

1 GOVERNMENT OF THE DISTRICT OF COLUMBIA  
2 Zoning Commission

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9 Regular Public Meeting  
10 1454th Meeting Session [5th of 2017]  
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13  
14 6:32 p.m. to 7:25 p.m.  
15 Monday, February 27, 2017  
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19 Jerrily R. Kress Memorial Hearing Room  
20 441 4th Street, N.W., Suite 220 South  
21 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 MATT JESICK

15

16 Office of the Attorney General:

17 JACOB RITTING

18 MR. COHEN

19

20

21

22

23

24

25

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

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

6 My name is Anthony Hood. Joining me are Vice  
7 Chair Miller, Commissioner Turnbull, and Commissioner  
8 May, Office of Zoning staff, Ms. Sharon Schellin,  
9 Office of the Attorney General, Mr. Ritting and Mr.  
10 Cohen, as well as the Office of Planning, Ms.  
11 Steingasser, Mr. Lawson, and Mr. Jesick.

12 Copies of today's meeting agenda are  
13 available to you and are located in the bin near the  
14 door. We do not take any public testimony at our  
15 meetings unless the Commission requests someone to  
16 come forward.

17 Please be advised, this proceeding is being  
18 recorded by a court reporter and is also webcast  
19 live. Accordingly, we must ask you to refrain from  
20 any disruptive noises or actions in the hearing room.  
21 Please turn off all electronic devices.

22 Does the staff have any preliminary matters?

23 MS. SCHELLIN: No, sir.

24 CHAIRMAN HOOD: Okay. If not, let us proceed  
25 with our agenda.

1           First, consent calendar item, modification of  
2 consequences, Zoning Commission Case No. 09-03D,  
3 Skyland Holdings, LLC, modification of consequences  
4 at Square 5633. Ms. Schellin.

5           MS. SCHELLIN: Yes, sir. At the February  
6 13th public meeting the Zoning Commission found this  
7 case to indeed be a modification of consequence and  
8 set a schedule for the parties to respond and a date  
9 for the Zoning Commission to deliberate.

10           At Exhibit 6, the SMD Commissioner for 7B-02  
11 sent an e-mail requesting additional time for ANC 7B  
12 to respond. At Exhibit 7B the applicant made a  
13 submission after consultation with the ANC agreeing  
14 to additional time for the ANC to respond, setting a  
15 schedule as follows.

16           ANC 7B would have until March 20th to  
17 respond, to submit their response. They actually  
18 meet on the 16th. And then the Zoning Commission to  
19 deliberate at their March 27th public meeting. So,  
20 they're actually asking the Commission to defer their  
21 deliberations until their March 27th meeting,  
22 allowing the ANC some additional time.

23           CHAIRMAN HOOD: Okay. Colleagues -- thank  
24 you, Ms. Schellin. Colleagues, I would concur with  
25 the schedule and the request of the ANC. They are,

1 again, our frontline workers and I've said it enough,  
2 they have volunteers, and whether they got the mail  
3 or didn't, or whether they had a bad address or  
4 didn't, those things happen. So, and I'm sure that  
5 we did what we're supposed to do on our part. I'm  
6 pretty sure about that. But whether it got to them  
7 or not may be a whole other issue.

8 So, let me open it up. Any issues or  
9 comments on this? Vice Chair?

10 MR. MILLER: Mr. Chairman, I appreciate the  
11 applicant responding to the ANC's request for more  
12 time and support that deferral to March 27th.

13 CHAIRMAN HOOD: Okay. So, unless I hear any  
14 objections.

15 MR. TURNBULL: Mr. Chair, I would support the  
16 postponement.

17 CHAIRMAN HOOD: Okay. So, we will go with  
18 the schedule, Ms. Schellin. Do we need to notify  
19 them or -- well, it was their request, I guess.

20 MS. SCHELLIN: We'll take care of that.

21 CHAIRMAN HOOD: Okay. Good.

22 MS. SCHELLIN: And I'm sure the applicant  
23 will too.

24 CHAIRMAN HOOD: Okay. All right. So, that's  
25 fine. Let's move right on. Go to final action.

1 Okay. First case is Zoning Commission Case No. 80-  
2 07A, Jamal's Darth Vader, LLC, PUD modification,  
3 related map amendment at Square 563. Ms. Schellin.

4 MS. SCHELLIN: Yes, sir. On this one we  
5 have, at Exhibit 37, the applicant's response  
6 regarding the housing linkage issue. And then at  
7 Exhibits 38 and 38A, we have the applicant's updated  
8 drawings. Would ask the Commission to consider  
9 taking final action this evening.

10 CHAIRMAN HOOD: Okay. Colleagues, I think we  
11 had postponed this last time, so we had asked all the  
12 parties, stakeholders to relook at this, and from  
13 what I see in the applicant's comments, it looks like  
14 we've all -- we all got on the same page. And  
15 sometime maybe it just takes a little more time to  
16 work together. So, I'm in support of -- from what  
17 I've -- what the applicant has submitted with OAG and  
18 Office of Planning and others. And I think the  
19 linkage has been withdrawn, the way I understand.

20 But anyway, whatever is in that memo, I  
21 support. All the things in the memo. Any  
22 objections?

23 Okay. Let's -- Mr. Turnbull.

24 MR. TURNBULL: I just had some things on the  
25 order. Some language in the order, some changes in

1 the flexibility regarding changes to materials. I  
2 think we talked about it before, we talked about that  
3 it could be the color ranges of the material types  
4 proposed, not changing the materials. So, I think  
5 I've given my copy of that to OAG.

6 Also, I think in the beginning of the order  
7 they would make reference to the applicant provided  
8 materials requested by the Zoning Commission. They  
9 talk about January 10th that's been superseded by  
10 February letters in the file. So, I think that needs  
11 to be corrected in the order.

