

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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REGULAR MEETING

+ + + + +

MONDAY

JUNE 24, 2013

+ + + + +

The Regular 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 6:30 p.m., Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairman
MARCIE COHEN, Vice Chair
MICHAEL G. TURNBULL, FAIA,
Commissioner (AOC)

PETER G. MAY, Commissioner (NPS)
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

JOEL LAWSON

STEPHEN MORDFIN

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALAN BERGSTEIN, ESQ.

The transcript constitutes the
minutes from the Regular meeting held on June
24, 2013.

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

PRELIMINARY MATTERS: 5

FINAL ACTION:

ZC CASE NO. 12-10 5

Vote: Five, zero, zero to approve

PROPOSED ACTION:

ZC CASE NO. 05-28K 11

Vote: Five, zero, zero to approve

ZRR GUIDANCE:

Office of Planning 17

ADJOURNMENT: 22

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

6:31 p.m.

CHAIRMAN HOOD: This meeting will please come to order.

Good evening, ladies and gentlemen. This is the June 24, 2013 Public Meeting of the Zoning Commission for the District of Columbia.

My name is Anthony Hood. Joining me are Vice Chairperson Marcie Cohen, Commissioners Robert Miller, Peter May and Michael Turnbull.

We're also joined by the Office of Zoning staff, Ms. Sharon Schellin; Office of Attorney General, Mr. Bergstein; also Office of Planning, Mr. Lawson and Mr. Mordfin.

Copies of today's meeting agenda are available to you and are located at the bin near the door.

We do not take any public testimony at our meetings unless the Commission requests someone to please come forward.

1 Please be advised that this
2 proceeding is being recorded by a court
3 reporter and it's also webcast live.
4 Accordingly, we must ask you to refrain from
5 any disruptive noise or actions in the hearing
6 room.

7 Please turn off all beepers and
8 cell phones.

9 At this time, does the staff have
10 any preliminary matters?

11 MS. SCHELLIN: No, sir.

12 CHAIRMAN HOOD: Okay. If not,
13 let's go through with the agenda.

14 Final Action, Zoning Commission
15 Case No. 12-10, Office of Planning Text
16 Amendment GAR.

17 Ms. Schellin?

18 MS. SCHELLIN: Yes, sir.

19 At Exhibit 32, we have an
20 additional OP report. And then we had some
21 comments that came in during the 30-day
22 comment period. And you'll find those at

1 Exhibits 34 through 36 and 38.

2 CHAIRMAN HOOD: Okay. Thank you,
3 Ms. Schellin.

4 Commissioners, we've looked at a
5 number of the exhibits as they've come through
6 before we took proposed. As mentioned, we
7 have a supplemental from the Office of
8 Planning and some other supplementals from
9 various parties -- not parties -- but those
10 who had interest.

11 Instead of me going like I
12 normally do one by one -- I think we've read
13 all the materials -- I would just like to
14 point out if anyone has anything specific in
15 any one of those materials, let's just handle
16 it that way. And if not, we will continue to
17 move forward.

18 Any issues? Any issues of
19 anything that was submitted?

20 (No audible response.)

21 CHAIRMAN HOOD: Okay. I would
22 think that this was fully discussed. We've

1 done this on more than one occasion. We did
2 a lot at proposed, and I think we re-hashed it
3 again at another proposed. And we got to this
4 point at final.

5 And I would entertain a motion if
6 someone would like to make one.

7 VICE CHAIR COHEN: Mr. Chairman,
8 before I make the motion, I just want to say
9 that I think the Office of Planning did a very
10 good job of vetting all the comments and
11 incorporating those that appeared to really
12 clarify and make this a better regulation.

13 I have to tell you that I think
14 green area ratio is an important step in
15 assuring that our city is more sustainable.
16 So I would move to approve Zoning Case No. 12-
17 10, Text Amendment, regarding the green area
18 ratio.

19 COMMISSIONER TURNBULL: Mr. Chair,
20 I'll second it. But I just had one question
21 for the Office of Planning before we did that.

22 CHAIRMAN HOOD: Okay. Well, let

1 me do this.

