

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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REGULAR PUBLIC MEETING

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MONDAY,  
NOVEMBER 19, 2012

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

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD	Chairman
MARCIE COHEN	Vice Chair
PETER G. MAY	Commissioner (NPS)
MICHAEL G. TURNBULL	Commissioner FAIA, (AOC)
ROBERT MILLER	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

KAREN THOMAS

MAXINE BROWN-ROBERTS

MATT JESICK

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALAN BERGSTEIN, ESQ.

DEPARTMENT OF HOUSING AND COMMUNITY

DEVELOPMENT STAFF PRESENT:

GILLES STUCKER, Housing Resource

Administrator

This transcript constitutes the minutes from the Regular Public Meeting held on November 19, 2012.

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

6:30 p.m.

CHAIRMAN HOOD: This meeting will please come to order.

Good evening, ladies and gentlemen. This is the November 19, 2012 meeting of the Zoning Commission of the District of Columbia.

My name is Anthony Hood. Joining me are Vice Chair Cohen, Commissioner Miller, Commissioner May and Commissioner Turnbull.

We are also joined by the Office of Zoning staff, Ms. Sharon Schellin. Office of Attorney General, Mr. Bergstein. Office of Planning, Ms. Steingasser, Mr. Lawson, Ms. Brown-Roberts and Mr. Jesick.

Copies of today's meeting agenda are available to you and are located in the bin near the door.

We do not take any public testimony at our meetings, unless the Commission requests someone to please come

1 forward.

2 Please be advised that this  
3 proceeding is being recorded by a court  
4 reporter and is also webcast live.

5 Accordingly, we must ask you to refrain from  
6 any disruptive noises or actions in the  
7 hearing room.

8 Please, turn off all beepers and  
9 cell phones.

10 Does the staff have any  
11 preliminary matters? If not, let us proceed  
12 with the agenda.

13 I see that we are joined by, I  
14 think, the current Chair of the Historic  
15 Preservation Review Board, am I right? I want  
16 to welcome her. I'm going to have to -- now,  
17 that means I'm going to have to make an HPRB  
18 meeting. It's good to have you here.

19 Okay. Colleagues, I did want to  
20 rearrange the agenda. I was thinking and  
21 let's just do this for discussion.

22 And, Ms. Schellin, I do know I

1 need to go back and do the announcement of the  
2 closed meeting.

3 But let me just say that I wanted  
4 to do Consent Calendar first, Final Actions  
5 second, Hearing Action third, ZRR Guidance  
6 fourth, Correspondence fifth, Proposed Action  
7 last. Any objections?

8 Okay. Let's proceed in that  
9 order. First, I have another preliminary  
10 matter which is to announce the closed  
11 meeting.

12 The time and place, Monday,  
13 November 26, 2012, 4:30 p.m., Office of Zoning  
14 Conference Room, 441 4th Street, N.W., Suite  
15 220, Washington, D.C. 20001, for the purpose  
16 of the following:

17 The Zoning Commission in  
18 accordance with 406 of the District of  
19 Columbia Administrative Procedures Act, D.C.  
20 Official Code 2-575, hereby provides notice it  
21 will hold a closed meeting, either in person  
22 or by telephone conference call at the day and

1 time noted above for the purpose of receiving  
2 training as permitted by the D.C. Official  
3 Code 2-575(b)(11).

4 Okay. Ms. Schellin, would you  
5 call for the vote?

6 Let me start all over again.  
7 Strike all that from the record.

8 As Chairman of the Zoning  
9 Commission for the District of Columbia and in  
10 accordance with 407 of the District of  
11 Columbia Administrative Procedures Act, I move  
12 that the Zoning Commission hold a closed  
13 meeting on Monday, November 26, 2012 from 4:30  
14 to 6:30 p.m. for the purpose of receiving  
15 training as permitted by D.C. Official Code 2-  
16 575(b)(12).

17 Is there a second?

18 VICE CHAIR COHEN: Second.

19 CHAIRMAN HOOD: Okay. It has been  
20 moved and properly seconded. Will the  
21 secretary, please, take the roll call vote on  
22 the motion before us now that has been



1 seconded?

2 MS. SCHELLIN: Yes, sir. Chairman  
3 Hood?

4 CHAIRMAN HOOD: Yay. Affirmative.

5 MS. SCHELLIN: Vice Chairman  
6 Cohen?

7 VICE CHAIR COHEN: Yes.

8 MS. SCHELLIN: Commissioner  
9 Miller?

10 COMMISSIONER MILLER: Yes.

11 MS. SCHELLIN: Commissioner May?

12 COMMISSIONER MAY: Yes.

13 MS. SCHELLIN: Commissioner

14 Turnbull?

15 COMMISSIONER TURNBULL: Yes.

16 MS. SCHELLIN: The vote carries 5-  
17 0-0.

18 CHAIRMAN HOOD: Thank you, Ms.  
19 Schellin.

20 As it appears that the motion is  
21 passed, I request that Office of Zoning  
22 provide notice of these closed meetings in

1 accordance with the Act.

2 Do we need to do anything further?

3 Okay. We'll get it together eventually.

4 Okay. Let's go back. I have  
5 already rearranged the agenda. Let's begin  
6 with Consent Calendar Item ZC Case No. 03-  
7 120/03-130 (DCHA - Minor Modification at  
8 Square 767, 768 & 882).

9 Ms. Schellin?

10 MS. SCHELLIN: Yes, sir. Staff  
11 would just correct that. I know it looks odd  
12 on the agenda.

13 CHAIRMAN HOOD: Oh.

14 MS. SCHELLIN: It's actually 03-  
15 120 and 03-130 instead of a zero.

16 Staff would just advise that this  
17 is a request for a minor modification in which  
18 the applicant is seeking to continue using  
19 Square 767, 768 and 882 as temporary parking  
20 lots through the redevelopment for April 1,  
21 2018.

22 OP while they did not submit a

1 report, they do have a map, if the Commission  
2 is interested in seeing the location of where  
3 these squares are. It's up to you whether you  
4 want to see it or not. If you do, then they  
5 are willing to submit that to the record.

6 CHAIRMAN HOOD: Okay. Thank you,  
7 Ms. Schellin. We have a request before us, a  
8 minor modification that we include those three  
9 squares for additional parking for an  
10 additional set of time. Vice Chair Cohen?

11 VICE CHAIR COHEN: Thank you, Mr.  
12 Chairman. I believe I asked for a couple of  
13 pieces of information that are still -- were  
14 not provided for the record. And that was did  
15 HUD need to approve this modification? And  
16 did the citizens advisory group for HOPE VI  
17 have to advise this -- have to approve this?

18 CHAIRMAN HOOD: I think that was a  
19 previous case. Did we ever get that  
20 information?

21 MS. SCHELLIN: That was -- this is  
22 a new case. That was on a prior case. This

1 is a new applicant, new filing.

2 CHAIRMAN HOOD: Okay. Anyone else  
3 have any comments? This is just to add those  
4 three squares, I think, to continue those  
5 three squares. Yes, to continue the three  
6 squares. The previous case, I think, we have  
7 already acted on. And I think that's where  
8 the Vice Chair asked for that information on  
9 the previous case.

10 Did we ever get it?

11 VICE CHAIR COHEN: No.

12 CHAIRMAN HOOD: I'm actually  
13 asking that, so maybe the -- I know we didn't  
14 get it, but I was just asking that publicly,  
15 so maybe we can find out.

16 I guess the first thing I need to  
17 do is ask, did anyone have any issues with  
18 this coming off the Consent Calendar?

19 VICE CHAIR COHEN: No.

20 CHAIRMAN HOOD: That was my first  
21 question. Okay. So you don't have any  
22 objection to this being on the Consent

1 Calendar? Anyone else have any objections to  
2 this?

3 COMMISSIONER MAY: No objection to  
4 being on the Consent Calendar.

5 CHAIRMAN HOOD: Okay.

6 VICE CHAIR COHEN: And no  
7 objection from being on the Consent Calendar  
8 from me either.

9 CHAIRMAN HOOD: Yes, but you  
10 raised the issue of the stuff I think we asked  
11 for some information. We didn't ask for it in  
12 this case. We asked for it previously. So I  
13 guess what I'm trying to ascertain is are we  
14 trying to -- is there hesitation about moving  
15 forward? Would we like to move this at  
16 another time or what is the issue?

