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GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission

Regular Public Meeting
1461st Meeting Session [21st of 2017]

6:35 p.m. to 7:24 p.m.
Monday, September 25, 2017

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 PETER SHAPIRO, Commissioner

7

8 Office of Zoning:

9 SHARON SCHELLIN, Secretary

10

11 Office of Planning:

12 JOEL LAWSON

13 KAREN THOMAS

14 MATTHEW JESICK

15 MAXINE BROWN-ROBERTS

16 STEPHEN MORDFIN

17

18 Office of the Attorney General:

19 CHRISTOPHER COHEN

20

21

22

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

2 CHAIRPERSON HOOD: This is the meeting of the
3 Zoning Commission for the District of Columbia.

4 My name is Anthony Hood. Joining me are Vice
5 Chair Miller, Commissioner Shapiro, Commissioner May,
6 and Commissioner Turnbull. We're also joined by the
7 Office of Zoning staff, Ms. Sharon Schellin, Office
8 of Attorney General staff, Mr. Cohen, as well as the
9 Office of Planning, Mr. Lawson, Ms. Thomas, Mr.
10 Jesick, Ms. Brown-Roberts, and Mr. Mordfin.

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

23 Does the staff have any preliminary matters?

24 MS. SCHELLIN: No, sir.

25 CHAIRPERSON HOOD: Okay. Now, let's proceed

1 with our agenda in order. First, under consent
2 calendar, a modification of consequence,
3 deliberations, Zoning Commission Case No. 88-34B,
4 Children's National Medical Center PUD, modification
5 of consequence at Square 3129. Ms. Schellin.

6 MS. SCHELLIN: Yes. The Commission
7 determined this case to be a modification of
8 consequence at their May 22nd meeting. Dates were
9 set for parties to provide responses and for the
10 applicant to respond to OP's report. The applicant
11 has done that at Exhibits 8 through 8C, and OP filed
12 a supplemental report at Exhibit 9, recommending
13 approval for a term limit of five years.

14 OP has approached staff this evening and
15 asked that they be allowed to make a correction to
16 their report verbally this evening, on the dais.

17 CHAIRPERSON HOOD: Okay. If OP would like to
18 do that at this time?

19 MS. THOMAS: Yes. Good evening, Mr.
20 Chairman, members of the Commission. Karen Thomas
21 with the Office of Planning.

22 And on Section 3 of our report, the third and
23 the fourth line, where it refers to the permanent
24 relocation of the hospital to the Walter Reed Campus,
25 I'd just like to correct that for the record because

1 it's not for the relocation of the hospital itself,
2 but if it's just some services, including research
3 and administration of offices and some wraparound
4 services, but not for the location of the entire
5 children's hospital. So I'd like to just have that
6 corrected for the record. Thank you.

7 CHAIRPERSON HOOD: Okay. So that's why I've
8 been hearing in the community that -- people saying
9 they were going to tear down Children's Hospital. Is
10 that what I was -- is that correct? But anyway, I
11 see now how misinformation gets out there.

12 Okay, let's open it up. Ms. Schellin, did
13 you have anything else?

14 MS. SCHELLIN: No, sir.

15 CHAIRPERSON HOOD: Thank you, Ms. Thomas, for
16 correcting that. Let's open it up for any comments
17 on this. I think the ask is pretty straight forward.
18 I know that they're asking that we put a limit for, I
19 think it's five years for approval. I think it's
20 good. That's a good time. But let me open it up for
21 -- I'm in support of everything that's being
22 submitted to us thus far, but let me open it up for
23 any comments.

24 Vice Chair Miller.

25 MR. MILLER: Yeah, Mr. Chairman, I support

1 the request with a five-year term limit.

2 CHAIRPERSON HOOD: Okay. Anyone else? Any
3 objections?

4 Okay. Somebody like to make a motion, then,
5 or anything else to discuss, or somebody like to make
6 a motion? Vice Chair?

7 MR. MILLER: Sure. I would move that the
8 Zoning Commission take action on Zoning Commission
9 Case 88-34B, modification of consequence, Children's
10 National Medical Center, PUD modification of
11 consequence at Square 3129, with the five-year term
12 limit, and ask for a second.

13 MR. TURNBULL: Second.

14 CHAIRPERSON HOOD: Okay. It's been moved and
15 properly seconded. Any further discussion?

16 [Vote taken.]

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

19 MS. SCHELLIN: Staff records the vote five,
20 to zero, to zero to approve final action in Zoning
21 Commission Case No. 88-34B, for a five-year term,
22 Commissioner Miller moving, Commissioner Turnbull
23 seconding, Commissioners Hood, May, and Shapiro in
24 support.

25 CHAIRPERSON HOOD: Okay. Next is Zoning

1 Commission Case No. 08-30D. This is the 25 M Street
2 Holdings, LLC, modification of consequence to design
3 review at Square 700. Ms. Schellin.

4 MS. SCHELLIN: Yes, for this case at Exhibit
5 5 there's an OP report in support. Exhibit 6, ANC 6D
6 is a report in which they voted to support three of
7 the four modification requests and oppose the one
8 regarding the digital signage. Would ask the
9 Commission to consider taking action this evening.

10 CHAIRPERSON HOOD: Okay, Commissioners. I
11 think one of the reasons that we held off and we did
12 like we did, it was so we could hear from the
13 community. And I really appreciate the way -- and I
14 want to give this ANC 6D, you know, all the ANCs, but
15 I appreciate the way this ANC made the reading so
16 easy and soft as you read it, so you could go right
17 to where the points were and where they parted ways.
18 So, I appreciate how this letter was written.

19 But let's open it up. Let me open it up for
20 any comments or questions about what we have here in
21 this ANC letter, or in the submission. Or in the OP
22 report.

23 MR. MAY: Mr. Chairman.

24 CHAIRPERSON HOOD: Commissioner May.

25 MR. MAY: So the ANC raises concerns about

1 the digital signage, and I think they make a very
2 strong case that we should think carefully about
3 whether that should be approved, particularly with
4 the signage that's on M Street and is in close
5 proximity to -- or catty-corner to the church. So, I
6 have concerns about this. It's probably well-known
7 that I'm not a huge fan of digital signage in the
8 first place, and I think it can be very disruptive
9 and certainly the examples that we have with the
10 signage that's down at the Verizon Center, or soon to
11 be, or now, the Capital One Arena, how much light
12 those things throw off.

