

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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REGULAR MEETING

+ + + + +

MONDAY

APRIL 11, 2011

+ + + + +

The Regular Meeting of the District of Columbia Zoning Commission convened in Room 220 South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 6:30 p.m., Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairman
KONRAD SCHLATER, Vice Chairman
GREG SELFRIDGE, Commissioner
PETER MAY, Commissioner (NPS)

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary
ESTHER BUSHMAN, General Counsel

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Board of Zoning Adjustment
District of Columbia
CASE NO. Transcript
EXHIBIT NO. null

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER
JOEL LAWSON
MAXINE BROWN-ROBERTS

PAUL GOLDSTEIN
ARLOVA JACKSON

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

JACOB RITTING, ESQ.

The transcript constitutes the minutes from the Regular Meeting held on April 11, 2011.

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

6:34 p.m.

CHAIRPERSON HOOD: Okay. We're going to go ahead and get started.

Good evening. This is the regular monthly meeting of the Zoning Commission for April the 11th. My name is Anthony Hood. Joining me are Vice-Chairman Schlater, Commissioner Selfridge and Commissioner May. We're also joined by the Office of Planning staff, Ms. Sharon Schellin and also Ms. Bushman. Also from the American General, Mr. Ritting. Also from the Office of Planning, Mrs. Steingasser, Mr. Lawson, Ms. Brown-Roberts and Mr. Goldstein.

We do not take any public technique at these hearings unless called forward. We would also remind you that we're being Web cast live.

So with that, we'll begin our meeting.

Preliminary matters, Ms. Schellin?

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1 MS. SCHELLIN: Staff has none.

2 CHAIRPERSON HOOD: Okay. We have
3 no consent calendar items.

4 Final action, Zoning Commission
5 Case No. 10-26, 3321 Georgia, LLC,
6 consolidated PUD and related map amendment.

7 Ms. Schellin?

8 MS. SCHELLIN: Yes, sir. Staff
9 would just advise that we do have some
10 additional filings that the Commission asked
11 for, and this is through working with the
12 Office of Attorney General. And that is
13 before you with -- well, actually some filings
14 from the Applicant at Exhibit 39. And then
15 working with the Office of Attorney General
16 and the Office of Planning, the BAFO process
17 at Exhibit 40. And staff would ask the
18 Commission to consider final action this
19 evening.

20 CHAIRPERSON HOOD: Okay.
21 Commissioners, we have in front of us, as Ms.
22 Schellin has already stated, Exhibit No. 39,

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1 simplified roof plans, memo from Grimm +
2 Parker Architects re-studding the roof stair
3 adjacent to the interior court wall. And I
4 think those were two things that were post-
5 submitted. And also we have Exhibit 39A.

6 Any comments on the submissions?

7 (No audible response.)

8 CHAIRPERSON HOOD: Ms. Schellin,
9 do we also have a procedural order in this
10 case?

11 MS. SCHELLIN: That was done when
12 we did the proposed.

13 CHAIRPERSON HOOD: Okay. It was
14 done? Okay.

15 MS. SCHELLIN: So, that's what the
16 BAFO process there is. So, that was already
17 done.

18 CHAIRPERSON HOOD: Okay. Let's
19 open up. Any comments?

20 COMMISSIONER MAY: Mr. Chairman?

21 CHAIRPERSON HOOD: Commissioner
22 May?

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1 COMMISSIONER MAY: Yes, I
2 appreciate the efforts of the Applicant to try
3 to address some of the comments that we had
4 from last time in trying to simplify the roof
5 plan. I'm not completely convinced with what
6 was done, and there's still a lot of up and
7 down with the various rooftop structures I
8 think more than I would like, but I'm not
9 going to keep working on this issue. I mean,
10 as I said, I think there was some
11 simplification. It's a little bit better. I
12 think there was room to make it even better
13 than that, but I don't feel so strongly about
14 it at this point.

15 And I understand the issues with
16 regard to the relocation of the stair. It is
17 not critically important because of the
18 position of the stair relative to the -- I
19 mean, it's not showing on the front of the
20 building or anything like that, but I do think
21 that it could have been designed around, but
22 again I won't keep pressing on that issue. I

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1 don't necessarily buy the argument, but I'm
2 not going to keep pressing for further changes
3 at this stage.

4 CHAIRPERSON HOOD: Okay. Thank
5 you, Commissioner May.

6 Any other comments?

7 (No audible response.)

8 CHAIRPERSON HOOD: I do want to
9 ask the Office of Planning; and I'm trying to
10 recall, I think it was in their report about
11 the -- I think the Metropolitan Police
12 Department -- I'm not sure whose -- Ms. Brown-
13 Roberts, is this your case?

14 MS. BROWN-ROBERTS: No, Mr. Hood.

15 CHAIRPERSON HOOD: Mr. Lawson?

16 MR. LAWSON: Good evening,
17 Chairman Hood. It wasn't my case either. The
18 case was Stephen Mordfin's, but we can
19 represent OP.

20 CHAIRPERSON HOOD: Mr. Lawson, if
21 somebody can help me recall, what was the
22 issue? Metropolitan Police Department in the

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1 report said something. I can't remember what
2 it was.

3 MR. LAWSON: I'm sorry, I actually
4 don't remember either. I don't have a copy of
5 the report with me.

6 CHAIRPERSON HOOD: Okay. Maybe
7 Commissioner May can --

8 COMMISSIONER MAY: Does this have
9 to do with security?

10 CHAIRPERSON HOOD: Right.

11 COMMISSIONER MAY: I think there
12 was a bit of a clarification that had to
13 occur, because the Applicant had said that
14 they would provide security and there was some
15 confusion about hiring security, which implies
16 guards the building versus security system for
17 the building with cameras and so on, physical
18 security-type elements.

19 CHAIRPERSON HOOD: Okay.

20 COMMISSIONER MAY: But I think
21 that at least I'm satisfied with what was
22 presented as the end result in terms of what

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1 they would do with regard to security. I
2 don't know what comment originally prompted
3 it. It's hard to remember that kind of a
4 detail.

