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GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Zoning Commission

Regular Public Meeting  
1436th Meeting Session [16th of 2016]

6:31 p.m. to 7:06 p.m.  
Thursday, June 16, 2016

Jerrily R. Kress Memorial Hearing Room  
441 4th Street, N.W., Suite 220 South  
Washington, D.C. 20001

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1 Board Members:

2 ANTHONY HOOD, Chairman

3 MARCIE COHEN, Vice Chair

4 PETER MAY, Commissioner

5 ROBERT MILLER, Commissioner

6 MICHAEL TURNBULL, Commissioner

7

8 Office of Zoning:

9 SHARON SCHELLIN, Secretary

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

2 CHAIRPERSON HOOD: Ready to get started.

3 This meeting will please come to order. Good  
4 evening, ladies and gentlemen. This is the public  
5 meeting -- special public meeting of the Zoning  
6 Commission for the District of Columbia.

7 My name is Anthony Hood. Joining me are Vice  
8 Chair Cohen, Commissioner Miller, May, and Turnbull.  
9 We're also joined by the Office of Zoning staff, Ms.  
10 Schellin, and I believe the Office of Planning and  
11 the District Department of Transportation, I'll  
12 introduce them for the hearing which would happen  
13 shortly after this meeting.

14 Copies of today's meeting was published and  
15 available to you and located in the bin near the  
16 door. We do not take any public testimony unless the  
17 Commission requests someone to come forward. Please  
18 be advised this proceeding is being recorded by a  
19 court reporter and is also webcast live.  
20 Accordingly, we must ask you to refrain from any  
21 disruptive noises or actions in the hearing room,  
22 including the display of any signs or objects.  
23 Please turn off all electronic devices and cell  
24 phones at this time.

25 Does the staff have any preliminary matters?

1 MS. SCHELLIN: Just to advise that the  
2 applicant did make a submission last night, 41103F,  
3 if the Commission would consider proposed action this  
4 evening.

5 CHAIRPERSON HOOD: Do we need to -- we had a  
6 late submission that we reopened the record for, for  
7 Mr. Gene Solon. Do we need to make note of that?

8 MS. SCHELLIN: Yes. The record was reopened  
9 to accept his filing and his submission is at 52A.

10 CHAIRPERSON HOOD: Okay. Commissioners, this  
11 afternoon we -- I granted to reopen the record for  
12 the submission that was given to us by Mr. Solon.  
13 And as -- I don't know, has everyone had a chance to  
14 review that? Okay. Let's take a couple of minutes.  
15 And particularly I would ask you to look at alphabet  
16 B. Let's look at the whole thing, but draw your  
17 attention to alphabet B. We're going to take about  
18 two minutes.

19 [Off the record to review the record.]

20 CHAIRPERSON HOOD: Again, colleagues, I don't  
21 know if anyone is moved by Mr. Solon. Even though I  
22 did open the record I think this is really, really  
23 after the fact, and I think his comments are  
24 necessary for me, and I understand the concern and I  
25 understand the emotions. I think a lot of it is

1 basically there was an opportunity given, and I  
2 understand that there may be some additional names.  
3 I think we only have a few names here which was in  
4 the -- when I opened the record today, when I was  
5 called. But I can tell you that from my standpoint  
6 we hear people from different views who come down and  
7 they look at the ANC. They're representing their  
8 point of view whether the ANC represented Harbor  
9 Square or whatever the case may be. That is probably  
10 not the way I look at this. I don't think Chairman  
11 Litsky is -- and that's why I was particularly  
12 concerned about alphabet B. I don't think his  
13 comments were necessarily representative of the whole  
14 community. It never is in the ANC. I think we have  
15 to be real -- everybody does not participate in the  
16 ANC process. I'm very familiar with that. Some  
17 people don't go to the ANC meetings.

