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GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission

Regular Public Meeting
1447th Meeting Session (26th of 2016)

6:45 p.m. to 7:51 p.m.
Monday, November 14, 2016

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

1 Board Members:

2 ANTHONY HOOD, Chairman

3 ROBERT MILLER, Vice Chair

4 PETER MAY, Commissioner

5 MICHAEL TURNBULL, Commissioner

6

7 Office of Zoning:

8 SHARON SCHELLIN, Secretary

9

10 Office of Planning:

11 JENNIFER STEINGASSER

12 JOEL LAWSON

13

14 Department of Transportation:

15 EVELYN ISRAEL

16

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

2 CHAIRPERSON HOOD: Good evening, ladies and
3 gentlemen, this is the public meeting of the Zoning
4 Commission for the District of Columbia. My name is
5 Anthony Hood. Joining me are Vice Chair Miller,
6 Commissioner May, and Commissioner Turnbull. We're
7 also joined by the Office of Zoning staff, Ms. Sharon
8 Schellin, as well as the Office of Attorney General
9 staff, Mr. Bergstein and Mr. Ritting, as well as the
10 Office of Planning, Ms. Steingasser and Mr. Lawson
11 and Mr. Mordfin, Ms. Fothergill, and Ms. Thomas. And
12 I see Ms. Brown-Roberts in the audience.

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

23 Does the staff have any preliminary matters?

24 MS. SCHELLIN: No, sir.

25 CHAIRMAN HOOD: If not, let us proceed with

1 the agenda as noted.

2 Okay. This is new so we'll see how this
3 goes.

4 MS. SCHELLIN: Yes.

5 CHAIRMAN HOOD: Advance party status, we have
6 Fox Hall Community Citizen's Association, Burleith
7 Citizen's Association, Georgetown Student
8 Association, Citizen's Association of Georgetown.
9 I'm going to turn it over to Ms. Schellin.

10 MS. SCHELLIN: Yes, sir. As you stated, this
11 is the first time that we -- that the Commission is
12 considering advance party status. So, I'm going to
13 call each association and ask that the
14 representatives stand and state their name. So the
15 representative for Fox Hall Community Citizen's
16 Association.

17 MR. AVERY: Robert Avery, I'm the president
18 of the association.

19 MS. SCHELLIN: Thank you. Berleith Citizen's
20 Association?

21 MS. BELL: Hi. [Speaking off mic.]

22 MS. SCHELLIN: Thank you. Georgetown Student
23 Association.

24 MS. KHAN: [Speaking off mic.]

25 MS. SCHELLIN: Thank you. Citizen's

1 Association of Georgetown.

2 MS. ROMM: Jennifer Romm [Speaking off mic.]

3 MS. SCHELLIN: Thank you. So, the
4 representatives for all four of the associations are
5 present so the Commission can consider all four
6 requests before them.

7 CHAIRMAN HOOD: Okay. We're getting off to a
8 good start. Everybody was here, so we don't have to
9 deny anyone, so I think that's a good start. At
10 least take it under consideration, denying on not
11 being here.

12 I would recommend, though, after looking at
13 all the applications, that's why I'm glad all of them
14 are here, that we grant party status in this case for
15 all four who have requested it. Any objections?

16 [No audible response.]

17 CHAIRMAN HOOD: Okay. I would move that as a
18 motion and ask for a second.

19 MR. MILLER: Second.

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

22 [Vote taken.]

23 CHAIRMAN HOOD: Ms. Schellin, would you
24 record the vote?

25 MS. SCHELLIN: Staff records the vote four to

1 zero to one to grant party status to the four
2 associations listed, Commissioner Hood moving,
3 Commissioner Miller seconding, Commissioners May and
4 Turnbull in support. The third mayoral appointee
5 position vacant, not voting.

6 CHAIRMAN HOOD: Okay. So we'll -- we need to
7 do anything else?

8 MS. SCHELLIN: No, they can come to the
9 hearing prepared.

10 MR. MAY: Mr. Chairman, can I ask a question?

11 CHAIRMAN HOOD: Sure.

12 MR. MAY: So, typically when there are
13 parties in support their time is subtracted from the
14 applicant's time.

15 MS. SCHELLIN: It is shared. The 60 minutes
16 is shared.

17 MR. MAY: Right. So I'm a little concerned.
18 I mean, you know, three minutes apiece or three to
19 five minutes apiece isn't a whole lot of time. And I
20 think they probably have gotten quite a bit more in
21 the way of presentation up to this point. So --

22 MS. SCHELLIN: They're saying, no. They're
23 saying they're good. The applicant is doing the
24 thumbs up. They're giving the thumbs up so they all
25 appear ready to proceed.

1 MR. MAY: Ready to just -- to what?

2 MS. SCHELLIN: Per the regulations.

3 MR. MAY: But I'm not.

4 MS. SCHELLIN: You're not.

5 MR. MAY: That's my point.

6 MS. SCHELLIN: Oh.

7 MR. MAY: Is that, it may take us more than
8 60 minutes to get everything that we need out of it.
9 Or more than the 45 minutes that's left after the
10 parties get their time. So I'm just flagging that at
11 this moment because, you know, the parties in support
12 have been to many public meetings and have had lots
13 of interaction with the university that we have not
14 had, and I want to understand this well and we may
15 not be able to get it in 45 minutes. I'm just
16 raising that thought. So.

17 CHAIRMAN HOOD: I actually don't understand
18 that thought because in the 45 minutes, we take as
19 much time for us to get to where we need to be --

20 MR. MAY: Right.

21 CHAIRMAN HOOD: -- we need to take as much
22 time as we need.

23 MR. MAY: That's fine. And that's -- I just
24 want to acknowledge that it may still take more than
25 45 minutes for the presentation.

1 CHAIRMAN HOOD: Okay.

2 MR. MAY: Right. Okay.

3 CHAIRMAN HOOD: Well, we'll see what happens
4 when we get there.

5 MS. SCHELLIN: Okay.

6 CHAIRMAN HOOD: Okay. All right, anything
7 else on this?

8 MS. SCHELLIN: No.

9 CHAIRMAN HOOD: Okay. Let's go to the
10 consent calendar, minor modification and technical
11 correction. Hold on, did I skip some? No, okay.

12 Zoning Commission Case No. 04-13A,
13 Metropolitan Baptist Church request for minor
14 modification at Square 277. Ms. Schellin.

15 MS. SCHELLIN: Yes, sir. This is a request
16 from the applicant asking for a minor modification
17 and they are asking that the approved designated
18 community space, that they be able to turn that into
19 residential space.

20 Exhibit 6 is an OP report which isn't opposed
21 to the request, but they are opposed to it as a minor
22 modification, so would ask the Commission to consider
23 the request.

24 CHAIRMAN HOOD: Okay. Let me open it up on
25 this request, colleagues, and I think that the Office

1 of Planning has put their position out. I think I
2 remember this case and what it was supposed to evolve
3 as, and now we're coming back and we're changing the
4 use. So, 04-13A, met me open it up for discussion.
5 Any discussion? Vice Chair.

6 MR. MILLER: Thank you, Mr. Chairman. I
7 guess my only question is, I mean, this was a -- they
8 used it as a community room, was a public benefit in
9 the original order, which I don't think I was part of
10 that case. But it was also contemplated that it
11 might, at some point in the future, not be a
12 community room and might need to be converted at some
13 point.

14 So, I'm just wondering why wouldn't it be a
15 possibility that we might want to expedite things by
16 making it -- by considering it a modification of
17 consequence instead of a significant modification
18 that requires a public hearing? Although, I can see
19 some reasons why we might want to have a public
20 hearing on it as well. But I was just putting that
21 out there as a question, as a middle ground, rather
22 than a minor mod that's consent calendar approved
23 today, or going toward the full hearing as the middle
24 ground, which our new rules allow, the [garbled
25 speech] where we notify any parties, including the

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1 ANC, allow paper filings, and consider it on a little
2 bit more expedited basis than a -- which I think I
3 saw some arguments about time being of the essence.
4 So.