5 CHAIRPERSON HOOD: Okay.

6 COMMISSIONER MAY: But that's my
7 recollection of things.

8 CHAIRPERSON HOOD: Okay. All
9 right.

10 MR. LAWSON: So, I would note that
11 in Exhibit 38 the Applicant seems to have
12 addressed this on page 3. I'm not sure if it
13 addresses the Commission's issue, but they
14 seem to address MPD security conditions on
15 page 3.

16 CHAIRPERSON HOOD: Okay. And that
17 again is in our procedural order submission.
18 I saw that; I just couldn't remember exactly
19 what the comment was. But anyway.

20 Okay. Thank you, Mr. Lawson.

21 And thank you, Commissioner May.

22 Any other questions or comments?

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1 (No audible response.)

2 CHAIRPERSON HOOD: All right.

3 With that, can I get a motion to approve, or
4 to not approve, or whatever you'd -- whatever?

5 VICE-CHAIRMAN SCHLATER: Mr.

6 Chairman?

7 CHAIRPERSON HOOD: Vice-Chairman?

8 VICE-CHAIRMAN SCHLATER: I'd like
9 to make a motion that we approve Zoning Case
10 No. 10-26, 3321 Georgia, LLC, consolidated PUD
11 and related map amendment.

12 CHAIRPERSON HOOD: It's been
13 moved. Can I get a second?

14 COMMISSIONER SELFRIDGE: Second.

15 CHAIRPERSON HOOD: Moved and
16 properly seconded. Any further discussion?

17 (No audible response.)

18 CHAIRPERSON HOOD: Are you ready
19 for the question? All those in favor? Aye.

20 VICE-CHAIRMAN SCHLATER: Aye.

21 COMMISSIONER MAY: Aye.

22 COMMISSIONER SELFRIDGE: Aye.

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1 CHAIRPERSON HOOD: Not hearing any
2 opposition.

3 Ms. Schellin, would you please
4 record the vote with the proxy?

5 MS. SCHELLIN: Yes, we have an
6 absentee ballot from Commissioner Turnbull, so
7 the vote will be 5 to 0 to 0 to approve final
8 action in Zoning Commission Case No. 10-26;
9 Commissioner Schlater moving, Commissioner
10 Selfridge seconding, Commissioners Hood and
11 May in support, Commissioner Turnbull in
12 support by absentee ballot.

13 CHAIRPERSON HOOD: Okay. Thank
14 you. Next we will do proposed action.
15 Zoning Commission Case No. 08-34, Center Place
16 Holdings, 1st stage PUD, related map amendment
17 and consolidated PUD at Squares 564, 566 and
18 568.

19 Ms. Schellin?

20 MS. SCHELLIN: Yes, sir. In this
21 case we have a couple additional filings. We
22 have one from the ANC 6C at 55, we have the

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1 Applicant's additional filings at 56 and 57,
2 and then the Office of Planning filed a
3 supplemental report at Exhibit 58. And the
4 staff would ask the Commission to consider
5 proposed action.

6 CHAIRPERSON HOOD: Okay. Thank
7 you, Ms. Schellin.

8 Let me just ask: Is this new, the
9 ANC letter, Exhibit 55?

10 MS. SCHELLIN: Yes, this was after
11 the -- if you recall, the Applicant was going
12 to go back and do some revisions and they were
13 going to present those to the ANC. And so,
14 this is after they appeared before the ANC
15 with those revisions after the hearing.

16 CHAIRPERSON HOOD: Okay. And they
17 are in support with a quorum of seven out of
18 nine Commissioners. The above-mentioned
19 matter came before us -- okay.

20 All right. Let's open it up for
21 comments. As already stated, we have a number
22 of submissions that have come in. Any

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1 comments?

2 COMMISSIONER MAY: Mr. Chairman?

3 CHAIRPERSON HOOD: Mr. May?

4 COMMISSIONER MAY: I would just
5 like to say it looks like the major concerns
6 that at least I had and I think some of the
7 Commission shared with regard to the density
8 of the southern portion of the site and how
9 the density is allocated between the south
10 portion and the north portion -- looks like
11 that was addressed a bit more effectively.
12 I'm still concerned that there's too much
13 density down there and it's going to become a
14 struggle, particularly if there's bonus
15 density to be had or flexibility to add some
16 density. But it is I think significantly
17 improved from where it was.

18 And I also think that the changes
19 to the northern portion where they have the
20 consolidated PUD -- I think the major issues
21 there have been addressed by sort of
22 simplifying the layout of the buildings.

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1 There are still three towers, but it's only
2 two actual buildings. The north-south
3 pedestrian way has been widened. The cover
4 over that section has been eliminated or
5 truncated, so that only really marks the entry
6 points. And it ends in a -- you know, it goes
7 through to G Street in a much more direct way.
8 And I think that there's actually -- I mean,
9 it's a fairly traditional kind of layout, but
10 I think it's a lot better placed as a result.
11 And I think there's some other improvements in
12 the detailing of the building. It's not my
13 personal favorite type of building to have.
14 You know, I think we're getting a lot of large
15 glass boxes and I don't know that that's
16 really the right direction.

17 I do appreciate the fact that now
18 they're showing up with fritted glass on the
19 lower half of the office spaces so that we
20 don't see the lower half of everyone's office
21 the way we do in so many of the glass boxes
22 around town, because I think that's a real

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1 failing of that particular style of building.

2 So, I think overall it's gotten
3 significantly better and I'm much, much more
4 comfortable with this now and I would be
5 prepared to move ahead tonight.

6 CHAIRPERSON HOOD: Sounds good.
7 That's great. Any other comments? Vice-
8 Chairman Schlater?

9 VICE-CHAIRMAN SCHLATER: Thank
10 you, Mr. Chairman. I just wanted to say that
11 there have been a lot of good changes to the
12 plan; there's no doubt about that. The new
13 north-south pedestrian street/alley, I think
14 is improved. I think the elimination of the
15 covered canopy was responsive to Commission
16 concerns. I think the reorientation of the
17 retail to the public streets as opposed to
18 making it more inward is an improvement. The
19 team relocated the eco-chimneys, put some
20 notches at the corners of the buildings.
21 There's a lot of things going on here that has
22 vastly improved the plan and I appreciate the

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1 Applicant's flexibility in working with us to
2 get it to this point.