2 It's been moved and properly
3 seconded.

4 Any further discussion? Mr.
5 Turnbull?

6 COMMISSIONER TURNBULL: There's
7 one thing under Section 3404.4. And it's kind
8 of an open item. It simply says, "A landscape
9 plan prepared by a certified landscape
10 expert." Does that mean an arborist, a
11 certified landscape architect? Or can it mean
12 a general contractor -- a landscape contractor
13 with a license?

14 I mean, I have a feeling you're
15 talking about a professional.

16 MS. STEINGASSER: Yes, sir. And
17 we tried to define it in 3404.2 where we had
18 "certified" --

19 COMMISSIONER TURNBULL: Oh, that's
20 right. You're right. You're right. You did.
21 You did do that.

22 All right. I take that back.

1 Thank you.

2 CHAIRMAN HOOD: Okay. It's been
3 moved and properly seconded.

4 Any further discussion?
5 Commissioner Miller?

6 COMMISSIONER MILLER: Thank you,
7 Mr. Chairman. I just had one question for
8 either the Office of Planning or the Office of
9 the Attorney General.

10 If they could just simply respond
11 to the point made by Mr. Lindsley Williams in
12 his letter dated February 6, I think
13 originally, which said that there needed to be
14 a clarification that neither pervious surface
15 nor GAR requirements alone crate a non-
16 conformity. And he suggested modifying the
17 definition of non-conforming structure to make
18 it clear. If somebody can just respond as to
19 whether that clarification is necessary and if
20 not, why not.

21 MR. BERGSTEIN: I'll take a shot.
22 Ms. Steingasser can join in.

1 I thought about that, but it's not
2 going to render a structure non-conforming the
3 fact that there's now going to be requirements
4 that relate to what happens on the lot itself.
5 So I didn't see how it would create a non-
6 conforming structure.

7 For example, with the amendments
8 that were adopted under 12-11 that changed the
9 height for residential zones, those would
10 create non-conforming structures because
11 height would be measured differently. And you
12 might have a whole series of structures that
13 became non-conforming. And then there was an
14 amendment proffered that said that these would
15 not render those structures non-conforming
16 except that they could not increase their
17 height any further.

18 I don't see how this creates a
19 non-conforming structure. And so after I
20 thought about it -- I think I talked to Ms.
21 Steingasser about it -- I didn't think there
22 was a need to change that definition.

1 COMMISSIONER MILLER: Okay. Thank
2 you.

3 CHAIRMAN HOOD: Okay. Any further
4 discussion?

5 (No audible response.)

6 CHAIRMAN HOOD: All those in
7 favor?

8 (A CHORUS OF AYES.)

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

12 MS. SCHELLIN: Is that everybody?

13 CHAIRMAN HOOD: Yes.

14 MS. SCHELLIN: Okay.

15 So staff records the vote five to
16 zero to zero to approve Final Action of Zoning
17 Commission Case No. 12-10. Commissioner Cohen
18 moving; Commissioner Turnbull seconding;
19 Commissioners Hood, May and Miller in support.

20 CHAIRMAN HOOD: Okay. Next, on
21 the hearing action, we have Zoning Commission
22 Case No. 05-28K, CI GD Parkside 7, L.L.C.,

1 Modification to PUD at Square 5041.

2 Mr. Mordfin?

3 MR. MORDFIN: Good evening,
4 Chairman and Members of the Commission.

5 The Applicant requests set down of
6 this first-stage modification application to
7 permit the building as proposed under Case No.
8 05-28J. On April 29, the Commission set down
9 case 05-28J but with the condition that it not
10 be advertised until a modification application
11 of the first-stage PUD was filed and set down.
12 Case 05-28K is that application.

13 The proposed modifications of the
14 first-stage approval are to increase the
15 number of dwelling units from 160 to 186,
16 increase the gross floor area by approximately
17 2,000 square feet, increase the floor area
18 ratio from 4.6 to 5.3, modify the building
19 height from between 54 and 90 to between 60
20 and 81 feet, and also to provide 65 offstreet
21 parking spaces.

22 The proposed modifications would

1 not result in this portion of the PUD being
2 inconsistent with the plan. Therefore, the
3 Office of Planning recommends that the
4 Commission set down the application.