13 And granted, there's not a whole lot of
14 development that's immediately facing the signage
15 where it's proposed, there will be, and I just can't
16 imagine what it would be like to you know, be in the
17 vicinity of those. The light that's thrown off of
18 the Verizon Center lights up buildings blocks away,
19 and I just, I think it would be a real problem.

20 So as I said, I'm not real enthusiastic about
21 it. I understand the council has supported the
22 notion of having these sorts of digital signs in
23 certain districts of the city. I also know that was
24 a contentious discussion and there were many civic
25 groups that were opposed to it, and many ANCs that

1 were opposed to it.

2 In this particular case I am not ready to
3 support the digital signs. I tend to agree with the
4 ANC.

5 CHAIRPERSON HOOD: Okay. Any other comments,
6 questions? Commissioner Shapiro?

7 MR. SHAPIRO: Thank you, Mr. Chair. I would
8 agree with Commissioner May and I would especially be
9 concerned about the sign that's -- and it was noted
10 in the ANC group, it's on the tops of the church. So
11 I'd like to see if there are some alternatives that
12 they can come up with.

13 CHAIRPERSON HOOD: Okay. Vice Chair Miller.

14 MR. MILLER: Thank you, Mr. Chairman. Yeah,
15 I don't have as much of a philosophical problem with
16 the digital signage. This is supposed to be an
17 entertainment district, but I realize the ANC is
18 opposed and oppose the council's legislation that
19 permitted this to happen.

20 I just, I think there could be, as
21 Commissioner Shapiro pointed out, an alternative they
22 could come up with in terms of restricting hours, you
23 know, not having it during the morning, not having it
24 go from 7:00 a.m. onward, maybe not having it start
25 until 12:00 noon. But so, I think it is a very

1 thoughtful ANC letter and we could send that part
2 back and see if they could up with something that
3 might be more balanced, that respects the
4 neighborhood's wishes.

5 CHAIRPERSON HOOD: Commissioner Turnbull.

6 MR. TURNBULL: Thank you, Mr. Chair. I would
7 agree with the comments of Commissioner May and
8 Commissioner Shapiro. I understand where
9 Commissioner Miller is coming from. But I want to
10 relate it primarily to the Capitol Gateway
11 regulations. You know, M Street has specific
12 regulations for the setback, 15-foot setback from the
13 street, and there's the whole idea of the street wall
14 as you come down M Street.

15 So by putting a huge sign on the corner of M
16 Street, I think just is a -- would be a disturbing
17 aspect. I mean, it's just a visual impairment to
18 what you're seeing as you're going down the street.
19 But also, part of the -- some of the regulations on -
20 - regarding the Capitol Gateway, regarding to
21 building instructions, or structures, shall provide
22 for safe and active streetscapes through building
23 articulation. But they're still providing for safe
24 and convenient movement to and through the site,
25 including to public transit, and the ballpark, and

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1 the Anacostia River.

2 My feeling is, with this kind of active
3 electronic signage, M Street is a very busy street.
4 I mean, if you've ever been to the ballgames, and
5 you've seen the huge -- I mean, we're all going en
6 masse and trying to go across the street, it's hard
7 enough dodging the cars. And when cars are going
8 down M Street at a speed, and if people are paying --
9 not paying attention to what they're doing, but
10 watching these signs, I'm just afraid that's going to
11 be an unattractive nuisance for drivers going down
12 the street. Especially on a busy day when you've got
13 lots of pedestrian traffic.

14 I really think the M Street one is most
15 egregious than anything. But I would agree with my
16 colleague's comments on the other sides. But to me,
17 the M Street one is just a flagrant use of a sign
18 that shouldn't be there. I think that street, that
19 intersection in particular, has got a lot of things
20 going on with it, and I don't think it's appropriate
21 to have a sign like that at that intersection.

22 CHAIRPERSON HOOD: Okay, Commissioner
23 Shapiro, you had a follow up?

24 MR. SHAPIRO: I do have a follow up. Thank
25 you, Mr. Chair. And part of this is a procedural

1 question for us. We are able to approve the other
2 elements besides the signage. These are -- we're not
3 up or down, all of it. So if we don't have any
4 issues with the other requests for modifications and
5 the ANC doesn't either, I would be inclined to
6 approve those, even if we have some concerns about
7 the sides and have them go back to the drawing board
8 with that, if they so choose.

9 CHAIRPERSON HOOD: Yeah, as we always have
10 done in the past, if everybody is in consensus with
11 the other three, I think it's three items, whatever
12 the items are, we can move forward with those and
13 approve part and deny part.

14 But let me just comment, myself, as far as
15 what the ANC said about the sound. I kind of
16 associate myself more closely with Vice Chair Miller.
17 I actually do like the signage by Capital One. And I
18 understand the points about how people get signs, but
19 signs are there, signs are not there. People are on
20 their Bluetooths, they're on their phone, they're
21 looking at people walking down the street. So the
22 driving, to me, is a problem whether you've got a
23 sign there or not.

24 But I think, though, to Commissioner
25 Turnbull's point, I believe that probably some more

1 discussion can be had. We can finetune it, maybe
2 tone it down some, even though I don't see anything
3 wrong. I actually like the signage by Capital One.
4 I don't necessarily look at it and read it, but I
5 know it's up there doing something. But I just think
6 that we can probably -- they can work with that
7 community and finetune that signage, because when I
8 look at other cities and how things are working
9 that's -- things change. And maybe that's the way
10 it's going.

11 But I know if we kick it back to your point,
12 Commissioner Shapiro, we kick it back to the ANC and
13 the applicant, I think they will come up with a
14 win/win solution for, not just themselves, but for
15 the city as a whole. So, that's where I am.

16 So I guess I'm hearing that the only issue we
17 have is the same issue that the ANC has, and
18 everything else we can approve. Okay. Am I seeing
19 that?

