

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

+ + + + +

ZONING COMMISSION

+ + + + +

REGULAR MEETING

+ + + + +

MONDAY

OCTOBER 16, 2017

+ + + + +

The Regular Meeting of the District of Columbia Zoning Commission convened in the Jerrily R. Kress Memorial Hearing Room, Room 220 South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 6:30 p.m., Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairperson  
ROBERT MILLER, Vice Chairperson  
MICHAEL G. TURNBULL, FAIA, Commissioner  
(AOC)  
PETER G. MAY, Commissioner (NPS)  
PETER SHAPIRO, Commissioner

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER, Deputy Director,  
Development Review & Historic Preservation  
JOEL LAWSON  
MAXINE BROWN-ROBERTS  
STEVEN COCHRAN  
ANNE FOTHERGILL

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D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

JACOB RITTING, ESQ.  
HILLARY LOVICK, ESQ.

The transcript constitutes the  
minutes from the Regular meeting held on  
October 16, 2017.

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

2 6:39 p.m.

3 CHAIRMAN HOOD: This meeting will  
4 please come to order.

5 Good evening, ladies and gentleman.  
6 This is a Public Meeting of the Zoning Commission  
7 for the District of Columbia. My name is Anthony  
8 Hood. Joining me are Vice Chair Miller,  
9 Commissioner Shapiro, Commissioner May and  
10 Commissioner Turnbull. We're also joined by the  
11 Office of Zoning Staff, Ms. Sharon Schellin as  
12 well as the Office of the Attorney General, Mr.  
13 Ritting and Ms. Lovick. Office of Planning Staff  
14 Ms. Steingasser, Mr. Lawson, Mr. Cochran, Ms.  
15 Brown-Roberts and Ms. Fothergill.

16 Copies of Today's Meeting Agenda are  
17 available to you and are located in the bin near  
18 the door. We do not take any public testimony at  
19 our meetings unless the Commission requests  
20 someone to come forward.

21 Please be advised this proceeding is  
22 being recorded by a court reporter. It is also  
23 webcast live. Accordingly, I must ask you to  
24 refrain from any disruptive noises or actions in  
25 the hearing room including display of any signs

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1 or objects. Please turn off all electronic  
2 devices at this time.

3 Does the staff have any preliminary  
4 matters?

5 SECRETARY SCHELLIN: No, sir.

6 CHAIRMAN HOOD: Okay. So, we'll go  
7 right into the agenda as recorded.

8 First up is our Consent Calendar,  
9 Minor Modifications and Technical Corrections.  
10 Zoning Commission Case No. 87-29A. Ms. Schellin.

11 SECRETARY SCHELLIN: The Applicant is  
12 requesting minor modifications to convert  
13 mechanical penthouse space to habitable penthouse  
14 space and to add open trellis features on the  
15 north and west sides of the penthouse. The  
16 habitable space will contain a conference room  
17 and spaces designed to support the existing roof  
18 deck.

19 Exhibit 4 from ANC 2C is the report in  
20 support. Exhibit 5 is an OP Report. They do ask  
21 for a waiver for the late filing of the OP Report  
22 and they do recommend approval in that report.  
23 So, if the Commission would please waive the late  
24 filing of the OP Report that would be great.

25 CHAIRMAN HOOD: Okay. Any objections

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1 to waiving the late filing? No objections so  
2 it's so ordered.

3 SECRETARY SCHELLIN: No, sir.

4 CHAIRMAN HOOD: Okay. Commissioners we  
5 have in front of us a minor modification and  
6 technical corrections to the habitable space.  
7 One of the issue and I think we were expecting of  
8 these cases to come in front of us anyway. So,  
9 let me open it up to questions or comments.

10 Commissioner May.

11 COMMISSIONER MAY: Everything is just  
12 fine. I mean this is specifically why we had  
13 made a provision for considering cases like this  
14 as minor modifications. It's no real impact.  
15 And they meet all the setback requirements so I  
16 think it's fine.

17 CHAIRMAN HOOD: Any other questions or  
18 comments, Vice Chair? Mr. Miller.

19 VICE CHAIR MILLER: Yes, thank you, Mr.  
20 Chairman. Yes, I would agree with Commissioner  
21 May. This is exactly what we had anticipated for  
22 this retrofitting to activate the space. The  
23 one-to-one setbacks requirements are being made.  
24 The \$180,000 contribution is being made to the  
25 Housing Production Trust Fund so it's all good to

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1 me.

