it does not meet
6 policy FS2-2.3.1, and failure to meet the
7 provisions undermines many of the purposes of
8 the Comprehensive Plan.

9 I'm not sure. I think that a lot of
10 us, when we talk about the density, I think that
11 the Applicant in the first B well, in this
12 stage, came back, and I think we had reduced
13 some of the units, if I'm not mistaken.

14 But let me open it up. I know there
15 were some questions from this Commission also
16 about the B being able to meet the writing of
17 the Comprehensive Plan as stated in number 96
18 of incompatibility with the Comprehensive
19 Plan. Any comments on that?

20 VICE CHAIR COHEN: Mr. Chairman.

21 CHAIRMAN HOOD: Yes.

22 VICE CHAIR COHEN: The Comprehensive

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1 Plan is an extensive document, and I always call
2 it, almost a Chinese menu, because it does
3 deal with a number of the public housing
4 projects that will be, or have gone, undergone
5 comprehensive upgrading.

6 So again, it's one of the areas
7 where I don't think this proposal is
8 incompatible with the Comprehensive Plan, in
9 that it is being looked at to be redeveloped,
10 it is being looked at to be a mixed-income
11 community. It is being looked at to provide
12 additional open space. It is close to a Metro.

13 So it meets quite a few of the
14 conditions of the Comprehensive Plan.

15 CHAIRMAN HOOD: Okay. All right.
16 Anything? Any other comments on that particular
17 issue? Commissioner May.

18 COMMISSIONER MAY: Yes. I would
19 agree, the reading in this order seems to
20 indicate that essentially the policy that's
21 being cited for the Comprehensive Plan requires
22 that, essentially that nothing be done here,

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1 that essentially the neighborhood be preserved
2 as it is, and that=s not B it=s not really what=s
3 going to, in the long run, improve the
4 community.

5 And I think not just the Barry Farm
6 community, but also, you know, more in the
7 larger scale, the entire community. I think it
8 does need to be redeveloped, and it does need
9 to be, you know, include the elements that are
10 being proposed here, and I think that that=s B
11 that what=s being proposed, and certainly in
12 these general terms, is entirely consistent
13 with the Comprehensive Plan.

14 CHAIRMAN HOOD: Okay. Any other
15 comments? Commissioner Miller.

16 COMMISSIONER MILLER: Thank you, Mr.
17 Chairman. Yes. I would agree with the comments
18 of my colleagues, that the project is not
19 inconsistent with the Comprehensive Plan. In
20 fact, I think it supports many of the B many
21 policies in the Comprehensive Plan, including
22 creating successful neighborhoods.

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1 I agree with the, you know, the
2 points. I think we did have some initial
3 concerns about the density, and I think Office
4 of Planning addressed those concerns in its
5 report that it provided to us, and I think the
6 Applicant=s proposed findings of fact and
7 conclusions of law also address the various
8 elements of the Comprehensive Plan that are
9 supported by this development, which will B you
10 know, it will revitalize this community in a
11 way that it needs to be revitalized, to provide
12 high-quality replacement housing, one-for-one
13 replacement housing for the Barry Farm
14 residents, additional affordable housing, and
15 additional market rate housing on the site, as
16 well as reach a badly-needed neighborhood
17 serving retail services, and the vision of
18 parks and the tying of the whole B creating
19 connectivity by making major infrastructure
20 improvements, and building out the street grid,
21 and creating a safer community than it is there
22 today.

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1 So I think the project does support
2 the Comprehensive Plan.

3 CHAIRMAN HOOD: Okay. Mr. Turnbull.

4 COMMISSIONER TURNBULL: Thank you,
5 Mr. Chair. I won't add too much to what=s
6 already been said, but I would just note that
7 one of the policies, a part of the Comprehensive
8 Plan, is that bonus density that you do get for
9 providing affordable housing.

10 So there is a bonus for that, and
11 although we argued about how much that is, there
12 still is a bonus given for affordable housing.

