

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC MEETING

+ + + + +

MONDAY,
DECEMBER 11, 2017

+ + + + +

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

ZONING COMMISSION MEMBERS PRESENT:

- ANTHONY J. HOOD, Chairperson
- ROBERT MILLER, Vice Chair
- PETER G. MAY, Commissioner (NPS)
- MICHAEL TURNBULL, Commissioner

OFFICE OF ZONING STAFF PRESENT:

- SHARON S. SCHELLIN, Secretary
- JACOB RITTING

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER, Deputy Director
JOEL LAWSON
MATT JESICK
MAXINE BROWN-ROBERTS
KAREN THOMAS
ELISA VITALE
ANNE FOTHERGILL

The transcript constitutes the minutes from the
Public Meeting held on November 16, 2017.

AGENDA

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08-06N Consent Calendar: Office of Planning - Request for Technical Correction to Z.C. Order No. 08-06A, Subtitle B Section 315.1c and Shortened Publication Period . . .	5
11-15G Consent Calendar: Howard University - Modification of Consequence of Campus Plan at Square 3065 (Determination)	7
04-14E Consent Calendar: Riverfront Holdings II, LLC - PUD Modification of Consequence at Square 708 (Deliberation)	10
16-13B Consent Calendar: JS Congress Holdings, LLC - Modification of Consequence: Condition B-2 or Order No. 16-13 (Deliberation)	12
07-13G Hearing Action: Lowe Enterprises - PUD Modification of Significance at Square 6435	15
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P-R-O-C-E-E-D-I-N-G-S

6:33 p.m.

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2
3 CHAIRMAN HOOD: Good evening, ladies and
4 gentlemen. This is the public meeting of the Zoning
5 Commission of the District of Columbia. My name is Anthony
6 Hood. We're located in Jerrily R. Kress Memorial Hearing
7 Room.

8 Joining me this evening are Vice Chair Miller,
9 Commissioner May, and Commissioner Turnbull. We're also
10 joined by the Office of Zoning staff, Ms. Sharon Schellin,
11 as well as Office of Attorney General, Mr. Ritting and Ms.
12 Lovett, also Planning staff, Ms. Steingasser, Mr. Lawson, Ms.
13 Brown-Roberts, and Ms. Thomas.

14 The contents of today's meeting agenda are
15 available to you and are located in the bin near the door.
16 We do not take any public testimony in our meetings unless
17 the Commission requests someone to come forward.

18 Please be advised that this proceeding is being
19 recorded by a court reporter and it's also web cast live.
20 Accordingly, we must ask you refrain from any disruptive
21 noises or actions in the hearing room, including display of
22 any signs or objects. Please turn off all electronic
23 devices.

24 Also, I see that we have Ms. Vitale and Ms.
25 Fothergill from the Office of Planning as well. Does the

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1 staff have any preliminary matters?

2 MS. SCHELLIN: Just one. In case there's anyone
3 else here for case number 17-12, just to announce that that's
4 been deferred to our first meeting in January which is
5 January 8, just to make that announcement.

6 CHAIRMAN HOOD: Okay, with that, let's move right
7 into our agenda, consent calendar, minor modification and
8 technical corrections, Zoning Commission case number 08-06N,
9 Office of Planning request for technical corrections to
10 Zoning Commission order 08-06A, Subtitle B, 315.1c and
11 shortened publication period. Ms. Schellin?

12 MS. SCHELLIN: Yes, the OP has requested first a
13 waiver for the filing of their report lead. They're also
14 asking for a technical correction as you stated to Zoning
15 Commission order number 08-06A which is an amendment to
16 Subtitle B Section 315.1c. It's regarding the front setbacks
17 in the R and RX zones.

18 In addition, OP has requested if approved, that
19 the Commission would approve a 14-day publication period for
20 the staff to publish a proposed rulemaking instead of the 30-
21 day publication.

22 CHAIRMAN HOOD: Okay, thank you, Ms. Schellin.
23 Colleagues, you've heard the request. Are there any
24 objections, somebody to make a motion, or any conversation?
25 I'll take whatever, either one. Commissioner May?

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1 COMMISSIONER MAY: So I remember this issue when
2 it was discussed in ZR, and I thought that we actually looked
3 at examples that included fully detached houses. Am I not
4 correct about that?

5 MS. STEINGASSER: Yes, fully detached houses are
6 considered in 315.1 A and B. It's just this part C that
7 addresses the attached and semi-detached.

8 COMMISSIONER MAY: All right, so then now I'm
9 totally confused about what we're correcting, and I'm sorry.
10 I'm just reading the report now, so.

11 MS. STEINGASSER: Okay, yes, then I apologize for
12 that. We've been working with the Office of the Zoning
13 Administrator. The phrase "attached building" is a defined
14 term and that was not what was intended.

15 It was meant to be "attached to a building" was
16 meant to be the phrase, so that's why we're requesting the
17 word "to another" be inserted between "attached" and
18 "building." It's created some confusion in how front
19 additions are reviewed are how the setback is applied.

20 COMMISSIONER MAY: Okay, it would have been
21 helpful to see the rest of 315.1 A and B attached. That
22 would have been less confusing. That's okay. That's fine.
23 I'm okay. Thank you.

24 CHAIRMAN HOOD: Any other comments or questions?
25 Okay, I think this, the request, it's a modest request, and

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1 any objections to the 14, what is it, the 14 days request for
2 notification? So I would move Zoning Commission case 08-06A
3 with the modifications as requested.

4 VICE CHAIR MILLER: Second.

5 CHAIRMAN HOOD: It's been moved and properly
6 seconded. Any further discussion? All in favor?

7 PARTICIPANTS: Aye.

8 CHAIRMAN HOOD: Any opposition? Not hearing any,
9 Ms. Schellin, do we have a proxy? Okay, should we record the
10 vote?

11 MS. SCHELLIN: Yes, staff records the vote four
12 to zero to one for the immediate publication of a 14 - I'm
13 sorry, for the immediate 14-day publication of a proposed
14 rulemaking, Commissioner Hood moving, Commissioner Miller
15 seconding, Commissioners May and Turnbull in support,
16 Commissioner Shapiro not present and not voting.

17 CHAIRMAN HOOD: Okay, thank you. Next, we have
18 a modification of consequence. This is a determination of
19 scheduling, Zoning Commission case number 11-15G, Howard
20 University modification of consequence of campus plan at
21 Square 3065. Ms. Schellin?

22 MS. SCHELLIN: On this one, the Applicant is
23 requesting a modification of consequence to its 2011 central
24 campus plan to add dormitory/residential use to the mix of
25 uses designated in the plan for the Howard Center property.

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While the Applicant is not ready to raise and redevelop the property in the near term, they have put together a plan to renovate the building with a mix of uses which can be financed with tax-exempt bonds.

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The university has been advised to close on the bond financing by the end of the year which requires this request and a sign off by the Zoning Administrator. The Zoning Administrator has advised the Applicant that a further processing will not be necessary since this will be a renovation and not a construction of a new building.

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Exhibit 4 is an OP report in support, but they do ask that the Applicant file a new campus plan two years after order number 11-15F becomes effective. Exhibit 6, ANC 1B submitted a report in support, and therefore the Applicant would ask that you decide that this indeed is a modification of consequence and if you would set a deliberation date.

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CHAIRMAN HOOD: Okay, Commissioners, first let me ask does anyone not think this is a modification of consequence? I'm trying to remember when we do this, do we talk about off-campus housing? We don't talk about off-campus housing modification consequences.

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So now that I've been a victim, I really want to talk about all kinds of housing. But anyway, so now I understand when people come down, what they really mean

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1 because when you get it first hand, so you understand, but
2 anyway, I'll wait for Howard to show up so I can digress and
3 go off in left field and go on that.

4 So any objections to this being a modification of
5 consequence? Vice Chairman?

6 VICE CHAIR MILLER: No, I don't have an objection.
7 I had a question, speaking of being out of left field, for
8 the Office of Planning. This is in a - we're adding a
9 dormitory residential use to other campus plan type uses,
10 which I think I'm supportive of, but it's in a PDR 3 zone.
11 That permits dormitory residential uses?

12 MS. STEINGASSER: It does through a campus plan.
13 It permits dormitories. It does not permit multifamily
14 residential on its own.

15 VICE CHAIR MILLER: Okay, thanks.

16 CHAIRMAN HOOD: Okay, so there are no objections
17 to this being a modification of consequence. Ms. Schellin,
18 do we need to schedule it now?