20 MR. MAY: Yeah, I think so.

21 CHAIRPERSON HOOD: Okay.

22 MR. MAY: But I don't think we would approve
23 in part, deny in part. It would be approved and ask
24 the applicant to work with the ANC to come up with
25 some sort of solution that's acceptable on the

1 signage. Right?

2 CHAIRPERSON HOOD: So, their signage is still
3 on the table. I guess, would we deny that or --

4 MR. MAY: We would just wait on the decision
5 of the whole thing.

6 CHAIRPERSON HOOD: Wait on the whole thing?

7 MR. MAY: Yeah, it's probably cleaner to
8 wait.

9 CHAIRPERSON HOOD: But he signage might come
10 much later, so I mean --

11 MR. MAY: Well, I mean, the --

12 CHAIRPERSON HOOD: Oh, okay. Okay. Well, we
13 don't -- is the applicant here? They hear all that
14 rhetoric?

15 MR. MAY: If we decide to approve everything
16 but the sides, and say you've got to work more on the
17 signs, and they decide no, I don't want to work more
18 on the signs, and they just like, then we're done.

19 CHAIRPERSON HOOD: Yeah, but the signs, no
20 signage is approved.

21 MR. MAY: Right. There would be no approved
22 signage.

23 CHAIRPERSON HOOD: Right.

24 MR. SHAPIRO: So, that's an argument for
25 approving everything except for the signs.

1 MR. MAY: Yeah, that's all I'm saying.

2 CHAIRPERSON HOOD: But I'm being told that
3 it's not advisable for us to approve. That's the way
4 I wanted to go, to approve everything but the signs.
5 But I'm being advised that we should not be approving
6 the signs.

7 MR. MAY: I don't think it makes too much
8 difference.

9 MS. SCHELLIN: No, what I was saying is if
10 you were -- it sounded like everyone wanted to
11 approve everything but the signs. And what I thought
12 you were trying to say was, have them come back with
13 the signs and approve that, take that up later. But
14 we couldn't issue an order -- I mean, if you wanted
15 to approve it all, approve this case with the
16 signage, then you need to do it all at once.

17 If you want to just go ahead and approve it
18 and then come back later with another case on the
19 signage, that's fine. It would be another case.

20 MR. SHAPIRO: That's what I would assume.

21 CHAIRPERSON HOOD: So let me do this, let me
22 ask the applicant, if you could talk to Ms. Schellin.
23 You make the preference, because I don't have a bone
24 either way. I don't think we do, but we would like
25 to approve those other three and get that off our

1 plate. Yeah, if you'd have a seat at the table.

2 MR. TUMMONDS: Good evening, Mr. Chair and
3 members of the Commission. Paul Tummonds with
4 Goulston and Storrs.

5 I think that, you know, we've heard what
6 you've said today. I think we recognize the approval
7 for the other three elements. We don't need an order
8 to say just that. We know, you know, I think they
9 can feel comfortable in moving forward of the design
10 for the permitting on that.

11 With regards to the fourth element, the
12 digital signage, we heard what you said. I think we
13 will -- we'd like the opportunity to go back, modify
14 to address the concerns you've heard, and then we
15 would work with the ANC, let the ANC know as well,
16 and then come back to you and hopefully obtain your
17 approval for the fourth element of our modification
18 of consequence, the digital signage.

19 CHAIRPERSON HOOD: Okay. So you, in turn,
20 would like for us to hold off on our vote, wait until
21 how much time do you think you need? Remember, that
22 ANC only meets once every 30 days.

23 MR. TUMMONDS: Yeah, I think we'd probably
24 use that. It would be November.

25 CHAIRPERSON HOOD: Okay. So, is everybody --

1 we'll just deal with all this at once?

2 MS. SCHELLIN: We have two meetings in
3 November, the 13th and the 27th.

4 MR. TUMMONDS: So the ANC meets the second
5 Monday.

6 MS. SCHELLIN: Which would be the 13th.

7 MR. TUMMONDS: But we'd --

8 MS. SCHELLIN: You're hoping to meet with
9 them in October?

10 MR. TUMMONDS: I think we should give
11 ourselves that second date in November.

12 MS. SCHELLIN: Okay. So, the 27th of
13 November, then.

14 MR. TUMMONDS: That opportunity. Yeah. That
15 would be great. Thank you.

16 MS. SCHELLIN: Thank you.

17 CHAIRPERSON HOOD: So we will take this up at
18 the request of the applicant and the ANC, and
19 continue to have those discussion on the issue that
20 we also agree with the ANC on. We'll take this up
21 our second meeting in November.

22 MS. SCHELLIN: Yes.

23 CHAIRPERSON HOOD: Okay.

24 MR. TUMMONDS: Thank you.

25 CHAIRPERSON HOOD: All right. Thank you.

1 Okay. Let's move right on. Any objections,
2 colleagues?

3 Okay, let's move on to Zoning Commission Case
4 No. 16-18B, Georgetown University request for
5 modification of consequence to campus plan at Square
6 1223. Ms. Schellin.

7 MS. SCHELLIN: At Exhibit 6 we have ANC 2E,
8 report in support, and we'd ask the Commission to
9 consider final action in this case.

10 And just to, if you look back, I think it was
11 maybe Exhibit 3 or 4, there was a letter in support
12 from the Georgetown Community Partnership, which is
13 comprised of all of the parties of the original
14 campus plan, and so that was included with the
15 applicant's initial application. And then I believe
16 the Citizen's Association of Georgetown also went
17 ahead and filed their own letter, and then ANC 2E
18 also did.

19 But as far as the other parties, rather than
20 filing individual letters, they were all part of that
21 Georgetown Community Partnership.

22 CHAIRPERSON HOOD: Okay. And I see that they
23 have combined their support. We do not believe this
24 change in use will create objectionable conditions
25 and would adversely -- that would adversely impact

1 non-university related residential properties in the
2 Georgetown community. Accordingly, we support the
3 university request for this request for a
4 modification of consequence.

