

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

+ + + + +

REGULAR PUBLIC MEETING

+ + + + +

MONDAY,
JANUARY 14, 2013

+ + + + +

The Regular Public Meeting of the District of Columbia Zoning Commission convened at 6:30 p.m. in the Jerrily R. Kress Memorial Hearing Room at 441 4th Street, N.W., Washington, D.C., 20001, Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD	Chairman
MARCIE COHEN	Vice Chair
PETER G. MAY	Commissioner (NPS)
MICHAEL G. TURNBULL	Commissioner FAIA, (AOC)
ROBERT MILLER	Commissioner

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN Secretary

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER, Deputy
Director, Development Review &
Historic Preservation

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JOEL LAWSON
STEPHEN MORDFIN
MAXINE BROWN-ROBERTS
MATT JESICK

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALAN BERGSTEIN, ESQ.
JACOB RITTING, ESQ.

This transcript constitutes the minutes from the Regular Public Meeting held on January 14, 2013.

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T-A-B-L-E O-F C-O-N-T-E-N-T-S

WELCOME:

Anthony Hood, Chairman 5

ZC CASE NO. 11-17 - ADAMS MORGAN HOTEL: 8

Reschedule to February 25, 2013 8

PROCEDURAL MATTERS:

Hold Closed Meeting Motion 9

Closed Meeting Vote (5-0-0) 10

Closed Meeting for Training Motion 11

Closed Meeting Vote (5-0-0) 11

CONSENT CALENDAR:ZC CASE NO. 13-01 - OFFICE OF

PLANNING - Minor Modification: 12

Motion to Approve 13

Vote: 5-0-0 to Approve 13

FINAL ACTION:ZC CASE NO. 12-09 - NJA ASSOCIATES: 14

Board Deliberation/Comments: 15

Reschedule to February 11, 2013 20

ZC CASE NO. 10-03A - PARCEL SEVEN

ASSOCIATES, LLC: 20

Board Deliberation/Comments: 21

Motion to Approve 22

Vote: 5-0-0 to Approve 24

ZC CASE NOS. 04-14B AND 04-14C -

FLORIDA ROCK PROPERTIES: 25

Board Deliberation/Comments 26

Motion to Approve 30

Vote: 4-0-1 to Approve 31

ZC CASE NO. 10-14 - BIG BEAR CAFE -

Map Amendment: 32

Board Deliberation/Comments 32

Motion to Approve 33

Vote: 3-0-2 to Approve 33

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T-A-B-L-E O-F C-O-N-T-E-N-T-S

ZC CASE NO. 11-03A - HOFFMAN-STRUEVER WATERFRONT, LLC: 34

 PARCEL 2, 1 & Transit Pier: 35

 Motion to Approve 36

Vote: 4-0-1 to Approve 36

 PARCEL 3A & 3B, District Pier & Pier & Avenue Mews: 37

 Motion to Approve 37

Vote: 4-0-1 to Approve 38

 PARCEL 4A, 4B, Capital Yacht Club, Yacht Club Plaza, Piazza Mews, Jazz Alley and 7th Street Park: 39

 Motion to Approve 40

Vote: 4-0-1 to Approve 40

 PARCEL 11A, 11B and Waterfront Park: 41

 Board Deliberation/Comments: 41

 Motion to Approve 42

Vote: 4-0-1 to Approve 43

PROPOSED ACTION:

ZC CASE NO. 10-23 - JEMAL'S BABES: 44

 Board Discussion: 46

 Motion to Approve 56

Vote: 4-0-1 to Approve 58

ZC CASE NO. 06-11G & 06-12G - GEORGE WASHINGTON UNIVERSITY: 58

 Board Discussion: 60

 Motion to Approve 74

Vote: 5-0-0 to Approve 74

CORRESPONDENCE:

ZC CASE NO. 05-36 through 05-36E: 75

 Board Comments: 76

ADJOURN:

 Anthony Hood, Chairman 88

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

2 6:30 p.m.

3 CHAIRMAN HOOD: Okay. We're ready
4 to get started. Good evening, everyone. This
5 meeting will, please, come to order.

6 Good evening, ladies and gentlemen.

7 This is the January 14, 2013 Public Meeting
8 of the Zoning Commission for the District of
9 Columbia.

10 My name is Anthony Hood and I'm going
11 to ask everyone to introduce themselves. We
12 will start from my left to my right. I'm going
13 to start with Mr. Bergstein.

14 MR. BERGSTEIN: My name is Alan
15 Bergstein. I'm with the Office of Attorney
16 General for the District of Columbia.

17 MR. RITTING: Hi, my name is Jacob
18 Ritting. I'm also with the Office of the
19 Attorney General.

20 MS. SCHELLIN: Sharon Schellin,
21 Secretary to the Zoning Commission, Office of
22 Zoning.

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1 COMMISSIONER TURNBULL: Michael
2 Turnbull representing the Architect of the
3 Capitol.

4 COMMISSIONER MILLER: Robert
5 Miller, Mayoral Appointee.

6 CHAIRMAN HOOD: Somebody must be
7 teleworking here. Is somebody teleworking on
8 the Commission? Okay. Vice Chair?

9 VICE CHAIR COHEN: Marcie Cohen,
10 Mayoral Appointee.

11 MS. STEINGASSER: Jennifer
12 Steingasser, Office of Planning.

13 MR. LAWSON: Joel Lawson with the
14 Office of Planning and that was Maxine
15 Brown-Roberts also with the Office of Planning.

16 MR. JESICK: Matt Jesick with the
17 Office of Planning.

18 CHAIRMAN HOOD: And also Peter May,
19 who represents the National Park Service is also
20 with us.

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

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1 the door. We do not take any public testimony
2 at our meeting, unless the Commission requests
3 someone to come forward.

4 Please be advised that this
5 proceeding is being recorded by a court reporter
6 and is also webcast live. Accordingly, we must
7 ask you to refrain from any disruptive noises
8 or actions in the hearing room. Please, turn
9 off all beepers and cell phones at this time.

10 Does the staff have any preliminary
11 matters?

12 MS. SCHELLIN: No, sir.

13 CHAIRMAN HOOD: Okay. First, let
14 me wish everyone a Happy New Year. This is our
15 first meeting. It's good to be back and taking
16 care of the business of the city and moving
17 forward. So I wish everyone a happy and very
18 prosperous new year.

19 What we are going to do this evening
20 because we actually have a rulemaking that we
21 need to deal with, so if anyone is here for,
22 let me make sure I call the right case, Case

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1 No. 11-17, we will be taking this case up, which
2 is the Adams Morgan Hotel, on February 25th,
3 because we have another part that we need to
4 deal with first on this case.

5 So if anyone is here for the Adams
6 Morgan Hotel, we will not deal with this tonight.

7 Okay. February 25th.

8 Anything else on that, Ms. Schellin?

9 MS. SCHELLIN: No, sir.

10 CHAIRMAN HOOD: Okay. We have a
11 few procedural matters we need to deal with I
12 think first. Any procedural matters?

13 MS. SCHELLIN: Yes, sir. The
14 announcement of two closed meetings, if the
15 Commission would.

16 CHAIRMAN HOOD: Okay. I will do
17 the first one. Okay.

18 In accordance with 405(c) of the
19 Open Meetings Act, DC Official Code 2-575(c),
20 I move that the Zoning Commission hold closed
21 meetings on each Monday that is scheduled to
22 hold a Public Meeting for the remainder of this

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1 calendar year and January 13, 2014.

2 VICE CHAIR COHEN: I'll second
3 that.

4 CHAIRMAN HOOD: I haven't finished
5 with it. Hold tight for a second.

6 The closed meeting will begin at
7 6:00 p.m. and are for the purpose of obtaining
8 legal advice from our counsel in all cases and
9 to deliberate upon, but not voting on, the
10 contested cases scheduled for hearing action,
11 proposed action, final action or consent
12 calendar consideration as those cases are
13 identified on the Commission's agenda for those
14 meetings.

15 Is there a second?

16 VICE CHAIR COHEN: Now there is,
17 yes, I second.

18 CHAIRMAN HOOD: Will the Secretary,
19 please, take the roll call vote on the motion
20 before us now that has been seconded?

21 MS. SCHELLIN: Yes, sir. Chairman
22 Hood, please?

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1 CHAIRMAN HOOD: Yes.

2 MS. SCHELLIN: Vice Chair Cohen?

3 VICE CHAIR COHEN: Yes.

4 MS. SCHELLIN: Commissioner
5 Miller?

6 COMMISSIONER MILLER: Yes.

7 MS. SCHELLIN: Commissioner May?

8 COMMISSIONER MAY: Yes.

9 MS. SCHELLIN: Commissioner
10 Turnbull?

11 COMMISSIONER TURNBULL: Yes.

12 MS. SCHELLIN: The motion carries.

13 CHAIRMAN HOOD: Okay. Are we ready
14 for the second one?

15 As Chairman of the Zoning Commission
16 for the District of Columbia and in accordance
17 with 407 of the District of Columbia
18 Administrative Procedures Act, I move that the
19 Zoning Commission hold a closed meeting on
20 Tuesday, February 26, 2013, from 9:30 to 12:00
21 p.m. for the purpose of receiving training.

22 Let me repeat that. For the purpose

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1 of receiving training as permitted by DC
2 Official Code 2-57(b)(12).

3 Is there a second.

4 COMMISSIONER TURNBULL: Second.

5 CHAIRMAN HOOD: Okay. Will the
6 Secretary, please, take a roll call vote on the
7 motion before us now that it has been seconded?