12 The other thing is on 6 and 7, granting the  
13 flexibility with designs, I would simply add that the  
14 variations do not change the exterior configuration  
15 of the appearance of the building. I also need to  
16 make sure that we make reference that the signage  
17 makes reference to drawings 16 and exhibit 39 as per  
18 the letter, their Exhibit 38, which references that  
19 and that all signage drawings are superseded by  
20 Drawings 16 and 19 as submitted.

21 CHAIRMAN HOOD: Okay. Any objections? So  
22 noted.

23 And again, as I was trying to go off the top  
24 of my head, the post-submission from the applicant,  
25 which is our Exhibit 37, is exactly on page 1 and 2,

1 which I'm in concurrence with, and I think they laid  
2 it out in detail about how this thing can move  
3 forward, and I would be ready -- I'm prepared to make  
4 a motion to approve as stated with the endorsement of  
5 what's in -- what the applicant has proposed and  
6 working with Office of Attorney General as well as  
7 Office of Planning. So, with that I would make -- I  
8 would move that we approve Zoning Commission Case No.  
9 -- I mean, 80-07A, Jamal's Darth Vader, LLC, PUD  
10 modification and related map amendment at Square 563,  
11 and ask for a second.

12 MR. MILLER: Second.

13 CHAIRMAN HOOD: It's been moved and properly  
14 seconded. And further discussion?

15 [Vote taken.]

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

18 Do we have a -- we have a proxy. Okay. Can  
19 you --

20 MS. SCHELLIN: Yes, on this one. Yes. So,  
21 staff would record the vote five, to zero, to zero to  
22 approve final action in Zoning Commission Case No.  
23 80-07A, Commissioner Hood moving, Commissioner Miller  
24 seconding, Commissioners May and Turnbull in support,  
25 Commissioners Shapiro in support by absentee ballot.



1           CHAIRMAN HOOD: Next, let's go to Zoning  
2 Commission Case No. 13-12A, 1333 M Street, Southeast,  
3 LLC, two-year PUD time extension at Square 1025E,  
4 1048S, and reservations 129 and 299. Ms. Schellin.

5           MS. SCHELLIN: Yes, this is a request for a  
6 two-year time extension of Phase 1 of the PUD, so  
7 that the building permit has to be applied for by  
8 April 24th, 2019, and construction must start by  
9 April 24th, 2020. The applicant states that the time  
10 extension is necessary due to the lack of investors  
11 for the project, so, we'd ask that the Commission  
12 would consider this time extension this evening.

13           CHAIRMAN HOOD: Okay. Again, Commissioners,  
14 on this one I think that the submissions that I saw,  
15 and especially from the ANC who has watched what was  
16 going on with this, and who has obviously been in  
17 fine tune with this, that this warrants an extension  
18 because there have been some investments and lack of  
19 investments from what has been presented to us, as  
20 well as the endorsement of the Office of Planning.

21           Let me open up any further discussion on  
22 this. Commissioner May.

23           MR. MAY: Yeah, I'm okay with doing this  
24 extension this time, but the information that was  
25 presented in the applicant's submission and

1 essentially repeated by the ANC, it doesn't  
2 necessarily bode well for this getting financed in  
3 the next two years so I'm just, I'm concerned that  
4 we're going to be back here in two years, having to  
5 consider the same question and granting a waiver to  
6 do so. Hopefully conditions will change and the  
7 things that are preventing financing now will be  
8 alleviated, but I'm just -- it's worth noting that  
9 I'm concerned that we could be back here again. As  
10 well as things were -- it just may not be the right  
11 time for that particular parcel. So, we'll see.

12 CHAIRMAN HOOD: But I have always, over the  
13 years, have dealt with this. And I always call this  
14 the Herb Franklin bill because when I first got here,  
15 Herb Franklin always had issues with doing time  
16 extensions. And I've seen over the years, and I  
17 think Commissioner May is exactly right. We may be  
18 back here, consider the same thing due to the  
19 investment issues. So, you know, those are some  
20 things, marking additions, and those are some things  
21 I don't think are within control of anybody. But  
22 hopefully it will work out the way this eventually  
23 will move forward and get done.

24 Any other questions or comments?

25 [No audible response.]

1           CHAIRMAN HOOD: Okay. So, can I get a motion  
2 from somebody, please? Mr. Turnbull?

3           MR. TURNBULL: Mr. Chair, I would move that  
4 we approve -- we take final action on Zoning Case No.  
5 13-12A, 1333 M Street, SE, LLC, two-year PUD time  
6 extension at Squares 1025E and 1048S, and  
7 Reservations 129 and 299.

8           MR. MILLER: Second.

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

11           [Vote taken.]

12           CHAIRMAN HOOD: Not hearing any opposition of  
13 those present, Ms. Schellin, would you record the  
14 vote with the absentee?

15           MS. SCHELLIN: Staff records the vote five,  
16 to zero, to zero to approve final action in Zoning  
17 Commission Case No. 13-12A, Commissioner Turnbull  
18 moving, Commissioner Miller seconding, Commissioners  
19 Hood and May in support, Commissioner Shapiro in  
20 support by absentee ballot.

21           CHAIRMAN HOOD: Okay, let's go to Zoning  
22 Commission Case No. 15-27, KF Morse, LLC, 1st stage  
23 and consolidated PUDs and related map amendment at  
24 Square 3587. Ms. Schellin.

25           MS. SCHELLIN: Yes, sir. At Exhibit 71

1 through 72F and 74 through 74C, we have the  
2 applicant's post-hearing submissions. At Exhibit 73  
3 we have NCPC delegated action, finding no issues with  
4 the Comp Plan for the National Capital. Would ask  
5 the Commission to consider final action on this case  
6 this evening.

7 CHAIRMAN HOOD: Okay, Commissioners. We have  
8 a final action before us. Let's open it up for any  
9 comments or questions. Mr. Turnbull.

