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GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Zoning Commission

Public Meeting

6:30 p.m. to 7:05 p.m.  
Monday, January 9, 2017

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

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1 Board Members:

2 ANTHONY HOOD, Chairman

3 ROBERT MILLER, Vice Chair

4 PETER MAY, Commissioner

5 MICHAEL TURNBULL, Commissioner

6

7

8 Office of Zoning:

9 SHARON SCHELLIN, Secretary

10

11 Office of Planning:

12 JENNIFER STEINGASSER

13 JOEL LAWSON

14 STEPHEN MORDFIN

15 ANNE FOTHERGILL

16 CRYSTAL MYERS

17

18 Office of Attorney General:

19 JACOB RITTING

20

21

22

23

24

25

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

2 CHAIRPERSON HOOD: Ladies and gentlemen, this  
3 is a public meeting of the Zoning Commission for the  
4 District of Columbia. Today's date is Monday,  
5 January 9th, 2017. We're located in the Jerrily R.  
6 Kress Memorial Hearing Room.

7 My name is Anthony Hood. Joining me this  
8 evening are Vice Chair Miller, excuse me,  
9 Commissioner May and Commissioner Turnbull. We're  
10 also joined by the Office of Zoning staff, Ms. Sharon  
11 Schellin, Office of Attorney General, Mr. Ritting,  
12 Office of Planning staff, Ms. Steingasser, Mr.  
13 Lawson, Mr. Mordfin, Ms. Fothergill, and I believe we  
14 have someone new. Could somebody introduce our new  
15 person?

16 MR. LAWSON: We do. Thank you, Mr. Chair.  
17 I'd like to introduce our newest development review  
18 staff member, Crystal Myers. She joined us very  
19 recently, just a couple months ago. So, this is her  
20 first Zoning Commission meeting.

21 CHAIRMAN HOOD: Okay. Well, Ms. Myers,  
22 welcome aboard and welcome to the D.C. Zoning  
23 Commission. Okay.

24 Copies of today's meeting agenda are  
25 available to you and are located in the bin near the

1 door. We do not take any public testimony at these  
2 meetings unless the Commission requests someone to  
3 come forward. Please be advised, this proceeding is  
4 being recorded by a court reporter and is also  
5 webcast live. Accordingly, we must ask you to  
6 refrain from any disruptive noises or actions in the  
7 hearing room, including the display of any signs or  
8 objects. Please turn off all electronic devices, and  
9 with the people I see in the audience, I especially  
10 need to read that about being disruptive. But  
11 anyway, I've been wanting to say that for a long time  
12 so, these guys won't be mad with me.

13 Ms. Schellin, do we have any preliminary  
14 matters?

15 MS. SCHELLIN: No, sir.

16 CHAIRMAN HOOD: Okay. If not, let's go  
17 straight with the agenda. Consent calendar, minor  
18 modification and technical corrections. Oh, okay.  
19 I'm sorry. Let's go straight to B, modification of  
20 significance, Zoning Commission Case No. 04-13A,  
21 Metropolitan Baptist Church, modification of  
22 consequence at Square 277. Ms. Schellin.

23 MS. SCHELLIN: Yes. As the Commission will  
24 recall this case was deferred from last month's  
25 agenda to allow the ANC time to provide a report.

1 Staff contacted the ANC advising them of this and as  
2 of last week no report was received. I asked Ms.  
3 Hanousek of the office to contact the ANC and she  
4 spoke with Adam Beebe and was advised that the ANC  
5 has taken no action on this case. He advised that  
6 one commissioner moved to protest the case, but that  
7 motion failed, and he said there would be nothing  
8 coming in writing on this case from the ANC. So,  
9 we'd ask the Commission to proceed with action on  
10 this case.

11 CHAIRMAN HOOD: Okay. Thank you, Ms.  
12 Schellin. And colleagues, I see the applicant seem  
13 to have spoken for the ANC, but that concerns me  
14 because what I'm hearing the ANC saying they're not  
15 going to do anything. But at least the way I read  
16 the letter, which is Exhibit 9, something was done.

17 Let me make sure I'm talking about the right  
18 -- okay. Yeah. I wanted to make sure I was on the  
19 right case because some of this stuff runs together.