17 VICE CHAIR COHEN: I don't have  
18 any objection to moving forward. I just want  
19 to see that information for the record. So  
20 maybe I just don't say it correctly, the  
21 process correctly.

22 CHAIRMAN HOOD: Okay. Okay. So

1 why don't we do this? Okay. Any other  
2 comments? Okay. Actually, we have another  
3 issue. Would somebody like to comment on the  
4 other issue or do I need to do that? Okay.  
5 Commissioner May?

6 COMMISSIONER MAY: Yes, we have  
7 been advised by the Office of Attorney General  
8 that it would be premature to move on this  
9 case until the previous case was decided. We  
10 have not taken final action on that other  
11 case, so we would defer. We should be  
12 deferring this issue to a future Consent  
13 Calendar, once final action was taken on 07-  
14 08B.

15 CHAIRMAN HOOD: All right. And I  
16 think that's proposed to do. I think that is  
17 going to be in our December meeting. So what  
18 I would ask, I don't know if we can get the  
19 information as a whole, because I think that  
20 still ties into this, what you are asking for.  
21 I don't know if we could maybe get that by our  
22 December the 10th meeting. We are expected to

1 get that. But that would be very helpful,  
2 because I think you all have heard the  
3 concerns of my Vice Chair, our Vice Chair of  
4 the Zoning Commission.

5 So, Ms. Schellin, could we maybe  
6 ask for that? I'm not even sure whose case it  
7 is. I don't usually look in the audience.

8 MS. SCHELLIN: Yes. I'm not  
9 familiar with the attorney that is  
10 representing the applicant, but hopefully they  
11 are in the audience or listening in and are  
12 hearing what is being requested and we will  
13 follow-up.

14 CHAIRMAN HOOD: Okay. So we will  
15 try to take this up again on December 10th.

16 MS. SCHELLIN: Okay.

17 CHAIRMAN HOOD: And hopefully get  
18 the Vice Chair's request in and we can move  
19 forward.

20 MS. SCHELLIN: Okay.

21 CHAIRMAN HOOD: Okay. Next, let's  
22 go to Final Action. Zoning Commission Case

1 No. 97-16B. This is the Lowell School PUD  
2 Modification at Square 2745F. Ms. Schellin?

3 MS. SCHELLIN: Yes, sir. I'm  
4 sorry, which case number are you looking at  
5 now?

6 CHAIRMAN HOOD: Lowell School.

7 MS. SCHELLIN: 97-16B.

8 CHAIRMAN HOOD: 97-16B.

9 MS. SCHELLIN: Okay. Exhibit 24,  
10 the only thing that staff has to add is that  
11 there was an NCPC report that came in. And  
12 they found no issues with any federal  
13 interests.

14 CHAIRMAN HOOD: Okay. Thank you,  
15 Ms. Schellin. Again, this is Final Action.  
16 I think we have flushed a lot of things out at  
17 our -- when we were dealing with proposed.  
18 Anything anyone would like to add or anything  
19 that you -- any changes? I don't see any.  
20 We're good? Okay.

21 What I would like to do is to move  
22 that we approve Zoning Commission Case No. 97-



1 16B and ask for a second.

2 COMMISSIONER TURNBULL: Second.

3 CHAIRMAN HOOD: Okay. It has been  
4 moved and properly seconded. Any further  
5 discussion? Are you ready for the question?

6 All those in favor?

7 ALL: Aye.

8 CHAIRMAN HOOD: Not hearing any  
9 opposition, so ordered. Staff would you  
10 record the vote?

11 MS. SCHELLIN: Staff records the  
12 vote 5-0-0 to approve Final Action in Zoning  
13 Commission Case No. 97-16B. Commissioner Hood  
14 moving, Commissioner Miller seconding,  
15 Commissioners Cohen, May and Turnbull  
16 approving.

17 CHAIRMAN HOOD: Okay. Next, let's  
18 go to Zoning Commission Case No. 11-24. This  
19 is the Stanton-EastBanc, LLC Consolidated PUD  
20 and Related Map Amendment at Square 901. Ms.  
21 Schellin?

22 MS. SCHELLIN: Yes, sir. At

1 Exhibit 478, ANC-6B provided a report  
2 ratifying the executive committee's vote in  
3 support. Exhibit 479 ANC-6B asked for and was  
4 granted an extension of time to file their  
5 response because of Hurricane Sandy.

6 Exhibit 480 was the additional  
7 response from the applicant. Exhibit 481  
8 through 486 were responses from the parties to  
9 the applicant's response or additional  
10 responses. And then at Exhibit 484, ANC-6B's  
11 response to the applicant's revised proffered  
12 amenities and conditions.

13 CHAIRMAN HOOD: Okay. Thank you,  
14 Ms. Schellin.

15 Commissioners, we had a number of  
16 responses that we had asked for and a number  
17 of responses we got, as Ms. Schellin already  
18 mentioned, with the ratification of the ANC  
19 report, which is in support, but there were  
20 some issues on Exhibit 484 and there were some  
21 issues that were raised about some of our  
22 comments at our proposed in Exhibit 483, which

1 was the EMMCA.

2 And then also, we had the Hine  
3 School North Neighbors as well as the Eyes on  
4 Hine.

5 What I would like to do, in the  
6 past, generally our custom is to try to go  
7 down each one of these letters and see if  
8 there are any concerns that may spark our  
9 interest that we may want to revisit  
10 something.

11 But before we do that, let's look  
12 at Exhibit 480. And I think these are some of  
13 the responses that we asked for from the  
14 applicant to some of the exhibits. Let's go  
15 through that before we go through the parties  
16 and the ANC.

17 I guess the first one on there,  
18 I'm looking at October 31st, usually this is  
19 my piece. Well, it's all our pieces, but I  
20 usually probably make the most noise about it  
21 and this is the FirstSource Agreement. I am  
22 satisfied with moving forward on this, at this

1 time.

2 But as we get into these  
3 FirstSources, I would like to see a little  
4 more action, at least to make sure that it's  
5 carried through. And it's probably beyond  
6 this case. I probably can't hold this  
7 applicant responsible, but I would like to see  
8 a little more. And I would like to still  
9 continue to work with DOES to make sure that  
10 this is actually accomplished.

11 And I'm looking here and I see  
12 what they say about the execution. And when  
13 I looked at -- one of the things that I -- I  
14 saw the different signatures and I'm not sure  
15 whose -- well, no, wait a minute. It wasn't  
16 this one, unless I lost a page. It might have  
17 been another case, but I only see one  
18 signature, Mary Mottershead. I can't exactly  
19 make that out. I don't know if she works for  
20 Stanton-EastBanc.

21 Okay. So I guess unless I'm  
22 missing a page, I thought I saw two

1 signatures. Maybe it was another case. But  
2 I don't see where this was entered into. And  
3 I understand after the general contract and I  
4 have read somewhere that, but I just don't see  
5 if that's -- this agreement has been signed.

6 I'm not going to press the issue  
7 here, but for the future, I'm going to be  
8 looking to see how all that works and make  
9 sure that this happens. Everybody needs to be  
10 in agreement, at this point, especially when  
11 we are dealing with Final Action, because we  
12 don't get another bite of the apple on this.

13 And I think this is very important  
14 and it's a missed opportunity. Very important  
15 to the city.

16 Okay. Let's go to construction,  
17 the CEP. Any comments?

18 VICE CHAIR COHEN: No.

19 CHAIRMAN HOOD: Okay. What about  
20 the CB Agreement? The loading dock? I know  
21 that the ANC -- okay. Commissioner May?

22 COMMISSIONER MAY: Well, I mean, I

1 think it's something we need to talk about.  
2 We did ask for further study to see if it's  
3 possible to pull in a 55 foot truck head first  
4 and then pull out head first.