5 CHAIRMAN HOOD: I think -- any other
6 comments? I think the Vice Chair is exactly right.
7 Having participated I know there was a conversation
8 about, if this doesn't work or if it doesn't
9 materialize or if it doesn't work out, other things,
10 that were mentioned about this type of use and being
11 able to use that. So I would like that the road that
12 the Vice Chair mentioned. But let me see what
13 everybody else is thinking. Commissioner May?

14 MR. MAY: I think that's fine. I don't think
15 it's a minor modification under the old regulations,
16 but if we can treat it as a modification of
17 consequence, then I think that we can move forward a
18 bit more expeditiously once we get the ANC's input.

19 MR. TURNBULL: I would agree that it's not
20 minor and I would be open to either, either choice.

21 CHAIRMAN HOOD: You said minor modification
22 of consequence?

23 MR. MILLER: Yeah.

24 CHAIRMAN HOOD: Okay. So, I think that's all
25 -- I think we have a unanimous agreement on that and

1 I think that's all we do in this particular case,
2 correct? We all still learning the new rules, even
3 though we wrote them.

4 MR. BERGSTEIN: Sorry. I don't know if
5 that's -- it's on. The rules require that you would
6 establish a time frame for the briefing to occur.

7 CHAIRMAN HOOD: I'm going to ask --

8 [Discussion off the record.]

9 CHAIRMAN HOOD: Ms. Schellin, could you come
10 up with a time frame?

11 MS. SCHELLIN: Right. So it's a time frame
12 for the parties to be able to respond, and if I'm not
13 mistaken I think the ANC was the only party in this
14 case. And you guys want to take this back up at the
15 December 12th meeting, so we want to give the ANC an
16 opportunity to maybe have it at their next meeting.
17 I'm not sure when that is. So, with the holidays
18 maybe we could give them until the end of the month
19 to respond, which would be until November 30th. And
20 then if the applicant wants to respond to the ANC
21 submission -- is there anything else the Commission
22 is looking for from the applicant?

23 MR. MILLER: I actually would like the
24 submission from the applicant, even though it's not
25 required, to address why they're offering that one of

1 the three residential units, instead of the community
2 space, would be at 80 percent AMI level. I would
3 like them to address whether or not they can do a
4 deeper affordability level.

5 MS. SCHELLIN: Okay. So, then they would
6 need to make that submission then by -- in one week,
7 by November 21st. And then the ANC would have until
8 the 30th to respond to the application itself, and
9 that new submission. And the Office of Planning, if
10 they choose to make any further submissions, they can
11 also do so by November 30th. And then we can put
12 this on for December 12th.

13 CHAIRMAN HOOD: All right. Anything else on
14 that? Okay. Let's go to Zoning Commission Case No.
15 08-15A, corrections to condition 8C in Zoning
16 Commission Order No. 08-15A1. Ms. Schellin.

17 MS. SCHELLIN: Yes, sir. Staff put this on
18 the agenda after discussion with the applicant
19 requesting a correction to Condition 8C, and after
20 discussion with OAG, this is a correction. The order
21 has not been issued, but the minimum parking
22 validation in Condition 8C should be for 90 minutes
23 instead of two hours. This was a change that
24 occurred prior to the Commission taking final action.
25 However, it was not carried over to the order and so

1 we'd ask the Commission to approve that because we
2 didn't want to just make a change to a condition in
3 the order without the Commission approving it.

4 CHAIRMAN HOOD: Thank you, Ms. Schellin.
5 Commissioners, any comments on this request?
6 Commissioner Miller?

7 MR. MILLER: Thank you, Mr. Chairman. I
8 would just comment that I think I -- at the time that
9 we voted I've acknowledged that the applicant had
10 made that change to the parking condition so I think
11 it's appropriate that the order reflect the change
12 that we contemplated at the time of our decision.

13 CHAIRMAN HOOD: Okay. Anyone else? Okay.
14 Somebody like to make a motion?

15 MR. MILLER: Sure. I think, Mr. Chairman, I
16 would move that the Zoning Commission take action on
17 Zoning Commission Case No. 08-15A, correction to
18 Condition 8C, in Zoning Commission Order No. 08-15A1,
19 and ask for a second.

20 CHAIRMAN HOOD: Second. Okay. It's been
21 moved and properly seconded. Any further discussion?

22 [Vote taken.]

23 CHAIRMAN HOOD: Ms. Schellin, would you
24 record the vote?

25 MS. SCHELLIN: Yes. Staff records the vote

1 four to zero to one, to approve the correction to
2 Condition No. 8C in Zoning Commission Order No. 08-
3 15A1, Commissioner Miller moving, Commissioner
4 Turnbull seconding, Commissioners Hood and May in
5 support, third mayoral appointee position vacant, not
6 voting.

7 CHAIRMAN HOOD: Okay. Thank you. Let's go
8 on. Next, Zoning Commission Case No. 08-06I, Office
9 of Zoning request for minor modifications to Zoning
10 Commission Order No. 08-06A. Ms. Schellin.

11 MS. SCHELLIN: Yes, sir. This is a request
12 that the Office of Zoning has submitted to try to
13 have a definite cut-off time for submissions that are
14 made electronically either by e-mail or through IZIS
15 on the day of a hearing. This would give the
16 applicant, the Commission, the BZA, the Office of
17 Planning, any other parties warning, or they would
18 know what has been submitted to the record. It would
19 allow the Commission and the Board of Zoning
20 Adjustment to have a full record before they take
21 action if they decide to take a bench decision in a
22 case, rather than having submissions made during the
23 time a hearing is actually going on. So we'd ask the
24 Commission to consider this request before them and
25 if approved, to allow the immediate publication of a

1 proposed rulemaking.

2 CHAIRMAN HOOD: Okay. colleagues, I think
3 this is very appropriate. I believe that the Office
4 of Zoning as well as ourselves, we make decisions, we
5 should have all the merits of any case in front of us
6 and not -- I'm not going to say blindsided but later
7 on something comes up after we've already made a
8 motion, so I think this is very appropriate. I'm not
9 sure if we need to do the emergency. I'm not even
10 sure if we need a hearing. I think this is just
11 pretty straight forward.

12 So, any comments on this?

13 MR. TURNBULL: No, I would agree with Mr.
14 Chair. I think we need it, I think everybody needs
15 this finality so that we can go forward with our
16 hearings and I think it's a -- I would agree with
17 you, I think we have to do this.

18 CHAIRMAN HOOD: Okay. So, in that case I
19 would move that we approve this request for minor
20 modification to Zoning Commission Order No. 08-06A,
21 Zoning Commission Case Number, yeah, 08-06I, and ask
22 for a second.

23 MR. MILLER: I would second that, Mr.
24 Chairman. But are you -- were you also moving it as
25 an emergency as well or --

1 CHAIRMAN HOOD: Do I need to move it as --
2 yeah. Well, emergency too. Whatever gets it done
3 faster. Do I need to do it in emergency also?

4 MR. RITTING: If you want it in effect
5 immediately as opposed to --

6 CHAIRMAN HOOD: Okay. Emergency. Emergency.

7 MR. MILLER: I would second that.

8 CHAIRMAN HOOD: All right. It's been moved
9 and properly seconded. Any further discussion?

10 [Vote taken.]

11 CHAIRMAN HOOD: Ms. Schellin, would you
12 record the vote?

13 MS. SCHELLIN: Staff records the vote four to
14 zero to one to take emergency and the immediate
15 publication for -- emergency and proposed rulemaking
16 of Case No. 08-06I, Commissioner Hood moving,
17 Commissioner Miller seconding, Commissioners May and
18 Turnbull in support, third mayoral appointee position
19 vacant, not voting.