20 But apparently, according to what the  
21 applicant has given us, there was some action taken  
22 and their original issue and everything was reversed.  
23 But yet, we get comments from our own staff who made  
24 a call to the ANC and none of that was mentioned, so,  
25 you know, I really don't know what the prevailing

1 conclusion is on this because that baffles me. But  
2 let me open it up for any comments. So, any other  
3 findings someone may have. Commissioner May,  
4 anybody?

5 MR. MAY: Mr. Chairman, you know, as I recall  
6 we essentially left this open. We had an indication  
7 of what had occurred at the ANC meetings earlier in  
8 December when we took it up on December 12th, but we  
9 didn't have an official submission from them and we  
10 were inclined to give them the time to provide that  
11 submission to us so we understood exactly what went  
12 on.

13 You know, it is a little confusing comparing  
14 what Ms. Schellin reports to what the applicant  
15 reports on this but, you know, the bottom line is  
16 that we gave the ANC plenty of time to respond and  
17 they haven't, and I think what we have before us is  
18 not an unreasonable request and I'm prepared to move  
19 forward.

20 CHAIRMAN HOOD: Okay. Anybody else? All  
21 right.

22 MR. MILLER: Mr. Chair, I would concur with  
23 that.

24 CHAIRMAN HOOD: Okay. I have no problems  
25 moving. Somebody like to make a motion?

1           MR. MILLER: Yeah, Mr. Chairman, I would move  
2 that the Zoning Commission take action on zoning  
3 modification consequence for Zoning Commission Case  
4 No. 04-13A, Metropolitan Baptist Church at Square  
5 277, and ask for a second.

6           MR. MAY: Second.

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

9           [Vote taken.]

10          CHAIRMAN HOOD: Ms. Schellin, would you  
11 record the vote?

12          MS. SCHELLIN: Yes. Staff records the vote  
13 four to zero to one to approve final action in Zoning  
14 Commission Case No. 04-13A, Commissioner Miller  
15 moving, Commissioner May seconding, Commissioners  
16 Hood and Turnbull in support, Commissioner Shapiro  
17 not present, not voting.

18          CHAIRMAN HOOD: Okay. Next, let's go to  
19 final action. Zoning Commission Case No. 15-31, 777  
20 17th Street, LLC., consolidated PUD and relate map  
21 amendment at Square 4507. Ms. Schellin.

22          MS. SCHELLIN: Exhibits 44 through 46 are the  
23 applicant's post-proposed action filings. Exhibit 47  
24 is the NCPC report advising of no federal issues.  
25 Ask the Commission to consider final action this

1 evening.

2 CHAIRMAN HOOD: Okay. Colleagues, I think I  
3 would be in favor of this. I think there have been,  
4 excuse me, some revised roof plans and that others  
5 may have asked for, and I think there have been some  
6 proposed benefits and amenities, and we have some  
7 correspondence on that. But as Ms. Schellin has  
8 already mentioned, we also have NCPC report.

9 Anything else? Any other comments?

10 MR. MAY: Mr. Chairman, you know, I think  
11 there was one issue having to do with the setback on  
12 the rooftop for the planters and I think that that  
13 has been -- the drawings have been changed to make  
14 sure that the setback is there and so I'm satisfied  
15 that the final remaining issues for this case are  
16 resolved and I'm ready to move to final approval.

17 CHAIRMAN HOOD: Okay. Any other comments on  
18 this?

19 All right, so not hearing any I would move  
20 approval of Zoning Commission Case No. 15-31 and ask  
21 for a second.

22 MR. MILLER: Second.

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

25 [Vote taken.]

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

3           MS. SCHELLIN: Staff records the vote four,  
4 to zero, to one to approve final action in Zoning  
5 Commission Case No. 15-31, Commissioner Hood moving,  
6 Commissioner Miller seconding, Commissioners May and  
7 Turnbull in support, Commissioner Shapiro not  
8 present, not voting.

9           CHAIRMAN HOOD: Okay. Next, we have Zoning  
10 Commission Case No. 16-07, W-G 9th and O, LLC.,  
11 consolidated PUD and related map amendment at Square  
12 399. Ms. Schellin.

13           MS. SCHELLIN: Exhibits 38 through 40A are  
14 the applicant's post proposed action filings.  
15 Exhibit 41, again NCPC report advising of no federal  
16 issues, and we'd ask the Commission to consider final  
17 action this evening.