5           And then we asked for a further  
6 study of that. They studied several options  
7 that would require modifications of the  
8 building, modification of the curb cut. You  
9 know, at this point, I feel like we have  
10 beaten this one to death, so I'm not going to  
11 press the matter any further. I'm satisfied  
12 that with the restrictions on the loading  
13 time, that the -- that that would be  
14 sufficient.

15           It's still not pleasant to  
16 consider the idea of 55 foot trucks backing  
17 into that building, but if it's going to  
18 happen between 11:00 at night and 7:30 in the  
19 morning, and there are assurances about taking  
20 the proper precautions so that it is done  
21 safely, and of course all of this is still  
22 subject to further agreement with DDOT, but I

1 think there is a process for getting that  
2 worked out.

3 So I still would like to have a  
4 building that you could pull in head first and  
5 pull out head first, but I guess it's just too  
6 far along and it can't be done. So I'm  
7 willing to let this go and go back to Option  
8 1, as they have called it or Case 1.

9 VICE CHAIR COHEN: And I would  
10 just like to concur with Commissioner May. It  
11 seems like they are too far along to make  
12 major changes, so this is the best that we can  
13 have in this particular site.

14 CHAIRMAN HOOD: Okay. I would  
15 also agree. I think we have exhausted, as has  
16 already been stated, and I don't want to  
17 rehash the comments, ways of trying to do this  
18 without just a total redesign and going  
19 through some other changes.

20 So I think that question will  
21 eliminate what I was going to talk about on  
22 482, which was from the convening high school

1 north neighbors when they mentioned about the  
2 50 foot truck issue.

3 So let's continue.

4 COMMISSIONER TURNBULL: Mr. Chair,  
5 I would just --

6 CHAIRMAN HOOD: Mr. Turnbull?

7 COMMISSIONER TURNBULL: -- offer  
8 my two cents. I mean, I think the applicant  
9 has made a case for Case No. 1. My only  
10 caveat or add is that they be very -- I'm just  
11 concerned about noise at these hours of night,  
12 too, for people. That's why I think it's not  
13 the best time, but it is an appropriate time  
14 from the standpoint of traffic and trying to  
15 get a big truck in and out.

16 But I would just behoove the  
17 applicant to be, you know, cognizant of the  
18 neighbors in moving big trucks in and out.  
19 And it's a difficult job at any time, but I  
20 would just -- there is not much of an option  
21 on this.

22 CHAIRMAN HOOD: Okay. Anything



1 else? Let's go to revised proffers and  
2 conditions. Any issues?

3 COMMISSIONER MAY: Mr. Chairman, I  
4 think that what we have seen from -- since we  
5 last considered this, a number of the areas  
6 that were uncertain have been clarified and  
7 some changes have been made, so I'm  
8 comfortable that what we have now is  
9 conditions that are enforceable, make sense  
10 and reflect the agreement between the  
11 applicant and the ANC and whoever else was  
12 part of that.

13 CHAIRMAN HOOD: Okay. I was  
14 trying to read what the concern was. It was  
15 Eyes on Hine about the CMA, the Construction  
16 Management Agreement. Okay. I think what  
17 they are asking us, Eyes on Hine strongly urge  
18 the Zoning Commission to include in its final  
19 zoning order the entire Construction  
20 Management Agreement signed and ratified on  
21 August 13, 2012 as requested on page 4 of the  
22 applicant's post-hearing submission on October

1 31, 2012.

2 I think we typically point to it.  
3 I don't know if we necessarily include the  
4 whole agreement.

5 Mr. Bergstein, I don't know if you  
6 can help me with that?

7 MR. BERGSTEIN: Well, that's what  
8 you are doing. The applicant has agreed to  
9 incorporate the entire agreement and that's  
10 what the conditions actually do. So the  
11 proposed conditions that you have before you  
12 actually incorporate every page of the MOU and  
13 the Construction Management Agreement into  
14 your order.

15 And there is language in there  
16 that says that each condition in that MOU is  
17 considered a condition of the order and can't  
18 be changed unless there is a modification. So  
19 this is actually a very unusual case. I think  
20 it's the first I can ever remember where it  
21 has ever happened. But that's what the  
22 applicant has agreed to do and that's what the

1 proposed condition says.

2 CHAIRMAN HOOD: Okay. And on that  
3 note, as I refer to them, they have also  
4 included the 200 Block of H Street. So I  
5 think for the most part, in this letter from  
6 Eyes on Hine, Exhibit 41, they've got  
7 everything. Well, I'm not going to say  
8 everything. They have got most of what I see  
9 here, that they asked for.

10 Okay. All right. Let's keep  
11 moving. Bike spaces. Any comments? Any  
12 comments on the rest of these revised proffers  
13 and conditions?

14 VICE CHAIR COHEN: I just had one  
15 minor change and that's in paragraph 65. I  
16 would like to see where it says "The project  
17 is superior in both regards and provides 150  
18 to 180 dwelling units." I would like to  
19 strike superior in both regards and just say  
20 the project provides 150 to 180 dwelling units  
21 and it goes on.

22 CHAIRMAN HOOD: Okay. I think

1 that was another request we had from one of  
2 the parties also. And I would agree with  
3 that. When I was reading that, I would agree  
4 that we strike. Anyone have any objection to  
5 that? Any objection? Commissioner May?

6 COMMISSIONER MAY: Yes, I think I  
7 generally agree with the sentiment that we  
8 don't want to include language that is really  
9 gratuitous and not essential. I think that we  
10 are making a value judgment about how good the  
11 project is in this regard.

12 And so I really didn't have a  
13 problem with the use of the word superior in  
14 this circumstance, because I think that's one  
15 of the things that we are looking for in a PUD  
16 is a project that is superior by virtue of the  
17 flexibility that is being granted through the  
18 PUD process.

19 So, you know, I think that is a  
20 finding that we generally would want to make.  
21 Again, I mean, I think there are some  
22 circumstances of the language where it may go

1 a bit overboard, but I didn't have any  
2 objection to this one.

3 I guess on some level, I think  
4 it's maybe a legal question. Mr. Bergstein,  
5 do you have a thought about whether we  
6 actually have to find that this is superior or  
7 do we find that it is adequate or do we simply  
8 state that it's there?

9 MR. BERGSTEIN: I'm trying to find  
10 the exact language, because in the list of  
11 benefits, there is language that says that the  
12 Commission has to find that the -- some of the  
13 elements are superior in some and have to be  
14 at least satisfactory in the others.

15 And that's why that language is  
16 used. When you go through each of these  
17 evaluation criteria, you have to demonstrate  
18 that at least some of them are superior. And  
19 I think that was what the applicant was trying  
20 to do.

21 So by removing superior, you are  
22 actually making a standard that they haven't

1 met that standard with respect to their  
2 affordable housing proffer.

3 COMMISSIONER MAY: Yes, and I  
4 mean, it's my opinion that we wouldn't -- we  
5 can call it superior without necessarily  
6 saying that it's, you know, the greatest thing  
7 we have ever seen. I don't think we are  
8 arguing that.

9 But to say that it's above and  
10 beyond what we would ordinarily expect as a  
11 matter-of-right, even including Inclusionary  
12 Zoning, I mean I think that's a reasonable  
13 finding.

14 MR. BERGSTEIN: Let me just read  
15 the provision. It says, and this is 2403.10,  
16 "Approximately qualified for approval by being  
17 particularly strong in only one or a few of  
18 the categories." And 243.9, "But must be  
19 acceptable in all proffered categories and  
20 superior in many."

21 So when an applicant lists its  
22 proffers to you, it is trying to react to that

1 provision. And in this case, when it says  
2 that it must be superior in many, it is saying  
3 at least in that one being superior.

4 So you are making a judgment that,  
5 in fact, it doesn't meet the standard of  
6 superior under 2403.10.

7 CHAIRMAN HOOD: But we can use  
8 acceptable. This issue, this superior issue  
9 didn't just start today, as everybody knows.  
10 We have always kind of looked at taking that  
11 word superior out of order and I would agree  
12 with the Vice Chair.

13 I guess the question is can we say  
14 acceptable? Just superior for me is just  
15 taking it down a different type of line.

