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GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission

Regular Public Meeting
1422nd Meeting Session [22nd of 2015]

6:30 p.m. to 8:24 p.m.
Monday, December 14, 2015

Jerrily R. Kress Memorial Hearing Room
441 4th Street, N.W., Suite 220 South
Washington, D.C. 20001

1 Board Members:

2 ANTHONY HOOD, Chairperson

3 MARCIE COHEN, VICE CHAIR

4 PETER MAY, Commissioner

5 ROBERT MILLER, Commissioner

6 MICHAEL TURNBULL, Commissioner

7

8 Office of Zoning:

9 SHARON SCHELLIN, Secretary

10

11 Office of Planning:

12 JOEL LAWSON

13 JENNIFER STEINGASSER

14 KAREN THOMAS

15 MAXINE BROWN-ROBERTS

16 MATT JESICK

17 STEPHEN MORDFIN

18 ANNE FOTHERGILL

19

20 Office of Attorney General

21 JACOB RITTING, ESQ.

22

23

24

25

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

2 CHAIRPERSON HOOD: This meeting will please
3 come to order. Good evening, ladies and gentlemen.
4 This is a public meeting of the Zoning Commission for
5 the District of Columbia.

6 My name is Anthony Hood. Joining me are Vice
7 Chair Cohen, Commissioner Miller, Commissioner May,
8 and Commissioner Turnbull. We're also joined by the
9 Office of Zoning staff, Ms. Sharon Schellin, the
10 Office of Attorney General, Mr. Ritting, the Office
11 of Planning, Ms. Steingasser and Mr. Lawson, Ms.
12 Thomas, Mr. Mordfin, Mr. Jesick, and Ms. Brown-
13 Roberts.

14 Again, we are located in the Jerrily R. Kress
15 Memorial Hearing room and I believe this announcement
16 is still applicable. We're having video issues so if
17 you're streaming this you can hear the audio but you
18 will not be able to see us. That actually may work
19 out for your benefit but if you could -- you can hear
20 us and we are working to try to correct that this
21 evening, possibly. I think we've been working on it
22 for a while. We are sorry for the inconvenience, but
23 we have people, technicians working on it I believe,
24 still now as I'm speaking, to try to work on the
25 video. But we still have the audio.

1 Copies of today's meeting agenda are
2 available to you and are located in the bin near the
3 door. We do not take any public testimony at our
4 meetings unless the Commission requests someone to
5 come forward. Please be advised that this proceeding
6 is being recorded by a court reporter. It is also
7 webcast live. Accordingly, we must ask you to
8 refrain from any disruptive noises or actions in the
9 hearing room including the display of signs or
10 objects. Please turn off all beepers and cell
11 phones. Does the staff have any preliminary matters?

12 MS. SCHELLIN: Yes, sir. Would ask the
13 Commission to please consider voting on the closed
14 meetings for next year and January 2017.

15 CHAIRPERSON HOOD: Okay. Thank you, Ms.
16 Schellin.

17 Colleagues, in accordance with 405C of the
18 Open Meetings Act, D.C. Official Code 2-575C, I move
19 that the Zoning Commission hold closed meetings on
20 each Monday that is scheduled to hold a public
21 meeting for calendar year 2016 and January 9th, 2017.
22 The closed meeting will begin at 6:00 p.m. and are
23 for the purposes of obtaining legal advice from our
24 counsel on all cases and to deliberate upon, but not
25 voting on, the contested cases scheduled for hearing

1 action, proposed action, final action, or consent
2 calendar consideration as those cases are identified
3 on the Commission's agenda for those meetings. Is
4 there a second?

5 MS. COHEN: Second.

6 CHAIRPERSON HOOD: Will the secretary please
7 take roll call vote on the motion before us now, now
8 that it has been seconded?

9 MS. SCHELLIN: Yes, sir.

10 [Roll call vote taken.]

11 MS. SCHELLIN: Chairman Hood.

12 CHAIRPERSON HOOD: Yes.

13 MS. SCHELLIN: Vice Chair Cohen?

14 MS. COHEN: Yes.

15 MS. SCHELLIN: Commissioner Miller?

16 MR. MILLER: Yes.

17 MS. SCHELLIN: Commissioner May?

18 MR. MAY: Yes.

19 MS. SCHELLIN: Commissioner Turnbull?

20 MR. TURNBULL: Yes.

21 MS. SCHELLIN: The motion carries.

22 CHAIRPERSON HOOD: I request that the Office
23 of Zoning provide notice of these closed meetings in
24 accordance with the act.

25 Ms. Schellin, do we have anything else?

1 MS. SCHELLIN: No, sir.

2 CHAIRPERSON HOOD: Okay. Let's go right into
3 our agenda, colleagues. We will start with final
4 action. I don't think we need to rearrange anything
5 unless someone else thinks we need to rearrange
6 anything. I think everything, we'll just follow the
7 agenda as noted.

8 Final action in Zoning Commission Case 15-04,
9 Comstock 6th Street, LLC., Consolidated PUD and
10 Related Map Amendment at Square 3788. Ms. Schellin.

11 MS. SCHELLIN: Yes, sir. At Exhibit 63 we
12 have an NCPC report advising the project would not be
13 inconsistent with the Comp Plan for the National
14 Capitol. And at Exhibit 64 we have a joint
15 submission from the applicant and the Concerned
16 Citizens of North Michigan Park. I'd ask the
17 Commission to consider final action on this case this
18 evening.

19 CHAIRPERSON HOOD: Okay. Commissioners, I
20 think we have a few requests here from the joint
21 submission. But first I think to reopen the record,
22 any objections to reopening the record?

23 MS. COHEN: No.

24 CHAIRPERSON HOOD: Not seeing any, I don't
25 think we need to call for a vote. We have general

1 consensus.

2 The next we need to expressly approve the
3 escrow -- well, first of all let me open it up before
4 we -- I think it's proper to do any comments before I
5 go to the other two requests, which was -- I would be
6 saying that it's going to be approved if I start
7 talking about escrow and changing public benefits.
8 Any other concerns prior? Anyone else?

9 Okay. Well, I guess I was the only one. I
10 really appreciate where we've worked it out and how
11 the community, from what's in the record, how the
12 community work with the applicant. I appreciate the
13 applicant going back out there even though I know
14 they said they've been out there many times. I
15 really appreciate the effort from both sides that was
16 put into this. I do see a joint agreement, which now
17 we'll talk about the escrow account arrangement.

18 I would be in support of that and also in
19 support of changing the public benefit package
20 described in the letter as prescribed. I think from,
21 you know, even though it may be a little
22 inconvenience, but I think that the community has
23 negotiated to deal with some of those setbacks in the
24 escrow account and in dealing with the -- I think
25 it's specifically tailored in the letter and I would

1 ask that the Commission accept this letter and accept
2 the way that the community and the applicant has
3 wished to proceed in that manner. Let me open it up
4 for any discussions.

5 Commissioner Miller.

6 MR. MILLER: Mr. Chairman, I would agree with
7 you and I'm very pleased that the party in
8 opposition, the Concerned Citizens of North Michigan
9 Park and the applicant have finally come together on
10 this. I have to admit I was a little reluctant at
11 the last extension of time request, but goes to show
12 sometimes more time does result in a good result so
13 I'm very pleased and I agree with your comments.

14 CHAIRPERSON HOOD: Okay. Anybody else?
15 Okay.

16 MS. COHEN: Mr. Chairman, in light of there
17 being no other additional comments from my colleagues
18 I would move to approve Zoning Case No. 15-04,
19 Comstock 6th Street, LLC., Consolidated PUD and
20 Related Map Amendment at Square 3788, and ask for a
21 second.

22 CHAIRPERSON HOOD: I'll second that and I
23 will second it with all the provisions that were
24 discussed previously.

25 MS. COHEN: Correct.

1 CHAIRPERSON HOOD: It's moved and properly
2 seconded. Any further discussion?

3 MR. TURNBULL: Yeah, I think we know what's
4 included, but OAG should just meet and clarify that
5 everything is before the order, with final order and
6 make sure that everything is included the way both
7 parties assume it to be.

8 CHAIRPERSON HOOD: I've already mentioned
9 about that.

10 MR. TURNBULL: Exhibit 64.

11 CHAIRPERSON HOOD: I'm sorry. I'm being
12 flagged that I didn't mention about escrow.

13 MR. RITTING: I'm not sure whether you did or
14 you didn't, actually, but I -- there is a rule that
15 requires the Commission to expressly authorize an
16 escrow agreement such as been proposed in this case
17 and I --

18 MS. COHEN: All right. Let me modify --

19 CHAIRPERSON HOOD: I think I already
20 mentioned that in my discussion.

21 MS. COHEN: You did, Mr. Chairman.

22 CHAIRPERSON HOOD: Hold on. Let me --

23 MS. COHEN: You did.

24 CHAIRPERSON HOOD: Okay. I know I'm trying
25 to probably get home and watch the game but I'm not

1 in that much of a rush. Okay. Vice Chair.

2 MS. COHEN: Yeah, if you want I'll amend the
3 motion that permits the reopening of the record to
4 receive the joint submission that approves the escrow
5 arrangement proposed in the submission as required by
6 2409.2, and approve the changes to the public benefit
7 package described in the letter which I don't have a
8 date for. But I think it's December 11th, 2015.

9 MR. MILLER: And December 10th. There's one
10 December 10th.

11 CHAIRPERSON HOOD: Okay. Again, it's been
12 moved and I'll second that. But again, tailored to
13 the letter. I think I specifically stated, I think
14 it's outlined in the letter and I specifically made
15 my comments relevant to the letter as far as approval
16 to escrow and also the public benefit reworking. So
17 I think that covers us.

18 Any further discussion?

19 [Vote taken.]

20 CHAIRPERSON HOOD: Any opposition? Not
21 hearing any, Ms. Schellin, would you please record
22 the vote?

23 MS. SCHELLIN: Yes. Staff records the vote
24 five to zero to zero to approve final action in
25 Zoning Commission Case No. 15-04, Commissioner Cohen

1 moving, Commissioner Hood seconding, Commissioners
2 May, Miller, and Turnbull in support.

3 CHAIRPERSON HOOD: Again, I want to thank
4 everyone for the work that they did on that as
5 Commissioner Miller has already mentioned. Okay,
6 next let's go to Zoning Commission Case No. 15-07.
7 This is the MRP Realty Consolidated PUD at Square
8 777. Ms. Schellin.

9 MS. SCHELLIN: Yes, sir. On this one there
10 was one exhibit that came in at Exhibit 50. It's the
11 applicant's submission and response to the
12 Commission's concern regarding the bollards if the
13 Commission recall this case was deferred to this
14 evening's meeting to allow the applicant to address
15 that concern. So we'd ask the Commission to consider
16 final action this evening.

17 CHAIRPERSON HOOD: Okay. Colleagues, this
18 was a lot on the bollards. I know Mr. Turnbull,
19 remember we talked about the Capitol Hill Restoration
20 Society, ANC storage room, unattractive windows. And
21 there were a number of things that were mentioned by
22 my colleagues. Penthouse looks -- and these are some
23 of the things we want to comment on now, the
24 circulation pattern, trucks. And I know, Mr.
25 Turnbull, I know you and I both talked about

1 expounding upon the bollards.

2 But let me open it up. Mr. Turnbull.

3 MR. TURNBULL: Well, Mr. Chair, I think in
4 Exhibit 50, I mean the applicant's -- there is a
5 couple of letters there. I mean I think they've met
6 -- it looks like there's a solution that everybody
7 feels comfortable with so I think we're okay on all
8 of that. I think we've dealt with that.

9 CHAIRPERSON HOOD: Okay. Any other comments
10 or concerns? I know there was some issues, I thought
11 about the windows. I guess everybody is fine with
12 all that.