18           So I understand that everybody does not  
19 necessarily follow what the ANC has. But by law the  
20 ANC has a great weight in which this Commission is  
21 supposed to give. And we weigh what all say. And I  
22 think to give us a petition after we've closed the  
23 record, even though I opened the record because I  
24 wanted to try to be fair to Mr. Solon, who I know has  
25 been very active in this case, I think we can take it

1 in and see, but I think that the -- there was plenty  
2 of opportunity for this petition to be given to us at  
3 the appropriate time. And there's some other issues  
4 in the letter which I think are not germane. But I  
5 will, again, it seems like we're rearguing a hearing  
6 or case in which we had. And this is typically  
7 unprecedented of us to do this, but I did it because  
8 I wanted to make sure that all the information is in  
9 the record. To give us a petition after the record  
10 is closed, I particularly would not allow or agree  
11 with that because I don't think we've ever done it.  
12 But then again, there's a whole lot of things that we  
13 open and we'd be considerate, especially when it  
14 comes to neighbors and community.

15 So I'll take any more comments on this, or  
16 any. Or are there any. Okay. Not hearing -- Vice  
17 Chair Cohen.

18 MS. COHEN: Well, I concur with you, Mr.  
19 Chairman, because we've had numerous public hearings  
20 on this project. We actually evaluated every parcel  
21 and we concluded that what was proposed was  
22 consistent with the Comp Plan. And I know that there  
23 are people who are still quite concerned about the  
24 development. But again, I agree with your analysis  
25 of providing great weight to the ANC on every issue.

1 So that's my position.

2 CHAIRPERSON HOOD: Okay. Any other comments  
3 or questions on this letter? Commissioner Miller.

4 MR. MILLER: Thank you, Mr. Chairman. Yeah.  
5 I just wanted to say that I appreciate that the  
6 applicant and the ANC Chair have worked closely and  
7 have developed a draft of rooftop terrace  
8 restrictions which would be part of both the lease  
9 and the -- our zoning order. And there also would be  
10 a separate agreement with the three adjacent  
11 properties. And I think although it's not signed  
12 yet, the applicant's letter indicates that between  
13 proposed action and final action they would, you  
14 know, bring us something that's fully executed. And  
15 I'm comfortable with that. So.

16 CHAIRPERSON HOOD: Okay. Okay, well,  
17 Commissioner Miller has already went into the  
18 agreement -- no, that's fine. No, I was dealing with  
19 Mr. Solon.

20 MR. MILLER: I'm the only one -- oh, okay.  
21 I'm sorry.

22 CHAIRPERSON HOOD: But no, that's fine. Any  
23 other comments on either one of those issues?

24 MR. MAY: I would agree with you, Mr.  
25 Chairman, regarding Mr. Solon's submission and I

1 think that -- I mean, I very much do want to move  
2 forward. The latest submission that we have from the  
3 applicant, though, it's unclear about the extent of  
4 agreement with the ANC. And so I'm anxious to hear  
5 what the ANC has to say at this moment. Is that  
6 possible?

7 CHAIRPERSON HOOD: Yeah, sure.

8 MR. MAY: Okay.

9 CHAIRPERSON HOOD: Sure. Mr. Chairman  
10 Litsky, if you can come forward? And maybe if the --  
11 I don't know, you all are still working it out.  
12 Maybe we have the applicant come forward also. If  
13 you can identify yourself and kind of give us a --  
14 the mic is off?

15 Did HPRB come in today? They must have had  
16 to use them. Okay.

17 MR. LITSKY: Yep. Andy Litsky. I'm Chairman  
18 of ANC 6D, and also the single-member commissioner  
19 for the area which is under consideration this  
20 evening.

21 CHAIRPERSON HOOD: Okay. Mr. -- if you can  
22 just give us an update on what --

23 MR. LITSKY: Sure. Exactly. I mean, I just  
24 wanted to tell you that we had been undergoing the  
25 series of discussions at the applicant and the ANC.

1 I had been keeping the folks who have fiduciary  
2 responsibility for Harbor Square and Tiber Island,  
3 and 525, under advisement of the extent of those  
4 discussions. I've received, you know, limited  
5 communications back from them and I appreciate the  
6 fact that the Commission tonight recognizes that it's  
7 important that, you know, we work with folks who are,  
8 you know, functioning on behalf of the actual  
9 residents. They're not functioning as lone wolves.