5 I thought this was pretty straight forward
6 with the request, as well as what the university
7 wanted to change as far as a use, and it looks like
8 it has overwhelmingly support, which is a credit to
9 everybody involved.

10 So let me open it up. Any questions or
11 comments? Or, Mr. Turnbull?

12 MR. TURNBULL: Well, I just wanted to point
13 out that ANC 2E also put in a letter, and they voted
14 eight, zero, zero, no objection on this. So I think
15 the record is pretty clear that we should go ahead
16 with it.

17 CHAIRPERSON HOOD: Okay. Someone like to
18 make motion before somebody changes their mind?

19 MR. TURNBULL: Mr. Chair, I would move that
20 we approve Zoning Commission No. 16-18B, Georgetown
21 University request for a modification of consequence
22 to campus plan at Square 1223, and ask for a second.

23 MR. SHAPIRO: Second.

24 CHAIRPERSON HOOD: Okay, it's been moved and
25 properly seconded. Any further discussion?

1 [Vote taken.]

2 CHAIRPERSON HOOD: Ms. Schellin, would you
3 record the vote?

4 MS. SCHELLIN: Staff records the vote five,
5 to zero, to zero to approve final action in Zoning
6 Commission Case No. 16-18B, Commissioner Turnbull
7 moving, Commissioner Shapiro seconding, Commissioners
8 Hood, May, and Miller in support.

9 CHAIRPERSON HOOD: All right. Let's go to
10 final action in Zoning Commission Case No. 10-26D.
11 This is a ZGZP 3333, LLC two-year PUD time extension
12 at Square 3040. Thirty-forty. Ms. Schellin.

13 MS. SCHELLIN: Yes, the applicant is asking
14 for a waiver of Subtitle Z, Section 705.5, which only
15 allows two extensions of time. This is their third
16 request, so excuse me, when the Commission considers
17 this case this evening, would ask that the applicant
18 is, as stated, requesting a two-year time extension
19 due to environmental contamination that has caused
20 delays in moving forward with the development.

21 Exhibit 5 is an OP report recommending
22 approval. Exhibit 6 is an ANC 1A report that
23 supports the time extension, and we'd ask the
24 Commission to consider final action in this case.

25 CHAIRPERSON HOOD: Okay, commissioners.

1 First, do we want to waive our rules on the amount of
2 times you can ask for an extension? Any objections
3 to that?

4 MR. SHAPIRO: No objections.

5 CHAIRPERSON HOOD: Not hearing any
6 objections, so we will waive our rules for the time
7 extension -- I mean, seeking no more than two time
8 extensions. So we will waive our rules and we will
9 waive that. That's waivable. Okay.

10 Let me open it up for any discussion on this,
11 on the merits.

12 Commissioner Shapiro.

13 MR. SHAPIRO: Thank you. I mean, it may be
14 worth stating that the reason to waive the rules on
15 this are related to the environmental cleanup that's
16 going to be required on the side, and that seems like
17 a more than reasonable -- it's a good reason for us
18 to do the extension.

19 And there was a -- the ANC specifically
20 talked about, which I believe was in opposition to
21 this, but their issue was related to the community
22 benefits, and improvements to Parkview Recreation
23 Center, which I think if I'm reading this correctly -
24 -- well, there's two things. One is, that's not
25 related to the matter at hand, which is our

1 authorization of the time extension. But also, just
2 for the benefit of the community there, I think that
3 this is something that the applicant is going to be
4 required to do, and if there's no technical way for
5 them to do it then they're going to need to amend
6 their -- they're going to need to make -- they're
7 going to need to amend their case somehow to address
8 the issue that there will need to be some other
9 community benefit they're going to need to proffer
10 because they can't meet this one, if it's the case
11 that they can't do the improvements to the Parkview
12 Community Center.

13 So I think that's what might be helpful for
14 the community here, that there is a process in place
15 which will make sure that their concerns are heard.
16 I hope I explained that well.

17 CHAIRPERSON HOOD: Yeah, I think you
18 explained it very well. Any other comments?

19 Vice Chair Miller?

20 MR. MILLER: Thank you, Mr. Chairman. Yeah,
21 I would agree with Commissioner Shapiro and just note
22 that I think the ANC did find that the environmental
23 remediation was a sufficient explanation for the
24 waiver request and the extension of the PUD. They
25 just wanted that renegotiation of the community

1 amenities, as you said. And as you also pointed out,
2 the appropriate vehicle for that would be a future
3 PUD modification which came before it.

4 CHAIRPERSON HOOD: And too, I know the -- we
5 know the work of their chairperson, Chairman Bass.
6 So I'm sure he's aware of how to do it, so that gives
7 me a comfort level of moving forward with this
8 extension request.

9 Anything else? Somebody like to make a
10 motion? Commissioner Shapiro?

11 MR. SHAPIRO: Thank you, Mr. Chair. I'd move
12 that we take final action on Zoning Case -- Zoning
13 Commissioner Case No. 10-26D, ZGZP 3333, LLC, two-
14 year PUD time extension at Square 3040, and look for
15 a second.

16 CHAIRPERSON HOOD: I'll second it. It's been
17 moved and properly seconded. Any further discussion?

18 [Vote taken.]

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

21 MS. SCHELLIN: Staff records the vote five,
22 to zero, to zero to grant the two-year PUD time
23 extension in Zoning Commission Case No. 10-26D,
24 Commissioner Shapiro moving, Commissioner Hood
25 seconding, Commissioners May, Miller, and Turnbull in

1 support.

2 CHAIRPERSON HOOD: Okay, next, we have Zoning
3 Commission Case No. 09-03E, Skyland Holdings, LLC,
4 one-year PUD time extension at square 5633. Ms.
5 Schellin.

6 MS. SCHELLIN: Yes. On this the applicant
7 has requested a waiver, also, of Subtitle Z, Section
8 705.5. This is their third request for a time
9 extension. I believe this is their first one under
10 the new zoning regulations. But the applicant is
11 requesting the one-year time extension in order to
12 construct the building on Block 2. The applicant
13 cites the reason for the extension is an inability to
14 secure funding.