20 CHAIRMAN HOOD: Let's go to final action,
21 Zoning Commission Case No. 03-12U/03-13U, Square 769,
22 LLC., DCHA two-year PUD time extension at Square 769.
23 Ms. Schellin.

24 MS. SCHELLIN: Yes. As you stated the
25 applicant is requesting a two-year PUD time extension

1 to September 26th, 2018 to file a building permit for
2 the approved office building at 250 M Street
3 Southeast. The applicant is also requesting a waiver
4 from Subtitle Z, Section 705.5, since this is not the
5 first time an extension has been requested and they
6 are requesting a period of two years, so we'd ask the
7 Commission to consider final action this evening.

8 CHAIRMAN HOOD: Okay. Commissioners, I think
9 when we first took up this particular case, Catholic
10 Carlsberg (phonetic) that we knew that we were
11 changing the whole community and we knew it would
12 take some time. So I would recommend that we waive
13 our rules in this case for the specific reason, this
14 is a new -- I don't usually like to do -- waive new
15 rules, but I think this is very warranted because we
16 knew going in that this would take a while to deal
17 with this whole community change here in the city, so
18 I would move that we -- do I need to make a motion on
19 that? I don't think so.

20 General consensus? Everybody? Okay. All
21 right. Note, the whole Commission agreed. Okay.

22 What else do we need to do on this? Oh, and
23 let's open it up for the two-year discussion. Any
24 discussion on this? Anyone? Somebody like to make a
25 motion?

1 MR. MAY: I do want to discuss.

2 CHAIRMAN HOOD: Sure. Commissioner May.

3 MR. MAY: No, I just think you've made a
4 reasonable case as for why this is needed. It is a
5 really huge PUD and so it's understandable why there
6 would be complications, although if we keep having
7 time extensions they're going to run out of letters
8 in the alphabet to tag on to the case number. So,
9 anyway, I'm in favor of moving forward with it.

10 CHAIRMAN HOOD: I always call this the Herb
11 Franklin. Most of you all probably remember Herb
12 Franklin. When I first got here he did not like time
13 extensions. So I call this the Herb Franklin Rule.
14 So if anybody talks to him tell him we have something
15 in the language now that, the Herb Franklin Rule.

16 Okay. Any other discussion? All right.
17 Somebody else like to make a motion? Somebody?

18 MR. TURNBULL: Mr. Chair, I would move that
19 we take final action on Zoning Case No. 03-12U/03-
20 13U, Square 769, LLC., two-year PUD extension, time
21 extension at Square 769.

22 MR. MILLER: Second.

23 CHAIRMAN HOOD: It has been moved and
24 properly seconded. Any further discussion?

25 MR. RITTING: Just a clarification.

1 CHAIRMAN HOOD: Yes.

2 MR. RITTING: This would not be without any -
3 - this would be with no conditions?

4 CHAIRMAN HOOD: Yes, with no conditions. Any
5 conditions? Everybody fine with that? Okay.

6 All right. With no conditions. Moved and
7 properly seconded. Any further discussion?

8 [Vote taken.]

9 CHAIRMAN HOOD: Ms. Schellin, would you
10 record the vote?

11 MS. SCHELLIN: Yes. Staff records the vote
12 four to zero to one to approve final action in Zoning
13 Commission Case No. 03-12U/03-13U, Commissioner
14 Turnbull moving, Commissioner Miller seconding,
15 Commissioners Hood and May in support, third mayoral
16 appointee position vacant, not voting.

17 CHAIRMAN HOOD: Okay. Next, let's go to
18 Zoning Commission Case No. 04-33H, Text Amendments,
19 Inclusionary Zoning, and additional affordable
20 housing required by District law to exemptions from
21 Inclusionary Zoning. Ms. Schellin.

22 MS. SCHELLIN: Yes. On this case we have, at
23 Exhibit 12, an NCPC report advising of no issues.
24 Other than that there were no comments received
25 during the proposed rulemaking open comment period.

1 Would ask the Commission to consider final action.

2 CHAIRMAN HOOD: Okay. You've heard the
3 request. Let me open up any comments. Vice Chair.

4 MR. MILLER: Thank you, Mr. Chairman. Yeah,
5 I'm in support of this exemption from Inclusionary
6 Zoning for those federal or district assisted
7 projects that have at least as much affordable
8 housing as would have been required under our
9 Inclusionary Zoning. And they are separately
10 enforceable by other covenants.

11 I just want to make clear that for projects
12 that come before us, they can even offer even more
13 affordable housing that might require another -- an
14 additional covenant beyond whatever LDA covenant that
15 they may have entered into with the District
16 Government. This doesn't limit the amount of
17 affordable housing to what was in the original
18 federally or district assisted affordable housing
19 project. And with that understand I'm prepared to
20 support final action here tonight.

21 CHAIRMAN HOOD: Okay. I think I'm fine with
22 that. I just want to make sure, we've heard from Ms.
23 -- what's her name? Ms. Donaldson, about the city
24 not being able to administer some of -- I guess, does
25 that fall in line? Are we going to go back through

1 that? I'm not asking you the question, I just want
2 to make sure that that's being discussed so we won't
3 have that problem.

4 MR. MILLER: I wasn't really referring to
5 that particular issue of meeting the AMI levels. I'm
6 hoping that will be taken care of.

7 CHAIRMAN HOOD: Okay. Okay.

8 MR. MILLER: Separately, through their
9 administrative processes.

10 CHAIRMAN HOOD: Because actually I agree with
11 you. I just don't know when we need to address that.

12 MR. MILLER: Yeah, I think that needs to be
13 taken care of separately.

14 CHAIRMAN HOOD: Okay. Okay.

15 MR. MILLER: Through their administrative
16 processes, even if the levels are 80 and 50, or 60
17 and 80 now, under the new IZ.

18 CHAIRMAN HOOD: Right. Right.

19 MR. MILLER: But if something comes in at 50
20 or 40, that's okay. We want to be able to accept
21 that.

22 CHAIRMAN HOOD: I agree. We need to figure
23 out a way that it would actually work if we can get
24 that --

25 MR. RITTING: If it gives everybody comfort,

1 I can add a paragraph like that to this notice. If
2 that would give you comfort I'd be happy to do that.

3 CHAIRMAN HOOD: Okay.

4 MR. RITTING: I understand your question is
5 that, if an LDA requires X so many units, X such
6 affordability, and someone comes in with a PUD and
7 they want to add 10 more units at deeper
8 affordability, that of course can be accepted as a
9 public benefit.

10 MR. MILLER: Right.

11 MR. RITTING: I'm happy to add that thought
12 if that's what you'd like.

13 MR. MILLER: I think that would be a great
14 clarification.

15 CHAIRMAN HOOD: Does everybody agree? Okay,
16 great. Okay, great. Okay.

17 Do we have a motion on the table? Okay,
18 someone like to make a motion?

19 MR. MILLER: Mr. Chairman, I would move that
20 the Zoning Commission take final action on Case No.
21 04-33H, text amendments, Inclusionary Zoning,
22 addition of affordable housing required by District
23 law to exemptions from Inclusionary Zoning, and ask
24 for a second.

25 CHAIRMAN HOOD: I'll second it. It's been

1 moved and properly seconded. Any further discussion?

2 [Vote taken.]

3 CHAIRMAN HOOD: Ms. Schellin, would you
4 record the vote?

5 MS. SCHELLIN: Yes. Staff records the vote
6 four to zero to one to approve final action in Zoning
7 Commission Case No. 04-33H, Commissioner Miller
8 moving, Commissioner Hood seconding, Commissioners
9 May and Turnbull in support, third mayoral appointee
10 position vacant, not voting.