2 CHAIRMAN HOOD: All right. Unless  
3 there are any other comments would someone like  
4 to make a motion?

5 COMMISSIONER SHAPIRO: Just to note, I  
6 think it was mentioned but ANC 2C supports as  
7 well.

8 CHAIRMAN HOOD: All right. So, with  
9 that I would move approval of the Minor  
10 Modifications and Technical Corrections in Zoning  
11 Commission Case Number 87-29A, Pennsylvania  
12 Avenue Associates, Minor Modifications to the PUD  
13 at Square 459 and ask for a second?

14 VICE CHAIR MILLER: Second.

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

17 All in favor?

18 (Chorus of aye)

19 Any opposition?

20 Not hearing any, Ms. Schellin, would  
21 you please record the vote.

22 SECRETARY SCHELLIN: Staff records the  
23 vote five to zero to zero to approve final action  
24 in Zoning Commission Case Number 87-29A.  
25 Commissioner Hood moving, Commissioner Miller

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1 seconding, Commissioners May, Shapiro and  
2 Turnbull in support.

3 CHAIRMAN HOOD: Okay. Next Zoning  
4 Commission Case Number 16-03B. DB Residential  
5 Hill East, LLC, Modification of Consequences to  
6 Design Review at Square 1112E.

7 SECRETARY SCHELLIN: Yes. At the last  
8 meeting the Commission decided this case was  
9 indeed a modification of consequence and set  
10 dates for the parties to file documents. At  
11 Exhibit 6 we have a report from ANC 7F in support  
12 as is stated and they stated in lieu of three-  
13 bedroom units they voted for 25 two-bedroom units  
14 in Building F1 to be designated as affordable  
15 units and that neither building be designated as  
16 a senior living complex.

17 At Exhibit 7 the Applicant's response  
18 to ANC 7F, agreeing to 25 two-bedroom units in  
19 Building F1 and I'd ask the Commission to  
20 consider final action this evening.

21 CHAIRMAN HOOD: Okay. Commissioners,  
22 as stated, I didn't see this the first time I  
23 looked. I may have overlooked it, the response  
24 from the Applicant. Anyway, the Applicant  
25 concurs with the request of ANC 7F and I like the

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1 programmatic way that this is being handled and  
2 dealt with in this case. So, I am looking  
3 forward to moving forward with this. But let's  
4 see. Let me open it up to any questions or  
5 comments.

6 COMMISSIONER MAY: So, I just have one  
7 questions which is that we heard from ANC 7F but  
8 we know that ANC 6B is right across the street  
9 from the building. And they were involved in the  
10 original case and I'm wondering if we have any  
11 indication -- I mean, there's nothing in the  
12 record indicating that they had any response to  
13 it. I wonder if there's a representative of the  
14 Applicant here who could speak to whether it's  
15 been discussed with ANC 6B and whether there's  
16 been any kind of reaction. Because I'm reluctant  
17 to move ahead without hearing from them.

18 CHAIRMAN HOOD: I would ask whoever is  
19 going to speak in response to the ANC question of  
20 Commissioner May if you can come to the table.  
21 And if you can give us some information then  
22 maybe we can move forward with this.

23 VICE CHAIR MILLER: And they were  
24 notified by the Applicant, I believe, and by the  
25 Office of Zoning.

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1 CHAIRMAN HOOD: Office of Zoning,  
2 right.

3 MR. CLARK: My name is Larry Clark and  
4 that's basically what I was going to say is I  
5 know they were notified and I was before 6B for  
6 the Hill East Task Force Meeting. Honestly, the  
7 issue just didn't come up. In fact, the last  
8 time for zoning approval for the drawings it was  
9 noted that this is 7 and any future agreements or  
10 approvals should really come before 7F since it's  
11 in there instead of going and forth between two  
12 ANCs. But I can tell you, ANC 6B is very aware  
13 of everything going on from our Zoning Commission  
14 through the Amazon Proposal as of today.

15 COMMISSIONER MAY: All right. I think  
16 that's fine from my perspective. I just want to  
17 note there was some direct conversation with ANC  
18 6B.

19 CHAIRMAN HOOD: The only question on  
20 the table now is about 6B and I the Applicant has  
21 already mentioned it to us. Unless there's  
22 something else we're ready to move forward. So,  
23 I don't want -- that's fine. Okay.

24 (Off mic comment)

25 COMMISSIONER MAY: We have a letter in

1 the record from ANC 7F.

2 CHAIRMAN HOOD: 7F.

3 COMMISSIONER MAY: We did not have one  
4 from ANC 6B and that's what we were asking about.

5 CHAIRMAN HOOD: I need you to come --  
6 here's what I'm going to do here. I'm going to  
7 ask you to come to the table, identify yourself.