13 Also we talk about mixed income
14 housing. It=s not just B it=s several layers
15 that are of housing, that are going to be
16 provided within Barry Farms. And it=s balanced
17 growth. And so I think there=s a lot of parts
18 of the Comprehensive Plan that haven=t been
19 referenced by the opposition, that are present
20 within this project, and I think the Applicant
21 has actually cited some of those in their
22 proposed findings in fact.

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1 CHAIRMAN HOOD: Okay. Let me open up.
2 Any other comments, Commissioners, you think we
3 need to address here, before I move on to some
4 of the other ones? Cause a lot of these are
5 addressed B and a lot of this was actually B you
6 know, we didn=t B and I think for the record,
7 and some of this B I can=t remember what we do
8 with some of the cases. But I think when we first
9 started having proposed, because of our many
10 concerns, we didn=t get far in to these
11 discussions. We actually sent B we sent this one
12 back. I think I B no. We have a limited scope
13 hearing on some of the issues that we had.

14 Am I correct? We didn=t send this
15 one back. We sent another case back.

16 So I think this shows this
17 Commission=s listening ears to what we=ve heard
18 from residents in Barry Farm, and the community
19 as a whole, and I think a lot of this that we
20 have here in front of us B and I know that the
21 BFTAA retained counsel. But when I read some of
22 this, that they put in their findings of fact,

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1 and I think if you check the record, if the
2 counsel would check the record, I think some of
3 these things were discussed and actually
4 brought up by us.

5 Especially B and I=m going to hit
6 the relocation shortly. But I wanted to get
7 through the Comp Plan, density, and other
8 issues, cause again, this is a 1st-stage PUD.
9 And I think mentioned that we=re going to Atake
10 a bit at the apple@ of all the issues as the
11 phase in, as the phase goes on.

12 So this is a first stage, and I
13 understand, phasing was a big issue, but we=re
14 going to get to the relocation. The Comp Plan
15 B being incompatible with what we=re seeing
16 here with the Comp Plan.

17 Anyone else? Anything else you see
18 that jumps out at you in the Comp Plan section?

19 (No response)

20 CHAIRMAN HOOD: And it talks about
21 the purpose, the purpose B and basically the
22 BFTAA makes the case, the fourth purpose is to

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1 guide private and public development in order
2 to achieve district and community goals.

3 I mean, some of the stuff in the Comp
4 Plan is exactly what we=re trying to achieve
5 here, and it spells it out, and this was
6 submitted by the party in opposition.

7 The sixth purpose of the
8 Comprehensive Plan is to assist in the
9 conservation and stabilization, and
10 improvement of each neighborhood and community
11 in the district.

12 I mean, you know, it=s there, and
13 this was submitted, again, by the party in
14 opposition. But I=m going to get to some of the
15 concerns, especially, I think for me it was the
16 relocation, and I know there are certain things
17 that this Commission can do and certain things
18 that we cannot do when it comes to that. So we
19 want to get to that. I want to get to that, but
20 I want to get to other issues that my colleagues
21 may have.

22 So if you have other issues, you can

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1 bring them up now, or we can finish discussing.

2 (No response)

3 CHAIRMAN HOOD: Okay. So we're fine
4 with the Comprehensive Plan piece; right? Okay.
5 Let's go to B let's go back.

6 In the Barry Farm Tenant Alliance
7 Association, it talks about measures to avoid
8 dislocation or hardship. And I looked at B
9 when I looked, when I reviewed the Applicant's
10 findings of fact and conclusions of law, and
11 Mr. Ritting, I know you're going to hear this
12 for the first time. So are my colleagues.

13 Typically, in a campus plan,
14 because I think, to me, that was the big issue.
15 I mean, if you're there during the tough times,
16 or the normal times, and you're going to make
17 improvements, for me, I want to come back when
18 the going gets good. That's just where I am.

