

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

+ + + + +

ZONING COMMISSION

+ + + + +

REGULAR PUBLIC MEETING

+ + + + +

MONDAY

NOVEMBER 19, 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 6:30 p.m., Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

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

OFFICE OF ZONING STAFF PRESENT:

- SHARON S. SCHELLIN, Secretary

OFFICE OF PLANNING STAFF PRESENT:

- JENNIFER STEINGASSER, Deputy Director, Development
Review & Historic Preservation
- JOEL LAWSON
- STEPHEN COCHRAN
- ARTHUR ROGERS

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALAN BERGSTEIN, ESQ.

HILARY LOVICK, ESQ.

JACOB RITTING, ESQ.

The transcript constitutes the minutes from
the regular public meeting held on November 19, 2018.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

CONTENTS

Preliminary Matters	5
CONSENT CALENDAR:	
Case No. 11-02C: University of the District of Columbia	6
Case No. 16-09A: 1200 3rd Street, LLC	13
Case No. 15-18B: Initio, LP - 2715 Pennsylvania Ave NW	17
FINAL ACTION:	
Case No. 18-05: Washington Metropolitan Area Transit Authority	18
Case No. 18-09: Office of Planning - Text Amendments to Subtitle B re: Measuring Height in Non-Residential Zones for Buildings 90+ & to Subtitle U re: Art Gallery & Museum to Matter-of-Right Use Group A	20
Case No. 17-18: Office of Planning - Text Amendments to Subtitle B re: Measurement of Floor Area Ratio	21
TIME EXTENSION	
Case No. 14-19A, M Street Development Group, LLC,	23
PROPOSED ACTION	
Case No. 04-33I: Office of Planning, Text Amendments re: Inclusionary Zoning (Subtitles A-H & K)	25

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

CORRESPONDENCE

ZC Case #08-07D: Four Points, Two-Year PUD Time Extension at Square 5785, Request for Reconsideration from CARE (Current Area Residents East of the River) and Applicants Response, 2255 MLK Ave SE	32
---	----

HEARING ACTION

Case No. 18-19: Poplar Point RBBR, LLC -	35
Case No. 18-12: Keep Meridian Hill Green Civic Association	38
Case No. 06-10D: The Morris and Gwendolyn Cafritz Foundation	45
Office of Planning Update	50
Adjourn	50

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

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

6:33 P.M.

1
2
3 CHAIRMAN HOOD: Good evening, everyone. We're
4 ready to get started. This is the public hearing of the
5 Zoning Commission for the District of Columbia. Today's date
6 is Monday, November 19, 2018. It's approximately 6:30 p.m.
7 We're located in the Jerrily R. Kress Memorial Hearing Room.

8 My name is Anthony Hood. Joining me is Vice Chair
9 Miller, Commissioner Shapiro, Commissioner May, and
10 Commissioner Turnbull. We're also joined by the Office of
11 Zoning Staff, Ms. Sharon Schelling, as well as the Office of
12 the Attorney General at this time Mr. Bergstein, and we have
13 others to follow. Office of Planning, Ms. Steingasser. Glad
14 to see Ms. Steingasser back. Mr. Lawson, Mr. Cochran, and
15 Mr. Rogers.

16 Notice of today's hearing was published in the
17 D.C. Register and copies of that announcement are available
18 to my left on the wall near the door.

19 Again, copies of today's meeting agenda are
20 available to you and are located in the bin near the door.
21 We do not take any public testimony at our meetings unless
22 the Commission requests someone to come forward.

23 Please be advised this proceeding is being
24 recorded by a court reporter. It's also webcast live.
25 Accordingly, I must ask you to refrain from any disruptive

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 noise or actions in the hearing room including the display
2 of any signs or objects. Please turn off all electronic
3 devices.

4 Does the staff have any preliminary matters?

5 MS. SCHELLIN: No, sir.

6 CHAIRMAN HOOD: Okay, if not, let us proceed with
7 the agenda as noted.

8 First we have Modifications of Consequence,
9 Deliberations, Zoning Commission Case No. 11-02C, University
10 of the District of Columbia Campus Plan Modification of
11 Consequence at Square 1964.

12 Ms. Schellin?

13 MS. SCHELLIN: Yes, the Applicant is requesting
14 modifications to condition numbers 8 and 15A of Zoning
15 Commission Order No. 11-02/11-02A. Condition 8 involves
16 students living on or off the Van Ness campus complying with
17 the University Code of Conduct and the University working
18 with the task force to collect data that will address any
19 impacts thereof.

20 Condition No. 15A involves parking restrictions
21 on or near the Van Ness campus. At Exhibit 7A, ANC 3F has
22 submitted a report in support.

23 And Exhibit 8 is an OP report in support of the
24 request. They ask the Commission to consider this request
25 before you.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 CHAIRMAN HOOD: Thank you, Ms. Schellin.

2 Again, as stated by the Secretary, the proposed
3 modification would amend two conditions, Condition 8 and
4 Condition 15A. And I think we've already so noted and read
5 them.

6 The ANC is supportive and a lot of that language
7 has been worked out and it looks like we have agreement
8 between the two, the ANC and community, as well as with the
9 University.

10 Any discussion of any one of these conditions?

11 Commissioner May?

12 COMMISSIONER MAY: Yes. So I think there's an
13 issue with 15A. I mean I appreciate the fact that they're
14 struggling with how they enforce it, but this clause is
15 similar to ones we've used in other campus plans and it does
16 have the caveat and the existing clause about the extent --
17 that this is legal. I don't know why that's necessary and
18 it sort of undercuts this sort of condition that again that
19 we've applied in other campus plan cases. So I think we need
20 to discuss and resolve that.

21 CHAIRMAN HOOD: University response regarding
22 regulating student parking on residential streets around the
23 University. Okay, maybe I didn't understand. I thought they
24 had -- we had worked that out and they had an agreement on
25 how they were going to resolve that.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 COMMISSIONER MAY: Well, there's agreement between
2 the Applicant and the ANC.

3 CHAIRMAN HOOD: Right.

4 COMMISSIONER MAY: But it's been noted to us by
5 the Office of the Attorney General that there's -- this is
6 inconsistent with what we had done in other campus plan cases
7 to relax this particular standard. And what's in there
8 already, it says is prohibit to the extent permitted by law.
9 What more of a qualifier do they need there? The University
10 says they can't enforce it because it's not legal, well,
11 again, it's to the extent permitted by law that they should
12 prohibit.

13 MR. BERGSTEIN: I guess just to be clear, I'm not
14 -- the position I took as you discussed it is not that you
15 couldn't on the merits decide that this condition is no
16 longer needed. My concern was the request, the basis, one
17 of the bases was that it's illegal.