5 Thank you.

6 CHAIRMAN HOOD: Okay. Thank you,
7 Mr. Mordfin.

8 Any questions for the Office of
9 Planning?

10 Commissioner Miller?

11 COMMISSIONER MILLER: Thank you,
12 Mr. Chairman.

13 I just wanted to clarify that in
14 the Office of Planning and in the Applicant's
15 own statement, it refers to changing the
16 height of one of the buildings across the
17 street from Parkside Terrace Place from 54
18 feet to 60 feet. But I think on the site plan
19 itself, it shows that it's 64 feet, six
20 inches. And so, I just wanted to get clarity.
21 I assume that the 64 feet, six inches is the
22 actual height that it's being increased to,

1 not just 60 feet. The site plan at -- what
2 tab is that?

3 MR. MORDFIN: Now you are correct
4 that the site plan labeled "current site plan"
5 does indicate that the height of the building
6 would be 64 feet, six inches on the far side
7 place of the property.

8 COMMISSIONER MILLER: Okay. Thank
9 you. I just thought it was important to
10 clarify that. Thank you.

11 CHAIRMAN HOOD: Okay. Any other
12 -- Vice Chair?

13 VICE CHAIR COHEN: Thank you, Mr.
14 Chairman.

15 I would just like greater clarity
16 on where it says "current site plan." They
17 point to a particular existing street tree to
18 remain, and they have similar characteristics
19 of a number of street trees. It's unclear
20 whether they're to remain or to be removed and
21 replaced. So just clarity on the landscaping
22 and especially with regards to trees.

1 MR. MORDFIN: We will ask for the
2 Applicant to clarify that.

3 CHAIRMAN HOOD: Any other
4 questions?

5 Commissioner May?

6 COMMISSIONER MAY: This is to the
7 Office of Planning.

8 Have you started working with the
9 Applicant and refining the stage two
10 modification?

11 MR. MORDFIN: Not yet. No.

12 COMMISSIONER MAY: Okay. I hope
13 that will begin in earnest, yes?

14 MR. MORDFIN: Yes.

15 COMMISSIONER MAY: Yes. Okay.

16 Thank you.

17 CHAIRMAN HOOD: All right.

18 Anything else?

19 (No audible response.)

20 CHAIRMAN HOOD: Would someone like
21 to make a motion? Commissioner Miller?

22 COMMISSIONER MILLER: Okay. I

1 would move that we set down Zoning Commission
2 Case 05-28K, Modification to an Approved
3 First-Stage PUD filed by City Interests, CI GD
4 Parkside 7, L.L.C.

5 VICE CHAIR COHEN: I'll second.

6 CHAIRMAN HOOD: Okay. It's been
7 moved and properly seconded.

8 If I could add to that that the
9 05-28J and K be consolidated for hearing and
10 advertised for purposes together and all
11 documents to be filed in Case J. Okay? So we
12 are clear on that? Is that friendly accepted?

13 COMMISSIONER MILLER: Yes.

14 CHAIRMAN HOOD: Okay.

15 MR. MORDFIN: Yes.

16 COMMISSIONER MILLER: That is what
17 the intent was.

18 CHAIRMAN HOOD: Okay. It's been
19 moved and properly seconded that that extra
20 was added.

21 All those in favor?

22 (A CHORUS OF AYES.)

1 CHAIRMAN HOOD: Not hearing any
2 opposition, Ms. Schellin, would you record the
3 vote?

4 MS. SCHELLIN: Yes. Staff records
5 the vote five to zero to zero to set down
6 Zoning Commission Case No. 05-28K as a
7 contested case. Commissioner Miller moving;
8 Commissioner Cohen seconding; Commissioners
9 Hood, May and Turnbull in support.

10 This case will be advertised for
11 hearing jointly with Case No. 05-28J. And
12 from this point on, all documents will be
13 filed in Case No. 05-28J. It will include
14 both case numbers.

