

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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SPECIAL MEETING

+ + + + +

MONDAY

MAY 20, 2013

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The Special Meeting of the District of Columbia Zoning Commission convened in the Jerrily R. Kress Memorial Hearing Room, Room 220 South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 6:19 p.m., Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

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

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary

OFFICE OF PLANNING PRESENT:

JOEL LAWSON

DDOT PRESENT:

JAMIE HENSON

ALSO PRESENT:

CHRISTY SHIKER

JENNIFER STEINGASSER

The transcript constitutes the  
minutes from the Special Public Meeting held  
on May 20, 2013.

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

6:18 p.m.

CHAIRMAN HOOD: On the record.

Good evening everyone. This is our special public meeting of the Zoning Commission for Monday, May 20th at 6:15 p.m. We assemble here in the Jerrily R. Kress Memorial Hearing Room at 441 4th Street, N.W.

Joining me are Vice Chair Cohen, Commissioner Miller and Commission May. My name is Anthony Hood. I am the Chairman and also Mr. Turnbull will not be joining us this evening. Also from the Office of Zoning Ms. Sharon Schellin, Office of Planning Mr. Lawson and I don't think we have DDOT. But I will announce Mr. Henson for this special program meeting also from DDOT.

Mr. Henson, right. I see him. I said I will announce him, but I don't think we're actually going to be hearing from you for this special public meeting. Okay.

Preliminary matters. Ms.

1 Schellin. You say we have none.

2 Let's go to final action, Zoning  
3 Commission Case No. 08-34B. This is the  
4 Center Place Holdings, LLC - 18-Month PUD Time  
5 Extension at Square 564, 566 & 568. Ms.  
6 Schellin.

7 MS. SCHELLIN: Yes, the Commission  
8 asked the Applicant to provide some  
9 clarification, some additional information and  
10 they've done that at Exhibit 7. And Exhibit  
11 8 we have another ANC report. There was  
12 already one previously submitted in the record  
13 from I believe it was 2C. We now have ANC 6C  
14 support at Exhibit 8.

15 CHAIRMAN HOOD: Okay. Thank you,  
16 Ms. Schellin. Commissioners, as you know,  
17 this was the extension that we found kind of  
18 confusing. If we look at page two, I think it  
19 explains -- At least, the last two paragraphs  
20 explained for me exactly the sequence and what  
21 the request is of the Zoning Commission.

22 So let me open up for any

1 discussion.

2 COMMISSIONER MAY: Mr. Chairman.

3 CHAIRMAN HOOD: Commissioner May.

4 COMMISSIONER MAY: Yes, it's only  
5 slightly more enlightening than what we had  
6 before. And again I would point out that the  
7 Advisory Neighborhood Commission seems to have  
8 voted for an extension of the date by which  
9 the Applicant must submit a permit application  
10 for the construction of the platform and base  
11 infrastructure. And what is in fact requested  
12 is an extension for the construction or,  
13 sorry, the filing of a public space permit and  
14 then issuance of a permit for public space to  
15 do infrastructure which is separate from the  
16 platform and base infrastructure. It's the  
17 utility infrastructure versus platform and  
18 base.

19 Furthermore, when we look at what  
20 is written into the marked up paragraph here  
21 it says, "Within nine months of the issuance  
22 of the permit, Applicant will commence

1 construction of the utility relocation work to  
2 be followed by the construction of the  
3 platform and base infrastructure." But it  
4 does not say when. It just says that it will  
5 be followed by that.

6 Well, followed could be read to  
7 mean just some time afterwards. So really the  
8 only commitment we're getting is that by  
9 December 31, 2014 the applicant will file for  
10 public space permit.

11 And once it's issued within nine  
12 months they'll start utility relocation.  
13 There's no -- And then everything is tied to  
14 subsequent acts. So there's a disconnect.  
15 There's a gap. There's no statement by which  
16 time we expect the base and infrastructure  
17 permit to be filed or the base and  
18 infrastructure work to commence. So there's  
19 a gap.

20 CHAIRMAN HOOD: Okay. Any other  
21 comments or questions?

22 VICE CHAIR COHEN: Mr. Chairman, I

1 just would concur with my colleague,  
2 Commissioner May. I noticed actually that the  
3 ANC was talking about a different time table  
4 then the Applicant as far as what was to  
5 commence. So I concur with him. It's still  
6 not clear.

