

1 GOVERNMENT OF THE DISTRICT OF COLUMBIA
2 Zoning Commission

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9 REGULAR PUBLIC MEETING

10 1429th Meeting Session [8th of 2016]

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14 6:45 p.m. to 7:50 p.m.

15 Monday April 11, 2016

16

17 Jerrily R. Kress Memorial Hearing Room
18 441 4th Street, N.W., Suite 220 South
19 Washington, D.C. 20001

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1 Board Members:

2 ANTHONY HOOD, Chairman

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 MATT JESICK

14 ANNE FOTHERGILL

15 MAXINE BROWN-ROBERTS

16

17 DDOT:

18 JONATHAN ROGERS

19

20 Office of the Attorney General:

21 JACOB RITTING

22 ARIEL EBI

23

24

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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 the public meeting of the Zoning Commission
5 for the District of Columbia.

6 My name is Anthony Hood. We are located in
7 the Jerrily R. Kress Memorial Hearing Room. Joining
8 me are Vice Chair Cohen, Commissioner Miller,
9 Commissioner May, and Commissioner Turnbull. We're
10 also joined by the Office of Zoning staff, Ms. Sharon
11 Schellin, Office of the Attorney General, Mr. --
12 okay. Mr. Ritting and Mr. Ebi. Also the Office of
13 Planning, Mr. Lawson, Mr. Jesick, Ms. Fothergill, and
14 Ms. Brown-Roberts.

15 Copies of today's meeting agenda are
16 available to you and are located in the bin near the
17 door. We do not take any public testimony at our
18 meetings unless we ask someone to come forward.
19 Please be advised that this proceeding is being
20 recorded by a court reporter and it's also webcast
21 live. Accordingly, we must ask you to refrain from
22 any disruptive noises or actions in the hearing room,
23 including the display of signs or objects. Please
24 turn off all electronic devices at this time.

25 Does the staff have any preliminary matters?

1 Okay. We have no preliminary matters.

2 I do have a preliminary matter that I have,
3 colleagues, and it is for a closed meeting for our
4 training. As Chairman of the Zoning Commission for
5 the District of Columbia, and in accordance with 405
6 of the Open Meetings Act, I move that the Zoning
7 Commission hold the following closed meetings.

8 On Tuesday, May the 3rd, 2016 at 9:00 a.m.
9 for the purpose of receiving training as permitted by
10 D.C. Official Code 2-575(b) (12). The subjects of the
11 training are variances and special exceptions, Height
12 Act changes, density definitions, and the new
13 regulations on procedural changes, structure and new
14 special exceptions.

15 And on Thursday, May 12th, 2016 at 5:00 p.m.,
16 pursuant to the D.C. Official Code 2-575(c), for the
17 purpose of obtaining legal advice from our counsel on
18 all cases and to deliberate upon but not voting on
19 the contested cases scheduled for proposed actions
20 and final action as those cases are identified on the
21 Commission's agenda for that meeting. Is there a
22 second?

23 MS. COHEN: Second.

24 CHAIRPERSON HOOD: Okay. Would the secretary
25 please take roll call and vote on the motion before

1 us now as it has been seconded?

2 MS. SCHELLIN: Yes.

3 [Roll call vote taken.]

4 MS. SCHELLIN: Motion carries.

5 CHAIRPERSON HOOD: Okay. As it appears the
6 motion has passed. I request that the Office of
7 Zoning provide notice of this closed meeting in
8 accordance with the Act. Anything else, Ms.
9 Schellin?

10 MS. SCHELLIN: No, sir.

11 CHAIRPERSON HOOD: Okay. Let's move right
12 along with our agenda. Final action, Zoning
13 Commission Case No. 08-30B, West Half II, LLC., et
14 al., Capitol Gateway Overlay Modification at Square
15 700. Ms. Schellin.

16 MS. SCHELLIN: Yes, sir. At Exhibits 34
17 through 34B and 35 we have the applicant's post-
18 hearing submissions. At Exhibit 37 we have OP and
19 DOEE supplemental reports. And at Exhibit 38 we have
20 the applicant's response to the OP DOEE supplemental
21 report and we'd ask the Commission to consider final
22 action this evening.

23 CHAIRPERSON HOOD: Okay. Thank you, Ms.
24 Schellin. Somebody like to get us started? Vice
25 Chair Cohen?

1 MS. COHEN: Thank you, Mr. Chairman. I would
2 just like to commend the applicant for committing to
3 achieve Gold in their LEED certification, and
4 appreciate the fact that they went back and sharpened
5 their pencils and actually recognized the importance
6 of achieving a higher level of LEED and certifying to
7 that level. Thank you.

8 CHAIRPERSON HOOD: Any other comments on this
9 case?

10 MS. COHEN: If there are no other comments do
11 you want me to move?

12 CHAIRPERSON HOOD: I think we have comments.
13 We'll just --

14 MS. COHEN: Oh, okay.

15 CHAIRPERSON HOOD: -- move a little slower on
16 our comments. Commissioner Miller.

17 MR. MILLER: Thank you, Mr. Chairman. Yeah,
18 just briefly. I would echo Vice Chair Cohen's
19 comments and also just express appreciation to the
20 applicant for addressing the setback of the penthouse
21 along the Via and clarifying the amount of affordable
22 housing that's being provided, which is -- I think
23 it's two percent. Was it two percent of the eight
24 percent is at the 50 percent AMI level? Some of
25 which is generated by that penthouse habitable space.

1 So overall it was a 362 -- almost 363,000 square feet
2 of residential use and a lot of retail which will
3 greatly revitalize this neighborhood as many people
4 have envisioned for a long time.

5 CHAIRPERSON HOOD: Okay. Anything else? I
6 wasn't sure whether or not, Mr. Turnbull, you want to
7 talk about the connection or --

8 MR. TURNBULL: Yeah. Thank you, Mr. Chair.
9 I think I'm okay with everything that has been
10 submitted. I think we were concerned about the
11 penthouse at the -- I think actually Commissioner May
12 brought it up, the penthouse at the Via, and it looks
13 like that's been set back and meets now the setback
14 requirements and they're showing a perspective that
15 you can't see that penthouse.

16 My only other connection, and it does show up
17 on their drawings, on Drawing A106, and I know that,
18 and it was shown more clearly, I think, on the sister
19 project to the north of this which we saw about a
20 week ago, which is a canopy, a connection. So it
21 looks like they're showing, and that applicant,
22 before, couple of weeks ago said that that canopy was
23 going to be built by this project. And it looks like
24 there is something shown there but I don't recall if
25 there is any other drawing that really shows clearly

1 what it's going to be. So I'm not sure whether
2 that's going to be left as a modification to come
3 back at, to show us what that connection will be in
4 there, or what.

5 CHAIRPERSON HOOD: Okay. Is the applicant to
6 this case here? Counsel, if you can walk up to Ms.
7 Schellin, Mr. Hughes, and kind of give us some
8 clarification on that because this sister case --
9 well, another case that we heard, this sister that's
10 right next to this, mentioned it. This applicant
11 will be doing the connection and I think we need some
12 clarification. We also need to see a little more, I
13 believe. Mr. Turnbull, I don't know if you need to
14 see a little more than what you have there.

15 MR. TURNBULL: Well, I can't recall if it
16 shows up earlier on the earlier drawings that the
17 applicant submitted. I know it showed up on the
18 drawings of the other applicant.

