

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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REGULAR MEETING

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MONDAY
MARCH 12, 2018

The Regular Meeting of the District of Columbia Zoning Commission convened in the Jerrily R. Kress Memorial Hearing Room, Room 220 South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 5:50 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)

OFFICE OF ZONING STAFF PRESENT:

- SHARON S. SCHELLIN, Secretary

OFFICE OF PLANNING STAFF PRESENT:

- JENNIFER STEINGASSER, Deputy Director, Development Review & Historic Preservation
- JOEL LAWSON

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

- HILLARY LOVICK, ESQ.
- JACOB RITTING, ESQ.

The transcript constitutes the minutes from the Regular meeting held on March 12, 2018.

T-A-B-L-E O-F C-O-N-T-E-N-T-S

Vote to Close Meeting 3

Preliminary Matters None

Advanced Party Status None

Consent Calendar

 Case #11-08C 9
 MCREF Embassy, LLC
 PUD Modification of Consequence
 @ Square 2578

Further Deliberations None

Time Extensions None

Final Action

 Case #17-09 12
 FP Eckington Holdings, LLC
 Consolidated PUD & Related Map Amendment
 @ Square 3581

 Case #16-29 14
 Poplar Point RBBR, LLC
 1st Stage PUD & Related Map Amendment
 @ Square 5860 & 5861

Proposed Action None

Hearing Action None

Correspondence 7

Status Report from Office of Planning 16

Other Business None

Adjourn 33

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

5:52 p.m.

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CHAIRMAN HOOD: Good evening, ladies and gentleman.

This meeting will please come to order. This is a public meeting of the Zoning Commission for the District of Columbia.

My name is Anthony Hood, and joining me this evening are Vice Chair Miller and Commissioner Turnbull.

I will be providing further information about the public meeting if -- when and if we resume at 6:30.

At this point, commissioners, I would like to know whether any of you believe we should hold a closed meeting to obtain legal advice for our counsel and deliberate, but not vote on, the contested cases scheduled for tonight's hearing.

Let me open it up for discussion.

VICE CHAIR MILLER: Mr. Chairman, I know this is a new way of doing this, that -- well, we've done it once or twice before. And I know that's the standard language that's -- that is lawfully what we can do.

But I just wanted to put on the record that we don't deliberate in those. We get legal advice, but we don't deliberate on -- or we haven't in the past, and I just didn't want the public to think that we are deliberating in that.

We're getting advice from our legal counsel. We

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1 can, apparently, under the law ---

2 CHAIRMAN HOOD: Right ---

3 VICE CHAIR MILLER: But on contested cases.

4 CHAIRMAN HOOD: Right.

5 VICE CHAIR MILLER: But we don't. We haven't.

6 CHAIRMAN HOOD: Right. Thank for that correction.

7 So, I misspoke. And I remember mentioning about this before.

8 I would like to know whether any of you believe,
9 or we should hold a closed meeting to obtain legal advice
10 from our counsel -- and not to deliberate, but not, and also
11 not to vote on the contested cases scheduled for tonight's
12 hearing.

13 Mr. Turnbull?

14 COMMISSIONER TURNBULL: Mr. Chair, I would be in
15 favor of getting legal advice from our counsel.

16 CHAIRMAN HOOD: Okay.

17 COMMISSIONER TURNBULL: In the meeting.

18 CHAIRMAN HOOD: Okay, for this evening's docket.

19 Okay. So with that, any other discussion?

20 I would move that we close this meeting, and
21 resume at our time of 6:30 p.m. for a closed meeting, and ask
22 for a second.

23 VICE CHAIR MILLER: Second.

24 CHAIRMAN HOOD: It's been moved and properly
25 seconded. Thank you for that correction, because we do not

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1 deliberate.

2 Moved and properly seconded -- any further
3 discussion?

4 All in favor, aye.

5 (Chorus of ayes.)

6 CHAIRMAN HOOD: Any opposed? Not hearing any.

7 Ms. Schellin, could you record the vote?

8 MS. SCHELLIN: Yes, we actually have to do it by
9 roll call.

10 CHAIRMAN HOOD: Okay.

11 MS. SCHELLIN: Chairman Hood.

12 CHAIRMAN HOOD: Yes.

13 MS. SCHELLIN: Vice Chair Miller.

14 VICE CHAIR MILLER: Yes.

15 MS. SCHELLIN: Commissioner Shapiro. Not present.

16 Commissioner May. Not present.

17 Commissioner Turnbull.

18 COMMISSIONER TURNBULL: Yes.

19 MS. SCHELLIN: Motion carries.

20 CHAIRMAN HOOD: Okay, so we will be back at 6:30
21 to resume our meeting. Thank you.

22 (Whereupon, the above-entitled matter went off the
23 record at 5:55 p.m. and resumed at 6:34 p.m.)