15 CHAIRMAN HOOD: Okay. Do we have
16 anything else, Office of Planning? Do you
17 have anything else?

18 MS. STEINGASSER: I just wanted to
19 give a quick update on the ZRR, the Zoning
20 Regulation Review.

21 I wanted to just expand a little
22 bit on what I'll be bringing you in July.

1 There's been a lot of questions from the task
2 force.

3 It will not be the full formal set
4 down that you would normally see for a text
5 amendment. It will be all of the zoning text.
6 But it'll be brought to you and then we'll
7 give you an explanation of what it is and kind
8 of walk you through it. And then, you can
9 read it at the beach over August or September.
10 And then when you come back, to give you a
11 chance to see what's been going on because you
12 have not seen the text in over a year. So
13 it'll be an opportunity for you to take it and
14 give us any casual questions, informal
15 dialogue on it, and then give us any
16 instruction or hold off until the fall and
17 give us instruction at that point.

18 There has been some confusion on
19 the task force as to exactly what we're
20 bringing you. And it will not be the final
21 official document. It'll just be the drafts
22 that the task force has been seeing so that

1 you too can have an opportunity to see the
2 document.

3 CHAIRMAN HOOD: Okay. Are we
4 going to deal with that at our last meeting in
5 July?

6 MS. STEINGASSER: Yes. Yes, sir.

7 CHAIRMAN HOOD: July the 30th?
8 Okay.

9 Do we have a lot of stuff on that
10 agenda?

11 MR. BERGSTEIN: A lot of stuff.

12 They've got three final actions
13 and three proposed actions, including the
14 remand on Monroe Street. So there is -- at
15 least from our point in terms of getting
16 orders -- there seems to be a lot of stuff.

17 CHAIRMAN HOOD: Okay. I was just
18 wondering.

19 Is this the case where I mentioned
20 we should start maybe 30 minutes early? Would
21 that help us so we won't finish at 12:00
22 o'clock?

1 MR. BERGSTEIN: I don't know how
2 controversial all these will be.

3 You do have the remand that you're
4 going to have to think very carefully about.
5 This is the case where the Court of Appeals
6 indicated that the order that was provided
7 didn't adequately explain the Comprehensive
8 Plan issues. And so you ordered a draft order
9 from the Applicant. And so, I don't know how
10 much a discussion you're going to have on
11 that.

12 And I just can't remember the
13 other cases. All I know from my order writing
14 perspective is I know we have three final
15 actions and three proposed actions.

16 CHAIRMAN HOOD: And I just was
17 wondering if we needed that 30-minute window.

18 Can we just leave it up to staff
19 to determine when they look at the agenda?

20 I know that's almost like
21 questimating in the blind. But I'm just
22 saying that 30 minutes might help us. It

1 might help us. I'm not sure.

2 MS. SCHELLIN: I mean, we haven't
3 had a long meeting in a long time. So we used
4 to have meetings like that all the time. I
5 think it'll depend on how many set down items
6 OP brings for that meeting.

7 CHAIRMAN HOOD: Okay. All right.
8 Well, we'll just keep the time where it is.
9 And if the Metro closes, we'll get Peter to
10 give us a ride on his bike.

11 Commissioner Miller?

12 COMMISSIONER MILLER: I just want
13 to make sure I understood what Ms. Steingasser
14 said about the zoning re-write.

15 So you're not expecting us to set
16 down the ZR offer hearing at the July --

17 MS. STEINGASSER: Not at the July
18 meeting. No.

19 COMMISSIONER MILLER: Thank you.

20 CHAIRMAN HOOD: All right. So
21 we'll just leave it like that and hope we
22 finish before the Metro closes.

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Do we have anything else?

Thank you, Ms. Steingasser.

Do we have anything else?

(No audible response.)

CHAIRMAN HOOD: Okay. We're getting finished early tonight. Too bad it's not a volley ball night.

So I want to thank everyone for their participation. This meeting is adjourned.

(Whereupon, at 6:47 p.m., the hearing was adjourned.)