8 MS. SCHELLIN: Yes, sir. Chairman
9 Hood?

10 CHAIRMAN HOOD: Yes.

11 MS. SCHELLIN: Vice Chair Cohen?

12 VICE CHAIR COHEN: Yes.

13 MS. SCHELLIN: Commissioner
14 Miller?

15 COMMISSIONER MILLER: Yes.

16 MS. SCHELLIN: Commissioner May?

17 COMMISSIONER MAY: Yes.

18 MS. SCHELLIN: Commissioner
19 Turnbull?

20 COMMISSIONER TURNBULL: Yes.

21 MS. SCHELLIN: The motion carries.

22 CHAIRMAN HOOD: Okay. Ms.

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1 Schellin, do we have anything else?

2 MS. SCHELLIN: No, sir.

3 CHAIRMAN HOOD: Okay. Let's go to
4 right to the agenda. Okay. First, on the
5 Consent Calendar, Zoning Commission Case 13-01.

6 This is Office of Planning, Minor Modification
7 to 1700.1, the DD Overlay District to correct
8 outdated reference to the original boundaries.

9 First, let me ask, does anyone
10 believe that this needs to come off the Consent
11 Calendar? Okay. Ms. Schellin?

12 MS. SCHELLIN: Yes, sir. This is
13 a request from the Office of Planning to remove
14 an outdated reference to the original boundaries
15 in the DD Overlay District. We would ask the
16 Commission to, please, consider action on this
17 case.

18 CHAIRMAN HOOD: Okay. Thank you,
19 Ms. Schellin. Commissioners, if you look at
20 Exhibit 1, you will see the strike and I think
21 that is noting the outdated boundaries. Any
22 objections? Any conversation?

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1 I would move that we adopt what is
2 in Exhibit 1 with the striking of the outdated
3 boundaries which are noted and ask for a second.

4 COMMISSIONER MILLER: Second.

5 CHAIRMAN HOOD: It has been moved
6 and properly seconded. Any further discussion?
7 Are you ready for the question?

8 All those in favor?

9 ALL: Aye.

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

13 MS. SCHELLIN: Yes. Staff would
14 record the vote 5-0-0 to approve final action
15 in Zoning Commission Case No. 13-01.
16 Commissioner Hood moving, Commissioner Miller
17 seconding, Commissioners Cohen, May and
18 Turnbull in support.

19 Okay. Final Action in Zoning
20 Commission Case No. 12-09. This is the NJA
21 Associates and St. Matthews Church, Capitol
22 Gateway Overlay Review in Square 743N. Ms.

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1 Schellin?

2 MS. SCHELLIN: Yes, sir. At
3 Exhibit 25, there is a supplemental OP report.

4 I believe Commissioner May had actually
5 prompted OP to get in touch with the Zoning
6 Administrator regarding the proposed roof
7 structure, which they did and they provided that
8 supplemental report.

9 And then at Exhibit 26 is a
10 post-hearing submission from the applicant that
11 addresses that issue plus, I believe, the tree
12 issue that the ANC brought up.

13 CHAIRMAN HOOD: Okay. Thank you,
14 Ms. Schellin. Who would like to get us started
15 off? Any concerns that -- I think I might have
16 been one of those to mention the tree issue,
17 but Commissioner May I know you mentioned, I
18 believe, the height issue. I think you did.

19 COMMISSIONER MAY: Yes. Well, it
20 seems pretty clear from the Office of Planning's
21 further consideration and the Zoning
22 Administrator weighing in on this that what is

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1 being proposed here goes beyond what is
2 permitted as a rooftop use that is accessory
3 to the outdoor recreation of the pool area and
4 so on, at least in my view.

5 So I think the applicant has
6 requested flexibility to try to address this
7 further and come up with something that the
8 Zoning Administrator would consider compliant.

9 I'm amenable to something new being worked out,
10 but I think it needs to be worked out before
11 we make a decision about it. That's my
12 inclination.

13 CHAIRMAN HOOD: So any other
14 discussion on this? Anyone else?

15 COMMISSIONER TURNBULL: Yes, Mr.
16 Chair, I would concur with Commissioner May.
17 I think I would rather see something coming back
18 before this body, rather than leaving the
19 flexibility with the ZA.

20 I think Mr. LeGrant has already
21 weighed in on it and how he feels, so I think
22 what is needed now is something t come back

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1 before the Zoning Commission that either
2 reflects compliance with this or some other
3 option.

4 CHAIRMAN HOOD: Okay. So I guess
5 everything is on the table. Let me ask first,
6 anyone else like to comment?

7 So I guess everything is on the
8 table. Go back to the ZA. Well, work along
9 with the ZA, but come back to us. I'm sorry,
10 Commissioner May?

11 COMMISSIONER MILLER: Just in terms
12 of working it out, I think there should also
13 be, obviously, discussions with the Office of
14 Planning as well and some analysis or back and
15 forth. The applicant offered what they said
16 were comparable communal rooftop -- communal
17 recreation space and I have no way of evaluating
18 based on what was given to us, whether it is
19 comparable or not.

20 So I just would -- as part of that
21 working out, I think that should be looked at.

22 CHAIRMAN HOOD: Okay. So is it the

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1 consensus of the Commission that we, at least
2 on the height issue, go back -- and the rooftop,
3 that we go back and -- well, that the applicant
4 goes back and works with the ZA and also the
5 Office of Planning and all and come back to us
6 with a different design?

7 Even if it comes back without it.

8 COMMISSIONER TURNBULL: Right.

9 CHAIRMAN HOOD: Okay.

10 COMMISSIONER TURNBULL: I would
11 agree wit that.

12 CHAIRMAN HOOD: Okay. All right.

13 Anybody else about the tree issue? I mean,
14 when you look at the tree, that's a very mature
15 tree.

16 COMMISSIONER MAY: I mean, it's a
17 lovely tree, but it's not in the position where
18 they can build around it, I don't think.

19 CHAIRMAN HOOD: Okay.

20 COMMISSIONER MAY: I'm not sure
21 much can be done.

22 CHAIRMAN HOOD: Okay. I thought

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1 about that and I'm not going to push that one.

2 Fine. Okay. Anything else? So what do we
3 need to do, Ms. Schellin? Just let the
4 applicant know and I think we can take this up.

5 MS. SCHELLIN: Are we going to set
6 a time period, because, obviously, if they
7 provide revised plans, then the parties need
8 an opportunity to provide responses.

9 CHAIRMAN HOOD: Right.

10 MS. SCHELLIN: So are we going to
11 set a date certain, another meeting to put this
12 one the agenda? If so, then we need to set a
13 date for the applicant to provide their filing
14 and the time period of the parties to be able
15 to respond there, too.

16 CHAIRMAN HOOD: Is 30 days enough
17 time?

18 MS. SCHELLIN: Do yo want to come
19 back at the February 25th meeting or do you want
20 to go for the March one?

21 To allow time for filings, I think
22 February 25th, is probably going to be the

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1 earliest. Unless you can provide something in
2 a week. I mean, even looking at -- okay. So
3 you want to shoot for February 11th? Okay. So
4 then if the applicant could provide their
5 revised drawings, they are saying they can do
6 it, in a week, with Monday being a holiday, if
7 they could do that by 3:00 p.m. the 22nd?

8 CHAIRMAN HOOD: Not enough time.

9 MS. SCHELLIN: They are saying they
10 can do it.

11 CHAIRMAN HOOD: Okay.

12 MS. SCHELLIN: So it's -- the burden
13 is on them.

14 CHAIRMAN HOOD: Get those responses
15 that we're going to need also.

16 MS. SCHELLIN: Then they get a week.
17 The parties will have a week.

18 So February 22nd and then -- I mean,
19 January 22nd. And then the parties would have
20 until 3:00 p.m. January 29th and then we can
21 schedule this at our February 11th meeting.
22 Okay.

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1 CHAIRMAN HOOD: Okay. Are we all
2 on the same again? Are we all in agreeance?
3 Okay. Great.

4 Ms. Schellin, are we ready to move?

5 MS. SCHELLIN: Yes, sir.

6 CHAIRMAN HOOD: Okay. Next on the
7 Final Action is Zoning Commission Case No.
8 10-03A. This is Parcel Seven Associates, LLC.
9 This is a two-year PUD time extension at Square
10 912. Ms. Schellin?

11 MS. SCHELLIN: Yes, sir. As you
12 stated, it is a request for a two-year PUD time
13 extension to January 14, 2015. At Exhibit 8
14 we have an OP report in support. At Exhibit
15 9 ANC-6A provided their report in support also.

16 CHAIRMAN HOOD: Okay.
17 Commissioners, Ms. Schellin has told you about
18 all the submissions. If we look behind Exhibit
19 B, it has the laundry list efforts made by this
20 applicant to try to achieve, especially finance
21 and other issues. I took that.

22 And then we also have an Office of

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1 Planning report, as noted. And basically, the
2 Office of Planning report supports the request
3 to the Commission for a two-year time extension
4 to expire January 14, 2015.

5 Let me open it up for discussion.

6 Any discussion?

7 COMMISSIONER TURNBULL: Mr. Chair,
8 I would entertain a motion to approve this.

9 CHAIRMAN HOOD: Okay. So do you
10 want me to make it? I can make it.

11 COMMISSIONER TURNBULL: No, I can
12 make it.

13 CHAIRMAN HOOD: Oh, okay.

14 COMMISSIONER TURNBULL: Unless
15 there is any other comments.

16 I move that we approve Zoning Case
17 No. 10-03A, Parcel Seven Associates, LLC,
18 two-year PUD time extension at Square 912.