3 I think with respect to the south
4 block, the reduction of the 60,000 square feet
5 is good. I'm still a little uncomfortable
6 that it's a little too massive down there on
7 the south block. I am pro-density, but I
8 think at some level we're trying to squeeze
9 too much in down there, and it's just too
10 much. But I think we certainly made a step in
11 the right direction with the 60,000 square
12 foot reduction reducing the overall FAR down
13 there to 8.74.

14 I think because we have a whole
15 new set of plans I have a lot of questions
16 about those plans, and I think I would feel
17 comfortable taking proposed action tonight
18 hopefully with another submission from the
19 Applicant to address some of the questions
20 that I have. Some of the questions are:
21 There's a building that connects two of the
22 buildings on the north block with a stone

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1 façade. I'd like to better understand what
2 the detailing of that building is going to be.
3 I think it said in the submission that it was
4 going to be a stone façade, but it would be
5 interesting to know what kind of stone, what
6 color, those sort of items.

7 I couldn't tell from the plans;
8 there was conflicting information in the
9 submission, whether there was a through-lobby
10 in the office on the north block on 2nd
11 Street. I think it would be a good thing for
12 the project to have a lobby off of 2nd Street
13 to potentially animate that street.

14 I have some concerns about the
15 retail heights. On Mass. Ave. you've got
16 double-height space, which is definitely good,
17 but there's other places where the heights go
18 down I think to 112-12 feet. And in some
19 places those retail heights are achieved by
20 depressing the retail from the level of the
21 street by a foot or a foot-and-a-half, which
22 I think overall serves to sort of squish the

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1 building down. I don't know how that's going
2 to look. If you're looking at the building
3 from afar and then you see the base as a 10 or
4 11-foot ground floor, I'm not sure that
5 relationship is going to work well.

6 I think the artistic light columns
7 need to be further developed and we have to
8 have a better understanding of what's going on
9 with them. Although I think they're a good
10 idea, I just think it would be good to better
11 understand how that's working.

12 And I just had a question: The
13 canopy connecting the office towers on the
14 north block, whether that's there solely for
15 -- does that canopy need to be there for
16 measuring point purposes? Is that why it's
17 there?

18 MR. LAWSON: Yes, that's the main
19 reason for the canopy. It also, you know,
20 serves as, you know, the pedestrian -- to
21 cover the pedestrian connection between the
22 two entranceways, but it does allow for the

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1 height measurement issue to be addressed.

2 VICE-CHAIRMAN SCHLATER: I think
3 that's it. One of the site sections, I think
4 it was 4.1, showed an 11-story office
5 building, when I think what they're doing is
6 a 12-story office building. So, I think it
7 should be corrected. I think that's about it.
8 Thank you.

9 CHAIRPERSON HOOD: Thank you.
10 Commissioner Selfridge?

11 COMMISSIONER SELFRIDGE: Thank
12 you, Mr. Chairman. I too would like to thank
13 the Applicant for making some of the changes,
14 really significant changes, I think.
15 Specifically, with regards to the pedestrian
16 walkway and the reorientation of the retail on
17 Mass. Avenue I think is a significant change,
18 will make it a much more pedestrian-friendly
19 experience.

20 I'm prepared to move forward with
21 proposed action. I think the Applicant's been
22 very responsive and made some beneficial and

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1 meaningful changes to the submission.

2 CHAIRPERSON HOOD: Thank you,
3 Commissioner Selfridge.

4 I, too, will join in with my
5 colleagues. I actually like what we saw, but
6 I think we have broken it down to a much
7 better project. I like the design. I did
8 share and understood Commissioner May's issue
9 with the things in the north block. I still
10 will say that I have not seen; even though on
11 page 4 we talk about the first source
12 agreement -- and for some reason my -- I got
13 to get myself straight, I can't remember
14 whether this was the case that I asked for the
15 track record of the first source. If it was,
16 I'd like to see that before we do final
17 action, if I did ask for that. I believe I
18 did actually in the notes that I have here.
19 I did ask for a submission on the first source
20 track record of this Applicant.

21 But other than that, I think that
22 this is a good project. I think that the

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1 Applicant has been very responsive. And if
2 it's here -- okay. I've been known to miss
3 things, too, so --

4 MS. SCHELLIN: Tab 11 of the
5 January 10, 2011. They're post-hearing
6 submissions. So, it's not with what you have
7 tonight. It was in an early submission that
8 you had.

9 CHAIRPERSON HOOD: Oh, that's
10 right, because we didn't -- okay. Okay.
11 Okay.

12 MS. SCHELLIN: This is the second
13 go around.

14 CHAIRPERSON HOOD: Okay. All
15 right. Well, I'll take your word for it it's
16 in there. I'm fine with it.

17 Okay. With that, let's -- I would
18 move approval on Zoning Commission Case No.
19 08-34 and ask for a second.

20 COMMISSIONER MAY: Second.

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

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1 discussion?

2 COMMISSIONER MAY: Mr. Chairman, I
3 just would want to say that I agree with Vice-
4 Chairman Schlater's comments about additional
5 information. And there was another request
6 for additional -- oh, it was yours.

7 CHAIRPERSON HOOD: No, mine is --

8 COMMISSIONER MAY: Yours is
9 addressed?

10 CHAIRPERSON HOOD: Yes, it's
11 addressed.

12 COMMISSIONER MAY: Okay.

13 CHAIRPERSON HOOD: I just don't
14 have --

15 COMMISSIONER MAY: Well anyway,
16 I'm all for getting the additional information
17 before --

18 CHAIRPERSON HOOD: Yes, do you
19 want it before final or --

20 VICE-CHAIRMAN SCHLATER: Before
21 final.

22 CHAIRPERSON HOOD: Okay. Okay.

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1 VICE-CHAIRMAN SCHLATER: And one
2 thing I guess I would make clear is I don't
3 think the south block should have this option
4 for growing the amount of density. I would
5 not be in support of that. So, that was one
6 thing that was sprinkled throughout the
7 submissions as a possibility, but and
8 Commissioner May brought it up.