A	assuring 7:15 Attorney 2:15 4:15 9:9 audible 6:20 11:5 15:19 22:4 August 18:9 available 4:18 AYES 11:8 16:22	15:3,17,20 16:6 16:14,18 17:1,15 19:3,7,17 20:16 21:7,20 22:5 Chairperson 4:10 chance 18:11 change 10:22 changed 10:8 changing 13:15 characteristics 14:18 CHORUS 11:8 16:22 CI 11:22 16:3 city 7:15 16:3 clarification 9:14 9:19 clarify 7:12 13:13 14:10 15:2 clarity 13:20 14:15 14:21 clear 9:18 16:12 closes 21:9,22 Cohen 1:18 4:10 7:7 11:17 14:13 16:5 17:8 Columbia 1:2,13 4:8 come 4:4,22 6:5 18:10 comment 5:22 comments 5:21 7:10 Commission 1:4,13 1:17 4:7,22 5:14 11:17,21 12:4,8 13:4 16:1 17:6 Commissioner 1:19,20,21 7:19 8:6,19 9:5,6 11:1 11:17,18 13:10,11 14:8 15:5,6,12,15 15:21,22 16:13,16 17:7,8 21:11,12 21:19 Commissioners 4:11 6:4 11:19	17:8 Comprehensive 20:7 condition 12:9 conforming 10:6 conformity 9:16 confusion 18:18 consolidated 16:9 constitutes 2:20 contested 17:7 continue 6:16 contractor 8:12,12 controversial 20:2 convened 1:13 Copies 4:17 correct 14:3 court 5:2 20:5 crate 9:15 create 10:5,10 creates 10:18 current 14:4,16 C-O-N-T-E-N-T-S 3:1	draft 20:8 drafts 18:21 dwelling 12:15 D.C 1:14 2:15
	B		E	
accepted 16:12 action 3:4,10 5:14 11:16,21 actions 5:5 19:12 19:13 20:15,15 actual 13:22 add 16:8 added 16:20 additional 5:20 adequately 20:7 adjourned 22:10 22:12 ADJOURNMENT 3:22 adopted 10:8 advertised 12:10 16:10 17:10 advised 5:1 agenda 4:17 5:13 19:10 20:19 ALAN 2:17 amendment 5:16 7:17 10:14 18:5 amendments 10:7 Anthony 1:15,18 4:9 AOC 1:19 Appeals 20:5 appeared 7:11 Applicant 12:5 15:2,9 20:9 Applicant's 13:14 application 12:6,10 12:12 13:4 approval 12:14 approve 3:7,14 7:16 11:16 Approved 16:2 approximately 12:16 April 12:8 arborist 8:10 architect 8:11 area 7:14,17 12:16 12:17 assume 13:21	back 8:22 18:10 bad 22:6 ball 22:7 beach 18:9 beepers 5:7 Bergstein 2:17 4:15 9:21 19:11 20:1 better 7:12 bike 21:10 bin 4:19 bit 17:22 blind 20:21 bringing 17:22 18:20 brings 21:6 brought 18:6 building 12:7,18 14:5 buildings 13:16	back 8:22 18:10 bad 22:6 ball 22:7 beach 18:9 beepers 5:7 Bergstein 2:17 4:15 9:21 19:11 20:1 better 7:12 bike 21:10 bin 4:19 bit 17:22 blind 20:21 bringing 17:22 18:20 brings 21:6 brought 18:6 building 12:7,18 14:5 buildings 13:16	early 19:20 22:6 earnest 15:13 either 9:8 entertain 7:5 especially 14:22 ESQ 2:17 evening 4:5 12:3 everybody 11:12 exactly 18:19 example 10:7 Exhibit 5:19 exhibits 6:1,5 existing 14:17 expand 17:21 expecting 21:15 expert 8:10 explain 20:7 explanation 18:7 extra 16:19	
	C		F	
carefully 20:4 case 3:6,13 5:15 7:16 11:17,22 12:7,9,12 16:2,11 17:6,7,10,11,13 17:14 19:19 20:5 cases 20:13 casual 18:14 cell 5:8 certified 8:9,11,18 Chair 1:18 7:7,19 14:12,13 16:5 Chairman 1:15,18 4:3 5:12 6:2,21 7:7,22 9:2,7 11:3 11:6,9,13,20 12:4 13:6,12 14:11,14		dated 9:12 deal 19:4 define 8:17 definition 9:17 10:22 depend 21:5 Deputy 2:8 determine 20:19 Development 2:9 dialogue 18:15 differently 10:11 Director 2:8 discussed 6:22 discussion 8:4 9:4 11:4 20:10 disruptive 5:5 District 1:2,13 4:8 document 18:21 19:2 documents 16:11 17:12 door 4:19	fact 10:3 FAIA 1:19 fall 18:16 far 14:6 favor 11:7 16:21 February 9:12 feeling 8:14 feet 12:17,20 13:18 13:18,19,21 14:1 14:6 filed 12:11 16:3,11 17:13 final 3:4 5:14 7:4 11:16 18:20 19:12 20:14 find 5:22 finish 19:21 21:22 finished 22:6 first-stage 12:6,11 12:14 16:3 five 3:7,14 11:15	

