

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC MEETING

+ + + + +

MONDAY

JANUARY 28, 2019

+ + + + +

The Regular Public 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
- PETER G. MAY, Commissioner (NPS)
- PETER SHAPIRO, Commissioner
- MICHAEL G. TURNBULL, FAIA, Commissioner (AOC)

OFFICE OF ZONING STAFF PRESENT:

- SHARON S. SCHELLIN, Secretary

OFFICE OF PLANNING STAFF PRESENT:

- JOEL LAWSON
- ELISA VITALE
- STEVE COCHRAN

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MAXIMILIAN TONDRO
HILLARY LOVICK

The transcript constitutes the minutes from the
Regular meeting held on January 28, 2019.

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

6:30 p.m.

1
2
3 CHAIRMAN HOOD: Okay. We are ready to get
4 started. This meeting will please come to order. Good
5 evening ladies and gentleman. This is a public meeting of
6 the Zoning Commission for the District of Columbia. Today's
7 date is Monday, January 28, 2019, and it is approximately
8 6:30 p.m. We are located at the Jerrily R. Kress Memorial
9 Hearing Room.

10 Joining me this evening are Commissioner Shapiro,
11 Commissioner May, and Commissioner Turnbull. We are also
12 joined by the Office of Zoning Staff Ms. Sharon Schellin, as
13 well as the Office of Attorney General Mr. Tondro and Ms.
14 Lovick. Office of Planning staff, we have Mr. Lawson and Mr.
15 Cochran.

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

20 Please be advised this proceeding is being
21 recorded by a court reporter and is also webcast live.
22 Accordingly, we must ask you to refrain from any disruptive
23 noise or actions in the hearing room including the display
24 of any signs or objects. Please turn off all electronic
25 devices at this time.

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1 Does the staff have any preliminary matters?

2 MS. SCHELLIN: No, sir.

3 CHAIRMAN HOOD: If not, let us proceed with --

4 MS. SCHELLIN: Actually, I guess just to announce
5 that one item on the agenda 16-13D, if there's anybody here
6 for that case, that case has been moved to February 11th.

7 CHAIRMAN HOOD: Okay. 16-13D. If you're here for
8 that, to save some time you can come back on February 11th.

9 Anything else, Ms. Schellin?

10 MS. SCHELLIN: No, sir.

11 CHAIRMAN HOOD: Okay. Other than that, we will
12 proceed with our agenda as printed.

13 First we have a Modification of Consequence,
14 determination of scheduling. I believe we can do a little
15 more on this but let me go to Ms. Schellin.

16 MS. SCHELLIN: Yes, sir. Case 15-03A, Aria
17 Development Group - PUD Modification of Consequence at Square
18 2866. The Applicant is requesting this Modification of
19 Consequence to modify Condition No. B3A of Order No. 15-03
20 to provide renovations at the child development center called
21 Creative Minds.

22 Since the original center is no longer in the
23 area, and also to provide the same amount of money for
24 renovations, although the renovations will differ since the
25 needs are different for the center.

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1 ANC 1B, the only party to this case, has provided
2 a report at Exhibit 5 in support. OP recommends approval at
3 Exhibit 6. I would ask the Commission to consider this case
4 this evening.

5 CHAIRMAN HOOD: Okay. Thank you, Ms. Schellin.

6 Commissioners, you've heard Ms. Schellin who teed
7 it up for us very nicely. Does anyone believe that this is
8 not a Modification of Consequence? Not hearing anything, we
9 will consider this as a Modification of Consequence.

10 I believe that, as stated, the only party was the
11 ANC and the ANC has already weighed in. This seems to be
12 really flavored for us to deal with tonight. Is there any
13 objection?

14 Okay. So we've heard the rationale for the
15 changes. Any further discussion? Okay. So in that case I
16 would move that we approve Zoning Commission Case No. 15-03A
17 as described and ask for a second.

18 COMMISSIONER TURNBULL: Second.

19 CHAIRMAN HOOD: It's been moved and properly
20 seconded. Any further discussion? All in favor aye.

21 COMMISSIONERS: Aye.

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

24 MS. SCHELLIN: Staff records the vote 4-0-1 to
25 approve final action in Zoning Commission Case No. 15-03A.

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1 Commissioner Hood moving, Commissioner Turnbull seconding,
2 Commissioners May and Shapiro in support. Commissioner
3 Miller not present not voting.