9 CHAIRPERSON HOOD: Okay. I was
10 hearing make a motion, but I just thought do
11 we need to read what's said on the proxy for
12 Commissioner Turnbull? Yes, before the vote.

13 MS. SCHELLIN: We can do it before
14 we -- you ask for all those in favor, if you
15 want to do that now.

16 CHAIRPERSON HOOD: Oh, you want to
17 do it before? Okay. Okay.

18 MS. SCHELLIN: Yes.

19 CHAIRPERSON HOOD: Okay. I would
20 move approval of Zoning Commission Case No.
21 08-34 and ask for a second with the comments
22 of Vice-Chairman Schlater and Commissioner May

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1 that we get requested information asked for,
2 and also to deal with the south block before
3 final action, and ask for a second.

4 MS. SCHELLIN: Commissioner May
5 had seconded. I just wanted --

6 CHAIRPERSON HOOD: Oh, you had
7 already seconded?

8 MS. SCHELLIN: Yes.

9 CHAIRPERSON HOOD: Okay.

10 COMMISSIONER MAY: I guess we need
11 to have some discussion about the additional
12 density for the south block and whether that's
13 really appropriate or not.

14 CHAIRPERSON HOOD: Actually, if --
15 I think this -- it concerns me to do it now.

16 COMMISSIONER MAY: Right.

17 CHAIRPERSON HOOD: Yes.

18 COMMISSIONER MAY: Right. So
19 before we take a vote on -- I mean, I assume
20 that the vote right now is for the project as
21 it has been proposed. So, unless we were
22 segregate out that issue, i would assume that

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1 Vice-Chairman Schlater would not be voting in
2 favor of this.

3 CHAIRPERSON HOOD: Okay. Well,
4 right now what we have is a motion on the
5 floor and we can -- I will for further
6 discussion. What we can do in that further
7 discussion, if we all agree with the deal or
8 whatever's proposed for the south block, or
9 whatever requested, we can amend that motion.
10 And then once we amend that motion, if all of
11 us agree, then we will call for that, include
12 that in the motion.

13 COMMISSIONER MAY: Okay.

14 CHAIRPERSON HOOD: So, who's going
15 to take the lead on the south block? Well,
16 also, let's read what the comment is.

17 MS. SCHELLIN: Sure. Commissioner
18 Turnbull said the north block works better.
19 He still has concerns on the south block
20 massing and design.

21 CHAIRPERSON HOOD: Okay. So, I
22 think that's right in line with the

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1 discussion. So, that will get us started.

2 Who wants to start us off?

3 VICE-CHAIRMAN SCHLATER: Well,
4 I'll just say that, you know, the last time we
5 considered this I expressed concern about the
6 density on the south block. I didn't think
7 the site could handle as much as was being
8 proposed there. The Applicant has made a good
9 faith effort to reduce the amount of density
10 further by another 60,000 square feet. I
11 think they've done just enough to get my
12 support for the project, but I wouldn't
13 support giving an option at a later date to
14 increase the amount of density.

15 CHAIRPERSON HOOD: Commissioner
16 May?

17 COMMISSIONER MAY: You know, I
18 think I agree with that sentiment generally.
19 I guess what I wonder is whether it's not
20 still possible for the Applicant to move
21 density around, if they really have to hit
22 that mark and get an extra, what is it, 0.5

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1 FAR? I mean, if they could -- it still seems
2 to me that there's a way to put more of that
3 density on the north block. I don't know.

4 In any case, with regard to the
5 motion that's before us, I would be agreeable
6 to amending it to exclude the additional FAR.

7 CHAIRPERSON HOOD: On the south?

8 COMMISSIONER MAY: On the south
9 block, the flexibility to come back and ask
10 for more.

11 CHAIRPERSON HOOD: So, we would
12 not agree to -- make sure I understand this:
13 We will not approve the additional flexibility
14 on the south block? And if the Applicant is
15 so inclined to come back and request, they
16 would have to come back and request. Is that
17 what you all are saying?

18 VICE-CHAIRMAN SCHLATER: I mean, I
19 guess an applicant can always come back and
20 request to amend a PUD down the line, so we
21 can't take away that level of flexibility.
22 And I think there was some desire to write

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1 into the order flexibility that if the
2 Applicant could show that it worked, they
3 could propose a building that was some number
4 of square feet larger.

5 CHAIRPERSON HOOD: Yes.

6 VICE-CHAIRMAN SCHLATER: I would
7 just like to be on the record as saying I
8 don't think that's a good idea.

9 CHAIRPERSON HOOD: Okay.

10 COMMISSIONER MAY: I think maybe I
11 want to hear from the Office of Attorney
12 General about whether in fact we can -- I
13 mean, what's before us now is this density
14 plus flexibility, do we have the authority to
15 simply strike the flexibility?

16 MR. RITTING: I believe so. You
17 have the ability when you're granting a PUD to
18 conditions to modify it in your approval, so
19 I believe that you do have the authority to
20 make that change, yes.

21 CHAIRPERSON HOOD: Okay. So,
22 Vice-Chairman, you would like to strike

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1 flexibility? And, Commissioner May, you agree
2 with that?

3 COMMISSIONER MAY: Yes.

4 CHAIRPERSON HOOD: Okay. And I
5 think that also goes -- I'm trying to
6 interpret Mr. Turnbull. I think that goes to
7 what he's saying also. Okay. Okay.

8 All right. Do we have a motion on
9 the table? That's with the amendment of
10 striking the flexibility on the south block?

11 COMMISSIONER MAY: I would second
12 the motion with that amendment, yes.

13 CHAIRPERSON HOOD: Okay. And as a
14 friendly amendment, I will accept that.

15 COMMISSIONER MAY: Good.

16 CHAIRPERSON HOOD: We want to make
17 sure we do things procedurally.

18 COMMISSIONER MAY: All right.
19 Now, I'll second it.

20 CHAIRPERSON HOOD: You'll accept
21 the friendly amendment to add about no
22 flexibility on the south block.

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1 Okay. It's been moved and
2 properly seconded with the friendly amendment
3 accepted. Any further questions?