13 Okay. So everybody is fine with the
14 submissions and we did receive another -- a letter
15 from the ANC. Commissioner Eckenwiller. Okay.
16 Somebody like to make a motion?

17 MR. TURNBULL: Yes, Mr. Chair. I would move
18 that we approve Zoning Case No. 15-07, MRP Realty,
19 Consolidated PUD at Square 777. Look for a second.

20 MR. MILLER: Second.

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

23 [vote taken.]

24 CHAIRPERSON HOOD: Not hearing any
25 opposition, Ms. Schellin, would you record the vote?

1 MS. SCHELLIN: Yes, sir. Staff records the
2 vote five to zero to zero to approve final action in
3 Zoning Commission Case No. 15-07, Commissioner
4 Turnbull moving, Commissioner Miller seconding,
5 Commissioners Cohen, May, and Hood in support.

6 CHAIRPERSON HOOD: Okay. Next, Zoning
7 Commission Case No. 11-08B, MCREF Embassy, LLC., one
8 year PUD time extension at Square 2578. Ms.
9 Schellin.

10 MS. SCHELLIN: Yes, sir. On this case the
11 applicant is requesting a one year PUD time extension
12 to file for their building permit. The property was
13 sold to the applicant and they need additional time
14 to start construction. Exhibit 5 is an OP report in
15 support of the time extension and we'd ask the
16 Commission to consider final action this evening.

17 CHAIRPERSON HOOD: Okay, colleagues, any
18 comments or questions on the time extension? As
19 already stated, we have an OP report which has --
20 sees us not having any problems with us moving
21 forward. Anybody else? Commissioner.

22 MS. COHEN: Mr. Chairman.

23 CHAIRPERSON HOOD: Vice Chair Cohen.

24 MS. COHEN: Oh, thank you, Mr. Chairman. I
25 noted that the property was sold to a separate

1 developer. They have taken steps to move forward on
2 the permitting and they really will probably begin
3 construction in six months but to be safe they asked
4 for the, you know, one year extension and I have no
5 problem granting that.

6 CHAIRPERSON HOOD: Okay. Commissioner
7 Miller.

8 MR. MILLER: Thank you, Mr. Chairman. Yeah,
9 I was going to make the same point as the Vice Chair.
10 But I was just -- so this would extend until, you
11 know, March -- well, it would extend for one year at
12 the time. And they say they're going to be able to
13 get the building permit probably in six months. I
14 was wondering if we wanted to just extend it for nine
15 months. They stated it like a number of times. It
16 just would keep the building permit being issued.
17 And, I don't know, we don't want to have to deal with
18 another extension request, but it would just get the
19 building permit issuance next year rather than having
20 to go all the way into 2017. I know as soon as we're
21 in 2016, 2017 will sound like it's around the corner.
22 But right now 2017 sounds like it's too far away.

23 But I have no problem with one year, though.

24 CHAIRPERSON HOOD: So you want to push the --

25 MR. MILLER: No, no.

1 CHAIRPERSON HOOD: -- nine month? Okay.

2 MR. MILLER: No, I just wanted to throw it
3 out there. They had seemed to be so confident about
4 the six months I thought, well, let's give them nine
5 months rather than a whole year and it pushes it into
6 2017. But I had -- if nobody else has a --

7 CHAIRPERSON HOOD: Okay.

8 MR. MILLER: -- concurrence with that.

9 CHAIRPERSON HOOD: Let's see. Commissioner
10 Miller put that out there. Does anyone else feel
11 strong about that, about maybe cutting it to nine
12 months?

13 MR. TURNBULL: No, I mean, if they need
14 another three months and we're going to come back I
15 don't think we're going to not approve it. But I
16 mean, I can go either way. I really don't care.

17 MR. MAY: I think they have plenty of other
18 incentives to get it done faster.

19 CHAIRPERSON HOOD: Okay.

20 MR. MAY: I don't think that they need an
21 extra -- you know, us putting another three month
22 pressure on them. I mean, they're going to get it
23 done if they can get it done because it's costing
24 them money not to start construction.

25 CHAIRPERSON HOOD: Okay.

1 MR. TURNBULL: There is a caveat out there
2 that OP has pointed out, that the new owners are
3 refining the design. And the footnote that OP says,
4 that if the refinements are substantive, more than
5 what would be allowed under the PUD they're going to
6 have to come back at that point and ask for a
7 modification or whatever. So I mean, there is that
8 out there too.

9 CHAIRPERSON HOOD: So that's a good point.
10 Maybe they might need those three months so they were
11 going to come back. So, let's just keep it with what
12 was being asked. I kind of concur with Commissioner
13 Miller, but let's just keep it like that.

14 Somebody like to make a motion on this since
15 it seems like there's overwhelming support here?

16 MS. COHEN: Mr. Chairman, I move to approve
17 Zoning Case No. 15-07, MRP -- oh, I'm sorry. Zoning
18 Case No. 11-08B, MCREF Embassy, LLC., one year PUD
19 time extension at Square 2578 and ask for a second.

20 MR. MAY: Second.

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

23 [Vote taken.]

24 CHAIRPERSON HOOD: Not hearing any
25 opposition, Ms. Schellin, would you record the vote?

1 MS. SCHELLIN: Yes. Staff records the vote
2 five to zero to zero to approve final action in
3 Zoning Commission Case No. 11-08B, Commissioner Cohen
4 moving, Commissioner May seconding, Commissioners
5 Hood, Miller, and Turnbull in support.

6 CHAIRPERSON HOOD: Okay. Next, Zoning
7 Commission Case 15-23, Square 700 Trust, LLC.,
8 Capitol Gateway Overlay review at Square 700. Ms.
9 Schellin.

10 MS. SCHELLIN: Yes, sir. On this one at
11 Exhibit 22 there's an NCPC report advising the
12 project would not be inconsistent with the Comp Plan
13 for the National Capitol. Exhibits 23 through 24 we
14 have the applicant's post-hearing submissions. Would
15 ask the Commission to consider final action.

16 CHAIRPERSON HOOD: Colleagues, you've heard
17 the report teed up by Ms. Schellin. Let's open it
18 up. Any comments on this Capitol Gateway Overlay
19 review at Square 700? Commissioner Miller.

20 MR. MILLER: Thank you, Mr. Chairman. The
21 applicant made a number of changes in response to
22 concerns articulated at our hearing, including the
23 articulation of the south wall. And including the
24 setbacks on the penthouse and including one other
25 that I wanted to -- oh, the LEED Gold. It went to

1 LEED Gold, which we always push them, push applicants
2 to do. So I'm very appreciative of that and I'm
3 ready to move forward.

4 CHAIRPERSON HOOD: Any other comments?

5 MR. MAY: I would agree. I think they've hit
6 most of the concerns that we had raised. Perhaps not
7 every single one but you know, I think it's better
8 than when we saw it last so I'm ready to move
9 forward.

10 CHAIRPERSON HOOD: Okay. Would somebody like
11 to make a motion? Okay, Commissioner Miller.

12 MR. MILLER: Yes, Mr. Chairman. I would move
13 that the Zoning Commission take final action on
14 Zoning Commission Case No. 15-23, Square 700 Trust,
15 LLC., Capitol Gateway Overlay review at Square 700
16 and ask for a second.

17 MS. COHEN: Second.

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

20 [Vote taken.]

21 CHAIRPERSON HOOD: Any opposition? Not
22 hearing any, Ms. Schellin, would you record the vote?

23 MS. SCHELLIN: Yes. Staff records the vote
24 four to zero to one to approve final action in Zoning
25 Commission Case No. 15-23, Commissioner Miller

1 moving, Commissioner Cohen seconding, Commissioners
2 Hood and May in support, Commissioner Turnbull not
3 voting having not participated.

4 CHAIRPERSON HOOD: Okay, next let's go to
5 proposed action, Zoning Commission Case No. 15-14,
6 D.C. Water and Sewer Authority, Consolidated PUD and
7 Related Map Amendment at Square 744S and 744SS. Ms.
8 Schellin.

9 MS. SCHELLIN: Yes, sir. In this one
10 Exhibits 31 through 31C and 34 through 34D we have
11 the applicant's post-hearing submissions. Exhibit 33
12 is a letter in support from Council Member Allen,
13 Exhibit 35 we have Forest City's response to the
14 applicant's submission, and Exhibits 36 and 37 we
15 have OP and DDOT supplemental reports. We'd ask the
16 Commission to consider proposed action this evening.

17 CHAIRPERSON HOOD: Okay. Give me a second.
18 Okay. Somebody like to get us -- Mr. Turnbull?

19 MR. TURNBULL: Yeah, I guess I'll get us
20 started. I guess in looking at the OP report, the OP
21 is -- it looks like the applicant and Forest City
22 have talked, and as we talked about the boundary
23 issue and the site plans of each one. By revising
24 the plans to make the PUD -- and I'm just quoting.
25 I'll read OP's second paragraph. "The applicant is

1 now requesting flexibility from the side yard
2 requirements since they do not comply with the Zoning
3 Regulations along the west side property line.
4 Zoning Regulations require a side yard of 25 minimum
5 feet, and the proposed plans show the building three
6 feet from the western property line. The applicant
7 requests side yard relief because of the building's
8 wrapping design around the existing O Street pumping
9 station, as a result the constraints related to the
10 pumping infrastructure. Anyways, OP doesn't have any
11 objection to it, but it's just an added relief that
12 needs to be added into the project."

13 One other question that I have, though, is
14 that on the top of the building they're showing a
15 four foot parapet in sections. And I just like to
16 get OP's input on the four foot parapet wall.

17 MS. FOTHERGILL: For the record, I'm Anne
18 Fothergill with the Office of Planning and I'm going
19 to pull up the plans.

20 MR. TURNBULL: They're showing it going from
21 zero to four feet. And my question is four feet as a
22 parapet meeting the zoning regs?

23 MR. LAWSON: I'm Joel Lawson with OP. Just
24 very, very quickly. Certainly under the new
25 penthouse regulations that you have approved, unless

1 the Zoning Administrator were to determine that that
2 was some form of embellishment, which I'm not sure he
3 could do, that would be required to be set back at a
4 one to one ration from the edge of the wall below.
5 Under the existing regulations because the penthouse
6 regulations, although you've taken final action,
7 they've not been -- to the best of my knowledge
8 they've not been published yet, so they're not
9 effective.

10 Under the existing regulations my
11 understanding is that the Zoning Administrator has
12 taken a bit more flexibility in terms of guardrails.
13 And if this is determined to be a guardrail it would
14 be essentially his determination of whether or not
15 this conformed to the regulations.

16 Now this is PUD so of course you would have
17 more flexibility in terms of assessing the design.

18 MR. TURNBULL: Well, just I mean, most of the
19 time it's three foot six, I believe. Am I correct?

20 MR. LAWSON: A guardrail is usually three
21 foot six, yes.

22 MR. TURNBULL: Right. I mean, it's a fine
23 point. I don't know why it's just not at three foot
24 six. I mean, six inches. We're going from zero foot
25 to three foot six. So I mean, I guess the other

1 thing that is a little bit -- a little bit, not
2 annoying, but it's a little bit -- they have on their
3 roof plan, arrows pointing to the whole roof parapet,
4 the whole wall as an architectural embellishment,
5 which to me seems a little bit -- normally when we
6 think of the traditional idea of an architectural
7 embellishment, is a point feature -- point features
8 on a building that we can point to.

9 When you go back to the very old terms it's
10 either a minaret tower, blah, blah, blah. We know
11 what the old regulations say. So when you point to
12 the whole edge of a building and call it a rooftop
13 embellish -- an architectural embellishment I am a
14 little bit troubled by that. That opens up a whole
15 new can of worms to do that. I would rather see this
16 thing avoid all of those issues and have it go from
17 zero to three foot six. That solves the issue.
18 We're talking six inches.