19 MS. COHEN: It does.

20 MR. TURNBULL: It does show up? So it's the
21 same thing that saw.

22 CHAIRPERSON HOOD: Can you tell us where it
23 is? We may have missed it.

24 MR. TURNBULL: We may have -- I may have --
25 maybe I missed it. But it does show up?

1 MR. HUGHES: It does.

2 MR. TURNBULL: Okay.

3 MR. HUGHES: [Speaking off microphone.]

4 MS. SCHELLIN: The connection will be
5 constructed as part of their project.

6 MR. TURNBULL: Okay. Thank you.

7 CHAIRPERSON HOOD: As part of this project.

8 MS. SCHELLIN: This project.

9 CHAIRPERSON HOOD: I think we knew that, I
10 just --

11 MR. TURNBULL: This project.

12 CHAIRPERSON HOOD: We just wanted to -- do we
13 need to relook at that before we vote on that?

14 MR. TURNBULL: No, I don't think so.

15 MS. SCHELLIN: It did show up in their plans.

16 MR. TURNBULL: They're saying it's in their
17 drawings under, I think --

18 CHAIRPERSON HOOD: Let's look at it. I want
19 you to look at it.

20 MR. TURNBULL: Okay.

21 CHAIRPERSON HOOD: Not that I don't trust
22 them.

23 MR. TURNBULL: Well, Mr. Hughes is a --

24 CHAIRPERSON HOOD: Somebody told me trust but
25 verify.

1 MR. TURNBULL: -- honorable and --

2 CHAIRPERSON HOOD: I always --

3 MR. TURNBULL: -- trustworthy attorney.

4 CHAIRPERSON HOOD: I've learned. I've
5 learned, trust but verify. We're going to take --
6 we're not going to just -- you know, we appreciate
7 your word for it but we're going to make sure. We
8 don't zone in the blind. Some people might say we
9 do.

10 MR. TURNBULL: Right. I look at the
11 drawings, that's what I've seen before, and I am okay
12 with that. Okay.

13 CHAIRPERSON HOOD: Okay. All right.

14 Anything else? Someone like to make a motion?

15 MR. MILLER: Mr. Chairman, I would move that
16 the Zoning Commission take final action on Zoning
17 Commission Case No. 08-30B, West Half II, LLC. et
18 al., Capitol Gateway Overlay Modification at Square
19 700 and ask for a second.

20 MR. TURNBULL: Second.

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

23 [Vote taken.]

24 CHAIRPERSON HOOD: Ms. Schellin, would you
25 please 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. 08-30B, Commissioner
4 Miller moving, Commissioner Turnbull seconding,
5 Commissioners Cohen, Hood, and May in support.

6 CHAIRPERSON HOOD: Okay. Next, Zoning
7 Commission Case No. 13-09, Stanton Square, LLC.,
8 First Stage PUD, Consolidated PUD and Related Map
9 Amendment at Square 5877.

10 MS. SCHELLIN: Yes, sir. At Exhibit 66 we
11 have an NCPC report advising of no issues. Exhibit
12 67 through 71, we have the applicant's filings since
13 proposed action, and we ask the Commission to
14 consider final action on this case.

15 CHAIRPERSON HOOD: Okay. Let me bring up my
16 notes. Anybody like to get us started on this?

17 MS. COHEN: Mr. Chairman.

18 CHAIRPERSON HOOD: Yes.

19 MS. COHEN: Apparently there is just a couple
20 of edits that need to be made. And one is to update
21 the description of affordable housing in paragraph
22 57A so that it reflects the change the applicant made
23 in its post-hearing submission that all IZ housing in
24 the multifamily buildings will be at 50 percent of
25 AMI.

1 And also there are just some grammatical
2 corrections that need to be made to facts and
3 findings, paragraph 36.

4 CHAIRPERSON HOOD: Okay. Anything else? I
5 will say in this case, I was very happy to see Mr.
6 Tummond and the applicant, that the council member
7 now is very pleased, is the word. Not only did you
8 meet with her for the second time, and I think I
9 requested it, but she's now pleased. So I appreciate
10 all the efforts.

11 I'm not sure exactly how pleased and what all
12 made her pleased, but I appreciate all the efforts
13 that you all did to please the council member of Ward
14 8. So I did see that and that made very -- gave me a
15 comfort level to move forward with this case. And I
16 know that the ANC, I think it was 8B, or whatever the
17 ANC was in this case, also supported. Anything else?

18 Somebody like to make a motion on this?

19 MS. COHEN: Mr. Chairman, I will move to
20 approve for final action, Zoning Case No. 13-09,
21 Stanton Square, LLC., First Stage PUD, Consolidated
22 PUD, and Related Map Amendment at Square 5877 and ask
23 for a second.

24 CHAIRPERSON HOOD: Second. I'll second it.
25 It's been moved and properly seconded. Any further

1 discussion?

2 [Vote taken.]

3 CHAIRPERSON HOOD: Ms. Schellin, would you
4 record the vote?

5 MS. SCHELLIN: Yes. Staff records the vote
6 five to zero to zero to approve final action in
7 Zoning Commission Case No. 13-09, Commissioner Cohen
8 moving, Commissioner Hood seconding, Commissioners
9 May, Miller, and Turnbull in support.

10 CHAIRPERSON HOOD: Okay. Next Zoning
11 Commission Case No. 15-03, Aria Development Group,
12 Consolidated PUD and Related Map Amendment at Square
13 2866. Ms. Schellin.

14 MS. SCHELLIN: Yes, sir. On this one we have
15 Exhibits 64 through 67, which are the applicant's
16 submissions since proposed action. Would ask the
17 Commission to consider final action on this case.

18 [Pause.]

19 CHAIRPERSON HOOD: I'm looking at some of the
20 comments that were given to us and I think we dealt
21 with most of these at proposed. But let me open it
22 up for any discussion.

23 MS. COHEN: Mr. Chairman.

24 CHAIRPERSON HOOD: Yes.

25 MS. COHEN: There was a minor problem with

1 the total number of gross feet area for the IZ chart.
2 The number should be 11,880 and that correction will
3 be made.

4 However, in addition I just want to state for
5 the record that this project is not certifying its
6 LEED. And it is asking that we consider it a benefit
7 to the project, and I would suggest that it's very
8 difficult to take into account a noncertified LEED
9 Project. The reason being is that there's no third-
10 party accountability and I don't think DCRA has the
11 capacity to assure that they met a particular rating.

12 So I would hope in the future that all
13 applicants and their advisors take into account the
14 fact that we do need certification, especially if we
15 are going to count it as a project benefit. And I
16 hope my colleagues support me on this issue. Thank
17 you.

18 CHAIRPERSON HOOD: Anything else? Anybody?
19 Commissioner Miller?

20 MR. MILLER: Thank you, Mr. Chairman. I just
21 wanted to express my appreciation to this project's
22 affordable housing commitment at a greater amount and
23 deeper level than that which would be required by
24 inclusionary zoning and I think it's a very
25 attractive project and I think they worked with their

1 neighbors to try to mitigate concerns.

2 CHAIRPERSON HOOD: Okay. Anybody else?

3 MR. MAY: Mr. Chairman.

4 CHAIRPERSON HOOD: Yes. Commissioner May.

5 MR. MAY: So they did address the open issue
6 of the setback relief required, whether it was
7 required for the court, and since it's a closed court
8 it's not required. So I think that's okay.

9 And I would agree with the Vice Chair that it
10 helps an awful lot if the projects actually get
11 certified. It's a very clear -- that's a very clear,
12 makes for a clear understanding that the project,
13 that there's benefit to the project by that third-
14 party certification. Not that that's -- I think in
15 this case I think there's sufficient benefit to the
16 project to go ahead and approve it. But I think it
17 would be wise for other applicants to heed the Vice
18 Chairman's advice.

19 CHAIRPERSON HOOD: Okay. Any other comments
20 or questions?

21 Commissioner Turnbull, do you have --

22 MR. TURNBULL: No, I just concur with my
23 colleagues and I'm -- do we need to weaken the
24 findings of fact to address the Vice Chair's
25 concerns?

1 MS. COHEN: I would suggest we just go ahead
2 with this project.

3 MR. TURNBULL: Okay.

4 MS. COHEN: But again, I don't think in the
5 future we will be allowing projects to go through
6 without the certification. I mean, they'll go
7 through but they just won't be counted as a benefit.

8 MR. TURNBULL: Sounds fair to me.

9 CHAIRPERSON HOOD: Okay.

10 MR. TURNBULL: Do you want me to make a
11 motion?

12 CHAIRPERSON HOOD: Yes, somebody.

13 MR. TURNBULL: Mr. Chair, I would move that
14 we approve Zoning Commission No. 15-03, Aria
15 Development Group, Consolidated PUD and Related Map
16 Amendment at Square 2866, and look for second.

17 MR. MILLER: I would second it.

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

20 [Vote taken.]