8 MS. CARR: Good evening. My name is  
9 Sheila Carson Carr. I am the Chair of ANC 7F,  
10 ANC 7F03.

11 CHAIRMAN HOOD: Okay. And what were  
12 you saying?

13 MS. CARR: There are two. I sent in one  
14 was the action from the ANC and I turned that in  
15 on Friday. And then I also turned in a letter  
16 today after talking with Ms. Sharon about --  
17 because I thought this was going to be hearing.  
18 We were under the impression the ANC as to the  
19 meeting it was always talked as if there was  
20 going to be hearing. And I found out today that  
21 you really don't do public -- you don't have  
22 public comments during this time. It has to be  
23 during a hearing time. So, and listening to the  
24 tape which I did on the 11th today, that's why I  
25 requested a hearing.

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1 CHAIRMAN HOOD: On this case, a  
2 hearing? This is more programmatic. I don't  
3 think there's any subsequent change.

4 MS. CARR: Okay. Well, then can I just  
5 say the other concern that the ANC is for the  
6 project. Let me say that first of all. The 106  
7 affordable units that will really help the  
8 residents in our ward as well as the city. But  
9 what we are concerned about is to make sure that  
10 there is adequate amount of two-bedroom units  
11 because we really asked for three-bedroom units,  
12 yes. And they're all in one building. And I  
13 heard on the tape today as well as when I was  
14 told and when the Commission was told about all  
15 of them being a majority put in one building. We  
16 did have concerns but like I stated before that  
17 we do want the affordable units to go on board  
18 but we just want to make sure that it's an  
19 equitable amount of two-bedroom, therefore, that  
20 families could be able to go in that, not just  
21 single people or older people. We do not want to  
22 discriminate anyone and especially not families.

23 CHAIRMAN HOOD: Okay. All right.  
24 Thank you.

25 I'm going to ask -- first of all, for

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1 the record. Typically, we don't do that what you  
2 just did. We don't even allow it because I don't  
3 want nobody who sees this tape to think that  
4 that's how we operate, because we really don't.  
5 I can't have a hearing at a meeting.

6 MS. CARR: I understand.

7 CHAIRMAN HOOD: Okay.

8 MS. CARR: Go ahead.

9 CHAIRMAN HOOD: But I wanted to hear  
10 from you because I know you don't come in every  
11 day like some people so I wanted to be courteous.

12 MS. CARR: Thank you.

13 CHAIRMAN HOOD: And I appreciate all  
14 the work that you all do.

15 MS. CARR: Thank you.

16 CHAIRMAN HOOD: I'm going to ask -- I'm  
17 turning this into a meeting. I'm probably going  
18 to have some very thin ice. But I'm going to ask  
19 the Applicant.

20 You've heard the concern and I'm just  
21 going to ask if you're ready to respond to that.  
22 I think they can because when I look at the  
23 arrangement that was agreed with you all the  
24 first time, I'm sure they can make some -- I hope  
25 that that's what I'll hear when they come

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1 forward.

2 Ms. Batties.

3 MS. BATTIES: Good evening. I'm Leila  
4 Batties of the law firm of Holland & Knight on  
5 behalf of the Applicant.

6 As stated in our letter dated October  
7 13th the Applicant is agreeable to have 25 two-  
8 bedroom units in Building F1 as affordable units.  
9 So that was the issue on the table when the ANC  
10 voted on this project originally.

11 MS. CARR: Well, that was about that  
12 building. We're talking about the smaller  
13 building right now.

14 MS. BATTIES: And so I'm not clear on  
15 your question or concern.

16 CHAIRMAN HOOD: Here's what I want to  
17 do. Here's what I'm going to do. I'm going to  
18 put this case in abeyance for a few minutes. You  
19 all step to the back, talk about it. We would  
20 really like to dispose of this tonight so you all  
21 step to the back and work it out and we'll call  
22 you back up here.

23 MS. BATTIES: All right. Thank you.

24 SECRETARY SCHELLIN: Chairman Hood, I  
25 do want to let Ms. Carr. I did speak with her

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1 this morning about the letter she's talking  
2 about. However, we did not receive it.

3 MS. CARR: I know the lady stamped it  
4 in and gave me a copy of it being stamped in. It  
5 said 3:11, I believe.

6 SECRETARY SCHELLIN: So, you hand  
7 delivered that today?

8 MS. CARR: Yes, ma'am.

9 SECRETARY SCHELLIN: I'll go get it and  
10 bring a hard copy.

11 CHAIRMAN HOOD: Okay. So, we'll come  
12 back to this case. Okay.

13 Now, we don't have many cases so we're  
14 not going to be here long.

15 All right. Let me call the next case.

16 We're going to have further  
17 deliberations on Zoning Commission Case Number  
18 14-11D, Office of Planning Text Amendment, RA  
19 Vesting Provisions for Case Number 14-11B.