24 CHAIRMAN HOOD: Okay, we're ready to start.

25 Reconvene.

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1 Good evening, ladies and gentlemen. This is the
2 resumption of a public meeting of the Zoning Commission for
3 the District of Columbia.

4 As I stated at the beginning, my name is Anthony
5 Hood, and joining me are Vice Chair Miller, Commissioner May,
6 and Commissioner Turnbull.

7 We're also joined by the Office of Zoning staff,
8 Ms. Sharon Schellin, as well as the Office of the, of the
9 Attorney General staff, Mr. Ritting and Ms. Lovick, as well
10 as the Office of Planning Staff, Ms. Steingasser and Mr.
11 Lawson.

12 Copies of today's meeting agenda are available to
13 you, and are located in the bin near the door. We do not
14 take any public testimony at our meetings unless the
15 commission requests someone to come forward.

16 Please be advised, this proceeding is being
17 recorded by a court reporter, and it's also webcast live.

18 Accordingly, we must ask you to refrain from any
19 disruptive noise or actions in the hearing room, including
20 display of any signs or objects. Please turn off all
21 electronic devices at this time.

22 Does the staff have any preliminary matters?

23 MS. SCHELLIN: No, sir.

24 CHAIRMAN HOOD: Okay, I do have one. I would like
25 to move, I believe it's on the agenda. I would like to move

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1 our correspondence item up to doing that first, and then I
2 can, I think after that we can go with the rest of the agenda
3 as laid out in my agenda.

4 Any objections?

5 Okay. Let me call the correspondence. Zoning
6 Commission case number 16-23, Valor Development. Ms.
7 Schellin?

8 MS. SCHELLIN: Yes, sir. The Applicant requested
9 and was approved to defer deliberations on this case until
10 we have the commission's April 30 meeting to allow them to
11 continue discussions with the Office of Planning, and provide
12 a follow-up submission on, by April 16.

13 The parties were then given seven days or April
14 23 to respond to the Applicant's submission if they want to
15 do so.

16 The motion before you this evening from CRD is
17 requesting that the parties be given three weeks instead of
18 one week to respond to the Applicant's submission, or until
19 May 7, and then the commission move deliberations to the May
20 14 meeting. So they ask the commission to consider that
21 motion this evening.

22 CHAIRMAN HOOD: Okay. Colleagues, I don't, I don't
23 think I need to repeat the requests, which we will do our
24 deliberations on May 14. But do, do we know what our agenda
25 looks like on May the 14?

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1 MS. SCHELLIN: Not yet.

2 CHAIRMAN HOOD: Okay, not yet. So, okay, we know
3 this will be coming. Any objections?

4 Do we need to make a motion, Ms. Lovick, on this,
5 or are we just fine to accept it?

6 MS. LOVICK: Oh. Oh, sorry, I think you can make
7 a motion.

8 CHAIRMAN HOOD: Okay. So with that, any, any
9 conversation?

10 COMMISSIONER MAY: So I mean, we're just agreeing
11 with the correspondents to shift the consideration to May 14,
12 and give the party in opposition extra time.

13 I think, what about the Office of Planning as
14 well? I mean, I think we want to continue to get there ---
15 I mean, as I understand it, they're involved in the
16 discussions with the Applicant, so we can still hopefully get
17 their report in, with seven days. But I think that'll be
18 helpful.

19 CHAIRMAN HOOD: Okay. So this schedule that we're
20 getting ready to lay out will it allow Office of Planning
21 time to respond?

22 MS. STEINGASSER: Yes, sir. It will.

23 CHAIRMAN HOOD: Okay. All right. I'm not going
24 to repeat all that, so I would move that agree to our
25 proposal, and the request for I think three weeks, which

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1 would put us in deliberation on the May the 14 with the
2 extension of time, as a request from CRD, and ask for second.

3 VICE CHAIR MILLER: Second.

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

6 All in favor? Aye.

7 (Chorus of ayes.)

8 CHAIRMAN HOOD: Any opposition? None hearing, Ms.
9 Schellin, will you record the vote, do we have a proxy?

10 MS. SCHELLIN: No.

11 CHAIRMAN HOOD: Okay.

12 MS. SCHELLIN: Staff approves the vote four to zero
13 to one to allow the parties in Zoning Commission case number
14 16-23 until May 7 to respond to the Applicant's submission,
15 which is due by April 16. And OP, of course, would still
16 respond by April 23. And the Commission would deliberate
17 for, or further deliberations on May 14 on this case.

18 Commissioner Hood moving, Commissioner Miller
19 seconding, Commissioners May and Turnbull in support,
20 Commissioner Shapiro not present, not voting.