4 CHAIRMAN HOOD: Okay. Next is Zoning Commission
5 Case No. 16-10A, Ranger Sagamore Florida Ave., LLC & MOB
6 Hotel DC, LLC - PUD Modification of Consequence at Square
7 3588.

8 Ms. Schellin.

9 MS. SCHELLIN: The Applicant in this case is
10 requesting Modification of Consequence to amend the time
11 frame in which the approved public space improvements
12 adjacent to a hotel portion of the building must be
13 delivered.

14 The Applicant request that Condition Nos. B8 and
15 C3 be subdivided to allow the construction of the public
16 space improvement in phases in line with the construction
17 phasing of the project.

18 First the residential and then the hotel portion
19 so the public space improvements adjacent to the residential
20 portion will be constructed prior to the issuance of the C
21 of O for the residential portion, and then similar for the
22 hotel portion.

23 The Applicant also proposes two new condition to
24 require the construction of the public space improvements
25 adjacent to the project, the timing of which was not

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1 specified in the Order No. 16-10, but again in line with the
2 construction phases of the residential and hotel portions.

3 Exhibit 3 is an OP report stating they agree with
4 this -- agree that this request is a Modification of
5 Consequence and they recommend approval.

6 The ANCs 5D and 6C were the only parties but there
7 has been no response from them yet so I would ask the
8 Commission if they agree that this is a Modification of
9 Consequence to set a schedule for responses and deliberation.

10 CHAIRMAN HOOD: Okay. Thank you, again, Ms.
11 Schellin.

12 Commissioners, does anyone disagree that this is
13 a Modification of Consequence? We will accept the
14 recommendation.

15 Ms. Schellin, can we do scheduling?

16 MS. SCHELLIN: Yes, sir. If we could have the
17 ANCs give them a week which would be February 4th and then
18 we could put this on for the February 11th agenda.

19 CHAIRMAN HOOD: Okay. Thank you.

20 Let's move to final action. Zoning Commission
21 Case No. 17-23, Office of Planning - Text Amendment to
22 Subtitles A, B, C, D, E, F, K, and U Regarding Changes to
23 Definitions and Rules of Measurements Pertaining to Side
24 Yards.

25 Ms. Schellin.

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1 MS. SCHELLIN: At the December 3rd Special Public
2 Meeting the Commission asked OP to provide a supplemental
3 report showing some graphics comparing the proposed changes
4 to the 1958 regulations. OP has done that by providing a
5 supplemental report at Exhibit 28. I would ask the
6 Commission to consider final action this evening.

7 CHAIRMAN HOOD: Okay. Ironically, right after I
8 had -- I know I had some concerns when we first dealt with
9 this but right after that I had a BZA case which helped me
10 see the light. What I would do is ask others if they have
11 any comments.

12 We do have one issue from ANC 8A which mentioned
13 that they would like to see us include side yards in unison
14 row dwellings. I don't have it pulled it but I think that's
15 what I remember. Anyway, let me open it up for any
16 discussion.

17 Is anyone interested in the letter from ANC 8A?
18 I think this is fine tuned. I think we clarified it. I
19 think that's what this was about trying to clarify this whole
20 issue about side yards and cut back on some of the BZA cases.
21 I think we actually have achieved that. Any other comments?

22 COMMISSIONER MAY: Mr. Chairman, I think we are
23 always interested in what the ANC has to say, but I think in
24 this circumstance, as I understand it, they were concerned
25 about preserving the requirement for a side yard at the end

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1 of a row of row houses.

2 I don't know that is really essential at this
3 stage. I think what we are trying to address, in terms of
4 the changes to the regulations were to essentially make it
5 less complicated to do infill buildings.

6 I think that the circumstances were that side yard
7 at the end of a row is less critical. Besides, most often
8 the side yard at the end of the row is going to be at a
9 street or an alley or something like that and it isn't going
10 to be that critical.

11 The circumstances where something like this
12 actually becomes important is a relatively rare circumstance
13 most likely to come up in a PUD, I think, frankly, at which
14 point we could address those kinds of -- the issues of
15 privacy and so on more directly in those circumstances.