20 Ms. Schellin.

21 SECRETARY SCHELLIN: At Exhibit 30 you  
22 have a supplemental report from OP advising of  
23 its contacts with DCRA and you have DCRA's  
24 response regarding how long a building permit  
25 application could be dormant in the system and

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1 still be active. So, I'd leave up to the  
2 Commission to decide whether they will have  
3 further deliberations or actually take proposed  
4 action to refer it to NCPC this evening.

5 CHAIRMAN HOOD: Okay. Commissioners, we  
6 had asked for some additional information. We  
7 now have it. Dates have been abandoned after 180  
8 days I think, of the date of filing unless such  
9 application has been pursued in good faith or a  
10 permit has been issued.

11 But let me open it up. I have a few  
12 questions for Ms. Steingasser -- with the Office  
13 of Planning. But let me open it up first for  
14 others.

15 Okay. I noticed what the Office of  
16 Planning is recommending, Ms. Steingasser, but  
17 let me pull this up. I think I still share the  
18 same concern and it's just, I don't necessarily  
19 have a problem with keeping it the way it is.  
20 But my concern is the way it reads when it talks  
21 about and I'm trying to see where it was. In the  
22 pipeline and whether it's been -- residents in  
23 the adjoining property provided the building  
24 permit application for such construction was  
25 filed and accepted as complete.

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1           Unless I'm missing something, I still  
2           don't understand what may be complete to me may  
3           be differently complete to someone else. And  
4           maybe you answered that for me the last time and  
5           maybe I just didn't retain it. But I am not  
6           clear on what's complete because complete can  
7           mean different things to different Zoning  
8           Administrators and different people.

9           MS. STEINGASSER: I don't know how to  
10          answer what exactly DCRA uses when they determine  
11          something is complete but typically it means that  
12          it is complete to be processed, that there's  
13          enough information that the permit can be  
14          reviewed against the different codes and be  
15          processed and issued. Now, that doesn't mean  
16          that they can't make corrections, or, you know,  
17          they need to adjust an air conditioning duct or  
18          something besides, but that there's sufficient  
19          information for a code official to review and  
20          issue the permit.

21          CHAIRMAN HOOD: Okay. All right.

22          Well, they understand it. I won't be  
23          giving out the permits. I just don't want to put  
24          them in a position where they have problems. But  
25          if everybody feels comfortable with that then I'm

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1 fine with it.

2 Let me open it up. Any other  
3 questions or comments? Anybody?

4 Vice Chair Miller?

5 VICE CHAIR MILLER: I wasn't going to  
6 bring this up but you just brought that up. I  
7 mean that was one of the issues in the BZA case  
8 last week that we decided and one of the reasons  
9 I decided the case the way we did is because the  
10 issue was all about vesting in that particular  
11 case. And in that case the permit was never  
12 issued before the area was rezoned. That's one  
13 big problem.

14 And then by the time we sat down the  
15 case for rezoning, a downzoning, on Capitol Hill  
16 I didn't think the application was substantially  
17 complete is the word in the Zoning Regulations  
18 because there wasn't an engineering license  
19 certification and the zoning review had actually  
20 been revoked because the zoning -- BZA, the  
21 zoning review part of the BZA thought that they  
22 had the wrong building height because they were  
23 measuring from the wrong grade. So, to me that  
24 wasn't a substantial and complete application so  
25 I didn't think it was vested under either the set

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1 down rule or the issuance of the permit which it  
2 was 15 months after the rezoning took effect.  
3 There was a lot of other issues raised in that  
4 case but it's substantially complete. It was  
5 complete. I think it's out there and I don't  
6 think it's a settled issue.

7           There may need to be clarification or  
8 look at this by OP to see if there needs to be  
9 further clarification in the zoning regs for  
10 future cases. But I don't want to hold this case  
11 up for anything like that. So, I just wanted to  
12 make that comment. It's was fresh in my mind  
13 when you talked about a complete application.