18 COMMISSIONER MAY: Right. I understand that. I
19 mean we could decide that it's no longer needed because this
20 is no longer needed as a mitigation or that strongly
21 discourages somehow magically enough to be a sufficient
22 mitigation. But I don't know that we've necessarily -- we've
23 only heard the legal argument. We've not heard a case based
24 on what's necessary to mitigate the circumstances of students
25 parking in a neighborhood.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 CHAIRMAN HOOD: Well, I think they already had
2 mitigations, so that's why I was just going on with agreement
3 because that has not just started being an issue up in that
4 area. And I know what we've done in other campus plans and
5 sometimes we have to tailor it, tailor it for the specific
6 areas. But I do know, at least it was a two hour parking
7 restriction up there. I'm not sure if it's still that way.
8 It was in the '80s. I'll say that. I didn't think it was
9 that involved. But let me open it up.

10 Commissioner Shapiro.

11 COMMISSIONER SHAPIRO: Thank you, Mr. Chairman.
12 I'm just trying to separate out the two issues. One is what
13 mitigation that's being suggested where there seems to be
14 agreement with the community and the Applicant. I'm trying
15 to separate that out from what action we can take that is not
16 going to endorse some kind of unenforceable or legal piece.
17 So perhaps OAG could help us out with this. How do we honor
18 the agreement that's been made without us endorsing something
19 that's illegal?

20 MR. BERGSTEIN: Well, in other words, you won't
21 need to reach the issue of illegality.

22 COMMISSIONER SHAPIRO: I can't hear you.

23 MR. BERGSTEIN: I'm sorry. You won't need to
24 address the issue of illegality. If you feel that based upon
25 the ANC support and lack of opposition from the other two

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 parties that would signify that, in fact, this particular
2 condition is not needed, you could simply make that
3 determination without having to reach the issue whether or
4 not it's illegal or not.

5 I'm just saying that their basis that it's illegal
6 is one basis which I don't think that they've met in terms
7 of the statement they've given you. But separate and apart
8 from that, you could still decide it's legal, but not
9 necessary. And that is how you could resolve the tension
10 there, if you care to.

11 COMMISSIONER MAY: Well, again, we didn't -- we
12 don't have information in the record saying that it's not
13 necessary except that maybe we could construe the ANC support
14 of this modification as proof that what's being done or
15 what's being proposed here is sufficient.

16 MR. BERGSTEIN: You could do that or you could
17 request the University to provide information as to whether
18 or not the actual -- I mean the whole point is to require the
19 students to use the parking garage and the staff to use the
20 parking garage.

21 COMMISSIONER MAY: Right.

22 MR. BERGSTEIN: And what they're saying is is that
23 could be accomplished without some sort of enforcement
24 mechanism to make sure that those same folks are not parking
25 on the streets.

1 So the question is can they show you that, in
2 fact, the staff and the students are using the parking
3 facilities as envisioned by the order without the need for
4 them to go through this exercise and impose penalties if they
5 find that staff or their students are parking on the street?

6 You can always ask for further information.
7 That's what a modification consequence is built to do.

8 COMMISSIONER MAY: Sure. I mean I don't feel too
9 terribly strongly about it. I mean, again, because there is
10 agreement between the Applicant and the ANC. If we want to
11 construe that as an indication that the need for this
12 mitigation, since it was instituted when this decision was
13 made on a case that was introduced in 2011 that it's -- if
14 they didn't think it was legal for them to do the enforcement
15 as it was described in the condition, then, you know, there
16 have been several years to test this out to determine whether
17 it's necessary. So if ANC is okay with this change of
18 condition, I mean I guess we could interpret that as meaning
19 that they don't think it's necessary to have the language the
20 way it was originally drafted as a mitigation. They don't
21 think that's necessary to achieve as mitigation.

22 And what they're substituting instead is
23 sufficient which is strongly discourage and deploying a
24 system of monitoring and notices. So they're going to keep
25 a lookout and write nasty notes on cars and that will be

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 sufficient discouragement that it won't be a problem for the
2 neighbors.

3 I mean if the rest of the Commission wants to go
4 that way, I'm fine with that. I would also be okay if we
5 wanted to request that the Applicant submit further
6 information to demonstrate that the mitigation as originally
7 -- that this language as originally drafted is no longer
8 necessary as mitigation for the problem of students parking
9 in the neighborhood.

10 CHAIRMAN HOOD: Vice Chair Miller?

11 VICE CHAIR MILLER: Thank you, Mr. Chairman. I
12 understand what Commissioner May is saying, but whenever an
13 ANC and a University are in agreement, I'm inclined to go
14 along with what they've agreed to and not prolong this. So
15 I'm ready to move forward with the agreement. And I think
16 we can construe that as a way that you suggested,
17 Commissioner May, and they'll come back if it's a problem in
18 the neighborhood.

19 COMMISSIONER MAY: So I think it's important to
20 make that distinction. OAG is advised that we're not basing
21 our decision on the Applicant's rationale that this is not
22 a legally-enforceable condition because that's not our
23 domain to determine that.

24 CHAIRMAN HOOD: Okay, so we're back to the
25 agreements of the ANC and the University. Any objections?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 Are we ready to move forward?

2 Okay, I would move that we approve, as adopted
3 between the agreement of the ANC and the University on the
4 Commission Case No. 11-02C, University of the District of
5 Columbia Campus Plan Modification of Consequence, Square
6 1964, and ask for a second.

7 COMMISSIONER TURNBULL: Second.

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

10 All in favor?

11 (Chorus of ayes.)

12 Any opposition?

13 Not hearing any, Ms. Schellin, will you please
14 record the vote?

15 MS. SCHELLIN: Yes, staff records the vote 5
16 to 0 to 0 to approve Zoning Commission Case No. 11-02C for
17 final action. Commissioner Hood moving, Commissioner
18 Turnbull seconding, Commissioners May, Miller, and Shapiro
19 in support.

20 CHAIRMAN HOOD: Okay, next we have Zoning
21 Commission Case No. 16-09A. It's 1200 3rd Street, LLC,
22 PUD Modification of Consequence, Square 747.

23 Ms. Schellin?

24 MS. SCHELLIN: Yes. At Exhibit 6, today, an
25 ANC 6C report was received in support of two of the three

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 modification requests, the change in materials for the
2 east facade of the hotel use tower in the southwest
3 portion of the site and to modify the below grade parking
4 plan.

5 They oppose the change shown at Exhibit 1C,
6 Sheets 10 through 11, for the Level B1 parking that shows
7 the exterior door for the vehicular entry point on M
8 Street Northeast.

9 So we'd ask the Commission to consider this
10 request before you.

11 CHAIRMAN HOOD: Okay. The third issue that
12 they have, I'm going to need to come up to speed on it,
13 but let me -- this was filed -- you said this was filed
14 when?

15 MS. SCHELLIN: This afternoon. And I don't
16 think that request was actually in the application. That
17 request was not made in the application.

