

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

+ + + + +

REGULAR MEETING

+ + + + +

MONDAY

JANUARY 29, 2018

+ + + + +

The Regular Meeting of the District of Columbia Zoning Commission convened in the Jerrily R. Kress Memorial Hearing Room, Room 220 South, 441 4<sup>th</sup> 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:

MAXINE BROWN-ROBERTS  
STEVEN COCHRAN  
MATT JESICK  
JOEL LAWSON  
KAREN THOMAS

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D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALAN BERGSTEIN, ESQ.

JACOB RITTING, ESQ.

HILLARY LOVETT, ESQ.

The transcript constitutes the minutes from  
the Regular meeting held on January 29, 2018.

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

6:42 p.m.

1  
2  
3 CHAIRMAN HOOD: Good evening, ladies and  
4 gentlemen. This is a resumption of the public meeting of the  
5 Zoning Commission for the District of Columbia. As I stated  
6 at the beginning of this meeting, my name is Anthony Hood.

7 Joining me are Vice Chair Miller, Commissioner  
8 Shapiro, Commissioner May, and Commissioner Turnbull. Also,  
9 we're joined by the Office of Zoning Staff, Ms. Sharon  
10 Schellin, as well as the Office of Attorney General, Mr.  
11 Bergstein, Mr. Ritting, and Ms. Lovett; Office of Planning  
12 staff Mr. Lawson, and Ms. Brown-Roberts, Ms. Thomas, and Mr.  
13 Jesick.

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

24 MS. SCHELLIN: No, sir.

25 CHAIRMAN HOOD: Let's move right into our agenda.

1 Under Consent Calendar item, we have minor modification in  
2 technical correction. Ms. Schellin.

3 MS. SCHELLIN: Yes, we have a request from the  
4 Office of Planning for a technical change with regard to the  
5 permitted area of penthouses, which affects Subtitle C. We'd  
6 ask the Commission to consider this request and authorize the  
7 publication of a notice of proposed rulemaking.

8 CHAIRMAN HOOD: Colleagues, you've heard the  
9 request before us. Any comments, questions, or what is your  
10 pleasure? We're going to take our time, so nobody feels  
11 rushed.

12 COMMISSIONER MAY: Mr. Chairman?

13 CHAIRMAN HOOD: Let me go to Commissioner May  
14 first.

15 COMMISSIONER MAY: Mr. Chairman, I don't see any  
16 issues with this. I think that the Office of Planning has  
17 correctly characterized what happened, and it is something  
18 that we need to get straightened out.

19 CHAIRMAN HOOD: Vice Chair Miller.

20 VICE CHAIR MILLER: Is this the one where the ANC  
21 commissioner suggested some alternative language and OP has  
22 something --

23 CHAIRMAN HOOD: No --

24 (Simultaneous speaking.)

25 VICE CHAIR MILLER: That's a different one? Okay.

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1 CHAIRMAN HOOD: Commissioner Shapiro.

2 COMMISSIONER SHAPIRO: Thank you, Mr. Chair. I  
3 would move that we authorize this as a notice of proposed  
4 rulemaking.

5 CHAIRMAN HOOD: I'll second that. Oh, I'm sorry.

6 COMMISSIONER TURNBULL: I just want to make sure  
7 I'm doing the right one. This is ZC Case No. 14-13D, Office  
8 of Planning technical correction to Order No. 14-13,  
9 penthouse regulations, permitted area of penthouse, Subtitle  
10 C. Again, ask the Commission to authorize the publication  
11 of a notice of proposed rulemaking.

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

14 (No audible response.)

15 CHAIRMAN HOOD: All in favor, aye. Any  
16 opposition?

17 (No audible response.)

18 CHAIRMAN HOOD: Not hearing any, Ms. Schellin,  
19 would you please record the vote?

20 MS. SCHELLIN: Yes, staff records the vote 5-0-0  
21 to authorize the immediate publication of a notice of  
22 proposed rulemaking for Zoning Commission Case No. 14-13D.  
23 Commissioner Shapiro moving, Commissioner Hood seconding,  
24 Commissioners May, Miller, and Turnbull in support.

25 CHAIRMAN HOOD: Okay, next we have modification

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1 of consequence, Zoning Commission Case No. 08-24C/04-25,  
2 Monroe Street Block E, Residential LLC, PUD modification of  
3 consequence in Square 3654. Ms. Schellin.

4 MS. SCHELLIN: The applicant is requesting a  
5 modification of consequence, in order to make architectural  
6 modifications to the design of the building on Block E. At  
7 Exhibit 7, OP has filed a report supporting the request as  
8 a modification of consequence. Exhibit 8, you have a DDOT  
9 report. At Exhibit 9, the applicant submitted a letter  
10 requesting that if the Commission does, in fact, find this  
11 to be a request of modification of consequence, that it  
12 schedule deliberations not until March 26, to allow them to  
13 meet with the Edgewood Civic Association on February 26th,  
14 and then return to the ANC on March 20th.

15 They met with the ANC, but the ANC asked them to  
16 also meet with Edgewood Civic Association. They were not  
17 able to get them on their January schedule. They'll meet  
18 with the February 26th, and then they will come back to the  
19 ANC March 20th, and then our next meeting after that would  
20 be March 26th. I'll figure out the scheduling if the  
21 Commission does, in fact, find this to be a modification of  
22 consequence.

23 CHAIRMAN HOOD: Okay, thank you, Ms. Schellin.  
24 Commissioners, is there anyone objecting to what's being  
25 proposed and asked of us, as this being a modification of

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1 consequence?

2 (No audible response.)

3 CHAIRMAN HOOD: Not hearing any objection, Ms.  
4 Schellin, would you do the determination and do the  
5 scheduling?

6 MS. SCHELLIN: Okay. So the Commission isn't  
7 asking for anything else? Okay. We'll put this on the March  
8 26th calendar. Since the ANC doesn't meet until March 20th,  
9 we would allow them up until the day of the meeting, until  
10 noon that day, if possible, to get their report in. I'm sure  
11 Mr. Tillmans will let the ANC know that. Thank you.

12 CHAIRMAN HOOD: Let's go to Zoning Commission Case  
13 No. 10-21B, V Street Southwest LLC design and review  
14 modification of consequence in Square 667S.

15 MS. SCHELLIN: Yes, the applicant is a requesting  
16 a modification of consequence in this case, also, in order  
17 to make what it's calling some minor redesign and relocation  
18 of some architectural elements of the building. At Exhibit  
19 3, you have an ANC-6D report in support. Exhibit 4 is an OP  
20 report that states that in concept, OP has no objections, but  
21 once it actually receives the information contained in that  
22 report, they will be able to give their final recommendation.  
23 Again, when the schedule is set, it will allow OP to follow  
24 up with a supplemental report.

25 CHAIRMAN HOOD: Okay, Commissioners, again, is

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1 anyone objecting to this being a modification of consequence?

2 (No audible response.)

3 CHAIRMAN HOOD: Not hearing, Ms. Schellin, would  
4 you determine the determination in the scheduling?

5 MS. SCHELLIN: Okay.

6 CHAIRMAN HOOD: We already did the determination;  
7 you do the scheduling.

8 MS. SCHELLIN: We can put this on the -- obviously  
9 February 5th is too soon, so we'll shoot for February 26 and  
10 allow the applicant to provide their information by February  
11 12th, and then allow OP to file their report by the 20th of  
12 February, and then, like I said, put it on for deliberation  
13 on the 26th.

14 CHAIRMAN HOOD: Let's go to, next -- this is our  
15 Zoning Commission Case No. 11-15G, Howard University,  
16 modification of consequence of campus plan in Square 3065.  
17 Ms. Schellin.

18 MS. SCHELLIN: At Exhibit 7 and 8, you have  
19 letters from the applicant regarding the outreach that they  
20 did with ANC-5E. They ask the Commission to consider this  
21 modification of consequence before you this evening. It is  
22 up for deliberation, as you stated.

23 CHAIRMAN HOOD: I believe we also have -- is this  
24 the one where we also have a letter from 1B, as well? Let  
25 me look.

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1 MS. SCHELLIN: Yes, I think that was brought up  
2 the last time.

3 CHAIRMAN HOOD: Yes, okay. Anyway, I don't want  
4 to -- yes, we do have a letter from both 5E, in which it's  
5 located, as well as 1B, because I think they're on the  
6 border. Anyway, colleagues, as we know, Howard wants to  
7 amend its campus plan to add a dormitory residential use to  
8 the mix of uses designed in the plan for the Howard Center  
9 property.

10 It seems they have overwhelming support from both  
11 ANCs, as well as the Office of Planning. We have heard no  
12 opposition, but let me open it up for any comments or  
13 questions or a motion.

14 VICE CHAIR MILLER: I support this, Mr. Chairman,  
15 and we also have the support from the Pleasant Plains Civic  
16 Association and the Great Parks Civic Association, and the  
17 Georgia Avenue Community Development Taskforce. If you'd  
18 like, I will make a motion that the Zoning Commission approve  
19 modification of consequence in Zoning Commission Case No.  
20 11-15G, Howard University modification of consequence of  
21 campus plan, Square 3065, and ask for a second.

22 COMMISSIONER TURNBULL: Second.

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

25 (No audible response.)

1 CHAIRMAN HOOD: All those in favor, aye. Any  
2 opposition?

3 (No audible response.)

4 CHAIRMAN HOOD: Not hearing any, Ms. Schellin,  
5 would you record the vote?

6 MS. SCHELLIN: Yes, staff records the vote 5-0-0  
7 to approve final action, Zoning Commission Case No. 11-15G,  
8 Commissioner Miller moving, Commissioner Turnbull seconding,  
9 Commissioners Hood, May, and Shapiro in support.

10 CHAIRMAN HOOD: Next, let's do time extensions.  
11 We have one time extension, Zoning Commission Case No.  
12 05-28U, Lano Parcel 12, LLC, two-year PUD time extension in  
13 Square 5055. Ms. Schellin.

14 MS. SCHELLIN: This case was originally before the  
15 Commission in the fall of 2017, but the applicant asked the  
16 Commission to defer action to allow it and OP some time to  
17 discuss the recommendations that were listed in OP's report.  
18 You have before you now Exhibit 8, some follow-up information  
19 from the applicant, and then Exhibit 9, an OP supplemental  
20 report, so ask the Commission to consider final action this  
21 evening.

22 CHAIRMAN HOOD: Okay, Commissioners, I believe we  
23 have to do a waiver of our rule about the number of time  
24 extensions. I've always stated that that was something that  
25 we put in place under our ZR-16, and I like to call this the

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1 Herb Franklin Rule, which was one of the things we did in the  
2 '90s. I can tell you that when you're first switching over,  
3 sometimes this happens. I know we did this rule for a  
4 specific reason, but I think this is, again, for me, a cause  
5 to give a waiver, but I'll hear from others. Any objections?  
6 Anybody?

7 (No audible response.)

8 CHAIRMAN HOOD: I'll move the time extension, as  
9 requested, Zoning Commission Case No. 05-28U, Lano Parcel 12,  
10 LLC, two-year PUD time extension in Square 5055 and ask for  
11 a second.

12 VICE CHAIR MILLER: Second.

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

15 COMMISSIONER SHAPIRO: I just to want make sure,  
16 in our discussion with OAG, there was some comments related  
17 to conditions that need to be modified. Did we need to take  
18 that in relation to this action?

19 MR. BERGSTEIN: In terms of time extension, yes,  
20 there would need to be a modification to the affordable  
21 housing condition, in order to -- there was a discussion  
22 about increasing or adding affordability to the project. OP  
23 and the applicant put in correspondence on that. There's a  
24 consensus now that what would be required is that additional  
25 affordable units are required as a result of additional

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1 construction beyond that anticipated in the first-stage  
2 approval, that 60 percent of the additional units would be  
3 affordable, and 40 percent of those would be in perpetuity.

4           The remainder would be for a 30-year control  
5 period, all at 8 percent. The easiest way to do that, rather  
6 than making it a condition of the time extension, would be  
7 to actually modify the relevant condition, so it's all in the  
8 same place. I would take your motion to include that  
9 modification.

10           COMMISSIONER SHAPIRO: The motion would be to make  
11 that modification as read by our attorney, or do we need to  
12 read this into the record for the motion?