15 The applicant also requests the time
16 extension to allow an additional year to make its
17 financial contributions to schools and libraries, and
18 to have an additional year for construction and
19 maintenance of the pocket park. This is required
20 pursuant to Conditions Numbers 2A, 2E, and 2F of
21 Order No. 09-03.

22 At Exhibit 5, there's an OP report. At
23 Exhibit 6, ANC 7B submitted a report which supports
24 the extension to start construction, but not the
25 other extensions as requested.

1 So we'd ask the Commission to consider final
2 action on this case this evening.

3 CHAIRPERSON HOOD: Okay. Thank you, Ms.
4 Schellin. Commissioners.

5 First, does anyone have a problem with us
6 waiving our rule? And eventually, I'm sure though,
7 over the years, maybe the Zoning Commission 15 years
8 from now won't be dealing with these, waiving the
9 rules. I know we don't like to put rules in place
10 and then turn around and waive them. But I think in
11 the long run we'll see that this rule will be very
12 important to the city, and also projects in the city.

13 So, but right now, we're at a point where we
14 just changed it, so any objections to waiving this
15 rule?

16 MR. SHAPIRO: No, sir.

17 CHAIRPERSON HOOD: Okay. No objections to
18 the rule. Any issues on the merits? Or comments?

19 I'm sorry, Vice -- I'm sorry, Commissioner
20 Shapiro?

21 MR. SHAPIRO: Thank you, Mr. Chair. I didn't
22 have any issues with the, obviously with the waiver,
23 but also the reason for the extension which is
24 related to their financing. The changes in the
25 market, and they're seeking a HUD loan and this is

1 the time that they need to do it, that all made sense
2 to me.

3 I did -- I wanted to be attentive to the
4 ANC's concerns around what this means in terms of
5 delays for some of the community benefits. So, there
6 -- I'd be interested in a discussion amongst us as to
7 whether if it's even appropriate for us to do it.
8 But if it is, for them to do some kind of good faith
9 effort. Some portion of this which can be a
10 contribution to the projects that the ANC is looking
11 to get funded, which they've already committed to
12 funding. It's just a question of timing.

13 So I would throw that out there for thoughts
14 or feelings.

15 CHAIRPERSON HOOD: Okay. Colleagues, one of
16 my colleagues is asking a question about -- or
17 throwing it out there for our discussion. Any
18 comments on that, no, from anybody?

19 I'm actually sorry that Chairperson Robin
20 Marlin is not here. I actually, I know she's very a
21 good advocate. But I was trying to understand, and I
22 understand what she's saying, to date Skyland
23 Holdings, LLC has only -- this goes to your
24 discussion, full discussion -- has only contributed
25 \$500 of the promised 200,000 to schools and zero

1 dollars of the pledged 50,000 for the libraries.

2 So, I'm assuming if they're having some
3 financial difficulty, some of those obligations will
4 be met at a later date, and I understand it has been
5 a while and it's taking some time, but that whole
6 project is taking -- I can't remember which one is
7 older, whether it was that one or another one, but
8 has taken even a long time just to even get to this
9 point.

10 So I'm not sure, and I'm sure if she watches
11 this she'll probably jump on me when she sees me, but
12 I'm not sure if we -- I will be in favor of -- I
13 don't know what the tool would be to mandate, other
14 to ask the applicant when they are financially able
15 to be able to do some of their obligations. I don't
16 know what we can do outside the realm of things
17 that's already in place. Maybe it's something I'm
18 missing.

19 MR. SHAPIRO: I guess, it may not be
20 possible. You know, they have suggested in their
21 statement that they've made substantial contributions
22 to other projects that they've committed to, just not
23 these. And obviously they're fully behind making
24 their contribution. But is there something in
25 between, you know? It's a \$250,000 commitment which

1 sounds like it's not going to work, but is there some
2 value in \$25,000 going towards one or the other? I
3 just don't know and I'm not sure if the parties are
4 here to answer it. It's just the thought that I had.
5 But I wouldn't want this to slow down the process.

6 And on the merits, beyond that, on the
7 merits, I would support the extension.

8 CHAIRPERSON HOOD: But I think we can ask.
9 But you know, again, finances, it is what it is
10 financially, and maybe they are doing their other
11 projects but they have the money allocated for other
12 projects. And I wouldn't want to see it taken from
13 somebody else and put over here.

14 But I will say this, they need to move as
15 quickly as possible. I'm not against the extension,
16 but they need to move -- we need to move as fully --
17 as quickly as possible to make sure that they fulfil
18 their obligations. And I think if we send that
19 strong message within the next year of this
20 extension, or whenever, whenever they can, as soon as
21 possible to be able to make that obligation to that
22 community, because the \$250,000 of whatever it is
23 now, is not going to be worth that in 10 years. So,
24 hopefully we'll be able to move as expeditiously as
25 possible. That's pretty much where I am on that.

1 Any other comments?

2 Vice Chair Miller.

3 MR. MILLER: Thank you, Mr. Chairman. Yeah,
4 I would agree with you. We're only talking about
5 until September 10th of next year, and they have made
6 substantial contribution to that Skyland Workforce
7 Center, \$657,000, I believe. So this is a project
8 that has been long in the making and has had a lot of
9 financial and other challenges, and I think we're
10 getting near the light at the end of the tunnel.

11 So I can still see the light, but if they can
12 do a good faith effort, if we can ask, put on the
13 record that they make a good faith effort, maybe
14 toward those other conditions, that would be great.
15 But I wouldn't want to hold it up for that.

16 CHAIRPERSON HOOD: Okay. Anything else?
17 Okay.

18 Anybody like to make a motion on that?

19 I would move that we approve the time
20 extension on Zoning Commission Case No. 09-03E, and
21 ask for a second.

22 MR. MILLER: Second.

23 CHAIRPERSON HOOD: It's been moved and
24 properly seconded with the strong encouragement to
25 deal with the time -- I mean, with the financial

1 commitments as possible. Any further discussion?

2 [Vote taken.]