10 I understand that you may have a copy of a  
11 petition in front of you. I want to also let you  
12 know, I never received any copy of any petition not  
13 signed or otherwise. So it's distressing that, you  
14 know, some of the folks who purport to represent kind  
15 of go behind. And occasionally that happens, I'm  
16 sure, on other cases as well.

17 But let me stick to the point here. Over the  
18 past couple of weeks we have had good discussions.  
19 We have had, I think, good points. As you may know  
20 there had been an initial written paper presented to  
21 the ANC that intended to address some of the concerns  
22 that we had about noise. Particularly on the open  
23 patio.

24 Here are the outstanding issues that I still  
25 have, the ANC still has, and I have received feedback

1 from folks who live landside.

2           You may recall that in the middle of the Pier  
3 4 hearing last time, Mr. Glasgow, you know, after  
4 speaking about the fact that there was an offer on  
5 the table, you know, nobly handed me a revised offer.  
6 And I said, you know, I'm going to have to read that.  
7 And so the optics of that were great. However, what  
8 actually was contained therein doubled the number of  
9 events that were held outside of -- to be held  
10 outside. So that is still a concern for some of the  
11 folks who live landside.

12           Also, there is a concern that we do not have  
13 addressed in this prohibition for night time  
14 construction. What the Zoning Commission needs to  
15 know, not just in this case but in other cases,  
16 across the city and certainly in my ANC, is that  
17 perpetually developers have come to DCRA and had  
18 extended opportunities to do late night construction.

19           And, you know, there's one person who hands  
20 out these permits at DCRA, and he hands out permits  
21 for extended construction. At this point there are  
22 portions of the Wharf that are under construction  
23 virtually 24/7. I wouldn't expect that this would  
24 happen at Pier 4, but the rationale that DCRA  
25 provides for that late night construction is that

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1 it's outside of the 500-foot radius of -- closest to  
2 any residential development.

3 In view of the fact that in the submission  
4 that you have before you, a supplemental it shows, I  
5 hope accurately, that Harbor Square and Tiber Island  
6 may be outside of that 500 feet. I do not want, at  
7 any point in time, the applicant going to DCRA and  
8 sitting before this man who has an enormous amount of  
9 power, to allow him or to suggest that he ought to  
10 present them with the Office of Planning to construct  
11 outside daytime hours. That would be extraordinarily  
12 problematic.

13 The fourth thing would be that although  
14 several of the Commissioners had suggested that the  
15 applicant might incorporate, I think it was  
16 Commissioner Turnbull who had suggested that,  
17 incorporate some kind of sound reduction  
18 architectural features in the plan that has not been  
19 addressed and that was brought up to me by one of the  
20 members of the Board at one of the co-ops.

21 And also there is, you know, finally there is  
22 no mention of where speakers will be placed on the  
23 pier. We typically deal with this when we're dealing  
24 with an alcohol license. Although this isn't an  
25 alcohol license, clearly, we would hope that the

1 speakers would be placed only at the end of the pier  
2 facing away from the developments and not on the  
3 sides where the thinner parts of the structure are  
4 closer to the development. So, but I must tell you,  
5 I think we've had really, you know, good discussions.  
6 They've been very helpful. I think that in terms of  
7 dealing with the architectural aspects of it and  
8 maintaining some semblance of control over potential  
9 noise, you have seen that, you know, we kind of have  
10 to jump through hoops in order to get to that point.  
11 You know, first you see that, you know, in order --  
12 we have to begin to prove that there's a concern in  
13 the first place. It has to be done twice. The  
14 landlord has to accept it. It's at that point that  
15 we finally go through a sound check, and then  
16 something will be done. But it's not automatically  
17 incorporated architecturally in the structure.

18 I'm not suggesting now that, you know, we  
19 enclose that. But if there are some soundproofing  
20 measures that can take place on the outside of the  
21 structure that don't require that this go back to  
22 SHEPA or any of the arts review commissions, that you  
23 ought to suggest that that be put in too because I  
24 think that would be very helpful.