4 (No audible response.)

5 CHAIRPERSON HOOD: All those in
6 favor? Aye.

7 VICE-CHAIRMAN SCHLATER: Aye.

8 COMMISSIONER MAY: Aye.

9 COMMISSIONER SELFRIDGE: Aye.

10 CHAIRPERSON HOOD: Not hearing any
11 opposition. Ms. Schellin, would you please
12 record the vote?

13 MS. SCHELLIN: Yes, staff would
14 record the vote 5 to 0 to 0 as amended to
15 approve proposed action in Zoning Commission
16 Case 08-34; Commissioner Hood moving,
17 Commissioner May seconding, Commissioners
18 Schlater and Selfridge in support,
19 Commissioner Turnbull in support by absentee
20 ballot.

21 And, Chairman Hood, if I may
22 distribute the BAFO order for the parties that

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1 are present. If they want to come forward,
2 I'll give them a copy. I don't know if
3 anyone's here from the ANC. No?

4 CHAIRPERSON HOOD: Is anyone here
5 from the ANC?

6 PARTICIPANT: (Off microphone.)

7 CHAIRPERSON HOOD: ANC. Yes, we
8 have somebody.

9 MS. SCHELLIN: Do what?

10 PARTICIPANT: (Off microphone.)

11 MS. SCHELLIN: Yes, I'm going to
12 give you a date. And the date -- oh, there is
13 someone here from the ANC. Just ask and they
14 show up. And a date for the Applicant to
15 provide those additional documents. If I
16 could give that, I'd like for them to provide
17 that information by May 9th in order to take
18 this up at our May 23rd meeting.

19 Are we going to allow the ANC to
20 provide a response to that? Is that
21 necessary? I don't know that it is since this
22 is in decision making. I don't think it is.

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1 CHAIRPERSON HOOD: Response to
2 what we --

3 MS. SCHELLIN: What you guys are
4 asking for. I don't think it is.

5 CHAIRPERSON HOOD: You know what,
6 I would like -- since we're making changes, I
7 would like to at least --

8 MS. SCHELLIN: Yes, why don't you
9 -- okay. Then --

10 CHAIRPERSON HOOD: If they choose
11 to.

12 MS. SCHELLIN: Okay. If they
13 choose to they can provide a response by May
14 16th, everything due by 3:00 p.m. And then
15 we'll take up final action May 23rd.

16 CHAIRPERSON HOOD: Okay. Are we
17 all straight with, Ms. Schellin?

18 MS. SCHELLIN: Yes, sir.

19 CHAIRPERSON HOOD: Okay. Thank
20 you.

21 Let's go to hearing action in
22 Zoning Commission Case No. 11-05. This is a

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1 Forest City Washington text amendment to
2 1805.9.

3 Ms. Jackson?

4 MS. JACKSON: Good evening, Chair
5 Hood and Commissioners. For the record, my
6 name is Arlova Jackson with the Office of
7 Planning.

8 The case before you is a text
9 amendment brought forth by Forest City
10 Washington that would allow for the
11 establishment of office uses on the second
12 floor of Building 173 within the Southeast
13 Federal Center or Yards Development site.

14 Building 173, commonly referred to
15 as the Lumber Shed Building, is a contributing
16 structure to the Washington Navy Yard Historic
17 District and was previously approved for
18 retail uses a part of Zoning Commission Case
19 08-04A. The Applicant would like to relocate
20 its regional headquarters to this location to
21 help finance the building's restoration and
22 secure ground floor tenants.

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1 The development site is located
2 within the SE FC W-0 Zone, which does not
3 allow office uses and the requested text
4 amendment would allow such uses on the second
5 floor by right for a period of up to 20 years.
6 The Applicant has requested the proposed
7 amendment be added to 1805.9 because it
8 specifically addresses the calculation of
9 floor area ratio for Building 173.

10 While the Office of Planning
11 initially suggested it be located in 1805.6
12 instead since it more directly addresses
13 permitted uses, upon further review we suggest
14 that the proposed text may be more
15 appropriately located either as a sub-heading
16 under 1805.3 or as a new item within 1805.
17 1805.6 only addresses permanent uses within
18 the open space area and Building 173 is
19 located within the development area of the SE
20 FC W-0 Zone.

21 OP will work with the Applicant
22 and the Office of Attorney General to

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1 determine the appropriate wording and location
2 for the text in advance of the public hearing.

3 In sum, the Office of Planning
4 finds the proposed text amendment is not
5 inconsistent with the Comprehensive Plan and
6 that it will help facilitate the restoration
7 of a historic structure, create a day time
8 presence in the area, and bring additional
9 people to the waterfront park site.

10 Therefore, OP recommends that the requested
11 text amendment be set down for public hearing
12 and will take any questions you have at this
13 time.

14 CHAIRPERSON HOOD: Okay. Thank
15 you, Ms. Jackson.

16 Commissioners, do we have any
17 questions of Ms. Jackson? Commissioner May?

18 COMMISSIONER MAY: Yes, the idea
19 of allowing office use temporarily, I mean, I
20 guess there's something to be said for that,
21 but I'm a little confused because for me 20
22 years isn't very temporary. What's driving 20

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1 years? Why isn't it five years or ten years?

2 MS. JACKSON: I believe the
3 Applicant was trying to get as much
4 flexibility as possible and coordinate it with
5 the eventual build-out of the other
6 development that's proposed. And the idea is
7 that by that time the retail market would be
8 more developed.

9 COMMISSIONER MAY: Twenty years?
10 Wow. I mean, let's hope it doesn't take that
11 long.

12 I don't know, I think this is an
13 item for discussion. I don't have further
14 questions about it.

15 CHAIRPERSON HOOD: Even though
16 they're asking for 20 years, can we -- Mr.
17 Ritting, at the hearing, if it's set down, can
18 we work with that? And if we don't think it's
19 fit for 20 years, or 15 years, or 10 years, is
20 that something that we could work with, or do
21 we have to deal with it exactly as it's
22 proposed to us in this case?

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1 MR. RITTING: That's an
2 interesting question. I think since it's a
3 text amendment that it's something that you
4 could change or alter if you thought that a
5 different term was more appropriate. Yes, I
6 think you could change it.