7 CHAIRMAN HOOD: Okay.

8 Commissioner Miller, did you want  
9 to add?

10 COMMISSIONER MILLER: Thank you,  
11 Mr. Chairman. Is it appropriate if there is  
12 a representative of the Applicant to get on  
13 the record what the estimated time is for the  
14 utility construction work and what the  
15 estimated time is for commencement of the  
16 building of getting the building permit for  
17 the base platform?

18 CHAIRMAN HOOD: Yes. If my  
19 colleagues would agree, we can have him come  
20 forward. But I still would like to see  
21 something in black and white for us. I'm sure  
22 it's like again as we stated previously voting

1 in the blind and I don't think we do the  
2 residents to the City any justice by doing it  
3 that way.

4 What I will say, and I don't want  
5 anyone to take this wrong, is we need to spell  
6 it out and for me make it idiot proof so I can  
7 understand it. Because actually it is hard to  
8 understand. And the ANC office thought of it  
9 one way and then the letter represents  
10 something else. I could go with it, but I'd  
11 rather see it in black and water.

12 But we'll ask Ms. Shiker to come  
13 forward if you want to explain it to us. But  
14 from my standpoint and from what I'm hearing  
15 from my colleagues I'd still rather see it in  
16 writing. So we'll have something that we can  
17 see and vote on.

18 Ms. Shiker.

19 MS. SHIKER: Thank you. Good  
20 evening. My name is Christy Shiker with the  
21 law firm of Holland and Knight and I'm  
22 representing the Applicant in this case. To

1 the two points, first, the site is now located  
2 within two ANCs which is why you have the two  
3 ANC letters, ANC 6C and ANC 2C.

4 ANC 2C I believe is the language  
5 you're talking about. This project is very  
6 new to them. We went through in detail about  
7 the infrastructure versus the building permit.

8 I believe the letter was simply  
9 written in correctly. They were well aware.  
10 They talked to us about it. The wanted to  
11 give us even more time because they thought it  
12 was so complicated. So we can certainly  
13 clarify that in writing that it was -- the  
14 permit is related to the infrastructure.

15 The reason way we have gone to the  
16 infrastructure, the utility relocation, is  
17 because that is a certain item that we are  
18 currently in design on. And we know that we  
19 can get the plans submitted within 18 months  
20 based on utility relocation.

21 The permitting process is going to  
22 be created solely for this project because

1       it's so new and unique and there's nothing  
2       like it just yet. So that is why we have tied  
3       the construction to the issuance of the  
4       permit.

5                       We could offer up a condition that  
6       would tie the submission to the building  
7       permit for the base infrastructure and the  
8       platform to a date certain or a time period  
9       certain following the issuance of the utility  
10      relocation. And we'd be happy to submit that  
11      for the record.

12                      We just wanted the Commission to  
13      know that there are so many basic approvals  
14      that still need to be given for this project  
15      outside of the EA that we've already gotten.  
16      Most of these deal with fire life safety in  
17      the tunnels below the platform. And we just  
18      don't know how long it's going to take which  
19      is why we were trying to tie the PUD vesting  
20      and approval to a date certain.

21                      The Applicant has spent more than  
22      \$120 million to get a point where they still

1 don't even have any land. So it is certainly  
2 in their best interest to move forward as  
3 quickly as possible. We're just in uncertain  
4 terrain on how these are going to be done.  
5 But we would be happy to propose language that  
6 had three dates, the date by which we do the  
7 utility relocation and the construction, then  
8 a date that would follow from the issuance of  
9 that permit for the utility relocation, a date  
10 certain following that.

11           And we're thinking about 30 months  
12 would be needed to then make sure that we had  
13 all of these fire life safety approvals so  
14 that we could file for a building permit for  
15 the platform to come out of the ground. That  
16 would give us enough time so that we wouldn't  
17 have to come back. Hopefully, we would have  
18 it submitted much earlier than that.

19           And then again everything, the  
20 second stage PUDs for the vertical  
21 construction would be tied to the final  
22 completion of the platform and maybe that

1 would fill the gap that you're asking for.

2 CHAIRMAN HOOD: Okay. Actually,  
3 after hearing all that, I will change. I will  
4 recommend something else then because we do  
5 not meet next week. If we could maybe just  
6 issue the order, if we decide we'll deal with  
7 this tonight, I would just propose that we go  
8 ahead and deal with it tonight and probably  
9 look at it before the order is issues. Once  
10 the submission is given by Ms. Shiker, we  
11 would just look at it and move in that  
12 fashion.