19 MS. SCHELLIN: Yes.

20 CHAIRMAN HOOD: Okay.

21 MS. SCHELLIN: So our next meeting would be
22 January 8 to put it on for a decision on that day.

23 CHAIRMAN HOOD: January 8 is our next meeting?

24 MS. SCHELLIN: Right.

25 CHAIRMAN HOOD: At 6:30?

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1 MS. SCHELLIN: Correct.

2 CHAIRMAN HOOD: Okay, all right, so we've gotten
3 that scheduled. Let's go to deliberations on Commission case
4 number 04-14E, Riverfront Holdings II, LLC, PUD modification
5 of consequence at Square 708. Ms. Schellin?

6 MS. SCHELLIN: Yes, on this one, Exhibit 5 is the
7 ANC 6-D report in support. Exhibit 6 through 6A-2, the
8 Applicant submitted updated architectural plans in response
9 to the Commission's request for additional detail regarding
10 the increase in the size of the penthouse. They ask the
11 Commission to consider final action this evening.

12 CHAIRMAN HOOD: Okay, Commissioners, as you know,
13 there is some mechanical equipment on the rooftop, related
14 rooftop refinements, creation of an amenity terrace on the
15 second floor, additions to the fenestration or elevation,
16 east elevation, and signage modifications along Potomac
17 Avenue. Let me open it up for any discussions or comments.

18 VICE CHAIR MILLER: Mr. Chairman, I think it's
19 fine. I'm ready to move forward.

20 CHAIRMAN HOOD: Okay, let's see about others, Mr.
21 Turnbull?

22 COMMISSIONER TURNBULL: Yeah, Mr. Chair, I think
23 they've simply massaged it, the penthouse. I think they've
24 got all the setbacks are appropriate, so I have no issues
25 with it.

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1 CHAIRMAN HOOD: Okay, for some reason when I hear
2 signage, I always look to my left. Okay, Vice Chair, do you
3 have anything? Okay, all right, so let's obtain a motion.
4 I think it's pretty straightforward, the request, and it
5 sounds like the recommendations of the Office of Planning
6 make this a lot better with the things that have been turned
7 around and switched in the technical corrections and the
8 corrections that have been made, so will somebody make a
9 motion?

10 COMMISSIONER TURNBULL: Yeah, Mr. Chair, I would
11 move that we approve the modifications, well, the
12 modification of consequence for Zoning case number 04-14E,
13 Riverfront Holdings II, LLC, PUD modification of consequence
14 at Square 708. I'll look for a second.

15 COMMISSIONER MAY: Second.

16 CHAIRMAN HOOD: Okay, it's been moved and properly
17 seconded. Any further discussion? All those in favor?

18 PARTICIPANTS: Aye.

19 CHAIRMAN HOOD: Not hearing any opposition or
20 anything further, Ms. Schellin, would you please record the
21 vote?

22 MS. SCHELLIN: Yes, staff records the vote four
23 to zero to one to approve final action of Zoning Commission
24 case number 04-14E, Commissioner Turnbull moving,
25 Commissioner May seconding, Commissioners Hood and Miller in

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1 support, Commissioner Shapiro not present and not voting.

2 CHAIRMAN HOOD: Okay, next we have Zoning
3 Commission case number 16-13B. This is the JS Congress
4 Holdings, LLC modification of consequence condition B-2 of
5 Zoning Commission order number 16-13. Ms. Schellin?

6 MS. SCHELLIN: Yes, the only thing new on this
7 case is the Exhibit 7. There is an email from ANC 6-C
8 advising that they do not plan to take any action on this
9 matter so as not to hold things up, so the Commission would
10 consider final action this evening.

11 CHAIRMAN HOOD: Okay, again colleagues, this is
12 a modified condition B-2 which would, because of the D.C.
13 Court of Appeals, Zoning Commission case number 16-13,
14 they're looking for a favorable resolution of a petition for
15 review and they've asked us to fulfill the requirements of
16 this condition order from October 31, 2017 to a date six
17 months after a favorable resolution, hoping for a favorable
18 resolution, I guess. Let me open it up. Any comments,
19 anything Vice Chair?

20 VICE CHAIR MILLER: Yeah, thank you, Mr. Chairman.
21 Yeah, I support this. I just wanted to note what I noted,
22 I think, when we made the determination of scheduling for
23 this, that I think I had asked the Office of Planning to look
24 at amending the zoning regulations to clarify that when
25 there's a court petition, to do what we're doing for this

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1 specific case, to clarify that when there's a court petition
2 pending, that the benefits, the public benefits are tolled
3 in addition to the tolling of the building and construction
4 requirements, and I think the Office of Planning is nodding
5 their heads saying they're looking at that.

6 PARTICIPANT: Yes, sir.

7 VICE CHAIR MILLER: Thank you.

8 CHAIRMAN HOOD: Okay, so with no more comments,
9 would someone like to make a motion?

10 VICE CHAIR MILLER: Mr. Chairman, I would move
11 that the Zoning Commission take action on Zoning Commission
12 case number 16-13B, JS Congress Holdings, LLC, modification
13 of consequence, condition B-2 of Zoning Commission order 16-
14 13 and ask for a second.

15 COMMISSIONER TURNBULL: Second.

16 CHAIRMAN HOOD: It's been moved and properly
17 seconded. Any further discussion? All in favor?

18 PARTICIPANTS: Aye.

19 CHAIRMAN HOOD: Any opposition? Not hearing any,
20 Ms. Schellin, would you record the vote?

21 MS. SCHELLIN: Yes, staff records the vote four
22 to zero to one to approve final action in Zoning Commission
23 case number 16-13B, Commissioner Miller moving, Commissioner
24 Turnbull seconding, Commissioners Hood and May in support,
25 Commissioner Shapiro not present and not voting.

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1 Chairman Hood, if I may, I did not realize that
2 there was a second ANC involved in Zoning Commission case
3 number 11-15G, the Howard University case, so if we could set
4 a date for that ANC if they choose to respond, they can do
5 so up until January 5 at close of business.

6 CHAIRMAN HOOD: Is that one - what ANC is that,
7 5?

8 PARTICIPANT: It's 5C.

9 CHAIRMAN HOOD: 5C.

10 MS. SCHELLIN: 5C.

11 CHAIRMAN HOOD: Okay, 5C?

12 PARTICIPANT: Let me check.

13 CHAIRMAN HOOD: I don't think so. 5C is in my
14 area, but then again - and I don't think it's 5C.

15 PARTICIPANT: It changed.

16 CHAIRMAN HOOD: Oh, my ANC moved?

17 PARTICIPANT: Maybe you moved.

18 CHAIRMAN HOOD: No, I didn't move. The ANC moved.

19 MS. SCHELLIN: OAG is checking that.

20 CHAIRMAN HOOD: It's probably 5D, or E, or
21 something like that.

22 MR. RITTING: The original order says 1B and 5C
23 where the parties -

24 CHAIRMAN HOOD: So how would we do that because
25 5C hasn't had that - well, anyway, I'll leave that up to you

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1 all to figure out.

2 MS. SCHELLIN: I'm sure that the Applicant served
3 the proper ANC, so.

4 CHAIRMAN HOOD: Yeah, during redistricting, all
5 of that changed, so 5C is - all of that changed, okay.
6 Anyway, so if we can just find out who the correct ANC is?
7 All right, anything else on that?

8 MS. SCHELLIN: No.

9 CHAIRMAN HOOD: Okay, let's go to hearing action,
10 Zoning Commission case number 07-13G, Lowe Enterprises PUD
11 modification of significance at Square 643S. Mr. Jesick?

12 MR. JESICK: Thank you, Mr. Chairman and members
13 of the Commission. The Applicant in this case is seeking a
14 modification of significance to the approved Randall School
15 PUD on I Street SW.

16 The general program for the project remains
17 unchanged with an art museum and affiliated commercial uses,
18 primarily an historic school, as well as a new residential
19 building built behind.

20 The FAR of the project remains relatively
21 unchanged, but the number of residential units has dropped,
22 resulting in larger units on average. The biggest change is
23 that the architecture has been significantly revised.

24 The proposal continues to be not inconsistent with
25 the comprehensive plan which calls for mixed use high-density

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1 residential and medium-density commercial on the site, and
2 OP recommends that it be set down for a public hearing.

3 We have, however, identified in our report some
4 items to be addressed by the Applicant prior to a hearing.
5 Some of these include providing more information about the
6 new entrance pavilion at the eastern end of the museum,
7 providing more information about the appearance of the ground
8 floor residential units, providing three and four-bedroom
9 units, and also replacing the amenity items lost due to the
10 Corcoran not being involved in the project.

11 But again, we have no objection to this
12 application being set down. We will continue to work with
13 the Applicant on the issues identified in our report, and I'd
14 be happy to take any questions. Thanks.