18           CHAIRMAN HOOD: Okay. Let me open it up.  
19 Any comments?

20           MR. MAY: So, again there was a rooftop  
21 setback issue that was -- at proposed action. The  
22 applicant agreed to change the -- well, to withdraw  
23 the request and modify the drawings. They've done  
24 that so that's okay. And then I think they also  
25 improved the Inclusionary Zoning offering and

1 increased the amount of the relative square footage  
2 that would be provided at 50 percent AMI, so I think  
3 that was one of the things that we raised at the last  
4 -- when we took proposed. So, I'm inclined to move  
5 forward with this as well.

6 MR. MILLER: Mr. Chairman, I also wanted to  
7 commend the applicant on strengthening the affordable  
8 housing proffer.

9 CHAIRMAN HOOD: Any other comments? Somebody  
10 like to make a motion?

11 MR. TURNBULL: Mr. Chair, I would move that  
12 we approve Zoning Case No. 16-07, W-G 9th Street, 9th  
13 and O, LLC., consolidated PUD and related map  
14 amendment at Square 399.

15 MR. MILLER: Second.

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

18 [Vote taken.]

19 CHAIRMAN HOOD: Ms. Schellin, would you  
20 record the vote?

21 MS. SCHELLIN: Staff records the vote four,  
22 to zero, to one to approve final action in Zoning  
23 Commission Case No. 16-07, Commissioner Turnbull  
24 moving, Commissioner Miller seconding, Commissioners  
25 Hood and May in support, Commissioner Shapiro not

1 present, not voting.

2 CHAIRMAN HOOD: Okay. Thanks. Next, Zoning  
3 Commission Case No. 97-16D, Lowell School,  
4 Incorporated, one-year PUD time extension at Square  
5 2745F. Ms. Schellin.

6 MS. SCHELLIN: Yes, sir. As stated, this is  
7 a request for a one-year time extension, PUD time  
8 extension. If the Commission will recall the  
9 applicant filed some time ago, a minor modification  
10 for the parking and play area of the PUD, which the  
11 Commission did approve and the ANC then requested a  
12 reconsideration of that order and it was granted.  
13 The Commission then ruled that a hearing would be  
14 held on the modification, or on that modification  
15 request.

16 After conversations with the community the  
17 applicant decided to move forward with the original  
18 plan and not the modification.

19 However, the order was going to expire  
20 November 26th, 2016, so the applicant requested this  
21 one-year time extension that is before you this  
22 evening.

23 Exhibit 5 is an ANC for a report in support  
24 of the request for extension. And Exhibit 7 is an OP  
25 report in support. So, we'd ask the Commission to

1 consider the request for the time extension this  
2 evening.

3 CHAIRMAN HOOD: Okay. Thank you, Ms.  
4 Schellin. Colleagues, I'm actually very happy in the  
5 findings on this case. I think we may have helped  
6 get to that point, but see, that kind of stuff  
7 doesn't get reported.

8 But anyway, so I'm really happy with the  
9 report from the ANC. I think it's Chairperson Black,  
10 or Commissioner Black in 4A in this case. There were  
11 some outstanding issues from the community with even  
12 getting that extension with Lowell, and I think  
13 they've all worked it out and it looks like they are  
14 very collaborative and they are working together, and  
15 nothing but a letter of support from ANC 4A at this  
16 time, which we did not have previously.

17 But with that, let me open it up. Any  
18 comments or questions?

19 MR. MILLER: Yeah, I just wanted to concur,  
20 Mr. Chairman, with your comments and commend the  
21 applicant and the community for working together to  
22 reach this resolution and go back to the original  
23 plans for this area of the school.

24 CHAIRMAN HOOD: Okay. Any other questions or  
25 comments?

1 All right. With that, I would move approval  
2 on this Zoning Commission Case No. 97-16D Lowell  
3 School, Inc., one-year PUD time extension at Square  
4 2745F and ask for a second.

5 MR. MILLER: Second.

6 CHAIRMAN HOOD: It's been moved and properly  
7 seconded. Any further discussion?

8 [Vote taken.]

9 CHAIRMAN HOOD: Ms. Schellin, would you  
10 record the vote?

11 MS. SCHELLIN: Yes. Staff records the vote  
12 four, to zero, to one to approve final action in  
13 Zoning Commission Case No. 97-16D. Commissioner Hood  
14 moving, Commissioner Miller seconding, Commissioners  
15 May and Turnbull in support, Commissioner Shapiro not  
16 present, not voting.