11 CHAIRMAN HOOD: Okay. Let's go to proposed
12 action, Zoning Commission Case No. 15-31, 777 17th
13 Street, LLC., consolidated PUD and related map
14 amendment at square 4507. Ms. Schellin.

15 MS. SCHELLIN: At exhibits 40 through 41B2 we
16 have the applicant's post-hearing submissions. At
17 Exhibit 42 we have an ANC 5D report in support,
18 noting some concerns. Would ask the Commission to
19 consider proposed action this evening.

20 CHAIRMAN HOOD: Okay. Let's open it up for
21 any comments on this 15-31.

22 MR. MILLER: Does the Commission have any --

23 MR. MAY: Yeah, I had one clarification.
24 Actually, I was hoping to ask the Office of Planning
25 about this, if that's okay.

1 It looks like they've provided documentation
2 of the rooftop setbacks, which was a question. And a
3 whole series of sections on pages L -- well, on page
4 L-11. But they're showing a raised planting bed,
5 which is a fixed feature that's above the roof
6 height, but behind the parapet. Not that it's
7 visible, but I'm wondering if that's technically a
8 violation of the setback requirement.

9 They show other things that are also in that
10 space, but it's movable furniture. So, I'm just
11 wondering. And in particular I'm looking at the
12 raised planted area that shows up in Sections A and
13 A-1 on L-11. So, is that -- you see that planter
14 area that I'm looking at? Is that technically a
15 violation? I mean, shouldn't that be -- I mean,
16 everything that's even -- even things that are four
17 feet tall have to be set back, right? Or under four
18 feet tall.

19 MR. TURNBULL: What drawing are you at,
20 Commissioner May?

21 MR. MAY: A-11. I'm sorry, L-11, Sections A
22 and A2.

23 MR. LAWSON: Very good question. Sorry.
24 Joel Lawson with the Office of Planning. We haven't
25 seen this exact question before. To be honest, we'd

1 like to discuss with the Zoning Administrator to
2 see --

3 MR. MAY: Yeah.

4 MR. LAWSON: -- the structure portion that
5 they're showing, does appear to provide the setback.
6 So it's the soil portion that does not.

7 MR. MAY: Yeah.

8 MR. LAWSON: And I'd have to see how the
9 Zoning Administrator would interpret it.

10 MR. MAY: Okay. Yeah, I mean, I think it's a
11 minor point, but I do think it's something that we
12 need to have. We ought to have clarity about whether
13 that requires to be set back or not. It's a very,
14 very minor point and I know it's not visible, but
15 it's a question of a strict compliance with the
16 regulations because it could open the door to other
17 more problematic things I think. So, otherwise, I
18 mean, that was one of the issues that I had raised.
19 I know others were pushing for greater Inclusionary
20 Zoning amounts, and they submitted a signage plan,
21 but I'll defer to others if they want to talk to any
22 of those issues.

23 MR. MILLER: Thank you, Mr. Chairman. I just
24 wanted to express my appreciation to the applicant
25 for making some revisions that the Commission did

1 raise at the hearing, including the darker -- having
2 a darker penthouse. They included the signage plan.
3 And on inclusionary -- they had added balconies,
4 which is something that I'm always very happy about,
5 because it reads residential and people like to have
6 very outdoor open space in a certain environment
7 beyond what's on the roof or elsewhere.

8 And on Inclusionary Zoning the applicant has
9 modified its proffer to provide more two and three-
10 bedroom units at affordable levels. Just reading
11 from their submission, their setting aside eight
12 percent of residential gross floor area for
13 affordable housing, half of which will be available
14 to households at the 50 percent AMI level, and the
15 other half will be available to households at 80
16 percent AMI level. And where as only 15 percent of
17 the market rate units in the building are two-bedroom
18 units, 50 percent of the affordable units will be
19 either two or three-bedroom units, and they note that
20 the only three-bedroom units in the project are
21 affordable units. Think that's important to note
22 because I think there was public testimony recently
23 that said that the only affordable housing that his
24 Commission is approving is studio units for a certain
25 type of demographic.

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1 In fact, 60 percent of the units reserved at
2 the 50 percent AMI level will be either two or three-
3 bedroom units. And I agree with the applicant, by
4 reserving the larger units as affordable, the
5 applicant is providing opportunity for low-income
6 families to live in the building and have access to
7 the same amenities as the market rate units.

8 And finally, I would just commend the
9 applicant for their continuing community outreach.
10 They met with those who came before us and who
11 expressed concerns, and I'm not sure that we have --
12 that we got additional submissions from those
13 neighbors, but I think they have really tried, made a
14 concerted effort to meet the neighbors' concerns.
15 So, I'm prepared to move forward.

16 Of course, getting the information that
17 Commissioner May wants before we get to final. Is
18 this final?

19 MR. MAY: This is proposed. So I think --

20 MR. MILLER: Proposed.

21 MR. MAY: -- before we get from final, some
22 clarity from the ZA.

23 MR. MILLER: Right.

24 MR. MAY: And I assume if there's action
25 that, you know, some minor design modification, that

1 that would be addressed before final if it's
2 necessary.

3 CHAIRMAN HOOD: Any other comments? Mr.
4 Turnbull?

5 MR. TURNBULL: Yeah. Thank you, Mr. Chair.
6 I want to put myself in league with Commissioner
7 Miller, the Vice Chair. I want to thank the
8 applicant for listening to all our comments and our
9 concerns and responding with the necessary drawings,
10 especially the affordable housing aspect too, which I
11 think is very much appreciated.

12 But they did submit a lot drawings, which I
13 had asked for clarifying some of the issues, the
14 alley view, and just looking at what the building
15 looks like from the alley. But also I asked -- I
16 think I may have asked for some clarification
17 drawings on the penthouse area, which I think is
18 Commissioner May has pointed out, something that he
19 has a concern about. But again, I did want to
20 express my appreciation to the applicant for
21 following through on everything we had asked for.

22 CHAIRMAN HOOD: I would agree. The only
23 thing I didn't hear, and it may have come up while I
24 was out of the room, in the submissions, was the
25 circulation pattern. And I really appreciate that S-

1 11, which shows how bicycles are going to interact
2 with pedestrians and vehicles. Not that we have a
3 problem in this city with that, but I think -- well,
4 I think we do have a problem. I think that we need
5 to figure out how we all can co-exist with the
6 bicycles, and how they maneuver, and how the
7 pedestrians maneuver, and how vehicles maneuver. So,
8 I do appreciate them giving us a circulation pattern.

9 Anything else?

10 MR. MILLER: Mr. Chairman, I would move that
11 the Zoning Commission take proposed action on Case
12 No. 15-31, 777 17th Street, LLC., consolidated PUD
13 and related map amendment at Square 4507 and ask for
14 a second.

15 MR. TURNBULL: Second.

16 CHAIRMAN HOOD: Okay. It's been moved and
17 properly seconded. Any further discussion? And we
18 do have some stuff that's coming in for final.

19 [Vote taken.]

20 CHAIRMAN HOOD: Ms. Schellin, would you
21 record the vote?

22 MS. SCHELLIN: Staff records the vote four to
23 zero to one to approve proposed action in Zoning
24 Commission Case No. 15-31, Commissioner Miller
25 moving, Commissioner Turnbull seconding,

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1 Commissioners Hood and May in support, third mayoral
2 appointee position vacant, not voting.

3 CHAIRMAN HOOD: Okay. Next, let's go to
4 Zoning Commission Case 16-07, W-G 9th and O, LLC.,
5 consolidated PUD and related map amendment at square
6 399. Ms. Schellin.