21 CHAIRMAN HOOD: Okay, next let's go along with our
22 agenda now. Consent calendar item modification of
23 consequences determination, and scheduling the Zoning
24 Commission case number 11-08C, MCREF Embassy, LLC, PUD
25 modification of consequence at square 2578.

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1 Ms. Schellin?

2 MS. SCHELLIN: Yes, the Applicant has requested a
3 modification of consequence to modify conditions B3 and B4
4 of order number 11-08. Instead of renovating the commercial
5 kitchen of the festival center, and establishing a tree fence
6 buy-in program, the modifications will be to contribute
7 \$250,000 to festival center toward major constructional
8 maintenance, and \$120,000 to the Reed-Cook Neighborhood
9 Association to be used in its block beautification program.

10 There's been an exhibit from, or an OP report in
11 support, and I believe there was an ANC -- well, they --- I'm
12 sorry, the Applicant submitted an ANC resolution. However,
13 it was not complete in order to be given great weight, in
14 that it wasn't on the ANC letterhead, and it did not, it was
15 not signed.

16 So it asked the Commission to --- they were the
17 only party to this case. So ask the Commission to consider
18 whether this case is actually a modification of consequence,
19 and then set a schedule for deliberation on this case.

20 CHAIRMAN HOOD: Okay. Thank you for teeing it up,
21 Ms. Schellin. The state of the ANC letter does not meet our
22 regulations at this point.

23 But let me first ask, does anyone think this needs
24 to come off the consent calendar item as a modification of
25 consequence?

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1 Not hearing, not hearing any objections, I guess
2 we, we're, determination, we've done a determination.

3 I guess we can have the scheduling, Ms. Schellin.

4 MS. SCHELLIN: Yes. If we could, if the Applicant
5 could work with the ANC, and maybe have them submit their
6 report by April, I'm sorry, March 19, we could put this on
7 for March 26 if that's -- I'm looking to see whose case this
8 is. Not yours. Maybe they're not here. Oh, yes.

9 By March 19, do you think the ANC could revise
10 their resolution?

11 MS. PRINCE: Good evening, Allison Prince with
12 Goulston & Storrs here on behalf of the Applicant. We were
13 in attendance at the ANC meeting. They did vote unanimously
14 to approve. It's a mere technicality. We're happy to get
15 another letter if you really feel that's necessary, but we
16 had a representative ---

17 MS. SCHELLIN: Oh, absolutely, this is not signed.

18 MS. PRINCE: Okay. We had a representative at the
19 meeting.

20 MS. SCHELLIN: Yeah. So it has to be signed. So
21 okay, so we'll put it, if you could work with them to get the
22 letter by March 19, then we can put it on for March 26.

23 MS. PRINCE: Thank you.

24 CHAIRMAN HOOD: Okay. Thank you both. Anything
25 else on that Ms. Schellin?

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1 MS. SCHELLIN: No, Chair.

2 CHAIRMAN HOOD: Okay, next, let's go to final
3 action. Zoning Commission case number 17-09, FP Eckington
4 Holdings, LLC, consolidated PUD and related map amendment at
5 square 35A1. Ms. Schellin?

6 MS. SCHELLIN: Yes, Exhibits 47 through 48A, we
7 have the Applicant's proffers and conditions. Exhibit 49,
8 we have an NCPD letter advising that the project was
9 determined to be exempt from their review, and so we'd ask
10 the Commission to consider final action this evening.

11 CHAIRMAN HOOD: Okay, Commission. Was there any
12 other outstanding issues? I know we did a lot of
13 conversations, even at the hearing, as well as proposed.
14 Anything else you want to add?

15 I will say that I, --and if there's any, I missed
16 it. I was hoping, I think this is the -- if I'm not
17 mistaken, this was the case I asked that we find some kind
18 of way to continue to recognize former Councilmember Harry
19 Thomas, Sr., and I didn't see it. If it was there, I didn't
20 see it.

21 But I'm hoping that they will continue to work,
22 and make sure that those who are new to the area will
23 continue to remember how that, a lot of that got started down
24 there with Federal Express and others, so.

25 And I just want to pinpoint this Applicant. But

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1 it would be nice to have something more than just a street
2 name, Harry Thomas Way, because a lot of people who will be
3 coming long after this will not know who Harry Thomas, Sr.
4 was.

5 So, anyway, I would ask that that continues to
6 happen. And after this case is signed and out of my purview,
7 I will, I will also mention it to the ANC commissioners,
8 because I was born in raised in Ward 5 anyway. It's a little
9 personal.

10 Mr. Turnbull?

11 COMMISSIONER TURNBULL: Yeah, Mr. Chair, about the
12 order, and the comments that I had have all been addressed
13 in the order. So I'm fine with it.