19 So I think that for the phasing,
20 just like we do for the processing, and actually
21 again, let me B let me start off like this. I
22 don't want the Applicant to think that I'm

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1 unappreciative of what they did, when I asked
2 about relocation.

3 I know there are federal laws which
4 mandate that, and they have to stick to that.
5 I understand all that. But I think the
6 unpredictability and the unsureness B- I don't
7 even know if that=s a word but I=m going to use
8 it B unsureness of residents of how things have
9 happened in the past. And I said this at the
10 hearing about something that=s happened. I=ll
11 use Temple Courts.

12 You know, those are what people are
13 concerned about, not being able to return. And
14 I saw in the findings of BFTAA, that 96 percent
15 wanted to return. But I think at the hearing,
16 I heard some people say they didn=t want to
17 return.

18 But I think the majority I heard,
19 people want to return. And they feel like if
20 they had moved, then they won=t be able to get
21 back. Now some things are not within our
22 jurisdiction, colleagues, that we=ve already

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1 talked about. You can look at the hearing B I
2 mean look at the transcript. We can=t make
3 waivers or any type of amounts due, anything
4 like B that=s not within our jurisdiction.

5 But one of the things I will propose
6 B and I don=t know if anybody else B and how we
7 fine-tune this, as I was thinking about this the
8 other day B is that with the campus plans, when
9 we do further processing, now, they have to be
10 in compliance with some things, and I don=t know
11 how this would tangle, or tighten up, or align
12 with the federal law, because I know we can=t
13 overstep that.

14 But some type of report needs to be
15 given to this Commission in the phasing, of how
16 the relocation is going. I saw an elaborate
17 plan. First, we didn=t have anything. Then I saw
18 a nice plan, which I think, if it worked, it
19 would be B it gave me some assurance to move
20 forward in this case.

21 But also I want to make sure that the
22 residents have some assurance, and if we put

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1 something in place for the phasing, you know,
2 as far as relocation with phasing, that there=s
3 something that B I=m not saying they have B
4 there=s a report that=s given to this
5 Commission when they come back for the phasing,
6 for the second stage.

7 So I=m throwing that out there for
8 discussion, or anything else you all want to
9 talk about. But that=s what I=m thinking. I
10 don=t know, from a legal standpoint, if I have
11 a leg to stand on, but I=m going to put it out
12 there.

13 Commissioner Miller.

14 COMMISSIONER MILLER: Mr. Chairman,
15 I would support that. I think that when we get
16 to second B if this is what we=re saying B when
17 we get to second stage, the first second-stage
18 PUD, that we should also receive from the
19 Applicant a comprehensive relocation plan that
20 sets out B that sets forth specific timetables,
21 and plans for the relocation and return to Barry
22 Farms. So I would support you in that effort.

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1 CHAIRMAN HOOD: All right. Any
2 other comments?

3 COMMISSIONER MAY: So I have a
4 slightly different understanding. I thought
5 you were indicating that, you know, we had
6 gotten the general plan, and maybe we do need
7 more detail, but that as we move along, when we
8 get to the second stage, we get a progress
9 report on how things are going so far, because
10 we know it=s already in process; right? They=ve
11 already identified relocation units. So we
12 know some people have been relocated or will be
13 in, you know, in a certain period a time.

14 So I mean, is it that, too, or B

15 CHAIRMAN HOOD: Well, you know what?
16 You guys are really accommodating me and I
17 appreciate it. I want both of B I want all of
18 it. I want as much as I can get, because I want
19 the residents to have B I=m not sure what works,
20 but I want them to have a level of confidence,
21 if they leave, they=re going to return. If we
22 can get that, I=ll take all those suggestions.

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1 COMMISSIONER MAY: Well, I'm glad
2 that between Commissioner Miller and myself,
3 you know, put our heads together, and we're as
4 smart as you. That's good.