7 MS. SCHELLIN: Yes. At Exhibit 34 we
8 received a -- received comments during the hearing
9 from D.C. for Reasonable Development. At Exhibits 35
10 through 35B we have the applicant's post-hearing
11 submissions. Exhibit 36, an OP supplemental report,
12 and they're also asking for a waiver for filing it
13 late. I believe the planner who was assigned is out
14 of the office on medical leave, so someone else
15 stepped up to the plate and submitted it. So,
16 they're just asking for a waiver for the late filing.
17 It was just two days late.

18 CHAIRMAN HOOD: Okay. Any objection? I
19 don't think we have any objections, and we thank the
20 person who stepped up to the plate, and also whoever
21 the planner is, we hope that they recover and get
22 well soon.

23 Okay. Let's open this up for any comments,
24 proposed action on this case.

25 MR. MAY: Mr. Chairman.

1 CHAIRMAN HOOD: Yes.

2 MR. MAY: First thing I'd like to say is that
3 I was not present for the hearing but I've reviewed
4 the record so I'm prepared to participate in the
5 case.

6 CHAIRMAN HOOD: Okay. Did we mention you in
7 that?

8 MR. MAY: Why, yes.

9 CHAIRMAN HOOD: Oh, okay. I didn't know
10 which one it was.

11 MR. MAY: But you didn't say anything very
12 specific. You just started to and then realized I
13 was going to watch the --

14 CHAIRMAN HOOD: Oh, okay. I'm getting
15 smarter. Okay. All right. Let's open it up for any
16 discussion.

17 MR. MAY: So I can talk a little bit if
18 that's all right? I'm very pleased with the design
19 of the building. It's good. I think it got better
20 from what we saw at set down and I think that there -
21 - I mean, there was one design issue having to do
22 with setback relief along O Street, which they
23 documented but didn't actually really justify, and it
24 seems from the hearing that it was really just an
25 aesthetic consideration and as much as I want to try

1 to support the purity of the design, I do -- I think
2 it's more important to support the purity of the
3 regulations and only grant that sort of relief when
4 it is truly unavoidable. And I think it's avoidable
5 here. So I don't think that it's something that we
6 should approve.

7 And, I do think there's still an open issue
8 about the Inclusionary Zoning provisions. The
9 supplemental memo we received from the Office of
10 Planning indicated that there has been some change,
11 but raised, also, questions about how this is -- you
12 know, whether in fact it's sufficient and how
13 different it is from what could have been done as a
14 matter of right, or what would have been required as
15 a matter of right.

16 So, I'm not totally pleased with the IZ
17 component of this case.

18 CHAIRMAN HOOD: Okay. Any other comments
19 from this case? Mr. Turnbull?

20 MR. TURNBULL: No, I would just echo
21 Commissioner May's concern.

22 MR. MILLER: And I would echo the concern
23 about the IZ. Although they did increase from the
24 original requirement, the amount of affordable
25 housing, I would have liked to have seen more, and I

1 think at a minimum the corrections to what the
2 amounts are being -- what amounts of affordable
3 housing are being required vis-à-vis the base zoning,
4 what the base zoning would have required, that that
5 would need to be a part of -- that, at a minimum,
6 would have to be part of any draft order. I think
7 the applicant did make a justification for the level
8 of affordable housing by calling it -- by not going
9 deeper, or not providing a deeper level, or a greater
10 amount because it's going to be a condo project which
11 we ourselves had acknowledged has a more difficulty
12 in meeting in deeper affordability levels in our new
13 IZ case.

14 But, I still share the concern that OP has,
15 and my fellow commissioners have on that subject.

16 CHAIRMAN HOOD: Okay. I'm just trying to
17 figure out, and this is proposed. Are we ready to
18 move forward, or are those issues enough,
19 Commissioner May and others, to see if we can get the
20 applicant revisit.

21 MR. MAY: I mean, I don't know, is there a
22 rush on this one? Do we know? This is, you know,
23 can we allow them a little more time to --

24 CHAIRMAN HOOD: Yeah, we can always --

25 MR. MAY: -- consider this?

1 CHAIRMAN HOOD: Yeah, we can always allow for
2 time. I think a lot of people get mistaken, just
3 because we got it we supposed to hurry up and move
4 with it. Sometime we have to grapple with it like
5 some of these cases out there for years and they give
6 us two weeks to try to deal with it. Yeah, I think
7 we have some time on this.

8 But I will tell you, some of the benefits in
9 this case, I think, especially when it deals with the
10 young people, I think are very appropriate. So, I
11 will say that.

12 But I know we have some other issues. Ms.
13 Schellin, did you get some information from someone?

14 MS. SCHELLIN: Yes. The applicant has
15 advised that they can withdraw their penthouse, their
16 request for the penthouse relief and agree to the OP
17 language.

18 MR. MILLER: The OP language on the
19 Inclusionary Zoning?

20 MS. SCHELLIN: Yes.

21 MR. MAY: So I guess, I mean, I'm curious
22 about what the Office of Planning's reaction is
23 because if the report, the supplemental report seemed
24 to be mostly a clarification of the language which I
25 think, you know, we could have done anyway. I'm

1 wondering whether you're now confident that the level
2 of affordability in the project is appropriate given
3 the additional density that's being granted by this
4 change in zone.

5 MS. STEINGASSER: I think we are comfortable
6 with that. Our concern was really underscored by how
7 the numbers were being represented, and we wanted to
8 make sure that that clarity was made, and we wanted
9 to make sure that the Condition 31 was changed to say
10 no less than, as opposed to approximate.

11 But if the Commission is comfortable, Office
12 of Planning is also comfortable that there is
13 commensurate balance between amenities and
14 flexibility.

15 MR. MAY: Well, what if we're comfortable, if
16 you're comfortable?

17 MS. STEINGASSER: Then I say it's a go.

18 MR. MAY: Okay. I don't know. I mean, I'm
19 curious about what the rest of the Commission thinks
20 about whether we actually think there is more to be
21 gained by giving the applicant a little more time to
22 look even further at deepening, because it's, I mean,
23 it really is a very substantial increase in density.

24 CHAIRMAN HOOD: I think, and I can go either
25 way on this and maybe we can do it before final, but

1 I can tell you, one of the things I noticed is that a
2 lot of setbacks all of a sudden no longer need it,
3 and then that's starting to trouble me when people
4 ask for these penthouse setbacks. And they, on the
5 drop of a dime come and say they don't need it. So,
6 I don't know, this just seems to be the -- we
7 question and I appreciate Commissioner May, I think,
8 and Commissioner Turnbull have taken the lead on that
9 in making sure that our rules that we worked with the
10 Office of Planning with the community and the
11 stakeholders and developers and everybody to put in
12 place, seem to be working because all of a sudden
13 doesn't need what they request. And I think maybe
14 it's opening their eyes.

15 So, even though I know that's not the subject
16 of the exact position, but I just noticed that we're
17 able to always be able to meet the setback all of a
18 sudden, so -- and I want to put that out. So,
19 everybody comes down, let's just make sure we meet
20 the setback because that what's it seems, you seem to
21 be able to do it.

22 So, anyway, Vice Chair Miller. I almost said
23 Cohen.

24 MR. MILLER: Mr. Chairman, I'm comfortable
25 with moving forward tonight. I would like to request

1 the applicant to take another look at the affordable
2 housing proffer and see if there's an additional
3 amount or deeper level that they can try to meet.
4 This is -- like all areas of the city, but this is an
5 area that does need to be particularly inclusive,
6 given what's been happening there, and the history of
7 that neighborhood.