14 CHAIRMAN HOOD: Okay. Anything else?

15 VICE CHAIR MILLER: Okay. Thank, thank you, Mr.
16 Chairman for that direction.

17 I would move that the Zoning Commission take final
18 action on Zoning Commission case number 17-09, FP Eckington
19 Holdings, LLC, consolidated PUD and related map amendment at
20 Square 3581, and ask for a second.

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

23 All in favor?

24 (Chorus of ayes.)

25 CHAIRMAN HOOD: Any opposition? None hearing.

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1 Ms. Schellin, if you could please record the vote.

2 MS. SCHELLIN: Staff records the vote four to zero
3 to one to approve final action in Zoning Commission Case
4 Number 17-09, Commissioner Miller moving, Commissioner Hood
5 seconding, Commissioners May and Turnbull in support,
6 Commissioner Shapiro not present, not voting.

7 CHAIRMAN HOOD: I was just getting ready to say,
8 sometimes it's not good to think out loud. I was going to
9 say, this seems to be going pretty well this evening.

10 But then I look up and we have one more case, so
11 I probably should, should have waited 'til after we did that
12 one.

13 Okay. Next, let's go to Zoning Commission number
14 16-29, Poplar Point RBBR, LLC, first stage PUD-related map
15 amendment, Square 5860 and 5861.

16 Ms. Schellin.

17 MS. SCHELLIN: Yes. We have at Exhibit 58 the
18 Applicant's initial proffers and condition, Exhibit 59 we
19 have NCPC's report that found the project was not
20 inconsistent with the Comp Plan for the National Capital or
21 other federal interests.

22 Exhibit 60 through 60B, we have the Applicant
23 asking for a waiver of the rules to accept their late filing
24 of the final proffers and conditions, which were filed less
25 than 21 days.

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1 Exhibit 61 is a joint, ANCs 8A and 8C's response
2 to the Commission regarding the community benefits CBA.

3 And so we would ask the Commission to first
4 consider the waiver request from the Applicant, and then
5 consider final action this evening.

6 CHAIRMAN HOOD: Okay. Commissioners, let's see.
7 Did we have any, and I know there were some last minute
8 negotiations and conversations still being had, and I don't
9 think we're prejudicing anyone, any parties.

10 So is there any objections to the late filing of
11 the final proffers and drafts?

12 Okay, no objections? I don't think we need to
13 vote on that, do we? We don't need to vote on that. General
14 consensus.

15 MR. RITTING: I mean, you could vote, you could
16 vote on it if you wanted to, but you could also just roll it
17 into your final motion, or whatever, or ---

18 CHAIRMAN HOOD: Let's do this. Let me just do
19 this. Let me go one by one.

20 I would move that we grant the waiver of the
21 filing of the final proffers and draft conditions, and ask
22 for a second.

23 COMMISSIONER TURNBULL: Second.

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

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1 All in favor? Aye.

2 (Chorus of ayes.)

3 CHAIRMAN HOOD: Any opposition, well, I heard
4 three, four ayes. I should just, definitely not any
5 opposition, because nobody else is up here.

6 So, no opposition. Ms. Schellin, would you please
7 record the vote?

8 MS. SCHELLIN: Staff records the vote four to zero
9 to one to grant the waiver for the late filing of the final
10 proffers and conditions -- Commissioner Hood moving,
11 Commissioner Turnbull seconding, Commissioners Miller and May
12 in support, Commissioner Shapiro not present, not voting.

13 CHAIRMAN HOOD: Let me retract that statement.
14 There are other people up here, but it's -- I meant voting.
15 So I want to make sure, because seems like every time I say
16 -- sometimes gets misconstrued.

17 So I was not discounting the Office of Planning,
18 the Office of the Attorney General, and Secretary.

19 Okay. So Ms. Schellin, I guess the next thing --
20 oh rather, colleagues, we need to talk about the --- I'm
21 sorry. Let's talk about the discussion of the sufficiency
22 of the public benefits, and we have letters from January 22,
23 as well as -- excuse me -- March the 9th, and the Applicant's
24 final proffer.

25 And there seems to be an amount, which the ANC has

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1 presented, as well as there's this, there's a whole
2 discussion about monetary offers.

3 And typically the Commission, we don't like to --
4 since I've been here, we've changed how we do business. We
5 don't necessarily get into the dollar amounts, whether it's
6 -- whatever. I really don't want to get into the dollar
7 amounts, but let me, let me see what others are thinking as
8 far as that goes. I don't want to dominate the dollar amount
9 discussion.

10 VICE CHAIR MILLER: Mr. Chairman.

11 CHAIRMAN HOOD: Yes.

12 VICE CHAIR MILLER: Well, in addition to the
13 disagreement between the ANC, ANC 8A and 8C and the Applicant
14 on the dollar amount for those three, were the organizations.