19 CHAIRMAN HOOD: It has been moved.

20 Can we get a second?

21 COMMISSIONER MILLER: Second.

22 CHAIRMAN HOOD: Okay. It has been

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1 moved and properly seconded. Any further
2 discussion?

3 COMMISSIONER MAY: Mr. Chairman?

4 CHAIRMAN HOOD: Commissioner May?

5 COMMISSIONER MAY: I would just
6 want to say, you know, we see these periodically,
7 the request for extension. And the arguments
8 that are made are often quite compelling and
9 sometimes kind of compelling and sometimes not
10 compelling at all.

11 And I think this falls into the kind
12 of compelling category. And I don't want the
13 applicant to have the impression that this is
14 just a routine matter for us. We take it very
15 seriously and I do hope that they make progress
16 on getting the funding and getting this project
17 moving, because I think next time around, it
18 will be I think a very compelling argument would
19 need to be made.

20 VICE CHAIR COHEN: Mr. Chairman,
21 actually, I concur with Commissioner May's
22 observations. I think that the economy right

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1 now, low interest rate environment as well as
2 the fact that there are not many investment
3 opportunities throughout the world, Washington,
4 D.C. appears to be one of the most favored
5 investment environments.

6 So I just wanted to support
7 Commissioner May's observation.

8 CHAIRMAN HOOD: Any other comments?
9 Commissioner Miller?

10 COMMISSIONER MILLER: I would share
11 in those -- share the comments of Commissioner
12 May and Commission Cohen. This is an exciting
13 project, 284 residential units, which -- along
14 H Street and the city has been gaining 1,200
15 residents a month and we have got to put them
16 somewhere.

17 CHAIRMAN HOOD: Okay. We've got a
18 motion on the table. Okay. It has been moved
19 and properly seconded. Any further discussion?

20 All those in favor?

21 ALL: Aye.

22 CHAIRMAN HOOD: Not hearing any

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1 opposition from those present, well, not hearing
2 any opposition, Ms. Schellin, would you, please,
3 record the vote?

4 MS. SCHELLIN: Yes. Staff records
5 the vote 5-0-0 to approve Final Action in Zoning
6 Commission Case No. 10-03A. Commissioner
7 Turnbull moving, Commissioner Miller seconding.
8 Commissioners Cohen, Hood and May in support.

9 CHAIRMAN HOOD: Okay. We are going
10 to call these next two cases together. Zoning
11 Commission Case No. 04-14B. This is the Florida
12 Rock Properties PUD modification in Square 708
13 and, one second, Zoning Commission Case No.
14 04-14C, Florida Rock Properties, Inc., one-year
15 PUD time extension at Square 708. Ms. Schellin?

16 MS. SCHELLIN: Yes, sir. For
17 04-14B, at Exhibits 41 through 43, we have the
18 applicants submissions per the procedural
19 order. Exhibit 44 is the NCPC report which
20 found that it would not be inconsistent with
21 nor effect any federal interest.

22 Exhibit 45 is the applicant's

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1 submission comparing the amount of affordable
2 housing being provided in the PUD to what would
3 otherwise be provided with the -- they are saying
4 that the underlying matter-of-right zoning
5 under CG/W-2 and the time extension is
6 incorrectly listed on the agenda as a two-year
7 extension, but it's actually a one-year time
8 extension through June 27, 2013.

9 CHAIRMAN HOOD: Okay. Thank you,
10 Ms. Schellin.

11 Commissioners, I guess we can
12 discuss either one. The time extension being
13 the time extension as so noted is being corrected
14 as one year as opposed to two. And also,
15 procedural orders as well as the NCPC report
16 which they recommended the future phase of Phase
17 3 and Phase 4 building designs benefit the future
18 plans of South Capitol Street and that is on
19 the second page of their report.

20 Let me just open it up. Any
21 discussions? Do we have any requests about the
22 amount of IZ? We had some requests that we

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1 talked about. I'm not sure who brought that
2 up.

3 VICE CHAIR COHEN: Mr. Chairman,
4 I'll assume it was me. And I just wanted to
5 say that I think that the proffer of affordable
6 housing probably we should not accept it as a
7 proffer, because we don't know if the build-out
8 is going to occur.

9 So I would just suggest that we hold
10 off on approving the IZ inclusionary units.

11 CHAIRMAN HOOD: And wait for the 2nd
12 Stage?

13 VICE CHAIR COHEN: And wait for the
14 2nd Stage. I'm sorry.

15 CHAIRMAN HOOD: Does anybody else
16 -- let me ask this. Does anybody disagree with
17 that or something anybody wants to add,
18 anything? Mr. Turnbull?

19 COMMISSIONER TURNBULL: I would
20 concur with the Vice Chair. I think something
21 that is so uncertain is in the second stage and
22 whatever it could be, I think she is right on

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1 with this.

2 CHAIRMAN HOOD: Okay. Do we have
3 anything else for this? Any other comments?
4 Would somebody like to make a motion to approve
5 or disapprove?

6 COMMISSIONER TURNBULL: Well, I see
7 everybody is jumping.

8 CHAIRMAN HOOD: Yes. Everybody is
9 running.

10 COMMISSIONER TURNBULL: I would
11 vote that we approve Zoning Case No. 04-14B
12 Florida Rock Properties, Inc. Do I have the
13 right one or do I have the --

14 CHAIRMAN HOOD: You know what, hold
15 on for a second. Can we -- let me ask this.

16 COMMISSIONER TURNBULL: Yes. I
17 think --

18 CHAIRMAN HOOD: Is this discussion
19 on the one-year? Let's do both of them. Any
20 discussion on --

21 VICE CHAIR COHEN: No discussion.

22 CHAIRMAN HOOD: -- extension of the

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1 one year? Anybody have any objections? So
2 let's -- if you could just put in the motion
3 both of them, just do them all at the same time.

4 COMMISSIONER TURNBULL: B and C?

5 CHAIRMAN HOOD: Yes.

6 COMMISSIONER TURNBULL: All right.

7 I would like to -- okay. We will approve Zoning
8 Case No. 04-14B and 04-14C, Florida Rock
9 Properties, Inc. B is the PUD modification at
10 square 708, which is the one-year time
11 extension. And 04-14C is the two-year PUD time
12 extension at Square 708.

13 CHAIRMAN HOOD: No, B is just the
14 modification.

15 VICE CHAIR COHEN: One-year.

16 CHAIRMAN HOOD: C is the one-year.

17 COMMISSIONER TURNBULL: That's
18 right. You're right.

19 CHAIRMAN HOOD: That's all right.

20 COMMISSIONER TURNBULL: I'm sorry.

21 CHAIRMAN HOOD: So we can just --
22 can we just -- can you accept that as a

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1 friendly-amendment?

2 COMMISSIONER TURNBULL: Yes.

3 CHAIRMAN HOOD: Okay. Can we go--
4 is that fine?

5 COMMISSIONER TURNBULL: PUD
6 modification. Do I need to redo it? Okay.
7 Zoning Case 04-14B, Florida Rock Properties,
8 PUD modification at Square 708 and Zoning Case
9 No. 04-14C, Florida Rock Properties, Inc.,
10 one-year PUD time extension at Square 708.

11 CHAIRMAN HOOD: Can we get a second?

12 VICE CHAIR COHEN: I'll second it.

13 CHAIRMAN HOOD: It has been moved
14 and properly seconded. Any further discussion?

15 I will just add the comment so noted
16 by the Vice Chair and Commissioner Turnbull
17 about how we are doing to deal with the peace
18 on the resident -- I mean, on the 2nd Stage as
19 opposed to further.

20 But anyway, I'll make sure that
21 conversation is incorporated. Okay. It has
22 been moved and properly seconded. Any further

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1 discussion?

2 All those in favor?

3 VICE CHAIR COHEN: Aye.

4 CHAIRMAN HOOD: Aye.

5 COMMISSIONER MAY: Aye.

6 COMMISSIONER TURNBULL: Aye.

7 CHAIRMAN HOOD: Any opposition?

8 So ordered. Staff, would you record the vote?

9 MS. SCHELLIN: Yes. Staff records
10 the vote 4-0-1 to approve Zoning Commission Case
11 No. 04-14B and 04-14C for final action.
12 Commissioner Turnbull moving, Commissioner
13 Cohen seconding. Commissioners Hood and May
14 in support. Commissioner Miller not voting
15 having not participated.

16 CHAIRMAN HOOD: And I'm sorry, Mr.
17 Turnbull, sometimes we put everything together.
18 It's mixed up by itself sometimes, so we put
19 it together. So that's my fault.

20 COMMISSIONER TURNBULL: No, I
21 should have made a note on my sheet here and
22 I would have caught it.

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1 CHAIRMAN HOOD: Okay. That took
2 two cases, so we are at, okay, Zoning Commission
3 Case No. 10-14. This is the Big Bear Cafe Map
4 Amendment at Square 3103. Ms. Schellin?

5 MS. SCHELLIN: Yes, sir, yes. At
6 Exhibit 58 we have an NCPC report that found
7 that it would not be inconsistent with the Comp.
8 Plan for the National Capital.

9 CHAIRMAN HOOD: Okay.
10 Commissioners, this is one of those cases that
11 I don't know if we can have anything else to
12 discuss in this. We have discussed this case
13 a number of times and finally got to some
14 resolve, some resolution rather.

15 Okay. Any further discussion? I
16 didn't mean not to have any discussion, but I
17 mean we really beat this one.

18 COMMISSIONER TURNBULL: No, Mr.
19 Chair, I would agree with you. I think during
20 Proposed Action, we, I think under your lead,
21 went through this very carefully and looked at
22 all of the issues. And I don't think there is

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1 any changes since then.