16 VICE CHAIR COHEN: Well, let me  
17 see if I could clarify why I asked that  
18 superior be taken out. I hate to be  
19 consistent, but I am in this one case that  
20 throughout I was concerned about, you know,  
21 the different property, you know, the  
22 affordable units being separate from the

1 larger project and the amenity packages where  
2 I understand, you know, were geared towards an  
3 affordable project.

4 So I'm uncomfortable saying it is  
5 superior, because you are really separating  
6 out the affordable units from the rest of the  
7 project. So that's my -- you know, being the  
8 consistent reader of the whole entire project,  
9 I do not want to in any way suggest that I'm  
10 not pleased that there are that many units in  
11 this particular neighborhood.

12 They are needed. They are mostly  
13 senior units. And so that's what I was trying  
14 to articulate. And that it may be superior in  
15 providing the number of units. I just didn't  
16 like the siting of the units. But I don't  
17 want to make a mountain out of a mole hill.

18 If my colleagues feel that it  
19 should remain, you know, I'm just one vote.

20 MR. BERGSTEIN: Well, the other  
21 option is to take out superior there and let  
22 me just do a general finding in the



1 conclusions of law. And I don't know if it's  
2 already in there, that it satisfies 2403 and  
3 that the Commission finds that it is  
4 acceptable in all proper categories and  
5 superior in many, because you have to make  
6 that finding.

7 VICE CHAIR COHEN: That satisfies.

8 CHAIRMAN HOOD: Let's go with  
9 that.

10 COMMISSIONER MAY: Well, I  
11 complete disagree with that strategy, but I  
12 want to say, you know, my opinion that I  
13 actually believe that when it comes to housing  
14 and affordable housing, this project is  
15 superior and should be regarded as such by the  
16 Commission.

17 The mere fact that a significant  
18 portion of the affordable housing is in a  
19 separate building, in this circumstance, I  
20 think is actually a unique solution to, you  
21 know, the mathematics of creating affordable  
22 housing.

1                   And I believe it is  
2                   indistinguishable in terms of the  
3                   architecture. It is right smack in the middle  
4                   of a very desirable area. The mere fact that  
5                   it is a single building and it's separate from  
6                   some of the others, I think does not really  
7                   diminish the superiority of it over all.

8                   So I feel that it is superior in  
9                   this regard. I'm willing to go with the  
10                  language that Mr. Bergstein suggests, but I  
11                  don't think that we should shy away from the  
12                  words superior.

13                  I do agree that there is often  
14                  language in the orders that is -- you know,  
15                  goes too far. But superior, had a magic  
16                  quality to it, it's something that was -- you  
17                  know, something that we had to find about a  
18                  PUD project in order to approve it.

19                  So I was -- I didn't regard that  
20                  as being gratuitous.

21                  CHAIRMAN HOOD: Okay. Well, let  
22                  me do this. The only person that hasn't

1 spoken on this issue -- because right now the  
2 vote is, if I count correctly, 2-1. And I  
3 have noted Mr. May said he would go along with  
4 what the Vice Chair and I, obviously, agree  
5 to, not discounting -- I don't want to  
6 discount any of my colleagues, so I want to  
7 hear what Mr. Turnbull has to say on that,  
8 unless it's not going along with me and the  
9 Vice Chair.

10 COMMISSIONER TURNBULL: Ooh,  
11 pressure, pressure. No, Mr. Chair, I would  
12 agree with Mr. Bergstein's approach.  
13 Although, I appreciate Mr. May's comments and  
14 agree with him on a lot of issues, I still  
15 struggled with the north building. The north  
16 building, I felt was -- it still had some  
17 issues with me.

18 Although, I'm willing to accept it  
19 and go along with it, I just felt -- it just  
20 felt like a little isolated building. I'm not  
21 totally 100 percent satisfied with that word  
22 doubly that I would have liked it, but I

1 would, let's just say, go along with you and  
2 the Vice Chair on this.

3 CHAIRMAN HOOD: Okay. Okay. So  
4 thank you, Mr. Bergstein, for the resolution  
5 to that.

6 Okay. Anything else? Am I  
7 leaving anything else out, Commissioners, in  
8 this case?

9 COMMISSIONER MAY: Were we going  
10 to go through the other exhibits as well?

11 CHAIRMAN HOOD: Yes, we can  
12 comment on anything that I have omitted. I'm  
13 not sure who mentioned about the height  
14 flexibility, but as you can see, there is a  
15 condition in there dealing with that. The  
16 applicant has agreed to that. I'm not sure  
17 who brought that up.

18 COMMISSIONER MAY: Yes, I did not  
19 have an issue with it the last time around, so  
20 I'm certainly comfortable with it now.

21 VICE CHAIR COHEN: Mr. Chairman,  
22 EMMCA had quite a number of deletions from the

1 project benefits and amenities. And I  
2 reviewed them and I agreed with them on the  
3 one, but I'm not -- I think if you want to go  
4 through them, paragraph-by-paragraph, but I  
5 didn't really feel that they were something  
6 that we wanted to delete in language.

7 CHAIRMAN HOOD: And we were kind  
8 of hitting some of those as we were going  
9 along, just like this last issue we just dealt  
10 with.

11 VICE CHAIR COHEN: Sure.

12 CHAIRMAN HOOD: If anyone is  
13 compelled or moved by any of the -- and we  
14 actually were, because I think two or three  
15 things that we just decided --

16 VICE CHAIR COHEN: Yes.

17 CHAIRMAN HOOD: -- were some of  
18 the things that were mentioned in the  
19 opposition of -- party opposition, parties in  
20 opposition's responses. So that last one was  
21 definitely one, but if you look at Exhibit 43,  
22 as the Vice Chair just stated, there are a

1 number there and I just wanted to know if  
2 anyone is moved by it? I'm not going to read  
3 through all of them. We have already reviewed  
4 them and I am not really moved, but I will  
5 open it up if somebody is moved to discuss one  
6 and maybe try to implement one in the order.

7 COMMISSIONER MAY: Mr. Chairman?

8 CHAIRMAN HOOD: Commissioner May?

9 COMMISSIONER MAY: There is one  
10 that raised a concern for me, which was the  
11 comment on No. 62, where it says that "The  
12 Loading and Delivery Management Plan would be  
13 periodically reviewed and presented to the ANC  
14 for comment and so on prior to taking effect."

15 You know, I don't have the full  
16 language of that right in front of me, but I  
17 assume that if there are changes to the  
18 Loading and Delivery Management Plan that  
19 constitute changes to the order, that they  
20 would have to come back to us.

21 MR. BERGSTEIN: Mr. May, if you  
22 look at Proposed Condition 25, it actually

1 says that. It says "No modification to any  
2 term of such plan shall be effective, unless  
3 approved by the Commission as a modification  
4 to this order."

5 It appears on page 19 of their  
6 Exhibit 6.

7 COMMISSIONER MAY: I'm sorry,  
8 what's the number again?

9 MR. BERGSTEIN: It is --

10 COMMISSIONER MAY: 25, there we  
11 go.

12 MR. BERGSTEIN: -- Proposed  
13 Condition 25 that talks about the Loading/  
14 Delivery Plan.

15 COMMISSIONER MAY: Yes, okay. So  
16 that trumps No. 62.

17 VICE CHAIR COHEN: Okay.

18 COMMISSIONER MAY: Okay.

19 CHAIRMAN HOOD: I actually put a  
20 checkmark by No. 4, but I need to read over  
21 why I did that, but anything else?

22 COMMISSIONER MAY: I didn't have

1 anything else --

2 CHAIRMAN HOOD: Okay.

3 VICE CHAIR COHEN: No.

4 COMMISSIONER MAY: -- Mr.

5 Chairman.

6 CHAIRMAN HOOD: Okay. I think  
7 that is covered. What I'm looking at,  
8 Commissioners, is where EMMCA is speaking of  
9 Mr. Steinleib's testimony about the 200 feet  
10 and "By ignoring this, the Zoning Commission  
11 may be encouraging future applicants to make  
12 similar false statements."

13 Okay. All right. Obviously, I'm  
14 just checking on something. Okay. Any other  
15 issues? All right. Would someone like to  
16 make a motion to approve or disapprove?