15 I think they, I think the ANC did lower their
16 total \$5 million thing to \$1.25 million or something for, as
17 a total. But I think the Applicant was originally -- I don't
18 think we have anything different from them.

19 They were originally at \$50,000? Some low number?

20 But in addition to that discrepancy in the value,
21 our rules require that the monetary contribution be linked
22 to, through something -- a service, or a good, that's
23 quantifiable.

24 And so that has to be worked on, I believe, before
25 we get to a final reading, because our rules don't permit

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1 just a flat-out, just a dollar amount being given to an
2 organization, no matter how worthy it is. You need something
3 quantifiable attached to it as what that money is going to
4 go for.

5 But that -- and these, of course, are public
6 benefits, so we need to see what those quantifiable public
7 benefits are.

8 But the other aspect of the sufficiency of public
9 benefits issue is that I don't, I don't think the Applicant
10 has come far enough in addressing Office of Planning's
11 concerns about the inclusionary zoning proffer.

12 Well, the inclusionary, they're not above what the
13 inclusionary zoning requirement is. I think they did move
14 from an eight percent set aside, which is the minimum
15 required, to a ten percent set aside. But I thought the last
16 thing from the Office of Planning -- and they can correct me
17 if I'm wrong after I conclude speaking -- but I thought they
18 suggested it go to 12 percent set aside.

19 And I thought they also wanted clarity, more
20 clarity on -- I thought they -- and I think they commented
21 favorably on the split in the 80 percent AMI versus 50
22 percent AMI, if it's condo units, because all that's required
23 under our newly revised IZ regulations is 80 percent AMI for
24 condos.

25 But I think OP wanted clarity on whether there

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1 would be rental, because I think the Applicant has -- I might
2 be remembering this wrong. I'm not looking at my notes.

3 But I think the OP suggested that they do
4 something deeper in affordability than just the 60 percent
5 AMI that would be required for rental, but I think they
6 suggested 60 percent AMI.

7 So they suggested the 12 percent set aside instead
8 of the 10 percent set aside, and the 50 percent AMI for the
9 rental instead of 60 percent AMI.

10 And I think they also suggested a greater number
11 of three-bedroom units than, I think the last calculation I
12 saw was just, it would come out to two units. But I'm, we
13 were appreciative of the two- and three-bedroom larger units.

14 But I think OP, I would agree with OP That there
15 should be consideration to an additional, additional three
16 bedrooms.

17 So I think if the Applicant addressed the
18 affordable housing public benefit in the way that OP
19 suggested, and there may be something on retail that OP
20 suggested. I think OP, the Applicant originally had,
21 originally had it only on one side of the street. I think
22 the Applicant did revise, and we appreciate the revision to
23 include retail on both sides of the street.

24 But I think OP still had concern. And the OP can
25 correct me, again, if I'm wrong, you wanted something more

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1 street-activating, or closer to the street frontage.

2 So if they address the housing and the retail,
3 affordable housing and the retail public benefits, we may not
4 have to worry about as much of, of the contributions to these
5 worthy organizations in, in, in Ward 8.

6 So they still should work on trying to get
7 something quantifiable, and maybe work out another number
8 with the Applicant. You know, if they increase the
9 affordable housing proffer, and strengthen the retail
10 proffer, the monetary value might be closer to what they,
11 they might be able to get the ANC to be closer to what they
12 originally proffered on those, to those organizations.

13 With all that being said, Mr. Chairman, I think
14 there needs to be further work on this, and I would be
15 interested in hearing OP's comments when, when the Commission
16 is through commenting.

17 CHAIRMAN HOOD: Okay. Thank you, Vice Chair
18 Miller. I, I think your comments are well-served in, in this
19 matter to help maybe give some idea to the discussion.

20 I do know that, as you said, that there's some
21 other things we need to look to. We need to have some
22 structure to where this money is.

23 These, with some of the organizations that the
24 Applicant has agreed to already do, I think we need to make
25 sure we lock those in - and maybe they may have further

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1 conversations about, maybe, some amounts.

2 But I don't know if I want to go all the way to
3 the point -- what has been represented by the ANC to the
4 full, because we also have to look at what's being asked for,
5 and some of the other benefits that are already being given
6 back by this Applicant. So I want to make sure we balance
7 that.

8 So I don't know. Let me see. Any other comments
9 up here first?

10 Okay, then we can go to the Office.

11 COMMISSIONER TURNBULL: Mr. Chair. I was just
12 going to say that I agree with Commissioner Miller, Vice
13 Chair.

14 And, again, the OP's report, I think the Applicant
15 should take another look at it, and go back through it.

16 CHAIRMAN HOOD: Vice Chair Miller.

17 VICE CHAIR MILLER: I was just going to note that
18 -- I meant to note that, I mean, this is a -- it's going to
19 be a huge transformational project for this neighborhood, for
20 Ward 8.