13           MR. BERGSTEIN: You would indicate that the time  
14 extension is actually -- it includes a modification to  
15 Condition 6 of the original order. Because this was an issue  
16 that was somewhat extraneous to the request for a time  
17 extension. There was a concern given the length to which  
18 this project has been in place, that there should be some  
19 additional affordable housing. The conclusion was it could  
20 be accommodated by treating any additional affordable housing  
21 in a different way than as established in the original  
22 conditions. This would include that modification.

23           CHAIRMAN HOOD: Let me ask, do we need to state  
24 that in the motion?

25           MR. BERGSTEIN: We will assume that your motion

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1 includes that modification.

2 CHAIRMAN HOOD: Okay, thank you. With that, I  
3 moved, and who seconded?

4 VICE CHAIR MILLER: I did.

5 CHAIRMAN HOOD: Okay, Vice Chair Miller seconded,  
6 with the notion that what's stated with the time frame  
7 difference of the affordable housing on it. It's been moved  
8 and properly -- any further discussion?

9 (No audible response.)

10 CHAIRMAN HOOD: All in favor, aye. Any  
11 opposition?

12 (No audible response.)

13 CHAIRMAN HOOD: Not hearing any, Ms. Schellin,  
14 record the vote.

15 MS. SCHELLIN: Staff records the vote 5-0-0 to  
16 approve final action in Zoning Commission Case No. 05-28U,  
17 as discussed this evening, Commissioner Hood moving,  
18 Commissioner Miller seconding, Commissioners May, Shapiro,  
19 and Turnbull in support.

20 CHAIRMAN HOOD: Next final action, yes final  
21 action, Zoning Commission Case No. 11-07G, American  
22 University campus plan amendment, further processing to  
23 Square 1600. Ms. Schellin.

24 MS. SCHELLIN: At Exhibit 55A, the testimony of  
25 Ellen Ziegler was admitted to the record. She had requested

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1 that the record be re-opened. The Commission did ask for her  
2 testimony at the conclusion of the hearing, but she did not  
3 turn it in, so she did make a request to re-open the record,  
4 which was approved.

5 Then at Exhibits 57 through 57A, we have the  
6 Spring Valley-Wesley Heights PowerPoint presentation,  
7 Exhibits 58 through 58J, the applicant's post-hearing  
8 submissions. Exhibit 60 is a letter from Edward Whelan, with  
9 conditional support, Exhibit 61, Spring Valley-Wesley Heights  
10 response to the post-hearing submissions. Exhibit 62 through  
11 62A, we have the applicant's draft order. Exhibit 64, we  
12 have Spring Valley-Wesley Heights and Neighbors for  
13 Responsible Development's draft order and ask the Commission  
14 to consider final action this evening.

15 CHAIRMAN HOOD: Okay, Commissioners, I think  
16 first, we need to deal with this assumption of the technical  
17 correction, which is being presented to us as a technical  
18 correction of the 2,500 spaces versus the 2,200 parking  
19 spaces. I think that issue we need to deal with first before  
20 going forward. Let me open that up, and let's see if anybody  
21 believes that that is a technical correction or not a  
22 technical correction. Commissioner Shapiro.

23 COMMISSIONER SHAPIRO: Thank you, Mr. Chair.  
24 Setting aside whether or not this is or isn't a technical  
25 correction, I believe that the proper procedure would be for

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1 us to take up this issue and ask the applicant to file an  
2 application, that they can assume that this will go on the  
3 consent calendar, or they can assume it's a modification of  
4 significance. They can come at us either way, but clearly,  
5 there's a contradictory statement that needs to be resolved  
6 one way or the other. It's hard for me to proceed until we  
7 resolve this issue.

8 CHAIRMAN HOOD: Okay. Anyone else want to  
9 comment? Commissioner Turnbull.

10 COMMISSIONER TURNBULL: Thank you, Mr. Chair. I  
11 would agree with Commissioner Shapiro. We can't have an  
12 order that has two significant parts of the order which are  
13 in conflict with one another. I think we need to actually  
14 have the applicant submit something to us.

15 CHAIRMAN HOOD: Okay. Anyone else? Vice Chair  
16 Miller.

17 VICE CHAIR MILLER: I guess I would agree,  
18 although we did hear a lot of hearing testimony from both the  
19 applicant and from the opposition about this issue. We  
20 received written filings on it, as well. I guess I could  
21 have been prepared to proceed to resolve that contradiction  
22 this evening, but I'll go with what the majority wants to do,  
23 in terms of procedure.

24 CHAIRMAN HOOD: Okay, let me go to Mr. Bergstein.  
25 Do we need to advertise, or we need to request? How do we

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1 get the applicant to understand we want them to come back on  
2 a consent calendar?

3 MR. BERGSTEIN: My guess is they understand that,  
4 at this point, what you're saying is you're not going to  
5 continue your deliberations on this case until a formal  
6 application for a modification or technical correction or how  
7 they care to phrase it is made because you consider it a  
8 separate issue that belongs under a separate process.

9 CHAIRMAN HOOD: That issue needs to be resolved  
10 before we get into the other merits, which I can get into,  
11 but we need to deal with that first. Do we need to make a  
12 motion, or what do we need to do?

13 COMMISSIONER MAY: Mr. Chair, I should also  
14 clarify that I did review the record on this case.

15 CHAIRMAN HOOD: Okay. I guess the applicant is  
16 present? They heard which direction we would like for them  
17 to move in. Is that all we need to do?

18 MR. BERGSTEIN: Yes. I assume that what would  
19 happen is that whatever would be the first public meeting  
20 that this request from the applicant would be received, he  
21 would also schedule this application, then, on that same  
22 date, for final action, so it tacks on. Would that be the  
23 intent?

24 CHAIRMAN HOOD: Yes, we can do that. Once they  
25 -- I'm not going to tell them what they would do, but I think

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1 they get the message how they would do it. We don't want it  
2 as it's presented to us at this point. We will deal with all  
3 that when we get that application.

4 MR. BERGSTEIN: You've stated your consents, so  
5 I don't see a need for a vote.

6 CHAIRMAN HOOD: Okay. Anything else on that, Ms.  
7 Schellin?

8 (No audible response.)

9 CHAIRMAN HOOD: All right, let's move on.

10 COMMISSIONER MAY: Is there anything that we need  
11 in advance of that meeting to resolve any questions that we  
12 might have? I think there were some open issues, based on  
13 the information we'd received at the hearings and the  
14 subsequent filings, for example, the buffer. There seems to  
15 be some disagreement on the planted buffer on the East  
16 Campus. I think that it might be helpful to have additional  
17 information from the applicant trying to explain the  
18 difference that is being alleged by the party in opposition  
19 and how it's not somehow compliant. The essential issue is  
20 that we have to make sure that the plan is that the applicant  
21 is in compliance with the campus plan. I think some further  
22 information on that topic -- I'm not looking for volumes of  
23 -- great big volumes of information, but just something that  
24 clarifies that. I don't recall; were there any other open  
25 issues that anybody else had? I don't think I had others.

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1 CHAIRMAN HOOD: Hold on a sec. All right, I'm  
2 just getting clarification. Let's go into all open issues.  
3 I think Commissioner May mentioned about the trees, the  
4 number of trees. Commissioner Shapiro, you had something you  
5 want to add?

6 COMMISSIONER SHAPIRO: I think just to build on  
7 what Commissioner May said, perhaps it would be helpful if  
8 -- it's a version of what Commissioner May says, but if the  
9 party in opposition, which has a specific number related to  
10 the number of plantings, can clarify how they came up with  
11 that number, it would be helpful to hear the applicant's  
12 version of whether they agree or disagree with that number  
13 and why, or why not. Would that be helpful?

14 MR. BERGSTEIN: Yes, the two numbers is that the  
15 opposition party claims that there's a requirement to plant  
16 458 trees, and I think --

17 COMMISSIONER SHAPIRO: Alan, can you speak into  
18 the mic?

19 MR. BERGSTEIN: Oh, I'm sorry. The applicant  
20 asserts that there is actually a requirement in the order to  
21 plant 458 trees. I think what you're saying would be  
22 helpful, if the applicant explains the basis of that number  
23 -- sorry, not the applicant, the opposition party -- and for  
24 the applicant to identify whether or not it believes that  
25 there is a minimum number of trees that are required and how

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1 it gets that number, and then identify how many trees were  
2 planted and explain that number.

3 COMMISSIONER SHAPIRO: Thank you.

4 MR. BERGSTEIN: Those could be simultaneous  
5 filings.

6 COMMISSIONER SHAPIRO: Thank you.

7 MR. BERGSTEIN: I assume no responses; you just  
8 want to hear each party's position.

9 CHAIRMAN HOOD: I don't know if we need any  
10 additional information, but I'm really going to be  
11 deliberating depending upon how far we get on the CLC, as  
12 well as Jacobs Field. I've been hearing about Jacobs Field  
13 since 2000. I think it's time for us to eventually get some  
14 resolve with that. It doesn't make any sense.

15 We're still talking about the same stuff that this  
16 Commission has spent hours on. Every time I see Jacobs Field  
17 in a submission, unfortunately, I get an attitude because  
18 it's time for us to start getting stuff together. Jacobs  
19 Field shouldn't still be -- we dealt with it in 2000.  
20 Anyway, let me pull back.

21 Anyway, CLC, those are some of the other things  
22 that I'm going to add to this because I think that it's  
23 obviously a problem. Then to admit on a submission I read  
24 this evening, they're starting to talk about it now, so it  
25 took us 18 years to start having a conversation? That's

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1 unacceptable. Anything else? Vice Chair Miller.

2 COMMISSIONER TURNBULL: Mr. Chair?

3 CHAIRMAN HOOD: Yes.

4 COMMISSIONER TURNBULL: I just wanted to say on  
5 the planting issue, I'm assuming that all of that information  
6 is in the record somewhere. I think either the applicant and  
7 the party in opposition should cite the drawing or wherever  
8 they're getting it from if it's in the record. It should  
9 become very clear and obvious where the information is coming  
10 from. I'm assuming they're getting it from the record that  
11 we have. That's all I have to say.

12 CHAIRMAN HOOD: Okay. Vice Chair Miller.

13 VICE CHAIR MILLER: Yes, just further on the  
14 plantings, the information requested is fine. I'm fine with  
15 that. I just wanted to note two things. I think there's  
16 actually -- there may be information in the record, but I  
17 don't think there's a number that's in the order, itself.

18 MR. BERGSTEIN: We haven't seen any. The  
19 opposition party cites Exhibits 589 and 602 as the basis for  
20 their determination of the number, but we can't find any  
21 specificity of what they're relying upon as to how that  
22 number is obtained.

23 VICE CHAIR MILLER: So we might get that basis  
24 from -- by this request?

25 MR. BERGSTEIN: Yes.

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1           VICE CHAIR MILLER: The only other thing I wanted  
2 to note, just for this record, is that although it took a  
3 while to get all those plantings there, they did get there,  
4 to the point that the adjacent neighbor, Westover, the  
5 Westover Group, seemed to be satisfied with the offer.  
6 That's what I recall from the hearing, but I'll go back and  
7 look at that again.

8           CHAIRMAN HOOD: Okay. Anything else? Do we need  
9 to do anything else with this, Ms. Schellin? Dates?

10          MS. SCHELLIN: We can't really set a date until  
11 they file an application on it.

12          CHAIRMAN HOOD: That's true.

13          MS. SCHELLIN: I'll just schedule it when they  
14 file their application.

15          CHAIRMAN HOOD: Okay, let's move on. Zoning  
16 Commission Case No. 17-10, the Warrenton Group consolidated  
17 PUD and related map amendment at Square 5196. Ms. Schellin.

18          MS. SCHELLIN: Exhibits 37 through 41A, the  
19 applicant submitted some post-hearing submissions. Exhibit  
20 42 is a letter from NCPC advising that staff determined the  
21 project was exempt from review. I spoke to NCPC today and  
22 was advised that this is something new that they've started  
23 doing, so we'll see those letters come in more often.