21 CHAIRPERSON HOOD: Ms. Schellin, would you
22 record the vote?

23 MS. SCHELLIN: Yes, sir. Staff records the
24 vote five to zero to zero to approve final action in
25 Zoning Commission Case No. 15-03, Commissioner

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

3 CHAIRPERSON HOOD: Okay. Next case I'll turn
4 to the Vice Chair for I was absent for this case, for
5 very good reason.

6 MS. COHEN: His daughter got married. Ms.
7 Schellin.

8 MS. SCHELLIN: Yes, ma'am. This case is Case
9 No. 13-14B, the Jair Lynch Development Partners PUD
10 Modification at Square 3128. At Exhibits 51 through
11 53 we have the applicant's post-hearing submissions.
12 Exhibit 54 is an NCPC report advising of no issues.
13 We'd ask the Commission to consider final action.

14 MS. COHEN: Thank you, Ms. Schellin.

15 Commissioners, any comments? Does anybody want to
16 make a motion? Or I will move then, if I hear no
17 comments, to approve Zoning Case No. 13-14B, Jair
18 Lynch Development Partners, PUD Modification at
19 Square 3128 and ask for a second.

20 MR. MILLER: Second.

21 [Vote taken.]

22 MS. COHEN: The ayes have it. Ms. Schellin.

23 MS. SCHELLIN: Yes. Staff records the vote
24 four to zero to one to approve final action in Zoning
25 Commission Case No. 13-14B, Commissioner Cohen

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

4 CHAIRPERSON HOOD: Okay. Next let's go to
5 proposed action in Zoning Commission Case No. 15-09,
6 residence of Lanier Heights and ANC 1C, Map Amendment
7 at Square 2580, 2584, 2586W, 2587, and 2589. Ms.
8 Schellin.

9 MS. SCHELLIN: Yes, sir. At Exhibit 125 we
10 have the ANC's submission regarding community
11 outreach. At Exhibit 127 we have an OP supplemental
12 report. Exhibit 129 we have an OP supplemental memo.
13 And Exhibit 130A we have the ANC 1C, and petitioner's
14 comment to OP's recommendation regarding Section
15 3202.5. We'd ask the Commission to consider proposed
16 action and I'd also state that the Office of Planning
17 has made -- has recommended some text if the
18 Commission decides to set that down.

19 CHAIRPERSON HOOD: I think the order, what we
20 would do, and I know there's been comments on what
21 the Office of Planning has submitted, we cannot take
22 proposed action on anything on what's been presented
23 by Office of Planning until we have a hearing. And I
24 already know that we have a comment from the
25 petition, the ANC, already on that and we would deal

1 with that after we deal with the map amendment before
2 us.

3 Okay. Let's open it up for --

4 MS. COHEN: Thank you, Mr. Chairman. I did
5 not sit at the hearing on this case. However, I did
6 review the record, including the video of it. And I
7 must say that I think the ANC made an excellent case.
8 I commend them for their clarity and completeness in
9 their presentation. I see a number of them are here
10 tonight and I must say that they were very convincing
11 in their arguments, so I am prepared to vote on the
12 map amendment.

13 CHAIRPERSON HOOD: Okay. Any other comments?
14 Questions?

15 MR. TURNBULL: No, I just pointed out that at
16 Exhibit No. 127, which is the OP report, supplemental
17 report, that they have -- the OP, after the hearing,
18 has now come out in support of the map amendment.

19 CHAIRPERSON HOOD: Okay.

20 MR. TURNBULL: And I'm also willing, ready to
21 go ahead with this.

22 CHAIRPERSON HOOD: I don't know why I thought
23 they were already always in support. Maybe I missed
24 something. I might have missed it. Okay. I missed
25 a few things.

1 MS. COHEN: I don't think -- they didn't make
2 a recommendation originally.

3 MR. TURNBULL: Well, I think, and Mr. Lawson
4 may correct me --

5 CHAIRPERSON HOOD: OP doesn't waiver.

6 MR. TURNBULL: Well, I think they wanted to.
7 I think they were delaying a stand, because of the
8 hearing. I think they wanted to hear the neighbors.
9 I think they wanted to hear the neighborhood. I
10 think they wanted to hear the comments. I think they
11 may have formulated something ahead of time but I
12 think they really wanted to hear what people were
13 going to say and I think it's very clear that they're
14 in support of this.

15 CHAIRPERSON HOOD: Okay. All right. Yeah, I
16 do recall that now. We have quite a few cases.
17 Sometimes they run together for me. So I do recall
18 them wanting to hear it. And I would agree with the
19 Vice Chair who watched the video. I think the
20 petitioner, as well as the ANC jointly made a very
21 strong overwhelming case and I think that I'm
22 obviously ready to move forward. Any other comments?

23 Commissioner Miller?

24 MR. MILLER: Thank you, Mr. Chairman. I
25 agree with the comments of my colleagues. I think

1 the ANC and the community made a very compelling
2 case. I come into that as somewhat coming -- before
3 hearing, that the arguments in the entire case. I
4 was somewhat skeptical and I think I'm generally
5 skeptical about any down zoning in this City when we
6 have such a critical demand for housing generally and
7 we know our population is still growing at 1,000 a
8 month, which is a good thing.

9 But and I might have preferred if there had
10 been some compromise between those who support it and
11 those who opposed this. But I ask that question of
12 proponents and opponents at the hearing, whether they
13 would be supportive of all the design criteria and
14 the new R-4, the new down zoned R-4 regulations,
15 which would require a special exception for all, you
16 know, conversions over two units and restrictions on
17 pop-ups and pop-backs, but keeping it in the R-5
18 category, but there was no support for that.

19 So, I'm prepared to support it but I am
20 concerned about all of the nonconforming apartment
21 buildings that -- they excluded a lot of the larger
22 apartment buildings from this carved out kind of
23 broken tooth new zoning area. But there are a lot of
24 smaller apartment buildings that are still in there.
25 And I -- we are going to address this the text for a

1 hearing right after we do the vote on this, Mr.
2 Chairman. Is that what you just said?

3 CHAIRPERSON HOOD: We're going to discuss it.
4 I'm not sure which way we're going to go. I will --

5 MR. MILLER: I said address.

6 CHAIRPERSON HOOD: Right. Yeah, we're going
7 to discuss it. That was the order I stated earlier.

8 MR. MILLER: Okay.

9 CHAIRPERSON HOOD: Right.

10 MR. MILLER: Well, my support is contingent
11 upon that kind of accommodation being made for the
12 nonconforming uses so that they can do the sufficient
13 -- so they can proceed as they had intended and so
14 that's just from my own personal perspective.

15 CHAIRPERSON HOOD: Okay. Any other comments
16 on this case? Okay. If not, comments?

17 MS. COHEN: Yeah, I just wanted to sort of
18 carry on a little bit from Commissioner Miller. I
19 too have some concerns about doing any down zoning.
20 But it seems to me that both developers and
21 architects have not taken into account the design
22 standards of the particular neighborhood. There are
23 pop-ups in our city that conform and are contextual.

24 I was hoping we would be able to come up with
25 design standards but apparently, again, we're

1 maximizing profit over, I think, peaceable
2 neighborhoods and lovely neighborhoods sometimes. So
3 as I said, I thought the ANC did a very convincing
4 job in their examples that they showed, but I would,
5 again, I would prefer design standards over
6 regulatory reductions of height and lot occupancy.

7 But in this case I am very supportive of
8 what's being proposed.

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

11 MR. MAY: Yeah, I would agree with much of
12 what has been said. You know, I think this is a case
13 where it's very clear that this is an R-4
14 neighborhood that was just, it had a different label
15 on it and it should be now labeled as an R-4
16 neighborhood, and I think that that, you know, that
17 came out loud and clear in the hearing.

18 So I'm very pleased that we're able to move
19 forward and I think it sounds like we have support
20 across the Board. So that's a testament to the
21 thoroughness of the work that was done. Not just the
22 presentation, but the work that was done before it
23 came before us. So I really do appreciate that.