17 CHAIRMAN HOOD: Okay. Let's go to hearing  
18 action in Zoning Commission Case No. 16-21, North  
19 Capitol Hospitality, LLC., map amendment at Square  
20 617. Mr. Mordfin.

21 MR. MORDFIN: Good evening Chair and Members  
22 of the Commission. The applicant is requesting a map  
23 amendment from the M-U-4 to the M-U-5-A to permit the  
24 redevelopment of a vacant property at the northwest  
25 corner of North Capitol Street and Hannover Place

1 Northwest. The requested map amendment would allow  
2 for an increase in building height and nonresidential  
3 FAR. M-U-5 zones are designed to permit medium  
4 density, compact use development on arterial roads  
5 such as North Capitol Street, designated as a  
6 principle arterial roadway by DDOT.

7 The applicant is nonconsistent with the  
8 generalized policy map, which recommends main street  
9 mixed-use corridor, a designation encouraging  
10 redevelopment in support of transit use, enhancing  
11 the pedestrian environment, and fostering economic  
12 and housing opportunities.

13 The application is not inconsistent with  
14 several of the Comprehensive Guiding Plan principles,  
15 including that the District needs residential growth  
16 and nonresidential growth, which creates jobs,  
17 opportunities for less affluent households.

18 In-fill opportunities along corridors are an  
19 important component of invigorating and enhancing  
20 neighborhoods, and growth in the District benefits  
21 not just the District but the region as well by  
22 creating a critical mass to support new services.

23 The applicant is also not inconsistent with  
24 several of the area elements of the Comprehensive  
25 Plan, including land use, by encouraging in-fill

1 development and facilitating the re-use of vacant  
2 lots, economic development, the goal of which is to  
3 revitalize neighborhood commercial centers and  
4 attract new industries, urban design, which includes  
5 to improve the District's avenues and boulevards to  
6 reinforce the form and identity of the city, create  
7 more memorable and distinctive gateways, and focus  
8 improvements on symbolic streets that suffer from  
9 poor aesthetic conditions, such as North Capitol  
10 Street.

11           And finally, the near Northwest area element,  
12 which contains -- which includes that the most  
13 significant challenge within that area is retaining  
14 the physical and social fabric of the area.

15           An application should also not be  
16 inconsistent with the guidance of a small area plan.  
17 In this case, the Mid-City East Small Area Plan  
18 adopted in 2014 recommends that the corner of  
19 Hannover Place and North Capitol Street Northwest,  
20 the location of the subject property, be moderate  
21 density commercial and medium density residential,  
22 consistent with the application.

23           Therefore, the Office of Planning finds that  
24 the applicant is not inconsistent with many of the  
25 aspects of the Comprehensive Plan and has supported

1 many of its policies, goals, and principles.  
2 Therefore, OP recommends that the Commission set down  
3 the subject application. Thank you.

4 CHAIRMAN HOOD: Okay. Thank you, Mr.  
5 Mordfin. Let's open it up. Any comments or  
6 questions of Office of Planning?

7 Okay. Vice Chair Miller?

8 MR. MILLER: Thank you, Mr. Chairman. So,  
9 this is one of those areas where it makes a lot of  
10 sense. Particularly with the Small Area Plan and all  
11 the community outreach around and development around  
12 that. But it's also one of those cases where the  
13 future land use map hasn't yet been changed. And  
14 that's the Comprehensive Plan. The Small Area Plan  
15 is just supplemental guidance to the Comp Plan.

16 So, I just think it's somewhat of a timing  
17 issue. But there's a lot of information in both the  
18 OP report and the applicant's statement that supports  
19 the Comp Plan map designation, but I think we just  
20 have to make sure that that is strong enough to  
21 support a not inconsistent reading with just the Comp  
22 Plan, even if the Small Area Plan didn't exist  
23 because I just think that's important.

24 CHAIRMAN HOOD: Okay. Again, the request is  
25 set down. Any other questions or comments?

1 MR. TURNBULL: Mr. Chair, I was asking the  
2 Vice Chair, are you looking for more information from  
3 OP then?

4 MR. MILLER: I guess by either hearing from  
5 the OP or the applicant, just more information to  
6 support the map, the zoning map designation in the  
7 absence of a land use map designation which we  
8 understand is coming, but won't be in effect before  
9 we take action, if we were to take action. So, we  
10 just have to beef up that -- those arguments for that  
11 map.