10 MR. TURNBULL: Thank you, Mr. Chair. I think  
11 one of the things is -- I mean, there's several  
12 issues in the order I think we need to address. I  
13 mean, some of the standard architectural items,  
14 flexibility. I've already -- well, as I talked about  
15 in the previous case that I've given those to OAG  
16 also.

17 But there's a question in my mind about the  
18 parks and plaza conditions, and tying those into a C  
19 of O. And I'm not sure if we want to -- do we want  
20 to talk about that? I'm a little leery that it's not  
21 tied into anything.

22 CHAIRMAN HOOD: I would concur. I think that  
23 we need to ask the applicant to set that to some type  
24 of schedule, to how they tie that -- the second stage  
25 into the C of O. And I would agree, I'm looking at

1 some of the flexibility -- the whole flexibility  
2 section. The way I looked at it, and the way I'm  
3 reading it, is that basically they can change and do  
4 anything they want for the most part because it opens  
5 it up to interpretation and I think that whole  
6 development part of that order needs to be relooked  
7 at.

8 MR. TURNBULL: Right.

9 CHAIRMAN HOOD: I'm not willing to vote on  
10 the order that just gives them flexibility. From the  
11 way I look at it, they didn't even come down here.  
12 They just went ahead and just did it matter of right  
13 and do whatever they want because they want the  
14 flexibility, and it opens up to interpretation. So,  
15 I have a problem with that section. I'm not sure  
16 where everybody stands but I won't be supporting  
17 voting going forward with this until they tighten  
18 this up.

19 I don't know how specific we need to get  
20 because I don't want to argue their case, but I think  
21 they know how to tie it to something. At least that  
22 was the first thing I think you mentioned, Mr.  
23 Turnbull. I didn't want to get off --

24 MR. TURNBULL: Yeah.

25 CHAIRMAN HOOD: -- on a tangent, but.

1 MR. TURNBULL: No, I think they need to meet  
2 with OAG and go through a lot of that language.

3 CHAIRMAN HOOD: Okay. Anything else, that  
4 you have?

5 MR. TURNBULL: That's all I've got.

6 CHAIRMAN HOOD: Anybody else? Commissioner  
7 May?

8 MR. MAY: Yeah, I had some. So, I think that  
9 there were a few issues that they had -- I had raised  
10 a number of issues having to do with penthouse  
11 setbacks and how they described certain things. And  
12 I think they tried to address them, but I think it's  
13 incomplete or inaccurate.

14 So, in their submission under Roman Numeral  
15 1A1, they basically took what looks like a penthouse  
16 structure and labeled it a mezzanine, and said look,  
17 it's not a penthouse, it's a mezzanine and so  
18 therefore it doesn't trigger any kind of Inclusionary  
19 Zoning requirement.

20 And that's not really accurate. I mean,  
21 maybe it should be considered a floor, but there  
22 don't give any indication that it could be classified  
23 as a mezzanine in terms of the zoning regulations.  
24 So, mezzanine is a floor that occupies one third of  
25 the floor below it. And I mean, it may be one third

1 of the size of the floor below it, but that doesn't  
2 mean it's a mezzanine because it has to be open to  
3 that area, and the total volume has to be, you know,  
4 as it would be for both floors. So, I don't think it  
5 qualifies a mezzanine.

6           You know, it probably is just a floor and  
7 should be labeled as a floor, and I don't think  
8 there's a zoning complication to doing that. Maybe  
9 it changes the FAR calculations or something. But  
10 that needs to be fixed.

11           Also, on Sheet 64, this is under 1A2, Sheet  
12 64, the information on setbacks for the penthouse  
13 that is sort of a curve, a linear shape in the corner  
14 of the western building, it's -- Sheet 64 is  
15 inconsistent with some of the others. I mean, the  
16 shape of the building, the shape of the roof or  
17 canopy of the penthouse is inconsistent with some  
18 other sheets, and while it's shown and documented on  
19 64 as meeting the setback requirements, there are  
20 other drawings that show it a different shape, and if  
21 you tried to do the same measurements on those other  
22 drawings, it would not meet the setback requirements.

23           So, I think that those other drawings should  
24 be fixed, to be consistent with that. And I won't go  
25 through trying to tell you all of them because I

1 didn't write them all down. But somebody just has to  
2 look at those carefully, any time those drawings are  
3 shown.

4           Also, that particular penthouse structure  
5 seems to have two different heights, at least  
6 according to what's in the plan. And that's  
7 inconsistent with what's shown in the rendering on  
8 the very front cover of their submission, which seems  
9 to show it as a single height, and shows it clearly  
10 not set back properly.

11           But also, that form, where it drops in  
12 height, at the point when it drops, a high portion of  
13 it is actually less than 20-foot setback from where  
14 the building is curving inward. So, you have to look  
15 at the entirety of that penthouse shape and measure,  
16 you know, the 20-foot setback from every point of it.  
17 And it's clear that it does not -- you know, I mean,  
18 it's a small area, but it is an area where it does  
19 not meet the setback, and better to check it, and  
20 catch it, and fix it now, then when you're, you know,  
21 going for permitting and you find you have a problem  
22 with it and you have to come back here later.

23           Let's see. On, Note No. 1A3, refers to Sheet  
24 51, showing the setbacks for the four-foot platform,  
25 or the three-foot, six platform, and then the four-



1 foot rail. But Sheet 51 does not show that. So, I  
2 assume that they're referring to a different sheet.  
3 Maybe it's on a later page. I'm not sure where it  
4 is, but if they're saying that that's what fixed it,  
5 that is not what -- you know, that's what shows the  
6 correct condition. I don't think that is what shows  
7 the correct condition. So, you need to double-check  
8 that.