24          CHAIRMAN HOOD: I did see that they were exempt,  
25 so we'll be looking out for that. Commissioners, any

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1 questions or comments? I believe someone did ask about --  
2 we had some information coming from the Office of the Deputy  
3 Mayor. I'm not sure who asked for it, but we did -- I'm sure  
4 we reviewed the letter. That was helpful. Anything else on  
5 this? It was pretty straightforward. I know everybody's  
6 catching up. Anybody have anything else on this? Somebody  
7 like to make a motion?

8 COMMISSIONER TURNBULL: Mr. Chair, I would move  
9 that we take final action and approve Zoning Case No. 17-10,  
10 the Warrenton Group consolidated PUD and related map  
11 amendment at Square 5196, and look for a second.

12 VICE CHAIR MILLER: Second.

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

15 (No audible response.)

16 CHAIRMAN HOOD: All those in favor, aye. Any  
17 opposition?

18 (No audible response.)

19 CHAIRMAN HOOD: Not hearing any, Ms. Schellin,  
20 record the vote.

21 MS. SCHELLIN: Staff records the vote 5-0-0 to  
22 approve final action, Zoning Commission Case No. 17-10,  
23 Commissioner Turnbull moving, Commissioner Miller seconding,  
24 Commissioners Hood, May and Shapiro in support.

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

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1 go to Zoning Commission Case No. 16-26. This is a Wisconsin  
2 owner consolidated PUD and related map amendment at Square  
3 1732. Ms. Schellin.

4 MS. SCHELLIN: At Exhibits 58 through 60, you have  
5 the applicant's post-hearing submissions. Exhibit 61 you  
6 have TNA's post-hearing submission. At Exhibit 63 is the  
7 letter from NCPC, once again advising that staff determine  
8 the project was exempt from review. They ask the Commission  
9 to consider final action on this case this evening.

10 CHAIRMAN HOOD: Okay, Commissioners, we have the  
11 request in front of us. I know the party in opposition, one  
12 of the things they argued which was inconsistent with the  
13 comp plan in the MU-7 zone. Let's open up any comments on  
14 any of that.

15 MR. RITTING: Mr. Chair, I just have one on the  
16 order. It would be No. 5B. It has to do with the color  
17 selection, and then changing materials. I just have a  
18 clarification to make sure that only the colors change and  
19 not the exterior materials. I can hand that over to OAG.

20 CHAIRMAN HOOD: Okay. Ms. Schellin, you mentioned  
21 this one also was exempt? Okay. Any other comments or  
22 questions? I believe the assertion of the party in  
23 opposition saying the project is not consistent with the  
24 comprehensive plan memo -- let me see something.

25 VICE CHAIR MILLER: On that point --

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1 CHAIRMAN HOOD: I just can't remember.

2 VICE CHAIR MILLER: On that point, Mr. Chairman,  
3 I would just note that the comp plan description of moderate  
4 density commercial does include, as one of the corresponding  
5 zone districts, C3-A, which is what the related map amendment  
6 is to. It is called out in the comprehensive plan as a  
7 corresponding zone.

8 CHAIRMAN HOOD: Okay. Anything else? Somebody  
9 like to make a motion?

10 COMMISSIONER SHAPIRO: Mr. Chair, I move that we  
11 take final action on Zoning Commission Case No. 16-26,  
12 Wisconsin owner, consolidated PUD and related map amendment  
13 at Square 1732, look for a second.

14 COMMISSIONER MAY: Second.

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

17 (No audible response.)

18 CHAIRMAN HOOD: All in favor?

19 (Chorus of ayes.)

20 CHAIRMAN HOOD: Any opposition?

21 (No audible response.)

22 CHAIRMAN HOOD: Not hearing any, Ms. Schellin,  
23 would you record the vote?

24 MS. SCHELLIN: Staff records the vote 5-0-0 to  
25 approve final action in Zoning Commission Case No. 16-26,

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1 Commissioner Shapiro moving, Commissioner May seconding,  
2 Commissioners Hood, Miller and Turnbull in support.

3 CHAIRMAN HOOD: Zoning Commission Case No. 06-06N,  
4 Office of Planning request for technical corrections to  
5 Zoning Commission Order No. 08-06A, Subtitle B, 315.1(c) and  
6 shortened -- also, we've been asked to shorten the  
7 publication period. Ms. Schellin.

8 MS. SCHELLIN: Yes, the proposed rulemaking was  
9 published in the D.C. Register for a 14-day comment period.  
10 Exhibit 4 are comments from the Single Member District 6C-04,  
11 Mr. Eckenwiler, so would ask the Commission to consider a  
12 final action on this case this evening.

13 CHAIRMAN HOOD: First, let me thank Commissioner  
14 Eckenwiler for responding and helping us further advance the  
15 language we proposed that's in front of us. Let me open it  
16 up for any comments or questions. Commissioner Turnbull.

17 COMMISSIONER TURNBULL: Mr. Chair, I think that  
18 this is fairly straightforward, simply adding the words to  
19 another and clarifying the language that was already there.  
20 I'm totally fine with this.

21 CHAIRMAN HOOD: Okay. Anybody else? Commissioner  
22 May.

23 COMMISSIONER MAY: I appreciate the additional  
24 edits from the ANC commissioner. I think that language is  
25 clear the way he has suggested it be revised, and it's

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1 consistent with what our intention was, so I think that's  
2 good.

3 CHAIRMAN HOOD: All right. Somebody can make a  
4 motion? I would move that we approve Zoning Commission Case  
5 No. 08-06N, the Office of Planning request for technical  
6 correction with the edits provided by Commissioner  
7 Eckenwiler, as well, Subtitle B, 315.1(c), and that we get  
8 a shortened publication period, whatever that would be.

9 COMMISSIONER TURNBULL: It's no longer necessary,  
10 sir. That was done.

11 CHAIRMAN HOOD: Okay.

12 COMMISSIONER SHAPIRO: Second.

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

15 (No audible response.)

16 CHAIRMAN HOOD: All in favor?

17 (Chorus of ayes.)

18 CHAIRMAN HOOD: Any opposition?

19 (No audible response.)

20 CHAIRMAN HOOD: Not hearing any, Ms. Schellin,  
21 record the vote.

22 MS. SCHELLIN: Staff records the vote 5-0-0 to  
23 approve final action in Zoning Commission Case No. 08-06N,  
24 Commissioner Hood moving, Commissioner Shapiro seconding,  
25 Commissioners May, Miller and Turnbull in support.

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1 CHAIRMAN HOOD: I'm going to call these next two  
2 cases together, Zoning Commission Case No. 06-120, George  
3 Washington University and Boston Properties first-stage PUD  
4 modification of significance, second-stage PUD, and related  
5 map amendment at Square 75, also Zoning Commission Case No.  
6 06-110, George Washington University campus plan amendment  
7 at Square 75. Ms. Schellin.

8 MS. SCHELLIN: Yes. At Exhibit 40A, you have  
9 WMATA's response to WECA regarding the elevator issues.  
10 Exhibit 41 is the Applicant's second response to WECA.  
11 Exhibit 42, you have NCPC's delegated action that states it  
12 finds the project to be inconsistent with the comp plan for  
13 the National Capitol due to a minor violation of the  
14 penthouse setback requirements. Ask the Commission to  
15 consider final action for both of these cases this evening.

16 CHAIRMAN HOOD: Okay, Commissioner Shapiro.

17 COMMISSIONER SHAPIRO: Thank you, Mr. Chair. I  
18 just wanted to say that I have reviewed the record on these  
19 two cases, and I will be participating. I neglected to say  
20 the same thing, Mr. Chair, for a previous case, Zoning  
21 Commission Case No. 11-15G. I've already acted, but I  
22 reviewed their record on that and participated.

23 CHAIRMAN HOOD: Okay, thank you.

24 COMMISSIONER TURNBULL: Mr. Chair, I am repeating  
25 exactly what Commissioner Shapiro said. I have read the

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1 record for both of these, and I will be involved.

2 CHAIRMAN HOOD: Okay, thank you. Commissioners,  
3 I believe that one of the issues that we dealt with on 06-120  
4 was the issue about the elevator. I really believe that now  
5 has been resolved. I'm not sure of the others. Also, we had  
6 a request from West End Citizens Association asking us to  
7 delete ANC-2A, and Foggy Bottom Association and others who  
8 may want to be involved. I would just say that I don't think  
9 that we should be singling out any different organization.  
10 I think all stakeholders who are involved and live in that  
11 community should have a say so.

12 I would just think that we would delete all of it,  
13 anything pertaining to the ANC, FBA, and WECA, even though  
14 I know WECA took the charge on a lot of this. I just don't  
15 want to alienate -- have somebody try to direct somebody who  
16 to talk to, who not to talk to, because that's not what --  
17 at least, that's not what I don't think we're about or this  
18 city's about. I'll just leave that at that and open it up  
19 for any comments on any of that. Any questions or objections  
20 to what I just said?

21 COMMISSIONER SHAPIRO: No, I concur, Mr. Chair.  
22 The only thing is I wonder if it might make the most sense  
23 just to keep the applicant's language, which just says that  
24 the applicant would look for input and priorities from  
25 community stakeholders, including West End Citizens

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1 Association, but it doesn't exclude anybody else.

2 CHAIRMAN HOOD: Okay, if you want to keep  
3 including -- I just was saying I was going to take it all  
4 out, but we can keep including West End. I guess I can go  
5 with that, but not excluding anyone.

6 MR. BERGSTEIN: I need to get some clarification  
7 here. The phrase is including ANC-2A, FBA, and WECA. Does  
8 that phrase remain, or does that phrase disappear, or is only  
9 WECA mentioned?

10 CHAIRMAN HOOD: He restated it another way. I was  
11 saying take every name that identified anybody out.

12 COMMISSIONER SHAPIRO: What's the applicant's  
13 language?

14 MR. BERGSTEIN: The applicant's language is the  
15 applicant shall strongly encourage WMATA to consider input  
16 and priorities of community stakeholders, including ANC-2A,  
17 FBA, and WECA, including consideration of the use of the  
18 funds, etc. We would have it read consider input from the  
19 community stakeholders, including WECA, including  
20 consideration of. So the other option is to just have it  
21 read, as Mr. Hood has suggested, consider community input and  
22 priorities of community stakeholders, including consideration  
23 of the use of funds.

24 COMMISSIONER SHAPIRO: Mr. Chair, my first thought  
25 was to go with the applicant's language, which would say

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1 including ANC-2A, FBA, WECA. I'm equally happy to follow  
2 your lead, Mr. Chair, and just take out reference to any  
3 organization.

4 CHAIRMAN HOOD: Again, any stakeholder, because  
5 groups are formed every day, in every neighborhood. I think  
6 we could leave that up to -- yes, they are. We could keep  
7 the applicant's language, but I'd like to keep things open  
8 to -- a lot of people don't participate in either one of  
9 these groups.

10 COMMISSIONER SHAPIRO: I'm fine with the language  
11 as you have suggested, Mr. Chairman.

12 CHAIRMAN HOOD: Okay, great. Anyone else? Mr.  
13 Bergstein, are we okay?

14 MR. BERGSTEIN: Fine.

15 CHAIRMAN HOOD: Anything else on that? You want  
16 to go to the next issues? We're going to take this motion,  
17 I think, all at once, right?

18 PARTICIPANT: Yes, sir.

19 CHAIRMAN HOOD: All right, NCPC.

20 COMMISSIONER MAY: Mr. Chairman?

21 CHAIRMAN HOOD: Yes.

22 COMMISSIONER MAY: I think I probably should speak  
23 on this one, since I wear both hats. This particular issue  
24 that NCPC raises goes back a long way and goes to an  
25 essential disagreement between NCPC and the Zoning Commission

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1 and the District, in general, the zoning administrator, with  
2 regard to the interpretation of the Height Act and how you  
3 treat walls that are not facing a public way directly, or not  
4 facing a street, which is actually how the zoning  
5 administrator interprets it.

6 I think we went to some length in the zoning  
7 regulation rewrite, or in the penthouse case, I can't  
8 remember where. We tried to address this, and we established  
9 regulations that were, I think, consistent with NCPC's  
10 interpretation, even though it was essentially a voluntary  
11 act on the part of the district to do so, which meant that  
12 it's still discretionary for the Zoning Commission about  
13 whether that can be waived in certain circumstances. I did  
14 raise this concern during the hearing, and I was convinced  
15 that it was an appropriate relief that had been requested.  
16 I didn't have any problem with it during the hearing, and I  
17 think that this is one of those areas where I appreciate the  
18 advice of NCPC staff on this. This was a delegated action  
19 by the executive director.