16 I'm not so concerned about what the ANC raised as
17 to want to make any further changes. I think the way this
18 language has been developed and then modified in response to
19 our questions and the hearings and so on I think is where it
20 needs to be and will make things smoother at the BZA. I'm
21 prepared to give this our final approval.

22 CHAIRMAN HOOD: Okay. Thank you, Commissioner
23 May.

24 Any other comments or questions? Okay. Would
25 somebody like to make a motion?

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1 COMMISSIONER MAY: I can do it. I would move
2 final approval of Zoning Commission Case No. 17-23, Office
3 of Planning Text Amendment to Subtitles A, B, C, D, E, F, K
4 and U Regarding Changes to Definitions and Rules of
5 Measurements Pertaining to Side Yards.

6 CHAIRMAN HOOD: Okay.

7 COMMISSIONER SHAPIRO: Second.

8 CHAIRMAN HOOD: It has been moved and properly
9 seconded. I would just ask for a friendly amendment that we
10 also include Subtitles F306.1 and 306.2 as modified and
11 proposed.

12 We don't believe -- which is in the Office of
13 Planning supplemental report. We don't believe -- I don't
14 think -- I'm hoping. I guess with the motion we don't
15 believe that we need to do any additional advertising. I
16 think this is very minor.

17 COMMISSIONER MAY: Yeah, I think that's a minor
18 clarification. Thank you for that amendment.

19 CHAIRMAN HOOD: Okay. So he's accepted it. Do
20 you accept it?

21 COMMISSIONER SHAPIRO: Second.

22 COMMISSIONER HOOD: Everybody has accepted it so
23 it's been moved and properly seconded with that friendly
24 amendment. Any further discussion? All in favor, aye.

25 COMMISSIONERS: Aye.

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1 CHAIRMAN HOOD: Any opposition? So ordered.

2 Ms. Schellin, please record the vote.

3 MS. SCHELLIN: Staff records the vote 4-0-1 to
4 approve final action in Zoning Commission Case No. 17-23
5 including the modification in OP's report. Commissioner May
6 moving, Commissioner Shapiro seconding, Commissioners Hood
7 and Turnbull in support. Commissioner Miller not present and
8 not voting.

9 CHAIRMAN HOOD: All right. Zoning Commission Case
10 No. 12-08B, Office of Planning Text Amendment to Subtitle K,
11 Sections 603, 612, and 613, and 614.

12 Ms. Schellin.

13 MS. SCHELLIN: Yes. The only response we have to
14 the proposal that came in was just the NCPC report at Exhibit
15 10, was a delegated action that found the proposed text would
16 not be inconsistent with the comp plan for the National
17 Capital, nor adversely affect any other federal interest.
18 We would ask the Commission to consider final action this
19 evening.

20 CHAIRMAN HOOD: Okay. Commissioners, let me open
21 it up. What is your pleasure in this particular case? Also,
22 let me just say for the record we are joined by Ms. Vitale.
23 I meant to say that earlier for the record.

24 Commissioners, what is your pleasure? Any
25 comments?

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1 COMMISSIONER TURNBULL: I think we went through
2 this fairly well at proposed action so I think I don't have
3 any comments on this.

4 CHAIRMAN HOOD: Not hearing any, would somebody
5 like to -- we actually do that a lot. We go through stuff
6 a lot in certain circumstances. Would someone like to make
7 a motion in this case?

8 Commissioner Shapiro.

9 COMMISSIONER SHAPIRO: Thank you, Mr. Chair. I
10 move that we take final action on Zoning Commission Case No.
11 12-08B, Office of Planning Text Amendment to Subtitle K,
12 Sections 603, 612, 613, and 614, and look for a second.

13 COMMISSIONER TURNBULL: Second.

14 CHAIRMAN HOOD: It has been moved and properly
15 seconded. Any further discussion? All in favor, aye?

16 COMMISSIONERS: Aye.

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

19 MS. SCHELLIN: Staff records the vote 4-0-1 to
20 approve final action in Zoning Commission Case No. 12-08B.
21 Commissioner Shapiro moving, Commissioner Turnbull seconding,
22 Commissioners Hood and May in support. Commissioner Miller
23 not present and not voting.

24 CHAIRMAN HOOD: Okay. Next we have a time
25 extension, Zoning Commission Case No. 15-21A, Kenilworth

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1 Revitalization I JV, LLC & DCHA - Two-Year PUD Time Extension
2 at Square 5113, 5114, and 5116.