21 But there's a lot of -- I think it's over 600,000
22 square feet of additional square feet of development that's
23 being -- that would be provided pursuant to this request.
24 And additional FAR, too, and they're going to the height of
25 130. It's five buildings. It's a lot of development.

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1 And I realize that they did cut back on some of
2 the flexibility that they were asking for, in terms of the
3 parking above grade, they're not asking for that anymore.
4 Maybe some other things. But it is a huge project, and there
5 should be commensurate public benefits and amenities.

6 CHAIRMAN HOOD: Office of Planning, Vice Chair
7 Miller had, well, I guess wanted to hear some more on your
8 report. Mr. Lawson?

9 MR. LAWSON: Thank you, Mr. Chair. The Office of
10 Planning did continue to work for the Applicant, and we
11 continued to work with OAG on the amenity package. I think,
12 generally, we were satisfied.

13 If the Commission wishes us to continue some of
14 those discussions with the Applicant, we would certainly be
15 happy to do so.

16 But, in general, given kind of the comprehensive
17 nature of the benefits package, the package as whole, we were
18 generally okay with it.

19 As always, we would of course support, you know,
20 additional affordable housing if the Commission feels that
21 the application, the benefits and amenities proffer would be
22 more commensurate, I guess, with the level of density that
23 they're gaining. We'd be happy to discuss that further with
24 the Applicant.

25 CHAIRMAN HOOD: Okay. So I guess I don't think

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1 we could move -- I think we need to probably -- I'm not going
2 to say send it back, because I know there are a lot of good
3 pieces to this project.

4 We'll just ask them to, I guess, put some
5 structure, is the word I'd like to use, to some of the
6 benefits, as opposed to just the money equation.

7 Do we have to -- I don't think that we need to ---
8 I don't even know how to ask this question, because we go
9 from \$1.2 million to \$50,000, and then zero. So I'm not
10 really sure how to even wrap my arms around all that.

11 I just would like, as the Vice Chair has
12 mentioned, to go back to the parties and see if we can fine-
13 tune some of that, maybe with some of the suggestions that
14 the Vice Chair has mentioned, and see what other things we
15 can resolve.

16 I'm not going to say -- I don't want to go to a
17 dollar amount because I think this Commission, years ago we
18 stopped doing that, getting into the business of negotiating.
19 We're not going to negotiate.

20 I don't know. Any other comments, colleagues?
21 I'm not sure where others are.

22 Mr. Turnbull.

23 COMMISSIONER TURNBULL: I guess the only other
24 thing is the WMATA aspect, that it's work not on the
25 Applicant's property, before it can be a proffered benefit,

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1 or accepted, WMATA has to actually accept it.

2 They've given -- they've written a letter saying
3 that they're in the process of working on it and going
4 through with it. But if this falls through, the Applicant's
5 going to have to come back for a PUD modification to
6 substitute an alternative benefit.

7 So this is the other thing that's hanging out
8 there, I think, that's a little -- I mean, it's a first stage
9 PUD, so maybe there's an acceptable amount of risk in this,
10 but I mean, the order's going to have to really clarify what
11 this is, I think, somehow.

12 And I'm not certain how much more we're going to
13 get out of this, but it's still an open item, I think. I
14 don't know if the Office of Planning has thoughts on that.

15 MR. LAWSON: Well, I think our main thought is that
16 we absolutely agree with you. It is a first stage PUD. It's
17 not uncommon for PUDs to get clarified, I guess, as they go
18 through the process to second stage.

19 You're absolutely right that if that particular
20 item ends up not moving forward, that would be a fairly
21 significant modification to the, to the PUD benefits and
22 amenities packages that the Applicant would have to address.

23 But at this stage, we have no additional assurance
24 than the Commission has on that one.

25 MR. RITTING: Commissioner Turnbull, if I could

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1 address that. I had some preliminary discussions with the
2 Applicant's counsel about that issue, and we discussed the
3 notion of perhaps saying that additional information is going
4 to be forthcoming with the first second stage PUD application
5 to provide a little more assurance about the ability to go
6 forward with the improvements on the adjacent property.

7 COMMISSIONER TURNBULL: Okay. But the order is
8 still going to reference, you're going to have to clarify a
9 certain amount in the order that we do on the first stage.

10 MR. RITTING: Well, the idea would be that there'd
11 be some sort of rough statements about what the improvements
12 will be on the adjacent parcel, and then additional
13 information will be provided with the first second stage PUD
14 application to fill in the, the details.