9           Let's see. And the only thing I would point  
10 out for the sake of the rest of the Commission is  
11 that when we look at the layout of the IZ units, it  
12 seems that there is substantial stacking going on;  
13 that the same IZ units are appearing in the same  
14 location of the building as you go from floor to  
15 floor. And we have raised issues with that in the  
16 past. And it seems like there could be a little bit  
17 more done to distribute those.

18           Also, and at least -- there's at least one  
19 unit that shows a very narrow stretch of exterior  
20 exposure. So, like one window's worth, about 10-feet  
21 of exposure to the outside, and yet it's called a  
22 one-bedroom unit.

23           And, I mean, a one-bedroom unit has to have a  
24 bedroom with a window and living space with a window,  
25 and I'm not sure how you can do to that with only 10-

1 feet of exposure to the outside. And, you know,  
2 those units where the bedroom is setback and just has  
3 a transom or something like that, that doesn't work  
4 for IZ one-bedroom units. So, I think that needs to  
5 be fixed.

6 So, I'm curious, the rest of the commission  
7 have concerns about the stacking of the IZ units?

8 MR. TURNBULL: Commissioner May, I would  
9 agree with you on that. I think they need to revisit  
10 that and make sure that we don't have the kind of  
11 stacking that we -- that isn't appropriate for a use  
12 like this.

13 MR. MAY: Yeah, I mean, I think there  
14 certainly are going to be some units that are in the  
15 same place. I don't think that's a problem if it  
16 happens some of the time. But it seems like there's  
17 a lot of repetition between them, so, I just think  
18 they need to look at that a little bit more carefully  
19 and try to get a more of a distribution.

20 CHAIRMAN HOOD: Okay. Vice Chair Miller.

21 MR. MILLER: Thank you, Mr. Chairman. The  
22 only thing, on the IZ units, the only thing about the  
23 stacking, I can't really tell whether those are in  
24 less attractive locations than others. Maybe others  
25 can tell. I mean, as long as they're not stacked

1 near the loading dock or less desirable areas, I  
2 won't have a problem. But, I can't tell based on my  
3 own understanding of the drawing.

4 And I've just -- just in order to say  
5 something positive on the Inclusionary Zoning, I  
6 would note that it is a greater proffer than was  
7 initially offered by the applicant and in response to  
8 I think OP and our comments, initially. So, in terms  
9 of a greater amount than that which is required at 11  
10 percent, rather than the 8 percent, I think, and at  
11 50/50, half at 50 percent AMI and half at 80 percent  
12 AMI. So, I just want to say something positive about  
13 the IZ. But, our --

14 MR. MAY: I absolutely agree with that.

15 MR. MILLER: -- something positive at all  
16 about the project. But --

17 MR. MAY: No, I agree with you. You know,  
18 it's a much better than average submission.

19 MR. MILLER: Yeah, but I couldn't tell from -  
20 - I personally couldn't tell from the renderings  
21 whether they were in the worst location -- not worst.  
22 In a less attractive location than the other -- if it  
23 wasn't in a bad location I didn't necessarily have a  
24 problem. And as long as they were in proportionate  
25 with the market rate units in terms of size, I

1 wouldn't have had a problem with it. But maybe the  
2 applicant can show us that since it looks like  
3 they're going to have to submit some further  
4 information anyway.

5 MR. MAY: Yeah, I didn't detect that they  
6 were all like, stacked on top of the loading dock or  
7 anything like that either. But there are a good  
8 number that are in sort of interior corner unit kind  
9 of locations. Not that they -- I mean, I don't think  
10 they have to be sort of the prime units with the view  
11 of the capitol and all that kind of stuff. That's  
12 not what I'm suggesting. It just needs -- I mean,  
13 there are plenty of units that are on the courtyard  
14 that might be swapped out for some of these, and  
15 again, there are a few units where they're called  
16 one-bedrooms, but I mean, it looks like there's only  
17 10 feet or 12 feet of exposure to windows.

18 In fact, one -- I mean, there's clearly a  
19 glitch in the drawing because no window is shown at  
20 all on it, and it's supposed to be a one-bedroom  
21 unit. So, I think those things need to be fixed up a  
22 bit.

23 CHAIRMAN HOOD: Okay. Any other comments up  
24 here? Okay.

25 MR. TURNBULL: Yeah, Mr. Chair, the only

1 other thing that I -- and I don't know how to respond  
2 to it with this note. It's on the -- it's in that  
3 most recent set that we got. It's Exhibit 72-A1 to  
4 72-A3. They had a note that talks about ground floor  
5 retail elevations are illustrative. Retail tenants  
6 may propose individual storefront designs within  
7 dashed areas in order to provide a unique expression  
8 of their tenant identification and create an  
9 authentic and diverse urban streetscape experience.  
10 Retail signage to occur within the dashed areas.  
11 Retail signage to be developed by individual retail  
12 tenant and may change to accommodate leasing cycles,  
13 all design to be approved by building owner prior to  
14 installation.

15           It's usually when we see a design, I mean, we  
16 basically see -- I'm all for creativity and  
17 flexibility for retail tenants to do what they want.  
18 But I'd like to get some kind of indication, is there  
19 going to be a consistency in this development? It's  
20 like, right now I'm seeing it's wide open to do  
21 whatever, which may or may not be worthwhile.

22           But, I would like to see this tightened up a  
23 bit as far as what direction are they -- there's no  
24 idea on height. It's like you could, signage on the  
25 windows, the walls, blade signs, these signs.

1 There's no overall theme to this, it's just we want  
2 to make it as exciting as -- and I'm all for  
3 excitement, but I just like to also see some kind of  
4 consistency within a certain zone that would try to  
5 explain the theme of what they're trying to do in  
6 here.