7 CHAIRPERSON HOOD: Okay. Any
8 other questions or comments?

9 (No audible response.)

10 CHAIRPERSON HOOD: Now this issue,
11 Mr. Ritting, with the 1805.6 and the Office of
12 Planning, OP recommends -- and I think, Ms.
13 Jackson, you spoke to this.

14 MS. JACKSON: I changed my mind
15 again.

16 CHAIRPERSON HOOD: Oh, you changed
17 your mind?

18 MS. JACKSON: Yes. In the staff
19 report we recommended 1805.6, but then when we
20 looked at it further, that specifically
21 addresses uses within the open space area, and
22 this is in the development area.

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1 CHAIRPERSON HOOD: Okay.

2 MS. JACKSON: And there isn't
3 actually a section that specifically talks
4 about uses in a development area, so it would
5 either have to be a new item or a sub-heading.
6 The closest was 1805.3.

7 CHAIRPERSON HOOD: So, we're back
8 at 1805.9?

9 MS. JACKSON: We could be.

10 CHAIRPERSON HOOD: Well, we'll
11 give you time. You can change your mind. If
12 we set it down, let us know where you are.

13 All right. Hold on, let me see.
14 I'm sorry, Mr. Lawson?

15 MR. LAWSON: No, I was just going
16 to say we should clarify that the text itself
17 wouldn't change. Really what we're talking
18 about here is where is the most logical and
19 appropriate place for it to be placed, you
20 know, within a couple of sub-sections within
21 the same section? And we would kind of like
22 the opportunity to just kind of clarify that

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1 a little bit, probably with the Applicant as
2 well as with OAG just to think what they think
3 is the most appropriate place to put it. But
4 the language itself, we're not proposing any
5 changes to at all. We'd be happy to report
6 back on that at the public hearing.

7 CHAIRPERSON HOOD: Okay. Okay.
8 Good. That sounds good. Thank you, Mr.
9 Lawson.

10 MR. RITTING: If I could just
11 clarify something. I think OAG may suggest
12 some slight tweaks to the language, maybe
13 changing the order of some of the sections,
14 but not changing the substance in a
15 meaningful way. So, I just wanted to put that
16 on the record that we -- OAG may suggest some
17 changes between here and publishing the
18 hearing notice and we request that you give us
19 some latitude to change the text slight so
20 long as we don't change the substance of
21 what's being requested.

22 CHAIRPERSON HOOD: Okay. That

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1 sounds good. I think, Commissioners, we will
2 give OAG, Office of Planning and our staff,
3 Office of Zoning, flexibility to work on that.
4 And that will be included in this motion.

5 Okay. Any other comments?

6 Questions?

7 COMMISSIONER MAY: Mr. Chairman?

8 Yes, I understand the notion that we could
9 consider it for 20 and advertise the hearing
10 in that manner, but I think it's important to
11 have a little bit more discussion of this
12 issue right now. My inclination would be if
13 we're going to go as far as 20 years, that it
14 be done in increments, that there be, you
15 know, an initial 10 or initial 5 and that we
16 can renew it a certain number of times or
17 something like that, because I want the
18 decision to sort of stay there to be a
19 conscious decision and have them check in with
20 us.

21 VICE-CHAIRMAN SCHLATER: Mr. May?

22 Mr. Chairman, first? I just want to respond

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1 to Mr. May.

2 I suspect what's going on here and
3 I don't want to argue on behalf of the
4 Applicant, but in order to get this structure
5 built, you need to get it financed by a bank.
6 And I think having only a short-term
7 commitment for occupancy or only having office
8 use allowed for a short period of time might
9 complicate those endeavors.

10 COMMISSIONER MAY: Yes, I --

11 VICE-CHAIRMAN SCHLATER: So, I
12 think it's something that probably bears
13 asking at the hearing and then we'll try to
14 flesh out that issue, but I suspect that's a
15 big issue.

16 COMMISSIONER MAY: I had sort of
17 assumed that. I mean, 20 years has always
18 been a magic number on lease deals, the long-
19 term lease. I mean, this is why it's strange
20 to be looking at something as a temporary use,
21 but the term of the temporary use is the point
22 at which something becomes a long-term lease.

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1 You know, in my mind, you know, 20 years is
2 that threshold at which you can finance
3 something. So, I'm not saying that that's not
4 the case and that wouldn't be a reason to go
5 ahead and give it to them for 20 years. It's
6 just I'm not sure I want to just sign off, you
7 know, on that and at this point not make it
8 clear to the Applicant and to the public that
9 we are seriously considering how long this
10 should be.

11 CHAIRPERSON HOOD: Okay. And we
12 can look at that, Commissioner May, at the
13 hearing once we hear from the Applicant, you
14 know, check in every 10 years, kind of like
15 what we do on BZA sometimes. So, if you want
16 I think we can discuss that. And the
17 Applicant knows that's what we're looking at.

18 Ms. Steingasser?

19 MS. STEINGASSER: Would it be
20 helpful to put something to that effect in the
21 public hearing notice so that you could take
22 proposed action with these amendments and not

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1 have to send it back for re-advertisement?

2 COMMISSIONER MAY: You mean text
3 to be advertised in the alternative or --

4 MS. STEINGASSER: You know how
5 sometimes we've just added sentences that the
6 Commission will also consider periods less
7 than or sequencing of, that kind of thing?

8 COMMISSIONER MAY: Yes, I think
9 that would be helpful from my perspective.

10 CHAIRPERSON HOOD: Yes, I think
11 so. Can we do that, Mr. Ritting?

12 MR. RITTING: Sure. Just to be
13 clear, you're considering including in the
14 public hearing notice either alternative text
15 or an alternative narrative description that
16 would state that the Commission is considering
17 shorter terms than 20 years at the hearing.
18 Is that correct? Do you have a preference to
19 state it in terms of alternative text or an
20 alternative -- you'd prefer an alternative
21 narrative?

22 COMMISSIONER MAY: If you're

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1 asking me, I'm very comfortable with
2 alternative narrative. I think other
3 Commissioners are probably not so thrilled
4 about the idea of alternative text. And it's
5 probably a lot more work than you'd want to go
6 to before advertising anyway.