15 COMMISSIONER TURNBULL: But from our -- it's not --
16 from our standpoint, is that an enforceable aspect? Or?

17 MR. RITTING: Well, I mean, you could always deny
18 the second stage PUD application if you felt that they
19 weren't providing enough information to get you comfortable
20 that they're actually going to be able to deliver the
21 proffer.

22 COMMISSIONER TURNBULL: Okay. Yeah. Thank you.

23 CHAIRMAN HOOD: Well, as I'm reminded, and I'm not
24 sure of which way we're going to, as we go from here. I've
25 just asked them, as we've all mentioned, to go back and look

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1 at a few things.

2 But one of the things I do not want us to lose
3 sight on is DCEA. I think that's what it is. But anyway,
4 the jobs program, and that's a highlight, I think, for this
5 particular Applicant. And I would like to make sure that we
6 record that, as I stated earlier, and make sure that we hold
7 others accountable, is this happening. So that's why our
8 first elected line officials, our ANC commissioners, had some
9 concerns, and I want to make sure that we're considerate of
10 that.

11 But there are a lot of good things that are with
12 this project, as was noted. So we need to go back, and I
13 guess give them some time to look at some things, and see if
14 they can maybe at least take some of the suggestions that
15 Vice Chair Miller has mentioned as coming from the Office of
16 Planning and us.

17 And I don't see this as being a -- I don't know
18 if others feel differently -- I don't see this as being a
19 major task. I don't know. I don't think it's major. Maybe
20 I'll think of something that can be a quick fix.

21 We don't have to have it on our plate long. And
22 I'll just ask you to go back and re-look at it. But I think
23 that the jobs program here is, is the model for me. So.

24 And I don't want to discount 8A and 8C at all.
25 They are hardworking ANC commissioners, so.

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1 Anyway, do we need to do anything else with this?

2 MS. SCHELLIN: Set dates.

3 CHAIRMAN HOOD: Do we need to set dates? Can we
4 set -- do we need to go back to -- I guess the ANC needs to
5 look at it as well? I'm not sure when they meet, but I'd
6 like for us ---Mr. Ritting, you want to say something?

7 MR. RITTING: What I think I heard you saying is
8 that you're looking for the Applicant to respond to the
9 comments you've made about the sufficiency of the public
10 benefits and to provide a response to those.

11 And then, of course, you'll have to leave the
12 record open for all the parties, including the ANCs, to
13 respond to that submission from the Applicant.

14 CHAIRMAN HOOD: That's correct.

15 MR. RITTING: And only then, you would then
16 consider final action again.

17 CHAIRMAN HOOD: Okay. And I'm sure they probably
18 would have to have an ANC meeting, so it would at least need
19 to be 30 days. I don't want it no longer than 30 days.
20 Because I think the ANCs meet every month, unless somebody
21 knows when they meet, because I'd like to do it sooner.

22 MS. SCHELLIN: So if the Applicant could respond
23 by March 26, and then the ANCs would respond by April 2, we
24 could put it on for April 9. Does that work?

25 CHAIRMAN HOOD: Yeah, that's fine, that's fine on

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1 my schedule. But let's make sure, do we have anyone
2 representing either the ANC 8A or 8C?

3 Okay, well, we're going to hold tight to that
4 schedule, if we can notify them, Ms. Schellin, that they need
5 to have responses.

6 MS. SCHELLIN: Okay.

7 CHAIRMAN HOOD: We don't want to lose the jobs
8 program, and I can, I'll make that a public announcement.
9 We're going, we're going to make sure that stays intact.

10 Okay, anything else on this?

11 MS. SCHELLIN: Not on this.

12 CHAIRMAN HOOD: Okay, so is the Applicant, are we
13 all straight?

14 MS. SCHELLIN: Mr. Epting, would you also reach out
15 to the ANC? Okay.

16 CHAIRMAN HOOD: Yeah, and you might want to explain
17 ---

18 MS. SCHELLIN: Both of them.

19 CHAIRMAN HOOD: Yeah, they might need some
20 explanation, and to help our local officials along the way.

21 Okay. All right. So we will deal with this on
22 April the 9th at 6:30.

23 Okay, anything else on this?

24 MS. SCHELLIN: Not on this.

25 CHAIRMAN HOOD: Okay. All right, Ms. Schellin.

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1 Let's go to the next thing.

2 MS. SCHELLIN: So you've handled all the cases on
3 the agenda, but the modification of consequence, we were
4 lacking a signed letter from the ANC, which we have received
5 this evening.

6 If you guys want to take it up this evening, it
7 has been placed into the record. If not, can keep the
8 schedule you set.

9 MR. RITTING: Can we see it?

10 MS. SCHELLIN: It's -- well, I can release it to
11 you real quick.

12 CHAIRMAN HOOD: Well, if we have all the equipment,
13 there's no sense in having them come back. We can deal with
14 that tonight.