5 CHAIRMAN HOOD: Now you're the most
6 powerful man *... Okay. Commissioner
7 Turnbull, did you want to ask some B

8 COMMISSIONER TURNBULL: No. I would
9 agree with both Commissioner May and
10 Commissioner Miller, that we need sort of a
11 schedule of values, a timetable that actually
12 spells out exactly what we're going to get, and
13 I would agree with you also on this.

14 CHAIRMAN HOOD: And that's going to
15 take it through that whole process. You know
16 what I mean?

17 COMMISSIONER TURNBULL: Right.

18 CHAIRMAN HOOD: Just like we said B
19 transportation B through the whole process. You
20 know, not that B I don't want to hear, when we
21 come down B oh, you already wrote on that. So
22 I don't know if I crafted it right, I don't know

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1 *how anybody would craft it. But I think between
2 what we say, we can get there.

3 COMMISSIONER TURNBULL: Yes. I think
4 between first phase, and going to the second
5 stage, we need something that ties this thing
6 together.

7 CHAIRMAN HOOD: Okay. All right.

8 COMMISSIONER MAY: And I don=t think
9 this should be a particular large hurdle for the
10 Applicant because I=m sure these are things
11 that have to be done anyway to comply with the
12 federal act, and then it=s just B it=s, you
13 know, the embellishment might be just giving us
14 that, you know, periodic reporting on how it=s
15 doing, any time we consider a second stage.

16 VICE CHAIR COHEN: I was going to
17 add, what Commissioner May just said, that I
18 think it=s not a onerous problem for the
19 Applicant to do. They have to do it anyway.

20 CHAIRMAN HOOD: Okay. And a lot of
21 that would B well, we=ll leave it at that.

22 Anything else? Somebody want to

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1 open up any other comments? That was my big
2 hurdle, right there.

3 Any other discussion?

4 COMMISSIONER MAY: Mr. Chairman.

5 CHAIRMAN HOOD: Commissioner May.

6 COMMISSIONER MAY: Yes. So I mean,
7 there are a number of statements that are made
8 about what our obligations are to B you know,
9 again, it makes reference to the Comprehensive
10 Plan, and obligations to avoid dislocation and
11 hardship.

12 And, you know, I have to say I think
13 that what we've seen in the record so far, and
14 what we expect to see in terms of further
15 planning and reporting, I think is well within
16 what we are obligated to consider under the
17 Comprehensive Plan.

18 I mean, it's really because of the
19 Comprehensive Plan that we even start to
20 consider relocation as an issue. It's not
21 explicitly a zoning issue but it does go to some
22 Comprehensive Plan policies, and I think that

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1 this is consistent with those policies.

2 CHAIRMAN HOOD: Okay. Any other
3 comments?

4 (No response)

5 CHAIRMAN HOOD: Okay. Well, I don=t
6 have anything else to add. Do we want to look
7 at the other order? Do we have any other issues?

8 Okay. Commissioner Miller. We want
9 to look at the other order?

10 COMMISSIONER MILLER: Yes. Mr.
11 Chairman, I think on the B there=s discussion
12 throughout the Applicant-proposed findings of
13 fact and conclusions of law regarding the
14 affordable housing requirements.

15 In the second which discusses
16 public proffers and amenities, it=s somewhat
17 summarized in a very general way. I think in
18 that section, they need to pull in all of the
19 specific findings that are B and provisions
20 that are in the conclusion of law section, and
21 actually say exactly how many.

22 Cause it says B if you read the whole

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1 proposed order, it=s there, but it=s not B when
2 you=re looking at public proffers and public
3 B I mean public amenities and public benefits,
4 you want to see it right there, what the numbers
5 are, and so I think that needs to be tightened
6 up in the final order when we B if and when we
7 get to that point.

8 CHAIRMAN HOOD: All right.
9 Anything else?

10 (No response)

11 COMMISSIONER MAY: Do we want to go
12 to the staging B or phasing *and vesting
13 discussion?

14 CHAIRMAN HOOD: Okay. Which order?
15 Let=s have something to look at. That=s in the
16 Applicant=s. What exhibit is that?
17 Ninety-seven, I think. Or is it ninety-six?