2 CHAIRMAN HOOD: Okay. So I would
3 move that we approve Zoning Commission Case No.
4 10-14, the Big Bear Cafe and ask for a second.

5 COMMISSIONER MAY: Second.

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

8 All those in favor?

9 COMMISSIONER TURNBULL: Aye.

10 CHAIRMAN HOOD: Aye.

11 COMMISSIONER MAY: Aye.

12 CHAIRMAN HOOD: Any opposition?
13 So ordered. Staff would you record the vote?

14 MS. SCHELLIN: Yes, staff records
15 the vote 3-0-2 to approve Final Action in Zoning
16 Commission Case No. 10-14, Commissioner Hood
17 moving, Commissioners May and Turnbull in
18 support. Commissioners Cohen and Miller not
19 voting, having not participated.

20 CHAIRMAN HOOD: Okay. Next Zoning
21 Commission Case No. 11-03A, Hoffman-Struever
22 Waterfront, LLC, 2nd Stage PUD Southwest

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1 Waterfront. Ms. Schellin?

2 MS. SCHELLIN: Yes, sir. There are
3 -- in general, I know you are going to take four
4 votes on this. Do you want to go each one?
5 I can give you the general comments.

6 CHAIRMAN HOOD: Do we have a general
7 issue first?

8 MS. SCHELLIN: Yes.

9 CHAIRMAN HOOD: Then let's deal
10 with that first.

11 MS. SCHELLIN: The general is that
12 pertaining to all the parcels, Exhibit 246B.
13 The applicant provided TDM monitoring and curb
14 side management submission. And Exhibit 247
15 was a DDOT supplemental report responding
16 thereto.

17 Exhibit 262 is an NCPC report that
18 responded regarding all of the parcels, except
19 for Parcel 11, which they stated they would
20 address in a separate report, which we haven't
21 received as of this morning. So that's the
22 general.

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1 And then if you want to go to the
2 first parcel, Parcel 2, Exhibits 248 through
3 248B and 258 are the applicant's revised draft
4 order and procedural order submissions.

5 CHAIRMAN HOOD: Okay. Thank you,
6 Ms. Schellin. Commissioners Parcel 2.

7 MS. SCHELLIN: And I'm sorry, I did
8 say Parcel 2, but that was the rest of it, too,
9 the combined heating and power plant Parcel 1
10 temporary uses, so all of the other stuff, yes.

11 CHAIRMAN HOOD: Okay. Okay.
12 Commissioners, any comments, final comments?
13 Any final comments? I want to say we did a lot
14 on this one, these, too, so I thought we actually
15 had finished it.

16 Any additional comments? Would
17 somebody like to make a motion?

18 VICE CHAIR COHEN: Mr. Chairman, I
19 move to approve Zoning Case No. 11-03A,
20 Hoffman-Struever Waterfront, LLC, 2nd Stage PUD
21 at Southwest Waterfront, Parcel 2, the combined
22 heating and power plant. Parcel 1, temporary

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1 uses and the Transit Pier.

2 COMMISSIONER MAY: Second.

3 CHAIRMAN HOOD: Okay. It has been
4 moved and properly seconded. Any further
5 discussion? Are you ready for the question?

6 All those in favor?

7 COMMISSIONER MAY: Aye.

8 CHAIRMAN HOOD: Aye.

9 COMMISSIONER TURNBULL: Aye.

10 VICE CHAIR COHEN: Aye.

11 CHAIRMAN HOOD: Any opposition?

12 So ordered. Staff would you record the vote?

13 MS. SCHELLIN: Yes, staff records
14 the vote 4-0-1 to approve Final Action in Zoning
15 Commission Case No. 11-03A with regard to Parcel
16 2, the combined heating and power plant, Parcel
17 1, temporary uses, and the Transit Pier.
18 Commissioner Cohen moving, Commissioner May
19 seconding. Commissioners Hood and Turnbull in
20 support. Commissioner Miller not voting,
21 having not participated.

22 CHAIRMAN HOOD: Okay. Let's go to

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1 Parcel 3A, Parcel 3B, District Pier and Pier
2 & Avenue Mews.

3 MS. SCHELLIN: Yes, sir. With
4 regard to that, at Exhibits 249 through 249B,
5 259 through 259B, we have the applicant's
6 revised draft order and their procedural order
7 submissions. And we would ask the Commission
8 to consider Final Action.

9 CHAIRMAN HOOD: Again, any
10 comments? I will say the same thing for this
11 one. We have really exhausted a lot on this
12 case, on all of them actually, but since we're
13 just on this one, I'll just say this one.

14 Any additional comments? Somebody
15 like to make a motion?

16 VICE CHAIR COHEN: Mr. Chairman, I
17 will move to approve Zoning Case No. 11-03A
18 Hoffman-Struever Waterfront, LLC, 2nd Stage PUD
19 at Southwest Waterfront, Parcel 3A, Parcel 3B,
20 District Pier and Pier & Avenue Mews.

21 CHAIRMAN HOOD: I'll second it. It
22 has been moved and properly seconded. Any

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1 further discussion?

2 All those in favor?

3 COMMISSIONER TURNBULL: Aye.

4 CHAIRMAN HOOD: Aye.

5 COMMISSIONER MAY: Aye.

6 VICE CHAIR COHEN: Aye.

7 CHAIRMAN HOOD: Not hearing any
8 opposition, Ms. Schellin, would you record the
9 vote?

10 MS. SCHELLIN: Yes, staff would
11 record the vote 4-0-1 to approve Final Action
12 in Zoning Commission Case No. 11-03A with regard
13 to Parcel 3A, Parcel 3B, the District Pier and
14 Pier & Avenue Mews, Commissioner Cohen moving,
15 Commissioner Hood seconding. Commissioners
16 May and Turnbull in support. Commissioner
17 Miller not voting, having not participated.

18 CHAIRMAN HOOD: Okay. Next Parcel
19 4A, Parcel 4B, Capital Yacht Club, Yacht Club
20 Plaza, Piazza Mews, Jazz Alley and 7th Street
21 Park. Ms. Schellin?

22 MS. SCHELLIN: Again, Exhibits 250

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1 through 250B, 260 through 260B, we have the
2 applicant's revised draft order and the
3 procedural order submissions.

4 CHAIRMAN HOOD: Okay. On this one,
5 Commissioners, we had asked everyone to respond
6 to our procedural orders and we got a response
7 from one of the parties in this case, which goes
8 well outside of the scope.

9 MS. SCHELLIN: The next one.

10 CHAIRMAN HOOD: Oh, it's the next
11 one? Oh, I'm sorry. Okay. I'm sorry. When
12 I get to 11A and 11B, you know, I'm going to
13 start off.

14 Okay. Any further discussion?
15 Any discussion? I'm head of myself. Vice
16 Chair?

17 VICE CHAIR COHEN: Okay. Yes, I
18 move to approve Zoning Case No. 11-03A,
19 Hoffman-Struever Waterfront, LLC, 2nd Stage PUD,
20 at Southwest Waterfront, Parcel 4A, Parcel 4B,
21 Capital Yacht Club, Yacht Club Plaza, Piazza
22 Mews, Jazz Alley and 7th Street Park.

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1 COMMISSIONER MAY: Second.

2 CHAIRMAN HOOD: Okay. It has been
3 moved and properly seconded. Any further
4 discussion?

5 All those in favor?

6 VICE CHAIR COHEN: Aye.

7 CHAIRMAN HOOD: Aye.

8 COMMISSIONER MAY: Aye.

9 COMMISSIONER TURNBULL: Aye.

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

13 MS. SCHELLIN: Yes, staff records
14 the vote 4-0-1 to approve Final Action in Zoning
15 Commission Case No. 11-03A with regard to Parcel
16 4A, 4B, Capital Yacht Club, Yacht Club Plaza,
17 Piazza Mews, Jazz Alley and 7th Street Park.
18 Commissioner Cohen moving, Commissioner May
19 seconding. Commissioners Hood and Turnbull in
20 support. Commissioner Miller not voting,
21 having not participated.

22 CHAIRMAN HOOD: Okay. Next is

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1 Parcel 11A, Parcel 11B and the Waterfront Park.

2 Ms. Schellin.

3 MS. SCHELLIN: Yes. At Exhibits
4 261 through 261C, 263 through 263B, we have the
5 applicant's revised draft order and procedural
6 order submissions. And here at Exhibit 264,
7 we did receive a submission from one of the
8 parties, Mr. Solon.

9 CHAIRMAN HOOD: Okay. Now, I'll
10 start off with what I was going to say with the
11 last case for this one.

12 We did, as Ms. Schellin stated,
13 Exhibit 264, receive a submission from Mr. Solon
14 which goes well outside of the responses. All
15 responses that are submitted should be limited
16 to the issue of whether the proposed conditions
17 are specifically enforceable and to the
18 properties of which they relate.

19 Mr. Solon actually goes back into
20 the case and even responds a lot into cases which
21 he didn't even have party status for. So I would
22 like to just ask my colleagues if we can just

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1 strike this totally from the record? Okay.
2 Any objections to striking this from the record?

3 VICE CHAIR COHEN: No, I concur with
4 you, Mr. Chairman.

5 CHAIRMAN HOOD: So whatever we need
6 to do, Ms. Schellin, to -- even though it's in
7 the record, if we can strike it from the record.

8 MS. SCHELLIN: Yes, sir.

9 CHAIRMAN HOOD: Okay. Any other
10 discussion, Commissioners? Any other
11 discussion?

12 COMMISSIONER TURNBULL: No. Mr.
13 Chair, I would move that we approve Zoning Case
14 11-03A, Hoffman-Struever Waterfront, LLC, 2nd
15 Stage PUD at Southwest Waterfront, Parcel 11A,
16 Parcel 11B and Waterfront Park.