15 MS. SCHELLIN: Give me one second.

16 Okay, you should be able to see it now. It's
17 Exhibit 4, 11-08C, yeah.

18 CHAIRMAN HOOD: Okay, Exhibit 4. Oh, ANC 1C
19 report, okay.

20 MS. SCHELLIN: Right.

21 CHAIRMAN HOOD: I shouldn't say this, either. My
22 computer's finally working. It never works like that. Okay.
23 That's right, I forgot. I got a new one now.

24 MS. SCHELLIN: Take that back.

25 CHAIRMAN HOOD: Yeah, I have to take it back,

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1 because I got a new one.

2 MR. RITTING: Mine's not working.

3 CHAIRMAN HOOD: Oh, yours is not working.

4 MR. RITTING: Mine's not working.

5 CHAIRMAN HOOD: Well, don't jinx mine.

6 (Pause.)

7 CHAIRMAN HOOD: Okay, colleagues, in light of the
8 signed letter -- I do want to thank Ms. Prince for making
9 sure that we can, able to move forward. I don't think this
10 is a showstopper. I think we have a signed letter, which
11 meets our rules, and I don't see an objection to going ahead
12 and approving this as a -- I'm sorry, as a modification of
13 consequence.

14 Any objections? Vice Chair?

15 VICE CHAIR MILLER: No, no objection, Mr. Chairman.
16 And, I mean, I agree with OP, the Applicant, the ANC, and the
17 beneficiaries of the proffers who worked with the Applicant
18 on enhancing them, I think.

19 CHAIRMAN HOOD: Okay. So it looks like
20 everything's covered. Someone like to make a, any other
21 comments? If not, we'll take a motion.

22 VICE CHAIR MILLER: Mr. Chairman, I would move that
23 the Zoning Commission approve of modification of consequence
24 in Zoning Commission case number 11-08C MCREF Embassy, LLC,
25 PUD modification of consequence at Square 2578, and ask for

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1 a second.

2 COMMISSIONER TURNBULL: Second.

3 CHAIRMAN HOOD: Okay, it's been moved and properly
4 seconded. Any further discussion?

5 All in favor? Aye.

6 (Chorus of ayes.)

7 CHAIRMAN HOOD: Any opposition?

8 Not hearing any, Ms. Schellin, record the vote.

9 MS. SCHELLIN: Staff records the vote four to zero
10 to one to approve final action Zoning Commission Case No. 11-
11 08C, Commissioner Miller moving, Commissioner Turnbull
12 seconding, Commissioners Hood and May in support,
13 Commissioner Shapiro not present, not voting.

14 CHAIRMAN HOOD: Okay. Ms. Schellin, do we have
15 anything else on the agenda?

16 MS. SCHELLIN: I have nothing else.

17 CHAIRMAN HOOD: Okay, I would like to ask the
18 Office of Planning, I said I would ask this as the result of
19 what I've asked, I think at our last meeting, and also at our
20 oversight hearing.

21 Ms. Steingasser, I'm not sure if you are prepared
22 for this tonight, but could you let us know if you're making
23 any progress on what we've asked you all to look at, as far
24 as the pop-backs, and the 10-foot rule, and some of the
25 special exception criteria we have in place?

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1 MS. STEINGASSER: Actually, Chairman Hood,
2 Commissioners, that's on the joint training this Wednesday.
3 We have that listed as a topic to discuss with you.

4 CHAIRMAN HOOD: Okay, so you might be able to
5 respond to some of that on the 26th. Okay. Good.

6 And also, are we going to, at some point in time,
7 get a briefing? I know it's probably not ready for us, on
8 the Comp Plan. I know where it is now. But, I mean, like
9 a update on what's all going on, because there's a lot of
10 discussion going around.

11 MS. STEINGASSER: Yes, once the division finishes
12 sorting through the 3,000 amendments, and they get more
13 organized in terms of what the recommendations are and what
14 their next steps are, they will be giving you a presentation.

15 CHAIRMAN HOOD: Okay. Okay, so you have a separate
16 commission that's -- I mean a separate ---

17 MS. STEINGASSER: Well, they're the other side of
18 the office, the long-range planning division.

19 CHAIRMAN HOOD: The other side of the aisle. Okay.
20 I got you. Okay. All right. Thank you.

21 Any other questions, Office of Planning? Okay,
22 so we're looking forward to that training piece. So, thank
23 you.

24 Ms. Schellin, do we have anything else?

25 MS. SCHELLIN: No, sir.

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1 CHAIRMAN HOOD: All right, I want to thank everyone
2 for their participation tonight, and this meeting's
3 adjourned.

4 (Whereupon, the above-entitled matter went off the
5 record at 7:10 p.m.)

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In the matter of: Regular Meeting

Before: DC ZC

Date: 03-12-18

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