18 COMMISSIONER TURNBULL:
19 Ninety-seven.

20 CHAIRMAN HOOD: Ninety-seven. Okay.
21 I=m sure saving paper. I don=t know if we=re
22 saving time but we=re saving paper. Can

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1 everybody see it?

2 COMMISSIONER TURNBULL: Mr. Chair,
3 maybe B item No. 129, *... the Applicant will
4 appropriately move forward the PUD in multiple
5 phases, considering the size of the PUD
6 project, market conditions, and the
7 availability of financing, which are difficult
8 to predict.

9 So maybe, is that the one? You
10 started to look in to that? I mean, they made
11 reference to Exhibit 69. 69 has several
12 different elements to it. But I think if we=re
13 going to have something in here, it ought to be
14 a little more succinct, I think is what you=re
15 getting at.

16 CHAIRMAN HOOD: Commissioner May, is
17 that 129, page 43.

18 COMMISSIONER MAY: Well, what I was
19 looking at was 64A on page 16. But what was the
20 B 129,

21 CHAIRMAN HOOD: Yes. That=s page 43.

22 COMMISSIONER MAY: Right; right.

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1 Yes. 64A actually goes in to more of
2 the specifics, which is on sixteen.

3 COMMISSIONER TURNBULL: Yes; it
4 does.

5 COMMISSIONER MAY: And I think the
6 essential issue here is that what they seem B
7 what seems to be suggested here with the phasing
8 is that the first-stage application, which is
9 normally valid for one year, in this case
10 they=re asking for a period of three years from
11 the effective date of the order, which given the
12 scope of the project, I think is reasonable. But
13 then essentially they=re suggesting that
14 within that time, a second-stage application,
15 PUD application for one or more additional
16 buildings would be filed, and at that time, that
17 essentially once that=s approved, that the PUD
18 is vested, and I think that that=s B I mean, we
19 need something more specific than that, that
20 ties to the entire development.

21 I can recall multiple large PUDs,
22 where we=ve had extended schedules for when

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1 second, third, fourth phases would be required,
2 and what the total time period would be, and I
3 think we also balked at the idea that some of
4 these things might take 15 years or whatever.

5 But here we've got nothing at all.
6 We're basically saying within three years, they
7 have to fill a second, you know, file a second
8 stage. And so that means within four years the
9 whole thing is vested, and then they're just
10 Agood to go@ forever. It doesn't matter how long
11 it takes to get it done.

12 I mean, we need more on what will
13 happen with subsequent phases, and maybe they
14 don't have all of that information at this time,
15 but, you know, what we have right now is not
16 adequate to approve.

17 CHAIRMAN HOOD: Okay. I would agree
18 with you, Commissioner May. But are you
19 suggesting that depending upon whatever action
20 we take tonight, that we maybe deal with B or
21 tighten it up before we do final, or tighten it
22 up before we do proposed?

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1 COMMISSIONER MAY: I=m just
2 suggesting that it be tightened up. Whether it
3 happens now or before final, I don=t really have
4 a strong feeling at this moment.

5 CHAIRMAN HOOD: Okay.

6 VICE CHAIR COHEN: Mr. Chairman, I
7 think the Applicant must tighten it up. I think
8 that, you know, they want to probably provide
9 some flexibility because of the need for GAAP
10 financing for all of this, and they don=t have
11 control over that, unfortunately. However, I
12 think that in this case, there could be some
13 thresholds that they must meet, and they can
14 obviously come back for an extension, if
15 necessary.

16 But also, if it=s in writing, their
17 partners, which is the city, certainly may have
18 to feel some pressure as well.

19 I mean, this is not just a Housing
20 Authority effort, and I think that, you know,
21 the city has to step forward and meet their
22 commitment as well to these residents of the

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1 entire District of Columbia.