17 COMMISSIONER TURNBULL: Mr. Chair,  
18 I would move that we approve Zoning Case No.  
19 11-24, Stanton-EastBanc, LLC, Consolidated PUD  
20 and Related Map Amendment at Square 901 and  
21 look for a second.

22 VICE CHAIR COHEN: And I'll second



1 that.

2 CHAIRMAN HOOD: Okay. It has been  
3 moved and properly seconded. Any further  
4 discussion? Are you ready for the question?

5 All those in favor?

6 VICE CHAIR COHEN: Aye.

7 COMMISSIONER TURNBULL: Aye.

8 CHAIRMAN HOOD: Aye.

9 COMMISSIONER MAY: Aye.

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

13 MS. SCHELLIN: Yes, staff records  
14 the vote 4-0-1 to approve Final Action in  
15 Zoning Commission Case No. 11-24.

16 Commissioner Turnbull moving, Commissioner  
17 Cohen seconding. Commissioners Hood and May  
18 in support. Commissioner Miller not voting,  
19 having not participated.

20 CHAIRMAN HOOD: Okay. We are  
21 going to go to Hearing Action. I think  
22 Hearing Action is third.

1                   Zoning Commission Case No. 12-18.  
2           This is USL WDC H Street, LLC and & H Street  
3           Self Storage, LLC, Consolidated PUD and  
4           Related Map Amendment at Square 858. Is that  
5           Ms. Thomas? Ms. Thomas?

6                   MS. THOMAS: Yes. Good evening,  
7           Mr. Chairman, Members of the Commission. For  
8           the record, Karen Thomas with the Office of  
9           Planning.

10                   The Office of Planning is  
11           recommending set down of the application  
12           before you for a Consolidated PUD and Related  
13           Map Amendment to facilitate USL's proposal for  
14           a mixed-use development, including,  
15           approximately, 450 residential units and  
16           73,000 square feet of retail use on a combined  
17           parcel of three lots and portions of the  
18           proposed reconfigured alley in the 600 Block  
19           of H Street, N.E.

20                   The Map Amendment would rezone a  
21           portion of the split zone R-4/C-2-B lots  
22           within the H Street Overlay to all C-2-B and

1 a portion which fronts on I Street from R-4 to  
2 R-5-B.

3 The Map Amendment is not  
4 inconsistent with the Comprehensive Plan. The  
5 building to become completed in two phases is  
6 proposed at a maximum height of 90 feet on H  
7 Street and steps down to 40 feet on I street  
8 with a total FAR of 4.8.

9 Parking for all uses would be  
10 below-grade in two levels and would be  
11 accessed off of the repositioned alley on 6th  
12 Street.

13 A few items of requested  
14 flexibility would be from the loading  
15 requirements to provide 30 foot berths instead  
16 of 55 foot berths; multiple roof structures  
17 with less than 1.1 -- less than a 1:1 setback  
18 ratio and with unequal heights.

19 The street wall requirement of the  
20 H Street Overlay, so as to provide additional  
21 pedestrian area on H Street. And the retail  
22 FAR would exceed 0.5 to 0.7 FAR.

1                   Our reports lists some of the  
2                   benefits and amenities of the project  
3                   proffered by the applicant thus far, including  
4                   the -- I'll just point out a few. The  
5                   streetscape and landscaping improvements to  
6                   the public space in front of the Blair  
7                   Shelter. We also would have free parking for  
8                   the nearby church on Sundays.

9                   Installation of benches and bike  
10                  racks on a vacant piece of National Park  
11                  Service property at 5th and I Street. And we  
12                  would have repaving of the reconfigured alley  
13                  consistent with the District's Green Alley  
14                  System.

15                  The element of the plan including  
16                  its design, site planning, landscaping,  
17                  streetscape design, retail square footage and  
18                  green elements are commendable at this stage.  
19                  And we will continue to work with the  
20                  applicant to refine these components based on  
21                  the Commission's comments here tonight.

22                  Thank you and I'll be happy to

1 take any questions.

2 CHAIRMAN HOOD: Okay. Thank you,  
3 Ms. Thomas. Commissioners, any comments or  
4 questions of Ms. Thomas or comments that we  
5 want the applicant to maybe hear before -- if  
6 this is set down for a hearing? Commissioner  
7 Turnbull?

8 COMMISSIONER TURNBULL: Thank you,  
9 Mr. Chair. I guess one of the comments is  
10 that I would like a lot more information.  
11 Architecturally, I would like some -- the  
12 drawings are better than we see on a lot of  
13 cases, but I think they could still be better  
14 and more clearly definitive as to what you are  
15 seeing from a streetscape standpoint.

16 I would like to see from the on-  
17 street viewer what you are going to look at or  
18 what this building is really going to look  
19 like.

20 I am also a little bit concerned  
21 about the roof. I would like to see some  
22 sections, both longitudinal and latitudinal

1 through the building at different points to  
2 see what is really going on. I'm a little bit  
3 concerned about the penthouse or penthouses  
4 and just what is going on up there.

5 The plans that I have got really  
6 don't define exactly what is going on in the  
7 penthouses.

8 I would like to see more about the  
9 pool area.

10 I would like to see setbacks  
11 clearly defined and what they are actually  
12 providing.

13 And as I say, I think some of the  
14 site -- the floor plans on the mechanical room  
15 should be clearly identified as to their uses.

16 But I would like to see a little  
17 bit better sections as to what is going up by  
18 the pool area, the terrace and all the  
19 landscaping going on up there with the, it  
20 looks to be, parapet wall of some sort of  
21 glass or something going around it. I would  
22 like to see a section through that.

1                   There is a lot of things going on  
2 up on the roof, which I think really needs to  
3 be clarified. And I'm just a little bit  
4 concerned it is very busy up there and I'm  
5 just concerned about the impact of the overall  
6 scale of that and what you are really going to  
7 see when you are looking up from the street.  
8 Thank you.

9                   CHAIRMAN HOOD: Okay. Thank you,  
10 Mr. Turnbull. Commissioner May?

11                   COMMISSIONER MAY: Yes. I would  
12 like to pile-on a little bit. You know, I  
13 find the whole -- I would just agree that the  
14 roof is where I see the most work is needed.

15                   I mean, granted this is a very big  
16 project and it's very -- you know, there is  
17 lots of different roof conditions that exist.  
18 But it is -- I think it seems rather  
19 undisciplined overall, but that it needs to be  
20 tightened up.

21                   I can understand the need for some  
22 relief, because it's a big building and you

1 don't necessarily need to have a single  
2 monolithic penthouse structure. I don't think  
3 that's really the best way to do it.

4 But I think what we have got here  
5 is just kind of anything goes on the roof and  
6 that's really not the right thing.

7 I'm particularly concerned about  
8 the "architectural embellishment." And we  
9 have seen this before in other projects. And  
10 it is problematic there, it's problematic  
11 here. I don't regard -- I mean, if you just  
12 look at the cover page, that cover elevation,  
13 everything that is in that portion of the  
14 building that is jutting forward is considered  
15 architectural embellishment.

16 And I assume that as it continues  
17 back along the courtyard and wraps around that  
18 courtyard there, all of that must be  
19 architectural embellishment, too, or it's part  
20 of the penthouse. I don't really know. It's  
21 not totally clear to me.

22 But in any case, it is -- to me,



1       having these sorts of elements that are not  
2       just sort of a single moment, a single tower  
3       or what have you, but something that extends  
4       back and joins up with the penthouse and then  
5       makes the whole building look taller, because  
6       it surrounds the courtyard, I don't think it  
7       is really adding anything to the building.

8                   And I think it is, in my mind,  
9       quite clearly contrary to the regulations and  
10      what we are trying to do with regard to  
11      penthouses, which is that they are to be  
12      setback and they are to -- you know, they are  
13      not -- you know, they are supposed to be  
14      setback one-to-one, so that they don't  
15      increase the apparent height of the building.  
16      And this is just doing exactly the opposite.