17:5 floor 12:16,17 force 18:2,19,22 formal 18:3 forward 4:22 6:17 friendly 16:12 full 18:3 fully 6:22 further 8:4 9:4 10:17 11:3	5:12 6:2,21 7:22 9:2 11:3,6,9,13,19 11:20 13:6 14:11 15:3,17,20 16:6 16:14,18 17:1,9 17:15 19:3,7,17 20:16 21:7,20 22:5 hope 15:12 21:21	<hr/> K <hr/> K 16:9 keep 21:8 kind 8:7 18:7 know 20:1,9,13,14 20:20 Kress 1:13	Miller 1:21 4:11 9:5,6 11:1,19 13:10,11 14:8 15:21,22 16:13,16 17:7 21:11,12,19 minutes 2:21 19:20 20:22 modification 12:1 12:6,10 15:10 16:2 modifications 12:13,22 modify 12:18 modifying 9:16 MONDAY 1:9 Monroe 19:14 Mordfin 2:13 4:16 12:2,3 13:7 14:3 15:1,11,14 16:15 motion 7:5,8 15:21 move 6:17 7:16 16:1 moved 8:2 9:3 16:7 16:19 moving 11:18 17:7	occasion 7:1 offer 21:16 Office 1:22 2:6,15 3:20 4:13,14,15 5:15 6:7 7:9,21 9:8,8 13:3,8,14 15:7 17:16 official 18:21 offstreet 12:20 Oh 8:19 Okay 5:12 6:2,21 7:22 9:2 11:1,3,14 11:20 13:6 14:8 14:11 15:12,15,22 16:6,11,14,18 17:15 19:3,8,17 21:7 22:5 OP 5:20 21:6 open 8:8 opportunity 18:13 19:1 opposition 11:10 17:2 order 4:4 20:6,8,13 ordered 20:8 orders 19:16 originally 9:13 o'clock 19:22 O-F 3:1
<hr/> G <hr/> G 1:19,20 GAR 5:16 9:15 GD 11:22 16:3 general 2:15 4:15 8:12 9:9 gentlemen 4:6 getting 19:15 22:6 give 17:19 18:7,10 18:14,15,17 21:10 go 5:13 going 6:11 10:2,3 18:11 19:4 20:4 20:10 good 4:5 7:10 12:3 GOVERNMENT 1:1 greater 14:15 green 7:14,17 gross 12:16 GUIDANCE 3:17	<hr/> I <hr/> important 7:14 14:9 inches 13:20,21 14:6 include 17:13 including 19:13 inconsistent 13:2 incorporating 7:11 increase 10:16 12:14,16,17 increased 13:22 indicate 14:5 indicated 20:6 informal 18:14 instruction 18:16 18:17 intent 16:17 interest 6:10 Interests 16:3 issues 6:18,18 20:8 item 8:8 items 21:5 it'll 18:6,13,21 21:5	<hr/> L <hr/> labeled 14:4 ladies 4:5 landscape 8:8,9,11 8:12 landscaping 14:21 Lawson 2:12 4:16 leave 20:18 21:21 letter 9:12 let's 5:13 6:15 license 8:13 Lindsley 9:11 little 17:21 live 5:3 located 4:18 long 21:3,3 look 20:19 looked 6:4 lot 7:2 10:4 18:1 19:9,11,16 L.L.C 11:22 16:4	<hr/> N <hr/> name 4:9 near 4:19 necessary 9:19 need 10:22 needed 9:13 20:17 neither 9:14 night 22:7 noise 5:5 non 9:15 10:5 non-conforming 9:17 10:2,10,13 10:15,19 normally 6:12 18:4 notice 1:15 NPS 1:20 number 6:5 12:15 14:19 numbers 17:14 N.W 1:14	<hr/> P <hr/> parking 12:21 Parkside 11:22 13:17 16:4 participation 22:9 particular 14:17 parties 6:9,9 period 5:22 permit 12:7 perspective 20:14 pervious 9:14 Peter 1:20 4:11 21:9 phones 5:8 place 13:17 14:7 plan 8:9 13:2,18 14:1,4,4,16 20:8
<hr/> H <hr/> handle 6:15 happens 10:4 hearing 1:14 5:5 11:9,21 16:9 17:1 17:11 21:16 22:12 height 10:9,11,17 12:19 13:16,22 14:5 held 2:21 help 19:21 20:22 21:1 Historic 2:9 hold 18:16 Hood 1:15,18 4:3,9	<hr/> J <hr/> J 1:15,18 16:11 JENNIFER 2:8 Jerrily 1:13 job 7:10 JOEL 2:12 join 9:22 joined 4:13 Joining 4:9 jointly 17:11 July 17:22 19:5,7 21:16,17 June 1:10 2:21 4:6	<hr/> M <hr/> Marcie 1:18 4:10 materials 6:13,15 matters 3:2 5:10 mean 8:10,11,14 21:2 measured 10:11 meeting 1:6,12 2:21 4:3,7,17 19:4 21:3,6,18 22:9 meetings 4:21 21:4 Members 1:17 12:4 Memorial 1:13 mentioned 6:6 19:19 Metro 21:9,22 Michael 1:19 4:12	<hr/> O <hr/>	