2 So I think it behooves us to move
3 ahead today but get a tighter schedule for final
4 deliberations.

5 CHAIRMAN HOOD: Okay. I would
6 actually agree. That I would move for proposed.
7 But I don=t have problems with B I=ve voted in
8 the past for proposed and denied final. So I
9 don=t have a problem.

10 But I think, though, what
11 Commissioner May and the Vice Chair have
12 mentioned, I think we do need to have it
13 tightened up, especially moving forward, so
14 there=s some certainty there. It just doesn=t
15 go on forever. Okay?

16 Any B Commissioner Miller.

17 COMMISSIONER MILLER: Yes. I would
18 share that view, Mr. Chairman. You know, it
19 states right now, that the first-stage PUD, if
20 approved, would be valid for three years, and
21 then it said within such time the Applicant will
22 file a second-stage PUD application for one or

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1 more additional buildings on the PUD site. I
2 think that language could use some tightening
3 up, and I would prefer to say not less than two
4 partials on the PUD site.

5 And then I think we could B I mean,
6 this could be worked out between the Applicant
7 and OAG, between proposed and final. But I think
8 we need some kind of a condition that says
9 within, you know, a certain number of years of
10 approval of the first second-stage PUD, the
11 Applicant shall file, you know, a second stage
12 application for the remaining parcels.

13 We need to have a condition in this
14 order, that sets out all the second stage B that
15 requires all the second stage filings within a
16 certain period of time.

17 CHAIRMAN HOOD: I would definitely
18 concur with that. Commissioner Turnbull.

19 COMMISSIONER TURNBULL: Yes. I would
20 agree with Commissioner Miller. I think that we
21 need to add some language, to get some of these
22 points finalized, and, you know, just because

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1 we get to final action, we've gone through final
2 action on some of these things, several times,
3 until we get it right. So I think if the language
4 B if the next time we sit down and look at this,
5 it's still not right, at final action, we can
6 send it back again. But we need to get it right.

7 COMMISSIONER MILLER: As
8 Commissioner May pointed out, we've dealt with
9 this in other multiphased big projects, and
10 there's language from those that can be looked
11 at as potential models for this one.

12 CHAIRMAN HOOD: Okay. Again, as we
13 stated, that's good. I think this is the first
14 stage, and I like the language. So far
15 everything B I like be incorporated in this
16 order. Okay.

17 Vice Chair Cohen.

18 VICE CHAIR COHEN: Yes. I just would
19 like the Applicant to suggest that, because of
20 the financial implications surrounding this,
21 and other public/private deals, they may want
22 to footnote what some of the issues might B they

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1 might be faced, in not meeting some of the
2 deadlines.

3 However, that means that people are
4 relying on trying to, you know, get back to
5 their neighborhood. So, you know, there=s
6 this tug to move forward, and I think, again,
7 they have to hold the city as well as
8 themselves, their Afeet to the fire@ on this.

9 CHAIRMAN HOOD: Okay. Any other
10 outstanding zoning issues, anything we need to
11 talk about tonight?

12 If not, we probably can catch it on
13 final.

14 Anything else?

15 COMMISSIONER MILLER: Mr. Chairman.

16 CHAIRMAN HOOD: Commissioner
17 Miller.

18 COMMISSIONER MILLER: If it=s
19 appropriate, I would move that we, with the
20 caveats that we=ve all discussed here tonight
21 being incorporated between proposed and final,
22 that we tonight take proposed action on Zoning

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1 Commission Case No. 14-02, A&R Development, et
2 al, that Barry Farms 1st-Stage PUD and related
3 Map Amendment in Square 5862, 5865, and 5866,
4 and ask for a second.