24 Anyway, I think I'll leave it at that.

25 Thanks.

1 CHAIRPERSON HOOD: Okay. Anybody else?
2 Okay. I would move that we approve Zoning Commission
3 Case No. 15-09, residents of Lanier Heights and ANC
4 1C Map Amendment at the squares listed, 2580, 2584,
5 2586W, 2587, and 2589 taking the comments that were
6 just mentioned by my colleagues, and ask for a
7 second.

8 MS. COHEN: Second.

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

11 [Vote taken.]

12 CHAIRPERSON HOOD: Ms. Schellin, would you
13 record the vote?

14 MS. SCHELLIN: Yes, sir. Staff records the
15 vote five to zero to zero to take proposed action in
16 Zoning Commission Case No. 15-09, Commissioner Hood
17 moving, Commissioner Cohen seconding, Commissioners
18 May, Miller, and Turnbull in support.

19 CHAIRPERSON HOOD: Okay. The next thing that
20 we want to talk about is the text that was
21 presented --

22 MR. RITTING: Excuse me, Commissioner Hood.
23 May I interject?

24 CHAIRPERSON HOOD: Sure.

25 MR. RITTING: Before you move to the text you

1 may want to consider whether to amend the 2016 map as
2 was mentioned on Page 4 of OP's April 4th report.
3 The reason would be that if you didn't, when the new
4 map took affect you would inadvertently have the old
5 zoning.

6 CHAIRPERSON HOOD: Yeah. Can we just do that
7 by general consensus? Yeah, we can just do that by
8 general consensus. Any objections?

9 Not hearing any. I mean, we've already done
10 it so general consensus. Okay. All right. Anything
11 else that I'm overlooking, Mr. Ritting?

12 MR. RITTING: No, sir.

13 CHAIRPERSON HOOD: I do overlook stuff so I
14 want to make sure we get it all. Okay.

15 MR. RITTING: Not yet.

16 CHAIRPERSON HOOD: Okay. Well, keep me
17 honest. I want to make sure we get it right.

18 Okay. Again, we have some text that was
19 presented. And again, we already have some comments.
20 But we cannot consider this until we actually have a
21 hearing and I guess the question to my colleagues is,
22 are we ready for setdown or how would we like to deal
23 with this?

24 Commissioner Miller.

25 MR. MILLER: Yes, as I just previously

1 indicated, I mean, I would support the OP
2 recommendation that the Commission waive the setdown
3 process and advertise proposed text that would deal
4 with the issue of multiple dwellings that had in
5 existence as of December 14th, 2015, a valid
6 certificate of occupancy or under review for a
7 building permit, provided that the multiple dwelling
8 shall not be expanded in floor area or number of
9 units.

10 There's additional language. Do I need to
11 read the entire -- or can somebody read the entire
12 language that has been recommended by Office of
13 Planning?

14 MR. MAY: Well, are you going by the second
15 report or the initial report?

16 CHAIRPERSON HOOD: The second. We should be
17 using the second report.

18 MR. TURNBULL: That's the April 6th one,
19 right?

20 CHAIRPERSON HOOD: Let me see what the date
21 is.

22 MR. TURNBULL: Exhibit No. 1.

23 MR. MILLER: Yes, there was the second
24 report, OP report.

25 CHAIRPERSON HOOD: Yeah.

1 MR. MILLER: And I didn't mean to say, waive
2 the -- well, I was proposing at this point that we
3 set it down for a public hearing, the text on that
4 nonconforming -- that the amendment dealing with
5 nonconforming buildings.

6 CHAIRPERSON HOOD: Okay.

7 MR. MILLER: As outlined in the April, I
8 think, 6th OP report.

9 CHAIRPERSON HOOD: Okay. And let me also --
10 I would agree, but let me also -- can I add to that,
11 that we allow for the immediate advertisement and
12 that we do the -- is it 30 or 40 days? Or was it 15?
13 Okay, 45. I get confused.

14 Okay. Let's do the regular 40. Forty-five?

15 MS. SCHELLIN: Forty.

16 CHAIRPERSON HOOD: Forty. Oh, okay. Let's
17 do the regular 45 days for advertisement and then
18 we'll go from there.

19 MS. COHEN: I just wanted to confirm with OP
20 about their dated --

21 CHAIRPERSON HOOD: Oh, 40. I don't want it
22 to be any longer. Excuse me. I want to make sure we
23 get it right. Forty. I'd really rather for it to be
24 10. Okay.

25 MS. COHEN: I'm just concerned about

1 confirming with OP. It's your April 6th memo that
2 has the language, or your April 4th that you're -- I
3 didn't see any language in April 4.

4 CHAIRPERSON HOOD: Six.

5 MR. JESICK: There was original language in
6 our April 4th memo, which we subsequently modified on
7 April 6th. We're still discussing the language with
8 OAG and DCRA to get their input on how best to
9 proceed, whether this should all be one text
10 amendment or if Section 2305 should be -- or, excuse
11 me, 2302.5 should be looked at separately as its own
12 stand-alone text amendment if necessary.

13 MS. COHEN: All right. Let's make sure,
14 though, we publicize the correct language and I'm
15 glad you brought up DCRA to be able to discuss this
16 with them. I think that's extremely important.
17 Thank you.

18 MR. MILLER: Mr. Chairman, I mean, I support
19 immediate advertisement of this hearing and -- but I
20 think we should limit the rule to just this -- just
21 this property and this case. That's a much bigger
22 issue to apply it city-wide. And I think we can deal
23 with other map amendment cases and apply it there if
24 it's appropriate. Apply the same kind of
25 nonconforming language if it's appropriate. But I

1 support the flexibility to allow OP and OAG to work
2 with DCRA to get the language right so that we know
3 what's being allowed to go forward and what isn't.
4 So I support that flexibility. But I personally
5 would prefer that we limit this type of -- this
6 provision to just the properties in this particular
7 zoning case at this time. I don't know what the
8 implications are, city wide.

9 CHAIRPERSON HOOD: Okay. I would agree with
10 that, but I think we already have an ask, Ms.
11 Schellin, and I'm not sure, Mr. Lawson, Ms.
12 Steingasser is not here. I don't know if we all
13 received the nice letters that we got from the city
14 council from residents dealing with other issues of
15 pop-ups, pop-backs. I think now we call it pop-
16 arounds, pop-downs. I've heard it all. Everything
17 is popping.

18 So I think that one of the things that we had
19 asked that I know I specifically asked the Office of
20 Planning, and I'm not sure what the status of that
21 is. I'm just going to bring it up now. Mr. Lawson,
22 can you let me know where we are?

23 MR. LAWSON: Sure. Sure. Yeah, well, that
24 of course is a separate case again. That case is
25 pretty much ready to come forward at the Zoning

1 Commission's wish.

2 CHAIRPERSON HOOD: Okay. Can we bring it as
3 soon as we can?

4 MR. LAWSON: Will do. Thank you.

5 CHAIRPERSON HOOD: Okay. Thank you. And
6 that will go to the nice letters that we received
7 from the City council asking us to really look into
8 this history and we need to really do that. So we
9 need to put that on the fast track. And, Mr. Lawson,
10 if you all can bring it as soon as you can? Okay.

11 All right. Now, back to this case. Somebody
12 like to -- any other discussion?

13 MR. TURNBULL: Well, I would just agree with
14 Commissioner Miller that we should maybe just focus
15 on the properties and the nonconformities that we're
16 dealing with on the case at hand and not go city wide
17 until we -- I think Commissioner Miller has got a
18 point that we don't know the ramifications yet of
19 what that would really do.

20 I think we should just focus. We can deal
21 with the others as we come up. That is my feeling,
22 so I would just focus on what we're talking about
23 right now, with the map amendment.

24 CHAIRPERSON HOOD: And Vice Chair Cohen?

25 MS. COHEN: No, I concur with Commissioners

1 Miller and Turnbull on this.

2 CHAIRPERSON HOOD: Okay.

3 MS. COHEN: Just stick to what we have in
4 front of us.

5 CHAIRPERSON HOOD: Okay. Somebody like to
6 make a motion? Any other comments? Commissioner
7 May?

8 MR. MAY: Yeah, I'm just curious from the
9 Office of Planning, how many projects do you think
10 were actually in the pipeline that would be
11 potentially going through permit review and
12 potentially have to have some changes? Well, what's
13 in the pipeline in terms of permit review? Do you
14 know?