14           CHAIRMAN HOOD: Okay. That's kind of  
15 what I was alluding to. I was thinking when I  
16 was reading this over the other night I was  
17 thinking that maybe come up with a list but, you  
18 know, I'd rather leave that to the Subject Matter  
19 Experts who do that daily. I don't do it daily.  
20 I just ride by the building. So, I want to make  
21 sure that we don't put them in a situation where  
22 it has to be, as you just mentioned, up for a  
23 toss-up. That's kind of where I am but I like  
24 the recommendation if the Office of Planning  
25 would if they think it's needed the Vice Chair

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1 that we can look at that and see what if we can  
2 nail it down a little more for DCRA and with  
3 their input it might be very helpful to give  
4 people some predictability as we continue to move  
5 in this process.

6 So, I too don't want to hold this up.  
7 I think we can move forward. Let me open it up.

8 Any other questions or comments? If  
9 not, would somebody like to make a motion?

10 COMMISSIONER TURNBULL: Mr. Chair, I  
11 would move that the Zoning Commission take -- I  
12 guess it's proposed action to refer it to NCPC on  
13 Zoning Case Number 14-11D, Office of Planning  
14 Text Amendment Regarding Vesting Provisions for  
15 Case Number 14-11B and ask for a second.

16 COMMISSIONER SHAPIRO: Second.

17 CHAIRMAN HOOD: Okay. So moved and  
18 properly seconded. Any further discussion?

19 All those in favor?

20 (Chorus of aye)

21 Any opposition?

22 So ordered. Ms. Schellin, would you  
23 record the vote.

24 SECRETARY SCHELLIN: Staff records the  
25 vote five to zero to zero to approve Proposed

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1 Action to refer to NCPC since the proposed rule-  
2 making has already been published. Commissioner  
3 Turnbull moving, Commissioner Shapiro seconding,  
4 Commissioners Hood, May and Miller in support.

5 CHAIRMAN HOOD: Okay. Thank you.

6 Let's go to Hearing Action. Zoning  
7 Commission Case Number 17-17, ANC 8A, Map  
8 Amendment in Square 5564.

9 Ms. Steingasser.

10 MS. STEINGASSER: Chairman Hood and  
11 Commissioners, we'd ask that the Commission  
12 accept into the record our late report as the  
13 case was filed as an emergency request and so as  
14 a result OP's report also came in fairly late.

15 We do recommend that the case be set  
16 down. We don't think emergency action is  
17 necessary due to the fact that the more  
18 restrictive zone will always prevail while the  
19 Commission considers their final action. And in  
20 this case that is the same RA-2 that is being  
21 requested for setdown. But the property in  
22 question is clearly identified on the  
23 Comprehensive Plan as moderate density  
24 residential and that's the requested zone. So,  
25 we do recommend that we -- I do want to note

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1       though that there is a building permit that has  
2       been issued for a storage facility that's  
3       consistent with the existing PDR1 Zone and that  
4       permit will not be affected by this. But should  
5       that building permit lapse the property would  
6       then be fully under the RA-2 Zone.

7                   CHAIRMAN HOOD: Okay. Thank you, Ms.  
8       Steingasser.

9                   Commissioners, any questions?

10                  Commissioner May.

11                  COMMISSIONER MAY: The ANC asked for  
12       consideration of a couple of zones and you picked  
13       only the RA-2. Can you explain why?

14                  MS. STEINGASSER: I thought it was only  
15       the RA --

16                  COMMISSIONER MAY: Maybe I'm mixing it  
17       up with something else but --

18                  SECRETARY SCHELLIN: It's R-3 or RA-2.

19                  COMMISSIONER MAY: Or R-3. Maybe that  
20       was the old zone. R-3? That was the former  
21       designation.

22                  MS. STEINGASSER: No, the RA-2 which is  
23       what I thought they requested was the old R-5B.

24                  COMMISSIONER MAY: Right.

25                  MS. STEINGASSER: Which is what is

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1 mostly around the site.

2 COMMISSIONER MAY: Right. But in their  
3 application they said R-3 or RA-2. But I didn't  
4 think we had R-3 anymore. R-3 used --

5 MS. STEINGASSER: We do have R-3. We  
6 don't have R-4 anymore.

7 COMMISSIONER MAY: Got you.

8 MS. STEINGASSER: We have RA-1, RA-2.

9 COMMISSIONER MAY: Right.

10 MS. STEINGASSER: I mean R1-A, R2 and  
11 R-3.

12 COMMISSIONER MAY: So, R-3 you didn't  
13 consider because it was not the prevailing zone  
14 and in the immediate area.

15 MS. STEINGASSER: Right. It's also a  
16 low density zone.

17 COMMISSIONER MAY: Right.

18 MS. STEINGASSER: It doesn't allow for  
19 the multi-families.

20 COMMISSIONER MAY: Got it. Okay.  
21 Thank you.

22 CHAIRMAN HOOD: Okay. Any other  
23 questions, comments?

24 Vice Chair Miller?

25 VICE CHAIR MILLER: Thank you, Mr.

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1 Chairman.