7           So, I don't know what my colleagues think. I  
8 would just like to see something tightened up a bit  
9 more on it. I'm not totally opposed to it, but I'm  
10 not really -- there's no guidelines, there are  
11 examples of signs, what they could do, but it's wide  
12 open. It can be anything from painted signs on the  
13 windows to the walls to this. Usually, we have a  
14 certain area that says signs going to be up at six  
15 feet, eight feet that's going to -- you know, that  
16 there is a range. Here, it's just totally wide open  
17 within the whole retail space.

18           So, we don't even know what the retail space  
19 is going to look like. That could change from what  
20 we originally saw in the original drawings. So, I'm  
21 not sure where they're going. It's like they don't  
22 know what they're doing and they want the flexibility  
23 to design in the future. So, I'm just a little bit  
24 confused. I wish they could tighten this up a bit.

25           CHAIRMAN HOOD: Okay. And I think that was

1 one of their alphabets in their order about the  
2 flexibility of the retail. So, I think all the  
3 comments that I've heard are in order, and also we  
4 would ask that the applicant, with the comments that  
5 we've had, tighten up this, and also submit  
6 something, a revised order in that fashion.

7 So, anything else? Do we have a date of when  
8 we would like to revisit this and find out maybe, Ms.  
9 Schellin, about how much time they need? Don't rush  
10 it, just let's just come back and make it right so we  
11 can deal with it.

12 MS. SCHELLIN: The first meeting in March.

13 CHAIRMAN HOOD: They must have heard me say,  
14 don't rush it. When is that? Two weeks? Okay.

15 MS. SCHELLIN: So, that means that we need  
16 your submission by Monday. 27th of March. So, if we  
17 could have your submission -- are you looking for any  
18 responses from anyone else, or just for them to make  
19 their submission?

20 CHAIRMAN HOOD: Do we need the Office of  
21 Planning to comment on the stacking or anything like  
22 that? Okay. No. We don't need that.

23 MS. SCHELLIN: Okay. So, if we could have  
24 their submissions, and they are going to provide a  
25 revised draft order, also. Is that correct?

1           So, we would need their submissions by the  
2 13th. Does that work, Mr. Freeman?

3           [No audible response.]

4           MS. SCHELLIN: Okay. And then we'll put it  
5 on for the 27th.

6           CHAIRMAN HOOD: Okay. Thank you. Let's move  
7 right into a hearing action. Zoning Commission Case  
8 No. 16-29, Poplar Point RBBR, LLC, first-stage PUD  
9 and related map amendment at Square 5860, and 5861.  
10 Mr. Jesick.

11           MR. JESICK: Thank you, Mr. Chairman and  
12 members of the Commission. Red Brick Development has  
13 submitted a first-stage PUD and related map amendment  
14 in order to construct a mixed-use development on  
15 either side of Howard Road Southeast near the  
16 Anacostia Metro and adjacent to Poplar Point.

17           The applicant proposes to remap the property  
18 from MU-14 to MU-9. This would permit building  
19 heights to 130 feet, add a total FAR of 8.99.

20           The proposal is not inconsistent with the  
21 Comprehensive Plan, including the generalized policy  
22 map which shows the site as appropriate for a land  
23 use change area, and also as being within the central  
24 employment area.

25           The future land use map shows the site as



1 appropriate for high density residential, high  
2 density commercial or institutional uses. No zoning  
3 flexibility has been requested, although OP has asked  
4 for more information on penthouses and rear yard.  
5 The applicant has asked for some nonzoning  
6 flexibility, some of which would go beyond what is  
7 normally seen in a PUD. OP does not support the two  
8 areas of requested flexibility, one to rearrange the  
9 residential and office uses within the site, as well  
10 as to move the parking from below-grade to above-  
11 grade.

12           The whole purpose of a first-stage PUD is to  
13 establish the general mix of uses, the general  
14 building layout, the site plan, et cetera, and those  
15 areas of requested flexibility would run counter to  
16 that purpose.

17           OP has also asked the applicant to examine  
18 adding retail to the ground floors of all buildings,  
19 as well as to examine deeper amenity commitments to  
20 balance the amount of development being through the  
21 PUD.

22           We will continue to work with the applicant  
23 on those items, as well as the other ones raised in  
24 our report. But overall, we are supportive of the  
25 project. It would not be inconsistent with the

1 Comprehensive Plan and therefore OP recommends that  
2 it be set down for a public hearing. Thank you.

3 CHAIRMAN HOOD: Okay. Thank you, Mr. Jesick.  
4 Commissioners, any questions or comments on this?  
5 Commissioner May?

6 MR. MAY: Sorry. I'm having a moment here  
7 with my computer.

8 Okay. So, I agree with Office of Planning on  
9 the concerns about the flexibility requested and how  
10 that is inconsistent with -- try to consider this as  
11 a stage-one PUD and appreciate the other questions  
12 that they raised in their report. I support that.

13 I assume that the height, in order to get to  
14 130 feet on all these buildings, they're taking that  
15 height off of the right-of-way of the highways on  
16 both sides. I mean, obviously, Howard Road isn't  
17 going to give them 130 feet, right?

18 MR. JESICK: That's correct. They have  
19 determinations from the Zoning Administrator that all  
20 buildings front on either South Capitol Street or  
21 Anacostia Freeway.

22 MR. MAY: Got it. Okay. All right. Well,  
23 then I have a couple architectural comments as well.  
24 On page 17 shows the office building with this, you  
25 know, sort of top hat kind of treatment, which -- and

1 then they have a whole bunch of examples of precedent  
2 buildings that have that kind of treatment and I just  
3 want to say that I'm not really a fan of that. And  
4 hopefully they can find some other way to give some  
5 you know, distinction to the building.

6           There is also, on page 16, sections of the  
7 façade that simply just extend up another floor or  
8 more. The glass just simply goes up taller over a  
9 large portion of the building. And I understand  
10 that, you know, maybe the Zoning Administrator has  
11 let folks get away with things like that, but that is  
12 an issue we've dealt with here before.