18 COMMISSIONER MAY: I'm sorry, the request to
19 modify the garage entrance?

20 MS. SCHELLIN: Correct.

21 COMMISSIONER MAY: Okay.

22 CHAIRMAN HOOD: So is that not -- that's not
23 being under consideration here?

24 MS. SCHELLIN: Per Ms. Prince, that is correct.

25 CHAIRMAN HOOD: Okay, so we're back to the same

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 two that we -- at least that I reviewed.

2 MS. SCHELLIN: Right.

3 CHAIRMAN HOOD: Are we sure? I want to make
4 sure that the third is not a request. Okay.

5 MS. SCHELLIN: Ms. Prince is indicating no.

6 COMMISSIONER MAY: The drawing that we received
7 or that the ANC reviewed was in error.

8 MS. SCHELLIN: Yes. She is indicating the
9 drawing was in error.

10 CHAIRMAN HOOD: Okay. Any issues with that?

11 COMMISSIONER SHAPIRO: No, sir.

12 CHAIRMAN HOOD: Okay, so again, the material
13 on the eastern wall of the hotel and the vehicle parking,
14 we have what is approved before us.

15 Any issues on what's being proposed in this PUD
16 modification? Any comments? Would someone like to make
17 a motion? I think it's pretty straight forward, as long
18 as that third one is not in there.

19 COMMISSIONER SHAPIRO: Mr. Chair?

20 CHAIRMAN HOOD: Yes.

21 COMMISSIONER SHAPIRO: I move that we approve
22 the Zoning Commission Case No. 16-09A, 1200 3rd Street,
23 LLC, PUD Modification Consequence at Square 747. I ask
24 for a second.

25 VICE CHAIR MILLER: Second.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 CHAIRMAN HOOD: Okay, it's been moved and
2 properly seconded for those proposed PUD changes which are
3 exhibited -- you can look at the Office of Planning report
4 which talks about the sheets. Any further discussion?

5 COMMISSIONER SHAPIRO: It's under discussion
6 to be clear that the issue that the ANC has brought up
7 that it's not an issue for us because that was actually
8 an error on the part of the Applicant. There is no change
9 in where the garage entrance is.

10 CHAIRMAN HOOD: Okay, that's the information
11 that's been presented to us and that's how we move it
12 forward. Any further discussion? All in favor?

13 (Chorus of ayes.)

14 Any opposition?

15 Not hearing any, Ms. Schellin, would you please
16 record the vote.

17 MS. SCHELLIN: Yes. Chairman Hood, if I may,
18 would you like for the Applicant to make that indication
19 in the written order to clarify that that drawing, that
20 indication --

21 CHAIRMAN HOOD: Good idea.

22 MS. SCHELLIN: -- since -- if they could do
23 that in the order?

24 CHAIRMAN HOOD: That's a good idea. Yes, yes.

25 MS. SCHELLIN: Okay. If Ms. Prince would do

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 that. So staff records the vote 5 to 0 to 0 to approve
2 final action Zoning Commission Case No. 16-09A.
3 Commissioner Shapiro moving, Commissioner Miller
4 seconding, Commissioners Hood, May, and Turnbull in
5 support.

6 CHAIRMAN HOOD: Okay. Thank you, everyone.
7 Let's go to Zoning Commission Case No. 15-18B, Initio, LP,
8 Modification Consequence at Square 1194.

9 Ms. Schellin?

10 MS. SCHELLIN: Yes, if the Commission will
11 recall, this case was on the agenda last month to -- it
12 had some additional relief that was requested and we were
13 just waiting for the ANC to weigh in. So at Exhibits 10
14 and 11, we have two ANC 2E reports, two different dates,
15 both reports advising that it met and voted to not take
16 a position on the revised application. So it asked the
17 Commission to consider final action this evening.

18 CHAIRMAN HOOD: Okay. Thank you. Colleagues,
19 I noticed that we have three exhibits from the ANC saying
20 not to take a position, so they really have nailed that
21 home that they don't want to take a position on this, so
22 I think that may have been one of the reasons we held it
23 up to begin with. They've definitely sent us a very clear
24 message. So three times is a charm.

25 Any comments or questions on what's being asked

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 for?

2 If not, it's pretty straight forward. Would
3 someone like to make a motion?

4 VICE CHAIR MILLER: Mr. Chairman, I would move
5 that the Zoning Commission take action on Zoning
6 Commission Case No. 15-18B, Initio, LP, modification
7 consequence at Square 1194 and ask for a second.

8 COMMISSIONER SHAPIRO: Second.

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

11 All in favor, aye?

12 (Chorus of ayes.)

13 Any opposition?

14 Not hearing any, Ms. Schellin, would you please
15 record the vote?

16 MS. SCHELLIN: Staff records the vote 5 to 0
17 to 0 to grant final action on Zoning Commission Case No.
18 15-18B. Commissioner Miller moving, Commissioner Shapiro
19 seconding, Commissioners Hood, May, and Turnbull in
20 support.

21 CHAIRMAN HOOD: Okay, now we go to final action
22 Zoning Commission Case No. 18-05, WMATA Map Amendment at
23 Square 487 and Text Amendment to Subtitle I Section 547.3.

24 Ms. Schellin?

25 MS. SCHELLIN: For 18-05, the proposed

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 rulemaking was published in the D.C. Register on October
2 26th. No comments were received from the public. NCPC
3 submitted a delegated action in Exhibit 27 advising of no
4 issues and asked the Commission to consider final action
5 this evening.

6 CHAIRMAN HOOD: Thank you. Any comments on
7 this? Questions?

8 I think we had a very thorough examination and
9 you did mention NCPC, didn't you, Ms. Schellin? Okay.

10 Would someone like to make a motion? I think
11 it's pretty straight forward.

12 COMMISSIONER TURNBULL: Mr. Chair, I would move
13 that we approve the Zoning Case -- or take final action
14 on the Zoning Case No. 18-05, WMATA map amendment at
15 Square 487 and text amendment to Subtitle I at Section
16 547.3. Move for a second.

17 VICE CHAIR MILLER: Second.

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

20 (Chorus of ayes.)

21 Any opposition?

22 Not hearing any, Ms. Schellin, would you please
23 record the vote?

24 MS. SCHELLIN: Staff records the vote 5 to 0
25 to 0 to approval final action on Zoning Commission Case

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 No. 18-05. Commissioner Turnbull moving, Commissioner
2 Miller seconding, Commissioners Hood, May, and Shapiro in
3 support.

4 CHAIRMAN HOOD: Okay, next we have Zoning
5 Commission No. 17-18, Office of Planning Text Amendments
6 to Subtitle B, Measurement of Floor Area -- did I skip
7 one? Oh, for some reason I'm trying to get to that 17-18.

8 Zoning Commission Case 18-09, Office of
9 Planning, Text Amendments to Subtitle B, Measuring Height
10 in Non-Residential Zones for Buildings 90 feet plus to
11 Subtitle U, adding Art Gallery & Museum to Matter-of-Right
12 Use Group A.