2 Yes, I support the setdown and  
3 appreciate the Office of Planning's report.  
4 There was some reference in the -- I think the  
5 ANC's resolution and in maybe the Fairlawn  
6 Citizens Association resolution that if we did  
7 this rezoning that the owner who got the permit  
8 for the storage facility would consider doing a  
9 residential project in conformance with the  
10 rezoning. Have you heard that discussion?

11 MS. STEINGASSER: I have not but we --  
12 they filed this very quickly so we haven't had a  
13 lot of time to follow up with anything except to  
14 get the report to you. But I've not heard  
15 anything like that.

16 VICE CHAIR MILLER: Okay. Thank you.

17 CHAIRMAN HOOD: Okay. Anything else?

18 I would really like for -- I don't  
19 know who all can do this but to make sure we  
20 clarify exactly what's going on because as stated  
21 it seems like there's some -- and the Commission  
22 will be, not that I don't mind. We're getting  
23 used to it now but there's some things that are  
24 already in the pipeline that are complete that  
25 are happening versus what the Zoning Commission's

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1 action is going to be and I think you alluded to  
2 it about a project that's already going to happen  
3 regardless of what action that we do. And I  
4 think that needs to be clear. When I look at the  
5 letters and who they're from there's obviously a  
6 lot of misunderstanding out there and I'm hoping  
7 that -- we may just have to do it at the hearing  
8 so we can get the ANC, get everybody on the same  
9 page, not just the ANC but some other community  
10 organizations to understand exactly how this  
11 works. Not that we are turning a deaf ear to  
12 what they're saying, but there are things that  
13 are out the gate. So, I don't know how we get  
14 that. I guess we're going to have to do that at  
15 the hearing because that will bring more  
16 confusion. But I want to make sure that people  
17 understand exactly what we're being tasked and  
18 what we are asked to do as opposed to saying that  
19 we're just disregarding because that is not the  
20 case. There are some things that already  
21 happened before we even got here. So, I don't  
22 know if any others -- I don't know how we even  
23 get there other than us doing it at the hearing  
24 unless the Office of Planning -- do you all go  
25 out to these community groups and -- well, you

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1 wouldn't do that in this case I don't think.  
2 Okay. So, you all will leave it up to me, I mean  
3 up to us. Okay.

4 All right. Any other questions?

5 Would someone like to make a motion to  
6 set it down?

7 COMMISSIONER SHAPIRO: I'll make a  
8 motion, Mr. Chair. I move that we set down  
9 Zoning Commission Case 17-17, Proposed Zoning Map  
10 Amendment Petition to Remap 1401 22nd Street, SE,  
11 from PDR-3 to RA-2.

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

14 All those in favor?

15 (Chorus of aye)

16 Any opposition? Not hearing any, Ms.  
17 Schellin, would you record the vote.

18 SECRETARY SCHELLIN: Yes, Staff records  
19 the vote five to zero to zero to set down Zoning  
20 Commission Case Number 17-17 to the RA-2 Zone and  
21 this will be a rule-making case.

22 Commissioner Shapiro moving,  
23 Commissioner Miller seconding, Commissioners  
24 Hood, May and Turnbull in support.

25 CHAIRMAN HOOD: Mr. Schellin, what I

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1 would like for you to do is the letters that we  
2 have and that's everybody who wrote a letter --  
3 I just had this idea and I'm thinking out loud  
4 again. Sometimes that's dangerous. But I would  
5 like for you to work with Ms. Barton and if I  
6 have to get involved I will to kind of help  
7 explain so when we get to the hearing it won't be  
8 to the point where everybody -- hopefully, people  
9 will come out with an understanding of exactly  
10 what our role is and what action we're doing. So  
11 we can maybe reach out to them and kind of help  
12 them and maybe the Office of Planning will give  
13 us a sound bite to kind of help them understand  
14 exactly what's in front of the Zoning Commission  
15 and what's already out the gate and gone and what  
16 we're dealing with at this point. So some kind  
17 of way if we can do that, especially those who  
18 have expressed in some of the letters that I read  
19 which seems to be there might just be some  
20 misunderstanding. Okay. All right.

21 VICE CHAIR MILLER: I support that, Mr.  
22 Chairman.

23 CHAIRMAN HOOD: Okay.

24 VICE CHAIR MILLER: To clarify that  
25 there's nothing more we could have done --

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1 CHAIRMAN HOOD: Right.