8 So, I hope they would take another look at
9 that and see if they could do a little bit more
10 before we get to final. So I'd be --

11 MR. TURNBULL: Well, no. And I would agree
12 with you on that. I mean, I'm willing to go ahead
13 for proposed for tonight, but we still have final
14 action and I think the applicant could take a really
15 deep look before we then go to final action. I think
16 it's like you said, Vice Chair, it's a very important
17 item. It's something that the former Vice Chair,
18 Marcie Cohen, was pushing for and I think it started
19 the ball rolling on this, and I think it's really
20 something that they need to look at before we really
21 take final. So, like you say, I think they really
22 need to take a hard, long look at it.

23 CHAIRMAN HOOD: Okay. So, it sounds like we
24 can move forward. Any other issues on this? Sounds
25 like we're ready to move forward and we will ask them

1 as stated by the majority of us, and I would
2 associate myself with the Vice Chair's comments, and
3 take another look at it. So, somebody like to make a
4 motion? Mr. Chair?

5 MR. TURNBULL: Well, and I'm assuming we're
6 getting corrected drawings, then, for the penthouse.

7 CHAIRMAN HOOD: Oh, yeah. Sure. Can we get
8 all that before final? Yeah. Good point.

9 Okay. Anything else? Can we get a motion?

10 MR. MILLER: So, with all those caveats, Mr.
11 Chairman, I would move that the Zoning Commission
12 take proposed action on Case No. 16-07, W-G 9th and
13 O, LLC., consolidated PUD and related map amendment
14 at Square 399 and ask for a second.

15 CHAIRMAN HOOD: I'll second. It's been moved
16 and properly seconded. Any further discussion?

17 [Vote taken.]

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

20 MS. SCHELLIN: Yes. Staff records the vote
21 four to zero to one to approve proposed action in
22 Zoning Commission Case No. 16-07, Commissioner Miller
23 moving, Commissioner Hood seconding, Commissioners
24 May and Turnbull in support.

25 CHAIRMAN HOOD: Okay. Let's go to -- we have

1 a hearing. The hearing action. Okay. Yeah, hearing
2 action.

3 Zoning Commission Case No. 14-18A, Mid-City
4 Financial Corporation, et al., first stage PUD
5 modification and second stage PUD at square 3953.
6 Ms. Brown-Roberts.

7 MS. BROWN-ROBERTS: Thank you, Mr. Chairman.
8 Good evening, and Members of the Commission.

9 The Mid-City Financial requests modification
10 to the approved first stage PUD for Brooklyn Manor,
11 and a second stage PUD for Block 7.

12 The modification to the first stage approval
13 of Block 7 would include having two apartment
14 buildings instead of two apartment buildings in 28
15 over two units. A reduction in the height of the
16 buildings from five to four stories, and increase in
17 the lot occupancy from 61 to 71 percent, an increase
18 in the number of units and an increase in the number
19 of affordable units at this stage, and the
20 elimination of the alley and at-grade parking due to
21 the change in unit types.

22 As proposed and approved in the first stage,
23 current residents of Brooklyn Manor would remain on-
24 site during construction. The modification would
25 allow for a larger number of residents to be

1 relocated to new homes in this phase. The second
2 stage PUD for Block 7 would consist of two four-story
3 buildings with one building having 131 units and the
4 second having 200 senior units.

5 Both buildings would have a mixture of unit
6 types, with a significant amount of space dedicated
7 to various amenities for the residents. The
8 development will also incorporate outdoor open space
9 for passive recreation and rooftop recreation. The
10 architecture and design of the buildings would set
11 the tone for the development for future phases.

12 Under the R-A-2 PUD Zone established for this
13 block, the applicant has requested flexibility from
14 the allowed lot occupancy for both buildings, and
15 long-term parking, bicycle parking, and elevator
16 penthouse setback on the senior building.

17 The application has outlined how they believe
18 the proposal meets the public benefit and
19 requirements outlined in the stage one order.

20 As found by the Commission at the first
21 stage, the proposal continues not be inconsistent
22 with the Comprehensive Plan for moderate density
23 residential use and would meet many of the general
24 elements, the Mid-City element and policies outlined
25 in the plan.

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1 The Office of Planning will continue to work
2 with the applicant to address and provide a full
3 analysis of the proposal prior to the public hearing,
4 and address a provision for a signed First Source
5 agreement, detailed description of the programs for
6 children and seniors to be provided at this stage of
7 the project, and the location of the affordable units
8 in Building B.

9 The Office of Planning recommends that the
10 applicant be set down for public hearing. Thank you,
11 Mr. Chairman, and I'm available for questions.

12 CHAIRMAN HOOD: Thank you, Ms. Brown-Roberts.
13 Let's open it up. Any comments or questions on this
14 particular application?

15 Okay. Commissioner May. You ready?

16 MR. MAY: Yeah.

17 CHAIRMAN HOOD: All right.

18 MR. MAY: Thank you. So, the modification
19 is, I think, fairly significant, but I think
20 generally pretty beneficial. I think that the design
21 that they're working with right now is pretty strong
22 and I don't know, I'm comfortable with the idea of
23 losing the two over two units. I mean, those can be
24 great units but I don't know that they were
25 necessarily adding that much and I think it helps the

1 overall project to put more units in faster.

2 Setback relief on one elevator is, you know,
3 if you look at that carefully it may not be needed.
4 The other relief, I think, is relatively minor, but
5 hopefully that will get -- we'll see more about those
6 and understand better what the needs are. And if
7 they truly are needed or whether in fact just further
8 refinements of the design will be sufficient.

9 But I'm pleased to see something that's, you
10 know, moving forward in, I think, in a pretty
11 positive way.

12 CHAIRMAN HOOD: Okay. Any other comments or
13 questions? Mr. Turnbull?

14 MR. TURNBULL: Oh, thank you, Mr. Chair. No,
15 the only thing I would like to see is, and I was
16 looking though. I don't think there are any like
17 prospective views looking down the alley. This sort
18 of shows what that alley looks like with the new
19 buildings, with the existing townhomes.

20 And I guess the only other architectural item
21 that I see is that there's a couple of blank walls on
22 Building, I think it's B. And there already is a
23 rhythm at the base course for sort of this, every
24 four courses they have a raised brick courser. It's
25 a little bit -- the wall has got a little -- it's not

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1 just a plain brick wall, but on -- if I look on A20,
2 I just don't see why they can't continue the same
3 rhythm of the regular brick on those block walls, on
4 those brick walls, and just make it consistent all
5 the way across.

6 And I think it's a minor item but it just
7 seems like it's just -- they've got a rhythm and all
8 of a sudden, they have two, two blank walls, so I'm
9 just curious why they did that and why they couldn't
10 continue the same rhythm all the way across.

11 CHAIRMAN HOOD: Any comments or questions?
12 Vice Chair?

13 MR. MILLER: Thank you, Mr. Chairman. I
14 would concur with the comments of my -- of
15 Commissioners May and Turnbull, and reiterate that
16 the changes being proposed, I think are beneficial.
17 Particularly the change of unit type which is going
18 to allow the applicant a better ability to meet their
19 commitment to retain the existing residence on site
20 and to place the existing residence into new building
21 -- new units, as soon as possible.

22 So, I think that's a very -- that's a very
23 important component of that in addition to the
24 increasing number of overall units in the first phase
25 and the lower building heights.

1 CHAIRMAN HOOD: All right. I would be
2 looking forward to seeing the material boards, some
3 of the color of the brick. I know we had this
4 discussion in other cases. I would probably need to
5 look at some of that for the hearing. I think some
6 of it's too light. I've learned a lot from
7 Commissioner May. I'm only going to admit that once.
8 But, and Commissioner Turnbull as well. But those
9 are some of the things, I'm going to look at the
10 material boards.

11 But let me ask the staff a question. Ms.
12 Schellin, I see there's a returned letter here from
13 the ANC. Did we send it back out?