17 CHAIRMAN HOOD: Okay. Thank you.
18 Can I get a second?

19 VICE CHAIR COHEN: I'll second.

20 CHAIRMAN HOOD: It has been moved
21 and properly seconded. Any further discussion?

22 All those in favor?

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1 VICE CHAIR COHEN: Aye.

2 CHAIRMAN HOOD: Aye.

3 COMMISSIONER MAY: Aye.

4 COMMISSIONER TURNBULL: Aye.

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

8 MS. SCHELLIN: Yes, staff would
9 record the vote 4-0-1 to approve Final Action
10 in Zoning Commission Case No. 11-03A with regard
11 to Parcel 11A, 11B and Waterfront Park.
12 Commissioner Turnbull moving, Commissioner
13 Cohen Seconding. Commissioners Hood and May
14 in support. Commissioner Miller not voting,
15 having not participated.

16 CHAIRMAN HOOD: Okay. Let's go on
17 to Proposed Action. Zoning Commission Case No.
18 10-23 Jemal's Babes Consolidated PUD and Related
19 Map Amendment at Square 1732. Ms. Schellin?

20 MS. SCHELLIN: Yes, sir. At
21 Exhibits 102 through 104, we have the
22 applicant's post-hearing submissions. Exhibit

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1 106 we have ANC-3E's response to the applicant's
2 post-hearing submission. Exhibits 108 through
3 109, we have TNA's draft order. And Exhibit
4 111 is DDOT's follow-up report. We would ask
5 the Commission to consider Proposed Action.

6 CHAIRMAN HOOD: Okay. Let me just
7 state for the record I was late for this
8 particular hearing, as noted in the transcript.

9 It says exactly where I was. So anyway, but
10 I did read the portion of which I missed and
11 I will be participating.

12 Okay. So with that, let's open it
13 up. Again, Ms. Schellin, exhibit -- anyway,
14 the exhibit dated November 26, 2012 and it goes
15 to some of the things that we asked for,
16 modification of the penthouse, architecture,
17 LEED-gold, you can use that to kind of start
18 off the conversation.

19 Then also what I found interesting
20 was Zoning Commission cases where parking was
21 eliminated and RPP prohibited. So we have all
22 that in front of us, as well as the TNA's findings

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1 of facts, as well as the letter from DDOT, as
2 Ms. Schellin has already mentioned, and their
3 calculations, especially with the vehicle
4 registration, some of us.

5 And one of the things I like about
6 this report, the DDOT report, I thought it was
7 very interesting that they put exactly which
8 Commissioner asked for what and then they gave
9 us their answer. That was very helpful.

10 So let me open it up for discussion,
11 if there is any.

12 VICE CHAIR COHEN: I just want to
13 mention one thing that we do need, a signed MOU
14 from the Presidential Condominium. It was
15 presented, God, but it was not signed by the
16 Presidential Condominium, at least not my copy.

17 It's in the -- oh, I'm sorry. Oh, I'm sorry,
18 there is a lot of paper up here.

19 CHAIRMAN HOOD: But we actually
20 still need it, so you can get ready for the next
21 case.

22 VICE CHAIR COHEN: I've got it.

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1 CHAIRMAN HOOD: We do need that.
2 That was one of the things I thought about. Yes,
3 we do need that. I really appreciate you
4 following my lead. I'll go to the next case
5 and then come back.

6 COMMISSIONER MILLER: Mr.
7 Chairman, I would just start off by saying that
8 a number of us, several of us, I think, commented
9 upon the penthouse and rooftop embellishment.
10 I think the applicant has good -- has his
11 submission -- as their submission states, did
12 restudy that and successfully responded to our
13 concerns by reducing the visibility of the
14 penthouse as seen from further north along
15 Wisconsin Avenue and setting it back 8 inches
16 from the main block of the building and adding
17 a, what they call, painted aluminum brow, which
18 hides some of the elements.

19 So I think the pictures are worth
20 a thousand words. I think that it really does
21 make for a much more attractive building. So
22 I want to thank the applicant for responding

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1 to the few concerns about that particular
2 element.

3 CHAIRMAN HOOD: Okay. Thank you,
4 Commissioner Miller. Any other responses?

5 COMMISSIONER MAY: Mr. Chairman?

6 CHAIRMAN HOOD: Commissioner May?

7 COMMISSIONER MAY: Yes, I would
8 agree with Commissioner Miller. I think the
9 treatment of the penthouse and how it was
10 modified including dropping it by 6 feet or so
11 was very successful. And I was very concerned
12 about the original rendition of that and I think
13 it has been successfully fixed.

14 I'm ready to talk about the project
15 as a whole, if you are ready to start hearing
16 about that, rather than response to submissions.

17 CHAIRMAN HOOD: Okay. Anybody
18 else any individual specifics? Okay. Let's
19 get into it as a whole and we can probably get
20 back to specifics. That's fine, let's go to
21 the whole.

22 COMMISSIONER MAY: Okay. So I want

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1 to just comment on a few things. I made some
2 notes during the hearing and our discussions.

3 There are a number of projects, a
4 number of aspects of this project that really
5 are unusual. I think that the MOU that we saw,
6 I think I comment on this at the hearing, but
7 it is one heck of an agreement. We don't often
8 see something that is that expansive and where
9 the community seems to get as much out of the
10 project as they are getting here.

11 The statement by the applicant that
12 the project is going to be LEED-gold. Also,
13 I think unusual we hear talk of LEED-gold. We
14 hear aspirations, but there was something about
15 how certain they were that they will -- that
16 it will be certified at LEED-gold, I think is
17 a bit unusual. Not unheard of, but it's a bit
18 unusual and it reflects a confidence in the
19 project that we often don't see.

20 Having the entire MOU proffered as
21 conditions of the order, again, also something
22 that we don't usually see. There is usually

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1 some hair-splitting that goes on after MOUs like
2 this are negotiated.

3 Oh, and there is also the parking
4 issue. You know, I think that what has been
5 done to address the parking, the way it has
6 played out, I mean, it's very clear to me that
7 this is -- the developer came into this with
8 an idea of -- with ideas about how to develop
9 the property.

10 And then it was shaped very
11 significantly by their conversations with
12 members of the community. And it was -- it
13 seemed to be as important to them that there
14 not be a complete reconstruction of the entire
15 property and taking it down three floors
16 below-grade to get the parking in and all of
17 that.

18 I mean, this is a direct reflection
19 of those discussions. And the end result is
20 that there is only one parking space. Yes, it's
21 unusual, but once they were faced with that
22 condition, they did all the other things the

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1 right way.

2 You know, the project proffered a
3 condition that it won't be -- that RPP won't
4 be available and that they will enforce the lack
5 of car ownership in the leases. I mean, I don't
6 quite understand exactly how they get to do that,
7 but I think that is an extraordinary thing.

8 So I'm not questioning the legality
9 of it. It's not something that we have ever
10 seen before. It has never been a zoning issue
11 before.

12 So I think that, you know, the big
13 concern about whether there is going to be a
14 traffic impact from this project, basically,
15 has been addressed probably more thoroughly than
16 any other project that I have seen where there
17 was parking relief sought. And it has been done
18 in a direct and, I think, enforceable way.
19 Again, unlike a lot of the things that we have
20 seen.

21 So I feel very comfortable
22 supporting this. This is an unusual case.

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1 It's not going to be -- you know, we are not
2 going to start seeing zero parking buildings,
3 you know, bursting all over the city, because
4 of what we do here today. I think this is an
5 unusual situation and it is an unusual solution
6 and a very creative solution.

7 And I think the applicant has done
8 a terrific job in responding to community
9 interest and then fixing the potential negative
10 consequences that result.

11 I also think it is going to be an
12 exemplary project in other ways and I'll be
13 interested to hearing in the future how it all
14 turns out, both from the developer's perspective
15 and from the community's perspective.

16 But I wholeheartedly support this.

17 CHAIRMAN HOOD: Okay. Thank you.

18 Vice Chair?

19 VICE CHAIR COHEN: Yes. I would
20 like to compliment my colleague, Commissioner
21 May, for his summary of why this project should
22 move ahead.

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1 I think that the submission by the
2 applicant in supporting the lack of parking,
3 but there are many, many people in the city who
4 don't own cars, who don't want to own a car,
5 for cost reasons, for just reasons related to
6 ease and I believe that this will be a great
7 project in a location that right now is
8 under-utilized and is definitely, I think, a
9 blight on the neighborhood.

10 CHAIRMAN HOOD: Okay. Any other
11 comments? Commissioner Miller?

12 COMMISSIONER MILLER: Yeah, I, too,
13 Mr. Chairman, want to thank you. I would concur
14 in the comments of Commissioner May and Vice
15 Chair Cohen.

16 I think this is an extraordinary
17 package that the ANC worked out with the
18 applicant. And I'm looking forward to seeing
19 the restoration of this -- the revitalization
20 of this important corner in Tenleytown after
21 nearly eight years of blight at the site.

22 CHAIRMAN HOOD: Okay. I would

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1 associate myself with what I have heard all of
2 my colleagues say.

3 And I appreciate the applicant for
4 actually detailing and for the most part
5 responding to issues. We asked how much did
6 it cost to off-site the park and I think most
7 of that was responded to.

8 In other jurisdictions where other
9 buildings or projects in this city that we
10 actually restricted residential parking, the
11 RPP. The only thing I would ask is that,
12 before Final Action, I would really like to know
13 how maybe just one of these are working. I would
14 like to know how it is working.