15 CHAIRMAN HOOD: Thank you, Mr. Jesick.
16 Commissioners, any questions? Commissioner May?

17 COMMISSIONER MAY: Colleagues, so the turnaround
18 for the museum entrance that's on the east side, that's
19 actually on the recreation center's property. Is that a done
20 deal? I mean, did they make some sort of extra deal with the
21 city to get a chunk of the recreation center?

22 MR. JESICK: I can check on the final status of
23 that for you. I know DDOT did not object to that the last
24 go around.

25 COMMISSIONER MAY: Okay, I was just curious about

1 how that's working out because that's critical, I think, to
2 the success of that component of the museum being able to
3 have that turnaround, or at least it appears that way.

4 So, you know, hopefully this is the final version
5 of the design of this. This is the third time we've looked
6 at a different design, and I'm pretty happy with what we're
7 looking at. I think it's a little bit more comfortable in
8 the neighborhood than what we, than the last iteration, so
9 I look forward to seeing the hearing or having a hearing on
10 this case. Thanks.

11 CHAIRMAN HOOD: Okay, any other? Vice Chair
12 Miller?

13 VICE CHAIR MILLER: Thank you, Mr. Chairman.
14 Yeah, I support putting this down for a public hearing, and
15 I support the Office of Planning's recommendations that the
16 Applicant - and I think it's an improved design as well.
17 It's much more simplified and opens up that courtyard.

18 But I agree with the Applicants, I mean the Office
19 of Planning's recommendation that the design should include
20 more private balconies, that the Applicant should look at
21 clarifying the affordable housing provision, and including
22 examining a deeper affordability level for a portion of the
23 units, and provide some three and four-bedroom market rate,
24 and affordable units, and consider upping the lead from
25 silver to gold, which is basically what we're looking for

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1 these days since this last was approved.

2 I guess I had a couple questions for the Office
3 of Planning maybe that can be answered or the Applicant can
4 answer at the hearing. So the LDA, the land disposition
5 agreement for this had a certain percentage of affordable
6 housing requirements. I think it was 20 percent at 80
7 percent MFI.

8 That was many years ago and those requirements
9 have now changed under statute, and of course our
10 inclusionary zoning requirements have also been clarified and
11 strengthened for rental at least.

12 Does the - I guess I want some understanding of
13 the interplay between if the inclusionary zoning, or the
14 current, whether inclusionary zoning is required as a
15 modification of significance.

16 So I would think it would trigger the current
17 requirement, and that would go toward supporting your
18 recommendation that they consider deeper affordability
19 levels, if they - particularly if they do rental.

20 Of course they're doing a greater amount than what
21 IZ would require because of the LDA at 20 percent, but I
22 just, I guess, want an understanding of the interplay between
23 inclusionary zoning and the LDA requirement, and maybe that
24 can just be clarified at the hearing.

25 The other thing, I guess clarification on who is

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1 the - I think when we last approved this, the Corcoran was
2 going to be the museum operator. I guess who is going to be
3 the museum operator?

4 And then finally, this is - well, not finally.
5 This is a school building, a school building which I think
6 has been vacant and declared surplus many years ago.
7 However, it's in an area near southwest/southeast that has
8 exploded in population, and is projected to continue to
9 explode in population.

10 I guess you do have the DCPS on your list of
11 agencies to seek a report from, whether it's the school
12 system, or OSSE, or whoever. I think some kind of assessment
13 of the school needs in this near southwest/southeast region
14 given the population increase that's happening, and given
15 that we're asking for family-sized, and getting in many cases
16 the family-sized units in many of these projects.

17 And then finally, the Randall School is historic.
18 Has this gone through a HPO or HPRB meeting?

19 MR. JESICK: Yes, it has conceptual approval from
20 HPRB and final approval delegated to staff.

21 VICE CHAIR MILLER: Okay, thanks, so I look
22 forward to seeing this at the public hearing and some of
23 those questions answered.

24 COMMISSIONER TURNBULL: Mr. Jesick, thank you for
25 your report, very well done again. I had a question. As

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1 Commissioner May pointed out, this is the third time we've
2 looked at this, and it seems to me the last time, and maybe
3 I'm getting this confused with something else, but I thought
4 we looked - in the courtyard, they talked about the
5 landscaping and how it worked out, but I thought there were
6 some maker spaces on that ground floor, artist and maker
7 spaces in the original proposal. Do you recall that?

8 MR. JESICK: Yeah, I believe the last proposal on
9 the north wall of the courtyard maybe had some spaces that
10 could either be residential or sort of commercial/maker
11 spaces.

12 COMMISSIONER TURNBULL: Yeah.

13 MR. JESICK: In the current proposal, they have
14 an alternate on the east wing of that courtyard. It could
15 be either residential or commercial space, so I think there's
16 still that opportunity there.

17 COMMISSIONER TURNBULL: Yeah, if you could follow
18 up? I mean, I think it was one of the attractive, is trying
19 to make that courtyard like a very active space for, you
20 know, I think, to encourage artists and everything else, and
21 I think that was one of the attractive, one of the -
22 something that attracted me the last time when we were
23 looking at it, so I'd be interested to see if the Applicant
24 is willing to pursue that.

25 And I guess my only other thing is that since

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1 Commissioner Shapiro is not here, we should probably talk
2 about solar and see if the Applicant can - I mean, I'm
3 looking at the one elevation of the amenity building at the
4 top in the center which looks like the roof is an opportunity
5 that they could do something with some kind of solar panels
6 up there, so, and Mr. Chair, those are mine.

7 CHAIRMAN HOOD: Okay, I don't have anything.
8 Commissioner May?

9 COMMISSIONER MAY: Yeah, I wanted to follow up on
10 the rec center next door. So are there plans to rehab the
11 pool and the rec center and make more of that anytime soon?
12 I know at one point that was discussed, but I don't know
13 where it stands.

14 MR. JESICK: I'm not sure, but we can get back to
15 you on that.

16 COMMISSIONER MAY: It would be useful to know.
17 It's almost unfortunate that they have to have a pool on the
18 roof of this building when they're right next to a really
19 great public pool, so maybe if the really great public pool
20 was going to get spruced up even more, it would make a
21 difference in the project. I don't know. Anyway, those were
22 my comments. Thanks.

23 CHAIRMAN HOOD: Okay, with all of those comments,
24 would somebody like to set it down, make a motion to set it
25 down?

1 VICE CHAIR MILLER: Sure, Mr. Chairman, I would
2 move that the Zoning Commission set down Zoning Commission
3 case number 07-13G, Lowe Enterprises PUD modification of
4 significance at Square 643S and ask for a second.

5 COMMISSIONER TURNBULL: Second.

6 CHAIRMAN HOOD: It's been moved and properly
7 seconded. Any further discussion? All in favor?

8 PARTICIPANTS: Aye.

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

11 MS. SCHELLIN: Staff records the vote four to zero
12 to one to set down Zoning Commission case number 07-13G as
13 a contested case, Commissioner Miller moving, Commissioner
14 Turnbull seconding, Commissioners Hood and May in support,
15 Commissioner Shapiro not present and not voting.

16 CHAIRMAN HOOD: Okay, our next case is Zoning
17 Commission case number 17-19, The Warrenton Group,
18 consolidated PUD and related map amendment at Square 5197.
19 Ms. Thomas?

20 MS. THOMAS: Thank you, Mr. Chair. Good evening,
21 Chair and members of the Commission. The Warrenton Group
22 submitted the application before you for the redevelopment
23 of two commercial parcels within the 5100 block of Nannie
24 Helen Burroughs Ave NE.

25 The proposed mixed use development would be

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1 realized through a PUD and related map amendment from the MU3
2 zone to the MU4 zone. The plan includes a mix of market rate
3 and affordable units at 60 percent MFI, and replacing housing
4 for the Lincoln Heights/Richardson Dwellings residents at 10
5 percent MFI.

6 The project presents new retail spaces for
7 neighborhood serving retail, and the concept, the town center
8 concept is an expressed community desire written in the
9 Lincoln Heights small area plan. The proposal would be not
10 inconsistent with the written elements of the comprehensive
11 plan, as well as its map and the new community's initiatives.

12 The Applicant will continue to work with OP on
13 items requiring clarification as noted in our report and as
14 may be requested by you here tonight. And in conclusion, we
15 are recommending that the application is set down as proposed
16 by The Warrenton Group. Thank you.

17 CHAIRMAN HOOD: Commissioners, any questions? I
18 do know that we have to redecide on the waiver of the fees.
19 I believe we do it now. Okay, so everything other than that,
20 we can discuss that after we have our comments. So
21 questions? Let me open it up. All right, so Commissioner
22 May?