14 MS. SCHELLIN: For --

15 CHAIRMAN HOOD: It says, return referral
16 letter -- oh, you returned the letter back to the
17 ANC.

18 MS. SCHELLIN: No, it was returned. That
19 means that it was returned back to us and it took
20 over a month. We just got it back last week and so
21 there was not enough time to send it out again.

22 CHAIRMAN HOOD: But they've been notified,
23 though?

24 MS. SCHELLIN: I'm assuming --

25 CHAIRMAN HOOD: We need to make sure.

1 MS. SCHELLIN: Mr. Tummonds is saying yes.
2 So, our letter did not -- there wasn't enough time to
3 send a new letter out.

4 CHAIRMAN HOOD: So they don't -- so,
5 Commissioner Manning and Chairperson Manning, and I'm
6 hoping they're watching this, and Commissioner
7 James --

8 MS. SCHELLIN: Yes.

9 CHAIRMAN HOOD: -- we don't have the right
10 address.

11 MS. SCHELLIN: So the Chairman, I've been
12 advised that the Chairman of the ANC has been
13 notified. It's the ANC address that everything seems
14 to be kicked back. We've notified Gottlieb Simon and
15 that's where we get the addresses from.

16 CHAIRMAN HOOD: Okay. This is actually my
17 ANC, and for the letter to come back, we need to make
18 sure that we get the correct address, or somebody
19 needs to give us the correct address.

20 MS. SCHELLIN: And we've contacted them
21 and -- contacted him and he provided something else.

22 CHAIRMAN HOOD: Okay. Other than that, I'm
23 looking forward to having the hearing, and looking
24 forward to hearing what the community has to say
25 about this. I know, Mr. Mears, early on was here

1 when we did other projects and it looks like he is
2 definitely taking a lot of what we have -- and I've
3 said this before -- a lot of what we discussed in
4 other projects, back and tried to make his avocation
5 a lot more streamlined. So, anything else on this?

6 Somebody like to make a -- I'll make the
7 motion this time. I move that we set down for
8 hearing, Zoning Commission Case No. 14-18A with all
9 the caveats mentioned, and ask for a second.

10 MR. TURNBULL: Second.

11 CHAIRMAN HOOD: It's been moved and properly
12 seconded. Any further discussion?

13 [Vote taken.]

14 CHAIRMAN HOOD: Ms. Schellin, would you
15 record the vote?

16 MS. SCHELLIN: Staff records the vote four to
17 zero to one to set down Zoning Commission Case No.
18 14-18A, as a contested case, Commissioner Hood
19 moving, Commissioner Turnbull seconding,
20 Commissioners May and Miller in support, third
21 mayoral appointee position vacant, not voting.

22 CHAIRMAN HOOD: Okay. Next let's go to
23 Zoning Commission Case No. 16-20. This is 3443
24 Benning, LLC., consolidated PUD and related map
25 amendment at square 5017. Ms. Thomas.

1 MS. THOMAS: Yes. Good evening, Mr. Chair,
2 Members of the Board. The Office of Planning is
3 requesting a set down of 3443 Benning Road, LLC's
4 proposal to redevelop the fenced off lot in the River
5 Tarris (phonetic) neighborhood as a five-story,
6 multi-family building with 59 affordable rental units
7 for families earning 50 percent of the AMI and lower.

8 To do so the applicant is requesting a
9 consolidated PUD and a related map amendment from the
10 R-3 District to the M-U-7 District with flexibility
11 from the lot occupancy side and rear yard
12 requirements. The proposal is not inconsistent with
13 the generalized policy and future land use maps, as
14 well as related elements of the Comprehensive Plan.

15 OP met several times with the applicant to
16 refine the project's design and its relationship to
17 the neighborhood. But we would like the applicant to
18 provide additional information requested in Section 7
19 of our report and to address any of the concerns the
20 Commission may have prior to a public hearing. Thank
21 you, and I'm available for any questions.

22 CHAIRMAN HOOD: Okay. Any questions or
23 comments Commissioner? Anybody else like to go
24 first? Vice Chair Miller.

25 MR. MILLER: Thank you, Mr. Chairman. I do

1 think it's great that we had all 59 units are going
2 to be affordable to tenants earning less than 50
3 percent of AMI or less. So, I think that's great. I
4 may have missed it. Do we know the mix, the size of
5 the 59 units?

6 MS. THOMAS: We had correspondence from the
7 applicant prior to their submission for the mix, but
8 I wasn't sure since they didn't have it in their
9 report so I didn't include it at this time, but
10 that's something we can ask for.

11 MR. MILLER: Yeah, so obviously we'd want
12 that at the time of the hearing.

13 The only other comment I had, and I'm not
14 sure it's a question, but -- and I'll defer to my
15 architectural colleagues on this as well, that the
16 material for that top floor when it changes, you've
17 got one, two, three, four levels of brick with a
18 combination of, I guess, some kind of metallic. But
19 that fifth floor being, what is it, Hardy Plank or
20 something? It looks rather -- I think it looks
21 rather cheap. It doesn't look well. It looks like
22 it's, like we've almost created a pop-up as opposed
23 to having a cohesive material. A cohesive design.

24 And I would ask that that material for that
25 yellowish look, both from the top floor and wherever

1 else it's used be reconsidered because I just don't
2 think it looks very aesthetic for the particular
3 design that they're trying to achieve. So, that's my
4 only comment.

5 CHAIRMAN HOOD: All right. Okay. Any other
6 comments or questions on this case?

7 MR. MAY: Mr. Chairman.

8 CHAIRMAN HOOD: Yes.

9 MR. MAY: So, I would agree with Vice Chair's
10 comments with regard to the Hardy Plank siding on the
11 upper level. I also am concerned about the other
12 cementitious board treatment. You know, there are
13 ways to use the large sheets of cementitious siding
14 that can look good. It all depends on how they are
15 detailed, but when you have large expanses of it and
16 with what looks like reveals between the different
17 panels, sometimes that doesn't look so good.
18 Particularly with the horizontal joints that wind up
19 with metal flashings sticking out and you know, it's
20 a very thin material and how it's affixed can you
21 know, can -- it can look uneven and theoretically
22 flat surfaces don't look so flat. And I just, I
23 think you have to look at it very, very carefully. I
24 understand that this is largely driven by the cost,
25 but I think that there hopefully are ways that these

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1 less expensive materials can be incorporated in a
2 manner that looks -- that looks good and looks
3 consistent.

4 And at the very least, I think the
5 combination of colors is off. The yellow, I think,
6 is a problem, but I think also the overall
7 combination is not quite right. I don't think it
8 lends -- I mean, I think that the building should be
9 -- should have a certain heft to it, and it's not --
10 you know, these colors are kind of novelty colors in
11 their combination and it's not giving you that sort
12 of heft.

13 It's an interesting contrast, I mean, we
14 don't normally compare one project to another but
15 it's an interesting contrast between this and the one
16 we just saw, which was a very stately refined brick
17 building that was, you know, had high affordability
18 levels. The economics of these are all different.
19 We can't compare them fairly, I think. But, it is --
20 it's -- I think that more can be done with this
21 project to make it look better in terms of just the
22 materials.

23 I think the massing, generally, is fine and
24 other aspects of it I think are fine. But I think
25 it's the material.

1 It also extends to the brick and the sort of
2 townhouse looking component of it, which I'm not sure
3 that there's really any value in trying to make, you
4 know, some of it look like a traditional townhouse
5 with that kind of projecting bay and the peaked roof.
6 I'm not sure that that's really serving it well. I
7 think it might look better just as a single
8 consistent building rather than trying to make some
9 of it look kind of townhousey.

10 And again, I think that contributes to the
11 fact that the brick in that section isn't really
12 showing great character either because it's -- there
13 are other corners that are being cut in terms of the,
14 you know, the trim at the gabled roof and so on. So,
15 I think it needs some work. It's all quite
16 achievable, I think, though. And, I think that's it.