12 MR. TURNBULL: Okay.

13 MR. MILLER: For the zoning map change.

14 MR. TURNBULL: Well, Mr. Chair, with that  
15 caveat I would be in support of also setting this  
16 down.

17 CHAIRMAN HOOD: Okay. Somebody like to make  
18 a motion?

19 MR. TURNBULL: Mr. Chair, I would move that  
20 we set down Zoning Commission No. 16-21, North  
21 Capitol Hospitality, LLC., map amendment at Square  
22 617.

23 MR. MILLER: Second.

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

1 [Vote taken.]

2 CHAIRMAN HOOD: Ms. Schellin, would you  
3 please record the vote?

4 MS. SCHELLIN: Yes. Staff records the vote  
5 four, to zero, to one to set down Zoning Commission  
6 Case No. 16-21 as a contested case, Commissioner  
7 Turnbull moving, Commissioner Miller seconding,  
8 Commissioners Hood and May in support. Commissioner  
9 Shapiro not present, not voting.

10 CHAIRMAN HOOD: Okay. Next, Zoning  
11 Commission Case No. 16-25, D.C. Boathouse, LLC., map  
12 amendment at Square 6. Ms. Fothergill.

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

16 OP recommends that the Zoning Commission set  
17 down D.C. Boathouse, LLC.'s request for a map  
18 amendment of 2601 and 2641 Virginia Avenue Northwest,  
19 within the Foggy Bottom West End Neighborhood. The  
20 proposal would not be inconsistent with the  
21 Comprehensive Plan.

22 The map amendment would rezone both  
23 properties in Square 6 to M-U-2. The building at  
24 2601 Virginia Avenue Northwest was originally built  
25 as a hotel and most recently was used as a dormitory

1 for George Washington University.

2 2641 Virginia Avenue Northwest is currently  
3 operating as a gas station with gas pumps and a small  
4 building.

5 The Comprehensive Plan future land use map  
6 shows the subject properties striped for mixed-use,  
7 high density residential and medium density  
8 commercial uses. The proposed map amendment to M-U-2  
9 would be consistent with these land use designations  
10 and would allow for commercial uses in this location  
11 which would not be permitted under the current R-A-5  
12 zoning.

13 The permitted height is the same in both  
14 zones, and the FAR and lot occupancy could increase  
15 with the Inclusionary Zoning bonus.

16 The Watergate site, directly across Virginia  
17 Avenue is zoned M-U-2 and has the same future land  
18 use map designation.

19 The generalized policy map shows the subject  
20 properties as institutional uses which reflects the  
21 previous ownership and use by George Washington  
22 University.

23 The applicant has entered into a memorandum  
24 of agreement with the West End Citizen's Association,  
25 and they support the proposed map amendment and

1 development. The map amendment is not inconsistent  
2 with the Comprehensive Plan, and the Office of  
3 Planning recommends that the D.C. Boathouse, LLC.  
4 application be set down for a public hearing. And  
5 I'd be happy to take any questions. Thanks.

6 MR. TURNBULL: So, Ms. Fothergill, George  
7 Washington University has no ownership of any of the  
8 parcels?

9 MS. FOTHERGILL: That's right.

10 MR. MAY: Where are we going to go for gas?

11 MS. FOTHERGILL: The gas station will  
12 continue, in that location.

13 MR. MAY: Really? And they're going to build  
14 up over it or something?

15 MS. FOTHERGILL: The proposal involves an  
16 expansion of the --

17 MR. MAY: Oh.

18 MS. FOTHERGILL: -- building.

19 MR. MAY: Of the building, but they're going  
20 to leave the gas station as it is?

21 MS. FOTHERGILL: That's my understanding,  
22 yes.

23 MR. MAY: Okay. Well, that's much more  
24 helpful because it's the closest gas station to my  
25 office, and I occasionally need gas. It's a hybrid,

1 so I don't need it very often, but -- and I do drive.  
2 But only for work.

3 CHAIRMAN HOOD: I wish more people were here  
4 to hear that, because every time you -- most people,  
5 it's crowded, they think you always ride a bicycle.