20 I appreciate their advice, but I'm not sure that  
21 I'm in complete with agreement with it. Ultimately, we don't  
22 decide anything about the Height Act. It really is up to the  
23 zoning administrator. If the zoning administrator finds that  
24 it is, in fact, a violation of the Height Act, then the  
25 applicant's going to have to come back and make a change.

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1 If the zoning administrator is okay with it, then it shall  
2 proceed as designed. Having said all that, it's a  
3 long-winded way of saying I'm okay with moving forward with  
4 this as it is designed.

5 CHAIRMAN HOOD: Okay, thank you, Commissioner May,  
6 in keeping consistent with our normal position on this, as  
7 we've run into this previously. Any other comments on this?  
8 Somebody like to make a motion, actually, on both cases, if  
9 you're going to make a motion.

10 COMMISSIONER TURNBULL: No, I do have -- in  
11 reviewing this case, I happened to pull up the signage  
12 drawings. What I'm concerned about is this tenant sign.  
13 They show a picture of this tenant sign on this elegantly  
14 designed glass building.

15 They talk about the curved glass and how  
16 jewel-like, but we could have a maximum height sign of 60  
17 inches, a five-foot sign, up about two, three, four, five,  
18 six, about ten stories high up on the building. I just think  
19 that in this location, on this corner, in this -- it seems  
20 a little bit out of place to have a big, five-foot-high sign  
21 up there on this building.

22 COMMISSIONER MAY: Can you tell us what exhibit  
23 you're looking at?

24 COMMISSIONER TURNBULL: It's Exhibit No. 10E. I'm  
25 on S-05.

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1           CHAIRMAN HOOD: I'll say this, Mr. Turnbull. Last  
2 night, my wife and I were in the car. There was a sign up  
3 on a building. I told her, I said, I wonder if Mr. Turnbull  
4 would like that? The letters were missing and everything.

5           COMMISSIONER TURNBULL: I like some.

6           CHAIRMAN HOOD: I was just thinking about that  
7 last night.

8           COMMISSIONER TURNBULL: I do like some. I think  
9 signs like that are very appropriate on certain types of  
10 buildings, in certain locations, but I think that on this  
11 particular location, I think a five-foot-high sign up there,  
12 what they're trying to do here, I think, might be a little  
13 bit inappropriate.

14                   They also call out that they can use blade signs.  
15 We've been basically not been approving a lot of blade signs.  
16 I think we've been asking people to step back from those.  
17 I'm still trying to figure out if these lights are going to  
18 be backlit. They say retail signs may include illumination  
19 for both day and nighttime visibility. All external  
20 lighting, blah, blah, blah.

21                   I'm also concerned about this one phrase here that  
22 says letters and graphics may include depth, texture, and  
23 dimensional qualities to create a diverse, authentic, and  
24 creative environment. Will those signs be in motion? I  
25 don't know. Are they digital? I'm just concerned -- this

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1 doesn't really clarify what they're having. Anyway, there's  
2 certain things on this signage thing which I think ought to  
3 be cleaned up. I don't know what the rest of you think, or  
4 if you had really noticed this, but -- I'm all for signage,  
5 but I think it ought to be appropriate, to scale, and treated  
6 -- depending upon where it is, treated in a certain way that  
7 represents either it's in compliance with the architecture  
8 or works with it.

9           I don't think it should stand out by itself. I'm  
10 just concerned about this thing up by the terrace, this  
11 five-foot-high sign. Who knows how long it could be,  
12 depending on what the tenant is. In this location, I just  
13 think it might be a little bit out of place architecturally  
14 and from the feel of the neighborhood. I don't know. I'm  
15 willing to hear the rest of your thoughts, guys.

16           CHAIRMAN HOOD: Anybody else on that? I will tell  
17 you what I'm thinking. Mr. Turnbull, as you mentioned, as  
18 we give the applicant some time to readdress those issues,  
19 I will from hear others, as well, but I would be willing to  
20 take that into consideration, what you just mentioned,  
21 because you've done a lot signage to make it a lot better in  
22 the city. We would give them more time to hear your comments  
23 and come back with something to straighten out some of those  
24 issues you raised.

25           COMMISSIONER TURNBULL: I would appreciate it.

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1 The building is an elegantly designed building. I just think  
2 it needs to rethink its signage a little bit more and make  
3 it more sensitive to where it is.

4 CHAIRMAN HOOD: Anybody else want to add anything  
5 to that? Anybody have any objections to us letting them  
6 relook at it and come back? That would be the only issue,  
7 unless something else comes up. Commissioner Shapiro.

8 COMMISSIONER SHAPIRO: I'm just wondering if --  
9 respecting Commissioner Turnbull's concerns, is there a way  
10 to take some action that takes that into account, rather than  
11 have them come back to us with a new sign plan? Are there  
12 parameters that can --

13 CHAIRMAN HOOD: Past history shows us we need to  
14 make sure it's correct because we'll run into a problem, and  
15 then we'll have -- then it'll be a-whole-'nother ballgame.  
16 I would rather for us to see it, so we'll know what we see,  
17 what we approve. We have a history of having a problem  
18 previously. We don't want to go back to those events. They  
19 weren't bad, but sometimes that puts more work on us. I see  
20 you frowning, Commissioner May.

21 COMMISSIONER MAY: I certainly appreciate, and  
22 generally agree with, Commissioner's Turnbull's sensitivity  
23 about the signage issue, but looking at the building and  
24 looking at the sign, as they've proposed it, I'm not terribly  
25 uncomfortable with it. Sixty inches seems very large, but

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1 it's 110 feet in the air or so, 100 feet in the air, at  
2 least, and it's worked into the cornice, if you will.

3           It doesn't really have a cornice, but the top band  
4 of the building. I'm not really that uncomfortable with it.  
5 I've seen others that are, frankly, a lot greater concern.  
6 I think that the last thing that the building owner would  
7 want to do is to plaster a giant billboard up there that  
8 they're going to be unhappy with in the long run.

9           COMMISSIONER TURNBULL: But the drawings say you  
10 can do it.

11           COMMISSIONER MAY: But again, what they're showing  
12 in the drawings doesn't look bad to me.

13           COMMISSIONER TURNBULL: They have the word tenant  
14 sign very lightly dashed in. It's very light on there.

15           COMMISSIONER MAY: Right.

16           COMMISSIONER TURNBULL: Will it have motion? Some  
17 of the retail signs can have movement. I'm not sure exactly  
18 what you're getting. You can get blade signs. I don't have  
19 a good view of feeling for what else is going to happen on  
20 the building. I'm only one commissioner here.

21           CHAIRMAN HOOD: We have three votes to take it  
22 back and do that, even though I haven't asked the vice chair  
23 for his opinion yet, but I already know we have three, so --

24           COMMISSIONER SHAPIRO: I'm wondering if -- again,  
25 I'm newer to the process. Is there some of these concerns

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1 that Commissioner Turnbull has that can be addressed right  
2 here, right now, for instance, related to motion, stipulating  
3 that can't be allowed?

4 CHAIRMAN HOOD: I don't even think that's what  
5 Commissioner May is saying. I don't think Commissioner  
6 Turnbull's saying it can't be that. I think he asked them  
7 to do some refinery and scale down the size. I'm not sure  
8 all what everybody's asking for.

9 COMMISSIONER TURNBULL: Basically, what I did,  
10 just as a quick overview, I have a concern about the  
11 five-foot sign, whether you can have motion, whether these  
12 signs are backlit, and whether you're going to have blade  
13 signs.

14 CHAIRMAN HOOD: There needs to be some -- we don't  
15 want to approve anything, and then put some language to it,  
16 because the designs show one thing, and our language will  
17 show something else. We'll go back to that argument of what  
18 does it say in the narrative versus what does it say on the  
19 architectural drawings. I think the best way to do this --  
20 I thought I had three, but if I don't --

21 COMMISSIONER TURNBULL: Again, I'm only one.

22 CHAIRMAN HOOD: I agree with you, then, so we have  
23 two. Let me hear from the vice chair.

24 VICE CHAIR MILLER: I would defer to the Chairman  
25 on this matter.

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1 CHAIRMAN HOOD: Okay, so we have three. That's  
2 the way we will proceed with that. We have three. Ms.  
3 Schellin, can we get another -- anybody else want to add  
4 anything? Okay, I think it's better to be cautious.

5 MS. SCHELLIN: I'm sorry.

6 CHAIRMAN HOOD: Obviously, the applicant's not  
7 having a problem, as well, so let's see if they can fine tune  
8 those.

9 MS. SCHELLIN: Second meeting in February? Okay.  
10 Then if we could have a submission, just on the signage, from  
11 the applicant by February 20th, and we'll just put it on the  
12 February 26th --

13 (Off-microphone comments.)

14 MS. SCHELLIN: Oh, okay. Then if you could submit  
15 something by February 5th, we'll put it on for February 12th.

16 CHAIRMAN HOOD: Those two weeks is not going to  
17 hurt us. Anything else? We will delay -- that's the only  
18 thing that's going to be up for consideration, commissioners,  
19 is that. Everything else has been already dealt with.

20 CHAIRMAN HOOD: Let's move on to Zoning Commission  
21 Case No. 16-06A, Jemals Lazriv, whatever, how you pronounce  
22 that.

23 MS. SCHELLIN: Lazriv.

24 CHAIRMAN HOOD: Lazarus?

25 MS. SCHELLIN: Lazy river.

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1 CHAIRMAN HOOD: Whatever, L-A-Z-R-I-V, pronounce  
2 it how you want, Water, LLC, design review modification of  
3 significance in Square 666. Those numbers are something.  
4 Okay, Ms. Schellin.

5 MS. SCHELLIN: Exhibits 19 through 19B are the  
6 applicant's post-hearing submissions. Exhibit 20, we have  
7 ANC-6D's response to the applicant's post-hearing  
8 submissions. We'd ask the Commission to consider final  
9 action this evening.

10 CHAIRMAN HOOD: One second.

11 COMMISSIONER MAY: Mr. Chairman?

12 CHAIRMAN HOOD: Yes, Commissioner May.

13 COMMISSIONER MAY: I just need to state for the  
14 record that I have reviewed the record on this case, and I'm  
15 prepared to participate in full.

16 CHAIRMAN HOOD: Okay. Any comments? I'm just  
17 trying to review the ANC letter. Commissioner Shapiro.

18 COMMISSIONER SHAPIRO: Mr. Chair, I believe I need  
19 to say the same thing as Commissioner May did on this case,  
20 as well. Thank you.

21 CHAIRMAN HOOD: Thank you.

22 COMMISSIONER TURNBULL: Mr. Chair, the only thing  
23 I have is in the order, again, about the exterior materials,  
24 the changes that they want, the flexibility, I have some  
25 changes to match up what we normally put in for the

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1 flexibility about changing the colors of materials, but not  
2 changing the materials, and not substantially changing the  
3 exterior once it's been approved by us. I can hand those  
4 over to OAG.

5 CHAIRMAN HOOD: Okay, thank you. Any other  
6 questions or comments?

7 COMMISSIONER MAY: Mr. Chairman?

8 CHAIRMAN HOOD: Yes.

9 COMMISSIONER MAY: This is a case that we had  
10 previously reviewed, and I think we understood there to be  
11 some pretty serious complications in the conversion of this  
12 building from its former use to apartments. Much of the  
13 relief that was actually granted in association with the  
14 Capital Gateway Design Review were associated with those  
15 difficulties, such as the treatment of the stairs and setback  
16 relief and things like that.

17 I believe that's what's come to us again, in terms  
18 of some small increase in relief relating to rooftop  
19 mechanical and setbacks and so on, I think, relate to those  
20 same issues. I think that overall, because the project is,  
21 I think, a pretty creative attempt to convert an existing,  
22 not very attractive building into a real asset, I think I'm  
23 okay with any of the additional relief that's needed.