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

5 MS. SCHELLIN: Yes. Staff records the vote
6 five, to zero, to zero to approve final action in
7 Zoning Commission Case No. 09-03E, Commissioner Hood
8 moving, Commissioner Miller seconding, Commissioners
9 May, Shapiro, and Turnbull in support.

10 CHAIRPERSON HOOD: Okay. This next case, do
11 I need to call both of these together?

12 MS. SCHELLIN: Yes.

13 CHAIRPERSON HOOD: Okay. Zoning Commission
14 Case No. 05-28R and Zoning Commission Case No. 05-
15 28S. Ms. Schellin?

16 MS. SCHELLIN: Yes. Well, these are still
17 two separate cases. They were heard together and all
18 of the exhibits are -- were filed in the first case,
19 05-28R. Exhibits 37 through 39, and 40 through 42A
20 are the applicant's post-hearing submissions.
21 Exhibit 40 is an OP supplemental report. Would ask
22 the Commission to consider final action this evening.

23 CHAIRPERSON HOOD: Okay, Commissioners. I
24 think in this case one of the things we wanted to
25 know about was the timing of the phasing, the solar

1 panels. I think we're going to rename solar panels
2 to Commissioner Shapiro, but Shapiro panels. And
3 then also the eight percent of the total dwelling
4 unit count for the workforce housing. I think those
5 are some of the -- was there anything else that we
6 asked? I think it was, somebody mentioned about roof
7 setbacks.

8 But anyway, whatever. Let's open it up for
9 any discussion.

10 MR. MAY: Mr. Chairman, I just want to state
11 for the record that I have reviewed the case and the
12 materials that were received to date, so even though
13 I wasn't at the hearing, I am fully prepared to
14 participate in the decision making.

15 CHAIRPERSON HOOD: Okay.

16 MR. MAY: And I appreciate all of the follow
17 up that the Commission had in their questions and
18 such to address concerns that I have. I think
19 Commissioner Turnbull, in particular, was speaking
20 for me on some of those setback issues and so on, so
21 I appreciate that.

22 Oh, and on the color of the penthouse too.
23 Somebody brought that up. I appreciate that. That
24 was a --

25 CHAIRPERSON HOOD: You?

1 MR. MAY: I can't remember who brought that
2 one up, but somebody did.

3 CHAIRPERSON HOOD: Oh, Commissioner Shapiro.
4 So that shows that --

5 MR. MAY: Well, in any case, in any case --
6 not that they did anything about it.

7 CHAIRPERSON HOOD: Well, they brought it up.

8 MR. MAY: But I appreciate that you brought
9 it up. And it is, yeah, it is darker than what had
10 been submitted in a prior project. I mean, it still
11 should be darker than that, but you know,
12 sometimes --

13 CHAIRPERSON HOOD: So we appreciate you
14 reading the record.

15 MR. MAY: -- architects are pretty stubborn,
16 you know.

17 CHAIRPERSON HOOD: Yeah. Well, we appreciate
18 you reading the record. You have any further
19 comments on that?

20 MR. MAY: Yeah. I mean, I will say that I am
21 comfortable with the proposed phasing, and I
22 understand OP still has concerns about it but I'm
23 okay with that. I understand the applicant's
24 rationale for that.

25 With regard to the solar panels, I appreciate

1 the effort to sort of push forward with this. But
2 again, I tend to agree with the applicant in their
3 rationale for not forcing the issue on townhouses.
4 And as somebody who has solar panels, and I got them
5 several years ago when I think the incentives were
6 even greater than they are today because some of
7 those incentives have dropped a bit, I mean, there's
8 a fair amount of upfront cost associated with that.
9 And if that gets loaded on the price of the
10 townhouses, I think that's a problem.

11 Alternatively, if it can be paid through some
12 other means and it winds up being, you know, showing
13 up in a tax, I don't think that's very helpful
14 either. So, I think that the -- it is smart to allow
15 for that future installation and to, you know, have
16 the conduits within the building. I mean, in mine
17 it's a -- mine was a historic house and so I've got a
18 somewhat unsightly flexible conduit strapped to the
19 back side of the house that I'd rather not have. So
20 I think that that's the right way to handle the
21 infrastructure for solar panels, and that it is an
22 option for the purchasers.

23 And I assume it will be an option that they
24 can pick up at the time of purchase if they're
25 prepared to, and get -- take advantage of all the tax

1 benefits and the city's rebate and so on. And I
2 understand others may feel differently about that,
3 but that's just where I tend to come down on it.

4 As for the control period, I mean, the Stage
5 1 order was pretty clear on this point, and I tend
6 not to want to renegotiate Stage 1s when we're
7 dealing with a Stage 2. But the applicant, after
8 being pushed by the Commission and by the Office of
9 Planning, has agreed to set the control period tied
10 to the financing with a maximum of 30 years, and I
11 think that's probably okay. And that applies to, I
12 guess, the rental units, not to all the units.

13 I'm okay with that, since they've offered
14 that, but I didn't feel strongly that we should be
15 pushing that point given what the Commission had
16 previously agreed to. And I think that's probably
17 the bulk of the issues of contention. I don't
18 remember if there's anything else specifically.

19 I do think that they met this -- they
20 addressed the side, the setback issue and I'm okay
21 with the flexibility to do ground floor retail. Or
22 not.

23 CHAIRPERSON HOOD: Commissioner Shapiro.

24 MR. SHAPIRO: Thank you. I think there's --
25 we now have ample evidence that Commissioner May did

1 read the record. That was quite thorough.

2 So I don't have any concerns. I would
3 associate myself with Commissioner May's remarks and
4 I appreciate that the applicant is moving ahead with
5 solar on the multifamily and to allow the option for
6 the towns makes perfect sense. I thought the
7 explanation was clear. So, I don't have any
8 objection to that and on the other points, I don't
9 have any concerns or objections either. So, and I
10 would end my remarks, Mr. Chair.

11 CHAIRPERSON HOOD: Okay. Vice Chair Miller.

12 MR. MILLER: Thank you, Mr. Chairman. I
13 appreciate the opportunity to also say that I concur
14 with all of the points that Commissioner May has made
15 on each of the issues.