25 CHAIRPERSON HOOD: Okay. Before we go to

1 hear from the applicant, if we need to, any questions  
2 or comments on what we heard? Any follow up  
3 questions? Commissioner May?

4 MR. MAY: So, I'm sorry. I was trying to  
5 follow all of the things sort of point by point, and  
6 you were at one point seemed to be counting off the  
7 points. Four points. So could you just like very  
8 simply restate the four points for me?

9 MR. LITSKY: You bet.

10 CHAIRPERSON HOOD: Actually, actually, let me  
11 see if I can do it right quick.

12 MR. LITSKY: Okay.

13 CHAIRPERSON HOOD: I do sound bites. The  
14 events outside still, the nighttime construction, the  
15 sound reduction, the speaker placement, and also  
16 DCRA, which is an issue for me.

17 MR. MAY: Okay. And you did those too fast  
18 for me to.

19 CHAIRPERSON HOOD: Okay. You try it and see  
20 what happens.

21 MR. MAY: No, you can do them again, you've  
22 just got to do them a little more slowly.

23 CHAIRPERSON HOOD: Did I get them right?

24 MR. LITSKY: Yeah, I think. I would just get  
25 one because I didn't hear it.

1 CHAIRPERSON HOOD: Okay. Okay.

2 MR. LITSKY: Commissioner May, may be  
3 correct. One thing, the first issues, is from what  
4 originally what we had received in terms of the  
5 number of event that will be allowed, it was doubled.

6 MR. MAY: Got it. Okay.

7 MR. LITSKY: I would like to go back to the  
8 original.

9 The second is that we would like to put some  
10 written restrictions on the 24/7 -- potential 24/7  
11 construction.

12 MR. MAY: Okay.

13 MR. LITSKY: The third would be to  
14 incorporate architectural elements into the design  
15 that would help with noise --

16 MR. MAY: Okay.

17 MR. LITSKY: -- absorption. And also to  
18 formally determine where the speakers will be placed.

19 MR. MAY: Okay. All right. Those are the  
20 four things I wrote down but I wasn't sure I got them  
21 right. Okay. Thanks.

22 CHAIRPERSON HOOD: All right. Any other  
23 follow-up questions on this? Okay. And we try to  
24 mitigate. This is proposed, right? No, is it --  
25 okay. I'm getting confused.

1           Okay. Mr. Glasgow, Mr. Seaman, you have any  
2 response to this. Can you all still working in time?  
3 You all need more time?

4           MR. GLASGOW: No, I think that between now  
5 and final action I think we can certainly come to  
6 resolution on the topics. I can respond to the few  
7 points here. As far as construction noises, the  
8 Wharf project at large is a much larger project than  
9 Pier 4, and I understand Commissioner Litsky's  
10 concerns. I have no problem committing to working  
11 with in the 7:00 a.m. to 7:00 p.m. hours that are  
12 prescribed by DCRA for this particular project.

13           And you know, whatever it takes to put that  
14 in the final order, I'm happy to do that.

15           As far as speaker locations, I don't think we  
16 want speakers along the side. They would be at the  
17 end and there may not even be permanent speakers  
18 installed. We haven't gotten to that point in the  
19 design but happy to put language restricting where  
20 they're at and pointing them away from the building.

21           As far as the sound attenuation, the sound  
22 attenuation architecture, we frankly don't think that  
23 we need it. We're limiting our sound to 55 decibels  
24 at the property line. It's 165 feet away from the  
25 nearest edge of the terrace to the property line.

1 I'm not sure if you've looked at the layout of the  
2 terrace. It's about 40 percent green roof. There's  
3 not a huge amount of space for folks to congregate  
4 in. We have to give notice if we're having an event  
5 over 75 people to all of the Boards. We can only do  
6 four of those every month. So I mean, there's pretty  
7 significant restrictions on our use, and what we're  
8 saying in here, if you look at the submission, Item  
9 G, if we failed to perform it was 2G. If we failed  
10 to meet the restrictions in there it would be our  
11 obligation to put sound attenuation baffles or some  
12 sort of acoustical treatment in there and consult  
13 with an acoustical engineer to make that go away.