7 MR. RITTING: I'm happy to do the
8 work if that's what you want me to do, but I
9 think I hear you saying that you would be most
10 comfortable us drafting the public hearing
11 notice. So it would be stated as alternative
12 in narrative form.

13 COMMISSIONER MAY: I'm fine with
14 that. I assume the rest of the Commission is.

15 CHAIRPERSON HOOD: I'm fine with
16 it. Mr. Ritting, you're happy to do the work?
17 Can you come to my staff meeting tomorrow?

18 All right. So, with everything
19 that's been discussed, I would move that we
20 set down Zoning Commission Case No. 11-05 and
21 ask for a second.

22 COMMISSIONER SELFRIDGE: Second.

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1 CHAIRPERSON HOOD: It's been moved
2 and properly seconded. Ms. Schellin, can we
3 read the proxy so the Applicant can hear?

4 MS. SCHELLIN: Yes. Commissioner
5 Turnbull wrote why 20 years? Like two, in
6 quote he put, question mark. Interim use not
7 more than 10 years, question mark. And he
8 underlined 10 years. So, I don't think he's
9 happy with 20 years.

10 CHAIRPERSON HOOD: He underlined
11 10 years with a question mark, so I think
12 again that goes to what Commissioner May has
13 already expounded on.

14 Okay. It's been moved and -- we
15 already got a second. Moved and properly
16 seconded. Any further discussion?

17 (No audible response.)

18 CHAIRPERSON HOOD: All those in
19 favor? Aye.

20 VICE-CHAIRMAN SCHLATER: Aye.

21 COMMISSIONER MAY: Aye.

22 COMMISSIONER SELFRIDGE: Aye.

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1 CHAIRPERSON HOOD: Not hearing any
2 opposition. Ms. Schellin, would you please
3 record the vote with the absentee ballot?

4 MS. SCHELLIN: Yes. Staff would
5 record the vote 5 to 0 to 0 to set down Zoning
6 Commission Case No. 11-05 as a rulemaking
7 case; Commissioner Hood moving, Commissioner
8 Selfridge seconding, Commissioners May and
9 Schlater in support, Commissioner Turnbull in
10 support by absentee ballot.

11 CHAIRPERSON HOOD: Okay. Thank
12 you, Ms. Schellin. Ms. Schellin, we're going
13 to have to figure out is there any action
14 required on the different --

15 MS. SCHELLIN: Yes.

16 CHAIRPERSON HOOD: --
17 correspondence?

18 MS. SCHELLIN: Yes.

19 CHAIRPERSON HOOD: Okay.

20 MS. SCHELLIN: I can start if off
21 if you'd like with the first one?

22 CHAIRPERSON HOOD: Yes, if you

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1 could start it off?

2 MS. SCHELLIN: Yes.

3 CHAIRPERSON HOOD: Is Georgetown
4 first?

5 MS. SCHELLIN: No.

6 CHAIRPERSON HOOD: Okay.

7 MS. SCHELLIN: That's right in the
8 middle.

9 The first one is on Zoning
10 Commission Case No. 10-28. If the Commission
11 will recall, this case was before the
12 Commission two meetings ago, I believe it was,
13 for set down and the Commission deferred
14 action. And then -- actually three meetings
15 ago. And the Applicant had asked for further
16 deferment until tonight's meeting, however,
17 the letter that's before you this evening is
18 asking for further postponement. And what the
19 Applicant would prefer to do would be to work
20 with the Office of Planning and come back
21 after they've gone back and refined the plans
22 after working with the Office of Planning and

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1 come back after doing that for -- at a later
2 date for setdown, if the Commission would do
3 that. I mean, you don't have to vote on it.
4 You could do it by consensus, but you do need
5 to take some kind of action by consensus vote,
6 however you want to do it.

7 CHAIRPERSON HOOD: Okay. Thank
8 you, Ms. Schellin.

9 Commissioners, I would recommend,
10 due to our comments and some of the things
11 that I've read here in the letter from Mr.
12 Tummonds, that we would give them the
13 additional time. I notice we don't have a
14 date, but that's fine. I'm not saying that we
15 need a date. I just think that from what I
16 see here, they're trying to reach out to the
17 ANC and provide notice and other things. And
18 they're also basically responding or reacting
19 to the comments, especially that they heard
20 from us. So, while it's a date uncertain, I
21 would be supportive of giving them that time
22 that they need as opposed of us coming down

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1 here and then we wind up wasting time.

2 So, any other comments?

3 (No audible response.)

4 CHAIRPERSON HOOD: Can I get a
5 general consensus?

6 (No audible response.)

7 CHAIRPERSON HOOD: Okay. So, we
8 did a general consensus on that one.

9 MS. SCHELLIN: Okay. You ready
10 for the next go around?

11 CHAIRPERSON HOOD: Is it
12 Georgetown?

13 MS. SCHELLIN: I got it all down
14 for you. I think I can do this in simplified
15 form.

16 Okay. The first request is from
17 the Office of Planning due to a supplemental
18 filing that the Applicant made. The Office of
19 Planning needs some more time to go through
20 that filing due to the changes that were made.
21 And so what they're asking is that they have
22 an extension to file their report seven days

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1 prior to the second hearing date, which is May
2 12th. So that would make their report due May
3 5th. That's the same request that DDoT is
4 making. So, that takes care of two of the
5 correspondence items for Georgetown.

6 Okay. And then, because of that,
7 it pretty much makes all of the other
8 correspondence items; the first one from ANC
9 2E, which is also a joint request from ANC 3D.
10 Basically what they're asking is that because
11 OP would then not give their report behind --
12 and DDoT also, behind the Applicant this
13 Thursday, the ANC doesn't want you to then
14 bump them up and have them come after the
15 Applicant Thursday night. So what they're
16 basically saying is don't change the order of
17 the presentations. Keep the regular order of
18 the presentations so if the Applicant, you
19 know, finishes their presentation, go through
20 all the cross-examination and lo and behold we
21 finish at 9:00 Thursday night, we get an early
22 night. Don't make them go next is basically

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1 what they're asking.