15 It doesn't take but a paragraph.
16 I would really like to know how. I think there
17 is a laundry list of where they are in projects,
18 but I just need a little more feedback to see
19 how one of them is -- how is one of them actually
20 working out?

21 I don't need all of them. I'm not
22 going to put that much labor on the applicant,

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1 because I do appreciate the submission dated
2 November 26th. Is this the bike case where I
3 got in trouble? Is this the bike case? Oh,
4 well, I won't say anything else.

5 Okay. So if I could just get that.
6 I can't remember, we do so many cases, I can't
7 remember. This was the case, okay. All right.

8 So if I can just get that before final, I think
9 that would be sufficient enough for me.

10 Okay. So any other comments? Any
11 more? And I do, too, want to commend all of
12 my colleagues for how we have summarized this.

13 And I think that what makes it easy is when
14 the applicant gives us what we need and we don't
15 have to do a lot of searching, just turn to Tab
16 A, B, C or whatever the case may be.

17 Now, also, we have findings of fact
18 from TNA. And also, we have -- is anybody moved
19 by Chairman Frumin's, I think it is -- I don't
20 know what exhibit it is, but it's the ANC letter
21 3E. Oh, excuse me, Exhibit No. 106.

22 And also the Exhibit 109, these were

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1 the findings of facts and conclusions of law
2 of TNA. And what I took out of it was the most
3 that -- they believe that Babes on this project
4 needs to provide parking, but I would associate
5 myself with the comments of my colleagues.

6 And also, I'll just echo with the
7 first floor with the mention of how leases are
8 going to be dealt with with the residents. I
9 think the applicant may have had a strong --
10 again, I, too, am not sure how it is all going
11 to work, but I have seen this applicant in the
12 past and I think he has, from my standpoint,
13 a good track record of making things work.

14 Okay. Anyone else?

15 COMMISSIONER MILLER: Mr.
16 Chairman, I would move approval of Zoning
17 Commission Case No. 10-23, 4600 Wisconsin
18 Avenue, N.W., and just note that something I
19 missed saying in my previous statement was that
20 part of the revitalization is not only from the
21 60 car-free apartment units that are going to
22 be built there, but the 20,000 square feet of

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1 retail. The retail, I believe, we hadn't
2 mentioned that. It's an important part.
3 That's what the ANC chose over the parking.

4 CHAIRMAN HOOD: Okay. It has been
5 moved and can I get a second?

6 COMMISSIONER MAY: Second.

7 CHAIRMAN HOOD: Let me just
8 interrupt. Is that the Big Bear case where the
9 guy named his newborn Anthony? Is his name
10 still Anthony? Okay. So we don't have to
11 reconsider. Okay. Fine. Congratulations.

12 Okay. All right. That gets me in
13 trouble every time. Okay. It has been moved
14 and properly seconded. Any further discussion?

15 All those in favor?

16 VICE CHAIR COHEN: Aye.

17 CHAIRMAN HOOD: Aye.

18 COMMISSIONER MILLER: Aye.

19 COMMISSIONER MAY: Aye.

20 CHAIRMAN HOOD: Not hearing any
21 opposition, so ordered. Staff would you record
22 the vote?

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1 MS. SCHELLIN: Staff records the
2 vote 4-0-1 to approve Proposed Action in Zoning
3 Commission Case No. 10-23. Commissioner Miller
4 Moving, Commissioner May seconding.
5 Commissioners Cohen and Hood in support.
6 Commissioner Turnbull not voting, having not
7 participated.

8 I would say that I have a procedural
9 order to issue this evening, if any of the
10 parties are in the audience and they want to
11 pick up a copy this evening, that would be
12 greatly appreciated.

13 CHAIRMAN HOOD: You know, something
14 else I did want to mention. And I appreciate
15 -- I think Commissioner Miller you mentioned
16 about the registered vehicles. And I notice
17 it looks like the vehicles in the city are going
18 up, registered vehicles.

19 Okay. Okay. Are we ready to move
20 to the next case on Proposed Action? Zoning
21 Commission Case 06-11G and 06-12G, George
22 Washington University 2nd Stage PUD Modification

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1 to the 1st Stage at Square 75. Ms. Schellin?

2 MS. SCHELLIN: Exhibit 49, we have
3 an ANC-2A report. Exhibits 50 through 51A is
4 the applicant's post-hearing submissions.
5 Exhibit 53 was a DDOT memo. Exhibits 54 through
6 55 is WECA and FBA's responses to the applicant's
7 post-hearing submissions.

8 Then today a response was made by
9 the applicant and approved to reopen the record
10 to accept two submissions from the applicant
11 at Exhibits 56A and 57A, which are updates
12 regarding the Affordable Housing Program and
13 Transportation Monitoring Program.

14 And I would note that the parties
15 were served with these documents today and they
16 will have seven days to file a response to these
17 documents, that being until Monday, January
18 21st.

19 CHAIRMAN HOOD: Thank you, Ms.
20 Schellin. Commissioners?

21 VICE CHAIR COHEN: Mr. Chairman,
22 can I now ask for the signed MOU from

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1 Presidential Towers?

2 CHAIRMAN HOOD: Ms. Vice Chair
3 Cohen has asked for the signed MOU.

4 VICE CHAIR COHEN: And I'm pleased
5 to see that the university has agreed to accept
6 DHCD's requirements, accept the adding of the
7 utilities to the 30 percent of income.

8 I have just been shown that the MOU
9 agreement is signed. There is a copy for the
10 record. Thank you.

11 CHAIRMAN HOOD: Okay.
12 Commissioners, any other comments? For me, I
13 guess, colleagues, the first thing is there was
14 a request for -- or mentioned by the ANC that
15 the Campus Plan does not have to be -- the Campus
16 Plan has to be amended.

17 Does anyone agree that the Campus
18 Plan has to be amended or do we want to -- th
19 university says that the Campus Plan does not
20 have to amended as the ANC has mentioned. Is
21 anyone interested in perusing down that road
22 or having a discussion on that or do we all agree

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1 with the applicant that the Campus Plan does
2 not need to be amended, as the ANC has mentioned?

3 Okay. Not hearing anyone in that
4 discussion, so we will move forward.

5 COMMISSIONER MILLER: Mr.
6 Chairman, just on that point, I'm not sure if
7 it was the ANC's comment. I think that was the
8 West End Citizens Association.

9 CHAIRMAN HOOD: Oh, okay. I'm
10 sorry.

11 COMMISSIONER MILLER: I was just
12 looking through to see if the ANC had picked
13 up on that --

14 CHAIRMAN HOOD: Okay.

15 COMMISSIONER MILLER: --
16 particular.

17 CHAIRMAN HOOD: West End?

18 COMMISSIONER MILLER: It was West
19 End Citizens Association. It may have been the
20 other association as well, but I don't see it
21 in the ANC.

22 CHAIRMAN HOOD: Well, West End

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1 works just as hard as ANC, so maybe that's why
2 I got it mixed up. Okay. But thank you.

3 Okay. Any other comments?
4 Remember, colleagues, we have Exhibit 54 and
5 Exhibit 55 from Foggy Bottom as well as West
6 End, some things they would like to see or
7 discussions they have had that they would like
8 to see us maybe implement or not implement.

9 And I think for the most part from
10 looking at the January 3rd DDOT report, DDOT
11 requested the Zoning Commission to allow DDOT
12 time to work with the applicant.

13 Did we receive something this
14 evening on this? Something else this evening
15 when we walked in? Did we receive something
16 else?

17 MS. SCHELLIN: Yes, that was the two
18 supplemental filings, the Exhibits 56A and 57A,
19 which were the submissions from the applicant
20 regarding the agreement that they reached with
21 DDOT regarding the -- or they provided regarding
22 their Transportation Monitoring Program. And

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1 then the DHCD, their agreement to use their,
2 DHCD's, Affordable Housing Covenant, I believe
3 it is.

4 CHAIRMAN HOOD: Okay. Now, we got
5 this today. Did the parties have a chance to
6 respond?

7 MS. SCHELLIN: No, those are the two
8 items that I said they will now have until Monday
9 to file their response. And will have that at
10 Final Action, their responses at Final Action.

11 CHAIRMAN HOOD: So we don't -- this
12 is not one vote?

13 MS. SCHELLIN: No.

14 CHAIRMAN HOOD: Okay. I don't know
15 why I thought this was one vote. Okay. Will
16 that be enough time? What's the date? Oh,
17 Monday.

18 MS. SCHELLIN: I'm sorry, Monday is
19 a holiday. They will have until Tuesday. I
20 don't know what I was thinking. So they have
21 until Tuesday.

22 And I guess as part of that Exhibit

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1 57A included DDOT's supplemental part, so that's
2 all part of the submissions you got tonight that
3 they will be responding to.

4 CHAIRMAN HOOD: One other thing
5 that we need to do. Now, that I know we have
6 two votes, I don't know why I thought it was
7 one vote, we need to make sure that the monetary
8 contributions did not indicate when the money
9 was going to -- at what point the money was going
10 to be dispersed. We need to make sure we do
11 that before final now that we have two votes.

12 VICE CHAIR COHEN: And, Mr.
13 Chairman, in the Order, Condition 9, permits
14 the ANC to select another public school if the
15 education campus is no longer in existence.
16 And I would recommend that we limit it to a public
17 school within one-quarter mile of the PUD site
18 or within the boundaries of the Advisory
19 Neighborhood Commission.

20 COMMISSIONER MILLER: No, no, that
21 -- Madam Vice Chair, I was just looking to make
22 sure that the language is written in such a way

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1 that it would apply to either, you know, the
2 traditional public school or a public charter
3 school.