3 Ms. Schellin.

4 MS. SCHELLIN: The Applicant is requesting a two-
5 year time extension to file for a building permit and three-
6 year extension to start construction with regard to the
7 consolidated PUD, and then a two-year time extension in which
8 to file the second-stage PUD.

9 The Applicant has stated the need for the
10 extensions due to difficulty in securing financing because
11 of the heavily subsidized replacement of public housing
12 units. At Exhibits 3 and 4 are OP reports recommending
13 approval. I would ask the Commission to consider final
14 action on this extension request.

15 CHAIRMAN HOOD: Okay. It has been brought to my
16 attention in this case, colleagues, that for an applicant a
17 normal process is two years and I think one year to file.

18 Whatever our normal process is, the Applicant gets
19 another year out of it. I would like for the Applicant --
20 the end date should not be 2023, it should be 2022. I just
21 want to make sure we clarify it. Whose case is this? The
22 end date should be 2022.

23 COMMISSIONER MAY: That's for the two year --
24 that's for the extension to start construction of the
25 approved consolidated PUD. The request came in for a three-

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1 year extension which would put it two years past --

2 CHAIRMAN HOOD: One year.

3 COMMISSIONER MAY: Well, yeah. One year past what
4 would be normal.

5 CHAIRMAN HOOD: One year past. Right.

6 COMMISSIONER MAY: Normally they file for a
7 building permit and then one year later start construction.

8 And judging from the nod of the head of the
9 attorney in this case, it seems that they really are only
10 requesting that same original concept. They are not looking
11 for two years between the filing for the building permit and
12 the start of construction.

13 CHAIRMAN HOOD: So you're looking for the normal
14 course of action?

15 COMMISSIONER MAY: Right.

16 CHAIRMAN HOOD: Okay. So whatever year that is,
17 that's what it's going to be.

18 COMMISSIONER MAY: It's 2022.

19 CHAIRMAN HOOD: Okay, 2022. Long story we're back
20 to 2022. Anything else on this? Would someone like to make
21 a motion?

22 COMMISSIONER SHAPIRO: Mr. Chair, I move that we
23 approve Zoning Commission Case No. 15-21A, Kenilworth
24 Revitalization I JV, LLC & DCHA, two-year PUD time extension
25 at Squares 5113, 5114, and 5116, and look for a second.

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1 COMMISSIONER MAY: Second.

2 CHAIRMAN HOOD: It's been moved and properly
3 seconded. Any further discussion? All in favor, aye.

4 COMMISSIONERS: Aye.

5 CHAIRMAN HOOD: Any opposition? Not hearing any,
6 Ms. Schellin, would you please record the vote.

7 MS. SCHELLIN: Staff regards the vote 4-0-1 to
8 approve the two-year time extension plus one year to start
9 construction in Zoning Commission Case No. 15-21A.
10 Commissioner Shapiro moving, Commissioner May seconding,
11 Commissioners Hood and Turnbull in support. Commission
12 Miller not present and not voting. Then it would be two
13 years to file the second-stage PUD. Is that correct? Yes.
14 Okay.

15 CHAIRMAN HOOD: All right. Zoning Commission Case
16 No. 03-12X/03-13X, DCHA Five-Year PUD Time Extension at
17 Squares 739, 767, 768, and 882.

18 Ms. Schellin.

19 MS. SCHELLIN: Yes. As the Chairman stated, the
20 Applicant is requesting a five-year time extension of the
21 first-stage PUD. The Applicant states difficulty finding
22 financing to advance the project. Exhibit 6 is an OP report
23 recommending approval of the request so we would ask the
24 Commission to consider approving final action for this
25 request. Thank you.

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1 CHAIRMAN HOOD: Okay, Commissioners. Any
2 questions or comments on this request?

3 COMMISSIONER MAY: So this is a long extension and
4 I don't think that we can simply just give it a nod without
5 commenting on the fact that it's a long extension.

6 I think the Commission also should recognize that
7 this has been a complicated project. I mean, this was
8 originally approved in 2004 so, I mean, it goes back to my
9 first stint on the Zoning Commission when I was sitting in
10 the chair at the other end.