13 Ms. Schellin.

14 MS. SCHELLIN: On this one, the proposed
15 rulemaking was published in the D.C. Register on September
16 28th. No comments were received from the public. Once
17 again, NCPC submitted delegated action at Exhibit 11
18 advising them no issues and asked the Commission to
19 consider final action this evening.

20 CHAIRMAN HOOD: Again, I think -- thank you,
21 Ms. Schellin. Again, I think this is one of those
22 hearings that we had that was pretty straight forward, but
23 let me see if there are any comments or questions. If
24 not, we can take a motion.

25 Would someone like to make a motion?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 COMMISSIONER SHAPIRO: Mr. Chair, I would move
2 that we take final action on Zoning Commission Case No.
3 18-95, Office of Planning, Text Amendments to Subtitle B,
4 re: Measuring Height in Non-Residential Zones for
5 Buildings 90 foot plus to Subtitle U, re: adding Art
6 Gallery & Museum to Matter-of-Right Use Group A. Look for
7 a second.

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

10 All in favor, aye.

11 (Chorus of ayes.)

12 Any opposition?

13 Not hearing any, Ms. Schellin, would you please
14 record the vote?

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

20 CHAIRMAN HOOD: Okay. Next, Zoning Commission
21 Case No. 17-18, Office of Planning, Text Amendments to
22 Subtitle B, Measurement of Floor Area Ratio.

23 Ms. Schellin.

24 MS. SCHELLIN: Yes, this was the second Notice
25 of Proposed Rulemaking. It was published in the D.C.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 Register on September 28th. No comments were received
2 from the public. I would ask the Commission to consider
3 final action this evening.

4 CHAIRMAN HOOD: And we did that. Ms. Schellin
5 or someone can help me to understand. I was looking at
6 the second proposed rule or publication. We did that as
7 a result of what happened in our first, if I remember
8 correctly.

9 MS. SCHELLIN: Right, that was correct. It
10 inadvertently left out some text in Subtitle B, Section
11 304.6 and so that was re-advertised.

12 CHAIRMAN HOOD: Re-advertised.

13 MS. SCHELLIN: Right.

14 CHAIRMAN HOOD: And we received no comments on
15 the re-advertisement.

16 All right, Commissioners, any questions or
17 comments on this?

18 Okay. All right, would somebody like to make
19 a motion?

20 COMMISSIONER MAY: I move that we take final
21 action on Zoning Commission Case No. 17-18, Office of
22 Planning, Text Amendment to Subtitle B regarding
23 Measurement of Floor Area Ratio.

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 All in favor, aye?

2 (Chorus of ayes.)

3 Any opposition?

4 Not hearing any, Ms. Schellin, would you please
5 record the vote?

6 MS. SCHELLIN: Yes. Staff records the vote 5
7 to 0 to 0 to approval final on Zoning Commission Case No.
8 17-18. Commissioner May moving, Commissioner Hood
9 seconding, Commissioners Miller, Shapiro, and Turnbull in
10 support.

11 CHAIRMAN HOOD: That was a two-vote case,
12 wasn't it?

13 MS. SCHELLIN: Yes.

14 CHAIRMAN HOOD: Okay, now let's do time
15 extension. Zoning Commission Case No. 14-19A, M Street
16 Development Group, LLC, Two-Year Time Extension at Square
17 772, Lots 803 and 804.

18 Ms. Schellin.

19 MS. SCHELLIN: Yes, the Applicant is requesting
20 a two-year time extension, as you stated. And this is the
21 Order No. 14-19 in order to extend the time to begin
22 construction. That would extend the time to November 20,
23 2020. The Applicant cites significant delay due to
24 ongoing negotiations with BP Oil Company, the responsible
25 party for completing soil remediation measures on the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 southeastern portion of the property which was the site
2 of a former Amoco gas station. At Exhibit 5, there's an
3 OP report in support. We would ask the Commission to
4 consider taking action this evening.

5 CHAIRMAN HOOD: Okay, Commissioners, we a
6 request before us for an extension of two additional years
7 and we noted part of the delay is noted by Ms. Schellin
8 is the soil remediation because of the prior use. So any
9 questions or comments?

10 All right, so I would move the two-year
11 extension to the date noted, November 20, 2020 of Zoning
12 Commission Case No. 14-19A and ask for a second.

13 COMMISSIONER TURNBULL: Second.

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

16 All those in favor, aye?

17 (Chorus of ayes.)

18 Any opposition?

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

21 MS. SCHELLIN: Staff records the vote 5 to 0
22 to 0 to approve the two-year time extension to November
23 20, 2020. Commissioner Hood moving, Commissioner Turnbull
24 seconding, Commissioners May, Miller, and Shapiro in
25 support.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 CHAIRMAN HOOD: Okay, next, let's go to
2 proposed action. Zoning Commission Case No. 04-33I,
3 Office of Planning, Text Amendments re: Inclusionary
4 Zoning (Subtitles A-H & K).

5 Ms. Schellin.

6 MS. SCHELLIN: Yes, the new exhibits in this
7 case are Exhibit 14, an ANC 3D report; and Exhibit 15, an
8 OP supplemental report. We ask the Commission to consider
9 taking proposed action.

10 CHAIRMAN HOOD: Okay. Let me start off and
11 maybe others didn't have half as much confusion as I've
12 had.

13 As I was reading -- this was supposed to be a
14 clarifying measure and as I was reading from two of the
15 people, I think it was two. One of them was the ANC and
16 one of them was Ms. Simon as we asked Office of Planning
17 to revisit.

18 Ms. Steingasser or Mr. Lawson, in simple terms,
19 I understood -- let's go to your report, if I can get it
20 to come back up. Give me one moment, please.

21 Let's go to your supplemental report. 103.1
22 I think was very clear, I mean it was straight on. So I
23 didn't have any issues with that. And when I started
24 looking at it, I guess maybe when I started looking at
25 some of the submissions from Ms. Simon, it was like we

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 were taken away -- we were taken away and then I think the
2 ANC was basically saying that Ms. Simon's analysis or her
3 findings were incorrect. So I was going back and forth
4 trying to figure all that out.

5 For me though, 103.2. And I think if I'm not
6 mistaken, the reason we even went this way was to try to
7 clarify it so lay persons would be able to understand it.
8 I think that's what our whole intent was to begin with.

9 Oh, I'm sorry, should I be going to somebody
10 else?

11 MS. STEINGASSER: Well, Mr. Rogers is here who
12 was the principal on that.

13 CHAIRMAN HOOD: Okay. Thank you. Mr. Rogers,
14 wasn't that our intent?

15 MR. ROGERS: Yes, the intent of 04-33I was to
16 make things more clear and correct omissions and errors
17 that were a result of the big translation of the 58 to the
18 2016 code and also at the same time we were doing the 04-
19 33G.