19 To me, the term calling the whole rooftop
20 edge of the building an architectural embellishment
21 seems a little bit --

22 MR. MAY: So I'm confused. Why wouldn't it
23 just be called a parapet? And is there -- I mean,
24 are they allowed any parapet height above the roof
25 height?

1 MS. FOTHERGILL: If the building is at the
2 maximum height under the Height Act.

3 MR. MAY: Yeah.

4 MS. FOTHERGILL: They're allowed no parapet.

5 MR. MAY: They're allowed no parapet.

6 MS. FOTHERGILL: Yeah.

7 MR. MAY: So that's why they're trying to
8 call it -- so I mean, so I don't think that we can be
9 even three six, because then you're talking about it
10 being an architectural embellishment and it doesn't
11 fit the definitely of an architectural embellishment.

12 MR. TURNBULL: Yeah, I'm just troubled by
13 that.

14 MS. FOTHERGILL: Under the zoning regs, as
15 they currently stand regarding height, it would be
16 measured to the top of the parapet, not exceeding
17 three feet. If the building is at the maximum height
18 under the Height Act, the Height Act states it would
19 not be permitted to have a parapet.

20 MR. MAY: So if they're permitted -- under
21 the Zoning Regulations it could go up to three feet.

22 MS. FOTHERGILL: It says, in those zones in
23 which the building height is permitted to be 90 feet
24 or greater, the height of the building shall be
25 measured to the highest point, excluding parapets not

1 exceeding three feet.

2 MR. MAY: Right.

3 MS. FOTHERGILL: So if this were a parapet
4 it --

5 MR. MAY: So if it were a parapet it could be
6 three feet under the Zoning Regulations. However, it
7 is -- it's three six. Well, no, it's four O, and the
8 Zoning Administrator is taking -- seems to have
9 bought into the concept that this is an architectural
10 embellishment if they think that it could be
11 permitted at that height.

12 MS. FOTHERGILL: We have advised the
13 applicant that we thought there might be some
14 conflict with the Height Act. I don't know whether
15 the Zoning Administrator has --

16 MR. MAY: Right.

17 MS. FOTHERGILL: -- reviewed the --

18 MR. MAY: All right. Well, I mean, this is
19 also something that I assume that NCPC would weigh in
20 on. But I would not -- I don't consider that an
21 architectural embellishment so I'm not -- I mean, if
22 we called it a parapet I guess in theory we could
23 call it a parapet and then let the Zoning
24 Administrator weigh in. I don't know. I also don't
25 see the point of it. I mean, the visual effect of a

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1 three or four foot wall, you know, as you go toward
2 the back of the building it's basically non-existent.
3 So I don't know what the value is.

4 MR. TURNBULL: I would agree. I don't
5 understand it.

6 MR. MAY: Yeah. So it's sort of puzzling to
7 me that the applicant would go part of the way to fix
8 this issue but not all of the way. So --

9 MR. TURNBULL: Well, I think you brought out
10 the issue first in the hearing, and it was very
11 pointed. We went through it and talked about it, and
12 I thought we had an understanding of what they were
13 going to do. So I'm not sure where this has taken
14 us.

15 MR. MAY: Right. I mean, as I recall they
16 actually had two versions of it, right? They had --

17 MR. TURNBULL: Yes.

18 MR. MAY: Yeah. And so it was the version
19 that we thought was okay, did that include that four
20 foot embellishment?

21 MR. TURNBULL: I don't believe -- I don't
22 believe so.

23 MR. MAY: Well, now, I saw a nod in the
24 audience from the applicant's attorney. So maybe
25 that indicates that it was there. Well, if it was

1 there I didn't catch it. In any case I don't think
2 it -- it's very strange it would be in a situation
3 where we could approve it under the Zoning
4 Regulations, but it would likely violate the Height
5 Act. And I'm, you know, I've sort of been hard lined
6 on this in the past and stated that I wouldn't
7 approve anything that I thought was inconsistent with
8 the Height Act. So I'm not sure I can approve it.

9 MR. TURNBULL: Yeah, I'm a little troubled by
10 it. I am a little bit troubled in sticking with the
11 Zoning Regulations and then having the ZA come back
12 and make a Zoning Administrator change that is more
13 flexible than would be permitted. I guess I'm --

14 MR. MAY: Right. Well, and I think it comes
15 down to the Zoning Administrator coming to the
16 conclusion that a parapet of varying height
17 constitutes an architectural embellishment.

18 MR. TURNBULL: Right. We have --

19 MR. MAY: Which if the Zoning Administrator
20 believes that then perhaps we need to provide more
21 specific language to the Zoning Administrator so that
22 he doesn't come to that conclusion because it seems
23 ludicrous.

24 MR. TURNBULL: Right.

25 MR. MAY: I don't know that he's necessarily

1 come to that conclusion. Maybe he hasn't. I don't
2 know what he said about it.

3 MR. TURNBULL: Well, we could defer action so
4 that the applicant could make a change.

5 MR. MAY: I think the applicant's attorney
6 wants to speak with Ms. Schellin.

7 [Pause.]

8 MS. SCHELLIN: Okay. I've been advised that
9 it's going to be set back one for one and it's going
10 to be a railing.

11 MR. MAY: Well, noting that that changed then
12 I think that we can move ahead and approve this.

13 MR. TURNBULL: Yes.

14 CHAIRPERSON HOOD: Okay. Anyway, let's move
15 on. Any other comments? Anyway. Any other comments
16 besides that? Vice Chair Cohen.

17 MS. COHEN: Yes, Mr. Chairman. In light of
18 the fact that we seem to have settled the question I
19 would move to take proposed action on Zoning Case No.
20 15-14, D.C. Water and Sewer Authority, Consolidated
21 PUD and Related Map Amendment at Squares 744S and
22 744SS.

23 MR. TURNBULL: Second.

24 MS. COHEN: Thank you, Mike.

25 CHAIRPERSON HOOD: Okay. It's been moved and

1 properly seconded. Any further discussion? And we
2 will also note what the counsel mentioned about the
3 concern that Commissioner May and Commissioner
4 Turnbull mentioned about the Height Act, and we will
5 take that under -- well, into the record is how we're
6 going to proceed with the action.

7 Any further discussion?

8 MR. RITTING: I just have one request, that
9 you include in your motion or a statement thereafter,
10 that the applicant submit something written into the
11 record that acknowledges the statement about the
12 change to the design.

13 CHAIRPERSON HOOD: And that would be done
14 before any order is issued.

15 MS. COHEN: This is -- yeah.

16 CHAIRPERSON HOOD: Oh, this is proposed.
17 Okay.

18 MR. RITTING: Prior to final action.

19 CHAIRPERSON HOOD: I'm moving too fast.

20 MS. COHEN: So I will amend and state, prior
21 to final action we receive from the applicant, a
22 statement confirming that the railing is one to one
23 setback, and therefore it does conform to the Height
24 Act. I amended that motion, so Mr. Turnbull.

25 MR. TURNBULL: Yes. And that would include

1 revised plans also.

2 CHAIRPERSON HOOD: Right. That's correct.
3 Okay. Moved and properly seconded. Any further
4 discussion.

5 [Vote taken.]

6 CHAIRPERSON HOOD: Any opposition? Not
7 hearing any, Ms. Schellin, would you record the vote?

8 MS. SCHELLIN: Yes, sir. Staff records the
9 vote five to zero to zero to approve proposed action
10 in Zoning Commission Case No. 15-14, Commissioner
11 Cohen moving, Commissioner Turnbull seconding,
12 Commissioners Hood, May, and Miller in support.
13 Would ask the Commission to comply with the benefits
14 and proffers, conditions of the regulations. Thank
15 you.

16 CHAIRPERSON HOOD: Okay. Let's go to hearing
17 action, Zoning Commission Case 15-21, Kenilworth
18 Revitalization IJV, LLC., and DCHA, First Stage and
19 Consolidated PUDs and Related Map Amendments at
20 Square 5113, 5114, and 5116. Mr. Mordfin, is this
21 your -- Mr. Mordfin.

22 MR. MORDFIN: Yes. Yes. Good evening,
23 Chair, members of the Commission.

24 Since this proposed PUD was last on the
25 agenda for hearing action on November 23rd, the

1 applicant provided additional information responding
2 to the comments contained in the OP setdown report
3 and also from the Commission. One, the applicant
4 submitted a letter from the Department of Housing and
5 Community Development addressing a request for the
6 waiver of a portion of the hearing fees, and two,
7 with respect to the concerns of the Office of
8 Planning the applicant has submitted a plan
9 identifying the building numbers and lots as
10 referenced in the justification statement, including
11 detailed information regarding specifically which
12 buildings require flexibility, and that all refuse
13 will be collected from the alleys.

14 A plan was submitted DDOT as part of the
15 Transportation Impact Study which will provide
16 comments to the applicant.

17 Additional items still needed include: 1.,
18 additional information regarding the relocation
19 strategy for current tenants that would be displaced
20 during construction, especially for the consolidated
21 portion of the PUD; 2., clarity and details on the
22 overall unit count and target incomes; 3., additional
23 details including roof plans and street scape
24 renderings; and 4., information regarding the
25 archeological resources of the site in coordination

1 with the State Historic Preservation Officer.

2 These additional items the applicant proposes
3 to provide prior to a public hearing. OP continues
4 to recommend the Commission set down the application.
5 Thank you.

6 CHAIRPERSON HOOD: Okay. Thank you, Mr.
7 Mordfin. Colleagues, any questions or comments with
8 Office of Planning or any comments in general?
9 Commissioner Miller?

10 MR. MILLER: Thank you, Mr. Chairman. Well,
11 I would agree with Office of Planning recommendation
12 that all of those items are very important and needed
13 prior to our having a public hearing. It would have
14 been good to have some of them at this point. But in
15 addition to those items we also need a statement from
16 the applicant regarding compliance with -- we either
17 need compliance with the inclusionary zoning
18 regulation that requires that a certain percentage be
19 affordable in perpetuity because I think the control
20 -- affordable control periods in this particular
21 application are 30 years and 40 years. I think
22 mostly at deeper levels than what's required, and
23 certainly at greater numbers than what's required.
24 But we need either some of them to be in perpetuity
25 or we need a waiver request from the applicant to the

1 IZ regulations on this point because we've had that
2 waiver request in other affordable housing
3 applications.

4 So in addition to the items that OP
5 recommended that we have prior to hearing, we also
6 need either the IZ waiver request or a statement from
7 the applicant that they're going to be having some of
8 the affordable units in perpetuity.

9 CHAIRPERSON HOOD: Okay. Any other comments?
10 Questions? Commissioner May.

11 MR. MAY: Mr. Chairman, I have to say, I
12 still think that this application is weak and you
13 know the fact -- we don't usually get an Office of
14 Planning report with the recommendation that includes
15 such a long list of things that are outstanding.
16 Granted, they submitted some of that information, but
17 I think the whole thing is just still pretty weak and
18 I think the design needs work. I think the details
19 need work. And I'm really not keen on setting it
20 down at this time. I think, you know, it needs more
21 work before it comes back to us with a submission
22 that's up to our normal standards for setting
23 something down.

24 CHAIRPERSON HOOD: Let me just ask, when we
25 considered this last time did we get into the case?

1 I think we did. I think I heard -- yeah, I think I
2 heard that before and I was looking at some of the
3 changes and I didn't exactly see a whole lot. I'm
4 not sure whether the applicant did not want to make
5 the changes and they were going to try to proceed
6 like it was, or did we not allow them enough time?
7 So I don't know where we are because I know there
8 were some concerns.

9 MR. MAY: Well, I think we might not have
10 allowed them enough time. I mean, I think there was
11 a sense of a rush to try to get it back before us and
12 you know, I was concerned at the time that we weren't
13 giving them enough time to rework the drawings, and
14 of course we didn't get anything. So, I mean, I may
15 be the only person who is that concerned about it.
16 You know, I'm often in the school where it makes more
17 sense to not set something down because getting that
18 work done up front leads to a smoother hearing and a
19 smoother approval.