17                   So I think it needs to be  
18      completely reworked.

19                   CHAIRMAN HOOD:  Any other  
20      comments, Commissioners?  Vice Chair?

21                   VICE CHAIR COHEN:  Thank you, Mr.  
22      Chairman.  You know, my comment is really on

1 the number of parking spaces and I look  
2 forward to reviewing DDOT's report on that.

3 CHAIRMAN HOOD: Okay. Anyone  
4 else? I noticed my colleagues talked a lot  
5 about the roof, but I want to talk about the  
6 building overall. It looks like there is a  
7 lot happening there. Maybe at the hearing I  
8 can understand it a lot better, but I would  
9 agree with Commissioner Turnbull about what is  
10 going on on the roof, especially the open area  
11 there. I'm not sure what all that is, but  
12 those are some questions.

13 But even for me, the sides and the  
14 facade of the sides of the architecture, even  
15 with the embellishment that Commissioner May  
16 is talking about, there is a lot going on.  
17 And I'm just trying to understand what are we  
18 -- is that the new character that's going on?  
19 Is that what is matching other buildings in  
20 that community or in that area?

21 So I'm looking forward to having  
22 that discussion. I'm not saying you need to

1 have a full-fledged change, but I'm just  
2 looking forward to having that discussion if  
3 this is set down.

4 Okay. Commissioner Miller?

5 COMMISSIONER MILLER: I appreciate  
6 the comments of my colleagues and I can see  
7 some of the concerns. It is such a big  
8 building, but I think it does need to have a  
9 lot of variation to break up what would be a  
10 pretty massive boring facade if it didn't have  
11 things jutting out and jutting in and going up  
12 and going down.

13 So that's all I would say in a  
14 very non-architectural way of looking at it is  
15 that it's a big building. I would like to  
16 see, as Commissioner Turnbull has requested,  
17 the views from the street. I think that will  
18 be important to make sure this isn't -- that  
19 it is compatible with the neighborhood, both  
20 H and I on I Street and 6th and 7th.

21 So with that, I would be prepared  
22 to move that we set down, if you are prepared

1 for me to move to set down Zoning Commission  
2 Case No. 12-18. If that's okay, Mr. Chairman?

3 CHAIRMAN HOOD: Sure. Okay. It  
4 has been moved. Are you finished?

5 COMMISSIONER MILLER: I'm  
6 finished.

7 CHAIRMAN HOOD: You're my type of  
8 guy. It has been moved and properly --

9 COMMISSIONER MAY: Second.

10 CHAIRMAN HOOD: -- seconded. Any  
11 further discussion?

12 COMMISSIONER MAY: Yes, Mr.  
13 Chairman, I just want to add, you know,  
14 sometime we spend a lot of time talking about  
15 what we don't like about a project. I think  
16 there is a lot to like about the project and  
17 I think Mr. Miller hit the nail on the head by  
18 talking about how you need to vary the facade  
19 treatments in order to make it interesting.  
20 Otherwise, it would just be a giant monolithic  
21 building.

22 Now, we have seen some

1 alternatives, which are actually a lot worse  
2 than that, where they try to fake individual  
3 buildings, make it seem like it is instead of  
4 one building, it's like five buildings and  
5 that doesn't work very well.

6 But in this circumstance, what we  
7 have is a variation of facades and it gives us  
8 some different pieces of it, but there is an  
9 overall architecture that I think binds it  
10 together well-enough. So I think it's a very  
11 good start. It just needs to be refined.

12 CHAIRMAN HOOD: I've been wanting  
13 to say this for a long time. I don't know if  
14 I agree with Mr. Miller. I've been wanting to  
15 say that for a long time.

16 But anyway, it will be good to  
17 have a good discussion. And this is going to  
18 be a very interesting discussion and a very  
19 interesting hearing.

20 So it has been moved and properly  
21 seconded. Any further discussion? Any  
22 further questions? Any further discussion?

1 All those in favor?

2 ALL: Aye.

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

6 MS. SCHELLIN: Yes, staff records  
7 the vote 5-0-0 to set down Zoning Commission  
8 Case No. 12-18 as a contested case.  
9 Commissioner Miller moving, Commissioner May  
10 seconding. Commissioners Cohen, Hood and  
11 Turnbull in support.

12 CHAIRMAN HOOD: Okay. We're going  
13 to go ahead and continue Hearing Action,  
14 Zoning Commission Case No. 04-33F, Office of  
15 Planning - Text Amendment: ^U 2409.10 (PUD  
16 Implementation) and ^U 2602.4 (Inclusionary  
17 Zoning and Affordability Duration Provisions).

18 We have two actions that are being  
19 asked of us: Emergency action as well as a  
20 set down. Ms. Steingasser?

21 MS. STEINGASSER: Yes, sir. I'll  
22 take the stand.

1                   CHAIRMAN HOOD:   Okay.  Ms.  
2                   Steingasser.

3                   MS. STEINGASSER:  Yes, sir.  
4                   Commissioners, we are joined also with Mr.  
5                   Gilles Stucker of DHCD to answer any  
6                   questions.

7                   The Commission considered this a  
8                   similar text amendment for emergency action  
9                   earlier this summer.  DHCD, OP and Office of  
10                  Attorney General have been working with  
11                  Housing and Urban Development to find  
12                  covenants that survive foreclosure.

13                  We have worked through some  
14                  additional language and we are now bringing  
15                  that back to the Commission and asking for  
16                  emergency action on such language.

17                  We are also asking for emergency  
18                  action for some amendments to the PUD language  
19                  that also authorizes the Zoning Administrator  
20                  to clearly request covenants that also will  
21                  survive foreclosure for the units.

22                  We also ask that we have the

1 authority to work with OAG to refine the  
2 language prior to advertisement.

3 MR. STUCKER: Good evening,  
4 Commissioners. My name is Gilles Stucker.  
5 I'm from the Department of Housing and  
6 Community Development.

7 This evening, we are coming back  
8 requesting a change to the Emergency  
9 Regulations that were put into place for the  
10 Inclusionary Zoning and the Planned Unit  
11 Development process.

12 That change is due to the nature  
13 of the emergency. There was a previous  
14 request to have a notice go to the agency or  
15 to the District as part of the release upon  
16 foreclosure. In further consultation with the  
17 Department of Housing, U.S. Department of  
18 Housing and Urban Development, they did not  
19 allow for that notice to be a predicate to the  
20 foreclosure being -- going away upon the  
21 units.

22 So HUD requires that the



1 foreclosure provision go away immediately, the  
2 affordability away -- immediately upon  
3 foreclosure, so that's what you will see in  
4 the text version for both the IZ and the  
5 Planned Unit Development processes.

6 As well, you will see protections  
7 within both of the regulations for the Planned  
8 Unit Development process. There are  
9 provisions that require the applicants to  
10 enter into an affordable housing covenant with  
11 the District regarding the administration of  
12 the units. And that allows for both the  
13 ongoing affordability as well as the  
14 protections of the District's investments in  
15 the event foreclosure does occur.

16 And those aspects will include  
17 recapture of investment, as well as the  
18 District's right to purchase the units. In  
19 the Inclusionary Zoning section, you will see  
20 a section that allows us with the right of  
21 first refusal in ^U 2603.6.

22 CHAIRMAN HOOD: Thank you very

1 much, Mr. Stucker. I'm just going to ask  
2 those who are here, if you can't hear us, just  
3 raise your hand and I'll make sure --  
4 sometimes we get away from the mike and I want  
5 to make sure that we get right on the mikes,  
6 so everyone can hear.

7 Okay. Commissioners, any  
8 questions? Vice Chair?

9 VICE CHAIR COHEN: Thank you, Mr.  
10 Chairman. I have a question with regard to  
11 your proposed 2603.6, where you are the Mayor  
12 can -- or the District of Columbia Housing  
13 Authority can acquire title to more than 25  
14 percent of inclusionary units. Why just 25  
15 percent?

16 MR. STUCKER: The language that --  
17 this language, 2603.6, allows for more than 25  
18 percent, because the original language capped  
19 it at 25 percent, we wanted to allow, in this  
20 case, where if you were trying to protect  
21 against foreclosure, we would have essentially  
22 the ultimate ability to protect against that

1 foreclosure and be limited by a percentage.