4 VICE CHAIR COHEN: I agree with
5 that, so that was a good addition.

6 CHAIRMAN HOOD: Any other comments?

7 COMMISSIONER MAY: Yes, I would
8 make the observation thinking about charter
9 schools is that they are not geographic. And
10 one of the reasons to limit something to the
11 school, I'm not point -- I'm not saying this
12 is a reason not to include charter schools.
13 I'm just pointing it out.

14 Public elementary schools and
15 middle schools and things like that, they have
16 geographic boundaries. And if it's going to be
17 something in close proximity to the project or
18 within the ANC, then it is definitely going to
19 be to the benefit of the community.

20 Whereas, a benefit like this to a
21 charter school would not necessarily benefit
22 people in the immediate community, because there

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1 is no preference for people in the immediate
2 vicinity of the public charter school.

3 COMMISSIONER MILLER: I agree with
4 you wholeheartedly. I guess my effort was good.

5 It's the ANC who is going to be making the choice
6 in this matter, so flexibility in case there
7 wasn't --

8 COMMISSIONER MAY: Right. I
9 agree. There is a dearth of schools. I think
10 there is that issue as well. I mean, even the
11 high school that is there, there are not a lot
12 of students from the immediate vicinity as well.

13 CHAIRMAN HOOD: Okay. I just
14 didn't want to -- I'm pausing or hesitating
15 because I'm trying to see if anything jumps out
16 at me from the active groups that WECA are in,
17 West End as well as Foggy Bottom. And I want
18 to make sure that we cover anything that may
19 jump out at any of us.

20 I know that people put a lot of time
21 into things here on the Commission and I want
22 to make sure I don't leave anything out that

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1 we may want to have them do before our final
2 vote.

3 So I want us to take time to look
4 at that, unless you all feel satisfied.

5 COMMISSIONER MILLER: Mr.
6 Chairman, I would like to just read into the
7 record, if you think it's appropriate, what the
8 amenity package is, at this point, since it has
9 been revised to respond -- further revised to
10 respond to ANC and other concerns.

11 And just so that the public and
12 ourselves are aware of what is there, if that's
13 okay?

14 So there is the agreement with the
15 President Condominium that Vice Chair Cohen
16 referenced that addresses their concerns
17 regarding the impact of the project, including
18 the 55,000 in landscaping, buffering and
19 physical improvements for the benefit of the
20 President Condominium.

21 There is at least 7,000 square feet
22 of affordable housing located within the

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1 boundaries of ANC-2A in the 2100 Block of F
2 Street, N.W.

3 And on that, I just wanted to note
4 although that I think that that is a significant
5 amenity. Those seven units include two three
6 bedroom units and two two bedroom units. And
7 to get affordable large units in Foggy Bottom
8 is a significant amenity, in my view.

9 There is the 6,600 square feet of
10 ground floor retail and service use within the
11 project. On that, I would like to note that
12 all of the ANC and the two citizens associations
13 were concerned about both the reduction in the
14 amount of retail that is currently there on the
15 site, because it's 12,000 square feet of retail,
16 as I recall, and they were also concerned about
17 -- concerned that that retail that is going to
18 be provided be nighttime and active and activate
19 that Pennsylvania Avenue street frontage.

20 And while the applicant, the
21 university, pointed out that this retail was
22 not even required as part of the 1st Stage PUD.

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1 And that the neighborhood-serving retail is
2 along I Street, I think that is a legitimate
3 point. I think the Pennsylvania Avenue
4 frontage generally in that area needs
5 activation, not just during the daytime. It
6 doesn't need to become just an office canyon
7 at night.

8 So I would hope that would be
9 neighborhood-serving and nighttime activated
10 retail use. I would note that even though the
11 design that the applicant provided was just for
12 luster purposes, the two retail uses that they
13 illustrated happen to be uses that would, I
14 think, be available at night. The Yoga classes
15 or Yoga place and the coffee shop.

16 And I would also note that although
17 the existing retail is -- I believe, only
18 occupies 69 or 70 linear feet of street frontage
19 along Pennsylvania, the retail that is going
20 to be provided actually will provide about 700
21 or over 700 linear feet. So there will be more
22 active retail than is -- along the frontage than

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1 is current there.

2 Although not the same amount of
3 square footage, because the current square
4 footage is in two stories.

5 Another amenity is the \$100,000 for
6 the office space for the Foggy Bottom West End
7 Village. I think that's the Aging-in-Place for
8 Seniors concept that is taking off throughout
9 the city.

10 Another amenity is the up to
11 \$100,000 to develop/install real-time
12 Transportation Information Board that would be
13 located near public transportation node in the
14 Foggy Bottom/West End neighborhood.

15 Another one is commitment to achieve
16 the equivalent of LEED-gold certification
17 through sustainable features that include green
18 roof, 40 percent reduction in water usage and
19 smart energy monitoring.

20 And there is streetscape
21 improvements along Pennsylvania Avenue in front
22 of the project and improvements to the public

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1 alley system.

2 And there was the Condition No. 9,
3 that Vice Chair Cohen also mentioned, the
4 \$50,000 to fund the fellowship position at the
5 Francis-Stevens Education Campus or alternative
6 school, if that's not -- in the area if that's
7 not available.

8 And \$1,000 for the grant to Stevens
9 PTA Marketing efforts.

10 And on top of all of those benefits
11 and amenities, of course, this project will
12 generate considerable tax revenue to the
13 District of Columbia as well as revenue to the
14 university for its operations, obviously.

15 So I just wanted to note those
16 amenities for the record. And mostly the
17 significance that I attach is to the affordable
18 housing amenity and the concern I have that the
19 retail that is going to be provided be available
20 during the evening hours, so that it activates
21 the Pennsylvania Avenue frontage.

22 CHAIRMAN HOOD: Are there any other

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1 comments or questions on this case? Okay. We
2 will give responses by next Monday. Well, next
3 Tuesday, yes. We will be busy next Monday.
4 Next Tuesday for our next --

5 MS. SCHELLIN: We will have it in
6 time for Final Action, but they have seven days
7 to file a response and since Monday is a holiday,
8 that would make it Tuesday.

9 CHAIRMAN HOOD: Okay. And I want
10 to thank you, Ms. Schellin. I want to thank
11 Commissioner Miller for actually reading into
12 the record and going down the list of benefits
13 and amenities, because one thing that we cannot
14 do, and I know this is in one of the submissions
15 that mentioned about what they thought the
16 Zoning Commission should direct or ask the
17 applicant, and the way I understood it ask the
18 applicant for the amenities.

19 We can either vote -- depending upon
20 the balance in the reconcile or the balance in
21 the amenities versus what is being asked for,
22 we can only vote them up or down. That

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1 negotiation process starts long before it comes
2 down here as far as getting those things for
3 the community and all those benefits.

4 Okay. Anything else? All right.

5 Would somebody like to make a motion or we want
6 to wait until we hear back on the responses?

7 COMMISSIONER MAY: I'm happy to
8 move ahead on the assumption that we get the
9 responses at final or before final.

10 CHAIRMAN HOOD: Okay. Let's do
11 that. Everybody else fine with that? Okay.
12 Let's go.

13 COMMISSIONER MAY: Okay.

14 CHAIRMAN HOOD: A motion?

15 COMMISSIONER MAY: So I would move
16 approval of Zoning Commission Case No. 06-11G
17 and 06-12G, George Washington University 2nd
18 Stage PUD Modification to 1st Stage PUD and
19 Related Map Amendment at Square 75.

20 CHAIRMAN HOOD: I will second it.
21 Okay. It has been moved and properly seconded.
22 Any further discussion? Are you ready for the

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1 question?

2 All those in favor?

3 ALL: Aye.

4 CHAIRMAN HOOD: Not hearing any
5 opposition, Ms. Schellin, would you, please,
6 record the vote?

7 MS. SCHELLIN: Yes, staff records
8 the vote 5-0-0 to approve Proposed Action in
9 Zoning Commission Case No. 06-11G/06-12G,
10 Commissioner May moving, Commissioner Hood
11 seconding. Commissioners Cohen, Miller and
12 Turnbull in support.

13 And I also have a procedural order
14 to issue in this case. If the parties are in
15 the audience and would come forward, I will give
16 them a copy of this evening.

17 CHAIRMAN HOOD: Okay. We have no
18 Hearing Action. Let's go right to our
19 Correspondence. Zoning Commission Case 05-36
20 through 05-36E. This is 200 K Street, N.W.,
21 a copy of letter from Zoning Administrator
22 regarding determination made on deviations from

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1 approval of plans. Ms. Schellin?

2 MS. SCHELLIN: Yes, sir. I put
3 this on the agenda because I received a copy
4 of a letter from the Zoning Administrator of
5 a determination that he made. He sent a letter
6 to the applicant on Case No. 05-36 through 05-36E
7 for 200 K Street, N.W., Project.

8 And I want the Commission to see that
9 in case they wanted to make any comments or
10 provide any input to the ZA about that, his
11 determination as it was his deviation from the
12 approved plans.

13 CHAIRMAN HOOD: Commissioners, any
14 comments? Commissioner May?

15 COMMISSIONER MAY: No. I just want
16 to say I looked over this pretty carefully and
17 it all seems like there is no visible effect.

18 I think the most significant change is the
19 relocation of the pool from the ground floor
20 space up to the rooftop and that's probably a
21 better thing. It's certainly a more ordinary
22 thing for us to have a rooftop pool than have

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1 the indoor pool and get more housing units on
2 the lower floors. I think that works pretty
3 well.