20 CHAIRPERSON HOOD: Well, my question was not
21 necessarily whether we were rushing them. I mean,
22 whether we were rushing to get it back. I don't
23 think we were rushing to get it back. I think that
24 my question is more in terms of does the applicant
25 want to just present this and want us to just vote on

1 this? Or they heard your concerns, Commissioner May,
2 and they don't feel like that's part of how they want
3 to proceed. I don't know. That's where I was. But
4 anyway, I'll open it up for other comments.

5 MS. COHEN: Thank you, Mr. Chairman. I have
6 a similar concern about this project's timing that I
7 share with Commissioner May. One of the -- I want to
8 state that I believe that all public housing
9 residents deserve to live in standard habitable
10 affordable housing. But one of my concerns is that
11 we haven't yet seen the completion of a couple of the
12 DCHA projects that are underway. And the reason we
13 haven't seen the completion is because they all need
14 substantial local government subsidies. And the
15 local government either hasn't or won't provide the
16 substantial subsidies that are needed to house people
17 at 30 percent of median income and below.

18 There are some resources out there that the
19 applicant says they will use, such a low income
20 housing tax credits. And as an aside, they talk
21 about 30 year and 40 year extensions and I don't know
22 what the differentiation is; why some 50 percent or
23 60 percent of median income is at 30 years and 40
24 years. But besides that, let's be honest with each
25 other and realize that there is so much activity

1 going on with relocating people, not just from
2 Kenilworth, but from Barry Farms, from Lincoln
3 Heights, from Park Morton, again Capper Carrollsburg
4 is not complete, without having any type of arms
5 around where the city is going to get this money. I
6 mean, they're now stating that they're going to give
7 some tax reductions to people where as it could be
8 used for this affordable housing.

9 So I am really concerned about relocating
10 anybody from this site. And maybe they're not.
11 Maybe they're going to be staged. But it's unclear
12 from the application. But to relocate people, to not
13 give them a time when they may reasonably come back,
14 such as Capper Carrollsburg is out there for over 10
15 years now, I think is unfair. I think it's very
16 unfair that we do not have relocation resources to
17 absorb all the relocation that is being done within
18 our city. And it seems to me that this will lead to
19 greater gentrification, which is a land use concern.

20 Vacant land and the fact that displacement
21 may be occurring is now -- I hope that the applicant
22 will come back with some really comforting
23 information. But based on what knowledge is in the
24 record now, and what one knows by just, you know,
25 living in the city, it's very disconcerting.

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1 However, I will also go down my other list.
2 We have large families living on this site. Yet I
3 think again, other than Kenilworth Gardens, we need
4 to understand what open space is available. Not only
5 for young people but for teenagers that may be back
6 on this site.

7 We have to go to the State Historic
8 Preservation Office, I think because they found some
9 prehistoric archeological findings. I think I
10 recall. And that's a time -- I don't think any state
11 historic preservation officer rushes into things. So
12 that's another problem in getting an approval.

13 On the homeownership units, I think we need
14 to really seriously consider the possibility of solar
15 on the rooftops, talking about some other green
16 possibilities. But I think solar is very important
17 too.

18 I think we definitely need to understand your
19 30 and 40 year low income housing tax credit years.
20 I think materials are very important. I'm worried
21 about some of the housing authority properties that
22 have been approved, and are they still holding up? I
23 just want to make sure that all the materials are
24 sustainable and we're not cutting corners on that
25 cost. And I know that you're proposing a welcome to

1 D.C. sign at Kenilworth, and you know, I just think
2 you need to give us more data or some signage
3 expressing what you have in mind.

4 The parking pads that you're talking about,
5 they need to be individualized or privatized. One of
6 the Hope 6 projects did not have that and there were
7 complaints by neighbors as to who put whose garbage
8 pail on the line or you know, you really have to make
9 sure that there's an individualized ownership for
10 those parking pads.

11 That's my -- those are my modest concerns.
12 But my biggest concern is, where is the money to
13 actually carry out this project. And how are you
14 phasing it so that it can be accomplished within the
15 means that you identify. Thank you.

16 CHAIRPERSON HOOD: Thank you. Okay.
17 Commissioner Turnbull.

18 MR. TURNBULL: Thanks, Mr. Chair. In light
19 of Commissioner Miller's points they brought up
20 Commissioner May and the Vice Chair's points. And
21 actually a lot of the points of the OP report which
22 are looking for more additional information on a lot
23 of different areas. I think we ought to return this
24 back to the applicant for further consideration until
25 we get a lot of these addressed before it comes

1 because before us.

2 CHAIRPERSON HOOD: I actually will concur.
3 My initial question earlier, after Commissioner May,
4 because I thought we had talked a little bit about it
5 and I thought he sent a strong signal the last time,
6 was that -- does the applicant want us to vote on
7 what we have no as far as set down? And I'm going to
8 ask Ms. Giordano if you can come forward. You heard
9 the concerns. We may have want -- did you speak
10 already on this? Oh, okay.

11 You've heard some of the concerns earlier and
12 I too share, especially the concern of the Vice Chair
13 on relocation, and expected to read a little bit
14 about what the plan was a little more in depth than,
15 you know, what we have in front of us. So I guess my
16 question to you, Ms. Giordano, you can introduce
17 yourself is, is this what you want us to vote on, or
18 you want to take it back?

19 MS. GIORDANO: I don't think you leave me a
20 lot of choice. But we did sit here last time and it
21 seemed to us that the list of the other two setdown
22 cases before us, the list from OP as to the items
23 that still needed to be submitted were longer than
24 this one. But that aside, what we really would need,
25 and I appreciate your comments, Ms. Cohen, is what

1 specifically with regard to the design are the issues
2 because I don't think that the architects really
3 understand, and the comments have been pretty
4 general. If you could give us that, that would be
5 really helpful and we'll go back and try and address
6 those issues.

7 CHAIRPERSON HOOD: I think one of the issues,
8 and I'll let the architects up here, or whoever wants
9 to chime in, chime in, and think you heard the Vice
10 Chair very clearly. I think one of the issues is a
11 lot of this is -- we usually see a little more than
12 this that's presented to us at setdown as far as
13 materials that's provided to us. And we have a
14 little more than what we're provided here. This is
15 kind of like -- I don't like using the term half-
16 baked because somebody else may use that term. It's
17 just not what we generally see.

18 But I'll let either Mr. Turnbull or whoever
19 wants to -- Commissioner May or whoever wants to
20 expound and maybe give some further direction.
21 Especially if you have any design issues.

22 Commissioner May.

23 MR. MAY: Okay. So, you know, I am familiar
24 with the work that Torti Gallas has done in the past.
25 They've done a number of PUDs that we've reviewed and

1 approved, and generally speaking they understand what
2 needs to be submitted and the level of care that
3 needs to be shown in the design. So it was kind of
4 disconcerting to get what I thought was an immature
5 submission, I mean for lack of a better word. It
6 just is not as thoroughly developed and we have -- I
7 mean, it's better than some that we see. But it
8 still, it's a mishmash of styles that, you know,
9 within the design you know, the mixed use building
10 seems like it's from a -- I mean, not mixed use.
11 What's the right word for it? The multifamily
12 building.

13 The architecture of that is sort of mid-
14 century modern, and then you get the rest of it --
15 you know, I'm looking at the street scape elevation
16 EE where we have four buildings, four townhouses in a
17 row that seem to be presenting themselves as if it's
18 just one giant house with a really huge roof. I
19 mean, the roof itself is, I don't know, 18 feet tall
20 or something ridiculous like that. I mean, it's
21 really, really high up there. And it's on a base of
22 -- I mean, even as a unit, I mean, it's the roof that
23 ties it together, but then the individual units have
24 their own personality if you will. One has got a,
25 you know, a projecting porch on the one end. And the

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1 other one doesn't. I mean, the projecting porch
2 doesn't seem to fit with the style at all.

3 I mean, I think that just a more traditional
4 approach to townhouse, and I don't necessarily mean
5 traditional in style, but I mean, traditional in the
6 sense that they are, you know, they are individual
7 units and they're seen as individual units rather
8 than try to make them look like they are part of this
9 larger building.

10 There's also an example, Building G, where at
11 the -- you know, at the one end you've got two units
12 that are paired together in a row and they are
13 pretending to be a single building the way it's
14 designed. And then the rest of the units, there are
15 three other units on it and they seem to be
16 completely different and don't have a relationship to
17 it. I mean, when we look at elevations like this
18 where you know, we're seeing the huge amount of roof,
19 it just, it's not fully developed.

20 Let's see. I'm just flipping through this
21 thing because it's one of those things where I looked
22 at it and rather than try to do a detailed critique
23 of it, I had a reaction to it. What can I say?

24 Yeah, I also think that we have concerns
25 about -- I have concerns about the site plan. We

1 have relief that's requested for a number of side
2 yards that I'm not sure is really necessary. I mean,
3 what's wrong with having a row of eight buildings
4 instead of a row of four buildings. And because when
5 you separate it into the eight buildings into two
6 fours, then you create this side yard issue, and is
7 that really making better units? You know, I don't
8 think so.

9 I don't think we have a -- well, for what I
10 have to say at the moment about the architecture of
11 it, I just think it needs refinement. I don't think
12 it's really far off, but yeah that in combination
13 with the other issues that were raised by the Office
14 of Planning and I think there's still a number of
15 larger scale issues that need to be resolved.

16 CHAIRPERSON HOOD: Commissioner Miller.

17 MR. MILLER: I don't disagree at all with any
18 of my colleagues' comments or the Office of
19 Planning's comments, or my previous comments of
20 what's needed before we have a public hearing on
21 this. I'll just repeat the comment. I mean, I think
22 it may be lone in this at this point that I made the
23 last time we sent this back for the DHCD letter is
24 that we need all these things prior to a public
25 hearing and if we set it down and schedule a public

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1 hearing, which will be a few months out based on our
2 scheduling -- at least a few months out. But if we
3 don't get all this stuff at the hearing, you, Mr.
4 Chairman, I've been here the shortest amount of time
5 but I can remember at least a couple times when you
6 said we don't have what we need. We don't have the
7 relocation plan, or we don't have this and we're not
8 going to proceed until we get it.

9 So I mean, I agree that all this information
10 is needed. I think they need to work with the Office
11 of Planning on their concerns. I think they've heard
12 our concerns. So I just think that we could schedule
13 it and it's an important affordable housing project.
14 It's a needed one. There are obviously questions
15 that the Vice Chair legitimately raises about whether
16 it's feasible. And other questions about it. But
17 that was my only point I made last time. I may be in
18 the minority here, but we could schedule it. If we
19 don't get it we'll defer it. We've shown no
20 reluctance to do that in the past under your
21 leadership.

22 CHAIRPERSON HOOD: Thank you, Commissioner
23 Miller. Under my leadership, it's almost like a gut
24 feeling. I've been wrong in the past and it worked
25 out in the past. So you know, it's like throwing it

1 up and see how it falls.

2 I think, though, we put a little more oomph
3 on it sometimes if we don't do that. And I think
4 this may be one of those cases. But I'm willing to
5 go either way. It depends on -- I understand. I'm
6 more in line with Commissioner May, but let me hear
7 from everyone else, especially due to the relocation
8 issue for me.

9 Commissioner Turnbull.

10 MR. TURNBULL: Well, I'm just repeating what
11 I said before and I understand where Commissioner
12 Miller is coming from. I think we all want to get
13 these projects moving along. Especially housing
14 projects. I think there is an urgency. But at the
15 same time I think as the Vice Chair stated and
16 Commissioner Miller, I think we've got several points
17 that I think if we gave them a couple of more months
18 maybe, we'll get what we want and we'll be able to
19 set this thing down correctly and we'll all feel more
20 comfortable going forward.