15 MR. JESICK: I can't give you an exact
16 number. If I had to guess from my discussions with
17 the applicant and DCRA I would say around a half
18 dozen.

19 MR. MAY: Okay.

20 CHAIRPERSON HOOD: Commissioner May, you
21 finished? Okay. All right.

22 Any other comments up here? Somebody like to
23 make a motion?

24 MS. COHEN: I will move to take proposed
25 action on Zoning Case No. 15-09, Residents of Lanier

1 Heights and ANC 1C Map Amendment at Squares 2580 to
2 2584, 2586W, 2587, and 2589, and ask for a second.

3 CHAIRPERSON HOOD: I've been wanting to do
4 this for a long time. I'm going to rule that out of
5 order. Actually we already did that.

6 MS. COHEN: Then I will make a second.

7 CHAIRPERSON HOOD: We already voted on it.
8 Let me turn my mic off.

9 MR. TURNBULL: Don't we need a case number?
10 We're going to need a case number.

11 MS. SCHELLIN: Case number is going to be 16-
12 08.

13 MS. COHEN: All right, I amend my motion.

14 MR. TURNBULL: 16- --

15 MS. SCHELLIN: Zero, eight.

16 MR. TURNBULL: -- 08, okay.

17 MS. COHEN: Okay. So that there's a new
18 number isn't there?

19 CHAIRPERSON HOOD: What is it?

20 MS. SCHELLIN: Sixteen dash 08.

21 MR. TURNBULL: This is dealing with the
22 nonconforming.

23 MS. COHEN: All right.

24 [Pause.]

25 MS. COHEN: I eventually get things after I

1 make several errors. Okay. Can I have the number
2 again? 16 --

3 CHAIRPERSON HOOD: Sixteen.

4 MS. SCHELLIN: 16-08.

5 MS. COHEN: Okay. Zoning Case -- I move to
6 set down Zoning Case No. 16-08. I guess it would
7 still be called Residents of Lanier Heights and ANC
8 1C.

9 MS. SCHELLIN: No.

10 MS. COHEN: No?

11 MS. SCHELLIN: It's Office of Planning's
12 case.

13 MS. COHEN: Office of Planning. Okay.
14 Office of Planning text amendment. Is that okay?

15 CHAIRPERSON HOOD: Yeah, that's good.

16 MS. COHEN: Does that work?

17 CHAIRPERSON HOOD: Yeah.

18 MR. MILLER: I would second that, and that's
19 a text amendment addressing nonconforming uses in the
20 Lanier Heights --

21 MS. COHEN: Thank you.

22 MR. MILLER: -- text amendment.

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

25 [Vote taken.]

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

3 MS. SCHELLIN: Yes. Staff records the vote
4 five to zero to zero to set down Zoning Commission
5 Case No. 16-08 as a rulemaking case, Commissioner
6 Cohen moving, Commissioner Miller seconding,
7 Commissioners Hood, May, and Turnbull in support.

8 CHAIRPERSON HOOD: I was really just having
9 fun with you, Vice Chair. I've been wanting to say
10 out of order for a long time.

11 MS. COHEN: What else is new? What else is
12 new?

13 [Laughter.]

14 CHAIRPERSON HOOD: Okay. So we are straight
15 on that, Mr. Ritting?

16 MR. RITTING: Yes. I'm going to advertise
17 the text that was in the OP report, the second one.

18 CHAIRPERSON HOOD: Okay. All right. Are we
19 ready to move on, everybody? Okay. And, Mr. Lawson,
20 we're straight on the other case that's coming
21 forward?

22 MR. LAWSON: We are. Thank you.

23 CHAIRPERSON HOOD: Okay. Great. Thank you.

24 MR. LAWSON: Yes.

25 CHAIRPERSON HOOD: Let's go to hearing

1 action, Zoning Commission Case No. 15-31, 777 17th
2 Street, LLC., Consolidated PUD and Related Map
3 Amendment at Square 4507. Ms. Fothergill.

4 MS. FOTHERGILL: Good evening, Chairman Hood
5 and Members of the Commission. For the record I'm
6 Anne Fothergill with the Office of Planning.

7 OP recommends that the Zoning Commission set
8 down Capitol City Real Estate's request for a PUD and
9 related zoning map amendment for the property located
10 at 1701 H Street Northeast, which is the corner of
11 17th Street, H Street, and Benning Road. The
12 property is currently zoned C-3-A, and the proposed
13 zoning is C-2-B.

14 The PUD consists of a mixed use building with
15 180 residential units and 14,000 square feet of
16 retail use on the ground floor. It would be six to
17 10 stories with a maximum height of 90 feet. There
18 would be 45 below-grade parking spaces accessed off
19 the alley.

20 The height and density increases gained
21 through the PUD are up to 25 feet in height, 1.2 FAR
22 and 30,000 square feet. In terms of the
23 Comprehensive Plan Future Land Use Map, this property
24 is appropriate for medium density commercial and
25 medium density residential uses. The generalized

1 policy map denotes it as a neighborhood conservation
2 area. The site is currently a used car lot and the
3 project would redevelop underutilized land and would
4 be primarily residential which is in keeping with the
5 policy map designation.

6 The H Street corridor to the west is
7 undergoing extensive redevelopment and the adjacent
8 Hechinger Mall has potential for future
9 redevelopment. The site is located on transit lines
10 along Benning Road. And Benning Road is part of the
11 Great Streets Initiative.

12 The proposal is consistent with major
13 policies from various elements of the Comprehensive
14 Plan, including the upper Northeast area element.

15 Flexibility is needed to allow relief from
16 the required parking, loading, and roof setback
17 requirements. For public benefits and amenities, the
18 plans show wider sidewalks with street scape
19 improvements and an expansion of the alley network.
20 The project is compliant with the eight percent IZ
21 requirements and proposes six percent at 80 percent
22 AMI and two percent at 50 percent AMI. The project
23 would be LEED Silver.

24 OP will continue to work with the applicant
25 on issues raised in our report, including the

1 requested penthouse flexibility and providing more
2 detailed renderings, transportation demand, and
3 loading management plans, and a refined amenities
4 package with a deeper affordable housing proffer and
5 LEED Gold certification.

6 The proposal is not inconsistent with the
7 Comprehensive Plan and the Office of Planning
8 recommends that the Capitol City Real Estate
9 application be set down for a public hearing. I'd be
10 happy to take any questions.

11 CHAIRPERSON HOOD: Okay. Any questions of
12 Office of Planning, commissioners? Commissioner
13 Miller?

14 MR. MILLER: Yeah, just a couple questions,
15 Mr. Chairman. So, I appreciate that one side of the
16 project has a -- I think it's 10 stories. And I know
17 the other side is, was it six stories? Where it's --
18 the lower height adjacent to the, I guess the
19 existing two and three-story --

20 MS. FOTHERGILL: That's right.

21 MR. MILLER: -- row houses. Or not -- are
22 they row houses or -- row houses that are there.

23 Do you expect that those adjacent lower
24 height areas are going to see redevelopment soon, or
25 are they pretty stable and they're going to be there

1 for a long time? Or might they be subject to a
2 rezoning that you're aware of?

3 MS. FOTHERGILL: As far as I know we haven't
4 seen anything come into our office for those
5 properties.

6 MR. MILLER: Are they older buildings that
7 have been there a while?

8 MS. FOTHERGILL: They are mid-century I
9 think.

10 MR. MILLER: Yeah. So that's my, I guess my
11 only concern. I think I'd want to see -- depending
12 how long they're going to be there I would like to
13 see better renderings. Or maybe I just can't --
14 showing how -- well, I'm looking at a rendering right
15 now that shows the relationship and it's, you know,
16 three or four stories higher.

17 I guess I realize that they're trying to
18 transition, but I think there might need to be a
19 better transition there if these buildings are going
20 to be there a while. If they're not going to be
21 there a while and it's going to be built right up
22 next to them then I wouldn't have that much concern.
23 But it just seemed like -- it still seemed like
24 somewhat of an abrupt change in height there.