4 CHAIRMAN HOOD: Okay. Anyone
5 else? Commissioner Turnbull?

6 COMMISSIONER TURNBULL: And there
7 was no accessory building added. I just thought
8 I would throw that in.

9 COMMISSIONER MAY: No accessory
10 rooftop uses.

11 COMMISSIONER TURNBULL: Right.

12 COMMISSIONER MAY: Yes. Very
13 good.

14 CHAIRMAN HOOD: Okay. So we don't
15 -- no action is required, but we appreciate the
16 Zoning Administrator giving us information when
17 it deviates from the plan.

18 On that note, Ms. Schellin, I would
19 ask if you could work with the Office of
20 Planning, because the traffic pattern in which
21 we voted on on Rhode Island Avenue Plaza is not
22 what we voted on. As someone who uses that every

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1 day, I would like to know how did we deviate
2 from that, since that's what we are doing now?

3 It was supposed to all go one way.

4 It's going two ways and is that what is in the
5 deviation of the Zoning Administrator? If you
6 all could look into that for me, please?
7 Because I know that was something that -- I
8 actually like the way it's going now, but I'm
9 just curious as to how it got changed.

10 I know that's crazy. I'm just
11 curious is that what normally happens?

12 MS. STEINGASSER: This is the Rhode
13 Island Metro Station PUD --

14 CHAIRMAN HOOD: Right.

15 MS. STEINGASSER: -- from --

16 CHAIRMAN HOOD: Yes.

17 MS. STEINGASSER: Yes, sir, we will
18 look into that.

19 CHAIRMAN HOOD: Because the traffic
20 was all going one way. Even though I kind of
21 like it now and I'm learning how to use the other
22 side, but I just want to know to what flexibility

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1 did he have to change the directional direction.

2 And I know this Commission approved a different
3 type of traffic plan.

4 I'm not saying I want to change it.

5 I'm just curious. And I'll just use that as
6 an example for other cases, because I kind of
7 like the way it is working now. But anyway,
8 I just wondered.

9 Okay. The other thing is, Ms.
10 Steingasser, I know we don't have anything for
11 the Status Report, we would like to ask -- there
12 has been a lot of conversation about Office of
13 Planning working with NCPC as far as the Height
14 Act.

15 We would like, I think my colleagues
16 and I, and I'll let Mr. Turnbull and others chime
17 in, to kind of know through the scheme of things
18 what involvement, because I think, at some
19 point, we might have a role to play. But I'll
20 let Mr. Turnbull also make a comment.

21 COMMISSIONER TURNBULL: No. I
22 would agree that I think we are kind of curious,

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1 because it's sort of we have one bite at the
2 apple and we have always, in our hearings, the
3 Height Act has always been a part, but not a
4 part.

5 MS. STEINGASSER: Yes.

6 COMMISSIONER TURNBULL: And I think
7 especially with things when we are talking about
8 the roof, we talked about pools and additional
9 rooms and things like that, I think we would
10 like to be kept a little bit more abreast --

11 MS. STEINGASSER: Okay.

12 COMMISSIONER TURNBULL: -- of what
13 is happening on that. I think it is one of those
14 significant aspects of the -- that we -- that
15 doesn't happen very -- I mean, when was it?
16 It's been 100 years? You know, so I think it
17 would be good for us to at least have an idea
18 of how possibly it might impact zoning or how
19 do you see it going. Are there things we need
20 to be aware of? Are there -- is there input
21 from the Zoning Commission that we should be
22 -- you know, what kind of a dialogue should we

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1 be having with you on this?

2 MS. STEINGASSER: Okay. Well,
3 right now, just working with National Capital
4 Planning Commission and the gist of the study
5 is to define the federal interest in limiting
6 heights to the Height Act.

7 We have got two contracts out. One
8 is for physical and economic feasibility study,
9 you know, trying to assess what are the benefits
10 and at what point does it become financially
11 enticing for someone to actually go taller.
12 You know, what is just the cost of construction?

13 The second one is actually going to
14 be a modeling study and that's currently on the
15 street and that will be looking at what are the
16 effects of certain heights throughout the
17 District.

18 So we are also looking -- National
19 Capital Planning Commission was asked by
20 Congressman Issa and Congresswoman North to kind
21 of take the lead in identifying what is the
22 federal interest in the Height Act.

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1 So we are working with them. There
2 will be a series of public meetings that they
3 will host. There is certainly no reason why
4 we can't do a monthly or biweekly update with
5 the Zoning Commission and you can either pass
6 comments through me or the Commission can take
7 their own position officially and submit
8 comments.

9 But right now, we haven't determined
10 whether there will be any recommended changes.

11 Even if the Height Act were changed, it would
12 then have to go through the Comprehensive Plan.

13 There would have to be amendments then to the
14 -- then it would fall into the local arena and
15 those would then be considered through the
16 Comprehensive Plan.

17 Just like right now, you know, what
18 we call the yellow areas of the city, the
19 low-density residential, could be much taller
20 under the Height Act, but the Comprehensive Plan
21 guides their growth, which would then translate
22 into any zoning changes.

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1 So even if there were changes to the
2 Height Act tomorrow, the height is still capped
3 at 130 with the exception of some areas in
4 downtown where it is called out to the Height
5 Act.

6 So there would be a role for the
7 Commission in its implementation, but I think
8 your point about getting some feedback into the
9 study itself is a really valid one. And I think
10 we had an example here tonight about how
11 difficult sometimes those hairs are to
12 understand.

13 So we can do it either formally or
14 informally. I could bring monthly updates to
15 the Commission. I can let you know what the
16 schedule is when NCPC is going to be holding
17 public meetings.

18 COMMISSIONER TURNBULL: Okay. I
19 think I'm -- whatever my colleagues agree to,
20 I think, biweekly or monthly would be good.

21 CHAIRMAN HOOD: I think monthly
22 would be good.

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1 COMMISSIONER TURNBULL: Yes, I had
2 gone to the hearing that Chairman Issa had with
3 Ms. Norton and from -- and hearing the testimony
4 from Ms. Tregoning on down, there is a wide
5 diversity of some -- there is -- you know, some
6 people say could be in certain locations, but
7 the gist of what I'm getting is that the impact
8 is going to be perhaps minimal as far as a height
9 change.

10 But then there is, at the other end
11 of the spectrum, I have heard oh, no, we could
12 go. But I don't think anybody is looking at
13 Crystal City or anything like that. But there
14 was a lot of interest generated that, yes,
15 certain areas could. But there was also some
16 fear by some of the residents or I have heard
17 people from, you know, Anacostia that height
18 is going to be dumped on the other side of the
19 river.

20 And so I think there is a lot of
21 anxiety. I mean, we have all talked about
22 having higher density at Metro areas, but how

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1 high do you really go before it gets to be --
2 and then the historic core of the city should
3 probably be -- I mean, I guess there is a lot
4 of things that play out there --

5 MS. STEINGASSER: Yes, sir.

6 COMMISSIONER TURNBULL: -- in how
7 you look at this.

8 MS. STEINGASSER: And that's part
9 of what NCPC's study is going to be leading,
10 is what are the federal interests and then where
11 might other areas be appropriate? And should
12 the Height Act be changed, it would come back
13 to this Commission in terms of how you would
14 want to implement that through zoning.

15 COMMISSIONER TURNBULL: Okay.

16 MS. STEINGASSER: So it is not a
17 unilateral decision by any means.

18 COMMISSIONER TURNBULL: Right.

19 MS. STEINGASSER: As nothing is in
20 D.C., you know.

21 COMMISSIONER TURNBULL: Well, we
22 will be looking forward to your reports then.

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1 MS. STEINGASSER: Absolutely.

2 CHAIRMAN HOOD: Thank you, Ms.
3 Steingasser. Mr. Miller?

4 COMMISSIONER MILLER: Yes. I
5 would just add that I think it would be important
6 in the first briefing to outline the principles
7 that have thus far been agreed between NCPC and
8 OP, because they are kind of -- I mean, they
9 talk about respecting the horizontality of the
10 city, the historic horizontality.

11 So I just think it would give good
12 context. And this is something that was not
13 initiated by the District or NCPC. It is a
14 matter that was initiated by our Congressional
15 Oversight Chairperson.

16 COMMISSIONER MAY: You mean nobody
17 spoke to him about it?

18 COMMISSIONER MILLER: It's -- as I
19 -- my recollection is that Dr. Gandhi was
20 testifying at a hearing, unrelated to this, and
21 was talking about revenue constraints on the
22 city. And as Dr. Gandhi regularly does, he

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1 included in that the Height of Building Act as
2 a revenue constraint. And Congressman Issa
3 picked up on that point.

4 As Commissioner Turnbull noted, it
5 hasn't been looked at comprehensively in 102
6 years. You know, maybe we ought to look at it
7 and have input into it, obviously.

8 CHAIRMAN HOOD: Okay. Any other
9 comments on that issue? Thank you, Ms.
10 Steingasser. Let me just ask and this is not
11 on the agenda, the ZRR Workgroups, are we almost
12 finished or have we finished?

13 MS. STEINGASSER: Yes, sir. We
14 have done four in the last seven days. We have
15 the last one on Wednesday, coming this Wednesday
16 in Ward 4.

17 CHAIRMAN HOOD: Okay. Great.
18 Okay.

19 MS. STEINGASSER: So far we have had
20 560-some odd attendance. We expect a good
21 turnout in Ward 4 as well.

22 CHAIRMAN HOOD: Okay. Great.

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1 Okay. Good. Anything else?

2 All right. I want to thank everyone
3 for their participation tonight. And this
4 hearing is -- I mean, this meeting is adjourned.

5 (Whereupon, the Regular Public
6 Meeting was concluded at 7:59 p.m.)

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