14           And, you know, we don't have a liquor  
15 license. We don't have -- we're not a hotel or a  
16 restaurant, so it is somewhat difficult. We went and  
17 looked -- the Board had asked us to look at other  
18 cases. I think the one that was referred to is a BZA  
19 case for the Adams Morgan Hotel and there were  
20 restrictions on the use. And we looked at those as  
21 sort of a guideline, and it restricted hours and the  
22 types of people that could use it, and how many  
23 people. And we tried to use that as sort of a  
24 framework here. I don't think the amount and  
25 quantity of people up there is going to rise to the

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1 occasion, but we have to put the sound attenuation in  
2 it. We'd prefer not to do that as the starting  
3 point.

4           And I'm not sure if I missed anything on  
5 there. That was what I had. Is that -- but we have  
6 had two good conversations. I know that Commissioner  
7 Litsky has been working with the Board members of  
8 Harbor Square and Tiber Island, so we didn't get a  
9 chance to regroup before tonight, but I don't see any  
10 reason why we can't come to agreement before final  
11 action.

12           CHAIRPERSON HOOD: So you all are still  
13 having conversations on the -- and I may have missed  
14 this, the outdoor events because Mr. Litsky's  
15 testimony is that they doubled.

16           MR. GLASGOW: There was a discussion draft  
17 that was provided to the ANC and honestly it was  
18 before we really had the full input from our leasing  
19 folks. Other things changed too. The capacity of  
20 the roof. So we took it from two events in the 30-  
21 day period, to four events in a 30-day period.  
22 What's happened since then is we've agreed to enter  
23 into an agreement with the three boards where if we  
24 have more than 75 people we'll provide written notice  
25 to the boards, and in no event will more than 150

1 people be permitted on the terrace.

2           There's hours restrictions. There's decibel  
3 rating restrictions. And, you know, I think we've  
4 made changes in both directions so the doubling of  
5 events taken in isolation I think is not a fair  
6 assessment. We've provided a subsequent draft and  
7 that's what we've been negotiating with.

8           CHAIRPERSON HOOD: Let me ask you, those  
9 events that are going to happen to that area, is that  
10 just going to be for folks who live in that area, or  
11 is that going to be city wide? Or is all of us going  
12 to be able to come down there and enjoy that or it's  
13 going to be just narrowed down to a few people,  
14 because I kind of have a sticking point, Mr. Litsky,  
15 I'll be frankly honestly with that. And I understand  
16 the ramifications because I live way over in  
17 Northeast. So I understand what you're saying, but  
18 also we don't want like I said at the hearing, I want  
19 to make sure we don't make this a missed opportunity.  
20 That's just where I am on that. Especially, we all  
21 love to be by the water and enjoy ourselves. But I  
22 also understand those who are going to be affected.  
23 I'm affected by stuff every night too. So, I'm  
24 affected by trash and clubs, so I understand. So  
25 it's good to put these things in place.

1           But I can tell you that, by the water, I  
2 would love to come to at least one event during the  
3 year. But that's just me. So let me open it up to  
4 my colleagues. Vice Chair Cohen.

5           MS. COHEN: It seems to me that 150 people is  
6 a large grouping of people. So why aren't you  
7 thinking of architectural requirements because it  
8 seems like it would make the whole issue moot for the  
9 ANC if you added them. Are they that pricey,  
10 expensive?

11           MR. SEAMAN: I just, I think it will diminish  
12 from the architecture of the building. I don't think  
13 it's necessary, but for the days when you maybe have  
14 150 people out there, where you've requested  
15 permission from the boards or indicated that you're  
16 going to have the event. And I really don't think  
17 the sound is going to be a problem. We have a  
18 requirement under the District Code to maintain the  
19 55 decibel rating at the property line. And the  
20 Commissioner was -- you know, he doesn't like, you  
21 know, calling the police as the solution and I  
22 understand that. But I don't think it's going to  
23 rise to that level. It's only for the use of the  
24 office tenant. It's not a venue. It cannot be, you  
25 know, leased out to third parties. It's just for

1 office tenant. It's leased space. It's, you know,  
2 and I think people may not believe it, but it's for  
3 lunch time. It's, you know, for in the evening if  
4 the office tenant wanted to have, you know, a happy  
5 hour or something for the employees. I think that's  
6 a more frequent occurrence than the events that we're  
7 talking about.