23 COMMISSIONER MAY: Yeah, just I think that the
24 project as it has been designed is pretty attractive and
25 pretty simple. They're not going overboard and I like that,

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1 but it's got, you know, nice materials and a nice look to it
2 overall, so I think it's pretty attractive.

3 I'm not a huge fan of the particular red brick
4 that they're showing in their samples, but we'll have to see
5 what that looks like when we get to the hearing, or maybe
6 we'll see some alternatives, so that's it. Otherwise, this
7 is all fine by me. Thank you.

8 CHAIRMAN HOOD: Okay, anybody else? Vice Chair
9 Miller?

10 VICE CHAIR MILLER: Thank you, Mr. Chairman. Yes,
11 I agree with Commissioner May that it is an attractive
12 redesign project and I don't think we have a problem with the
13 color either, but I would like to see if possible some of
14 those Juliet balconies turned into real balconies.

15 I always like to see balconies on residential
16 buildings because it makes it look more like a residential
17 building and it gives the open space, outdoor space to the
18 residents, and I think it just would add to the feel.

19 I realize there's a simplicity that you gain to
20 the facade, but it's pretty large, one of the parts that are
21 pretty large, and so I think it could use that breaking up
22 with the balconies as well, but otherwise, I think it's a
23 great affordable housing project which includes the
24 replacement, one replacement for some of the Lincoln Place
25 and Richardson Dwellings units, so I'm ready to move forward.

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1 CHAIRMAN HOOD: Okay, Commissioner Turnbull?

2 COMMISSIONER TURNBULL: Thank you, Mr. Chair. I
3 would agree with my colleagues, and the only issue that I
4 have is on building number two. The railing signage grill
5 that goes around the bottom or just above the horizontal band
6 on the first floor, to me it just seems overkill.

7 It's like a six metal tube railing system that in
8 one way, it makes it easier to change signs, but it just
9 looks extremely - to me, it takes away from what is an
10 elegant simple building, you know, a very simple
11 straightforward building, and it just draws more attention
12 to the fact that there's all this signage.

13 I guess I would rather see that on the horizontal
14 band right below all of this metal railing. There's about
15 a foot or more. I mean, I think they could increase that
16 horizontal band and that would be a more appropriate area to
17 put the retail signage rather than having this little fence,
18 this retail fence that goes around the bottom.

19 I just think that draws more attention to the
20 signage and detracts a little bit from the overall
21 architecture of the building, and I would rather keep the
22 building as elegant and as simple as possible and have the
23 signage at that lower band. I think that makes more sense.
24 That's about my only comment.

25 CHAIRMAN HOOD: Okay, I don't really have a

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1 comment. I'm just looking forward to setting this down -
2 it's definitely an improvement in that area - as well as
3 looking at the materials' boards. I'm not sure where I am
4 with some of the colors I see, but I'm sure once I see the
5 board, that will give me - if I have any further questions,
6 I'll ask them at that time. So anything else? So I would
7 move that we set down Zoning Commission case number 17-19 and
8 note the comments that have been made by the Commission to
9 the Applicant and ask for a second.

10 VICE CHAIR MILLER: Second.

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

13 PARTICIPANTS: Aye.

14 CHAIRMAN HOOD: Any opposition? Not hearing any -
15 oh, let me amend my motion that we grant the fee waiver as
16 requested.

17 VICE CHAIR MILLER: And I would include that in
18 the second.

19 CHAIRMAN HOOD: Is there a problem we grant it as
20 requested? There is?

21 MS. SCHELLIN: I think that their calculation is
22 just a little bit different from what typically do.
23 Typically what the Commission has done is waived just the
24 portion that is affordable, and I think they've done -
25 they've calculated some kind of - they had some other

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1 calculations in there when what it's been in the past is it's
2 the overall square footage and then the affordable square
3 footage, and we've always just taken that portion off so it
4 would come out to 61.1 percent as opposed to -

5 CHAIRMAN HOOD: So is that what Ms. Donaldson has
6 in the back of her letter?

7 MS. SCHELLIN: I think that they put 61.8. They
8 used some other calculations.

9 CHAIRMAN HOOD: They have affordable at 61.1
10 percent. So anyway, I would refine my motion to whatever
11 we're supposed to do. Whatever we're supposed to do to give
12 them the waiver of fees, then let's do that, and I'll leave
13 that up to staff and the Applicant to work that out because
14 I was going by what's on the back of this letter.

15 VICE CHAIR MILLER: And it almost looks like - I
16 don't quite understand the calculations because it almost
17 looks like this is 90 percent affordable, so I'm confused,
18 but -

19 CHAIRMAN HOOD: And if it needs to come back
20 before us before the hearing for us to do more of a motion,
21 then we'll do that.

22 MS. SCHELLIN: I think that you're including the
23 IZ. That's not considered affordable. They don't get a
24 reduction for that. That's required.

25 VICE CHAIR MILLER: Okay.

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1 CHAIRMAN HOOD: Okay, so whatever. We'll let OAG,
2 OZ, and the Applicant work that out, and if it has to come
3 back to us just before the hearing, we'll take another
4 motion, but right now, we'll do whatever we require and
5 however we do it because I was looking at Ms. Donaldson's
6 letter, so that's my motion. Can I get a second?

7 VICE CHAIR MILLER: Second.

8 CHAIRMAN HOOD: Okay, it's been moved and properly
9 seconded. Any further discussion? All those in favor?

10 PARTICIPANTS: Aye.

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

13 MS. SCHELLIN: Staff records the vote four to zero
14 to one to approve set down of Zoning Commission case number
15 17-19 with the waiver of the hearing fee for the affordable
16 housing portion, Commissioner Hood moving, Commissioner
17 Miller seconding, Commissioners May and Turnbull in support,
18 Commissioner Shapiro not present and not voting.

19 CHAIRMAN HOOD: Okay, let's go to Zoning
20 Commission case number 17-23. This is the Office of Planning
21 text amendment to Subtitle B, definitions and rules of
22 measurement and other changes and correlating rules in
23 Subtitles D, E, and F. Ms. Vitale?

24 MS. VITALE: Good evening, Mr. Chair and members
25 of the Commission, Elisa Vitale with the Office of Planning.

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1 OP recommends that the Zoning Commission set down for public
2 hearing the proposed text amendments to certain definitions
3 and rules of measurement in Subtitle B, as well as the side
4 yard development standards for the low-density residential
5 zones in Subtitles D, E, and F.

6 The objective of the proposed amendments is to
7 more closely align the zoning regulations with past practice
8 and interpretation with respect to the regulation of side
9 yards. The proposed changes would allow lot line to lot line
10 buildings to not share a common division wall, and would not
11 require the provision of a side yard in these instances.

12 OP is also proposing formatting changes to the
13 development standards that would consolidate the side yard
14 regulations where appropriate.

15 And finally, OP is proposing to increase the
16 minimum nonconforming side yard from two to three feet to
17 ensure adequate separation for routine maintenance.

18 OP has worked closely with the Zoning
19 Administrator and his staff on this proposal, and will
20 continue to work with the Office of Attorney General to
21 refine the final language. This may include some additional
22 changes to the definitions proposed.

23 This concludes my report and I'm happy to take any
24 questions that you might have. Thank you.

25 CHAIRMAN HOOD: Thank you, Ms. Vitale. Let's see

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1 if we have any questions or comments. Commissioner May?

2 COMMISSIONER MAY: Okay, so I'm going to really
3 go out on a limb here and say I'm not in favor of setting
4 this down at this time, and the reason is that I'm still at
5 something of a loss to understand the planning rationale
6 behind this.

7 I mean, I understand how we're basically trying
8 to go back to what was being done before where somebody had
9 made the interpretation that, you know, when you put a side
10 wall on the property line, it magically becomes a row house
11 even if there's no other building there.

12 But I have always believed that the intention
13 behind the regulations, the reason why a side yard was
14 required whenever you've got a semi-detached yard is, you
15 know, when you're dealing with row houses and you come to the
16 end of a row, the property should be larger.

17 There should be a side yard and that gives you
18 some separation between that row and the next row, or between
19 that row and, you know, the houses on the block that's
20 perpendicular to the row that you're on, and I don't - I
21 really want to understand the planning rationale behind this
22 decision.

23 I mean, it seems like it's simply being done
24 because we occasionally have the problem where you've got an
25 18 or a 20-foot yard and if you put in two side yards, or if

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1 you put in one side yard, you wind up with an unbuildable
2 lot.

3 And, I mean, I understand that's a problem and
4 that's why we have processes for dealing with that situation
5 through special exceptions, or variances, or whatever is
6 needed, but this has been a problem for me for - I don't
7 know. How long have I been on the Zoning Commission?