16 CHAIRPERSON HOOD: Okay. All right.
17 Commissioner Turnbull.

18 MR. TURNBULL: I just want to say that, maybe
19 in a few years Commissioner May will have historic
20 solar panels.

21 [Laughter.]

22 MR. MAY: Yeah, the problem is that they tend
23 to lose a little bit of efficiency over the years.
24 So, I'm going to have --

25 MR. SHAPIRO: Don't we all?

1 MR. MAY: I'm going to have to replace them.

2 CHAIRPERSON HOOD: I just want to --

3 MR. TURNBULL: Well, you may not be able to,
4 though, under your historic guidelines. You may
5 be --

6 CHAIRPERSON HOOD: Okay. So, I really like
7 the way the order read. And I know we looked at
8 this, transportation and construction mitigation.
9 And I missed something earlier, and this is the
10 repair shop, but I guess that's a question for later,
11 about the bicycle repair shop.

12 But anyway, I know we talked about parking
13 spaces. Now we're looking at repair shops. I guess
14 that's needed as well. But I do like some of the
15 mitigation efforts that the applicant has done in
16 this case, especially when it comes to transportation
17 and the construction. So, and I think it's very well
18 laid out.

19 Okay, any other discussion? Commissioner?

20 MR. MAY: Yeah, I just want to make one other
21 point, which is that in this case, I mean, this has
22 been an extended period of realization for this
23 particular PUD. But we've had a flurry of Stage 2
24 applications recently, and I think that this case,
25 more so than any of the others, demonstrates how the

1 applicant is really going the extra mile to address
2 the concerns of the community. I mean, there have
3 been a lot of concerns. There's been a fair amount
4 of change in the community and there are a lot of new
5 people there, and issues that may have -- they may
6 have thought were addressed when this was first taken
7 up 10 years ago, plus. But I think that they've done
8 a good job of going out and going the extra mile and
9 getting agreement, and I really appreciated having,
10 you know, by the time it got to the hearing, having
11 ANC in full support and that their conditions had
12 been met.

13 So I really do appreciate that. Now, if they
14 would only make the penthouses darker, I'd be really
15 happy. So, anyway. That's it.

16 CHAIRPERSON HOOD: Well, just go by there on
17 a cloudy day. So, maybe that will help you.

18 MR. MAY: Yeah.

19 CHAIRPERSON HOOD: Okay. Anything else? All
20 right. I would concur with what Commissioner May has
21 mentioned, and when I looked at the order it just
22 reads, and we've come a long way, so -- and I
23 appreciate all the work that everyone has done on it.
24 All right. Somebody like to make a motion, or do we
25 have one already?

1 Okay, Commissioner Shapiro?

2 MR. SHAPIRO: Thank you. I just want to be
3 clear. Is this one motion for both cases?

4 CHAIRPERSON HOOD: Both, yeah.

5 MR. SHAPIRO: Okay. So, then I would move
6 that we take -- it's final action, right?

7 CHAIRPERSON HOOD: Yeah.

8 MR. SHAPIRO: Final action on Zoning
9 Commission Case No. 05-28R, Parkside Residential,
10 LLC, first-stage PUD modification of significance,
11 and second-stage PUD at Square 5041, Lot 807, and
12 Zoning Commission Case No. 05-28S, Parkside
13 Residential, first-stage PUD modification of
14 significance and second-stage PUD at Square 5056, Lot
15 810.

16 MR. MAY: Second.

17 CHAIRPERSON HOOD: Okay. It's been moved and
18 properly seconded. Any further discussion?

19 [Vote taken.]

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

22 MS. SCHELLIN: Yes. Staff records the vote
23 five, to zero, to zero to approve final action in
24 Zoning Commission Case No. 05-28R, and 05-28S,
25 Commissioner Shapiro moving, Commissioner May

1 seconding, Commissioners Hood, Miller, and Turnbull
2 in support.

3 CHAIRPERSON HOOD: I guess when I say, "Not
4 hearing any opposition," I shouldn't say that because
5 I didn't call for any opposition, so I wouldn't hear
6 it if I -- but I should have kept that to myself,
7 actually. I'm thinking out loud.

8 Okay, let's go to the next case. Is this our
9 last case?

10 MS. SCHELLIN: Yes.

11 CHAIRPERSON HOOD: Okay. Zoning Commission
12 Case No. 16-20, 3443 Benning, LLC, consolidated PUD
13 and related map amendment at Square 5017. Ms.
14 Schellin.

15 MS. SCHELLIN: Yes. At Exhibits 86, 87, 89,
16 and 89A, and let's see, we have the applicant's post-
17 hearing submissions. Exhibit 88 is an NCPC report,
18 and Exhibit 90 and 90A, we have an ANC 7D report. So
19 we'd ask the Commission to consider final action on
20 this case this evening.

21 CHAIRPERSON HOOD: Start off on this case,
22 but when I looked at this case, and I looked at what
23 I asked to be done, this is one of those I guess I
24 should have kept my mouth shut because it seems like
25 it got worse. I'm disappointed and I'm very

1 disappointed, and I'm sorry that the applicant is not
2 here. I see the counsel, but I'm very disappointed
3 in how the feedback.

4 It seems like what I thought was going to
5 happen, I don't know where it went awry, I don't know
6 how -- I don't even know what went on at the meeting,
7 but what I thought was going to happen was definitely
8 a different outcome than what I see. So I'm very
9 disappointed with the way that evolved. I should
10 have done it another way, but you know, you live and
11 you learn.

12 I know we were supportive and I think we've
13 taken the first action, and I know there are other
14 projects. And I can understand some of the concerns.
15 I can understand there's a change to the
16 neighborhood. A lot of stuff has changed in our
17 neighborhoods that we have to get adaptive to, and I
18 know in one particular neighborhood that we had a
19 case on and I grew up in some years ago, I was used
20 to seeing something one way, and now it had -- it was
21 a tough hill to climb to see something else there.

22 But anyway, I'm not going to get into that
23 lecture, but I'm just sorry of the comments and what
24 I see that came back to us. But let me open it up
25 for any discussions or comments.