8           If it were a hotel with an event space that  
9 could be leased out to third parties I would agree  
10 with you, something should be done to mitigate it  
11 because that would be an all day, every day, sort of  
12 thing.

13           MS. COHEN: Thank you.

14           CHAIRPERSON HOOD: Commissioner May, you had  
15 something?

16           MR. MAY: Yeah, sure. I mean, I agree with  
17 you, this incorporating sound attenuation stuff into  
18 the design, when you're dealing with outdoor space is  
19 difficult to achieve. If you're dealing with  
20 interior space, there are ways to do that that can be  
21 blended with the architecture. Doing outdoors is  
22 challenging to say the least.

23           I think what would be helpful on this front  
24 is that -- and maybe I'm just not understanding the  
25 diagram that was submitted, I mean, it was helpful to

1 see the distances. And then you had this sort of  
2 this sliding scale of what different decibel levels  
3 translated into our real world understanding, you  
4 know a conversation five feet away. And I forget  
5 what the other ones were, but, you know, a Mack truck  
6 going down the street. Whatever they were.

7 But we don't get a sense of, you know, now  
8 much the sound dissipates over that distance. So, if  
9 it's at 55 when it reaches the property line, what's  
10 the decibel level when it reaches the park or the  
11 building beyond? Do you know that or can you provide  
12 that?

13 MR. GLASGOW: We can see whether we can  
14 provide that. What we had hoped to achieve by -- and  
15 Shane Dettmen had put together and gotten things from  
16 OSHA and other --

17 MR. MAY: Right.

18 MR. GLASGOW: -- sources within the  
19 government. And so what we looked at is all right,  
20 we have to be no more than 55 decibels at night at  
21 the property line. And then this -- the façade of  
22 the Harbor Square is another several hundred feet  
23 beyond that.

24 MR. MAY: Right.

25 MR. GLASGOW: And so we thought well, if

1 we're at 55 decibels at the property line then the  
2 sound dissipates at some ratio, which Shane tried to  
3 explain to me about five times and it's very --

4 MR. MAY: So I mean, I remember seeing  
5 diagrams like that when I was studying acoustics and,  
6 you know --

7 MR. GLASGOW: Right.

8 MR. MAY: -- and so I think it is possible to  
9 demonstrate that. I mean, I think the other thing  
10 that you have to consider is the fact that even  
11 though you know, you have to be at 55 at the property  
12 line, you know, sometimes you might not. That  
13 happens. People get loud and unintentionally so.  
14 Not maliciously so. Just, you know, you've got to --  
15 you know, 150 people and they try to talk over each  
16 other and there's other noise in the area and so, you  
17 know, it's not inconceivable that it could get louder  
18 than that.

19 So if it happened to be 55 at the property  
20 line what's it going to be at the park? What's it  
21 going to be at the building. And I think that  
22 actually, you know, you can help yourself a lot if  
23 you could demonstrate that by the time it reaches the  
24 building it's only going to be 40 decibels.

25 MR. GLASGOW: Yes, if it's 55 at the property

1 line then what is it as you take it further.

2 MR. MAY: Right. Right.

3 MR. GLASGOW: We can look at that.

4 MR. MAY: I mean, there are a lot of things -  
5 - a lot of things that will affect that. And the  
6 fact that you're dealing with, you know, sound  
7 traveling over water is not going to be working in  
8 your favor. It's, you know, in many ways it's like  
9 being on asphalt or something like that. But if it  
10 were grass it would help you a lot. That would  
11 absorb a lot more.