8 Because it was like two years in when I had this
9 one case and I thought we made the right decision. The BZA
10 subsequently made a different interpretation and did it
11 wrong, and I thought that we got it straightened out in the
12 zoning rewrite, and now we're trying to undo it.

13 I really just don't understand what the real
14 planning rationale is. What are we trying to achieve here
15 other than fixing the problem where there's not enough width
16 to get in a side yard when you have a semi-detached house?

17 So maybe this is something, you know, the Office
18 of Planning wants to answer, but maybe other want to talk
19 about it too, but based on what we have in the set down
20 report, I am not prepared to vote in favor of setting it
21 down.

22 CHAIRMAN HOOD: Okay, any other comments or
23 questions on that? Commissioner Turnbull?

24 COMMISSIONER TURNBULL: I just had - Commissioner
25 May, are you - does that have anything to do with the diagram

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1 on page three that you're talking about, of the OP report?

2 COMMISSIONER MAY: Yeah, I mean, this is the
3 extent of the rationale that we have, and, yeah, I mean, I
4 understand how having a - I mean, it would be best to be able
5 to place the house on that property line in anticipation of
6 another semi-detached house being built next to it.

7 And I understand that's a problem that should be
8 addressed, but I'm not sure that this is the right way to
9 address it, simply saying that as soon as you put the wall
10 on that property line, it becomes a - well, that you can have
11 a zero lot-line house basically.

12 I mean, a zero lot-line house is a completely
13 valid planning principle, but it is not one that we had
14 adopted in these regulations at any point in history. It
15 just got, in my view, got misinterpreted at some point
16 somewhere along the way.

17 So, you know, I want to understand what it is we
18 are trying to achieve as a planning outcome by making this
19 change before we make this change because it's really just
20 driven by solving that one problem on the lower diagram on
21 page three, which I think it resolves a lot of different
22 ways. There has to be a planning rationale behind the
23 language that we adopt.

24 COMMISSIONER TURNBULL: Well, what would you like
25 OP to follow up on? How do you see us going forward?

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1 COMMISSIONER MAY: Well, I mean, I think more of
2 an analysis of what this actually means, what the potential
3 outcomes mean. You know, again, I think about the case where
4 we're letting out a new development and you have a row of
5 houses.

6 Essentially this means that you can have a row of
7 houses that are, you know, every one of them is property line
8 to property line, and even at the end, it's property line to
9 property line, and then, you know, you have a - you know, you
10 could have a three-foot gap between that and the next row of
11 houses for a common space.

12 I mean, there are things that we regularly grant
13 relief for in PUDs when we get into that sort of
14 circumstance, but there's a rationale for it, and it is part
15 of the greater planning benefit that comes from the PUD, so
16 I think having some better understanding of what the planning
17 rationale is, not the, "How do we administer this
18 regulation?" rationale, which is what I feel we've gotten.

19 And I don't want to sound like I'm angry about it.
20 I'm not angry about it. I'm just trying to be as clear as
21 possible because I know that everybody's trying to do the
22 right thing. Sometimes I just come off as angry.

23 COMMISSIONER TURNBULL: Well, I wonder if OP could
24 comment on it.

25 MS. STEINGASSER: There is both a planning and an

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1 application rationale for what we're doing. The zoning regs
2 have always defined structures by yards. That's how they've
3 always been defined, and we changed that in 2016.

4 And we provided a table that kind of showed the
5 previous 58 definitions and then what we did in 2016, and
6 we're trying to reconnect those in a way that recognizes the
7 historic development pattern of the city.

8 And when you look at some of these older
9 neighborhoods, especially this older historic row house
10 neighborhoods, they've always been defined that way, so it
11 has created some difficulty.

12 We know of three separate cases that involve, I
13 think, a total of six lots in different configurations, that
14 an individual lot doesn't have control of its adjoining lot,
15 so it ends up with this setback.

16 I understand the corner lot issue, and I guess
17 what I would ask is if you allow the case to be set down, we
18 can address that corner lot of when a row house or a group
19 of semi-detached up to the corner, that that corner has that
20 side setback.

21 Historically, the zoning regs have never required
22 a side yard for a detached house either, and that was also
23 an issue. We didn't try to introduce that in this case. But
24 because of this yard, the way a detached, semi-detached, and
25 a previous row dwelling were defined, it was always by

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1 whether the lot has a yard, so it's created some situations
2 of nonconformity.

3 And then like I said, there are several cases
4 where now they're in a situation of having to get variances,
5 and we were working with the Zoning Administrator's office
6 to try to reconnect the current definitions with the previous
7 definitions.

8 So I would ask that you would allow us to
9 continue. We would be able to provide a much more detailed
10 analysis of the row house dwelling, and we could also, if you
11 concur, set down an alternative semi-detached definition for
12 when it hits a corner lot so that there is that setback on
13 the corner lot for when it turns the corner.

14 COMMISSIONER MAY: Sure, you know, again, it's -
15 I appreciate that, and maybe I could come to some agreement
16 on this in order to set it down, but, you know, it's more
17 than just that single incident that I'm concerned about and
18 it is sort of the bigger picture.

19 And I am concerned about that particular
20 circumstance where you have, you know, a block of, you know,
21 a row of several houses, and then what happens when you come
22 to the end, but it's also the circumstance where, you know -
23 well, let me put it this way.

24 There are all sorts of potential for mischief.
25 That may be too strong a word, but this has occurred in the

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1 past where, you know, you managed to build. You made some
2 sort of connection to the lot line, and then that opens the
3 door for all sorts of different, a different set of zoning
4 regulations, right?

5 And so there - I'm concerned about the unintended
6 outcomes that would come from this very simple approach. I
7 mean, I appreciate it being simple. We want to try to be
8 simple, but again, there's the potential for unintended
9 outcomes.

10 I mean, if you could, you know, provide a report
11 that goes further into the planning rationale so that we
12 understand, you know, with the probably multiple diagrams
13 about what you expect the outcome to be, and you provide some
14 alternate ways of addressing the issue, not just an alternate
15 language that would apply for that corner circumstance, but
16 alternate ways to address this particular issue that confines
17 the potential impact, because I just, I'm fearful about some
18 of the things that could happen as a result.

19 MS. STEINGASSER: One thing we tried in the CR-16
20 regs was to say that you can't artificially run a building
21 to a structure or an addition to the property line to make
22 a single family suddenly a row dwelling.

23 COMMISSIONER MAY: Right.

24 MS. STEINGASSER: And to that end, we said the
25 space has to be, or maybe we're going to say it. We could

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1 say it here if we didn't, that the space has to be enclosed
2 and conditioned or, you know, be a legitimate enclosed
3 structure because the cases you're referring to that I
4 remember, they ran a lattice and a 2x4 and they hit the
5 property line -

6 COMMISSIONER MAY: Right.

7 MS. STEINGASSER: - and suddenly they -

8 COMMISSIONER MAY: They could do all sorts of
9 other things.

10 MS. STEINGASSER: They could do all kinds of
11 things that were bad. So we could, if that language didn't
12 make it here, I'll double check. We can add that, and then
13 we could also look at ways to get, to tie both relief on how
14 if the Commission isn't comfortable with some of the
15 proposals we bring forward, something less than a variance.

16 COMMISSIONER MAY: All right, that certainly makes
17 sense, I think, you know, a fairly thorough analysis of sort
18 of imagining how things could go wrong and then how we
19 prevent those things from going wrong. I know it's a little
20 hard to try to think this all the way through, but some days
21 I wish all I had to think about was zoning so that I could
22 dream up these things.

23 MS. STEINGASSER: No, no, you don't.

24 COMMISSIONER MAY: I don't? All right.

25 MS. STEINGASSER: We can do that. We have many

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1 scenarios of what could go wrong.

2 COMMISSIONER MAY: Yeah.

3 MS. STEINGASSER: And then there's also, you know,
4 what could go wrong under the current regs, so.

5 COMMISSIONER MAY: Right.

6 MS. STEINGASSER: Trying to control this stuff is
7 a challenge.

8 COMMISSIONER MAY: Yeah, and I think it would help
9 to understand what's happened in the three cases that you
10 cited as well to understand those. So, Mr. Chairman, I
11 guess, you know, I think I would still prefer to get, you
12 know, some level of this analysis before we set it down, but
13 I trust that the Office of Planning will do a very thorough
14 job, and so if the majority of the Commission is comfortable
15 with setting it down, then I will vote in favor as well.