24 Otherwise, I think it's relatively  
25 straightforward. It's still consistent with the criteria for

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1 Capital Gateway Design Review. I appreciate the ANC's  
2 concern about the amount of retail that is being included in  
3 the revised design. At this moment, it's retail for a  
4 neighborhood that doesn't quite exist. It's hard to say  
5 exactly how much will be needed. Eventually, there will be  
6 a substantial need for retail in that area. I think it will  
7 be taken up in future developments. I'm not really too  
8 concerned about how much gets established in this building,  
9 which is the first one out of the box, or at least, so far,  
10 seems to be first one out of the box. Hopefully, it'll move  
11 quickly.

12 CHAIRMAN HOOD: Okay. I would agree, Commissioner  
13 May, with your comments. Also know that I've seen this  
14 particular applicant change some things around in other  
15 buildings across the city that I've had the opportunity to  
16 go in, that didn't look that well. I'm sure if they continue  
17 what they've done there, and do here, I'm sure that we'll  
18 have a lot of happy folks down in that area.

19 COMMISSIONER MAY: Really, I'm unclear what  
20 project you're referring to.

21 CHAIRMAN HOOD: You know which project I'm  
22 referring to.

23 COMMISSIONER MAY: Just because I listened to the  
24 hearing on this, and you mentioned it about eight times.

25 CHAIRMAN HOOD: Eight times? That was the ninth

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1 time.

2 COMMISSIONER MAY: There you go.

3 CHAIRMAN HOOD: Once you get a track record --

4 COMMISSIONER MAY: We know what you're talking  
5 about, yes.

6 CHAIRMAN HOOD: -- and you're successful, then  
7 these things don't become an issue for us. You have a good  
8 track record, and we know what you can do for the improvement  
9 of the city, as a whole. Any other comments? Commissioner  
10 Shapiro.

11 COMMISSIONER SHAPIRO: No, sorry, I actually have  
12 no other comments.

13 CHAIRMAN HOOD: Somebody like to make a motion?

14 VICE CHAIR MILLER: I just wanted to concur with  
15 my colleagues' comments, Commissioner May and Chairman Hood.  
16 On the retail, there's still going to be over 16,000 square  
17 feet of retail. It's not the 24,000 originally contemplated,  
18 but the Buzzard Point Vision Framework and Design Review  
19 Guide does explicitly state, for this building, that over  
20 15,000 square retail should be provided, and that's what's  
21 being provided. I just wanted to note that for the record.

22 CHAIRMAN HOOD: Okay, thank you. Somebody like  
23 to make a motion?

24 COMMISSIONER TURNBULL: Mr. Chair, I would move  
25 that we take final action and approve Zoning Case No. 16-06A,

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1 Jemals Lazy River, LLC design review modification of  
2 significance, at Square 666. Look for a second.

3 VICE CHAIR MILLER: Second.

4 CHAIRMAN HOOD: It's been moved and properly  
5 seconded. Any further discussion? Commissioner Shapiro.

6 COMMISSIONER SHAPIRO: Thank you, Mr. Chair. I  
7 just want to make sure we're not inadvertently renaming this  
8 project.

9 COMMISSIONER TURNBULL: All right, Lazriv.

10 COMMISSIONER SHAPIRO: Thank you, Mr. Chair.

11 COMMISSIONER TURNBULL: Or Lazriv.

12 CHAIRMAN HOOD: L-A-Z-R-I-V.

13 COMMISSIONER SHAPIRO: It still triggers that song  
14 in my head.

15 COMMISSIONER TURNBULL: I know.

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

19 (Chorus of ayes.)

20 CHAIRMAN HOOD: Any opposition?

21 (No audible response.)

22 CHAIRMAN HOOD: Not hearing any, Ms. Schellin,  
23 record the vote.

24 MS. SCHELLIN: Staff records the vote 5-0-0 to  
25 approve final action in Zoning Commission Case No. 16-06A,

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1 Commissioner Turnbull moving, Commissioner Miller seconding,  
2 Commissioners Hood, May and Shapiro in support.

3 CHAIRMAN HOOD: The Commission's going to take  
4 about a three-minute break.

5 (Whereupon, the above-entitled matter went off the  
6 record at 7:39 p.m. and resumed at 7:43 p.m.)

7 CHAIRMAN HOOD: Next, we have a proposed action,  
8 Zoning Commission Case No. 16-29, Poplar Point RBBR, LLC,  
9 first-stage PUD and related map amendment at Square 5860 and  
10 5861. Ms. Schellin.

11 MS. SCHELLIN: Yes, Exhibits 51 through 53, we  
12 have the applicant's post-hearing submissions. Exhibit 54  
13 is an OP supplemental report. Exhibit 55 is an ANC-8A and  
14 8C report. Exhibit 56 is the applicant's response to the ANC  
15 report. Ask the Commission to consider proposed action this  
16 evening.

17 CHAIRMAN HOOD: Okay, Commissioners, any questions  
18 or comments?

19 COMMISSIONER SHAPIRO: Mr. Chair?

20 CHAIRMAN HOOD: Commissioner Shapiro.

21 COMMISSIONER SHAPIRO: Thank you. I was left a  
22 bit confused about the back and forth around the proffers.  
23 If it simply was a straight up comparison of where the ANCs  
24 are and where the applicant is, those numbers are very far  
25 apart. I was left feeling that it was more a question of not

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1 comparing apples to apples, in terms of what the proffers  
2 are.

3 All I can say is I'm left a little confused about  
4 that, and it would help me to have some measure of  
5 clarification about are they really that far off or not, or  
6 are we interpreting it in the wrong way? It's the difference  
7 between \$5 million and about \$50,000, but that doesn't seem  
8 right when I look at actually what's being proffered.

9 CHAIRMAN HOOD: Would you like for the applicant  
10 to come up and explain, or the ANC?

11 COMMISSIONER SHAPIRO: If they're able to do that,  
12 one or the other, I'm happy to hear the applicant's take as  
13 to whether or not they are that far off. Maybe we need the  
14 ANC to do the same, or maybe one of my colleagues has a  
15 better understanding and I'm just off base about this. I'm  
16 certainly happy to entertain that consideration, as well.

17 CHAIRMAN HOOD: I certainly would not recommend  
18 us speaking for the ANC. I do know that applicant is here,  
19 and we can just take the ANC's letter. I saw -- hold on a  
20 second. I did see the chairman here earlier, I thought.  
21 Hold on a second.

22 (Simultaneous speaking.)

23 CHAIRMAN HOOD: The chairman of 8A was here,  
24 because he was sitting right here. I've been counseled by  
25 Counsel, Commissioner Shapiro, that maybe this is something

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1 we may want to -- we're opening the record, but something we  
2 may want to get a submission in writing to clarify, from both  
3 the applicant, as well as ANC-8A, so we give both sides a  
4 chance to give us clarification on this issue. Let me see.  
5 Is that okay?

6 COMMISSIONER SHAPIRO: It's okay. It may be --  
7 if there is a simple answer from the applicant that satisfies  
8 my sense of what the comparison is, then it may not be  
9 necessary to go farther down the road. I just may be  
10 misunderstanding. I appreciate Counsel's advice, and if it  
11 becomes more than a simple question, then it probably does  
12 make sense to get it in writing from both sides.

13 CHAIRMAN HOOD: I don't want us to hear from one  
14 side, and not the other. I have a problem with that  
15 personally.

16 VICE CHAIR MILLER: Commissioner Shapiro, I think  
17 Exhibit 56, by the applicant, addresses the -- I find it  
18 persuasive, in terms of addressing the dollar value of the  
19 public benefits and amenities that they already proffered.  
20 They say, on the second paragraph, the applicant has already  
21 proffered extensive public benefits and amenities, with a  
22 total value of approximately \$19,683,000, including  
23 approximately \$6.4 million in inclusionary zoning benefits,  
24 approximately \$5 million in road and traffic improvements,  
25 approximately \$75,000 in workforce training, approximately

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1 \$125,000 for historic and archaeological preservation, which  
2 includes support for the Historic Anacostia Preservation  
3 Society. I found that persuasive, personally, myself.

4 CHAIRMAN HOOD: Okay. Commissioner Shapiro.

5 COMMISSIONER SHAPIRO: Thank you, Mr. Chairman.  
6 Thank you, Vice Chair Miller. My concern is of the letter  
7 from the applicant, on the second-to-last page, well the  
8 first page, Page 1, the second-to-last paragraph, that last  
9 sentence, where they're talking about they're not in a  
10 position to make an additional \$5 million funding  
11 contribution.

12 While I agree with you, Vice Chair Miller, that  
13 I'm looking at all the same numbers about what they are  
14 including, what I got confused about is how they're  
15 interpreting that as an additional -- what the ANC's requests  
16 are as an additional \$5 million. That was the piece --  
17 that's why it may just be a simple question of me not  
18 understanding what they mean by an additional \$5 million.

19 CHAIRMAN HOOD: I think what the ANC is equating  
20 this to is the percentage saying the project is worth over  
21 \$500 million, and they're looking at the percentage which  
22 they believe. That's why I think we need some clarification,  
23 or maybe the ANC needs to be clarified on what's going on.  
24 I'm sorry Commissioner Presswood left because I would have  
25 liked to -- we could have dealt with this right now.

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1 Commissioner Shapiro.

2           COMMISSIONER SHAPIRO: Thank you, Mr. Chair. If  
3 that's the point is that this is just simply referring to the  
4 ANC's request to have 1 percent, and that 1 percent, that \$5  
5 million, comes from 1 percent of the \$500 million, then I  
6 understand what it's saying, and I have no further questions,  
7 and I am comfortable.

8           CHAIRMAN HOOD: Let me just say this, since I said  
9 that. Please don't take what I said as -- that's the way I'm  
10 understanding it, but I don't really know what the rationale  
11 is.

12           COMMISSIONER SHAPIRO: I believe that's where Vice  
13 Chair Miller is, too. Again, I'm not asking for,  
14 necessarily, a whole lot of detail around the interpretation.  
15 Even that explanation helps me to understand where the  
16 applicant is coming from. Hearing that, it feels like this  
17 makes sense to me.

18           MR. BERGSTEIN: I don't have a problem if you want  
19 to pose the question, as you just put it. You have an  
20 assumption where that money is coming from, about how he  
21 calculated that. He can confirm or deny your assumption.

22           COMMISSIONER SHAPIRO: Mr. Chair, if I may, if I  
23 can ask the applicant where that \$5 million number is coming  
24 from?

25           COMMISSIONER MAY: That's coming from the ANCs.

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1 It's not coming from the applicant. Maybe the applicant can  
2 enlighten us.

3 COMMISSIONER SHAPIRO: Right, but I'm not sure --  
4 the fact that I didn't understand it may not be enough reason  
5 to bring the ANC back to explain something that now makes  
6 sense to me. I'm comfortable --

7 COMMISSIONER MAY: I'm not sure how it makes  
8 sense.

9 COMMISSIONER SHAPIRO: Because they're asking for  
10 1 percent of \$500 million.

11 COMMISSIONER MAY: That's the rationale that they  
12 used.

13 COMMISSIONER SHAPIRO: Right. I'm sorry. Yes,  
14 that rationale makes sense.

15 COMMISSIONER MAY: You understand what their  
16 rationale was, not that, necessarily, the request makes  
17 sense.

18 COMMISSIONER SHAPIRO: Exactly. I actually don't  
19 think the request makes sense. I think the rationale for it,  
20 I understand what the rationale is.

21 COMMISSIONER MAY: The applicant's response was  
22 to give -- was to offer \$50,000, instead of \$5 million, for  
23 the same purpose.

24 COMMISSIONER SHAPIRO: Yes, but my interpretation  
25 of that is that's \$50,000, in addition to many millions of

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1 benefits that are already --

2           COMMISSIONER MAY:        Sure, which are wildly  
3 overstated, I would add. I think that the accounting for the  
4 proffered benefits of the project is -- there are a lot of  
5 round numbers on there and approximations that I don't feel  
6 are fully justified. That's not to say that there are not  
7 substantial benefits associated with the project. Whenever  
8 you try to put dollar values on some of these things, it --

9           COMMISSIONER SHAPIRO: I would agree with that,  
10 yes.

11           COMMISSIONER MAY:    -- it can get very -- the  
12 numbers can get very squishy. I would also say that it is  
13 -- I do not recall ever hearing a PUD where the overall value  
14 of the project was the basis for calculating some sort of  
15 payment to local neighborhood groups, nor have I ever been  
16 involved in a case where millions of dollars were paid to  
17 community groups, as a result of a planned unit development,  
18 but maybe I'm wrong. Maybe, Mr. Chairman, you know -- you've  
19 been on a few more cases than I have. Maybe you recall  
20 something that's similar to this request.