17 CHAIRMAN HOOD: Okay. Any other questions or
18 comments? Mr. Turnbull?

19 MR. TURNBULL: Thanks, Mr. Chair. I would
20 agree with the comments of my two colleagues. I
21 think the affordable housing aspect is very much
22 appreciated at that level. And I guess my only thing
23 is -- I guess when you look at the elevation of the
24 building on 36th Street as it relates to the -- or
25 the elevation has a look on the Edes Street

1 elevation, it looks like two separate buildings. It
2 looks like you've got the little townhouse at one
3 end.

4 And I mean, I appreciate the fact that
5 they're going to a lower level as they meet the
6 adjacent townhouses across the alley. I think that's
7 to be commended. But I think architecturally there's
8 maybe a better way to do that. I mean, it's a
9 gesture. I mean, if you make a turn down that
10 existing alley you'll see that over half of the
11 building, as you go down, is already a flat roof. I
12 mean, it's flat so I'm not quite sure what the -- I
13 mean, in one way you can say the gables maybe add a
14 little bit of character to it. I mean, trying to
15 match some of the residential.

16 But I think if you can provide a same amount
17 of character with a flat roof by matching the same
18 context as the rest of the building, but doing it
19 with means of the material and the styling and the
20 definition of how you actually put those materials
21 together.

22 So, I'm not convinced that that's probably
23 the most creative solution for that corner. I mean,
24 but I'm not going to -- I mean, hopefully in the
25 hearing they'll have the chance to look at some of

1 the other comments we've said.

2 CHAIRMAN HOOD: Okay. I don't have any other
3 comments to make, other than what was already said.
4 I'll wait for the hearing. Somebody like to set this
5 down? I mean, well, somebody like to make a motion?
6 I would make the motion that we set down with the
7 comments noted, Zoning Commission Case No. 16-20,
8 3443 Benning, LLC. consolidated PUD and related map
9 amendment at Square 5017, and ask for a second.

10 MR. MILLER: Second.

11 CHAIRMAN HOOD: It's been moved and properly
12 seconded. Any further discussion?

13 [Vote taken.]

14 CHAIRMAN HOOD: Ms. Schellin, not hearing any
15 opposition of those present, would you please record
16 the vote?

17 MS. SCHELLIN: Yes. Staff records the vote
18 four to zero to one to set down Zoning Commission
19 Case No. 16-20 as a contested case, Commissioner Hood
20 moving, Commissioner Miller seconding, Commissioners
21 May and Turnbull in support, third mayoral appointee
22 position vacant, not voting.

23 CHAIRMAN HOOD: Okay. I think this is our
24 last agenda item for the night. Correspondence.

25 MS. SCHELLIN: Correct, it's correspondence,

1 yes.

2 CHAIRMAN HOOD: Okay. Okay. Let's go to
3 Zoning Commission Case No. 15-29, Jamal's Gateway
4 D.C., LLC., request to reopen the record after action
5 taken to accept revised transportation report relied
6 on by DDOT. Ms. Schellin.

7 MS. SCHELLIN: Yes. As you stated, the
8 applicant is making this request, so we'd ask the
9 Commission to consider it and we have nothing further
10 to add.

11 CHAIRMAN HOOD: Okay. Simply stating,
12 colleagues, the applicant is requesting that the
13 Commission reopen the record to allow them to submit
14 a revised transportation report that was relied upon
15 by DDOT. What is your pleasure? Any comments on
16 this? Commissioner May?

17 MR. MAY: Mr. Chairman, this is sort of an
18 odd circumstance. It's not something that we deal
19 with, with any regularity. I would suggest that the
20 key piece of information that we relied upon in
21 deciding this case was the DDOT report, and DDOT's
22 report is based on a significant body of evidence and
23 experience. And you know, they may, in the course of
24 a case, see information or have information that is
25 not necessarily what we see. We don't need to see

1 every single detail that they see, and I think that
2 in this circumstance, you know, we relied on DDOT's
3 report. We didn't necessarily rely on the specific
4 information that's in this traffic study and while I
5 appreciate the desire of the applicant to make sure
6 that the record is truly complete, I'm not sure that
7 it's really called for in this circumstance. I think
8 we relied, you know, we responsibly relied on the
9 information that was in DDOT's report and this
10 additional information, I don't think, would -- is
11 necessary to include in the record, nor would it
12 affect the decision that we made in this case.

13 That's my thought.

14 CHAIRMAN HOOD: Okay. Okay. any other
15 comments? Vice Chair?

16 MR. MILLER: Thank you, Mr. Chairman. Yeah,
17 I would agree with Commissioner May and with
18 everything that he said. I'm not -- to accept the
19 reopening of the record would then require all the
20 parties, including DDOT and the ANC, and the party in
21 opposition to comment. And we'd have to rescind our
22 vote and have new deliberations. We spent a long
23 time on this case and I think I agree that DDOT's
24 expertise helps inform our decision and so I'm not
25 prepared to reopen the -- it's not just reopening the

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1 record for a submission of one document. We really
2 would then have to reopen the entire case and rescind
3 our final vote and that just would seem somewhat
4 unprecedented. At least in my time here. So, I'm
5 not prepared to do that.

6 CHAIRMAN HOOD: Okay. Mr. Turnbull, you want
7 to add?

8 MR. TURNBULL: I would just concur with my
9 colleagues.

10 CHAIRMAN HOOD: Okay. And I think we
11 examined, as Commissioner May and you all have
12 already spoken, I think we examined this case
13 thoroughly. Even if some information -- you know, we
14 also looked at -- we heard testimony from the
15 community. We had what we had in front of us, DDOT,
16 and relying on the reports. And I think we examined
17 this thoroughly. So, I don't see us having to go
18 back and basically have another hearing and reopen it
19 for a limited scope on the DDOT, on what was missing
20 from the DDOT report. I think the evidence in the
21 record is complete and I think it will speak for
22 itself.

23 So, do we need to make a motion on this? I'm
24 going to -- do we need to make a motion on this?
25 We're going to deny this request. Let me just do

1 this --

2 MR. RITTING: Yes, there's a --

3 CHAIRMAN HOOD: I move that we deny the
4 request on the correspondence tonight, Zoning
5 Commission Case No. 15-29. The request to reopen the
6 record to allow them to submit a revised
7 transportation report that was relied upon by DDOT
8 and ask for a second.

9 MR. TURNBULL: Second.

10 CHAIRMAN HOOD: It's been moved and properly
11 seconded. Any further discussion?

12 [Vote taken.]

13 CHAIRMAN HOOD: Ms. Schellin, would you
14 record the vote?

15 MS. SCHELLIN: Staff records the vote four to
16 zero to one to deny the request to reopen the record
17 in Zoning Commission Case No. 15-29, Commissioner
18 Hood moving, Commissioner Turnbull seconding,
19 Commissioners May and Miller in support of denial,
20 third mayoral appointee position vacant, not voting.

21 CHAIRMAN HOOD: Okay. Do we have anything
22 else before us this evening? Okay.

23 Someone, whoever has their hand up, you can
24 see Ms. Schellin if there's something you need to
25 deal with. See Ms. Schellin right quick, because I

1 think all our general items have been covered.

2 [Pause.]

3 CHAIRMAN HOOD: Okay. I think what I'm
4 hearing in my left ear, I think that's not germane to
5 our proceeding. He can ask that question at the
6 appropriate time to the staff.

7 Okay. Anything else before us tonight?

8 MS. SCHELLIN: No.

9 CHAIRMAN HOOD: Okay. With that this --
10 thank everyone for their -- those who participated,
11 and this meeting is adjourned.

12 [Meeting adjourned at 7:51 p.m.]

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