13           And, I don't consider that to be an  
14 acceptable architectural embellishment. I mean,  
15 there's some conflation of architectural  
16 embellishment and the sorts of things that are  
17 allowed in the zoning regs, and it's all, you know --  
18 draws it's basis from the Height of Buildings Act.

19           I mean, it really should be towers and spires  
20 and things like that. Not just an extension of the  
21 façade up an extra 15 feet to make the building look  
22 taller at the corners. You know, if you want to make  
23 a corner piece that is a tower, make a corner piece  
24 that is a tower.

25           So, I just, I'm not, I don't buy that and I'm

1 never going to be supportive of that. Also, I would  
2 suggest as they further develop the design, I mean,  
3 what is shown is some -- it looked like some bay  
4 projections or balcony projections on to Howard Road,  
5 which is going to be a narrow road. I mean, even if  
6 they're widening the public space to 80 feet, from  
7 62, having a number of bay projections into that,  
8 particularly higher up, I mean, there's some things  
9 where they're like poking out an extra foot or two  
10 when they get higher up in the building. I mean, I  
11 don't know how much this is serious architectural  
12 design or just notional, or just, you know, something  
13 to make it look like something other than just blank  
14 boxes.

15 But I think that in the design of these  
16 buildings, with the narrowness of Howard Road, I  
17 certainly see value in trying to break it up and not  
18 have, you know, long, continuous monotonous facades.  
19 But I actually think that you know, breaking it up  
20 with some indentations rather than things that  
21 project further into that narrow space is a better  
22 strategy. So, hopefully as the buildings can be  
23 developed, that they can take -- look carefully at  
24 that because I just feel like Howard Road is going to  
25 wind up being almost claustrophobic because it's so

1 narrow, and they are trying to get their buildings up  
2 to 130 feet.

3           You know, I do think there's a legitimate  
4 question about the meaningful connection between the  
5 two buildings that allows that center building to be  
6 at 130 feet, and you know, I almost feel like, why  
7 bother? I'm not sure whether there's really value in  
8 having that private street run through there, or have  
9 a private street with a glass bridge across, a sky  
10 bridge, because I don't know what -- I mean, I don't  
11 think we know enough about what's going to be  
12 developed beyond that. I mean, if we can see that  
13 there's some certainty about the future development  
14 of the rest of Poplar Point that calls for having  
15 that there, maybe it makes sense. But I almost feel  
16 like they should be -- I mean, just build something  
17 that's more substantive and maybe actually try to  
18 make it into a single building with you know, perhaps  
19 with an opening through it in the event that there  
20 actually does wind up being a road there.

21           But I think the whole thing is kind of  
22 questionable right now. It's an architectural move  
23 based on an overall plan that I don't know is that  
24 certain. So, I'll look forward to seeing more.

25           I'm not opposed to setting this down, but

1 again, I think that they do have to address the  
2 flexibility issues that were raised by the Office of  
3 Planning and I think that those things have to be  
4 addressed before we actually have a hearing. And, I  
5 assume that that's what we will see and that the  
6 Office of Planning will ensure that the applicant  
7 addresses those things so that you can make a  
8 positive recommendation when it comes to a hearing.  
9 Thanks.

10 CHAIRMAN HOOD: Okay. Any other questions or  
11 comments? Vice Chair Miller?

12 MR. MILLER: Thank you. Thank you, Mr.  
13 Chairman. And thank you to Mr. Jesick for the report  
14 from the Office of Planning, which I support all  
15 their recommendations, including the recommendation  
16 that it be set down for a public hearing, including  
17 their recommendation that there be retail on all of  
18 the ground floor of all of the buildings, because I  
19 think one of the -- I think one of the office  
20 buildings was showing no retail, and their  
21 recommendations against, as Commissioner May noted,  
22 flexibility on both the use question for one of the  
23 buildings. They wanted flexibility for either office  
24 or residential. That kind of -- determining the use  
25 is what we do down here so they've got to kind of

1 make a decision on what they think is most viable at  
2 this point, and if they have to come back for a  
3 modification later, then they can.

4           And I also support the Office of Planning's  
5 recommendation that there should not be flexibility  
6 to go above-ground parking versus the proposed  
7 underground parking, which is certainly much more  
8 preferable.

9           And I guess I agree with most of Commissioner  
10 May's comments, except I do like the projected bays  
11 and balconies. I always like, as everyone knows, as  
12 they've heard me say many times, balconies on  
13 residential buildings because you know it's a  
14 residential building. And I don't feel  
15 claustrophobic looking at the Howard Road rendering.  
16 But maybe we need more renderings of that, and  
17 perspectives of that view to see how it does project  
18 on to public space. And then maybe more perspectives  
19 going toward -- thank you, Commissioner Turnbull. I  
20 still don't feel claustrophobic. I guess I have a --  
21 I guess I live in a narrower world than you do, where  
22 I'm used to being closed in on.

23           So, I think we need some more perspectives  
24 both there, along Howard Road. Maybe toward the  
25 river as well, and toward the river and open spaces

1 that exist there currently in that area, but which  
2 are slated for redevelopment. So, but I took the  
3 generally -- I am supportive of setting it down for  
4 public hearing and flushing out these issues at the  
5 public hearing.

6 CHAIRMAN HOOD: Okay. Any other comments,  
7 Mr. Turnbull?

8 MR. TURNBULL: Thank you, Mr. Chair. I am  
9 supportive of setting it down. But I would also  
10 agree with Mr. Jesick's comment in his report, on  
11 everything that he's questioning. I think he brought  
12 up a lot of good points.

13 And as the Vice Chair mentioned about the  
14 above-grade residential parking, I think all of the  
15 flexibility, they really need to go back and reassess  
16 everything that's in the OP report.