2 VICE CHAIR MILLER: -- tonight.

3 CHAIRMAN HOOD: Right.

4 VICE CHAIR MILLER: Or any at this  
5 point that would have stopped that permit.

6 CHAIRMAN HOOD: Right. But I want us  
7 to be on a proactive as opposed to coming down  
8 and having to explain to them. By then, you  
9 know, tensions are up and I think we will have a  
10 better hearing and we can focus on what's in  
11 front of us if we educate and help those because  
12 everybody doesn't do this all the time. And if  
13 it does come down here we'll just deal with it.  
14 Okay.

15 All right. Okay. Zoning Commission  
16 Case Number 17-18, Office of Planning Text  
17 Amendment, Definition of Rules and Measurement.

18 Ms. Fothergill.

19 MS. FOTHERGILL: Good evening, Chairman  
20 Hood and Members of the Commission.

21 For the record, I'm Anne Fothergill  
22 with the Office of Planning.

23 OP recommends that the Zoning  
24 Commission set down the proposed Text Amendment  
25 to a few definitions and rules of measurement in

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1 subtitle B, Chapter 1 and 3 as well as five  
2 specific zoning regulations in subtitles D, E, F,  
3 J and K.

4 The objective of this Text Amendment  
5 is to refine and clarify the definitions and  
6 rules related to building height, adjacent grade,  
7 basement, cellars and gross floor area. The  
8 proposed changes would establish measuring  
9 basement and cellars to the top of the finished  
10 floor of the ground floor instead of the ceiling  
11 of the basement or cellar.

12 The amendment would also adjust the  
13 measurement height to five feet so it is  
14 consistent for both detached and attached  
15 buildings and the measuring point would be the  
16 lower of either adjacent, natural or finished  
17 grade.

18 The proposed Text Amendment would move  
19 some language that is currently found in  
20 definitions to rules of measurement without any  
21 language changes. There are five specific zoning  
22 regulations that would need clarification as a  
23 result of these changes and those are also  
24 proposed within this amendment.

25 The OP has worked with the Zoning

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1 Administrator's office to refine the zoning  
2 regulation language with the goal of providing  
3 clarity for property owners and DCRA. The Office  
4 of Planning recommends that the Text Amendment be  
5 set down for a public hearing and we will provide  
6 some illustrations of the proposed changes in the  
7 final report. And I'm happy to take any  
8 questions.

9 CHAIRMAN HOOD: Okay. Thank you, Ms.  
10 Fothergill.

11 Any questions or comments? Not seeing  
12 any.

13 Commissioner Shapiro.

14 COMMISSIONER SHAPIRO: Thank you. I  
15 have no issue or problems with this being set  
16 down. It's just a question while we're here.  
17 Does this affect or how does this affect  
18 accessory dwelling units and standards for  
19 accessory dwelling units or does it not?

20 MS. STEINGASSER: It won't directly  
21 affect an accessory dwelling unit. It affects  
22 how the building is measured and what area  
23 constitutes cellar and basement but whether there  
24 can be an accessory dwelling unit, it won't  
25 affect that.

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1 CHAIRMAN HOOD: Okay. Thank you.

2 COMMISSIONER SHAPIRO: Thank you, Mr.  
3 Chair.

4 CHAIRMAN HOOD: Okay. Any other  
5 questions?

6 COMMISSIONER TURNBULL: I just wanted  
7 to say I'm looking forward to the hearing,  
8 especially in the definitions with habitable  
9 room. I expect it could be a contentious  
10 hearing. I don't know. Now we had a contentious  
11 BZA case where habitable room came up and it  
12 depended whether it was a cellar or not a cellar  
13 and basement so it should be a very interesting  
14 night on this. But I think it's well worth it.  
15 We needed to discuss this because it comes up so  
16 often. So, I'm looking forward to it.

17 CHAIRMAN HOOD: Okay. Anything else?

18 All right. Would someone like to make  
19 a motion so we can set this down? I'm going to  
20 ask Mr. T.

21 COMMISSIONER TURNBULL: Mr. Chair, I  
22 would move that we set down Zoning Case Number  
23 17-18, Office of Planning Text Amendment  
24 regarding definitions and rules of measurement  
25 and ask for a second.

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1 COMMISSIONER MAY: Second.

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

4 All in favor?

5 (Chorus of aye)

6 Any opposition? Not hearing any, Ms.  
7 Schellin, would you record the vote.

8 SECRETARY SCHELLIN: Staff records the  
9 vote five to zero to zero to set down Zoning  
10 Commission Case Number 17-18 as a rule-making  
11 case. Commissioner Turnbull moving, Commissioner  
12 May seconding. Commissioners Hood, Miller and  
13 Shapiro in support.