20 CHAIRMAN HOOD: So did you have a chance to
21 read from ANC, I think it's 3D?

22 MR. ROGERS: Yes.

23 CHAIRMAN HOOD: Did you have a chance to read
24 Ms. Simon's --

25 MR. ROGERS: Their analysis of Ms. Simon's --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 CHAIRMAN HOOD: Yes, it looked like that was
2 their analysis, but they also gave their own analysis with
3 the charts. There was a lot of work put into it.

4 MR. ROGERS: Yes.

5 CHAIRMAN HOOD: A lot of work put into it. So
6 when I looked at that and when I looked at 103.2, I was
7 wondering did we achieve our goal, I mean, from your
8 professional opinion from trying to clarify for the lay
9 person? Did we achieve our goal after the two submissions
10 that really were total opposites?

11 MR. ROGERS: I believe we've achieved our
12 mission of making the regulations more clear. Much of
13 this was at the request of DCRA and their long-standing
14 interpretation of how the program worked and so we were
15 instituting the clarifications they requested.

16 CHAIRMAN HOOD: So 103.2, everyone who is
17 probably going to have a hand in it, reviewed that and
18 thought that that would work for us moving forward.

19 MR. ROGERS: Correct.

20 CHAIRMAN HOOD: I was going to actually ask you
21 all to simplify it even more, but I think those who have
22 to operate within it then have to make it into compliance
23 and have to administer it, believe that that language is
24 clarifying enough. I'll leave it at that.

25 Let me -- thank you.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 Ms. Steingasser?

2 MS. STEINGASSER: I just wanted to confer with
3 you. There was a lot of post-hearing information
4 submitted, some of it was very complex.

5 I found one sentence in the ANC's report to be
6 very, very concise and that was on page 11 where they
7 concluded that OP's proposed clarification of the formula
8 is exactly that, a clarification.

9 CHAIRMAN HOOD: I saw that.

10 MS. STEINGASSER: And of all the stuff that was
11 in there, I understood that sentence.

12 (Laughter.)

13 CHAIRMAN HOOD: I understood because it was a
14 whole -- and I appreciate all of the work that Ms. Simon
15 did, as well as the ANC because the ANC had charts. They
16 had graphs. They really took and depicted what the Office
17 of Planning was doing versus Ms. Simon. So I really
18 appreciated the work that they did and I did read that
19 sentence.

20 After I went through all of that, I saw that
21 sentence. So I just wanted to make sure that we achieved
22 that for the end users who are going to be coming down
23 using it that we don't cause more confusion. But if
24 everyone has examined this, then it gives me a comfort
25 level to move forward, even though I have to keep reading

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 it myself. I kept reading 103.2 over and over again.

2 Anyway, okay, let me open it up. Any
3 questions?

4 Mr. May?

5 COMMISSIONER MAY: So going back to the report
6 that Office of Planning submitted now for 1005.7,
7 clarifying the inclusionary units of apartment houses
8 shall not be located in cellar space, so that's a new
9 proposal or was that something that was part of what you
10 had originally submitted in this case?

11 MR. ROGERS: That was a new proposal.

12 COMMISSIONER MAY: Yes.

13 MR. ROGERS: And it was filling a gap that we
14 saw in the regulations.

15 COMMISSIONER MAY: Well, I see all the reasons
16 for it and it made a lot of sense to me. It's somewhat
17 disheartening to read that there actually has been a
18 disproportionate number of IZ units being located in
19 cellar spaces. It's just the way things have played out
20 and so I'm all for not locating them in cellar space. So
21 I'm glad to see that change.

22 And I think that's the way we should do it.
23 You had alternate language that was, you know, more
24 complicated and I think that's not necessary. I think we
25 just not include it.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 CHAIRMAN HOOD: Any other questions or
2 comments?

3 Vice Chair Miller?

4 VICE CHAIR MILLER: Thank you, Mr. Chairman.
5 And I agree with the -- I appreciate all the work that's
6 been done on this by OP and Ms. Simon and ANC 3F. And I
7 agree that what's been proposed is a clarification.

8 I appreciate OP look at the cellar issue to see
9 if we could come up with a more equitable formula there.
10 But I think ease of administration is important and so I'm
11 fine with the proposal as put forward by Office of
12 Planning and think that their analysis makes sense as does
13 ANC 3F's analysis.

14 So I guess you are going to look at maybe at
15 some point ANC 3F at the end offered some alternative
16 formulas which they thought might produce some more
17 affordable units without disrupting the basic mathematical
18 calculations or assumptions that are in the inclusionary
19 zoning formula.

20 And I think there's something in OP's report
21 that says you might look at that, either in the future or
22 after the next comp plan amendments are done. So I think
23 that that's fine. I wouldn't -- I think we should always
24 be looking for ways to maximize the affordable housing
25 that's produced in the inclusionary zoning program.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 We know that developers do come in and proffer
2 more than what's minimally required and even when there
3 isn't the bonus density to compensate. So to the extent
4 we can look at alternatives, that might produce that more
5 affordable housing, more -- raise the minimum. I think we
6 should look at it. But I'm ready to go forward tonight,
7 Mr. Chairman.

8 CHAIRMAN HOOD: Any comments, questions?

9 Mr. May, did you put forward a change?

10 COMMISSIONER MAY: No, I mean, I think we would
11 be voting on the latest proposal.

12 CHAIRMAN HOOD: Okay.

13 COMMISSIONER MAY: From the Office of Planning
14 which incorporates that new language regarding prohibiting
15 IZ units in cellars.

16 CHAIRMAN HOOD: Okay. Would someone like to
17 make a motion on this? Unless there's some additional
18 discussion, I think it's ready for us to move forward.

19 Would somebody like to make a motion?

20 COMMISSIONER MAY: I would move that we take
21 proposed action Zoning Commission Case 04-33I, Office of
22 Planning text amendment regarding inclusionary zoning,
23 subtitles A through H and K.

24 VICE CHAIR MILLER: Second.

25 CHAIRMAN HOOD: Okay, it's been moved and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 properly seconded. Any further discussion?

2 All in favor, aye.

3 (Chorus of ayes.)

4 Any opposition?

5 Not hearing any, Ms. Schellin, would you please
6 record the vote?

7 MS. SCHELLIN: Staff records the vote 5 to 0
8 to 0 to take proposed action on Zoning Commission Case No.
9 04-33I. Commissioner May moving, Commissioner Miller
10 seconding, Commissioners Hood, Shapiro, and Turnbull in
11 support.

12 CHAIRMAN HOOD: Okay. Before we go to Hearing
13 Action, I'd like to go to the correspondence item. This
14 is Zoning Commission Case -- if that's okay -- Zoning
15 Commission Case No. 08-07D. Four Points, Two-Year PUD
16 Time Extension at Square 5785, Request for Reconsideration
17 from CARE, Current Area Residents East of the River, and
18 that's the correspondence.