2 It should say "Authority to  
3 acquire or entitled to more than 25 percent."

4 So I think 2603.5 says no more than. This is  
5 in addition to the prior language within the  
6 actual zoning text.

7 VICE CHAIR COHEN: Okay. Thank  
8 you. Okay. This is just a technicality, but  
9 I think you really should look into this, if  
10 you don't take my word for it, because I am  
11 not an attorney.

12 But FHA is not a division of the  
13 U.S. Department of Housing and Urban  
14 Development. It was folded in to HUD in 1965.  
15 FHA is a series of insurance programs. Why  
16 they kept the Assistant Secretary for Housing/  
17 FHA Commissioner is just by virtue of that's  
18 what the homebuilders wanted.

19 So what you should -- what I think  
20 is technically correct is by saying HUD/FHA.

21 MR. STUCKER: Thank you.

22 VICE CHAIR COHEN: And if you need

1 an attorney to give you that advice, I can  
2 refer you.

3 MR. STUCKER: Okay. And I have to  
4 apologize. My colleague, Art Rogers from  
5 Office of Planning is not here at the moment.  
6 He should be here momentarily.

7 CHAIRMAN HOOD: Any other comments  
8 or questions? Okay. I'll ask for a motion if  
9 somebody would like to make one. Vice Chair?

10 VICE CHAIR COHEN: Yes. I move  
11 that we approve, the Commission approves,  
12 Zoning Case No. 04-33F, Office of Planning -  
13 Text Amendment, ^U 2409.10, PUD Implementation  
14 and ^U 2602.4, Inclusionary Zoning -  
15 Affordability Duration Provisions.

16 COMMISSIONER TURNBULL: Second.

17 CHAIRMAN HOOD: Okay. It has been  
18 moved and properly seconded. Any further  
19 discussion?

20 All those in favor?

21 ALL: Aye.

22 CHAIRMAN HOOD: Any opposition?

1 So ordered. Staff would you record the vote?

2 MS. SCHELLIN: Staff records the  
3 vote 5-0-0 to approve set down emergency and--  
4 emergency action and set down for Zoning  
5 Commission Case No. 04-33F as a rulemaking  
6 case. Commissioner Cohen moving, Commissioner  
7 Turnbull seconding. Commissioners Hood, May  
8 and Miller in support.

9 CHAIRMAN HOOD: Okay. I had  
10 mentioned both of those actions before we  
11 started, so, okay, we're good with that?

12 MS. SCHELLIN: Yes.

13 CHAIRMAN HOOD: Okay. Good.  
14 Okay. Let's go now to Final Action. Zoning  
15 Commission No. 97-16B. This is the Lowell  
16 School PUD Modification at Square 27-45F.

17 MS. SCHELLIN: No.

18 CHAIRMAN HOOD: Hold on. I'm  
19 sorry. Did I miss something?

20 MS. SCHELLIN: We're under  
21 Proposed Action.

22 CHAIRMAN HOOD: I meant Proposed

1 Action. I'm sorry. Proposed Action, Zoning  
2 Commission Case No. 10-14. This is the Big  
3 Bear Cafe Map Amendment at Square 3103. Ms.  
4 Schellin?

5 MS. SCHELLIN: Yes. We have at  
6 Exhibit 54 the applicant's update on meeting  
7 with the Lewis party. Exhibit 55, the Lewis  
8 party's response to the progress report.  
9 Exhibit 57 the ANC-5C's updated report in  
10 support. And I think the applicant is trying  
11 to ask that the record be reopened and hand in  
12 something this evening. I don't know if the  
13 Commission wants to entertain anything else or  
14 not.

15 CHAIRMAN HOOD: Okay. Let me open  
16 it up and ask my colleagues. Typically, we  
17 don't do that.

18 MS. SCHELLIN: No.

19 CHAIRMAN HOOD: Now, what we could  
20 do is postpone this and --

21 MS. SCHELLIN: We got that.

22 CHAIRMAN HOOD: -- and she can ask

1 to reopen the record and we could take this up  
2 at another. If it's that important, if it's  
3 going to make that much of a difference, we  
4 can do it at another time. So it's not that  
5 important? Okay.

6 Okay. Commissioners, unless  
7 someone feels otherwise, we will decide this  
8 case on the information provided. Okay. All  
9 right. Let me open it up for discussion. Who  
10 would like to start us off on the Big Bear  
11 Cafe Map Amendment at Square 3103?

12 So I think there is just three of  
13 us, Commissioner Turnbull, Commissioner May  
14 and myself.

15 COMMISSIONER MAY: Mr. Chairman,  
16 I'm prepared to move forward with this  
17 tonight. You know, I know there has been  
18 further back and forth. It would be nice if  
19 there was a complete consensus in the  
20 neighborhood and that the Lewis party had come  
21 to some agreement with the applicant, but, you  
22 know, from what I can see, the applicant has

1 made a good effort to address the concerns of  
2 the Lewis party.

3 I think honestly what we are  
4 proposing to do here is really just a minimal  
5 change and there is -- I don't believe there  
6 is any meaningful potential for things to go  
7 awry from here. I think that this is a pretty  
8 straightforward decision to move this to C-2-  
9 A.

10 And I'm prepared to make a motion if you  
11 are ready to hear one.

12 CHAIRMAN HOOD: Commissioner  
13 Turnbull, did you want to add?

14 COMMISSIONER TURNBULL: No.

15 CHAIRMAN HOOD: Okay.

16 COMMISSIONER TURNBULL: I think my  
17 only comment is that this case -- and I would  
18 agree, the case has gone back and forth and we  
19 have asked for a lot of extra meetings. But  
20 I guess in the bottom, I guess, I would concur  
21 with Commissioner May that I think that we are  
22 always concerned about the neighbors, the



1 impact on the neighbors and I think Ms. Lewis  
2 made a case and I think it has gone back  
3 several times.

4 And I feel right now that I think  
5 we can move forward on the case.

6 CHAIRMAN HOOD: I want to thank my  
7 colleagues, because I think we probably were  
8 ready to move the last time, but I had a  
9 concern and I'm sure all of us shared the same  
10 concern. But it was something that one of my  
11 colleagues said, I'm not sure which one that  
12 said it, the site is not the most -- the best  
13 site. And it will be difficult to really  
14 raise the height and go further up.

15 And that was my main concern, as  
16 far as the zoning aspect of that particular  
17 site. But I'm ready to move forward. And,  
18 Commissioner May, if you're ready to make that  
19 motion? Okay.

20 COMMISSIONER MAY: Yes, I would  
21 move approval of Zoning Commission Case No.  
22 10-14 Map Amendment for 1700 1st Street, N.W.,

1 Square 3103, Lot 800.

2 COMMISSIONER TURNBULL: Do you  
3 want to second?

4 CHAIRMAN HOOD: No.

5 COMMISSIONER TURNBULL: Second.

6 CHAIRMAN HOOD: Okay. It has been  
7 moved and properly seconded. Any further  
8 discussion? Are you ready for the question?

9 All those in favor?

10 ALL: Aye.

11 CHAIRMAN HOOD: Any opposition?  
12 So Ordered. Staff would you record the vote?

13 MS. SCHELLIN: Yes. Staff records  
14 the vote 3-0-2 to approve proposed action in  
15 Zoning Commission Case No. 10-14, Commissioner  
16 May moving, Commissioner Turnbull seconding.  
17 Commissioner Hood in support. Commissioner  
18 Cohen and Commissioner Miller not voting,  
19 having not participated.

20 And I think that congratulations  
21 to Mr. Davenport and his partner on their  
22 newborn baby who I think has made its first

1 appearance at a zoning meeting this evening.

2 CHAIRMAN HOOD: Oh, where is he?

3 Okay.

4 MS. SCHELLIN: I thought I saw it  
5 come in. I wasn't sure, a boy or girl.

6 CHAIRMAN HOOD: Is the newborn  
7 with us tonight?

8 MS. SCHELLIN: Boy. Yes.

9 MR. DAVENPORT: His name is  
10 Anthony.

11 MS. SCHELLIN: Anthony.

12 CHAIRMAN HOOD: You should have  
13 told me that earlier. You should have told us  
14 that earlier, you would have went first,  
15 believe me. Okay. Well, congratulations to  
16 you all and much success. And make sure you  
17 save this tape. Save the tape. All right.  
18 Thank you all.