17 I would agree with my colleagues' comments.  
18 I would agree with Commissioner May on the parapet  
19 walls at the height of the one building that we've  
20 never really given approval for extending the parapet  
21 up the full height of a wall, to read as an extra  
22 story.

23 And I guess I would also agree with the  
24 meaningful connection that this street -- I think  
25 bridges over streets, I think we've gone through this



1 before. We've only had one project which we've  
2 fought, we argued about a lot. I think in the city  
3 we're even trying to get rid of connections over  
4 streets to open up the vistas along streets. So, I'm  
5 not a big proponent of having bridges -- I mean, they  
6 do it in Minneapolis, but that's a whole -- the  
7 scenario is a lot -- the animal, it's up there, it's  
8 unique.

9           So, I mean, it's a city which has gone about  
10 in doing that. But I think in Washington, I said  
11 bridges over streets are really not the way to go.

12           I agree with Commissioner -- with the Vice  
13 Chair. I like the balconies. I think they're  
14 exciting. But I guess my feeling is, I would like to  
15 -- I wish, to be looking at the drawing and -- I  
16 guess the drawing which I gave to the Vice Chair,  
17 page 18, just may -- I mean, it's exciting in one  
18 sense, but in another sense, it's almost, it's like  
19 something of the future that I don't like. It's like  
20 this megalopolis, where it's so dense, big, and  
21 forbidding, I wish there was some setbacks or  
22 something to it that offered relief along the street.  
23 And I just think that having density in balconies is  
24 one thing. I want balconies. I would agree with the  
25 Vice Chair, that we need those, and people need

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1 those.

2 But I think there ought to be something in  
3 the character to offset this. I think they could  
4 definitely start doing some setbacks in here to offer  
5 the relief of this kind of, it's almost monotonous in  
6 a way. It's just forbidding. It's just, I just see  
7 so many modern movies that show this apocalyptic  
8 state with things happening, and it's just I'm a  
9 little taken back by what I see on that. I like the  
10 architecture in one way, but in another way, it's  
11 almost forbidding in the sense that it's so compact  
12 and dense, and I wish they could open it up more and  
13 offer a little relief to everybody who's going to  
14 live there. And get rid of the bridge. I really  
15 don't think the bridge is meaningful.

16 But other than that, I would not oppose  
17 setting it down for a hearing.

18 CHAIRMAN HOOD: Okay. Commissioner May.

19 MR. MAY: Yeah, I just want to follow up on  
20 the discussion of balconies and such. I mean, don't  
21 get me wrong, I like balconies too. I just think  
22 that the way they are done here, it has -- because it  
23 is such a tight space, and I'm probably more  
24 concerned about those bay projections that are toward  
25 the top of one of the buildings that I saw. But

1 having -- I mean, there are ways to do balconies that  
2 can actually provide the kind of relief that Mr.  
3 Turnbull was hoping for as opposed to just putting  
4 more stuff into that visual space that's only 80-feet  
5 wide. So, I just think it's something that needs to  
6 be studied very carefully. I'm not saying nothing  
7 should project beyond the face of the building, but I  
8 think it has to be something that they look at and  
9 are sensitive to in light of the width of the street.

10 And I agree with Mr. Turnbull that having  
11 some relief on those facades, and you know, I mean,  
12 having courtyards that are open to the street can be  
13 a way of actually really enhancing the street  
14 experience, as well as make for some nicer  
15 apartments. So, thanks.

16 CHAIRMAN HOOD: Okay. I'm looking forward to  
17 setting this down so I want to ask a number of  
18 traffic questions because it's already boggled now  
19 and I'm trying to find out the impacts of this  
20 project on what's already going on now. So, I mean,  
21 that's something that I can discuss and have a  
22 conversation at the time of the hearing.

23 Also, Commissioner Shapiro, and I was  
24 thinking, we might legislate that from now on when we  
25 send in proxies or comments, that we might need to

1 type them. So, I think I figured it out too, but I  
2 know if I can't -- and my handwriting is just as --  
3 hopefully he doesn't watch this, but my handwriting  
4 is just as bad.

5 So anyway, it says, what's that first word?

6 P-R-I --

7 MS. SCHELLIN: Per.

8 CHAIRMAN HOOD: Per. Okay. "Per OP set  
9 down." P-I-R, actually, "Per OP set down report,"  
10 and I know he's going to get me, "dated 2/13/2017, I  
11 do not support the proposed flexibility to vary the  
12 locations of office and residential uses or to bring  
13 residential parking above grade rather than below  
14 grade."

15 That wasn't too bad, Commissioner Shapiro.  
16 So, maybe I better take that back. Don't watch this,  
17 this video.

18 So, those are his comments, but he does say  
19 that he would approve the set down with any  
20 conditions or anything that we have to say. So, I  
21 think we all have said that we don't have a problem  
22 with setting down, but there are many issues that  
23 have been discussed. So, with that, I would move  
24 that we set down Zoning Commission Case 16-29 with  
25 the assumption that a lot of these things, especially

1 with the Office of Planning's comments, as well as my  
2 colleagues' comments, will be take -- some of these  
3 will be hashed out before we get to the hearing,  
4 which will make the hearing a little easier, and ask  
5 for a second.

6 MR. MILLER: Second.

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

9 [Vote taken.]

10 CHAIRMAN HOOD: Ms. Schellin, would you  
11 record the vote, and we have the proxy.

12 MS. SCHELLIN: Yes. Staff records the vote  
13 five, to zero, to zero to set down Zoning Commission  
14 Case No. 16-29 as a contested case, Commissioner Hood  
15 moving, Commissioner Miller seconding, Commissioners  
16 May and Turnbull in support, Commissioner Shapiro in  
17 support by absentee ballot.

18 CHAIRMAN HOOD: And I am going to tell  
19 Commissioner Shapiro that when you're not here we  
20 usually get talked about so, that's just how it  
21 works.