6 MR. MAY: I'm sure there's a big crowd out  
7 there watching in class.

8 CHAIRMAN HOOD: Watching, I'm sure. Yes.

9 MR. MAY: Yeah.

10 CHAIRMAN HOOD: Yeah. Any other questions or  
11 comments?

12 I think we have an issue, colleagues, whether  
13 this is a rulemaking or a contested case, I think we  
14 need to discuss that.

15 Let me ask the Office of Planning, Ms.  
16 Fothergill. This is being proposed to us now as a  
17 rulemaking case, correct? Oh, maybe Ms. Steingasser.  
18 Somebody could help me. Yeah.

19 MS. SCHELLIN: I can ask a question to the  
20 applicant. Is the owner of the gas station part of  
21 the petition? They are not? But you're asking that  
22 that property also be rezoned.

23 CHAIRMAN HOOD: Do we know, Ms. Schellin, if  
24 you can find -- do we know if all property owners are  
25 in agreeance? Because I think we ran into this issue

1 once before.

2 MS. SCHELLIN: Yes, they are in agreement.

3 CHAIRMAN HOOD: Okay. So, in that case there  
4 shouldn't be any unknown issues arise at a hearing, a  
5 rulemaking hearing. Okay.

6 All right. So, we'll proceed. Any other  
7 questions or comments? Somebody like to make a  
8 motion?

9 MR. MILLER: Mr. Chairman, I would move that  
10 the Zoning Commission set down for public hearing,  
11 Case No. 16-25, D.C. Boathouse, LLC., map amendment  
12 at Square 6 and ask for a second.

13 MR. TURNBULL: Second.

14 CHAIRMAN HOOD: All right. It's been moved  
15 and properly seconded. Any further discussion?

16 [Vote taken.]

17 CHAIRMAN HOOD: Ms. Schellin, would you  
18 record the vote?

19 MS. SCHELLIN: Staff records the vote four,  
20 to zero, to one to set down Zoning Commission Case  
21 No. 16-25 as a rulemaking case. Commissioner Miller  
22 moving, Commissioner Turnbull seconding,  
23 Commissioners Hood and May in support, Commissioner  
24 Shapiro not present, not voting.

25 CHAIRMAN HOOD: Okay. Next, Zoning

1 Commission Case No. 17-01, Office of Planning Text  
2 Amendment to Subtitles B and U, Continuing Care  
3 Retirement Community. Ms. Myers.

4 Oh, I'm sorry. Ms. Steingasser.

5 MS. STEINGASSER: Yes, sir. The Zoning  
6 Commission may remember you considered this use and  
7 corrections to the definition as part of technical  
8 corrections to the ZR-16 case, 08-06G. There was a  
9 lot of confusion and comments entered into the record  
10 on this case, and the Commission took action on Case  
11 08-06G, but removed this definition and any action on  
12 this issue and asked that the Office of Planning come  
13 back with some clarifying text amendments regarding  
14 the special exception use and the definition.

15 This case represents that. We recommend it  
16 be set down.

17 I also draw attention to the fact that in  
18 this case there's three separate uses that usually  
19 make up a continuing care retirement community. It's  
20 independent living, assisted living, and some kind of  
21 license or skilled nursing care.

22 The previous administration of the definition  
23 under a community based residential facility allowed  
24 by special exception, an applicant to have only one  
25 of those three. So, the Office of Planning has

1 brought forward that option, but we've also added a  
2 limitation on the facility if it has only independent  
3 living, because that would be nothing more than a  
4 mixed-use -- I'm sorry, a multi-family building for  
5 residents over 60, and it would be permissible by  
6 special exception in the low-density R-1-A, R-1-B,  
7 and R-2 Zones. So, we've put a limit on that as a  
8 maximum limit of eight.

9 With that we recommend the case be set down.

10 CHAIRMAN HOOD: Okay. I want to thank the  
11 Office of Planning for moving swiftly on this. I  
12 think this was done very expeditiously. Let me open  
13 it up. Any comments or questions on this,  
14 Colleagues?

15 Vice Chair Miller?

16 MR. MILLER: Thank you, Mr. Chairman. So, I  
17 was wondering, in the definitely that you're  
18 proposing for Community Care Retirement community, I  
19 wonder if the, in the second sentence where you say -  
20 - I'm reading from page 2 of your report, "This  
21 facility includes --" well, it's a building, a group  
22 of buildings providing a continuity of residential  
23 occupancy and health care for elderly persons.