19 Ms. Schellin, do you have anything to add?

20 MS. SCHELLIN: Just that CARE is a non-party.
21 They've asked the Commission to waive the rule that only
22 parties to a case can file a request for reconsideration
23 and if the Commission does grant that, to rule on its
24 request for a reconsideration. That's at Exhibit 8 and
25 then at Exhibit 9, the Applicant has filed opposition to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 the waiver request stating reasons for good cause to grant
2 that request -- or grant that waiver has not been shown.
3 And that -- and also that Exhibit 9, the Applicant has
4 stated how granting the waiver would prejudice the
5 Applicant.

6 So if the Commission could first decide on the
7 waiver request, that would be appreciated.

8 CHAIRMAN HOOD: Commissioners, I think our past
9 practice has actually taught us through discovery and just
10 knowing that we need to follow our rules. I think this
11 is a rule that I don't think we've ever waived.

12 I will go out on a limb to say that I can
13 always stand to be corrected, but I didn't think this was
14 a rule that I'm ready to waive. I don't believe we've
15 ever done this. We've always had Commission rules
16 provided the only party, parties may request
17 reconsideration. But I will entertain any comments if
18 someone disagrees with that. If not, we will just -- I
19 think we'll just leave it. I don't think we need to vote
20 on that. But let me see what others have to say.

21 COMMISSIONER SHAPIRO: I concur with the chair.

22 CHAIRMAN HOOD: Any additional analysis. Do
23 we have to vote on it? Okay, so we have to deny -- okay,
24 I move to deny the reconsideration of -- I move to deny
25 the waiver. So I don't need to do anything with the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 request.

2 I was going to move to deny the request to
3 waive -- is that the same thing?

4 Let me ask everybody, is that the same thing?
5 Somebody else make the motion then. I think it all ends
6 up the same place. Is that the same? Was my wording
7 incorrect?

8 Who do I go to? I want to make sure I'm
9 legally correct.

10 MR. RITTING: I don't remember what you said,
11 but I think what you meant --

12 (Laughter.)

13 CHAIRMAN HOOD: That's how important it was.

14 MR. RITTING: -- was that you are denying the
15 request for the waiver.

16 CHAIRMAN HOOD: That's what I was doing, right.
17 Okay, so I would move to deny the request for the waiver
18 and ask for a second.

19 VICE CHAIR MILLER: Second.

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

22 All in favor, aye?

23 (Chorus of ayes.)

24 Any opposition?

25 Not hearing any, Ms. Schellin, would you please

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 record the vote?

2 MS. SCHELLIN: Yes, staff records the vote 5
3 to 0 to 0 to deny the request for the waiver.
4 Commissioner Hood moving, Commissioner Miller seconding,
5 Commissioners May, Shapiro, and Turnbull in support of
6 opposition.

7 CHAIRMAN HOOD: And Mr. Ritting, Ward 5 folks,
8 you are not Ward 5 folks. We at least wait five minutes
9 to forget what the next person has said. So anyway.

10 All right, let's go to hearing action, Zoning
11 Commission Case No. 18-19, Poplar Point RBBR, LLC, map
12 amendment, petition at Square 5860 and 5861.

13 Ms. Steingasser?

14 MS. STEINGASSER: Yes, sir. In October of this
15 year, the Office of Planning submitted a text amendment
16 to the zoning regs to create a new zone, the northern
17 Howard Road zone. The Commission set that case down on
18 October 22nd.

19 The Applicant for this property is within the
20 geographic location of that new zone and they have
21 requested a map amendment to that new zone with some
22 supporting text submitted by the Office of Planning which
23 would be Section 1011.1. The Office of Planning
24 recommends that they both be set down.

25 CHAIRMAN HOOD: Thank you, Ms. Steingasser.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 Any questions or comments on this case?

2 I am in favor of setting down what's being
3 requested. But let me hear from others, any comments?

4 COMMISSIONER SHAPIRO: No objection, Mr. Chair.

5 CHAIRMAN HOOD: Okay. If there's no further
6 discussion, Commissioner May?

7 COMMISSIONER MAY: We do have a letter in the
8 record from ANC Chair. I thought maybe we should address
9 that.

10 CHAIRMAN HOOD: Which exhibit is that again?

11 MS. SCHELLIN: Chairman Hood, if I may, that
12 letter was from -- originally, this case was put on last
13 month's agenda and because of that ANC submission, I
14 believe if I remember correctly, Exhibit 22 with some
15 subparts, we took it off of the October 22nd agenda and
16 moved it to November to make sure that they had the
17 correct days, 30 days, in order to submit an ANC set down
18 report. That's why it was not considered last month.

19 CHAIRMAN HOOD: Got it.

20 MS. SCHELLIN: With the text amendment.

21 COMMISSIONER MAY: It was 45 days is what they
22 cited.

23 MS. SCHELLIN: They were citing 45 days for the
24 Applicant to come out to them, but that was not -- that's
25 not required in the rulemaking.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 COMMISSIONER MAY: So in any case, they've
2 gotten sufficient notice?

3 MS. SCHELLIN: Yes, sir.

4 COMMISSIONER MAY: Okay, all right. That was
5 confusing. Thank you.

6 CHAIRMAN HOOD: So that's not germane to our
7 proceeding today then?

8 MS. SCHELLIN: That time limit has been met.

9 CHAIRMAN HOOD: Okay. All right. So if
10 there's nothing else, I move approval of Zoning Commission
11 Case No. -- sorry.

12 Let me try this again. I move approval of Case
13 No. 18-19 for set down with the text amendment proposed
14 by OP. I mean I really appreciate everybody's help. I
15 really do. Can I get a second?

16 COMMISSIONER SHAPIRO: Second.

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

19 VICE CHAIR MILLER: Mr. Chairman, I would
20 encourage the Applicant to meet with the ANC and request
21 and brief them on this so they have an opportunity to come
22 to the public hearing informed about what's being proposed
23 and in support of that set down.

24 CHAIRMAN HOOD: Okay. All right. Any further
25 discussion? And I'm just having fun. I appreciate you

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 all helping me out, especially if you're helping me to do
2 it right. If you're going to help me do it wrong, I don't
3 appreciate it.

4 Okay, so it's moved and properly seconded. Any
5 further discussion?

6 All in favor, aye?

7 (Chorus of ayes.)

8 Any opposition?

9 Not hearing any, Ms. Schellin, will you please
10 record the vote?

11 MS. SCHELLIN: Yes, staff records the vote 5
12 to 0 to 0, the set down Zoning Commission Case No. 18-19
13 as a rulemaking case. Commissioner Hood moving,
14 Commissioner Shapiro seconding, Commissioners May, Miller,
15 and Turnbull in support.

16 I believe this also includes the addition of
17 the text amendment that OP --

18 CHAIRMAN HOOD: Correct, proposed by OP.

19 MS. SCHELLIN: Yes. Thank you.

20 CHAIRMAN HOOD: Okay, I'm sorry, I left that
21 out, text amendment proposed by OP. That includes --
22 okay.

23 Let's go to Zoning Commission Case No. 18-12,
24 Keep Meridian Hill Green Civic Association Map Amendment
25 at Square 2568.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 Mr. Lawson.