22 All right. Isn't that right, Commissioner  
23 May?

24 MR. MAY: I always watch when I'm not here,  
25 just to find out what you say.

1           CHAIRMAN HOOD: Okay. Let's go to  
2 correspondence. Zoning Commission Case No. 16-02,  
3 D.C. Stadium, LLC requests to reopen the record to  
4 submit a revised draft order.

5           Ms. Schellin, do you have anything else to  
6 add to that?

7           MS. SCHELLIN: The applicant has submitted  
8 this request to reopen to allow it to provide a  
9 revised findings of facts, conclusions of law, based  
10 on the Commission's February 16th, deliberations,  
11 comments on the proposed order in the record, and a  
12 desire to have the applicant to submit a revised  
13 order. So, based on basically the Commission's  
14 comments or deliberations at that meeting, and it  
15 sounded like the Commission's desire to have them  
16 provide a revised draft findings of fact, conclusions  
17 of law, they're asking that you reopen the record to  
18 allow them to do that.

19           CHAIRMAN HOOD: Okay. Any objections,  
20 colleagues? I would move that we grant this request  
21 for Zoning Commission Case No. 16-02, especially with  
22 the comments that we have made, and others, and ask  
23 for a second.

24           MR. MILLER: Second.

25           CHAIRMAN HOOD: It's been moved and properly

1 seconded. Any further discussion?

2 [Vote taken.]

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

5 MS. SCHELLIN: Is there going to be a date  
6 set for that, a time period?

7 CHAIRMAN HOOD: How much time? Did they  
8 express how much time they needed?

9 MS. SCHELLIN: They did not. Can we just set  
10 two weeks, because that --

11 CHAIRMAN HOOD: Yeah, let's do two weeks.

12 MS. SCHELLIN: Typically, it's a week but  
13 we'll say two weeks just in case.

14 CHAIRMAN HOOD: Two weeks, and if they need  
15 more time then you can --

16 MS. SCHELLIN: Okay.

17 CHAIRMAN HOOD: If you can work it out.

18 MS. SCHELLIN: Okay. So, staff would record  
19 the vote five, to zero, to zero to grant the request  
20 with a due date of March 13th, Commissioner Hood  
21 moving, Commissioner Miller seconding, Commissioners  
22 Turnbull, May, and -- Turnbull and May. I'm sorry,  
23 the vote is four, to zero, to one, to grant the  
24 request, Commissioner Hood moving, Commissioner  
25 Miller seconding, Commissioners May and Turnbull in

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1 support, Commissioner Shapiro not present, not  
2 voting.

3 CHAIRMAN HOOD: Okay, next. Zoning  
4 Commission Case 05-28, Lano Parcel 12, LLC, request  
5 for a short notice of intent period to file, second-  
6 stage PUD for Block H.

7 Ms. Schellin.

8 MS. SCHELLIN: Yes. At Exhibit 70, the  
9 request from the applicant for the shortened notice  
10 of intent period, 25 days versus 40 days, that would  
11 be if they were to file tomorrow. Obviously, each  
12 day after it would add another day. To file their  
13 second-stage application for Block H.

14 In the bidding process with GSA and in order  
15 to meet their process, they need a shortened period  
16 of time of the NOI. They further state that they  
17 have met with the ANC already and they were meeting  
18 with them again at the date that they submitted their  
19 request, which was the 22nd.

20 I spoke to the applicant's representative  
21 today, and she advised that while they did meet with  
22 the ANC, they did not get around to discussing this  
23 specific topic. They spent their time talking about  
24 the other second stages that they have in process.  
25 So, they were not able to get to the subject matter



1 and secure a letter in support of this. So, they  
2 were not trying to make this a precedent setting  
3 situation, just that typically GSA takes a much  
4 longer process going through the bidding process.  
5 But when they got the information they had to respond  
6 within three weeks. And that's why they're asking  
7 for this shortened period of time.

8 CHAIRMAN HOOD: Okay. I would support this.  
9 I think, and also the other government agency, it's  
10 GSA that's involved. I know how sometimes some of  
11 the things they do is kind of fluid.

12 But the only thing I would request is that is  
13 as soon as possible that the ANC is notified of this  
14 NOI, NOI, notice of intent, so that they will be well  
15 aware. I know they've been out there on other  
16 issues, but I want to make sure that the ANC and the  
17 community is advised upon moving forward and the  
18 quick response.

19 So, any objections? I would move that we  
20 grant this request, which is Zoning Commission Case  
21 No. 05-28, Lano Parcel 12, LLC, request to shorten  
22 the NOI period to file second-stage PUD for Block H,  
23 contingent upon making sure that the community is  
24 notified --

25 MR. MILLER: Second.

1           CHAIRMAN HOOD:  -- of that shortened time.  
2   Okay, it's been moved and properly seconded.  Any  
3   further discussion?

4           [Vote taken.]

5           CHAIRMAN HOOD:  Ms. Schellin, would you  
6   record the vote?

7           MS. SCHELLIN:  Staff records the vote four,  
8   to zero, to one, to allow the applicant in Case No.  
9   05-28, the second-stage for Block H, to file their  
10   second-stage PUD for a lesser period of time than the  
11   40-day NOI period, Commissioner Hood moving,  
12   Commissioner Miller seconding, Commissioners May and  
13   Turnbull in support, Commissioner Shapiro not  
14   present, not voting.

15          CHAIRMAN HOOD:  Okay.  Ms. Schellin, do we  
16   have anything else before us?

17          MS. SCHELLIN:  No.

18          CHAIRMAN HOOD:  Okay.  So, with that I want  
19   to thank everyone for their participation and this  
20   meeting is adjourned.

21          [Whereupon, the Public Meeting adjourned at  
22   7:25 p.m.]

23

24

25