21           CHAIRMAN HOOD:    With discussion we had and what  
22 I read, I'm thoroughly confused, but I think you're exactly  
23 right, Commissioner May. I believe some of this is  
24 overstated. I just really don't understand what the ANC is  
25 -- I'm not sure. I don't want to interpret -- here's what

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1 I don't want to do. I don't want to speak for the ANC, and  
2 I don't want to hear from the applicant without giving the  
3 ANC an opportunity. We've got to balance this thing. That's  
4 where I am.

5 COMMISSIONER MAY: I would agree with that, Mr.  
6 Chairman. Are you saying that we need to hold off on  
7 decision making until we get clarification, or are you  
8 talking about something before we take final action?

9 CHAIRMAN HOOD: We probably can do something  
10 before we take final. I can tell you this. For me, as we  
11 all know, we have to balance what's asked for with what --  
12 we can probably get clarification on what the applicant's  
13 saying, and also clarification on what the ANC is saying  
14 because I don't understand any of it. I just read it. I  
15 also see, as Vice Chair Miller mentioned -- I read the  
16 response to the applicant's -- I read both of them, but I  
17 just wasn't sure.

18 I wanted to make sure the ANC was exactly clear  
19 what they were actually conveying to us. I don't think they  
20 were. I'm not sure. Commissioner Shapiro brought that up.  
21 I probably wouldn't have brought that up until final, until  
22 I asked for this. How do you want to proceed?

23 COMMISSIONER SHAPIRO: I'm happy to proceed, Mr.  
24 Chair.

25 CHAIRMAN HOOD: What we'll do, Mr. Bergstein,

1 instead of hearing from you -- because I don't want to make  
2 it look like we're just hearing from the applicant, and not  
3 hearing from the ANC -- we will pose that -- we will see how  
4 this moves, and we will propose something at final, if that's  
5 in order, Mr. Bergstein.

6 MR. BERGSTEIN: Fine. Also, just to remind you,  
7 we're going to go through a final proffer process between  
8 proposed and final, so by final action, you're going to have  
9 a refined set of conditions, which might clarify exactly what  
10 the benefits are that are being offered for this project, but  
11 that can't happen until you take proposed.

12 CHAIRMAN HOOD: Okay, thank you, that's good.  
13 That gives me a comfort level we can move forward.  
14 Commissioner May.

15 COMMISSIONER MAY: We normally wouldn't get a  
16 calculation of a value in that final proffer process, right?

17 MR. BERGSTEIN: That is correct, right.

18 COMMISSIONER MAY: Since they have submitted  
19 information that includes a valuation, and since the value  
20 of the benefits associated with the project have become an  
21 issue for the ANC, I think it would be helpful to have that  
22 updated. I think a little bit more information on the  
23 calculation of those benefits would be helpful in that  
24 regard. Again, I do think that they are substantial. I just  
25 don't see a need to throw wild number at it.

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1           Of course, when it comes to some of the proffered  
2 benefits of the project, they really should be seen in  
3 comparison to what would be done as a matter of right, as  
4 opposed to what's associated with this project. That was not  
5 clear to me, the extent to which any of these things are  
6 differentiated from what would be done as a matter of right  
7 or what would be required for a matter of right development,  
8 like IZ proffered versus IZ as it would be required  
9 otherwise. Having some revised calculation of that would be  
10 helpful.

11           CHAIRMAN HOOD: I think at the beginning of this,  
12 I think the ANC supported this, as well. I didn't see  
13 anything rescinding that, other than the other letter with  
14 the \$5 million, some of the things, I guess, they're asking  
15 for, whatever the case is. I feel comfortable in at least  
16 moving forward proposed and, as we were already discussing,  
17 getting some clarification before final. Any other comments,  
18 anything other than the amenities in this first stage?  
19 Anything else?

20           COMMISSIONER SHAPIRO: I'd like to say thank you  
21 for the solar panels.

22           CHAIRMAN HOOD: Somebody like to make a motion?

23           VICE CHAIR MILLER: Mr. Chairman?

24           CHAIRMAN HOOD: Vice Chair.

25           VICE CHAIR MILLER: I would move that the Zoning

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1 Commission take proposed action on Case No. 16-29, Poplar  
2 Point RBBR, LLC, first stage PUD and related map amendment  
3 at Square 5860 and 5861, and ask for a second.

4 COMMISSIONER TURNBULL: Second.

5 CHAIRMAN HOOD: It's been moved and properly  
6 second. Any further discussion?

7 (No audible response.)

8 CHAIRMAN HOOD: All those in favor?

9 (Chorus of ayes.)

10 CHAIRMAN HOOD: Any opposition?

11 (No audible response.)

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

14 MS. SCHELLIN: Yes, staff records the vote 5-0-0  
15 to approve proposed action in Zoning Commission Case No.  
16 16-29, Commissioner Miller moving, Commissioner Turnbull  
17 seconding, Commissioners Hood, May and Shapiro in support.

18 COMMISSIONER MAY: Just to be clear, Mr. Chairman,  
19 what you're asking the applicant and the ANC to do, do you  
20 see a need for them to actually meet and discuss this  
21 further?

22 CHAIRMAN HOOD: No, I don't think they need to  
23 have a meeting.

24 COMMISSIONER MAY: I'm just asking.

25 CHAIRMAN HOOD: I think Chairman Cuthbert and

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1 Presswood can just clarify.

2 COMMISSIONER MAY: They need to clarify.

3 CHAIRMAN HOOD: Right.

4 COMMISSIONER MAY: The applicant will give us an  
5 explanation of the proffered benefits of the project.

6 CHAIRMAN HOOD: Exactly. I think that can be done  
7 without an extensive --

8 MR. RITTING: Just to be clear, that submission  
9 will come in the usual proffer and conditions process from  
10 the applicant. You're not asking for any additional  
11 submissions, other than that in the additional information  
12 that Mr. May requested with the chart.

13 CHAIRMAN HOOD: Is that shared with the ANC,  
14 though?

15 MR. RITTING: Yes, at the last bite of the apple  
16 of that process, the ANC has an opportunity to comment, yes.

17 CHAIRMAN HOOD: I think that can be dissolved and  
18 dealt with at that point, as long as they have it before we  
19 get ready to make our final decision.

20 MR. RITTING: Okay, thank you.

21 CHAIRMAN HOOD: We'll follow normal process, thank  
22 you. I think we're straight on that. CHAIRMAN HOOD:

23 Let's go to our next case, Zoning Commission Case No. 17-12,  
24 Forest City Southeast Federal Center, LLC, tax and zoning map  
25 amendments at Square SEFC-1 zone.

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1 MS. SCHELLIN: Yes, sir, on this case, we have  
2 Exhibits 29 through 29B, the applicant's post-hearing  
3 submissions. Exhibit 30 is a letter from Captain Drager, and  
4 we'd ask the Commission consider proposed action on this  
5 case, also.

6 CHAIRMAN HOOD: I see the captain has now  
7 concurred with us moving forward. I know that was a major  
8 concern. He actually showed for the hearing. Other than  
9 that, I think it's pretty straightforward, but let me see if  
10 anybody has anything else.

11 COMMISSIONER SHAPIRO: I have no other issues.  
12 I just appreciate the interaction and the ability to reach  
13 an agreement on this issue.

14 CHAIRMAN HOOD: All right, won't belabor. Anybody  
15 like to make a motion?

16 COMMISSIONER SHAPIRO: Happy to make a motion, Mr.  
17 Chair. I move that we take proposed action on Zoning  
18 Commission Case No. 17-12, Forest City SEFC LLC, tax and  
19 zoning map amendments at SEFC-1 zone. Look for a second.

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

22 (No audible response.)

23 CHAIRMAN HOOD: All those in favor?

24 (Chorus of ayes.)

25 CHAIRMAN HOOD: Any opposition?

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1 (No audible response.)

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

4 MS. SCHELLIN: Staff records the vote 5-0-0 to  
5 approve proposed action, Zoning Commission Case No. 17-12,  
6 Commissioner Shapiro moving, Commissioner Hood seconding,  
7 Commissioners May, Miller and Turnbull in support.

8 CHAIRMAN HOOD: Next, Zoning Commission Case No.  
9 17-09, FP Eckington Holdings, LLC consolidated PUD and  
10 related map amendment at Square 3581. Ms. Schellin.

11 MS. SCHELLIN: Exhibits 41 through 42A, we have  
12 the applicant's post-hearing submissions. Exhibit 43, OP  
13 supplemental report. Exhibits 44 through 44A, ANC-5E report.  
14 Exhibit 45, a revised CBA. Would ask the Commission to  
15 consider a proposed action on this case.

16 CHAIRMAN HOOD: Okay, Commissioners, any  
17 outstanding issue?

18 COMMISSIONER MAY: Mr. Chairman, I just want to  
19 say that once again, I have reviewed the record on this and  
20 plan to participate in the decision making.

21 CHAIRMAN HOOD: Okay, thank you, Commissioner May.

22 COMMISSIONER SHAPIRO: Mr. Chair, I don't remember  
23 if I said the same thing, but I say the same thing on this  
24 one, too, just in case my memory lapsed.

25 CHAIRMAN HOOD: Okay. Did the vice chair say

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1 anything bad about anybody? When you watch those hearing  
2 sometimes --

3 COMMISSIONER MAY: I don't know. I thought that  
4 you were in charge of that kind of thing.

5 CHAIRMAN HOOD: Oh, okay.

6 COMMISSIONER MAY: It seems snide, but I wasn't  
7 sure.

8 CHAIRMAN HOOD: Actually, we just do that to give  
9 you some amusement while you're watching this. I know you're  
10 going to watch it; that's why I do it.

11 COMMISSIONER MAY: We appreciate that.

12 CHAIRMAN HOOD: Okay. I think it's been done to  
13 me a few times, as well. Okay. Anyway, let's -- any merits,  
14 anything on this case?

15 COMMISSIONER TURNBULL: I only had one thing on  
16 the proposed findings of facts, same thing I mentioned on a  
17 couple of other cases. There was some issues with the  
18 architectural language of materials and colors. We need to  
19 -- you can change colors, but not materials.

20 COMMISSIONER SHAPIRO: Mr. Chair, one other issue.  
21 If we are to take proposed action related to the community  
22 benefits agreement, it will be helpful to say that the  
23 applicant has confirmed that the community benefit conditions  
24 agreed to will be submitted as part of the final proffer  
25 process.

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1 CHAIRMAN HOOD: Okay. Also, we do have a letter  
2 of support, 8-1. That's from Chairman Bradley Thomas, as  
3 noted. Anything else on this?

4 (No audible response.)

5 CHAIRMAN HOOD: I would move approval of Zoning  
6 Commission Case No. 17-09, FP Eckington Holdings, LLC,  
7 consolidated PUD and related map amendment at Square 3581,  
8 with the comments said by Commissioner Shapiro, and I ask for  
9 a second.

10 VICE CHAIR MILLER: Second.

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

13 (No audible response.)

14 CHAIRMAN HOOD: All in favor?

15 (Chorus of ayes.)

16 CHAIRMAN HOOD: Any opposition? No opposition.  
17 Ms. Schellin, would you record the vote?

18 MS. SCHELLIN: Staff records the vote 5-0-0 to  
19 approve proposed action, Zoning Commission Case No. 17-09,  
20 Commissioner Hood moving, Commissioner Miller seconding,  
21 Commissioners May, Shapiro and Turnbull in support.

22 CHAIRMAN HOOD: Next, let's go to hearing action,  
23 Zoning Commission Case No. 17-26, MIRV Holdings, LLC, map  
24 amendment at Parcel 121/31. Ms. Thomas.