25 I do like all the balconies on this project.

1 I always like balconies on residential buildings so
2 you know that they're residential buildings and it's
3 an amenity for those who live there, in a city that
4 is cramped for outdoor space. And I generally am
5 supportive of setting this down, Mr. Chairman.

6 CHAIRPERSON HOOD: Vice Chair Cohen?

7 MS. COHEN: Yeah, I kind of like the design.
8 It reminds me of a Rubik Cube. And I really think
9 that it does not -- I disagree with my colleague
10 about it does respect, I think, the surrounding area.
11 Okay.

12 People, I am jet lagged. I'm sorry. I like
13 this one too, though. So, I will just -- but it's
14 not Rubik's Cube. The other one is. All right. I'm
15 so sorry. I'll save that for when I've got enough
16 sleep.

17 CHAIRPERSON HOOD: Okay. Any other comments
18 or questions? Commissioner May?

19 MR. MAY: Yeah. Okay. So I agree with
20 Commissioner Miller's concern about what's next door,
21 and the relationship of the building next door. And
22 I'm not sure I understood the question or the answer
23 before about what might happen around it. Was that
24 question just specific to the Hechinger Mall area, or
25 are you also asking about across the street, across

1 Benning Road?

2 MR. MILLER: I was asking just adjacent but
3 that's --

4 MR. MAY: Right.

5 MR. MILLER: -- an appropriate question too.

6 MR. MAY: So, I mean, it looks like across
7 the street, even in the future land use map, it's not
8 indicated the same way. So do we know of anything
9 happening across Benning Road from this property, or
10 even diagonally across?

11 MR. LAWSON: Nothing specific. Now there
12 have certainly been some discussions with different
13 land owners on the south side of Benning Street.

14 MR. MAY: Right.

15 MR. LAWSON: Nothing is coming forward, but
16 you're right, the designation is definitely lower --

17 MR. MAY: Right.

18 MR. LAWSON: -- on the south side of Benning
19 Street. So even if there was redevelopment it would
20 be correspondingly lower.

21 MR. MAY: So, I think this is -- this points
22 up the real concern I have about this which going
23 from the 65 that's matter of right, 65 feet matter of
24 right to 90 feet matter of right, plus the
25 differential in the slope because as you go up 17th

1 Street you gain a lot of height. I don't know if
2 it's distance across the site. What is that, 10 or
3 15 feet? Right?

4 MS. FOTHERGILL: I think it's 16, something
5 like that.

6 MR. MAY: Sixteen feet. So you're talking
7 about 90 feet measured from the opposite end of the
8 site, so it's really a 106-foot building and it's
9 next door to what looked to be 30-foot buildings at
10 most. And, I mean, granted it steps down but still
11 it seems extremely high to me. And so I have some
12 real anxiety about that in understanding this
13 building and the context of what's around it I think
14 is critically important.

15 I am not so concerned about the height that
16 I'm not willing to set it down at this time, but I
17 think that this may be a floor or two taller than it
18 should be. So I just wanted to get that out there
19 right now and, you know, because again, I mean, it
20 does have to do with what the potential is all around
21 it, but the Hechinger Mall site is zoned C-3-A, and
22 so is, you know, is that really going to be built at
23 -- you know, rebuilt at 65 feet, or is that going to
24 be going up? Because they can, you know, that whole
25 site, it actually stretches much farther up 17th

1 Street. And so you know, if they build the entire
2 thing as one building somehow, we're talking about 90
3 feet plus 25 feet. You know, the differential by the
4 time you get to that peak at Maryland and 17th.

5 MR. LAWSON: Right. Well, the Hechinger Mall
6 site has the same designation as this site of course.

7 MR. MAY: Right.

8 MR. LAWSON: And I just want to nuance answer
9 about the South Capitol, Benning Street. We'll
10 absolutely provide the information of what the
11 development potential kind of all around this site
12 might be. But there is also the Small Area Plan for
13 Benning Road, which had some additional language for
14 the south side of Benning Street. So, that may help
15 in that --

16 MR. MAY: That would be absolutely helpful.
17 Again, that's why I'm not saying, heck no, this is
18 too tall. I do want to understand more about the
19 context. But it definitely feels tall to me.

20 I appreciate the fact that Office of Planning
21 is already recommending more and better inclusionary
22 zoning and particularly given that we're, you know,
23 adding 25 feet plus to this building and substantial
24 FAR. I also appreciate the fact that you're pushing
25 for more than LEED Silver. I think that's great.

1 Hopefully everybody gets that message.

2 One message that does not seem to be getting
3 across to people, is that they're immediately asking
4 for setback relief having to do the quote,
5 "transparent guardrail."

6 There is no way in the world that I am going
7 to vote for this project for relief on a guardrail on
8 the front side of a too tall building or -- just, you
9 know, even if it wasn't too tall. I'm not going to
10 support that. There is rooftop occupiable space on
11 this, before you get any of that you have to meet all
12 of your setback requirements. And I think that
13 should be clear from the very start.

14 And I think so far the Zoning Commission has
15 set a very clear message on this topic and I want
16 that to be clear from the beginning. So, and it also
17 seems like it's an easy thing to meet. It's not, you
18 know, it's not hard to fix.

19 Also, I assume that since we're -- I mean,
20 I'm not sure what the status of either of these
21 streets are, but aren't they all commercial streets
22 and so therefore they're not eligible for residential
23 parking permits. Is that correct?

24 Well, if you don't know the answer let's --
25 we will need to know that by hearing time.

1 MR. LAWSON: We'll make sure that DDOT can
2 provide that.

3 MR. MAY: Yeah. Right. Because we are
4 talking about less parking than would otherwise be
5 required by zoning. So, thanks.

6 CHAIRPERSON HOOD: Any other comments?
7 Commissioner Turnbull.

8 MR. TURNBULL: Yeah. Thank you, Mr. Chair.
9 I would agree with the comments of my colleagues so
10 far. We're probably going to need some better
11 rooftop sections then, and views showing what's
12 really going on up there for the setbacks.

13 I guess my only concern is I hope we don't
14 lose the little two-story or those little row houses
15 down there. I mean, I think it's quite -- they've
16 got a certain character to them.

17 So, in looking at that it looks like the
18 building has got this brick, when you see it from the
19 front it looks very nice. But the back side of the
20 building is suddenly all black and gray. And I'm
21 like, if I'm living in one of those little row houses
22 I'm looking up at this very forbidding Darth Vader-
23 like building and I'm just concerned that it doesn't
24 -- I mean, if I'm my back yard and looking in the
25 alley and just -- I'd like something a little bit

1 more friendly. I don't know why we couldn't have a
2 warmer textural feel that sort of goes along with the
3 neighborhood.

4 I would like to see a view from the alley. I
5 think renderings, looking at from what the people see
6 in the back of the alley looking toward the building
7 I think would be important. So I'm a little bit
8 concerned about the overall feel that the neighbors
9 see as they're looking toward the building.

10 And the only other thing, I guess what --
11 hopefully the applicant will be meeting with the ANC
12 and the neighbors and developing a MOU or MOA with
13 them and will include construction management
14 practices and what they're going to do to make sure
15 that their lives aren't interrupted.

16 So, but there is -- none of my concerns would
17 prohibit me from setting it down. So, Mr. Chair.

18 CHAIRPERSON HOOD: Thank you. Anybody else?
19 I would agree with the comments that I've heard. I
20 just want to echo a few of them because they bring to
21 mind some issues that I was thinking about.

22 I believe that Commissioner Miller has
23 already asked for the prospective around the
24 neighborhood. And I want to see what's really there.
25 I mean, you know, I see some other prospectives here,

1 but I want to see what's actually -- those row of
2 homes that are actually there, I want to see how this
3 project fits right there on the -- how it's going to
4 sit in there. I see one but I also want to see how
5 it is in relationship with those homes.

6 Again, as Mr. Turnbull mentioned, I'm just
7 curious -- let me ask you this, Ms. Fothergill, have
8 there already been discussions with the ANC?