Planning 2:6 3:20
4:16 5:15 6:8 7:9
7:21 9:8 13:3,9,14
15:7 17:16
please 4:4,22 5:1,7
point 6:14 7:4 9:11
14:17 17:12 18:17
19:15
portion 13:1
preliminary 3:2
5:10
prepared 8:9
PRESENT 1:17,22
2:6,15
Preservation 2:10
presiding 1:15
proceeding 5:2
professional 8:15
proffered 10:14
properly 8:2 9:3
16:7,19
property 14:7
proposed 3:10 6:6
7:2,3 12:7,13,22
19:13 20:15
provide 12:20
provided 20:6
public 4:6,20
PUD 12:1,11 13:1
16:3
purposes 16:10
pursuant 1:14
P-R-O-C-E-E-D-...
4:1
p.m 1:15 4:2 22:11

Q

questimating 20:21
question 7:20 9:7
questions 13:8 15:4
18:1,14
quick 17:19

R

R 1:13
ratio 7:14,18 12:18
read 6:12 18:9
really 7:11

recommends 13:3
record 11:10 17:2
recorded 5:2
records 11:15 17:4
refers 13:15
refining 15:9
refrain 5:4
regarding 7:17
regards 14:22
Regular 1:6,12
2:21
regulation 7:12
17:20
relate 10:4
remain 14:18,20
remand 19:14 20:3
remember 20:12
removed 14:20
render 10:2,15
replaced 14:21
report 5:20
reporter 5:3
requests 4:22 12:5
requirements 9:15
10:3
residential 10:9
respond 9:10,18
response 6:20 11:5
15:19 22:4
result 13:1
Review 2:9 17:20
re-hashed 7:2
re-write 21:14
ride 21:10
right 8:20,20,20,22
15:17 21:7,20
Robert 1:21 4:11
room 1:14,14 5:6