1 MR. TURNBULL: Mr. Chair, I just want to make
2 one comment.

3 CHAIRPERSON HOOD: Mr. Turnbull, yes.

4 MR. TURNBULL: I did not sit on the case and
5 I have not had a chance to read the record, so I
6 won't be voting on it tonight.

7 CHAIRPERSON HOOD: Okay. All right. We took
8 -- didn't we take proposed action on this already?

9 MR. MAY: We did.

10 CHAIRPERSON HOOD: What was the vote?

11 MS. SCHELLIN: Four, to zero, to one.

12 CHAIRPERSON HOOD: Oh, four, zero, to one.

13 MS. SCHELLIN: Commissioner Turnbull was not
14 here.

15 CHAIRPERSON HOOD: Oh, okay. All right.
16 Thank you, Mr. Turnbull.

17 Let's open it up for any comments or
18 questions. Any?

19 MR. MAY: Mr. Chairman.

20 CHAIRPERSON HOOD: Yes.

21 MR. MAY: I just want to reiterate my earlier
22 support. I mean, I think I sort of led the charge
23 last time around, or at least I'd had comments in
24 support of the application. I think the applicant
25 did a good job with her outreach, consistent with the

1 -- it's consistent with the Comp Plan, the
2 sensitivity of the design, the affordability, and I
3 mean, I think overall it's a good project.

4 I understand that there are concerns in the
5 neighborhood, but I don't necessarily agree with
6 them. I think that this is going to fit well with
7 the neighborhood and it will be a benefit in the long
8 run. So, I'm prepared to vote again in support.

9 CHAIRPERSON HOOD: Anybody else? Vice Chair
10 Miller?

11 MR. MILLER: Thank you, Mr. Chairman. Yeah.
12 You know, you did push the parties to try to come
13 together, and usually they reach some common ground,
14 and unfortunately they did not in this particular
15 case. But I continue to support this all-affordable
16 housing project for seniors. I think it's a great
17 project and in terms of the much deeper, much deeper
18 level of affordability and much greater amount of
19 housing than our Inclusionary Zoning requires and it
20 meets a real need in that community, and hopefully
21 will benefit the surrounding River Terrace
22 neighborhood.

23 CHAIRPERSON HOOD: Okay, any -- okay. No
24 comments?

25 I too, I would have to associate myself with

1 your comments. I'm just sorry that it seems like the
2 ask that I asked for the community and the applicant,
3 it seemed like it was to no avail, and that usually
4 doesn't happen. I think this is probably, I think
5 maybe the second time in my 18, 19-year history down
6 here, that it comes back like this. So, I'm a little
7 disappointed but I would have to agree with the Vice
8 Chair. I think this is going to be very beneficial
9 to the community.

10 Even though I know there's going to be a
11 change to the neighborhood, I know there are some
12 parking issues. I know there's going to be some --
13 we're going to have to rethink how we do some things,
14 especially those who live in the neighborhood. But I
15 think in the long run it's going to be beneficial,
16 especially in that neighborhood because we do other
17 neighborhoods in the city as well, similar to this,
18 and I think the affordability, I think, was an asset
19 and looking forward to those who may need that type
20 of housing.

21 So I'm going to stay with my vote even though
22 I still have some -- it is what it is. So, we tried.
23 But I think it meets the regulations in ZR-16 and
24 what our code says as far as approval. So, I will be
25 voting to approve this project.

1 Is there any other comments or questions?

2 MR. MAY: I just want to --

3 CHAIRPERSON HOOD: Yes.

4 MR. MAY: -- clarify one thing. I think that
5 an issue was raised in our discussions about the RPP
6 restriction and whether that would be considered a
7 mitigation or a benefit of the project. I mean, I
8 appreciate the fact that the applicant has offered
9 this up as a way of trying to address the neighbor's
10 -- the concerns of the neighbors. And I don't have
11 any problem with it. I didn't really see the need
12 for it. It didn't -- I mean, I agree, it's not
13 really truly necessary mitigation.

14 But I also would not want to consider this an
15 actual benefit of the PUD because I think that's not
16 where we should be going when -- I mean, I think that
17 the RPP restrictions can be a useful tool. I know we
18 have issues with enforcement and making sure that it
19 happens, and all that, but I do believe in it as a
20 tool and -- but I think it's a tool that should be
21 used for mitigation.

22 I mean, it's okay that it's in there.
23 They've offered this up, but I just wouldn't call it
24 a benefit of the project.

25 CHAIRPERSON HOOD: Okay. I would agree with

1 you, Commissioner May. I don't think it's being
2 proffered as a benefit. I think it should just be
3 the tool that they proffered it as, even though I
4 know some other things about RPP, which the jury is
5 still out on RPP. So we would hope that the
6 applicant would continue, but I would not give this
7 as a proffered benefit. Any other questions or
8 comments?

9 Somebody like to make a motion? Vice Chair
10 Miller?

11 MR. MILLER: Yes, Mr. Chairman, I would move
12 that the Zoning Commission take final action on
13 Zoning Commission Case No. 16-20 3443 Benning, LLC,
14 consolidated PUD and related map amendment at Square
15 5017 and ask for a second.

16 MR. SHAPIRO: Second.

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

19 [Vote taken.]

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

22 MS. SCHELLIN: Yes. Staff records the vote
23 four, to zero, to one to approve final action in
24 Zoning Commission Case No. 16-20, Commissioner Miller
25 moving, Commissioner Shapiro seconding, Commissioners

1 Hood and May in support, Commissioner Turnbull not
2 voting having not participated.

3 CHAIRPERSON HOOD: Okay. Ms. Schellin, do we
4 have anything else before us this evening?

5 MS. SCHELLIN: No.

6 CHAIRPERSON HOOD: Does the Office of
7 Planning have anything?

8 MR. LAWSON: No, sir, not tonight.

9 CHAIRPERSON HOOD: Okay. So with that, this
10 meeting is adjourned. Thank you, everybody.

11 [Whereupon, the public meeting adjourned at
12 7:24 p.m.]

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CERTIFICATE OF TRANSCRIPTIONIST

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Kimberly Lawrie,
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