9 MS. FOTHERGILL: Yes, the applicant has
10 talked to the ANC.

11 CHAIRPERSON HOOD: What's kind of the
12 feeling? What's -- is that still out there or have
13 made a decision yet or --

14 MS. FOTHERGILL: I don't know the answer yet.

15 CHAIRPERSON HOOD: Okay. Okay. So they are
16 engaged.

17 And I would agree with the way Commissioner
18 May mentioned about, it seems like this needs to take
19 a floor or two off, but I know there's going to be
20 some guidance provided to us, the future land use map
21 and something other things that are coming forward.
22 But it kind of looks like something needs to be
23 missing. But maybe that's not the case. What's the
24 intention on the development in the other areas,
25 what's allowed and what's permissible?

1 But on the face of it I would agree that to
2 me it just looks like it's just something was
3 sticking there and it's just out of character for
4 that particular area.

5 But anyway, I think my colleagues have hit
6 all the necessary points and we're looking forward to
7 seeing this. It's not a show-stopper for me. I
8 think it will be good to have a hearing and dialog
9 and hear what the community has to say about this
10 project. Anything else?

11 MR. MAY: Mr. Chairman.

12 CHAIRPERSON HOOD: Yes.

13 MR. MAY: I'm confused. What's the address
14 of this building going to be because it's, you know,
15 it's 1701 H Street on the plans and then it's 17 --
16 or 777 17th Street.

17 MS. FOTHERGILL: I believe it's one of the --

18 MR. MAY: But it's actually on Benning Road,
19 right?

20 MS. FOTHERGILL: The residential entrance is
21 off of H Street.

22 MR. MAY: H Street, which is to the north?

23 MS. FOTHERGILL: Uh-huh. Yes.

24 MR. MAY: I didn't realize that was H Street.

25 Okay.

1 CHAIRPERSON HOOD: And I believe H Street has
2 zoned parking if I'm not mistaken.

3 MS. FOTHERGILL: I'll get back to you on
4 that.

5 CHAIRPERSON HOOD: Okay. All right. Anyway,
6 someone like to motion and set this down?
7 Commissioner Miller?

8 MR. MILLER: Thank you, Mr. Chairman. I
9 would move that the Zoning Commission set down for
10 public hearing, Zoning Commission Case No. 15-31, 777
11 17th Street, LLC., or otherwise known as 1701 H
12 Street, Consolidated PUD and Related Map Amendment at
13 Square 4507 and ask for a second.

14 MR. TURNBULL: Second.

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

17 [Vote taken.]

18 CHAIRPERSON HOOD: Ms. Schellin, would you
19 record the vote?

20 MS. SCHELLIN: Yes, sir. Staff records the
21 vote five to zero to zero to set down Zoning
22 Commission Case No. 15-31 as a contested case.
23 Commissioner Miller moving, Commissioner Turnbull
24 seconding, Commissioners Cohen, Hood, and May in
25 support.

1 CHAIRPERSON HOOD: Okay. Next, let's go to
2 Zoning Commission Case No. 15-18. Initio LP,
3 Consolidated PUD and Related Map Amendment at Square
4 1194. Ms. Fothergill. Okay.

5 MS. FOTHERGILL: Good evening, again. The
6 Office of Planning recommends that the Zoning
7 Commission set down Initio LP's request for a PUD and
8 related zoning map amendment for the property located
9 at 2715 Pennsylvania Avenue Northwest within the
10 Georgetown Historic District. The property is
11 currently partially zoned C-2-A and partially
12 unzoned, and the proposed zoning is W-2 for the
13 entire property.

14 The PUD consists of a mixed use building that
15 would be five stories with a maximum height of 60
16 feet and an FAR of 3.5. The building would have
17 seven residential units and a ground floor
18 restaurant.

19 The Comprehensive Plan Future Land Use Map
20 shows this property as appropriate for low density
21 commercial use. The generalized policy map denotes
22 it as a regional center. The proposal is consistent
23 with major policies from various elements of the
24 Comprehensive Plan including the near Northwest area
25 element. The height and density increases gained

1 through the PUD are up to 10 feet in height 1.0 FAR
2 and 13 percent lot occupancy.

3 The 7,400 square foot subject property does
4 not meet the minimum land area requirements for a
5 PUD. Because it has National Park Service property
6 on both sides the applicant cannot acquire private
7 property to attain the minimum land area. The
8 applicant originally filed this PUD application in
9 July, 2015, and included a variance request to permit
10 a lot size less than 50 percent of the minimum 15,000
11 square feet requirement for a PUD.

12 This approach was problematic and in
13 consultation with OAG the applicant proposed a
14 broader text amendment to reduce the minimum area
15 requirement for all PUDs. The text amendment was set
16 down by the Zoning Commission in December 2015, but
17 the applicant withdrew the application in February
18 2016.

19 After additional consultation with OAG, the
20 application amended the original PUD application and
21 is requesting that the Commission consider a waiver
22 of the minimum lot area requirements consistent with
23 the new Zoning Regulations. Under ZR-16 the Zoning
24 Commission may waive the PUD minimum area
25 requirements after a public hearing if the Commission

1 finds that the project is of exceptional merit and in
2 the best interest of the District or the Country.

3 The applicant requests flexibility to allow
4 relief from the required parking and rear yard
5 requirements. In terms of public benefits and
6 amenities the applicant proposes environmental
7 remediation of a gas station site, green roofs on the
8 building, and improvements to the adjacent Federal
9 Park land, including new trees, permeable paving, and
10 benches.

11 The project would not require IZ but the
12 applicant is proposing a contribution to the
13 Affordable Housing Trust Fund of \$359,604. This
14 amount was calculated using the formula in the Zoning
15 Regulations.

16 DHCD is very supportive of this contribution
17 which would not be received through a by right
18 development. The proposal has been conceptually
19 approved by the Old Georgetown Board and is expected
20 to go to the Commission of Fine Arts for review soon.
21 OP will continue to work with the applicant on issues
22 raised in our report, including further coordination
23 with DDOT and the Public Space Committee, development
24 of an agreement with the National Park Service for
25 improvements to the adjacent park land, providing

1 more detailed renderings based on OGB and CFA review,
2 and refined amenities package with LEED Gold
3 certification.

4 The Office of Planning recommends that the
5 Initio LP application be set down for a public
6 hearing. And I'm happy to take any questions.

7 CHAIRPERSON HOOD: Okay. Thank you, Ms.
8 Fothergill. Colleagues, in addition to this case,
9 because some of it is relying on our new regulations
10 the -- we cannot actually grant the waiver until
11 after our regulations are in effect, which is
12 supposed to be September the 6th, 2016. At least
13 that's the date we set. But anything can happen
14 between now and then. But I think we cannot grant a
15 waiver or deal with it until after that date.

16 MR. MAY: Mr. Chairman, I --

17 CHAIRPERSON HOOD: At least that's the date
18 we have now.

19 MR. MAY: Mr. Chairman, I'm sorry to
20 interrupt you but I had a different understanding. I
21 thought that it would require a waiver under the
22 current regulations but that if the regulation -- if
23 the new regulations go into effect on September 6th
24 then the decision is made after that, that such a
25 waiver would not be needed because we've already

1 addressed this sort of circumstance in the new
2 regulations.

3 CHAIRPERSON HOOD: Well, I had a different
4 interpretation but maybe, you know, I'll go to Mr.
5 Ritting to see.

6 MR. RITTING: It's my understanding that Mr.
7 May described the way that we have been discussing
8 that this project go forward and that the -- pardon
9 me. If you were to waive it for the minimum area
10 requirements for this case, immediately you would
11 waive it now, or alternatively you could wait until
12 the new rule took effect. However, you couldn't take
13 final action to approve until the new rule took
14 effect. Or as I said previously, you could waive the
15 rule for this case now.

16 CHAIRPERSON HOOD: We can waive the rule for
17 this case now under -- but not take a final vote
18 until our new rules come out. Doesn't sound right.

19 MR. MAY: Can I suggest something? I mean, I
20 think the way I understood it is that we could go
21 ahead and set this down on the assumption that we
22 would be waiving the current regulations, that we
23 have the authority to do that and that we would be
24 able to take action on this in the future by waiving
25 that requirement, that minimum square footage

1 requirement. However, if the decision making on this
2 doesn't happen until after the new regs are in
3 effect, that waiver would not be needed.