11 I think -- I mean, clearly this is a project that
12 overall has been transformative for that neighborhood. It's
13 also quite complicated getting it done and, of course, having
14 the recession in the middle of it that affected so many
15 projects, I think, was quite damaging to the schedule over
16 all.

17 I think the one thing that we have not heard at
18 this point, at least I didn't see in the record. Maybe
19 something came in but we haven't seen any indication that the
20 ANC specifically supports this time extension.

21 Are you checking the record, Mr. Chairman?

22 CHAIRMAN HOOD: I was just thinking back when we
23 knew that this was going to change the whole neighborhood.
24 That's why I pulled back about the five year. I was just
25 waiting to hear your comments.

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1 COMMISSIONER MAY: Yeah, yeah. I mean, the ANC
2 did support another time extension that had to do with the
3 continued use of some of the parcels for parking. I mean,
4 that sends a signal that they have some patience with regard
5 to the ultimate development here.

6 I also -- I mean, I think the real reality of it
7 is that if we don't give them sufficient time to do it, it's
8 not necessarily going to make anything happen any faster.
9 I do think they have some particular challenges when it comes
10 to things like square 882, lot 77.

11 It really would be great if they were building on
12 that lot and maybe they need to rethink what they're going
13 to do with that in terms of even the first stage approval.
14 That's a bit of a complication, too, because, as I recall
15 from what I read, the previous extension for that ran out in
16 2015. That was for stage 2.

17 Arguably that means it reverts back to the stage
18 1 and the stage 1 extension could be rolled in with this
19 which, again, I think is a reasonable strategy because I
20 don't know if anything else is going to make it move any
21 faster.

22 Again, so much has already happened but it is just
23 such a huge PUD that it's understandable that it would take
24 some time. I would like it all to get underway in less than
25 five years like before I retire from this chair. Maybe I'll

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1 move to a different chair again. I don't know. Have a third
2 stint on the Zoning Commission.

3 That's a bit rambling but I'm okay with this as
4 it is proposed.

5 CHAIRMAN HOOD: Okay. I just was wondering about
6 the five years, but I think after you started and I was
7 thinking the five years, when we first started this, we knew
8 we were changing the whole neighborhood.

9 I remember the Chair at that time saying that we
10 were changing the whole neighborhood. Here we are so many
11 years later still changing the whole neighborhood and running
12 into some roadblocks, and some issues, and problems. I think
13 your comments are well taken, Mr. May, that even if we said
14 two-and-a-half years, it's not going to move anything any
15 faster.

16 We would encourage the -- I think the ANC level
17 which you alluded to also mentions the fact they were
18 encouraged to do as much affordable housing as possible. I
19 think that's one of the main things the ANC is pushing for.
20 I think that probably garnered a lot of the support.

21 Any other comments or questions? Okay. I'm being
22 corrected. They did ask for -- I'm not sure. Whatever it
23 is, they did ask for a waiver of our request.

24 COMMISSIONER MAY: A waiver of the limit on number
25 of time extensions. Yes.

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1 CHAIRMAN HOOD: They did ask for a waiver.

2 COMMISSIONER MAY: Right. I mean --

3 MS. SCHELLIN: For five years.

4 COMMISSIONER MAY: In order to get five years.

5 MS. SCHELLIN: Yes.

6 COMMISSIONER MAY: Right. Because the rules limit
7 the number and the timing. Those rules, I think, are good
8 rules. We do have to waive them occasionally. I think they
9 were prompted by some other cases that just seemed to go on
10 and on and on and there never was really any progress. In
11 this case there's been progress. It's slower than expected.

12 CHAIRMAN HOOD: Slower.

13 COMMISSIONER MAY: I think there's been
14 substantial progress so I'm much more comfortable with this
15 than I would be on some of the other ones where the PUDs
16 should probably have expired rather than continued to extend
17 them.

18 CHAIRMAN HOOD: And this is what I like to call
19 the Herb Franklin rule. I'll never forget Herb Franklin for
20 this because when we first got here, we used to -- there were
21 PUDs that had been here for 10 years by the time I got here,
22 or 15 year. SO anyway, this is the Herb Franklin rule.

23 So what do you think? I think it sounds like we
24 are ready to grant the request. Would somebody like to make
25 a motion? I mean, I can make them all.