14 CHAIRMAN HOOD: Okay. Anything else we  
15 have on the Agenda for our meeting tonight other  
16 than this case? Okay.

17 Again, I want to make sure it's clear  
18 that we typically don't do this but because of  
19 the way this went down I wanted to go ahead and  
20 try -- I'm trying to resolve this this evening.

21 Ms. Batties, do you have a report back  
22 for us?

23 MS. BATTIES: Yes, I do.

24 After meeting with Commissioner Carson  
25 Carr and Commissioner Settles we agree that

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1 Building F1 which is the smaller building on the  
2 property will have 25 two-bedroom units. We  
3 acknowledge that there will be two- and one-  
4 bedroom affordable units in Building G1 which is  
5 the bigger building. G1 will have 11 two-bedroom  
6 units that will be affordable so we acknowledge  
7 that.

8 The other issue is that in the letter  
9 dated October 13, the ANC noted in the sentence  
10 right before the conclusion there's a sentence  
11 that says the Commission also requests that  
12 neither building be designated as a senior living  
13 complex.

14 I have advised the ANC that the  
15 Applicant for financing and other reasons cannot  
16 agree to that restriction on the property. They  
17 understand why the Applicant cannot agree to that  
18 restriction but they felt very strongly that they  
19 needed to include that in their letter because  
20 there were a number of constituents concerned  
21 about an all senior building. But they  
22 understand why the Applicant can't agree to that  
23 restriction.

24 CHAIRMAN HOOD: Okay. All right.  
25 Anything else?

1 COMMISSIONER CARR: No, she stated it  
2 correctly --

3 CHAIRMAN HOOD: Okay.

4 MS. CARR: -- that like I say we're  
5 not trying to discriminate against anyone.

6 CHAIRMAN HOOD: Okay. I just wanted to  
7 know if there was anything else.

8 MS. CARR: Thank you. Thank you.

9 CHAIRMAN HOOD: Thank you very much.  
10 Okay.

11 Commissioners, I think this is  
12 programmatic. This is very suitable and moves in  
13 a very good way from what I've seen across the  
14 city. I think that what's being offered here is  
15 very considerate for what I see here. So, I  
16 actually came prepared even without everything  
17 else, came prepared to go ahead and move forward  
18 with this request. But let me open it up to my  
19 colleagues and see if there are any other  
20 questions or comments.

21 COMMISSIONER SHAPIRO: No questions.

22 CHAIRMAN HOOD: That says a whole lot  
23 there. Okay.

24 Would someone like to make a motion?

25 VICE CHAIR MILLER: Mr. Chairman, I too

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1 appreciate the work of the Applicant and the ANC  
2 on this project and would move that the Zoning  
3 Commission approve Case Number 16-03B, DB  
4 Residential Hill East, LLC, Modification of  
5 Consequence to Design Review at Square 1112E and  
6 ask for a second.

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

10 All those in favor?

11 (Chorus of aye)

12 Any opposition? Not hearing any, Ms.  
13 Schellin, would you record the vote.

14 SECRETARY SCHELLIN: Yes, Staff records  
15 the vote five to zero to zero to approve for  
16 final action Zoning Commission Case Number 16-  
17 03B. Commissioner Miller moving, Commissioner  
18 Hood seconding, Commissioners May, Shapiro and  
19 Turnbull in support.

20 CHAIRMAN HOOD: Okay. I want to thank  
21 you all, Commissioner Carr and your other  
22 colleague and also the Applicant for working this  
23 out. But let the record reflect, I have to say  
24 this again, this is not typically how we do it.  
25 I'm not saying it for you. I'm saying it for the

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1 next person that comes in and says you did what  
2 I'm going to call the Carr Amendment. You let  
3 them come in and have a hearing -- you let them  
4 have a hearing at a meeting. So, I want to make  
5 sure that we're not doing the Carr Amendment.  
6 This is an only one time case. But it worked so  
7 thank you very much. We appreciate it.

8 MS. CARR: Thank you and we appreciate  
9 it.

10 CHAIRMAN HOOD: All right. Anything  
11 else?

12 Office of Planning, you have anything?

13 MS. STEINGASSER: No, sir.

14 CHAIRMAN HOOD: Okay. Okay. I want to  
15 thank everyone for their participation in this  
16 meeting tonight.

17 This meeting is adjourned.

18 (Whereupon, the above meeting was  
19 adjourned at 7:12 p.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Regular Meeting

Before: DCZC

Date: 10-16-17

Place: Washington, DC

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



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Court Reporter

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