4 MR. RITTING: That's correct.

5 MR. MAY: So I mean, I think it's safe to say
6 that we would -- you know, if we set this down, we
7 set it down on the assumption that we would either
8 waive it or it would no longer be needed.

9 MR. MILLER: And part of the public hearing
10 process would be the discussion of that waiver of the
11 existing 2401.2, the minimum lot area requirement
12 where we're only allowed to reduce it 50 percent.
13 This is just a little bit more than 50 percent, we
14 should point out. And there are other exceptional
15 circumstances about this lot which might justify the
16 waiver. But we're not making a decision on the
17 waiver now, as I understand it. We're just, we're
18 allowing it to go forward and that will be part of
19 the discussion of the hearing and our future votes.

20 MR. TURNBULL: Yeah, I would agree that we
21 need the hearing in order to hear the case pro and
22 con for the waiver, and whether or not we feel
23 justified in granting the waiver.

24 MR. MILLER: And I think it might all become
25 moot as Commission May pointed out --

1 MR. TURNBULL: Right.

2 MR. MILLER: -- given the timing of when
3 things can get scheduled and when final action might
4 occur after final -- after our new Zoning Regulations
5 become effective where it allows us to waive more
6 than 50 percent of the lot area requirement. So.

7 [Discussion off the record.]

8 CHAIRPERSON HOOD: Somebody like to make a
9 motion because I'm not going to make a motion on that
10 because I will also say this, that what we're going
11 to do subject to change, the way I interpreted it. I
12 may be wrong. You know, I've been wrong before.

13 MR. MAY: I mean, it seems to me it's
14 perfectly possible that we could not vote -- vote not
15 to grant the waiver when it comes time. That's
16 certainly a possibility.

17 CHAIRPERSON HOOD: Okay.

18 MR. MAY: But I'm not ready to make a motion.
19 I had a question for the Office of Planning.

20 CHAIRPERSON HOOD: Okay. Okay.

21 MR. MAY: So my question is, you said MPS
22 land on both sides. Can you explain that? I mean,
23 I'm aware that it abuts Rock Creek Parkway.

24 MS. FOTHERGILL: Yes. Let me see if there's
25 a good map to show you. There is Park Service land

1 on both sides of --

2 MR. MAY: So that little plaza to the --

3 MS. FOTHERGILL: Uh-huh.

4 MR. MAY: -- west?

5 MS. FOTHERGILL: Uh-huh. Yes.

6 MR. MAY: Okay. So that's not what my map
7 shows and have you talked to anybody in the National
8 Park Service to confirm that, or has the developer?

9 MS. FOTHERGILL: So my understanding is the
10 developer has been coordinating with the Park Service
11 on these park improvements that are proposed.

12 MR. MAY: Okay.

13 MS. FOTHERGILL: But Office of Planning of
14 has not.

15 MR. MAY: Okay. All right. Well, I assume
16 the developer is in the audience. I'm just going by
17 what I have on the map that I carry with me wherever
18 I go. And that map does --

19 MS. COHEN: Do you have it now?

20 MR. MAY: Yes. It's on my computer. I said,
21 wherever I go. It's in my phone. Anyway. The point
22 being that the color of that little portion seems to
23 indicate that that is a transfer parcel. And so it
24 might not actually be in the Park Service's
25 jurisdiction.

1 Now it could be that my map is wrong. That
2 happens. And it also is possible that if you talk to
3 the Park Service, that whoever you talk to might not
4 have understood that. It also is possible that I am
5 completely wrong on this. I'm a little surprised if
6 it would be ours because it looks like there's a
7 BikeShare station on it and we have not -- I'm not
8 aware of us having permitted any BikeShare stations
9 in that part of the city.

10 MS. FOTHERGILL: We will definitely look into
11 that.

12 MR. MAY: Yeah. Now, again, I could be
13 completely wrong and developer has been talking to
14 the right people and you have it all right. But we
15 do want to be clear. Certainly that, you know,
16 there's merit and making park improvements as part of
17 a PUD when it, you know, abuts a property like this.

18 That's always a good idea. I was always kind of
19 assuming that it would be improving the park behind
20 it but, you know, Rock Creek Parkway. But whatever.

21 I think that's my only question. Otherwise,
22 you know, we'll wait to see and hear what -- how
23 things change or not, going through the OGB and CFA
24 process, and then we'll look at the case when it
25 comes up.

1 CHAIRPERSON HOOD: Okay. Any other comments
2 or questions on this? Commissioner Miller?

3 MR. MILLER: Yeah. I just wanted to clarify
4 that -- I mean, I appreciate very much the
5 applicant's proffered contribution of 300 and I think
6 it's \$70,000 to the Housing Production Trust Fund.
7 But I just wanted to -- and it's using a formula
8 that's in the Zoning Regulations but there's actually
9 in the -- just to clarify that there's nothing in the
10 Zoning Regulations that actually requires that
11 contribution for this particular project. Is that
12 correct?

13 MS. FOTHERGILL: That is correct. The
14 Georgetown and W-2 are not subject to IZ and this
15 project is only seven residential units. So this is
16 a proffer.

17 MR. MILLER: Right. And the only other
18 question I had is, your report mentioned it but now I
19 forget and -- the status of the Old Georgetown Board
20 or -- is that in lieu of the Historic Preservation
21 Review Board, or is there also HPRB and there's
22 Commission of Fine Arts Review. They have
23 conceptually approved this?

24 MS. FOTHERGILL: Yes, the Old Georgetown
25 Board has conceptually approved it and now it will go

1 to CFA for their final review and approval. And my
2 understanding is it does not go to HPRB.

3 MR. MILLER: Thank you very much.

4 CHAIRPERSON HOOD: Okay. Mr. Turnbull.

5 MR. TURNBULL: Thank you, Mr. Chair. I have
6 no questions. Thank the architecture is -- I have no
7 comments. I think it's moving towards something and
8 it looks fine right now.

9 The only question I had is just a common one.
10 We always ask about the rooftop. It looks like
11 there's a trellis up there, but the section that I've
12 seen through the building looks like they meet all
13 the setbacks with the railings and everything. But
14 if they could just clarify that on some other
15 drawings. But it looks like everything meets it up
16 there but if we could just get an extra drawing just
17 to really clarify it.

18 CHAIRPERSON HOOD: Any other comments? Okay,
19 again, and you know, I don't have a problem moving
20 forward, but we'll see how this September the 6th
21 issue comes out. Anyway. Somebody like to make a
22 motion?

23 MR. MILLER: Mr. Chairman, I would move that
24 the Commission set down for public hearing, Zoning
25 Commission Case No. 15-18, Initio. Is that the right

1 way to pronounce it? Initio LP, Consolidated PUD and
2 Related Map Amendment at Square 1194 and just note
3 that part of the hearing will be a discussion of the
4 waiver request.

5 MR. MAY: Second.

6 CHAIRPERSON HOOD: Okay. It's been moved and
7 properly seconded. Okay. I'm glad you said
8 discussion. Okay. Discussion. Okay.

9 MR. MILLER: I do not mean to imply that we
10 would be deciding it at the time of hearing.

11 CHAIRPERSON HOOD: Yeah, right. Because the
12 way I interpreted it is, is that we can't. But
13 anyway, that's a whole other issue. Moved and
14 properly seconded. Any further discussion?

15 [Vote taken.]

16 CHAIRPERSON HOOD: Ms. Schellin, would you
17 please record the vote?

18 MS. SCHELLIN: Yes. Staff records the vote
19 five to zero to zero to set down Zoning Commission
20 Case No. 15-18 as a contested case, Commissioner
21 Miller moving, Commissioner May seconding,
22 Commissioners Cohen, Hood, and Turnbull in support.

23 CHAIRPERSON HOOD: Okay. Do we have anything
24 else before us this evening?

25 MS. SCHELLIN: I have nothing unless OP has

1 something. No?

2 CHAIRPERSON HOOD: Office of Planning,

3 anything?

4 [Hearing adjourned at 7:50 p.m.]

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