2 MR. LAWSON: Yes, thank you, Mr. Chair. Very
3 briefly, Zoning Commission Case 18-12 is a petition filed
4 by a group called Keep Meridian Hill Green Association and
5 that's to rezone a portion of the property at Square 2568
6 in Lot 808 from the currently zoned RA-4 to RA-2. The
7 remainder of the property is already zoned RA-2.

8 The property in question was recently the
9 subject of the Board of Zoning Adjustment case where the
10 Board approved specific relief that allowed the
11 development generally consistent with the RA-4
12 regulations.

13 While OP analysis indicates that the existing
14 RA-4 Zone is generally not inconsistent with the
15 comprehensive plan as a whole, if the Commission feels
16 that the proposal has sufficient merit, OP would recommend
17 the following: that the case be set down for a public
18 hearing to allow the issue to be fully vetted in a public
19 form.

20 OP also recommends that an accompanying text
21 amendment to Subtitle F, Section 304 also be set down and
22 that would essentially make the property with the
23 development that was approved through the BZA case
24 conforming to the zoning regulations.

25 And thirdly, OP would recommend that since the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 property owner is not part of the petition to down zone
2 their property, we would recommend that the property owner
3 also be given an opportunity to present their case as part
4 of the public hearing and be allowed whatever time is
5 allowed for the petitioner to also present their case to
6 the Commission.

7 With that, I'm happy to take any questions.
8 Thank you.

9 CHAIRMAN HOOD: Thank you, Mr. Lawson. Let me
10 just ask a question. The Keep Meridian Hill Green
11 Citizen's Association is really the Meridian Hill Civic
12 Association. Are they under this city charter? I'm just
13 curious. I think that's a requirement.

14 MR. LAWSON: Honestly, I do not know, but we
15 can certainly have -- if you do set this down, we can have
16 them clarify that.

17 CHAIRMAN HOOD: I would like to have that
18 clarified. Let me open it up. Commissioner May.

19 COMMISSIONER MAY: Yes, Mr. Chairman, thank
20 you. So I was the Zoning Commission representative on the
21 BZA case where the project was heard for this one. So I
22 have probably more of a background on it than most of us.

23 Having reviewed the Office of Planning's report
24 and the petition that was submitted by the Keep Meridian
25 Hill Green Civic Association, I have to say that I agree

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 primarily with the Office of Planning's analysis that
2 while the zone that is mapped in this stretch of 16th
3 Street on its face could be regarded as inconsistent with
4 the comprehensive plan. There are plenty of reasons why
5 it is consistent with the comprehensive plan. The
6 comprehensive plan is not a zoning map. It's a series of
7 policies and recommendations. And the intention of the
8 plan, I think, is clear and frankly, I don't see any
9 inconsistency between the zone that is currently mapped
10 there or even the case that was approved by the BZA which
11 did not involve a substantial amount of relief in order
12 to get built. And it was a building that was approved by
13 the Historic Preservation Review Board after significant
14 changes that were made. There were even changes that were
15 made in the process of the BZA's review.

16 And I do appreciate the fact that the Office
17 of Planning brought this question to us and recommends
18 set down out of respect for the ANC's support for the
19 petitioner's case. But I would say that it is -- this is
20 very different from other zoning map consistency cases
21 where there's a very clear discrepancy and a damaging
22 discrepancy between the way a -- or potentially damaging
23 inconsistency between the way a map is drawn versus what
24 the comprehensive plan recommends.

25 I can remember another one not too long ago

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 where there was a PDR use that was mapped in an area that
2 was the comprehensive plan recommended as residential and
3 we did take action to down zone that property. And that's
4 the sort of thing I think we're accustomed to seeing.

5 I honestly don't see that this is the sort of
6 case that we should take up. It's a down zoning with no
7 real benefit in the end and we have an approved BZA case,
8 that building that has been well designed and is
9 satisfactory to the Historic Preservation Review Board and
10 its development there is, I think, consistent with the
11 purposes of the comprehensive plan.

12 So I would recommend that we deny this petition
13 and not set down the case.

14 CHAIRMAN HOOD: Okay, others? Vice Chair Miller.

15 VICE CHAIR MILLER: Thank you, Mr. Chairman.
16 I totally concur with Commissioner May. I watched that
17 entire BZA case that he participated in and I would not
18 be in favor of setting down the down zoning. When the
19 Office of Planning's own report -- against the property
20 owner's wishes, when there's an Office of Planning report
21 says that the -- I'm quoting on page 10, "There are many
22 sections within the text of the comprehensive plan that
23 support retention of a long-existing zoning of this
24 property and area."

25 And in the next paragraph: "OP's analysis

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 concludes that the existing RA-4 zoning is not
2 inconsistent with the comprehensive plan, particularly
3 when the policy statements are read on bounds with the
4 future land use map and policy map that designates the
5 zoning history of the site."

6 It goes on to say that "the proposed RA-2
7 zoning would also not be inconsistent." But I don't see
8 the point in taking up a lot of time at a set down hearing
9 for this type of down zoning. So I am not in favor of
10 setting this down for a public hearing.

11 CHAIRMAN HOOD: Okay. Mr. Shapiro.

12 COMMISSIONER SHAPIRO: Thank you, Mr. Chair.
13 Having read the record before us and hearing the comments
14 of my colleagues, I have no objection to that petition,
15 while I would concur with my two colleagues.

16 CHAIRMAN HOOD: Okay. Mr. Turnbull.

17 COMMISSIONER TURNBULL: Commissioner Shapiro,
18 are you not in favor of setting down, is that right?

19 COMMISSIONER SHAPIRO: Yes.

20 COMMISSIONER TURNBULL: I would just say I
21 would concur with my colleagues on that.

22 CHAIRMAN HOOD: Okay. All right. Would
23 somebody like to make a motion?

24 COMMISSIONER MAY: Mr. Chairman, I would move
25 that we deny set down -- is that the right terminology?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 CHAIRMAN HOOD: I don't know around here.

2 COMMISSIONER MAY: I'm looking at OAG. I
3 wasn't asking you.

4 CHAIRMAN HOOD: Don't ask me.

5 (Laughter.)

6 MS. LOVICK: Yes.

7 COMMISSIONER MAY: Deny the request to set down
8 Zoning Commission Case 18-12, Keep Meridian Hill Green
9 Civic Association Map Amendment at Square 2568.

10 VICE CHAIR MILLER: Second.

11 CHAIRMAN HOOD: It's been moved and properly
12 seconded. And I didn't weigh in further discussion. I
13 will say that, as the Vice Chair mentioned, I looked
14 through the policies and the Office of Planning report
15 which guides me to go along with the denial of this set
16 down.

17 Any further discussion? All in favor, aye?

18 (Chorus of ayes.)

19 Any opposition?

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

22 MS. SCHELLIN: Staff records the vote 5 to 0 to
23 0 to deny set down in Zoning Commission Case No. 18-12.
24 Commissioner May moving, Commissioner Miller seconding,
25 Commissioners Hood, Shapiro, and Turnbull in support of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 denial.