2 CHAIRPERSON HOOD: You really
3 think that's going to happen?

4 MS. SCHELLIN: Well, I'm just
5 being very optimistic.

6 Okay. And then we have a joint
7 letter from the Citizens Association of
8 Georgetown and the Burleith Citizens
9 Association, and also from Foxhall Community
10 Citizens Association Board, assuming that they
11 are granted party status. Of course the have
12 no standing at this point, but assuming that
13 they are granted party status they're
14 basically asking for the same thing, that the
15 order of presentation stay the same, that they
16 not be bumped up if they are granted party
17 status.

18 Then we have a letter from the
19 Applicant themselves who support the Office of
20 Planning, DDoT and the ANC's requests.

21 CHAIRPERSON HOOD: In a nutshell,
22 I think we will hopefully get through -- I'm

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1 just hoping we get through the Applicant's
2 case, because I understand from the Applicant
3 that the president of the university -- we
4 want to be considerate of his time. It's not
5 often we get presidents to come down and
6 testify.

7 I think the way I see it --
8 without recapturing everything that Ms.
9 Schellin said, I think this is a request
10 that's doable unless there are time
11 constraints. I think we can just do it. We
12 can honor all the requests, because I just
13 don't see us -- I mean -- well, I'll wait and
14 see what happens Thursday. If we finish the
15 Applicant, if we're done by 9:00, I will tell
16 you we have done a great job.

17 MS. SCHELLIN: That was just a
18 guess. I know we won't finish by 9:00, but --

19 COMMISSIONER MAY: Can I just make
20 a comment that -- and I'm happy to honor the
21 requests for the additional time. I think
22 this is obviously a very important case and we

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1 have to take our time in considering it. And
2 we want to have the best possible advice from
3 district agencies, as well as the various
4 groups who will be coming in and testifying or
5 making presentations.

6 Toward that end, I think it's
7 vitally important that whatever reports we get
8 from the Office of Planning and the Department
9 of Transportation be on time so that they can
10 be distributed to the various groups.
11 Sometimes we don't get those reports on time.
12 The Office of Planning has been very, very
13 timely in everything in my recent memory, but
14 the Department of Transportation sometimes
15 takes a little extra time to complete their
16 reports. And I think it's very, very
17 important that they make sure their report is
18 on time for this case.

19 MS. SCHELLIN: I will notify DDoT
20 tomorrow that their report needs to be in on
21 the date of May 5th, which is seven days
22 before the next hearing, if that's what the

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1 Commission is granting. I'm assuming that's
2 what you've agreed to.

3 (No audible response.)

4 MS. SCHELLIN: Okay. So, that's
5 all agreed by consensus, I take it.

6 CHAIRPERSON HOOD: Yes.

7 MS. SCHELLIN: Yes? Okay.

8 CHAIRPERSON HOOD: And also, Ms.
9 Schellin, I don't want the -- I was reading
10 where the proposed party status groups were
11 saying that they have their presentation all
12 worked out together. They have not -- I don't
13 know if we need to -- Mr. Ritting, you may be
14 able to help me. I don't know if we need to
15 contact them and tell them first of all you
16 haven't had party status.

17 MS. SCHELLIN: They know that.
18 I've spoken with them. And they understand
19 that that will be a preliminary matter
20 Thursday night.

21 CHAIRPERSON HOOD: So, they need
22 to do it both -- they need to have their

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1 presentation ready both ways, or you know, not
2 having party status, because they make it seem
3 as though they already have it so laid out.
4 They've already got party status. And I just
5 don't want to assume anything. I never know
6 what's going to happen up here.

7 MS. SCHELLIN: Right. And I
8 believe they may even be watching this
9 evening. But they understand that party
10 status is not a guarantee. It's a preliminary
11 matter to be determined the beginning of the
12 hearing Thursday evening.

13 CHAIRPERSON HOOD: Okay.

14 MS. SCHELLIN: They understand.

15 COMMISSIONER MAY: So, there will
16 be time -- I mean, if we make that decision
17 Thursday evening, they'll have to time to
18 prepare one way or the other for when they
19 would likely make their presentation?

20 MS. SCHELLIN: For the next
21 hearing, correct.

22 COMMISSIONER MAY: The next

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1 hearing? Or more likely the hearing after
2 that.

3 MS. SCHELLIN: Okay.

4 COMMISSIONER MAY: Sorry, I'm
5 just --

6 CHAIRPERSON HOOD: Okay.

7 COMMISSIONER MAY: Could take a
8 long time.

9 CHAIRPERSON HOOD: All right.

10 MS. SCHELLIN: We have one other
11 correspondence item which really is more or
12 less for the Commission to acknowledge. It's
13 a letter from the Zoning Administrator
14 pursuant to 24 -- let me make sure I get the
15 section correct, 2409.8 just advising you of
16 an action that they took.

17 CHAIRPERSON HOOD: Is it .8 or .6?

18 MS. SCHELLIN: I'm sorry.
19 2409.8. He's referencing some section where
20 he actually took the action, but it's that
21 section that he's supposed to notify the
22 Commission.

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1 CHAIRPERSON HOOD: Oh, okay.

2 Okay.

3 MS. SCHELLIN: He's not making
4 reference to it in his letter, but it's that
5 section that he's required to notify the
6 Commission.

7 CHAIRPERSON HOOD: 2409. Okay.

8 .8? Okay. Well, anyway. Okay. All right.

9 So, no action required on this? This is just
10 acknowledged. And this is actually a
11 requirement that they do this. Okay. Great.

12 Anything else?

13 MS. SCHELLIN: Not unless the --

14 CHAIRPERSON HOOD: Do we have --

15 MS. SCHELLIN: No. I'm being told
16 no.

17 CHAIRPERSON HOOD: Okay. So we

18 don't have this? Okay. All right. Ms.

19 Schellin, are we -- all of our building taken
20 care of for this meeting?

21 MS. SCHELLIN: Correct.

22 CHAIRPERSON HOOD: Okay. With

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1 that, this meeting is adjourned.

2 (Whereupon, the meeting was
3 adjourned at 7:21 p.m.)

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