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1 COMMISSIONER TURNBULL: Mr. Chair, I would move
2 that we take final action on the Time Extension for Zoning
3 Case No. 03-12X and 03-13X, DCHA Five-Year PUD Time Extension
4 at Squares 739, 767, 768, and 882. I would ask for a second.

5 COMMISSIONER SHAPIRO: Second.

6 CHAIRMAN HOOD: It's been moved and properly
7 seconded. I think we all agree in this case there is no need
8 for a hearing unless there have not been any material factual
9 conflicts. It has been moved and seconded. Any further
10 discussion? All in favor aye.

11 COMMISSIONERS: Aye.

12 CHAIRMAN HOOD: Any opposition? So ordered.

13 Ms. Schellin, would you please record the vote.

14 MS. SCHELLIN: Staff records the vote 4-0-1 to
15 approve final action in Zoning Commission Case No. 03-12X/03-
16 13X. Commissioner Turnbull moving, Commissioner Shapiro
17 seconding. Commissioners Hood and May in support.
18 Commissioner Miller not present and not voting.

19 CHAIRMAN HOOD: Okay. Next under Proposed Action
20 we have Zoning Commission Case No. 18-07. This is Lean
21 Development, LLC - Zoning Map Amendment at Square 750.

22 Ms. Schellin.

23 MS. SCHELLIN: At Exhibit 60 we have the post-
24 hearing submission from the Petitioner. The Petitioner is
25 now requesting that the entire property be rezoned to the MU-

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1 4 Zone instead of the MU-4 and MU-5-A Zones.

2 At Exhibit 61 we have ANC-6C's response which
3 recommends the MU-3B Zone. Exhibit 62 is an OP supplemental
4 report in support of the Petitioner's request to rezone to
5 the MU-4 Zone. I would ask the Commission to consider
6 proposed action this evening.

7 CHAIRMAN HOOD: Ms. Schellin, when do we have --
8 I tried to look this up. I'm trying to remember when did we
9 have this hearing? Does anybody remember?

10 MS. SCHELLIN: November 8th.

11 CHAIRMAN HOOD: November 8th. Time has really
12 went by these last 30 days. Okay. Let me open it up for
13 comments or questions. We do have two different zones. ANC
14 asked us to do one zone as well as the Applicant which the
15 Applicant wants to do. I think the Applicant is supported
16 by the Office of Planning.

17 COMMISSIONER MAY: So Mr. Chairman, I was really
18 quite relieved to see that the Applicant had changed the
19 requested relief to just MU-4 across the site.

20 I know that there is certainly an argument that
21 MU-5A was arguably a reasonable fit for the site, but I
22 thought this was one of those circumstances where a little
23 bit less height and bulk would be beneficial and would be
24 just as consistent, more consistent perhaps, with the
25 Comprehensive Plan.

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1 The couple issues that remain, of course, is that
2 with the ANC recommending MU-3B, that is a small difference,
3 frankly. The rationale that I read in their letter it didn't
4 seem like it was substantive enough to warrant that
5 particular change.

6 I do think there's a difference as a result of the
7 allowed height. It could be 15 feet taller as a result of
8 IZ inclusion within the project. I think that's why we have
9 the extra height available when you include an IZ so that we
10 can get the benefit of that extra housing.

11 Certainly the city needs that. I think MU-4 is
12 a reasonable approach. Like I said, I didn't see enough of
13 an argument in the ANC's letter to be persuaded that only MU-
14 3B is appropriate or that it is far superior in some way.

15 They also brought up the issue of complications
16 of the alley behind the property which, you know, if this
17 were a PUD, maybe we would get into those sorts of questions,
18 but it's not a PUD so it's not really an issue that we need
19 to resolve with a map amendment.

20 It is one of those circumstances where maybe the
21 project would have been better handled as a PUD but we all
22 know why PUDs are not the route that people -- that
23 developers will choose at this moment given the problems that
24 have occurred with recent PUDs and court challenges and so
25 on.

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1 I think that's unfortunate because arguably -- not
2 arguably. The whole point of doing PUDs is to make the
3 projects better. It's not just a matter of trying to get
4 additional density or zoning flexibility.

5 It's supposed to be a planned effort that makes
6 projects substantially better for the neighborhood and for
7 the city. We don't really have that option here. What we
8 have is what is the appropriate zone given the guidance
9 that's provided in the Comprehensive Plan. As I said before,
10 I think that MU-4 is certainly appropriate. That's it.