21 I just, again, it's like you said. It could
22 be a roll of the dice. We could let it go and we
23 might get it all by the time that the hearing comes
24 around, or we might not. But it just sounds like
25 from, I guess, looking at OP Commissioner May,

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1 Commissioner and the Vice Chair, looks like if we
2 could wait just a little bit longer and get some of
3 these things it might clarify a lot of the open
4 issues that we have going forward.

5 CHAIRPERSON HOOD: Ms. Giordano, do you --
6 anybody else up here want -- Commission May.

7 MR. MAY: So from my perspective, I mean, I
8 think we all have the same objective, which is to
9 getting this case to a productive public hearing.
10 And we could set it down tonight and hope for the
11 best and hope that the Office of Planning can work
12 with the applicant to get us what's needed before
13 that hearing. Or we could not set it down and send a
14 stronger message to the applicant, we need to take
15 these issues seriously.

16 You know, I am in favor of deferring the
17 setdown but I will say also that there have been
18 other cases where I felt more strongly that we
19 shouldn't be setting it down because there was a lot
20 more that needed to be done. I mean, I guess -- I
21 don't want to waiver too much, but I was frankly --
22 I'm frankly a bit surprised that people are -- that
23 my fellow commissioners are seriously considering not
24 setting it down now because I thought I was the only
25 person who really had the concerns. But I really

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1 appreciate the other concerns that folks have raised
2 about relocation and so on. So I think one way or
3 another we'll get to a productive hearing. So I'll
4 leave it at that.

5 MS. GIORDANO: If I may?

6 CHAIRPERSON HOOD: Ms. Giordano, let me
7 finish up here first and then we'll come to you.

8 Let me just ask this, Ms. Schellin, what do
9 they use on the ships we used to all get, when the
10 ship goes like this? Is it Dramamine? Is that what
11 they call it? That's what I'm going to need up here.

12 MS. SCHELLIN: Last week I actually used a
13 prescription patch.

14 CHAIRPERSON HOOD: Do you have any left over?

15 MS. SCHELLIN: I do.

16 CHAIRPERSON HOOD: I'll get some from you in
17 a minute. Vice Chair Cohen.

18 MS. COHEN: Thank you, Mr. Chairman. I
19 actually waiver a great deal. I think that the
20 applicant has had success in relocation. I think
21 they used their existing resources. But I'm really
22 concerned about the implementation of this project.
23 They do have selected competent partners. So
24 actually, I could go with the setdown and give them
25 the months before. I know, women can change their

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1 mind as men often do. But I really feel that they'll
2 have the time to put it together now that they heard
3 how serious we are about the information that we
4 require. I don't know if they can satisfy the
5 Commission on all the things we've requested. But I
6 would actually move to set a -- support Commissioner
7 Miller's position to set it down.

8 CHAIRPERSON HOOD: Ms. Giordano.

9 MS. GIORDANO: Yes. If I may? I just wanted
10 to reassure the Commission that we took all those
11 comments very seriously last time. And aside from
12 the design issues which we didn't fully understand,
13 it seemed to us that a lot of the items were things
14 that traditionally have come in later before a
15 hearing. And I think relocation plan is one.

16 But it was fully our intent to satisfy all of
17 those requirements before the hearing. It's not that
18 we, you know, felt like we didn't need to do those
19 things. We just, we thought that the main issue was
20 the letter, quite frankly. And that the other issues
21 could be resolved before the hearing.

22 CHAIRPERSON HOOD: Okay. Why don't -- let me
23 ask this; is your architect here?

24 MS. GIORDANO: No, but they are monitoring
25 and they did monitor last time, which is why I asked

1 the question about what the specific design concerns
2 were because they had wanted to get some more
3 information along those lines.

4 CHAIRPERSON HOOD: Do you think, and I know
5 you probably can't -- by them not being here, we
6 don't know whether they full understand or not
7 actually right now, right? So what if we do this;
8 what if we do this. What if we give you -- why don't
9 we do a 15 minute -- I know everybody is going to
10 frown up at this. A 15 minute special public meeting
11 to revisit this once you've had a conversation with
12 your architects. And make sure they understand
13 exactly the comments that Commissioner May and
14 Commissioner Turnbull and Commissioner Miller and
15 everybody else up here have said. So --

16 MS. GIORDANO: Well, I think they -- the
17 comments were specific and I'm sure -- and this firm
18 has done many projects like this, and some before the
19 Commission. I'm sure that with the input that we've
20 received that they can address those issues.

21 CHAIRPERSON HOOD: So you can assure me that
22 we won't get to the hearing and we have to not hear
23 anything but the presentation and then cut it off?

24 MS. GIORDANO: Yes.

25 CHAIRPERSON HOOD: Okay. Let that be noted.

1 Commissioners, any other questions or comments?

2 MS. COHEN: No.

3 MR. TURNBULL: Well, if we set this down I
4 don't think you ought to come back before three
5 months. You ought to give yourself enough time to be
6 able to go through and get all the information that's
7 outstanding. I mean, if I suddenly see on the docket
8 we've got a hearing in a month or a month and a half
9 I'm going to be very --

10 MS. GIORDANO: No, it couldn't, I don't
11 think, with the docket it could possibly occur before
12 then.

13 MR. TURNBULL: So we're looking at three
14 months, plus, minimum. Four months. Okay.

15 CHAIRPERSON HOOD: Okay. And I hope they
16 realize, everyone realizes all the torture of going
17 through this so hopefully it will be ready for us to
18 -- for our consideration at the appropriate time.
19 Okay. Any other questions of Ms. Giordano while
20 she's here? Anybody?

21 Okay, colleagues, what is your pleasure?

22 MR. MILLER: Mr. Chairman, I would move that
23 with all those caveats, that we move to set down for
24 a public hearing, Zoning Commission Case No. 15-21,
25 Kenilworth Courts, First Stage PUD, Consolidated PUD

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1 and PUD Related Map Amendment and ask for a second,
2 and ask the applicant to seriously work with Office
3 of Planning on resolving its concerns and the other
4 concerns that have been articulated on the dais
5 today.

6 MS. COHEN: I will second that.

7 CHAIRPERSON HOOD: Okay. It's been moved and
8 properly seconded. Any further discussion?

9 [Vote taken.]

10 CHAIRPERSON HOOD: Any opposed? Ms.
11 Schellin, would you record the vote?

12 MS. SCHELLIN: Staff records the vote five to
13 zero to zero to set down Zoning Commission Case No.
14 15-21 as a contested case, and also I'm assuming that
15 includes the waiver, partial waiver of the hearing
16 fee. Okay. And Commissioner Miller moving,
17 Commissioner Cohen seconding, Commissioners Hood,
18 May, and Turnbull in support of setdown.

19 CHAIRPERSON HOOD: Okay. Let's go to our
20 next hearing action case. Let's go to 13-14B, Jair
21 Lynch Development Partners, PUD Modification at
22 Square 3128. Ms. Brown-Roberts.

23 MS. BROWN-ROBERTS: Thank you, Mr. Chairman.
24 Good evening and also to the members of the
25 Commission.

1 Parcel 4 within McMillan PUD is located at
2 the corner of North Capitol Street and the north
3 service courts, and also fronts of Evarts and Quarter
4 Streets. The parcel was approved for a supermarket
5 and senior and market rate housing. During the
6 public hearing there were extensive discussion on the
7 supermarket loading activities as they related to
8 access to the loading berths, truck maneuvers,
9 impacts on the residential use and pedestrian
10 movements along Evert Street.

11 At the time of approval there was not a
12 specific supermarket identified. Subsequently a
13 grocer has been identified and has requested some
14 changes to better serve their needs. The major
15 change would be to the redesign of the loading berths
16 from angled spaces to being perpendicular to Evert
17 Street and a reduction in the size from 76 to 40
18 feet. The justification provided for the reduction
19 is that 40 foot trucks are within its fleet and used
20 in other locations.

21 The Office of Planning and DDOT request
22 further information on the new loading operations and
23 how larger trucks which come through the site would
24 be accommodated.

25 The redesign also results in the relocation

1 of parking entrance, adjustments to parking layout
2 and the number of spaces, reduction in the width of
3 the curb cuts and elimination of a flex space.
4 Because of these changes the applicant has also
5 requested a modification to the loading management
6 plan to eliminate the restriction on truck delivery
7 hours.

8 The supermarket would introduce an interior
9 mezzanine which extends outdoors to a patio, allowing
10 views into the north service court. The supermarket
11 will also introduce three additional roof structures
12 which all meet the setback and height requirements,
13 and the two approved roof structures would be reduced
14 to 14 feet, the same height as the new structures.

15 The roof structure which was granted
16 flexibility to have a setback of 5.5 feet would be
17 further reduced to 3.58 feet due to a shift in the
18 market route elevator core. The applicant needs to
19 demonstrate further why the core cannot be made to
20 meet the requirements. The applicant has also
21 requested a correction to the height of the building
22 to 77 feet which was labeled in error on the proposed
23 building height at the time of approval. It was
24 actually 78 feet, eight inches.

25 The requested modification would result in

1 other architectural changes on the north and west
2 façade and signage. OP will continue to work with
3 the applicant and DDOT to provide further details on
4 some of the requested changes. OP recommends that
5 the requested modifications be set down for public
6 hearing. Thank you, Mr. Chairman, and I'm available
7 for question.

8 CHAIRPERSON HOOD: Okay. Thank you, Ms.
9 Brown-Roberts. Colleagues, any questions or
10 comments?

11 MR. TURNBULL: Yeah.

12 CHAIRPERSON HOOD: Mr. Turnbull.

13 MR. TURNBULL: Well, Mr. Chair -- thank you,
14 Ms. Brown-Roberts, for your report and your comments.
15 I think there's a lot of things, same comments I had.

16 This was in when we laid this -- when we did
17 this originally this building took quite a bit of
18 massaging because of the senior building. And they
19 made a lot of changes and they actually moved --
20 there was two entrances, two garages, one on either
21 side on the corner and they moved that. So I mean,
22 I'm still concerned about the seniors and how they
23 get in and out so pedestrian access around them will
24 be tricky at best, and I think they promised to put
25 in some new kind of a stop sign, flashing light so

1 that -- I was concerned that there was nothing
2 originally. So I'm still concerned about how the
3 seniors relate to that whole area around there. But
4 I think you've touched on some of the high points.

5 I would like to know -- I do notice that the
6 penthouse is a lot larger on one side. Is that
7 basically because of mechanical equipment or --
8 that's huge.

9 MS. BROWN-ROBERTS: No, it's not because of
10 the mechanical equipment. I think they pulled it
11 back and they just put in an additional space in the
12 foyer.

13 MR. TURNBULL: Okay. Well, if they could
14 elaborate a better roof plan and views and what's
15 going on up there I'd appreciate it.

16 MS. BROWN-ROBERTS: Yes.

17 MR. TURNBULL: Thank you.

18 CHAIRPERSON HOOD: Any other comments?
19 Commission May.

20 MR. MAY: Yeah. Well, I'm really glad to be
21 taking another look at this because it does start to
22 address the concerns that I think we had and were
23 never 100 percent satisfied about, having to do with
24 the loading circumstance for this building, because
25 the way the loading had been designed it was just a

1 really, really, long curb cut and it was going to be
2 a real safety concern.

3 At this point I think I have a little bit of
4 a concern having to do with the design of the sort of
5 terrace piece that shows up on the front cover of
6 their submission. This terrace piece that must be
7 associated with the mezzanine of the grocery store.
8 It just, it's -- I'm not fully convinced by that
9 design. I think they should be looking at that very
10 carefully because it -- and maybe it's just the way
11 it's shown here, that -- and maybe it's as simple as
12 a rendering issue or a materials issue. But it just
13 feels like it's just a box that has had a couple of
14 holes cut in it. And that's about it.