16 CHAIRMAN HOOD: Okay, I actually was in favor of
17 setting it down, but I'll remain cognizant of your comments,
18 and hope that when the Office of Planning makes their
19 presentation, they will take your comments thus far into
20 consideration when they come back to present. I am in favor
21 of setting this down.

22 I look at set down hearings sometimes, especially
23 in this case, for me, as having a discussion so we can flesh
24 out all the issues, not that we're going to approve what's
25 set down.

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1 Sometimes we have to go back out and re-advertise
2 or do something different, but I think that with a set down,
3 and a hearing, and a discussion, and a full discussion, we
4 may come up with some of those policies, and solutions, and
5 understanding so we can make a better informed decision on
6 what's being recommended.

7 But we only heard from one commissioner. Let me
8 go to the others. Well, now we've heard from two. Let me
9 hear from Mr. Turnbull and then the Vice Chair.

10 COMMISSIONER TURNBULL: Mr. Chair, I would be in
11 favor of setting it down with the caveat that OP's final
12 report on the hearing reflects all of the comments that
13 Commissioner May has been talking about tonight, and goes
14 into the analysis that I think he's looking to see, and I
15 think he's brought up some issues that are very good and that
16 we need to think about.

17 So I think the unintended consequences aspect is
18 always something that sort of comes back to bite us at the
19 wrong time on certain things, so I think having the further
20 analysis would be very important.

21 CHAIRMAN HOOD: Okay, Commissioner?

22 VICE CHAIR MILLER: Thank you, Mr. Chairman.
23 Yeah, I agree that this could be fleshed out at a public
24 hearing with further analysis by the Office of Planning.

25 CHAIRMAN HOOD: Okay, so with the comments that

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1 Commissioner May has mentioned and the further analysis that
2 he has requested - and again, you know, that doesn't mean
3 that we have to go with it, but we'll be looking forward to
4 having a full presentation, and the additional Office of
5 Planning is requested by Ms. Steingasser. That should give
6 them an opportunity to move forward, and we're going to - I
7 think it sounds like we have the votes to do that.

8 So with that, I would move that we set down,
9 unless there are some more additional comments, that we set
10 down Zoning Commission case number 17-23, taking into
11 consideration the comments of Commissioner May as well as
12 other colleagues, and ask for a second.

13 VICE CHAIR MILLER: Second.

14 CHAIRMAN HOOD: It's been moved and properly
15 seconded. Any further discussion? All in favor?

16 PARTICIPANTS: Aye.

17 CHAIRMAN HOOD: Any opposition? Not hearing any,
18 Ms. Schellin, would you record the vote?

19 MS. SCHELLIN: Yes, staff records the vote four
20 to zero to one to set down Zoning Commission case number 17-
21 23 as a rulemaking case, Commissioner Hood moving,
22 Commissioner Miller seconding, Commissioners May and Turnbull
23 in support, Commissioner Shapiro not present and not voting.

24 CHAIRMAN HOOD: Okay, next we have Zoning
25 Commission case number 17-24, Office of Planning map

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1 amendment at Ft. Grebel - I guess I pronounced that right -
2 Recreation Center at parts fo Res. 421. Ms. Fothergill?

3 MS. FOTHERGILL: Good evening, Chairman Hood and
4 members of the Commission. For the record, I'm Anne
5 Fothergill with the Office of Planning.

6 OP recommends that the Zoning Commission set down
7 as a rulemaking case the map amendment for the site of the
8 Department of Parks and Recreation Ft. Grebel Recreation
9 Center from unzoned to RA-1.

10 The DPR, Department of Parks and Recreation Center
11 is on an approximately six-acre site in southwest D.C. which
12 is part of the larger U.S. reservation 412, and jurisdiction
13 was transferred from the federal government in 1973 for use
14 as a District recreation center.

15 The DPR site is located along the northeastern
16 side of Ft. Grebel park which is part of the Fort Circle park
17 system of the National Park Service.

18 The proposed map amendment would rezone the DPR
19 site to RA-1, which is consistent with the designation found
20 on adjacent property to the east. Federal park lands are
21 generally unzoned, and District park lands are often zoned
22 the same as the surrounding land uses.

23 RA-1 is a residential apartment zone which permits
24 compatible institutional uses and semi-public buildings,
25 including public recreation and community centers.

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1 OP is proposing that only the District recreation
2 center land would be zoned, and the remaining property in the
3 Fort Circle park would remain unzoned. The zoning of this
4 site would facilitate the replacement of the existing
5 recreation center building with a new nature center.

6 The proposed amendment would not be inconsistent
7 with the 2010 comprehensive plan. The generalized policy map
8 designates the area for federal lands, and the future land
9 use map designates it as parks, recreation, and open space.

10 OP recommends that the map amendment application
11 be set down for a public hearing, and I'm happy to take any
12 questions.

13 CHAIRMAN HOOD: Thank you, Ms. Fothergill. Any
14 questions, Commissioner May? Okay, all right, Commissioner
15 Turnbull, no? Okay.

16 COMMISSIONER MAY: I'm good.

17 CHAIRMAN HOOD: All right, would somebody like to
18 make a motion to set this down?

19 COMMISSIONER TURNBULL: Mr. Chair, I would move
20 that we set down Zoning case number 17-24, Office of Planning
21 map amendment at the Ft. Grebel Recreation Center, part of
22 reservation 421 and look for a second.

23 COMMISSIONER MAY: Second.

24 CHAIRMAN HOOD: Okay, it's been moved and seconded
25 twice. Any further discussion? All those in favor?

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1 PARTICIPANTS: Aye.

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

4 MS. SCHELLIN: Yes, staff records the vote four
5 to zero to one to set down Zoning Commission case number 17-
6 24 as a rulemaking case, Commissioner Turnbull moving, and
7 I'll give this one to Commissioner May as seconding,
8 Commissioner Hood and Commissioner Miller in favor,
9 Commissioner Shapiro not present and not voting.

10 CHAIRMAN HOOD: Okay, next we have correspondence.
11 Ms. Schellin, could you tee that up for me?

12 MS. SCHELLIN: Yes, correspondence, so we have a
13 letter from the West End Citizens' Association that was
14 delayed in being put on the record by staff and the
15 Commission did not see it at the time it took proposed action
16 on case number 06-120.

17 Rather than waiting until final action, Ms. Kahlow
18 asked that the Commission be able to discuss this at another
19 meeting. This case is due to come up for final action at the
20 January 8 meeting.

21 As you may or may not recall, the Applicant
22 requested that the record be reopened, which was approved,
23 to allow it to submit correspondence between WMATA and WECA
24 regarding the use of remedy funds and statistics on the Foggy
25 Bottom Station elevator performance.

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1 WECA then filed its response which the - to the
2 Applicant's filing asking and stating one, that a limited
3 scope hearing on the new information be held, two, that the
4 data provided by the Applicant from WMATA's site is five
5 years old and should not be relied on by the Commission in
6 making its decision, three, that it appears WMATA has an
7 internal disagreement between staff, and four, WECA would
8 like an opportunity to cross examine WMATA regarding the
9 issues listed on page one of their exhibit.

10 And so, and I may not have stated that all
11 clearly, but that's just the short and sweet of the letter,
12 their submission. So they ask the Commission to decide if
13 they want to act on this letter this evening or not, so it's
14 before you as requested by WECA.

15 CHAIRMAN HOOD: I think that's good foresight to
16 give it to us at this time to deal with before final actions.
17 Just in case, I was thinking about how to move forward, but
18 I want to really open it up to the rest and see what you
19 think, but I think we -

20 What's being conveyed is saying we were responding
21 to old data, and to me, if somebody was going to submit some
22 additional data, I think they've had opportune time to do it,
23 so they must be relying on the data that - I guess that data
24 is what WMATA is currently using, and let me just - somebody
25 help me refresh my memory. Did WMATA come down and testify?

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1 MS. SCHELLIN: They did not.

2 CHAIRMAN HOOD: So that letter that we were
3 provided was a letter that obviously has, from our
4 understanding from WECA, has been in the file, so here's what
5 I propose. If there is some new data out there, new
6 information, and that would also mean to OAG, then at our
7 next - and this may tread light waters here, but our next
8 meeting, I would allow for 10 minutes if we needed to have
9 a limited scope hearing just on that issue.

10 I thought we had resolved it. I thought it was
11 clear, but if there is some information out there, and if
12 there's different information, why it was not presented to
13 us by WMATA if there is something different, so.

14 MS. SCHELLIN: So you want to leave the record
15 open for the submissions to be submitted?

16 CHAIRMAN HOOD: No, I want to have a 10 minute
17 limited scope hearing so I can flesh this out, and if WMATA
18 doesn't show, then they're relying on that five year old
19 information.