11 CHAIRMAN HOOD: Any other questions or comments?

12 Mr. Shapiro.

13 COMMISSIONER SHAPIRO: I would concur with
14 Commissioner May. I think MU-4 is the appropriate zone, an
15 appropriate zone and that the alley issue is not legally
16 relevant to the petition before us. So, I concur with
17 Commissioner May.

18 CHAIRMAN HOOD: Okay.

19 Mr. Turnbull.

20 COMMISSIONER TURNBULL: Yes, Mr. Chairman. I
21 think the ANC in their letter even recognizes that MU-3B
22 could be criticized as inconsistent with the comp plan also.

23 I think as Commissioner May was saying, there has
24 to be a balance and I think rather than looking at the MU-5
25 or going to the MU-3B, MU-4 is probably more consistent with

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1 the comp plan. That's what I would be in support of.

2 CHAIRMAN HOOD: Okay. All right. MU-4 it is.

3 Let me ask. I think because of our hearing that
4 we had dealing with the MU-4 and the MU-5A, I guess the
5 question is do we believe that we should have another hearing
6 on this?

7 COMMISSIONER MAY: No. What we're considering is
8 one of the two zones that was advertised for at least part
9 of the site. It's actually a reduction from the relief that
10 had previously -- from the zone change that had previously
11 been requested.

12 I don't see any reason why we would need to
13 advertise this and hear it again. If we were going from MU-
14 4/MU-5A up to all MU-5A, I would feel differently. If we
15 were going the other direction and increasing the density,
16 I would argue that we would need a new hearing but, for just
17 MU-4, I don't think we do.

18 CHAIRMAN HOOD: So since we believe -- in the
19 hearing we considered MU-4 and everybody was aware of it, I
20 guess we're saying we don't seem to think we need to have
21 another hearing on this. Right?

22 COMMISSIONER MAY: Right.

23 CHAIRMAN HOOD: All right.

24 COMMISSIONER MAY: If it helps also, I recall in
25 the course of the hearing itself that we had a discussion of

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1 what the appropriate zone was over all and so the issue of
2 going all entirely with MU-4 was something that I think there
3 was some discussion of earlier.

4 CHAIRMAN HOOD: All right. I think we fleshed
5 that out. Any other issues on this? Okay. Would someone
6 like to make a motion? This is under proposed action

7 COMMISSIONER TURNBULL: I see we're all rushing.
8 Mr. Chair, I would move that we take proposed action on
9 Zoning Case 18-07 Lean Development, LLC, Zoning Map Amendment
10 at Square 750. Look for a second.

11 COMMISSIONER SHAPIRO: Second.

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

14

15 COMMISSIONERS: Aye.

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

18 MS. SCHELLIN: Yes. Staff records the vote 4-0-1
19 to rezone Zoning Commission -- to approve Zoning Commission
20 Case No. 18-07 to the MU-4 Zone. Commissioner Turnbull
21 moving, Commissioner Shapiro seconding, Commissioners Hood
22 and May in support. Commissioner Miller not present and not
23 voting.

24 CHAIRMAN HOOD: In my opening statement I
25 mentioned we don't take any public comments when we're doing

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1 our meetings. Obviously I don't know if you were here when
2 I mentioned that but I would suggest -- okay. I went back
3 through it again.

4 What I would ask you to do is come see Ms.
5 Schellin if you have problems with the decision we just made.
6 There are ways, avenues that you can ask us to do things and
7 Ms. Schellin will help you with that.

8 You can go see her right now if you want to. No,
9 not right now because I need her right now. Wait until after
10 the meeting is over and then you can go see her.

11 All right. Correspondence. Zoning Commission
12 Case No. 03-05 JBG/South East Federal Center Venture, LLC -
13 Notice from Zoning Administrator, Minor Modification Pursuant
14 to 11-A DCMR Section 304.5.

15 Ms. Schellin.

16 MS. SCHELLIN: Yes. At Exhibit 81 there's a
17 notice from the Zoning Administrator advising of a minor
18 modification that the ZA has approved. Pursuant to the
19 regulations the ZA has to wait to hear from the Zoning
20 Commission or 45 days has passed, whichever occurs first.