15 So, and there may be, you know, other better
16 ways to treat that, but that actually makes it a very
17 inviting feature for the building and the neighbor.
18 So. But it's a relatively minor concern. Thanks.

19 CHAIRPERSON HOOD: Okay.

20 MS. COHEN: Commissioner Cohen.

21 CHAIRPERSON HOOD: Vice Chair. Vice Chair
22 Cohen.

23 MS. COHEN: Thank you, Mr. Chairman. I would
24 just like to concur somewhat with Commissioner May's
25 -- it doesn't -- again, it seems to me that it

1 visually takes away from the building, that café that
2 I think that there could be a little bit more
3 softening of the -- and as he mentioned, maybe it's a
4 materials thing. A softening of that and more -- as
5 I said, more inviting.

6 But it does seem to take away. I like the
7 change. I like the fact that the café is located
8 there. It feels very open. But it just doesn't do
9 much for the skin and the façade of the building
10 itself. So that's my only comment.

11 CHAIRPERSON HOOD: Okay. Any other comments
12 or questions, Commissioner Miller?

13 MR. MILLER: Thank you, Mr. Chairman. This
14 is another very important project and I appreciate
15 the changes that are necessitated by the particular
16 grocery store that's been selected since the time we
17 made a decision on this earlier. But I think I need
18 still -- so I'm glad that they don't need as large a
19 loading dock that it seemed to create some conflicts
20 that we were all concerned about.

21 But I do note that the deliveries now will be
22 occurring during the morning rush hour when they
23 previously weren't going to occur between 7:00 and
24 8:30 when they thought there might be the larger
25 trucks. But I guess I just need some reassurance

1 that the deliveries with these smaller trucks and
2 that are more frequent, I guess, and the deliveries
3 are now going to happen later than -- I think it
4 ended at 7:00 or 8:00 p.m. before and now it's going
5 to go all the way to -- not all the way, but go
6 additional hours to 10:00 p.m.

7 So I just want some assurance that morning
8 rush hour and maybe the evening rush hour, but the
9 morning rush hour in particular and the later loading
10 is not going to create conflicts or adverse impacts
11 for the residents, the seniors who are going to be
12 living there, and others. So I just would like that
13 information; more information on the loading when we
14 get to the hearing.

15 But otherwise I'm very supportive of this
16 moving forward.

17 CHAIRPERSON HOOD: Okay. Vice Chair Cohen.

18 MS. COHEN: No, I was going to move.

19 CHAIRPERSON HOOD: Oh, I'm sorry. Any other
20 comments up here? I actually don't have any. I
21 would agree. I'm looking forward to the hearing.

22 Vice Chair Cohen, somebody want to make a
23 motion?

24 MS. COHEN: Yes, Mr. Chairman. I move to set
25 down Zoning Case No. 13-14B, McMillan, and ask for a

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1 second.

2 MR. MILLER: Second.

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

5 [Vote taken.]

6 CHAIRPERSON HOOD: Not hearing any
7 opposition, Ms. Schellin, would you record the vote?

8 MS. SCHELLIN: Yes, sir. Staff records the
9 vote five to zero to zero to set down Zoning
10 Commission Case No. 13-14B as a contested case.
11 Commissioner Cohen moving, Commissioner Miller
12 seconding, Commissioners Hood, May, and Turnbull in
13 support.

14 CHAIRPERSON HOOD: Okay. Next, Zoning
15 Commission Case 15-09, Residents of Lanier Heights
16 and ANC 1C, Map Amendment at Squares 2580, 2584,
17 2586W, 2587, and 2588. Mr. Jesick.

18 MR. JESICK: Thank you, Mr. Chairman and
19 members of the Commission.

20 The Office of Planning recommends setdown of
21 Case No. 15-09, which is an application by residents
22 of ANC -- oh, excuse me, Residents of Lanier Heights
23 and ANC 1C to rezone portions of the Lanier Heights
24 neighbor from R-5-B to R-4. And OP concludes that
25 the proposal is not inconsistent with the

1 Comprehensive Plan, and therefore should be permitted
2 to move forward to a public hearing.

3 Lanier Heights is a neighbor of mixed
4 building stock where row houses exist side by side
5 with moderately sized to even large apartment
6 buildings. In its development history in the late
7 19th and early 20th Centuries was characterized by
8 more intense development, gradually replacing less
9 intense development, and the result to date is the
10 mixed neighbor that we know where indeed apartments
11 exist right next to row houses.

12 The current application carves out most of
13 the larger historic apartment buildings and would
14 apply only to the row houses, the row house-like
15 apartment buildings, and the few single family homes
16 that exist in the neighbor and the applicable
17 properties for this application can be seen on the
18 screen and this is an excerpt from the written
19 report, the subject properties are shown in green.

20 Now while architectural variety of course
21 exists among the row houses, many of them share
22 characteristics such as an English basement entrance,
23 mansard like façade facing the street, or a typical
24 height would be about two and a half stories.

25 Now the Comprehensive Plan's generalized

1 policy map which is on the screen now, shows this
2 area as a neighbor conservation area which encourages
3 compatible in-fill development and the subject sites
4 can be seen generally shown in the red outline.

5 The future land use map would recommend that
6 all the subject properties be appropriate for
7 moderate density residential. The existing R-5-B
8 zoning is compatible with moderate density, but so is
9 the proposed R-4 zone that would also be compatible
10 with moderate density residential. So the land use
11 maps would support setdown of the application.

12 The written policies of the plan address
13 relevant topics, such as compatibility of new
14 development going in to existing neighbors and the
15 conservation of the District's row house neighbors.
16 A few other policies support increasing the housing
17 supply and producing a diversity of housing types.
18 And these policies are all listed in the OP report,
19 and taken together they would also support setdown of
20 the rezoning.

21 Now should the Commission set down the
22 application the R-4 zone would be in effect, and OP
23 has prepared some analysis of the built environment
24 and found that many properties would be conforming to
25 the R-4 zone while many others would also be non-

1 conforming for features such as height, lot
2 occupancy, or use, and maps illustrating those
3 conditions are attached to the OP report. I did want
4 to emphasize that those maps are produced from the
5 best data available from our GIS system and should be
6 taken as a generalized summary of the existing built
7 environment.

8 As noted in our report OP has discussed land
9 use issues with residents of the neighbor several
10 times over the past few years. We know that there
11 are obviously proponents of the application and
12 opponents of the rezoning. We have encouraged the
13 applicants to continue their outreach directly to the
14 neighbors and through the ANC. But overall the
15 application is not inconsistent with the
16 Comprehensive Plan and OP recommends that it be set
17 down for a public hearing. Thank you.

18 CHAIRPERSON HOOD: Okay. Thank you, Mr.
19 Jesick. Anybody have any comments? Commissioner
20 Turnbull?

21 MR. TURNBULL: Thank you, Mr. Chair. Mr.
22 Jesick, I see that ANC 1C is also behind supporting
23 this. So the ANC is fully behind this as far as --

24 MR. JESICK: Yes, they are a co-applicant.
25 There is a resolution, I believe, submitted to the

1 record which shows a unanimous vote supporting going
2 forward with the rezoning.

3 MR. TURNBULL: Okay. And obviously there's
4 going to be proponents and opponents to this as we
5 get into the hearing.

6 MR. JESICK: Yes. We've heard from both
7 supporters and opponents of the proposal.

8 MR. TURNBULL: Okay. All right. Thank you.

9 CHAIRPERSON HOOD: Okay. Vice Chair Cohen.

10 MS. COHEN: Thank you, Mr. Chairman. I think
11 it's very, very important to set down this proposed
12 map amendment for several reasons. First of all, the
13 Zoning Commission is required to balance a number of
14 sometimes appearing competing -- not requirements,
15 but proposals within the Comprehensive Plan, such as
16 preservation of existing communities, but also adding
17 housing throughout the city.

18 And what this would be doing is what's called
19 down-zoning. And down-zoning has economic
20 repercussions on all the properties that we will be
21 including in this map amendment. What I am going to
22 ask of OP, I think it's very important. Pictures are
23 worth 1,000 words. And the pictures that we got,
24 some of them are very egregious. And I again, under
25 the R-4, thought architectural requirements are

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1 necessary, especially in preservation areas. And so
2 what I would like to have done is more pictures of
3 the whole contextual blocks that are being proposed
4 for rezoning because there is existing now within
5 Lanier Height, multi-different types of buildings.
6 There's different buildings throughout. At least the
7 parts that I'm familiar with. And we have that
8 throughout the city. I mean, there is this tension
9 of different periods of time and different
10 architectural styles.

11 And I'm not saying that there haven't been
12 some -- and the pictures demonstrate that -- have
13 been submitted by the applicant, that there are some
14 egregious, horrible things that were done on the
15 backs of houses on the alleys. I think that we see
16 that throughout the entire city, people, you know,
17 popping out. There is no way to control -- I think,
18 you know, as long as it conforms to zoning you can do
19 whatever back there it seems to be allowed.

20 It's really the sidewalk, the frontage that I
21 think we're most concerned about. And I think we
22 have to hear from both sides. And I just really
23 would love, though, to have this objective look at
24 the context of the neighbor, and not just the
25 problems because some of them -- I think there was

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1 one with a mansard roof that I disagreed with. I
2 thought it did go okay with the context of the
3 neighborhood. You know, it's taste as well. But
4 what concerns me is the down-zoning which affects the
5 economic value of these properties and I think that
6 we need to look at that very carefully, and we have
7 to be very cautious. Thank you.

8 CHAIRPERSON HOOD: Okay. Any other comments
9 in this case? Commissioner May?

10 MR. MAY: I also agree that it's important to
11 hear this case and consider the question in the --
12 and, you know, I think this is one of those neighbors
13 in the city where we did hear a lot of testimony and
14 we were considering the R-4 neighbor and areas
15 adjacent to this. So I mean, I think this is an
16 important thing to consider and I think that a lot of
17 people are not really aware of their zone. I mean,
18 they think they might be in an R-4 zone but they're
19 actually in an R-5-B or C or something like that.
20 But they happen to be in row houses and they want
21 that row house character.

22 So I think it's, you know, it will be good to
23 hear the testimony from both sides and understand
24 this and I also appreciate the call for some good
25 images of what the neighbor is like and what, you

1 know, what the concerns might. That will be very
2 informative.

3 CHAIRPERSON HOOD: Okay. Any other comments?
4 Commissioner Miller?

5 MR. MILLER: Thank you, Mr. Chairman. I
6 appreciate all the work that the applicants and the
7 ANC had done on this application, and all the Office
8 of Planning outreach that was done with the community
9 over a number of years.

10 I too share the Vice Chair's concern about
11 down-zoning, particularly an area that allows matter
12 of right apartment buildings and matter of right
13 conversion of row houses to apartment buildings to
14 the R-4 which now has severe stringent restrictions
15 on such conversions, and some design criteria that we
16 added to that case, and I -- I guess I would have
17 preferred to see, and maybe prefer to see going
18 forward, the design -- seeing if there's
19 alternatives. That if the design criteria from the
20 R-4 are similar to the R-4 case that we approved,
21 that the Zoning Commission approved, that maybe that
22 could have been as an alternative added to the row
23 house dwellings in the R-5-B area. As long as you're
24 carving out row house buildings from larger apartment
25 buildings in that district you could carve out an R-

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1 5-B-3, or R-5-B-2 category or some kind of category.
2 Or maybe that's a text amendment that would be added
3 for the Lanier Heights.