25 MS. THOMAS: Yes, good evening, Mr. Chair, Members

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1 of the Commission. The Office of Planning is recommending  
2 set down of MIRV Holdings, LLC's application for a map  
3 amendment to zone the parking lot at the corner of Irving  
4 Street and Michigan Avenue, from its unzoned status to the  
5 MU-5B zone.

6 The proposed zone is consistent with the future  
7 land use map's designation as medium-density residential and  
8 moderate-density commercial, as well as the guiding  
9 principles and framework elements, as outlined in our report.

10 I would basically stand on the record of our  
11 report, at this point, and note that the applicant has  
12 maintained dialogue with the community. OP is satisfied that  
13 the request is not inconsistent with the comp plan. As such,  
14 we would set this down for a public hearing. Thank you.

15 CHAIRMAN HOOD: Thank you, Ms. Thomas.  
16 Colleagues, any questions? Commissioner May.

17 COMMISSIONER MAY: Yes, what happened? This is  
18 a PUD, and now it's not a PUD. We had extensions and  
19 changes. I know it's been a tortured history, but why is it  
20 now appropriate that this be considered as a map amendment,  
21 and not a PUD?

22 MS. THOMAS: I think at this point, the  
23 consolidated PUD order has expired. The only thing remains  
24 that's viable right now is the first stage part. The  
25 development plan changed a bit, and now they reconsidered the

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1 design for the site somewhat. They would push the  
2 residential forward with ground-floor retail and push the  
3 hotel uses to the back portion of the site.

4 I think, also, with the bit of complications that  
5 they had with respect to the site, with respect to the  
6 federal issue that they had, or they still have, or they're  
7 having, and the underground pipe, it's held them back a bit  
8 to resolve some of these issues.

9 I think that they want to get a move on, and I  
10 think a map amendment at this time would work for them. They  
11 realize that they didn't need the PUD height anymore, so  
12 they're going a bit lower, at 75 feet. I think the MU-5B  
13 would be sufficient.

14 COMMISSIONER MAY: Okay. It's a very odd  
15 circumstance that we would have a property that had been an  
16 approved PUD and had been kept on life support for a long  
17 time, to now just come back as a map amendment. Is this  
18 actually going to be useful to them, in terms of resolving  
19 outstanding issues with the GSA? I know they had  
20 complications there with the disposition of the property.

21 MS. THOMAS: I believe that's working itself out.  
22 I hope it helps. I can't be sure about that.

23 COMMISSIONER MAY: I don't know what else to say.  
24 I'm still just scratching my head about the whole thing, but  
25 I guess I don't see any reason not to set it down,

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1 particularly if we're talking about something that's  
2 theoretically less massive because it's shorter, not as tall.  
3 Still, it's a headscratcher. Thanks.

4 CHAIRMAN HOOD: Okay, anything else? I would  
5 agree with the comments of Commissioner May. I was excited  
6 when this first came to us some years ago. It seems like it  
7 keeps coming back, but I understand other factors come into  
8 play. Anything else on this? Somebody like to make a  
9 motion?

10 COMMISSIONER SHAPIRO: Mr. Chair, I move that we  
11 set down Zoning Commission Case No. 17-26, MIRV Holdings,  
12 LLC, map amendment at Parcel 121/31, look for a second.

13 CHAIRMAN HOOD: I'll second it. It's been moved  
14 and properly seconded. Any further discussion?

15 (No audible response.)

16 CHAIRMAN HOOD: All those in favor?

17 (Chorus of ayes.)

18 CHAIRMAN HOOD: Any opposition?

19 (No audible response.)

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

22 MS. SCHELLIN: Staff records the vote 5-0-0 to set  
23 down Zoning Commission Case No. 17-26 as a contested case,  
24 Commissioner Shapiro moving, Commissioner Hood seconding,  
25 Commissioners May, Miller and Turnbull in support.

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1 CHAIRMAN HOOD: Next, Zoning Commission Case No.  
2 17-21, As You Like It, LLC, consolidated PUD and related map  
3 amendment at Square 498. Mr. Cochran.

4 MR. COCHRAN: Thank you, Mr. Chair. OP recommends  
5 the Commission set down this application for the consolidated  
6 PUD, with the related map amendment from R-3 to MU-4. The  
7 site is at the northeast corner of 6th and I Street  
8 Southwest. Its current zoning permits institutional use or  
9 residential row houses. The development team would construct  
10 a two-building mixed-use residential, office, cultural use  
11 project.

12 The building nearest the corner would have four  
13 stories in roughly 49 feet, plus a penthouse with habitable  
14 space. It would contain market-rate dwelling units, the  
15 required number of IZ units, some residential space for  
16 Shakespeare actors or fellows, theater offices on part of the  
17 ground floor, and below grade space for theater support  
18 facilities and parking.

19 An annex building in the dog leg at the northeast  
20 corner of the site would have five stories in 50 feet and  
21 contain additional residential units for theater actors and  
22 fellows. Its penthouse would not be occupied. The applicant  
23 is requesting zoning relief for the PUD-related map  
24 amendment, partial relief for the width of the main building  
25 side yard, and complete relief for the annex's rear yard.

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1 The proposed project's benefits and amenities are summarized  
2 in our report on Pages 13 to 17. Over the last three years,  
3 the Applicant's proposal for developing this site has  
4 generated considerable controversy. In 2016, a taller,  
5 denser PUD proposal was filed and withdrawn, in part because  
6 of inconsistencies with the comprehensive plan.

7           The project now proposed, however, would not be  
8 inconsistent with the comprehensive plan. The future land  
9 use map shows the entire site as being appropriate for  
10 institutional use. The policy map shows about 80 percent of  
11 the site is institutional and 20 percent, in the dog leg to  
12 the northeast, is a neighborhood conservation area.

13           The institutional use that had been on the site  
14 no longer exists, and the applicant is not proposing an  
15 institutional use. The comp plan's framework element says  
16 that if a site labeled for institutional use is redeveloped  
17 with a non-institutional use, the new use should be  
18 comparable in density or intensity to those in the vicinity.  
19 This project would have an FAR of 2.88. It would be no  
20 taller than 50 feet, and it would be 89 percent residential.  
21 A PUD-related map amendment to MU-4 that would enable this  
22 would not be inconsistent with a moderate density land use  
23 designation that prevails in adjacent areas, nor would it be  
24 inconsistent with the neighborhood conservation policy in an  
25 area where there's a 100-foot-tall apartment building across

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1 the street, other high rises nearby, and a Metro stop three  
2 blocks away.

3           The project could also help achieve goals in the  
4 council adopted southwest neighborhood small area plan, goals  
5 such as strengthen I Street as a cultural corridor and grow  
6 the presence of the arts throughout the southwest  
7 neighborhood. The proposed PUD could actually provide a  
8 permanent cultural use to anchor the corridor's western end.

9           In the context of the current comp plan amendment  
10 process, there's a proposed amendment, which was noted in  
11 OP's report, to change the site's land use designation to  
12 medium density mixed use, as well as a proposed amendment  
13 that was not noted in OP's report, to retain the site's  
14 current R-3 zoning. If the application is set down, there  
15 would be several pre-hearing issues that the applicant would  
16 need to work on with OP, the ANC, other community groups, and  
17 other district agencies. These are listed on Page 18 of our  
18 report, and include the compatibility of the design with the  
19 neighborhood context and mitigation of possible impacts from  
20 loading and some of the requested dimensional relief and the  
21 adequacy and feasibility of some of the proposed proffers.

22           The ANC and members of the community have  
23 expressed concern about this proposal, but our analysis  
24 indicates that this application, unlike the 2016 application,  
25 meets the zoning regulations requirements for set down and

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1 warrants discussion in the public forum that a Zoning  
2 Commission hearing would provide. That concludes OP's  
3 testimony. I'm available for questions.

4 CHAIRMAN HOOD: Okay, thank you, Mr. Cochran. I  
5 want to open it up, but I can tell you I'm very disturbed by  
6 the set down report that we have instituted from the ANC.  
7 I think they bring up some valid points. For me, it's a  
8 heavy lift because I'm -- as far as setting this down, is  
9 this the proper forum to have it? I think they mention that.  
10 I understand what your analysis is, but anyway, from the  
11 materials I'm reading, I don't want us to get into something,  
12 and then we have to figure out how to get out of it. Anyway,  
13 let me open it up to my other colleagues. Commissioner  
14 Shapiro.

15 COMMISSIONER SHAPIRO: Thank you, Mr. Chair. I  
16 share your concerns. I think this is ready for set down, but  
17 I would certainly consider the ANC's concerns in their  
18 set-down report a shot across the bow. While I would like  
19 to see this set down, I'm looking forward to the hearing and  
20 the discussion related to these issues. Thank you, Mr.  
21 Chair.

22 CHAIRMAN HOOD: Vice Chair Miller.

23 VICE CHAIR MILLER: Thank you, Mr. Chairman. I'm  
24 prepared to support setting this down for a public hearing.  
25 I appreciate all of the information provided in the Office

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1 of Planning set down report. It identifies, specifically,  
2 the areas that need to be worked on by the applicant,  
3 including the whole rear yard issue, how that annex building  
4 is so close to the apartment building behind it, and the  
5 design and massing issues. You even made suggestions of the  
6 type of materials that they should consider having, instead  
7 of the materials and design that the latest design has, to  
8 make it more compatible with the neighborhood. I think those  
9 issues can be worked on between now and the time of set down.

10           If they're not, then we're not going to get a  
11 favorable report from Office of Planning, at least. We know  
12 we'll still continue to have opposition from the community.  
13 I think there have been a lot of changes, the reduction in  
14 height and FAR, since the original proposal. I assume there  
15 will be additional changes. Hopefully, that will alleviate  
16 some of the outstanding concerns that exist with this  
17 project.

18           I think the overall project has a lot of positive  
19 things going for it, in terms of the Shakespeare Theater use  
20 of the site and the live/work space for the actors and all  
21 the free tickets to Shakespeare events to neighborhood  
22 students and teachers. I think that there are some positive  
23 aspects, and they can be built upon, hopefully, and enhanced,  
24 by the time we get to a set down hearing, if we get to a set  
25 down hearing.

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1 CHAIRMAN HOOD: Okay, anyone else? Commissioner  
2 Turnbull.

3 COMMISSIONER TURNBULL: Thanks, Mr. Chair. I  
4 guess what's surprising is that ANC-6D is a fairly  
5 progressive, engaged, and responsible ANC. They take great  
6 strides, and Chair Litsky is usually very much involved in  
7 all of these things. I think when you get a request from the  
8 ANC telling us not to set it down, you begin to wonder if the  
9 engagement by Shakespeare people has really come to fore.

10 It sounds like they're asking us to meet more,  
11 that they need to be more involved with the community.  
12 Again, I am torn as to whether to set it down or not. Again,  
13 as the vice chair has mentioned, the Shakespeare Theater  
14 Company's a very engaged group, also. I'm not sure what's  
15 happened or what hasn't happened, but I'm just kind of  
16 surprised that ANC-6D is so opposed to setting it down. It's  
17 troubling.

18 CHAIRMAN HOOD: Okay, Commissioner May.

19 COMMISSIONER MAY: I'm kind of in the same  
20 position as the rest of the Commission. I'm not sure what  
21 to make of this. When you look at the project overall, it's  
22 not really out of scale with anything else that's happening  
23 around it. This part of Southwest is interesting because you  
24 have this mixture of low-rise development townhouses along  
25 with very tall apartment buildings that are set back

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1 substantially within their blocks.

2 I also know that this has been something that's  
3 been developing for quite a while, and it has been  
4 controversial from the beginning. This is my regular  
5 commuting route. I go past it every day. There's still a  
6 lot of yard signs out there. Until now, I didn't really know  
7 specifically what they were complaining about, but now I have  
8 a better picture.

9 I think that Mr. Turnbull hit the nail on the  
10 head. This is not an ANC that's hard to deal with. I think  
11 they understand development very well, and they are quite  
12 experienced and know how to make a good deal for the  
13 community. That doesn't mean they're necessarily going to  
14 get unanimous support from everybody in the neighborhood, but  
15 when they feel so strongly about this that they don't even  
16 want us to set it down, that's a pretty strong message, so  
17 it's very concerning to me. Let's put it this way. If we  
18 were to not set this down today, perhaps it would actually  
19 be a benefit to the project, in terms of moving it along more  
20 quickly than if we set it down.