21 The date of the referral on the notice I think it
22 was December 24th. I did contact the ZA and advised them
23 that we did not receive it until January so they are aware
24 that it was not referred to the Commission until this month
25 and not December. It's up to the Commission now to either

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1 accept it or not.

2 COMMISSIONER MAY: Mr. Chairman.

3 CHAIRMAN HOOD: Yes.

4 COMMISSIONER MAY: I was a little puzzled by this
5 because I have no idea what the substance of this change is.
6 I mean, from the documentation we have, we just have a form.
7 Maybe it was embedded in that form and I should have read it
8 more carefully but I didn't get it. Did anybody else get it
9 who can explain it to me?

10 CHAIRMAN HOOD: Was there anything in that because
11 --

12 COMMISSIONER MAY: There was no letter describing
13 what the changes were or anything like that.

14 CHAIRMAN HOOD: My computer just cut off so I'm
15 winging it right now. I don't remember seeing anything. Was
16 there anything in there?

17 COMMISSIONER MAY: Ms. Schellin is indicating she
18 didn't see anything.

19 MS. SCHELLIN: There were no attachments to this.
20 I know what we've gotten in the past they've included the
21 letter from the Applicant with the form.

22 COMMISSIONER MAY: Yes.

23 MS. SCHELLIN: This time it was not.

24 COMMISSIONER MAY: Right. Before we give a nod
25 to this in any form, it would be preferable if we could

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1 actually understand what those changes are.

2 MS. SCHELLIN: Sure. I'll ask the ZA to provide
3 that and we can put it on the next meeting. Sure.

4 COMMISSIONER SHAPIRO: Ms. Schellin, that will that
5 keep us within the 45 days as well?

6 MS. SCHELLIN: Because we are asking for more
7 information, yes.

8 CHAIRMAN HOOD: Totals the time.

9 COMMISSIONER SHAPIRO: Thank you.

10 CHAIRMAN HOOD: Okay. We are straight on that.

11 Next we have a letter from Temple Law Offices
12 regarding Civil Lawsuit related to Halfway Houses.

13 Ms. Schellin.

14 MS. SCHELLIN: Yes. What you have before you is
15 a copy of a letter from Temple Law Offices regarding a
16 lawsuit that was filed in the Superior Court.

17 Mr. Temple believes the regulations -- the zoning
18 regulations are unconstitutionally vague when it comes to
19 halfway houses and he has asked the Commission to investigate
20 this issue so I've placed it on the Commission's meeting
21 agenda as a correspondence item for you to decide how you
22 want to handle this letter.

23 CHAIRMAN HOOD: Is this -- let me just ask, Ms.
24 Schellin, is this lawsuit still active or has it been taken
25 off the books?

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1 MS. SCHELLIN: I believe it's still active. Yes,
2 it is still active. He's indicating yes.

3 CHAIRMAN HOOD: As a Commission we don't weigh in
4 on active litigations. Let me just say this. We will
5 acknowledge the receipt of Mr. Temple's letter and we note
6 there are appropriate procedures for members of the public,
7 including Mr. Temple, to propose changes to the zoning
8 regulations.

9 Again, typically we don't get into litigation.
10 I don't know what is the status of it but we have read it and
11 we understand the request. But what I'm conveying is that
12 any member of the public can ask the Zoning Commission or
13 file a petition identifying what the specific proposed text
14 revision should be to the Zoning Commission. The issue here
15 is this is in litigation.

16 Anything else?

17 MS. SCHELLIN: No, sir. That's it.

18 CHAIRMAN HOOD: Again, is anybody unclear? If you
19 are unclear on what I said, please see Ms. Schellin.

20 It sounds like there's going to be a line over
21 there, Ms. Schellin, to see you right after this is over
22 with.

23 Yes, you can see Ms. Schellin right after this
24 meeting.

25 Do we have anything else on our agenda?

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1 MS. SCHELLIN: I have nothing else unless OP has
2 a status report or anything.

3 CHAIRMAN HOOD: Do you have a status report?

4 MR. LAWSON: Not tonight. Thank you.

5 CHAIRMAN HOOD: Okay. So with that, I want to
6 thank everyone for their participation. With that, this
7 meeting is adjourned.

8 (Whereupon, the above-entitled matter went off the
9 record at 7:09 p.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Meeting

Before: DCZC

Date: 01-28-19

Place: Washington, DC

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



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