4 I just don't know how much dialog there had
5 been about alternative zoning proposed. I know there
6 was an earlier historic preservation discussion that
7 divided the neighbor and didn't get the support of
8 the ANC, but whereas this rezoning, down-zoning
9 proposal to get the support of the ANC. But when we
10 have a housing supply issue in the city and the
11 housing demand issue, I do have a -- and I do have a
12 concern about taking action to take away the matter
13 of right ability to have apartments which has existed
14 in this neighbor for decades.

15 But I see the egregious cases and the photos
16 in the application. No one would want those in their
17 neighbor. The application admitted that there are
18 many that -- or there were some that were designed,
19 but you wouldn't even know that they were. And I
20 think those might have met the criteria that we ended
21 up including in the R-4 case. So I would like that
22 considered as an alternative.

23 But I would be much more comfortable
24 proceeding to a full public hearing on this if we
25 didn't have the normal vesting rule in place that

1 immediately, once we set this down for a hearing,
2 immediately down-zones the affected lost to the R-4
3 zone. I just think that that's just a -- without the
4 public hearing it takes away that matter of right
5 ability to produce housing that exists right now and
6 I would be more comfortable. I don't know if there's
7 support from my colleagues for that for waiving the
8 normal effective date rule and when we set something
9 down then the new zone rules immediately would take
10 effect, which in this case would be a downzoning and
11 diminishing a lot of property rights.

12 I do support the Office of Planning's
13 recommendation for a simultaneous text amendment that
14 would -- I guess it's a simultaneous setting down of
15 a text amendment which would have language which has
16 been used in past zoning cases which clearly spells
17 out that the nonconforming buildings, which would be
18 almost a third I thought by your report, that the
19 nonconforming buildings could continue to be repaired
20 and renovated, couldn't go to the R-5-B conversion
21 thing, but your report recommended that there be a --
22 suggested that there might be a -- on page 2, you say
23 a setdown for a public hearing. The Zoning
24 Commission may also wish to consider a corresponding
25 text amendment that would designate within the

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1 subject area, any existing multifamily dwellings or
2 multifamily dwellings in the permit process as
3 conforming uses.

4 So I would certainly support that aspect if
5 we set this down. But I also would prefer that we
6 waive the immediate downzoning affect that would
7 happen if we set this down in this particular case.
8 So that's where I am currently.

9 I have a couple questions to OP. On your
10 report on page 5, and I don't know if I'm reading
11 this right. But for parking, for the minimum parking
12 requirements when you're comparing R-5-B and R-4 at
13 the bottom, I don't know if this is accurate or not.
14 It says multiple -- for an R-5-B, a multiple dwelling
15 on per two units is currently required. But in the
16 R-4 a multiple dwelling only one per three units is
17 required.

18 So is it true that the R-5-B requires more
19 off-street parking for multiple dwellings than the R-
20 4 requires for --

21 MR. JESICK: Yes, that's --

22 MR. MILLER: -- requires for multiple
23 dwellings?

24 MR. JESICK: That's correct, yes.

25 MR. MILLER: And parking was one of the major

1 issues in this case in terms of the adverse impact.
2 So, now that may be changing under the ZRR. I don't
3 know how that would affect that, but I just find that
4 curious that -- and I don't know if the applicants
5 are fully aware that the R-4 for multiple dwellings -
6 - of course, they're trying to get rid of multiple
7 dwellings so there will be less of them, but it would
8 be less -- there's currently a lesser off-street
9 parking requirement for multiple dwellings in R-4
10 than there is for R-5-B.

11 MR. JESICK: Yes, that's correct. It's
12 something unusual in the Zoning Regulations.

13 MR. MILLER: And we didn't fix that except
14 for our whole R-4 case that fixed the multiple
15 dwelling. Or addressed the multiple dwelling issue.

16 MR. JESICK: Well, yes. I think the
17 applicants are hoping to limit the number of multiple
18 dwellings. And certainly under the new R-4
19 regulations that would be -- to convert from one
20 residential building to a residential building with
21 multiple units that would be a special exception so
22 it would undergo a public review and there would be
23 that additional scrutiny both by the public and by
24 the Board of Zoning Adjustment.

25 MR. MILLER: And I appreciate that the

1 application has carved out -- or tried to carve out
2 the row house dwellings and the smaller apartment
3 buildings that would be affected, and the larger
4 apartment buildings would not be. But is that
5 unusual that we have basically 11 blocks, 11 squares,
6 or 11 geometric shapes for where this is going to
7 affect -- it's not all one contiguous area that's
8 being downzoned. Or that's being rezoned. Or have
9 we had that in other cases? I guess we have. I
10 don't know.

11 MR. JESICK: I don't think there's been a
12 large sample of down-zonings. But from the ones that
13 I've seen and my colleagues can weigh in, I think
14 it's somewhat unusual to have the slightly patchwork
15 quality. But these are the lots that were submitted
16 for the application, so we're moving forward with
17 that baseline of subject properties.

18 MR. MILLER: Okay. Thank you very much.

19 CHAIRPERSON HOOD: I had the opportunity some
20 months ago to speak to a class at one of the
21 colleges, and they mentioned to me about the housing
22 stock in the District of Columbia. And they said one
23 of the things that you all are not doing, Chairman
24 Hood, is you all are not planning and looking at
25 stuff for us. And I'm not talking about the ones who

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1 are buying houses now, pop-ups, pop-arounds, pop-
2 backs, or whatever you want to call them. And they
3 said, you're not forecasting because right now that's
4 the flavor of the day but in years to come it may not
5 be the flavor of the day. And one particular person,
6 a young lady mentioned, she said, what about our
7 kids? So, you know, I can't predict the future. I
8 know this is the flavor of the day. I'm looking
9 forward to this case to see what the outcomes, and I
10 do not support relaxing our setdown rule in this
11 particular case because there are other issues that
12 come into play when the public finds out that we have
13 done this and then a number of other things go on
14 over at DCRA. So I am not in support of relaxing the
15 setdown rule in this case.

16 But I would agree with my colleagues, of
17 setting this down and looking forward to the hearing.
18 Okay? So those are my comments. Commissioner May.

19 MR. MAY: Mr. Chairman, I agree with you. I
20 appreciate the desire not to jump into anything too
21 quickly, but I think that if we were to waive the
22 setdown rule in this circumstance and not have the
23 zone apply it would have a potentially very bad
24 effect. It could cause a number of rushed
25 applications to be filed before we take action, and

1 you know, exactly the sort of circumstance that many
2 of the neighbors want to prevent would come to pass
3 and would come to pass in a much worse way than if we
4 did nothing at all.

5 I appreciate the fact that we are acting now
6 and that may put some people's plans on hold, but as
7 far as we're concerned, I mean, this is just putting
8 in effect until such time as we have the hearing.
9 And if we heard a groundswell of support for keeping
10 things as they are, we may decide the case that way,
11 in which case, you know, anybody who had that
12 intention before would be able to act on it. I mean,
13 it is just a temporary circumstance until such time
14 as we hear what the public has to say and can move on
15 it. So in other words I support not waiving the
16 setdown rule.

17 CHAIRPERSON HOOD: Any other comments or
18 questions? I would move that we set down the Zoning
19 Commission Case No. 15-09 and all the rules that
20 apply, and ask for a second.

21 MS. COHEN: Second.

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

24 [Vote taken.]

25 CHAIRPERSON HOOD: Any opposed? Not hearing

1 any, Ms. Schellin, would you record the vote?

2 MS. SCHELLIN: Yes, sir. Staff records the
3 vote five to zero to zero to set down Zoning
4 Commission Case No. 15-09 as a rulemaking case,
5 Commissioner Hood moving, Commissioner Cohen
6 seconding, Commissioners May, Miller, and Turnbull in
7 support. And the setdown rule does apply.

8 CHAIRPERSON HOOD: Yes. Okay. Next, Zoning
9 Commission Case No. 15-25, Initio, I think that's how
10 it's pronounced, LP., Text Amendment to 241.1C,
11 Minimum PUD Area Requirements.

12 Ms. Fothergill.

13 MS. FOTHERGILL: Good evening, Chairman Hood
14 and members of the Commission. For the record, again
15 I'm Anne Fothergill with the Office of Planning. OP
16 recommends that the Zoning Commission set down Initio
17 LP's proposed text amendment to Section 2401.1C to
18 reduce lot size requirements for PUDs from 15,000
19 square to 10,000 square feet. This would apply to
20 all zones except R-1, R-2, R-3, R-4, R-5-A, R-5-B,
21 and W-0.

22 The petitioner, Initio LP., recently filed a
23 PUD application for 2715 Pennsylvania Avenue
24 Northwest, which is a 74,020 square foot property
25 flanked by National Park Service property. They

1 cannot acquire private land to amass 7,500 square
2 feet in order to qualify for a waiver from the
3 minimum area requirements. The petitioner and OP
4 worked together on a solution and hence the proposed
5 text amendment.

6 The proposed reduction of PUD lot size
7 requirements would allow more projects to go through
8 the PUD process and more property owners and
9 neighbors could benefit from the public review
10 process and input from the community and Zoning
11 Commission.

12 Ten thousand square feet exists in the
13 current Zoning Regulations as the minimum area
14 requirement for a PUD in both the H Street Northeast
15 neighborhood and the Georgia Avenue Commercial
16 Overlay districts. The change could result in
17 improved projects than what might be developed as a
18 matter of right on smaller properties. For example,
19 the development could include housing where it might
20 previously have been solely commercial.

21 Additionally, the developers of smaller
22 properties would be required to proffer public
23 benefits and amenities which could include affordable
24 housing. The proposal is not inconsistent with the
25 Comprehensive Plan and the Office of Planning

1 recommends that the proposed text amendment be set
2 down for public hearing. And I'd be happy to take
3 any questions.

4 CHAIRPERSON HOOD: Okay. Thank you.
5 Commissioners, any questions or comments, anybody?
6 Vice Chair, you have comments or questions?

7 MS. COHEN: At least for me you said the
8 right words, more affordable housing. So thank you.

9 CHAIRPERSON HOOD: Commissioner May, you have
10 anything?

11 MR. MAY: Yeah, I do. So I don't understand
12 what you mean by flanked by National Park Service
13 property. Does that mean that --

14 MS. FOTHERGILL: On both sides.

15 MR. MAY: On all sides surrounding it?

16 MS. FOTHERGILL: That's right.

17 MR. MAY: Because I mean, honestly I tried to
18 look at it on a map because it seemed like a very
19 unusual circumstance. So I have to say that not
20 knowing more about exactly what the circumstance is,
21 I'm not sure that I am in favor of setting it down.
22 I mean, this seems to be -- we're talking about
23 making a text amendment that changes the rules for
24 PUDs that could have very broad implications, but
25 it's being driven by this single application. And

1 it's a single application that I'm not sure that I
2 would support treating it as a PUD. I mean, if we
3 don't do this what's their recourse? What would they
4 do? Would they seek a map amendment, or would the --

5 MS. FOTHERGILL: In their application they
6 laid out the different scenarios that were considered
7 in consultation with OAG. And so one option was the
8 Zoning Commission could waive the 50 percent
9 requirement. One of them was a map amendment and
10 then the two others are let's see -- oh, they could
11 seek a variance from the 50 percent minimum area
12 requirement waiver, and then the third and fourth
13 were the ones that they proposed in the letter and
14 the one that's before you is the text amendment.

15 MS. STEINGASSER: But I'd just like to add
16 that the text amendment would apply universally. It
17 would not be limited just to this one project. This
18 one project came forward and had difficulty. They
19 are proposing a map amendment even with the PUD, but
20 it doesn't have sufficient land so even with the 50
21 percent reduction under the current regs they can't
22 quite get there. So the options were to request the
23 Commission waive your rules which we were very
24 uncomfortable with from the Office of Planning
25 standpoint. The other options were to go forward

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1 with a covenant and a map amendment, which Office of
2 Planning was also uncomfortable with because it
3 really deteriorates the sense of predictability of
4 being able to at least understand the regs. And then
5 there was also a discussion of a variance, and the
6 Office of Planning and the Zoning Commission
7 throughout the years has been very clear that a
8 variance that includes both FAR and height is
9 tantamount to a rezoning and is appropriately before
10 the Zoning Commission, not the BZA.