24 And then the second sentence, which is what I  
25 wanted to ask a question about reads, "This facility

1 includes dwelling units for independent living, and  
2 assisted living facilities, plus a skilled nursing  
3 care facility of a suitable size to provide treatment  
4 or care of the residents; and it may also include  
5 ancillary facilities for the further enjoyment,  
6 service, or care of the residents."

7           And then the next sentence is having the  
8 facility restricted to 60 years of age or older. So,  
9 and then you have the special exception section,  
10 which in F2 of proposed 203.1, F2, those uses seem to  
11 be in the alternative as opposed to in the  
12 conjunctive. So, I'm wondering in that second  
13 sentence of the definition whether you could just do  
14 the same thing, have them in the alternative. This  
15 facility includes dwelling units for independent  
16 living, and strike the word "and", assisted living  
17 facilities, strike the word, "plus", and change that  
18 to an or; or a skilled nursing care facility of  
19 suitable size, because that's the way you have it  
20 defined in the special exception section that's  
21 below, and then you have further restrictions if it  
22 is one or more of those things.

23           If I'm making myself clear, the conjunctives  
24 seem to be what caused the confusion in the -- when  
25 you brought forward the technical corrections and the

1 consternation from those who thought that they were  
2 going to have to have all of them. While the special  
3 exception criteria made clear that it's in the  
4 alternative, the definition doesn't. So, I'm  
5 wondering if you have a comment on that.

6 MS. STEINGASSER: I don't have a comment, but  
7 if that's how the Commission wants to set it down,  
8 that would be fine.

9 The inclusion of the word, "and" and also are  
10 what changed there, and -- but if it makes it clearer  
11 -- I'm kind of back and forth on it. We don't want  
12 to encourage multifamily housing for seniors without  
13 some kind of nursing or assisted living, that that is  
14 the purpose of a continuing care retirement  
15 community. So, that's why we tried to focus that by  
16 having the word "and" in there. But I see the  
17 disconnect you're making with the special exception.

18 MR. MILLER: Right. And the special  
19 exception criteria made clear that you have to have  
20 certain things, if you only have one of those -- if  
21 you only meet one of those criterias. So, I think  
22 that might -- I think it would be more consistent  
23 with what you're trying to accomplish.

24 MS. STEINGASSER: Well, certainly for a  
25 public hearing notice we could do it that way, and if

1 we get comments that make it clear, we'll be happy to  
2 reconsider those.

3 MR. MILLER: Okay. The other question I had  
4 was, I didn't go back and look at the comments that  
5 we got on those technical corrections that focused on  
6 this section. So, the on facility that was being  
7 proposed, or I don't know what stage or permitting it  
8 was in, but it would now -- it clearly would have to  
9 go through a special exception process under this.

10 Before there was a technical correct proposed  
11 were they under the impression that it was a matter-  
12 of-right?

13 MS. STEINGASSER: I don't believe so. Under  
14 the 1958 regulations it was a special exception, and  
15 it was administered under the community based  
16 residential facilities, and they could then go  
17 forward with just an independent living as a special  
18 exception. They were worried that --

19 MR. MILLER: They wouldn't be allowed at all.

20 MS. STEINGASSER: -- they wouldn't be allowed  
21 at all because we were adding the word, "and."

22 MR. MILLER: Right. Right.

23 MS. STEINGASSER: Yeah. But, we were  
24 informed that they were going to file a special  
25 exception that next week, but we have not seen

1 anything yet.

2 MR. MILLER: So, you've been in consultation  
3 with some of those folks who --

4 MS. STEINGASSER: No, sir.

5 MR. MILLER: No.

6 MS. STEINGASSER: We've met with a  
7 representative back in April, and then prior to the  
8 effective date of the ZR-16 regs, and then we got an  
9 e-mail the day after this was considered in December,  
10 and the CCRC was removed from the technical  
11 corrections and we were told they would file  
12 something and we've never seen or heard back from  
13 them. So.

14 MR. MILLER: So, I guess I just would  
15 encourage there to be outreach to that community that  
16 -- and so that they can weigh in and we get the full  
17 input at the time of the hearing.