S

S 1:23
saying 20:22
says 8:8 14:16
Schellin 1:23 4:14
5:11,17,18 6:3
11:10,12,14 17:2
17:4 21:2

second 7:20 16:5
seconded 8:3 9:3
16:7,19
seconding 11:18
17:8
Secretary 1:23
Section 8:7
see 10:5,18 18:4,11
19:1
seeing 18:22
seen 18:12
September 18:9
series 10:12
set 12:5,8,11 13:4
16:1 17:5 18:3
21:5,15
Sharon 1:23 4:14
shot 9:21
shows 13:19
side 14:6
similar 14:18
simply 8:8 9:10
sir 5:11,18 8:16
19:6
site 13:18 14:1,4,4
14:16
six 13:19,21 14:6
somebody 9:18
South 1:14
spaces 12:21
specific 6:14
square 12:1,17
staff 1:22 2:6 4:14
5:9 11:15 17:4
20:18
stage 15:9
start 19:20
started 15:8
statement 13:15
Steingasser 2:8
8:16 9:22 10:21
17:18 19:6 21:13
21:17 22:2
step 7:14
STEPHEN 2:13
street 1:14 13:17
14:17,19 19:14

structure 9:17 10:2
10:6,19
structures 10:10,12
10:15
stuff 19:9,11,16
submitted 6:19
suggested 9:16
supplemental 6:7
supplementals 6:8
support 11:19 17:9
sure 21:1,13
surface 9:14
sustainable 7:15

T

tab 14:2
take 4:20 8:22 9:21
18:13
talked 10:20
talking 8:15
task 18:1,19,22
tell 7:13
terms 19:15
Terrace 13:17
testimony 4:21
text 5:15 7:17 18:4
18:5,12
thank 6:2 9:1,6
11:1 13:5,6,11
14:8,10,13 15:16
21:19 22:2,8
thing 8:7
think 6:12,22 7:2,9
7:13 9:12 10:20
10:21 13:18 20:4
21:5
thought 10:1,20
14:9
three 19:12,13
20:14,15
time 5:9 21:3,4,8
today's 4:17
tonight 22:6
transcript 2:20
tree 14:17
trees 14:19,22
tried 8:17

turn 5:7
Turnbull 1:19 4:12
7:19 8:5,6,19
11:18 17:9
two 15:9
T-A-B-L-E 3:1

U

unclear 14:19
understood 21:13
units 12:15
update 17:19

V

various 6:9
vetting 7:10
Vice 1:18 4:10 7:7
14:12,13 16:5
volley 22:7
vote 3:7,14 11:11
11:15 17:3,5

W

walk 18:8
want 7:8 21:12
22:8
wanted 13:13,20
17:18,21
Washington 1:14
way 6:16
webcast 5:3
we'll 18:6 21:8,9,21
we're 4:13 18:19
22:5
we've 6:4,12,22
Williams 9:11
window 20:17
wondering 19:18
20:17
working 15:8
writing 20:13

Y

year 18:12

Z

ZC 3:6,13
zero 3:7,7,14,14

11:16,16 17:5,5 zones 10:9 zoning 1:4,13,17,22 4:7,14 5:14 7:16 11:16,21 16:1 17:6,19 18:5 21:14 ZR 21:16 ZRR 3:17 17:19	<hr/> 4 <hr/> 4th 1:14 4.6 12:18 441 1:14			
<hr/> 0 <hr/> 05-28J 12:8,9 16:9 17:11,13 05-28K 3:13 11:22 12:12 16:2 17:6	<hr/> 5 <hr/> 5 3:2,6 5.3 12:18 5041 12:1 54 12:19 13:17			
<hr/> 1 <hr/> 10 7:17 11 3:13 12 7:16 12-10 3:6 5:15 11:17 12-11 10:8 12:00 19:21 160 12:15 17 3:20 186 12:15	<hr/> 6 <hr/> 6 9:12 6:30 1:15 6:31 4:2 6:47 22:11 60 12:19 13:18 14:1 64 13:19,21 14:6 65 12:20			
<hr/> 2 <hr/> 2,000 12:17 20001 1:14 2013 1:10 2:22 4:6 22 3:22 220 1:14 24 1:10 2:22 4:6 29 12:8	<hr/> 7 <hr/> 7 11:22 16:4			
<hr/> 3 <hr/> 30 19:20 20:22 30th 19:7 30-day 5:21 30-minute 20:17 32 5:19 34 6:1 3404.2 8:17 3404.4 8:7 36 6:1 38 6:1	<hr/> 8 <hr/> 81 12:20			
	<hr/> 9 <hr/> 90 12:19			

C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Meeting

Before: DCZC

Date: 06-24-13

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.

Neal R Gross

Court Reporter

NEAL R. GROSS

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