12 But the thing is that, you know, sound does  
13 travel great distances and you know, trees don't do a  
14 whole lot to stop it unless they're really dense,  
15 really packed. You need to have mass to stop the  
16 sound. But that distance itself actually is a big  
17 thing in your favor, so whatever you could do to  
18 demonstrate that I think could go a really long way  
19 and I think we're looking for this issue to be  
20 largely resolved by the time we get to final.

21 MR. GLASGOW: Yes. We can get additional  
22 information as to at different points in the distance  
23 from where the sound emanates as to what the decibel  
24 level is, taking it at 55 at the property line. Then  
25 you'll have it go higher, and you'll have it go lower

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1 as to things that are closer and further away than  
2 where the sound emanates from.

3 MR. MAY: Okay.

4 MR. SEAMAN: We honestly stopped when we got  
5 to the property line, it was 55, which is  
6 conversational tone at three meters. So it's, you  
7 know, having a conversation from me to you at a  
8 conversation level --

9 MR. MAY: I understand but you've been in --  
10 you know, you must have had parties next door or  
11 parties across the block from where you are. Or in  
12 my case, you know, I lived a block and a half from  
13 the armory. No, sorry, half a block from the armory,  
14 and they put all sorts of junk out on the sidewalk  
15 and I nearly got thrown in jail when I went over  
16 there to stop them. You know, and you can't get the  
17 enforcement that you want to have on that.

18 You know, yes, there are some police who have  
19 the decibel meter. They have deployed some of that.  
20 But it is not -- you know, you're not going to get  
21 the police boat out there to test it at the water  
22 line, you know, to make sure that it's 55 feet there.  
23 What you're going to have is complaints from the  
24 neighbors.

25 So, you know, if it's 65 or 75 on the pier,

1 what's it going to be at the building? How bad is it  
2 going to be?

3 MR. SEAMAN: We can do that.

4 CHAIRPERSON HOOD: Okay. Any other questions  
5 or comments. I don't know who is -- I wonder, for  
6 those who are here for the hearing this is only  
7 supposed -- somebody up here had the bright idea that  
8 it was only going to take five minutes. So I want to  
9 apologize to those who are waiting. We're going to  
10 try to get through this as quickly as possible. I  
11 can't remember whose idea it was.

12 Commissioner Turnbull.

13 MR. TURNBULL: Yeah, thank you, Mr. Chair. I  
14 just wanted to say that I was not here for the  
15 hearing, and although Mr. Litsky, I thank you for  
16 those comments that I made, I was in Philadelphia at  
17 a conference so. But I have reviewed the case. And  
18 remember when we set this down we had some -- I had  
19 some architectural issues, so I think it's greatly  
20 changed.

21 I would also agree with Commissioner -- I  
22 think it would be very difficult from an  
23 architectural standpoint to do any kind of sound --  
24 any kind of barriers up there to do anything that  
25 would make sense. I think the only way it could be

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1 done is by the testing, the regulatory, and just  
2 limiting the sound levels. I don't think  
3 architecturally you could do much to this. I mean, I  
4 just can't see blankets or barriers going up to try  
5 to do anything to it. It just doesn't make sense.

6 And I think the way the building is now, I'm  
7 very pleased with the way it looks and I think the  
8 only way you could do it is by as has been talked  
9 about, that you'd have to establish the sound levels  
10 and keep those, and regulate it and monitor it. I  
11 think that's the only way you can do it.

12 CHAIRPERSON HOOD: Let me ask, Mr. Litsky, it  
13 doesn't seem like you all are that far away. I know  
14 there's still some issues and you all are making  
15 progress. Do you feel like we can get there?

16 MR. LITSKY: Oh, absolutely I do.

17 CHAIRPERSON HOOD: Okay. All right.

18 MR. LITSKY: I just wanted to make it very  
19 clear and on the record, those issues that had been  
20 brought up when I've been speaking with folks who are  
21 going to be impacted by this.

22 CHAIRPERSON HOOD: Okay. All right. But you  
23 feel we can get there?

24 MR. LITSKY: Absolutely I do.

25 CHAIRPERSON HOOD: Okay.

1           MR. LITSKY: And I want to commend, you know,  
2 the applicant and the attorney for, you know, moving  
3 this along and helping us get -- put words to  
4 concerns.