11 And so we resolved, based on some other cases
12 we know of that are small and have come forward with
13 public street closures or public alley closures in
14 order to get their minimum land area, we thought this
15 was a way to kind of reach a compromise. It's a
16 standard that currently exists in the regulations as
17 Anne said, in the Georgia Avenue Overlay and the H
18 Street Overlay.

19 MR. MAY: I'm still struggling with the
20 concept that it's flanked by Park Service property.
21 I mean, it's 2715 Pennsylvania Avenue Southeast?

22 MS. STEINGASSER: Yes, sir. It's the --

23 MS. FOTHERGILL: Northwest. Northwest.

24 MS. STEINGASSER: It's a little gas station.

25 MR. MAY: Oh, it's Northwest. Got it.

1 MS. STEINGASSER: From Georgetown.

2 MS. FOTHERGILL: It's in Georgetown.

3 MR. MAY: Got it. Now I understand. I was
4 just -- I don't know where I got Southeast from. Oh
5 well.

6 MS. STEINGASSER: So it's that little gas
7 station --

8 MR. MAY: Yes.

9 MS. STEINGASSER: -- site and then there's
10 Park Service.

11 MR. MAY: I got it.

12 MS. STEINGASSER: Yeah. To the east and
13 there's --

14 MR. MAY: Yes. Yeah, I don't know why I had
15 it in the wrong place because there's Park Service
16 land next to 2715. Now I understand the site. Yeah,
17 I'm not sure still. Well, I'm interested in hearing
18 what other people have to say.

19 CHAIRPERSON HOOD: Anyone else?

20 MR. TURNBULL: Well, yeah, I've got a
21 question how this one applicant is kind of
22 spearheading this whole change. I think -- I mean,
23 it's a significant change in the PUD requirements,
24 the land area. And I'm surprised that OP didn't
25 bring this forward to us as a study, looking at

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1 different sites, different options around here.
2 Because if I'm looking at this right, now if we go
3 down to 10,000 a PUD then can be built on 5,000
4 square feet, if you give 50 percent. And I'm just
5 wondering, I would rather have seen OP bring this
6 before us as a study and analyzing all the
7 implications that could impact sites around, and what
8 neighbors would be impacted by this. I find it odd
9 that we're getting one -- it seems like we're almost
10 bending over backwards for one applicant to solve
11 their problems, and suddenly we're like wait, we've
12 solved everybody's problems because now -- I mean,
13 I'm not looking to put this down.

14 I mean, I put this down in the sense of being
15 against it. I'm just trying to understand it in the
16 broader context of the whole city and understanding
17 what went into the analysis of this and why isn't OP
18 coming to the Zoning Commission saying, you know,
19 we've looked at PUD requirements and we think there's
20 a possibility for a change, that it makes sense
21 because of this area, Northwest, Northeast,
22 Southwest, Southeast. We've looked at different
23 zones and here's the reasons why.

24 I guess when it comes before me as one trying
25 to solve a problem for one applicant I'm a little

1 hesitant to do it then.

2 MS. STEINGASSER: Well, we did -- we put it
3 on the applicant saying, if this is the way you want
4 to go, we don't have time to do the text amendment,
5 and they volunteered that they would do the text
6 amendment and file it, and we were comfortable with
7 that.

8 We did do some really preliminary work but we
9 realized, yes, 5,000 square feet is a very small
10 number. The city has thousands of lots that size,
11 between five and 10,000 square feet. And we've done
12 studies before where we've tried to get our hands
13 around how many lots could be formed. But the
14 problem is consolidating, subdividing, bringing lots
15 together through A and T. It becomes just an
16 impossible estimation to figure out how and where
17 they would be. We also did some really early back of
18 envelope looking at, okay, how many lots exist. But
19 again, that's what exists now. Lots could be
20 subdivided. And it would be clearly up to the Zoning
21 Commission. It would not be a matter of right. The
22 Zoning Commission would have to determine that, the
23 50 percent reduction.

24 So the baseline would be 10,000 square feet
25 and then it would be up to the Zoning Commission to

1 determine only those residential projects that
2 merited the further reduction.

3 MR. TURNBULL: Yeah, I guess, you know one of
4 the things, I mean, obviously with a PUD there is a
5 balance between what they want for relief, what we
6 can give them, and then the benefits package that
7 comes back. I just can't see a small site creating a
8 benefits package. I mean, unless they're -- I just
9 think economically I don't know how viable it becomes
10 to create a benefits package for anyone that would be
11 worthwhile for us to entertain it. But --

12 MS. STEINGASSER: That's a very good point.
13 That's a very good point.

14 CHAIRPERSON HOOD: Commissioner Miller.

15 MR. MILLER: You know, as the OP report
16 states, there is already precedent for this minimum -
17 - for this 10,000 square foot minimum area
18 requirement in both the H Street Northeast
19 neighborhood and Georgia Avenue Commercial Overlay
20 districts. I think all that analysis, we can ask the
21 applicant to -- and overworked, overburdened OP, to
22 come back with more information on the number of lots
23 that might be impacted. I think we should at least -
24 - I mean, I think all that can be analyzed though, at
25 the public hearing and thereafter.

1 You know, perhaps it shouldn't have been a
2 universal change to the PUD and should have followed
3 the precedent in the neighborhood, in the
4 neighborhood commercial overlay district where there
5 -- including Georgetown which has a special, now has
6 a special neighborhood district. It's not in
7 Georgetown?

8 MS. STEINGASSER: It is technically in
9 Georgetown but we did not do any special commercial
10 work in Georgetown. The Georgetown zones are only
11 for their residential areas.

12 MR. MILLER: Yeah. So they're not a
13 neighborhood commercial overlay, but they have a
14 custom zone in the new zoning regulations.

15 MS. STEINGASSER: For the residential, right.
16 And this site right now is zoned C-2-A and they're
17 proposing an amendment to the W-2 as part of their
18 PUD.

19 MR. MILLER: Right. Well, I can certainly
20 see how it makes sense in neighbor commercial overlay
21 type areas, and I would -- even though it's not -- we
22 don't have a zoning regulation for Georgetown I can
23 see how they had smaller lots and we could get the
24 affordable housing and other public benefits. It
25 would be our design review. It would be our decision

1 whether to waive the 50 percent requirement from the
2 10 percent. So I think we can go forward and discuss
3 the implications at the time we have a public
4 hearing, and allow this project to maintain its
5 momentum.

6 CHAIRPERSON HOOD: Anybody else who hasn't
7 spoke?

8 I would agree. Have you spoken on this one?

9 MR. MAY: I did.

10 CHAIRPERSON HOOD: Okay. Let me just get my
11 point. I would agree with Commissioner Miller. With
12 the way the city is building up and the land is
13 getting like -- this may be something we can explore.
14 This is something new. It may be something that --
15 well present and forward, but it may be something
16 that we need to look at. I would be willing to move
17 forward with a setdown hearing and hearing and
18 leaving the burden again on the applicant to help
19 convince us of how we maybe should move. This may be
20 a new facet. You know, this is -- you know, a lot of
21 this stuff is not specific. Sometimes we have to
22 make adjustments and make moves and make changes like
23 that college class mentioned to me.

24 So I will tell you that I'm in support of --
25 I will associate myself with Commissioner Miller.

1 And, you know, let's get in there and let's vet it.
2 Let's hear what's going on and let's educate
3 ourselves. And that's kind of where I am.

4 MR. MAY: Mr. Chairman, if I could?

5 CHAIRPERSON HOOD: Yes.

6 MR. MAY: So W-2, then what are they -- I
7 forgot, what does W-2 mean in terms of density and
8 height compared to C-2-A? C-2-A I remember because
9 we deal with it all the time. W-2, I don't.

10 MS. STEINGASSER: It would go in a C-2-A is
11 currently 2.5.

12 MR. MAY: Uh-huh.

13 MS. STEINGASSER: And the W-2 is a 4.0, and
14 the height would go to 60, and inclusionary zoning
15 would not be applied. The W-2 and the Georgetown
16 historic districts are not subject to IZ.

17 MR. MAY: Right. So I still have concern
18 about this and I think in part it has to do with the
19 fact that it abuts Park Service property.

20 I also think that I don't really understand
21 enough of the rationale for making this change as a
22 city wide change. And I think that I would rather
23 see more of that analysis up front than try to have
24 it all done for the hearing because, you know, I
25 think you know, at a certain level we start the

1 training running when we decide to set it down. So I
2 would rather see more at this stage than what we've
3 seen so far before I'm ready to vote in favor of
4 this. I can count votes too. I don't think I'm
5 going to win, but I don't think I can support this at
6 this time.

7 MS. COHEN: Well, let me ask for a
8 clarification because there seems to be some --
9 either I didn't focus enough on what you're saying,
10 Ms. Steingasser. But this would not include IZ, this
11 particular case or just in general, because I really
12 would feel most comfortable if it had the opportunity
13 to increase housing, and affordable housing in
14 particular.

15 MS. STEINGASSER: The text amendment would be
16 neutral on the issue. It would depend on the
17 location of where a PUD would come forward. Can you
18 excuse me just a second?

19 The case has already been filed so it's
20 considered a contested case before you. It is
21 proposing eight dwelling units in the W-2 in the
22 Georgetown Historic District. So it's a combination
23 of being only eight units, residential units, and
24 being within the W-2 Historic Georgetown. Neither of
25 which would trigger inclusionary zoning.

1 MR. MILLER: But if I could follow up? It
2 would be a PUD, which we could sign that the extra
3 FAR and other height, or whatever they're getting,
4 isn't -- that it needs more public benefits and one
5 of those things we could ask for is one of the units
6 be affordable housing, for example. We wouldn't have
7 that opportunity if it was a matter of right
8 development.

9 MS. STEINGASSER: That's correct.

10 MR. MILLER: In this case.

11 CHAIRPERSON HOOD: Okay. Did everybody
12 comment on this? Okay. Will somebody like to make a
13 motion or do we want to delay it? Or what is your
14 pleasure, colleagues?

15 MR. MILLER: I would move, Chairman, that the
16 Zoning Commission set down Zoning Commission Case No.
17 15-25, Zoning Text Amendment to Section 2401.1C of
18 the Zoning Regulations dealing with lot size
19 requirements for PUDs, and ask that the applicant
20 provide more information about the city wide impact
21 of this at the public hearing, and ask for a second.

22 CHAIRPERSON HOOD: I'll second the motion.
23 It's been moved and properly seconded. Any further
24 discussion?

25 [Vote taken.]

1 CHAIRPERSON HOOD: Okay. Ms. Schellin, would
2 you record the vote?

3 MS. SCHELLIN: Yes. Staff records the vote
4 three to two to zero to set down Zoning Commission
5 Case No. 15-25 as a rulemaking case, Commissioner
6 Miller moving, Commissioner Hood seconding,
7 Commissioner Cohen in support, Commissioners May and
8 Turnbull opposed.

9 CHAIRPERSON HOOD: And I think the
10 applicant's counsel is sitting over there and so they
11 know what we're expecting to see when we get to that
12 point. Okay? Anything else? Do we have anything
13 else on the agenda?

14 MS. SCHELLIN: No.

15 CHAIRPERSON HOOD: Okay. Office of Planning,
16 you have anything else?

17 MS. STEINGASSER: No, sir.

18 CHAIRPERSON HOOD: Office of Zoning? Office
19 of the Attorney General. Colleagues.

20 Okay. So with that I want to thank you all
21 for this meeting, and this meeting is adjourned.

22 [Hearing adjourned at 8:24 p.m.]

23

24

25