18 So, in addition to the and/or tweaking that I  
19 was suggesting in the definition, I wonder if the, on  
20 the last sentence where you have, where either the  
21 husband or wife -- I wonder whether you want to  
22 somehow tweak that to make it work. Either the  
23 husband or wife or domestic partner or whether --  
24 maybe just whether either the partner. Since you  
25 have, just to make it consistent with what you have

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1 below in the special exception criteria. It may not  
2 -- a couple may not be a husband and wife.

3 MS. STEINGASSER: I absolutely agree. The  
4 definitely should reflect F1.

5 MR. MILLER: Right. Okay. Thank you.

6 CHAIRMAN HOOD: Okay. Any comments? I'm  
7 looking forward to having the hearings and see how  
8 we're going to hash some of those out.

9 I would move that we set down Zoning  
10 Commission Case No. 17-01, and ask for a second.

11 MR. MAY: Second.

12 CHAIRMAN HOOD: Moved and properly seconded.  
13 Any further discussion?

14 [Vote taken.]

15 CHAIRMAN HOOD: Ms. Schellin, would you  
16 record the vote?

17 MS. SCHELLIN: Yes. Staff records the vote  
18 four, to zero, to one, set down Zoning Commission  
19 Case No. 17-01 as a rulemaking case, Commissioner  
20 Hood moving, Commissioner May seconding,  
21 Commissioners Miller and Turnbull in support,  
22 Commissioner Shapiro not present, not voting.

23 CHAIRMAN HOOD: Okay. And, I'm not sure what  
24 the overwhelming responses would be to either one of  
25 these, but the next one we can see if maybe we can

1 put these on the same night. But I'll leave that up  
2 to staff. That's just a suggestion.

3 Our next Zoning Commission Case No. 17-02,  
4 Office of Planning Text Amendment to Subtitles B and  
5 U, Use Clarification Language.

6 Ms. Steingasser.

7 MS. STEINGASSER: Yes, sir, Chairman Hood.  
8 Office of Planning recommends that this case be set  
9 down for public hearing. It involves basically some  
10 changes to the use categories for the R use groups.  
11 The supplemental that we filed on January 3rd points  
12 out that we had omitted Use Group D from A-1, and the  
13 Office of Attorney General pointed that out so we'd  
14 like that to be included in the public hearing  
15 advertisement.

16 We've also noticed or been alerted from  
17 property owners that the use for a driver's license  
18 road test facility and the sales of automobiles,  
19 trucks, boats, and marine goods was omitted from the  
20 translation from the '58 to the 2016 regulations.

21 Because those uses were neither set down as  
22 part of the 08-06 case, nor was any kind of proposed  
23 or final action taken, we're setting it down as a new  
24 and independent case, so it will be heard under the -  
25 - as 17-02.

1           We also found two missing uses from the  
2 residential zone use, which were the mass transit  
3 facilities and the reeves of former D.C. public  
4 schools, both of which are very important. So, we  
5 recommend that those be advertised for inclusion.

6           And the other changes have to do with  
7 repetition of the reference to home occupation and  
8 accessory use and accessory apartments. Both of  
9 those are considered -- accessory uses and are  
10 included in the accessory use, so do not need to be  
11 included as matter of right uses in the R.

12           And then we also request the authorization to  
13 work with the Office of Attorney General to finalize  
14 the actual language.

15           CHAIRMAN HOOD: Okay. Thank you, Ms.  
16 Steingasser. Any questions or comments?

17           Okay. So, with that again, hopefully we can  
18 put them both on the same night in Zoning Commission  
19 Case No. -- I move that we set down Zoning Commission  
20 17-02 with the report from Ms. Steingasser, and ask  
21 for a second.

22           MR. MAY: Second.

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

25           [Vote taken.]

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

3           MS. SCHELLIN: Yes, staff records the vote  
4 four to zero to one to set down Zoning Commission  
5 Case No. 17-02 as a rulemaking case, Commissioner  
6 Hood moving, Commissioner May seconding,  
7 Commissioners Miller and Turnbull in support,  
8 Commissioner Shapiro not present, not voting.

9           CHAIRMAN HOOD: Okay. Ms. Schellin, do we  
10 have anything else?

11          MS. SCHELLIN: I do not unless OP -- oh, I  
12 guess that's it.

13          CHAIRMAN HOOD: Office of Planning, you have  
14 anything else?

15          All right. So, with that I want to thank  
16 everyone for their participation tonight and this  
17 meeting is adjourned.

18          [Meeting adjourned at 7:05 p.m.]

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