13 But I'm just throwing that out  
14 there. I know I'm putting the cart before the  
15 horse. But I'd rather not come back and see  
16 this again in June.

17 COMMISSIONER MILLER: I  
18 understand.

19 (Motion moved and seconded off  
20 microphone.)

21 CHAIRMAN HOOD: Moved and  
22 seconded. Any further discussion?

1                   COMMISSIONER MAY: Yes. I mean if  
2                   it's spelled out and we know exactly what the  
3                   terms are and it all ties together, I wouldn't  
4                   have any problem with proceeding so long as we  
5                   have time certain. Perhaps the gap is that  
6                   there's nothing that ties either the filing of  
7                   a permit or the construction of the base to  
8                   the prior action which is the utility  
9                   relocation which has to start construction  
10                  nine months after the issuance of the permit.  
11                  Right?

12                  MS. SHIKER: That is correct. And  
13                  so to fill the gap what we could propose would  
14                  be that from the date of issuance of the  
15                  utility relocation permit we would have 30  
16                  months to submit the building permit for  
17                  construction of the platform and base  
18                  infrastructure.

19                  COMMISSIONER MAY: Right. And  
20                  then construction to follow.

21                  MS. SHIKER: We could do the  
22                  traditional two years. I think at the moment

1 they get the permit they would want to start.  
2 But we could do two years from that date. So  
3 30 months from issuance of the utility  
4 relocation permit. Then we'd have 30 months  
5 to file for the building permit. And then we  
6 would have two years -- No, no. That would be  
7 --

8 COMMISSIONER MAY: To start  
9 construction.

10 MS. SHIKER: Two years to start  
11 construction because that's how we've done it  
12 before.

13 COMMISSIONER MAY: Isn't it  
14 usually two years to get the permit and then  
15 a year to start construction?

16 MS. SHIKER: So that's what I was  
17 trying to think through in my head. I have a  
18 date. We've talked through it this afternoon  
19 on a date for the submission of the building  
20 permit. We could -- If you'll give me one  
21 second. Let me just talk about that  
22 construction.

1 CHAIRMAN HOOD: Yes.

2 COMMISSIONER MAY: Mr. Chairman,  
3 while they're discussing this, the other thing  
4 that I would point out is that and maybe  
5 actually Ms. Shiker needs to hear this, the  
6 other concern I have has to do with the ANC  
7 letter. But go ahead and tell me what you  
8 found.

9 MS. SHIKER: All right. So 30  
10 months from the issuance of the utility  
11 relocation permit to file for the building  
12 permit and then do a similar one year from the  
13 issuance of the building permit to start  
14 construction. And the reason we say that is  
15 just because of if the permit process is  
16 unique because of the --

17 COMMISSIONER MAY: I don't have  
18 any problem with that. It's that there was no  
19 fixed duration being stated.

20 MS. SHIKER: Okay.

21 COMMISSIONER MAY: And I  
22 absolutely appreciate how complicated this is

1 and I feel for you. Believe me. It's just a  
2 matter of getting it in the kind of language  
3 that we typically get with a PUD that requires  
4 performance by specific dates. And if not  
5 then the Applicant has to come in and explain  
6 why. And that's really all I think I was  
7 aiming for.

8 I would point out that I was  
9 reading from ANC 6C's letter. So both ANCs  
10 seem to be addressing this in terms of an  
11 extension of 18 months for the construction of  
12 the base and platform and base infrastructure.

13 MS. SHIKER: I see that in the  
14 entryway of the letter. It certainly talks  
15 about the utility relocation and we were very  
16 clear with the ANC. We did presentations at  
17 two different meetings.

18 I don't think that they were  
19 confused in what we were presenting. I think  
20 they understand we've presented them many  
21 times. But I do see what you're saying.

22 COMMISSIONER MAY: I think in

1 terms of what they wrote us it certainly is  
2 not completely in sync with what you've asked  
3 for. But I also don't think that that's the  
4 biggest issue. They understand the need for  
5 a delay. We understand the need for a delay.  
6 And now that we have fixed times I'm okay with  
7 proceeding.

8 But I would suggest that you  
9 circle back with the ANCs and make sure they  
10 understand exactly what you've got.

11 MS. SHIKER: We certainly will.

12 CHAIRMAN HOOD: Any further  
13 discussion? Moved and seconded again, Ms.  
14 Shiker, we'll get that information. And Ms.  
15 Schellin will be able to send it to us. And  
16 we'll all say okay, yea or nay.