20 COMMISSIONER MAY: Mr. Chairman, I'm not sure what
21 the purpose of further scrutiny of the WMATA data actually
22 is. I mean, this is an attempt essentially to push us into
23 micromanaging the expenditure of the funding that would go
24 to WMATA for, you know, for the purposes of improving the
25 system's service to the neighborhood.

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1 And I'm not sure that any amount of data would
2 convince me that I want to try to steer this amount of
3 funding to a particular cause. I think that that's WMATA's
4 decision to make and not ours, so I don't really understand.

5 I mean, I don't mind getting more current data,
6 and if that's illuminating in some way, that's fine, but I
7 just don't see a reason to hold a hearing so that we can
8 drill that deeply into how, you know, this proffered amenity
9 gets spent.

10 CHAIRMAN HOOD: Well, the only reason I said that
11 is because obviously from what I'm reading from West End
12 Citizens, we're operating on old data. They believe there's
13 some new data out there. So here's the thing, we allow 10
14 minutes. Let's flesh it out. If WMATA doesn't show up, if
15 they don't provide new data, then that information or that
16 assumption is moot.

17 MS. SCHELLIN: Chairman Hood?

18 CHAIRMAN HOOD: That's kind of where I am. I'm
19 just trying to give the opportunity so we can dissolve this
20 and move forward.

21 MS. SCHELLIN: The Applicant is telling me that
22 that data is not old, that it is current data, so it is not
23 old data.

24 CHAIRMAN HOOD: Well, but Ms. Kahlow was saying
25 it's old, so that's why I figured that we would do it that

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1 way and not taking anyone's point over the other way, but
2 then that way everybody - we got it all on the table, and
3 then we can go ahead and continue to move forward because I
4 thought we had been through all that discussion previously,
5 but obviously -

6 MS. SCHELLIN: What the - I'm sorry. What the
7 Applicant just advised was that was his letter said was
8 "since 2013, it has shown, the data has shown X, Y, and Z,"
9 so it wasn't that the data was from 2013. It was since 2013.

10 CHAIRMAN HOOD: Okay, so before we have that
11 limited scope hearing which I thought - whether we - here's
12 the thing. I just want to set. If we don't get anything
13 additional, we leave it as is. That's kind of where I was
14 putting things, but if my colleagues don't agree with that
15 way of moving forward, that's fine with me.

16 I mean, I just was trying to resolve this whole
17 issue once and for all. But is there any way that maybe Ms.
18 Kahlow and Ms. Maddox can work all that out without us? I'm
19 not looking to my colleagues. I was looking to them.

20 MS. SCHELLIN: If the rest of the commissioners
21 are not - because I don't hear them saying yes, then they
22 could do a written submission maybe.

23 CHAIRMAN HOOD: They haven't said no either.

24 COMMISSIONER MAY: Like I said, I'm happy to see
25 a written submission from the Applicant and a response from

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1 WECA again if that's important. I'd rather have it that way
2 than to go to, you know, having to do a limited scope
3 hearing. Again, the purpose of the hearing seems to be only
4 to drill down to the question of exactly how WMATA spends the
5 money, and I am not inclined to try to micromanage how they
6 spend that money.

7 CHAIRMAN HOOD: But see, here's my thing with the
8 submissions. We're going to be in the same place we were
9 when we dealt with it the first time unless there is some new
10 information, so what I was doing was allowing West End to
11 come in with some additional information, or whoever they're
12 working with at WMATA, because apparently there is some
13 internal disagreements. Let's get it all out there.

14 And I'm not trying to tell them how to spend it.
15 I can't do that. That's not in our purview. I'm going to
16 use that one this night because it's very appropriate for
17 this. That's not in our purview.

18 What's in our purview is to make sure we operate
19 on whatever the amenity is and make sure that we have the
20 most current and accurate information, and I think that's
21 where West End is coming from. If it's not produced in that
22 10 minute hearing, then we move onto our regular meeting, but
23 let me hear from others.

24 VICE CHAIR MILLER: Mr. Chairman, I can go either
25 way. I mean, I think whether it's old data, or new data, or

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1 whatever data, I think the condition that's proposed by the
2 Applicant doesn't preclude the preferred outcome that West
3 End Citizen wants.

4 It just, as I said when we did propose action, I
5 didn't think we could step into the shoes of WMATA and
6 determine what was the best solution, so, but however you
7 wish to proceed.

8 If there's new information, if it's going to be
9 worked out, if the letter can be procured from WMATA saying
10 they support it being as required to be in an escrow account
11 for a second elevator as opposed to just the general
12 improvements for the station entrance and letting WMATA
13 decide how to spend that, I mean, we can see what we can get.

14 CHAIRMAN HOOD: I guess what I'm looking for is
15 a reaffirmation letter updated so as to satisfy what we're
16 being presented with if it's dated 2017, and even if it says
17 the exact same thing, because what I'm hearing is that there
18 are some other things going on, so I wanted to also allow the
19 10 minute window just in case we had something that - so if
20 we had questions.

21 I can't tell WMATA what to do with their money.
22 There's a whole lot of people that we can't tell what to do.
23 The only thing we can do is make sure that our information
24 is correct in moving forward. That's all I'm trying to do.

25 VICE CHAIR MILLER: And I support whatever way you

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1 want to proceed to get that information.

2 CHAIRMAN HOOD: Mr. Turnbull?

3 COMMISSIONER TURNBULL: I'll go with whatever.
4 I mean, to me, I think we're beating a dead horse here, but
5 I don't think we're going to change anything, but I'll go
6 along if we want to get some more information coming in.

7 That's fine, but I think you're right that we're
8 not going to be directing how this money's being spent, but
9 if we want to get more information, then have a limited scope
10 for 10 minutes, but I don't want to beat this thing to death
11 anymore.

12 CHAIRMAN HOOD: And again, that 10 minutes may not
13 even happen if we don't have anything additional.

14 COMMISSIONER TURNBULL: Right.

15 CHAIRMAN HOOD: That's kind of where I am.

16 COMMISSIONER TURNBULL: Okay.

17 CHAIRMAN HOOD: Okay, Ms. Schellin? That 10
18 minutes may or may not happen. I don't know.

19 MS. SCHELLIN: So you want to schedule that
20 hearing before the meeting then?

21 CHAIRMAN HOOD: No, schedule it during. It's only
22 10 minutes.

23 MR. RITTING: If I could interject, Commissioners,
24 there is a rule about reopening the record in contested cases
25 once it's been closed and having a further hearing, and it

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1 requires - I'll read it.

2 "Prior to taking final action in a contested
3 case," this is rule Subtitle Z 602.5, "the Commission may on
4 its own motion reopen the record and require additional
5 submission - require submission of additional materials at
6 a further hearing on designated issues designated before the
7 Commission.

8 "Notice of a further hearing, along with a
9 designation of issues shall be forwarded to any party who
10 participated in the earlier proceedings or the party's
11 authorized representative.

12 "Notice shall be given at least 14 days prior to
13 the date set for further hearing," so you need to be aware
14 of that when you're scheduling this hearing.

15 VICE CHAIR MILLER: And when was it scheduled for
16 final action?

17 CHAIRMAN HOOD: So maybe we go back to
18 Commissioner May's idea. I really don't know, and I was just
19 trying to accommodate the request, and I really don't know
20 even if we do that if it will get anything.

21 MS. SCHELLIN: It has to be a set - that's what
22 I was saying. It has to be separate from the meeting, so
23 that's why I was asking you when you wanted to schedule it.
24 It can't be done during the meeting. It's a hearing.

25 CHAIRMAN HOOD: So let me ask whoever, Ms. Kayla

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1 or Ms. Maddox. I'm going to ask you to come to the table.
2 Do you have anything additional to provide, an updated letter
3 or something? I'm trying to figure out where we're going
4 here.

5 MS. KAHLOW: In -

6 CHAIRMAN HOOD: If you could identify yourself?

7 MS. KAHLOW: I'm Dr. Kahlow with the West End
8 Citizens Association. In our information as submitted, we
9 spoke to Council Member Jack Evans who is also chair of
10 WMATA, and he spoke to the general manager who suggested
11 putting it in an escrow account and doing whatever it is the
12 Zoning Commission wants.

13 His staff was unaware of that, so the staff
14 submitted some letter. The Applicant, I wrote back to the
15 staff, which is not part of their submission, saying that's
16 not what the general manager said.

17 CHAIRMAN HOOD: I've read that, and I didn't think
18 that interaction went like that. Maybe I need to reread it.
19 Yeah, Ms. Kahlow, if you could come - maybe we could do the
20 limited scope hearing now, but we have to advertize it, I
21 think. Mr. Avitabile?