21 If we set it down and we proceed forward, there's  
22 an assumption that what needs to be done can all be managed  
23 in the hearing process or something like that. Whereas, if  
24 we don't set it down today, maybe the applicant and the ANC  
25 can work together a little bit more. The Office of Planning

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1 can have their questions answered, and then we can -- by the  
2 time we actually do get to set it down, there'll be more  
3 support for it.

4           Otherwise, I would hate to go into the hearing  
5 with the ANC in total opposition to the project, again,  
6 understanding who this ANC is and how they work with the  
7 developers that are making improvements in the neighborhood.  
8 How's that for being all over the place?

9           CHAIRMAN HOOD: I think we've been here before,  
10 Commissioner May, as you recall, where sometimes we get a  
11 better response when we don't set it down. We get more  
12 action. We get things moving. Then sometimes, when we send  
13 a clear signal that before -- if we set it down and we send  
14 a clear signal where we are, we're going to be disappointed  
15 if it comes back to us the same way. I've seen it work both  
16 sides of the coin.

17           In this case, as you mentioned, this ANC is  
18 engaged. A lot of ANCs across the city are engaged; I'm not  
19 going to say just this one. But we know the magnitude of the  
20 development they have been having to deal with in that area,  
21 as volunteers. We also see -- as you mentioned, you ride  
22 your bike past there, or drive your car, whichever one you're  
23 using.

24           COMMISSIONER MAY: No, I ride my bike. If I go  
25 by car, I go a different way.

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1           CHAIRMAN HOOD: I'm just concerned about us  
2 setting this down, and then we have a hearing and we actually  
3 end up in the same place we are now, and we actually go  
4 nowhere. I think not setting it down might be the better way  
5 to go. I don't know. I'm going to leave it up to my  
6 colleagues. Commissioner Shapiro.

7           COMMISSIONER SHAPIRO: Thank you, Mr. Chair. I'm  
8 thinking not just of this case. I'm thinking of -- maybe  
9 this is appropriate or not, but I'm thinking about the  
10 message that we send. Part of the problem is if it weren't  
11 for the ANC letter, where I agree with all of my colleagues  
12 around the integrity of this ANC and the strength that they  
13 usually bring to these projects, but on the substance of it  
14 in this letter, related to this project, I don't quite get  
15 -- I can read between the lines a bit, but I don't quite get,  
16 on the merits, why they're opposing set down.

17           When I'm looking at what's before me, this feels  
18 like there's enough substance to move forward with a hearing.  
19 Is simply the fact that the history of the ANC, is that  
20 enough reason not to set this down?

21           CHAIRMAN HOOD: I'm going back on history. I will  
22 admit that Commissioner May taught me one thing since I've  
23 been here. One of the times we had another case in this  
24 situation, where we had a lot of things that the Office of  
25 Planning was still looking for. I remember the vote was 4-1.

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1 Commissioner May was the only one who voted against that  
2 particular project being set down. Got to the hearing, and  
3 we didn't go with that hearing when we got there because it  
4 wasn't flavored right, and it wasn't ready. It was what the  
5 Office of Planning was asking for. We're not just singling  
6 out with the ANC, and then Office of Planning may feel  
7 confident that they can get it before the hearing, but  
8 sometimes that does not work, as well.

9 I just particularly remember that case. Office  
10 of Planning had all these issues. We just knew we would get  
11 it worked out. Commissioner May was the only one. That's  
12 why I'm really kind of looking at him because he was right  
13 that time. Maybe he'll be right again. I really don't know  
14 which way to go on this.

15 COMMISSIONER MAY: Mr. Chairman, can I make a  
16 suggestion?

17 CHAIRMAN HOOD: yes.

18 COMMISSIONER MAY: I am really not enthusiastic  
19 about the prospect of voting against set down at this moment.  
20 What I might suggest, instead, is that we defer this  
21 consideration and ask the applicant and the ANC and the  
22 Office of Planning to give this just a little bit more  
23 thought and give us a little bit more information. It may  
24 take a month to do it. I wouldn't want to put it off  
25 indefinitely, but I think that if we could take it up again

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1 on -- the 12th might be too soon, but I think as soon as the  
2 applicant and the ANC -- I think we probably need to put it  
3 off until the March -- no, to February 26th, which is four  
4 weeks.

5 CHAIRMAN HOOD: Okay. We have a proposal --

6 COMMISSIONER MAY: Certainly, if the applicant  
7 wants more time because they're making progress, that's fine,  
8 but I would say we put it off for at least four weeks.

9 CHAIRMAN HOOD: And we reconsider it at that time.

10 COMMISSIONER MAY: Yes. I'd rather do that than  
11 have a vote and have to choose to vote for or against at this  
12 moment.

13 CHAIRMAN HOOD: Right, okay. Vice chairman.

14 VICE CHAIR MILLER: I don't support that  
15 direction, but I see where most of my colleagues are. I  
16 really think that the case that you cited, we didn't have the  
17 hearing because there were too many concerns. That would be  
18 the case here. Office of Planning would have a report that  
19 says they haven't had all these outstanding issues, which  
20 they have very specific suggestions of how to improve it from  
21 their perspective.

22 I think there's a certain momentum that occurs  
23 from a set down in scheduling, from setting down a case for  
24 a hearing, that makes the parties all try to work together  
25 to resolve these outstanding issues, but that's just where

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1 I am, and I'm just one vote.

2 CHAIRMAN HOOD: Okay. Mr. Turnbull, you want to  
3 add anything?

4 COMMISSIONER TURNBULL: No, I think the Vice  
5 Chair's got some good points, but I think, also, I think, as  
6 you were troubled, I think we're all -- we want to see it go  
7 forward. We'd like to see the interaction.

8 I think maybe deferring it for four weeks might  
9 be -- if you totally stop it, it sort of is like this little  
10 knife in the foot. I don't want to do that. I don't want  
11 to make it appear that we're against this project in any  
12 sense. I think what we need is it needs to be a little bit,  
13 maybe, fleshed out a little bit more with the ANC. I think  
14 if we can get that conversation -- I would like to see a  
15 little bit more positive support from the ANC. I think, as  
16 we've mentioned, this is a very responsible ANC. There's a  
17 lot of development going on in this ANC. They work well with  
18 all of the designers, architects, and the developers, and  
19 they're tireless.

20 Again, as we've mentioned before, it's an unpaid  
21 position. They work hard; they do a great job. I think they  
22 deserve a little credence from us. If there's something not  
23 getting, I think I would, again, not totally say no, we're  
24 not going to vote for set down, but I would rather defer it  
25 and give everybody a chance to meet and talk about it.

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1 CHAIRMAN HOOD: Okay. I think that's -- deferring  
2 it until February the 26th. Any objections to that? I've  
3 heard everyone's concern.

4 VICE CHAIR MILLER: I think I've noted mine.

5 CHAIRMAN HOOD: We don't need to call for a vote.  
6 We know that Vice Chair Miller has objected to that, but I  
7 think we have four votes. Commissioner Shapiro, you want to  
8 do this again?

9 COMMISSIONER SHAPIRO: Yes, I do, because I  
10 actually think we should set it down, but I also -- I see  
11 where the Commission is. Again, my concern is I don't quite  
12 see the grounds for putting this off, beyond the ANC's  
13 concerns, but they didn't even detail their concerns in the  
14 letter. Enough said, and I'm happy to keep my mouth silent  
15 as we move forward and put this on for February 26th.

16 CHAIRMAN HOOD: Is there anyone else who may want  
17 to set it down? I see three in favor of not setting it.  
18 We're deferring. It's not that we're not setting it down.  
19 Don't walk away saying -- Commissioner May and Turnbull, we  
20 want to have some more work, hopefully the community, the  
21 ANC, and the applicant can help close the gap a little more.

22 Even if they close it some, then we will deal with  
23 whatever's been resolved, at that point, even with the Office  
24 of Planning, as well, and then we will deal with whether or  
25 not we're going to set it down in four weeks. Is that

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1 summarized correctly?

2 Ms. Schellin, do we need to give a date again?

3 MS. SCHELLIN: I think that we'll schedule it, and  
4 we'll just wait for some submissions from them when they can  
5 submit them. They have to be able to meet. I don't know  
6 when the ANC's meeting again. I think that the applicant and  
7 the ANC and OP can just work together to make that date  
8 happen.

9 CHAIRMAN HOOD: Okay. I think we're all on the  
10 same page. Any other questions on this? Commissioner May.

11 COMMISSIONER MAY: Yes, I just want to make one  
12 architectural comment, which is that the architect has  
13 designed a feature in this where there's a little bit of a  
14 top hat kind of thing in the one corner. Presumably, he's  
15 trying to think of that as a tower, dome, or spire, or  
16 whatever, an architectural embellishment.

17 It just doesn't work for me as an architectural  
18 embellishment. I think that it's got to be -- if you really  
19 want it to feel tower like, it should be smaller, not  
20 shorter, just not as broad. It smacks of some of the other  
21 things that this particular architect has tried before, where  
22 it's just sort of extensions of the façade, and it's just a  
23 way of making a part of the building taller. I don't think  
24 it adds anything. I'll just put in that little complaint,  
25 and I'm sure the architect would not be surprised to hear

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1 that from me. You can take it for what it's worth.

2 We'll see how it comes up when we actually  
3 consider it again. I'm not looking for any changes to that  
4 before it's set down. That's something that we absolutely  
5 could be dealing with as the design is further developed.

6 CHAIRMAN HOOD: Okay, anything else?

7 (No audible response.)

8 CHAIRMAN HOOD: Ms. Schellin, anything else from  
9 this case?

10 MS. SCHELLIN: No.

11 CHAIRMAN HOOD: Do we have anything else? Ms.  
12 Schellin, do we have any --

13 MS. SCHELLIN: No.

14 CHAIRMAN HOOD: I want to thank everyone for --  
15 Office of Planning, do you have anything?

16 MR. LAWSON: Sure. I was just going to note  
17 briefly, since I haven't said anything tonight -- been here  
18 a while -- that kind of like the way that we talked about  
19 during ZR-16, we mentioned to the Commission that we'd be  
20 doing an ongoing review of the regulations and how they're  
21 working.

22 Just wanted to update you that we're kind of  
23 continuing those discussions with DCRA. We're having regular  
24 meetings with DCRA to talk about how the regulations are  
25 working and what changes may be needed, as well as with OAG

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1 and the Office of Zoning.

2           We're going to be bringing forward -- you've  
3 already seen a couple of kind of technical things. We're  
4 going to be bringing forward some amendments to the zoning  
5 regulations, over time. We're going to try to package them,  
6 so that they're not coming at you on an ad hoc basis.

7           They'll be packaged as topics or particular  
8 chapters. We just wanted to let you know that we're doing  
9 that work, and it'll be coming to you as we work out what  
10 needs to be done with DCRA and OAG. That's it. Thanks.

11           CHAIRMAN HOOD: Mr. Lawson, may I ask a question?  
12 I would like for you all to look at -- I don't know; I might  
13 not have any support for this, but on pop back cases that we  
14 did on BZA, we go back ten feet, and everything beyond that  
15 is a special exception. I'd like for us to look at making  
16 -- seeing whether or not we can make the ten-foot rule, and  
17 then the special exception, maybe, to about -- I'm just  
18 throwing this out here.

19           I would ask for analysis -- about 18 feet, and  
20 anything beyond that a variance. If we can just look at  
21 that. I probably don't have any support up here, but at  
22 least I want to throw that out and the Office of Planning  
23 look at it.

24           MR. LAWSON: It is an issue that we're monitoring  
25 over time. We're monitoring all of the BZA cases and the

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1 discussion that's coming from them. That's absolutely  
2 something that we'd be happy to take a look at.

3 CHAIRMAN HOOD: Sounds good. Thank you very much.  
4 Anything else?

5 (No audible response.)

6 CHAIRMAN HOOD: With that, I want to thank  
7 everyone for their participation. This meeting's adjourned.

8 (Whereupon, the above-entitled matter went off the  
9 record at 8:32 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: DC ZC

Date: 01-29-18

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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