5           CHAIRPERSON HOOD: Okay.

6           MR. LITSKY: To address those.

7           CHAIRPERSON HOOD: All right. Any other  
8 questions of either the applicant or the chairperson  
9 of the ANC?

10           Okay. Thank you. Thank you, all. We  
11 appreciate it.

12           Okay, Commissioners, I think we are going to  
13 get there. I think this is proposed action and I'm  
14 sure we will find out before our next meeting. I  
15 would suggest that we go ahead and do proposed action  
16 tonight, and look at what happens and we can review  
17 it. And then if we need to delay it more we will,  
18 but I think we can go ahead and move forward with  
19 this.

20           Would somebody like to make a motion? Who  
21 has the case number in front of them?

22           MR. MILLER: Sure. Mr. Chairman, I would  
23 move that the Zoning Commission take proposed action  
24 on Zoning Commission Case No. 11-03F, First Stage  
25 Planned Unit Development Modification, Second Stage

1 Planned Unit Development for Pier 4 at the Southwest  
2 Waterfront with the understanding that the applicant  
3 is going to continue working with the ANC on  
4 outstanding issues in those rooftop terrace  
5 restrictions and ask for a second.

6 MS. COHEN: Second.

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

9 MR. MAY: Mr. Chairman, I just want to thank  
10 the Chairman of the ANC and the applicant for their  
11 efforts to try to get us here. And I do think it's  
12 very much within striking distance and I think  
13 demonstrating a few more things will be helpful. I  
14 think we can get there, so.

15 CHAIRPERSON HOOD: Okay. I want to echo  
16 that. Any further discussion?

17 [Vote taken.]

18 CHAIRPERSON HOOD: Ms. Schellin, would you  
19 record the vote?

20 MS. SCHELLIN: Yes, sir. Staff records the  
21 vote five to zero to zero to approve proposed action  
22 in Zoning Commission Case No. 11-03F, Commissioner  
23 Miller moving, Commissioner Cohen seconding,  
24 Commissioners Hood, Turnbull -- I'm sorry. Yes,  
25 Hood, Turnbull, and May in support. And I just ask

1 that the Commission will waive the applicant having  
2 to go through the 2403.15 through 20, the proffers  
3 and conditions since this is second stage and they've  
4 already done that.

5 CHAIRPERSON HOOD: Any objections? No  
6 objections.

7 MS. SCHELLIN: And also, if we could set  
8 dates for their submissions, if we could have those  
9 submissions by July 11th and the ANC could provide  
10 their response seven days later, which would be July  
11 18th, 3:00 p.m., draft findings, facts and  
12 conclusions of law would be due on July 11th. Final  
13 action would occur at the July 25th meeting.

14 CHAIRPERSON HOOD: Okay. So we fine with all  
15 those dates? Everybody?

16 MR. LITSKY: I just want to clarify precisely  
17 what has to happen on July 11th because our ANC meets  
18 on July 11th. So if we need to approve something --

19 MS. SCHELLIN: The applicant is just making  
20 their submission.

21 MR. LITSKY: Great. Okay. And then we just  
22 have to respond --

23 MS. SCHELLIN: And you don't respond until a  
24 week later.

25 MR. LITSKY: Fine. Terrific.

1           CHAIRPERSON HOOD: Okay. Anything else? We  
2 all on the same page?

3           MS. SCHELLIN: Yes, sir.

4           CHAIRPERSON HOOD: All right. Anything else  
5 for this meeting?

6           MS. SCHELLIN: No, sir.

7           CHAIRPERSON HOOD: Okay. Again, I want to  
8 apologize, we're getting ready to go -- does Paul  
9 need a five minute --

10          MS. SCHELLIN: We need about a five-minute  
11 break. Yes, sir. Sorry.

12          CHAIRPERSON HOOD: Let me apologize again,  
13 those who are here for the meeting, we're going to  
14 get right into this. We need five minutes to reset  
15 some things. Again, this special public meeting is  
16 adjourned.

17                   [Hearing adjourned at 7:06 p.m.]

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