22 MR. AVITABILE: So just a couple of points, one,
23 I don't think there's anything in the record that indicates
24 that staff at WMATA had or had not spoken to the general
25 manager. I think that might be conjecture on Ms. Kahlow's

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1 part that that's how it was conveyed.

2 The letter that we received, the email
3 correspondence that we attached was up to date information
4 from within the last month between Ms. Kahlow and staff, and
5 we just simply attached that and provided it to the Zoning
6 Commission to show you where WMATA's thinking was.

7 And the other thing I wanted to clarify on the
8 record is that the data we cited to is current data. It is
9 real time data from WMATA's website dating back to starting
10 in 2013. Our letter since, "Since 2013, the escalators and
11 elevators have operated at this performance," so that is
12 right up to date.

13 Now, I don't know if that data will have changed
14 significantly based on when we filed that letter in mid-
15 November and now, but, you know, I think that data is about
16 as up to date as it can get.

17 It is real time data that was current as of when
18 we filed that letter indicating the percentage operation, and
19 we just provided that to provided some support to what WMATA
20 was saying in its letter which is that these elevators and
21 escalators are working, and there may be other priorities
22 that WMATA might decide on, and it's Commissioner May's
23 point, which I think is a really good one.

24 We have to leave it to WMATA to decide how best
25 to use these resources. If WMATA decides to put them toward

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1 the elevator and Ms. Kahlow is able to work with them, we're
2 happy to see it go in that direction, but it has to be left
3 up to WMATA to decide.

4 MS. KAHLOW: Let me add additional information.
5 The Applicant submitted only part of the correspondence
6 because I responded and said, "This isn't what your boss
7 said," and we asked for a meeting with you, WMATA, and you
8 never agreed to a meeting, so we weren't able to discuss
9 this.

10 So WMATA has not been friendly to the West End
11 Citizens Association or the community to date, and that's why
12 we had to go through the Council member, but you only got
13 part of the back and forth.

14 CHAIRMAN HOOD: So, Ms. Kahlow, if I remember
15 correctly, the correspondence between Council Member Evans
16 and his staff member, he had someone on his staff to further
17 investigate, and I didn't see anything after that.

18 MS. KAHLOW: No, I don't think this is this case.
19 I don't know the staff person was involved. I spoke to Jack
20 who spoke to the general manager. There was no staff person
21 involved.

22 CHAIRMAN HOOD: Well, there were some emails that
23 I read, and I'm going off the top of my head and I may be
24 wrong, but there were some emails I remember and - unless
25 it's in our - do we still -

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1 MS. KAHLOW: I have all of the emails, but there's
2 nothing - he didn't have any staff involved.

3 CHAIRMAN HOOD: He asked somebody look into
4 something.

5 MS. KAHLOW: The general manager.

6 CHAIRMAN HOOD: Oh, is that who it was?

7 MS. KAHLOW: Yes, I'm sorry. That's the general
8 manager and that's what I wrote back, so you don't have all
9 of the correspondence. But the problem here is that we had
10 been dealing with these people years ago and they won't meet
11 with us.

12 The Applicant was unable to arrange a meeting, so
13 I write her back and she never answered, and said, "Well,
14 wait a second. This isn't what your boss said," so it's a
15 little unclear if they are talking to each other.

16 I don't know, as Mr. Avitabile said, if in fact
17 they did it or not because she never answered. She wouldn't
18 meet with us and she never answered, so I don't know, but I
19 just, I'm relying on what our Council member said.

20 CHAIRMAN HOOD: So, Ms. Kahlow, you have a letter
21 from Anne Chisholm?

22 MS. KAHLOW: That's right. I responded to it.

23 CHAIRMAN HOOD: Right.

24 MS. KAHLOW: And that's not in the record. That's
25 not in the record.

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1 CHAIRMAN HOOD: Okay, the one I'm looking at is
2 dated November 8, 2017 at 1:27 p.m.

3 MS. KAHLOW: That's from her. I then responded
4 at 2:50 p.m. saying, "This is inconsistent with what your
5 boss said." That Mr. Avitabile did not submit in his
6 reopened record. We can easily submit that.

7 The answer is, it says here, "Thank you for your
8 email especially since the developer and its attorney
9 reported that WMATA was unwilling to meet with the West End
10 Citizens Association developer before the October 12 Zoning
11 Commission hearing," and it goes on from there. You have not
12 seen that. It's frustrating because if we could talk to
13 them, we could have a conversation, but they won't talk to
14 us.

15 CHAIRMAN HOOD: Well, I can't make them talk to
16 you.

17 MS. KAHLOW: Of course you can't.

18 CHAIRMAN HOOD: But I'm looking here at what it
19 says from Ms. Chisholm though.

20 MS. KAHLOW: No, but then I answered her and said
21 that's not consistent with what -

22 CHAIRMAN HOOD: At 2:48, is this the one where you
23 answered it? No, I'm sorry 12 - no, wait a minute.

24 MS. KAHLOW: She wrote at 1:27 and I wrote back
25 at 2:50, and as far as I know, I've never seen it, it's not

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1 on the record.

2 CHAIRMAN HOOD: Okay, I don't have the 2:50.

3 MS. KAHLOW: That's correct. It's not there.

4 CHAIRMAN HOOD: Can you read what the 2:50 says?

5 MS. KAHLOW: Yes, "Anne, thank you for your email,
6 especially since the developer and its attorney reported that
7 WMATA was unwilling to meet with the West End Citizens
8 Association developer before the October 12 Zoning Commission
9 hearing.

10 "If you had met with the WCA, you would have
11 understood why the WCA wanted a second elevator at the
12 current Foggy Bottom Station. Specifically, the one elevator
13 currently there is not in operation too often, necessitating
14 our elderly and handicapped residents skipping a Metro trip,
15 having to walk to another Metro station, having to take a
16 cab, etcetera.

17 "Since the second entrance is apparently far in
18 the future, the WCA thought a second elevator next to the
19 first at the existing station, or better yet, a second
20 elevator across busy 23rd Street in either corner would help
21 our elderly and handicapped.

22 "Also as indicated in my exchange with the WMATA
23 chair or to Councilman Jack Evans, the WCA wanted an earmark
24 of \$350,000 to be devoted to a second elevator. I understood
25 Mr. Evans to say that WMATA would be okay with that versus

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1 wanting other improvements of lesser importance to WCA.

2 "By copy herein, he will be able to see that WMATA
3 indeed does want to select the final improvements versus the
4 developer with whom the WCA has been working with closely.
5 This is very disappointing."

6 CHAIRMAN HOOD: Excuse me a second. Okay, here's
7 what I think we'll do if my colleagues agree. We'll reopen
8 the record and let West End give any additional information
9 they have, and we'll give the Applicant seven days to
10 respond, and leave it at that, okay? All right.

11 MS. SCHELLIN: Do you want to set those date then
12 now because -

13 CHAIRMAN HOOD: Yes.

14 MS. SCHELLIN: - this comes up? Ms. Kahlow, how
15 long -

16 CHAIRMAN HOOD: Whatever the date so we can make
17 it our January 8 meeting.

18 MS. SCHELLIN: Right, how long do you think it
19 will take for you to submit your additional information you
20 have?

21 MS. KAHLOW: Couple of days.

22 MS. SCHELLIN: Okay, so Friday, would that work
23 for you, by Friday?

24 MS. KAHLOW: Let me talk to Ms. Maddox. The
25 additional problem is I'm in California and I won't be at the

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1 January 8, but I could do it by Friday.

2 MS. SCHELLIN: Okay, so if we could have your
3 submission then by Friday the 15th, and then Mr. Avitabile,
4 you'll have until the 22nd to respond to the additional
5 information. Thank you.

6 MR. AVITABILE: Thank you.

7 CHAIRMAN HOOD: Okay, thank you very much. We
8 just want to make sure we operate on all of the information
9 so we can move forward. Anyway, we are where we are. Any
10 other comments on this? All right, thank you both. I
11 appreciate it.

12 MS. KAHLOW: Thank you.

13 MR. AVITABILE: Thank you, Chairman.

14 CHAIRMAN HOOD: And Ms. Schellin, do we have
15 anything else?

16 MS. SCHELLIN: No, sir.

17 CHAIRMAN HOOD: Does the Office of Planning have
18 anything?

19 MS. STEINGASSER: No, sir.

20 CHAIRMAN HOOD: Okay, so we're done. I want to
21 thank everyone for their participation and this meeting is
22 adjourned.

23 (Whereupon, the above-entitled matter went off the
24 record at 7:48 p.m.)

25

C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Meeting

Before: DCZC

Date: 12-11-17

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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