2 CHAIRMAN HOOD: Next, we go to Zoning
3 Commission Case No. 06-10D, The Morris and Gwendolyn
4 Cafritz Foundation, 2nd-Stage PUD and Modification of
5 Significance of 1st-Stage PUD at Squares 3765 & 3767.

6 Mr. Cochran?

7 MR. COCHRAN: Thank you, Mr. Chair. OP
8 recommends that the Commission set down the application
9 for the approval of a second stage PUD and modifications
10 to orders 06-10A and 06-10C to accommodate changes to
11 earlier PUD orders that govern the second stage site.

12 In 2009, the Commission approved and
13 consolidated in a preliminary PUD with related map
14 amendments for the 16 and the third acre site near the
15 Fort Totten Metro. The scope of the original approval is
16 summarized in our report. You've approved three
17 modifications to the orders since 2009.

18 The consolidated PUD portion is finished and
19 it's described in OP's report. The present application
20 is for phase B which would be the first of three second
21 stage PUD phases. This part of the site was approved for
22 a single 450,000 square foot, 3-story building which would
23 have contained retail, grocery, and cultural uses. The
24 new application somewhat reduces the site size, marginally
25 increases the amount of development, and that results in

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 a less than 2.5 increase in the phases FAR.

2 But the more significant changes are in the
3 site plan and in the program. Phase B would now be a two-
4 building complex that also contains residential uses.
5 Along South Dakota Avenue, there would be a four-story
6 building containing a smaller grocery and a smaller
7 children's museum than was originally envisioned, but a
8 much larger entertainment component called the Family
9 Entertainment Zone. There would also be 30 units of live-
10 work space for artists reserved at what the applicant says
11 would be an affordable rate.

12 4th Street, which is parallel to South Dakota
13 Avenue would be closed and it would become a private type
14 street with intensive pedestrian uses. And across this
15 street would be a 7-story building with about 250
16 apartments and ground-floor retail.

17 Details on this new proposal and how it differs
18 from what is currently approved are on pages 2 to 6 of our
19 report.

20 The new Phase B proposal is not inconsistent
21 with the comprehensive plan and its intensity of use
22 appears to be generally consistent with the approved
23 preliminary PUD. The modifications respond to the
24 neighborhood's changed retail and residential profile
25 since you approved the overall PUD.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 There are, however, several questions that the
2 Applicant would need to address via public hearing. These
3 are noted on page 7 of our report and after set down, OP
4 and other agencies would continue working with the
5 Applicant to more fully understand the possible impacts
6 of that Family Entertainment Zone to refine design
7 details, to place Phase B within a context of subsequent
8 proposed stage 2 phases and to encourage the provision of
9 additional affordable housing in a PUD that predates IZ
10 requirements.

11 That concludes our report.

12 CHAIRMAN HOOD: Okay. Thank you, Mr. Cochran.
13 Any questions or comments?

14 COMMISSIONER MAY: Mr. Chairman, I appreciate
15 the Office of Planning's thorough report and I know there
16 are a few things that need to be figured out, but I
17 certainly would not want to stand in the way or slow this
18 project down. It's already moving slowly, so as soon as
19 we see some energy, we want to make sure that it's
20 maintained and I appreciate the fact that Mr. Cochran will
21 be working with the Applicant and will be getting all
22 those questions answered and I agree with the questions
23 that he's asked in the report. So I look forward to it.

24 CHAIRMAN HOOD: Okay. Any other comments?
25 Commissioner Turnbull?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 COMMISSIONER TURNBULL: I just had a couple.
2 I think I would agree with Mr. Cochran's report and
3 analysis.

4 I would like some more information on the
5 trivision panel on South Dakota. It looks like a screen
6 of some sort that's going to be moving. So I'm just
7 curious on what that really does.

8 And the other thing are the GRFC panels,
9 whatever -- what's really happening there. If we could
10 get a little bit more information.

11 MR. COCHRAN: We'd be happy to and we're
12 already working with DDOT because we have mutual
13 questions.

14 COMMISSIONER TURNBULL: Thank you, Mr. Cochran.

15 CHAIRMAN HOOD: Any other questions for Mr.
16 Cochran?

17 Vice Chair Miller.

18 VICE CHAIR MILLER: I just wanted to concur
19 with my colleagues and the Office of Planning report
20 asking for that additional information and working with
21 the Applicant between now and the public hearing,
22 especially on the impacts of the Family Entertainment
23 Zone, the facade materials and encouraging increased
24 proffer of affordable housing beyond the original PUD
25 order.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 CHAIRMAN HOOD: Okay, I don't think we have
2 anything else, so with that, would somebody like to make
3 a motion to set this down?

4 VICE CHAIR MILLER: Mr. Chairman, I would move
5 that the Zoning Commission set down for public hearing
6 Zoning Commission Case No. 06-10D, The Morris and
7 Gwendolyn Cafritz Foundation Second Stage PUD and
8 Modification of Significance to First Stage PUD at Squares
9 3765 and 3767 and ask for a second.

10 COMMISSIONER SHAPIRO: Second.

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

13 All in favor, aye?

14 (Chorus of ayes.)

15 Any opposition?

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

18 MS. SCHELLIN: Staff records the vote 5 to 0
19 to 0 to set down Zoning Commission Case No. 06-10D as a
20 contested case. Commissioner Miller moving, Commissioner
21 Shapiro seconding, Commissioners Hood, May, and Turnbull
22 in support.

23 CHAIRMAN HOOD: Okay. Ms. Schellin, do we have
24 anything else before us?

25 MS. SCHELLIN: No. I believe OP may have an

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 update.

2 CHAIRMAN HOOD: Okay, Office of Planning, you
3 have an update?

4 MS. STEINGASSER: Yes, sir. I just wanted to
5 briefly remind the Commission that we have moved forward
6 with the case to rename the zoning district names. That's
7 coming up on December 3rd. We will be following that with
8 actual revised text depending on the action taken by the
9 Zoning Commission that evening and hopefully we'll be
10 moving that forward very quickly thereafter, so there will
11 be a lot of reconfiguring of chapters.

12 We've been starting our work with the Office
13 of Zoning and the Office of the Attorney General to make
14 sure that that gets aligned, and all the new text that's
15 been going through gets incorporated.

16 CHAIRMAN HOOD: All right, any questions? All
17 right, thank you, Ms. Steingasser.

18 Anything else? Ms. Schellin, do we have
19 anything else?

20 MS. SCHELLIN: No, sir.

21 CHAIRMAN HOOD: All right, I want to thank
22 everyone for their participation tonight and this meeting
23 is adjourned.

24 (Whereupon, the above-entitled matter went off
25 the record at 7:32 p.m.)

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Meeting

Before: DCZC

Date: 11-19-18

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.



Court Reporter

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701