17 If we need to revisit we will.  
18 But I think from what you described at least  
19 I have a competent level and I think my  
20 colleagues do as far as moving forward.

21 So I would move approval. It's  
22 been moved and seconded. Any more discussion?

1 (No verbal response.)

2 All those in favor?

3 (Chorus of ayes.)

4 Any opposed? Not hearing any  
5 opposition, Ms. Schellin, would you please  
6 recall the roll?

7 MS. SCHELLIN: Yes, and I have an  
8 absentee ballot from Mr. Turnbull to approve  
9 with such conditions that the Commission may  
10 impose. So Staff would record the vote 5 to  
11 0 to 0 to approve final action Zoning  
12 Commission Case No. 08-34B as discussed this  
13 evening with the changes that will be spelled  
14 out in Ms. Shiker's letter that will be looked  
15 at by the Commission.

16 Commissioner Hood moving,  
17 Commissioner Miller seconding, Commissioners  
18 May and Cohen in support, Commissioner  
19 Turnbull in support by absentee ballot.

20 CHAIRMAN HOOD: Okay. Thank you,  
21 Ms. Schellin. Thank you everybody for working  
22 that out so we wouldn't have to see that again

1 in two weeks.

2 Okay. Correspondence. Ms.  
3 Schellin, Zoning Commission Case Nos. 12-  
4 14/12-14A (3rd & M, LLC. & Park Inn  
5 Associates, LP - Request for Postponement of  
6 May 30th Hearing to July 25th).

7 MS. SCHELLIN: Yes, sir. We  
8 received a request on Friday from the  
9 Applicant asking to postpone the hearing  
10 that's scheduled on May 30th to July 25th a  
11 date certain so it's publicly announced. And  
12 the Applicant is continuing to work with the  
13 ANC and the community to work out some issues  
14 that they have.

15 And also there's a landmark  
16 application that was recently filed for the  
17 existing building included in the PD  
18 application and HPRB is going to consider that  
19 application at their June meeting. So it will  
20 allow an opportunity for that to happen also  
21 while working with the community. Staff would  
22 ask the Commission to consider this request.

1                   CHAIRMAN HOOD:  And for the  
2                   record, Mr. Steingasser has joined us a few  
3                   minutes ago.  I just didn't announce it.

4                   Okay.  Commissioners, let's open  
5                   it up for discussion.  Any objections to the  
6                   request.  Again, it's always good when all  
7                   parties are working out in closing the gap.  
8                   So I think this is the request before us in  
9                   this particular case for this postponement.

10                          Any discussion?

11                          (No verbal response.)

12                   Okay.  I would move that we grant  
13                   the request for 12-14/12-14A.  And ask for a  
14                   second.

15                          COMMISSIONER MAY:  Second.

16                   CHAIRMAN HOOD:  Moved and properly  
17                   seconded.  Any further discussion?

18                          (No verbal response.)

19                          All those in favor?

20                          (Chorus of ayes.)

21                          Not hearing any opposition, Ms.  
22                   Schellin, would you record the vote?

1 MS. SCHELLIN: Yes, Staff records  
2 the vote four to zero to one to grant the  
3 request for postponement from May 30th to July  
4 25th. Commissioner Hood moving, Commissioner  
5 May seconding, Commissioners Cohen and Miller  
6 in support, Commissioner Turnbull not present  
7 not voting.

8 CHAIRMAN HOOD: Okay. Next I  
9 would thank you, Ms. Schellin. I would just  
10 like to make an announcement that the Zoning  
11 Commission's relaxed rules will go into effect  
12 June 1st which means that you come in with  
13 your nice polo shirt.

14 You don't have to have a tie on.  
15 You know. You don't have to be all tight.  
16 Just come in relaxed. If you don't have a  
17 tie, forgive us. But we're going to relax.  
18 It's hot as we continue to serve the City. So  
19 you're more than welcome to come down here  
20 without a tie.

21 And I don't want to be a  
22 chauvinist or I don't know what to say about

1 ladies, but you don't have to have all your  
2 wraps on. You can just take them off and just  
3 come here and relax. Wear your cool gear.  
4 Okay.

5 Do we have anything else in  
6 discussion? Okay. With that, this special  
7 public meeting is adjourned. We'll be back in  
8 five minutes. Off the record.

9 (Whereupon, at 6:35 p.m., the  
10 above entitled matter was concluded.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Special Meeting

Before: DCZC

Date: 05-20-13

Place: Washington, DC

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.



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Court Reporter

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