5 CHAIRMAN HOOD: I=m going to second
6 that. It=s been moved and properly seconded.
7 Any further discussion?

8 COMMISSIONER MAY: Mr. Chairman, you
9 know, I think the one concern I have going on
10 is that it may take one or two go=s at the
11 phasing plan before we can get to final. So I
12 would just want to suggest that perhaps we see
13 that in draft before we see the final order, you
14 know, at the earliest possibility from the
15 Applicant, and then take up the final action
16 subsequent to that.

17 CHAIRMAN HOOD: Okay. That=s fine.
18 You know, we can B

19 COMMISSIONER MAY: We can put it off.
20 Yes. I mean, we can B

21 CHAIRMAN HOOD: We can put *... We=ve
22 done that. We can see final action about six

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1 times. We don=t have a problem with it.

2 COMMISSIONER MAY: Yes. I=d just
3 rather not B I=d rather sort of get focused on
4 this as I think a big issue.

5 CHAIRMAN HOOD: Okay.

6 MR. RITTING: If I could interject.
7 The Zoning Commission=s rules expressly
8 provide that after a proposed action, the
9 Applicant will share its final proffers and
10 draft conditions within seven days.

11 Certainly I would expect that they
12 would provide their revised phasing condition
13 with that submission, if I understand what
14 you=re asking for, and I think that would be the
15 most appropriate way for them to proceed, and
16 I can=t imagine why they would do otherwise.

17 What then happens is I, as
18 representative of the attorney general=s
19 office, would communicate any deficiencies
20 that I see in their proposed conditions, and at
21 that time I could share them with you, and I
22 don=t expect that given the very specific

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1 direction that you've given them, that they
2 would propose something that is deficient.

3 But if they do, I can provide a
4 revised condition to them at that point. Then,
5 at 21 days, they have an opportunity to resubmit
6 their revised conditions, and that's shared
7 with the parties who also have an opportunity
8 to comment.

9 So I think that that timeframe
10 basically accomplishes what you're asking for,
11 and if it doesn't, then maybe you need to
12 propose an additional submission.

13 COMMISSIONER MAY: No. I think
14 that's good. I do think it would be good if we
15 could see it, once it comes in, after seven
16 days. And I'm not suggesting that they're
17 going to submit something that they know is not
18 going to be adequate.

19 I just think it may take them more
20 seven days to figure it out, given what we have
21 seen, you know, before us now.

22 MR. RITTING: That's certainly

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1 understandable, and I guess we can wait and see
2 what we=ve got in a week, and then B-

3 COMMISSIONER MAY: Yes. Okay.

4 CHAIRMAN HOOD: Well, we want
5 something well thought out. That=s for sure.
6 Whatever we need to do to get B if you need more
7 time, you know, I think they can send me a B
8 let=s just see how it plays out, okay? Cause we
9 want something well thought out.

10 Okay. Any other questions?

11 (No response)

12 CHAIRMAN HOOD: It=s moved and
13 properly seconded. Any further discussion?

14 (No response)

15 CHAIRMAN HOOD: All those in favor,
16 aye.

17 (Chorus of ayes)

18 CHAIRMAN HOOD: I=m not hearing any
19 opposition. Ms. Schellin will record the vote.

20 MS. SCHELLIN: The staff records the
21 vote five to zero to zero to approved proposed
22 action in Zoning Commission Case No. 14-02,

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1 Commissioner Miller moving, Commissioner Hood
2 seconding, Commissioners Cohen, May and
3 Turnbull in support. And if the parties need a
4 copy of Sections 2403.16 through 21, that need
5 to be complied with, I can give them a copy of
6 that.

7 CHAIRMAN HOOD: Okay. Do we have
8 anything else before us?

9 MS. SCHELLIN: No, sir.

10 CHAIRMAN HOOD: Okay. Do we have any
11 announcements coming up or anything in the
12 meeting? Okay. Good. All right. So with that,
13 this meeting is adjourned.

14 (Whereupon, at 7:39 p.m., the
15 meeting of the Zoning Commission was
16 adjourned.)

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