19 Okay. Let's move right along with  
20 Zoning Commission Case No. 12-08. This is the  
21 Office of Planning Text and Map Amendment at  
22 St. Elizabeths. Ms. Schellin?

1 MS. SCHELLIN: Yes, sir. At  
2 Exhibit 27, you have a copy of Ms. Cuthbert's  
3 testimony. Exhibit 28, a copy of the  
4 presentation that was submitted by DDOT from  
5 a master plan presentation that was made.  
6 Exhibit 29 is an OP supplemental report.

7 CHAIRMAN HOOD: Okay.  
8 Commissioners, as already stated by Ms.  
9 Schellin, we have Ms. Cuthbert's testimony,  
10 Exhibit 27. And then Exhibit 28, a copy of  
11 the presentation submitted by DDOT about the  
12 master plan. I'm not sure, I think we did ask  
13 for that. And then Exhibit 29 the Office of  
14 Planning supplemental report.

15 Let's open this up. I would like  
16 to actually look at all three pieces of  
17 correspondence.

18 And let me ask this, is this the--  
19 Ms. Schellin, this is the testimony and I was  
20 reading this because I remember some of the  
21 things in Ms. Cuthbert's testimony. Is this  
22 what she read at the hearing?

1 MS. SCHELLIN: Yes, sir. I think  
2 just that evening she asked to have time to  
3 add to it or to finalize it. I don't think  
4 she had it ready that evening and she asked to  
5 be able to fine-tune it before she turned it  
6 in.

7 CHAIRMAN HOOD: From some of the  
8 comments, I thought that was similar. Okay.  
9 Thanks.

10 Okay. Commissioners, let's open  
11 it up.

12 COMMISSIONER MAY: Mr. Chairman,  
13 I'm curious. The Office of Planning, I think,  
14 made reference to some studies of massing that  
15 would -- they were still working on and would  
16 submit to the Zoning Commission at or prior to  
17 the November 19th Public Meeting. Do we have  
18 those?

19 MS. STEINGASSER: We were unable  
20 to get those completed and so we may be able  
21 to have them by Final Action. We were not  
22 able to get them done.

1                   COMMISSIONER MAY:  Assuming we  
2                   took Proposed Action today, right?

3                   MS. STEINGASSER:  Assuming you  
4                   took Proposed Action today.

5                   COMMISSIONER MAY:  Okay.  Well--

6                   MS. STEINGASSER:  They are still  
7                   under contract.  They are still being done.  
8                   They just were not completed by today and we  
9                   apologize for that.

10                  COMMISSIONER MAY:  That's okay.  
11                  Well, we shall see what happens.

12                  I do appreciate all the additional  
13                  information that we got.  I think there was  
14                  helpful information in the ANC report.  The  
15                  OP's report was certainly helpful as well.

16                  Information on the chapel, you  
17                  know, the fact that it was considered to be  
18                  not contributing and seeing photographs of it,  
19                  I understand, you know, that the -- it's not  
20                  exactly in keeping with the architecture of  
21                  the rest of the campus, so while it may be an  
22                  important place and an important function, I'm

1 not sure that the building itself is, in the  
2 long run, going to be super important.

3 So that was very helpful  
4 information. It was also helpful to see the  
5 DDOT information on the planned widening of  
6 Martin Luther King, that was helpful.

7 I still have a concern about the  
8 height of parcels on STE 17 and 18. And if I  
9 understand the OP report correctly, there  
10 seems to be an indication that if -- well, the  
11 intention there is that the allowable FAR  
12 compared with the height is such that it  
13 encourages buildings to be a bit more  
14 differentiated and the massing to be, you  
15 know, not really blocky and looming over the  
16 adjacent parcels, that it would be broken up.

17 And that there was a willingness  
18 on the part of Office of Planning to actually  
19 incorporate some language into the regs to  
20 encourage that in those circumstances. Maybe  
21 -- I actually would appreciate having the  
22 Office of Planning speak to that question if

1 that's all right with you.

2 CHAIRMAN HOOD: And I want to also  
3 -- let me just add to this before you speak to  
4 that. Well, I'll wait and comment on the  
5 chapel after you speak to that.

6 MS. BROWN-ROBERTS: Yes, Mr.  
7 Chairman and Zoning Commissioners. After we  
8 had the cross-section done, we also were  
9 concerned about the height of the building and  
10 that there could be some, you know, looming  
11 over. And so we looked at some language. We  
12 did not submit that. We wanted to get your  
13 comments first.

14 But we are willing to add some  
15 language that would say that, you know, at a  
16 certain height to the building, we would have  
17 maybe a setback, a 45 degree setback. So we  
18 think that would address your concerns.

19 COMMISSIONER MAY: Okay. And  
20 which parcels do you propose that for or are  
21 you thinking of that for? I know you are not  
22 proposing it. You are responding to us.



1 MS. BROWN-ROBERTS: 18, Parcel 18  
2 and I think, just a second, 16.

3 COMMISSIONER MAY: Yes.

4 MS. BROWN-ROBERTS: And I think  
5 13.

6 COMMISSIONER MAY: 13?

7 MS. BROWN-ROBERTS: Yes.

8 COMMISSIONER MAY: Okay. Along  
9 the ravine?

10 MS. BROWN-ROBERTS: Yes.

11 COMMISSIONER MAY: Okay. What  
12 about 17 along Alabama Avenue?

13 MS. BROWN-ROBERTS: I think we  
14 could take a look at that. If you notice on  
15 the -- there is a small diagram that is shown  
16 on page 3 of the submission and along Alabama  
17 Avenue, it shows that there is a setback line  
18 in the diagram. So I think that would take  
19 care of, you know, having the building  
20 setback.

21 COMMISSIONER MAY: Oh, I see. So  
22 the entire building is setback there?

1 MS. BROWN-ROBERTS: Actually, it's  
2 stepped back.

3 COMMISSIONER MAY: Step-back.

4 MS. BROWN-ROBERTS: Not setback,  
5 yes.

6 COMMISSIONER MAY: Oh, I see. I'm  
7 sorry. I misunderstood you. Oh, and this is  
8 growing out of the HRB issue? No, it's more  
9 of a neighborhood character issue. Got it.  
10 Okay.

11 Yes, I personally am interested in  
12 that. Seeing 17, 18, 13, 16, those are the  
13 ones, right?

14 MS. BROWN-ROBERTS: 16?

15 COMMISSIONER MAY: I'm interested  
16 in pursuing that.

17 MS. BROWN-ROBERTS: Okay.

18 COMMISSIONER MAY: And I'll see  
19 whether the other Commissioners feel the same  
20 way.

21 Now, the one cross-section that  
22 you had provided across the ravine there, that

1 actually is -- what -- that's not through any  
2 of the parcels that we named, is it?

3 MS. BROWN-ROBERTS: It's through  
4 13.

5 COMMISSIONER MAY: Through 13, oh,  
6 so that is one of the ones you mean?

7 MS. BROWN-ROBERTS: Yes.

8 COMMISSIONER MAY: Okay. Got it.

9 MS. BROWN-ROBERTS: Yes.

10 COMMISSIONER MAY: All right. I  
11 just wanted to make sure about that one. And  
12 I am still very interested in seeing the  
13 overall massing studies whenever those are  
14 available.

15 MS. BROWN-ROBERTS: Okay.

16 COMMISSIONER MAY: Regardless of  
17 where we are in the decision making.

18 MS. BROWN-ROBERTS: Okay.

19 CHAIRMAN HOOD: Any other  
20 comments?

21 VICE CHAIR COHEN: No, you go.

22 COMMISSIONER MILLER: No, I just

1 want to comment, Mr. Chairman, that this  
2 project is a long time coming in a ward that  
3 desperately needs and deserves the housing and  
4 economic development and revitalization that  
5 is envisioned by both the Comprehensive Plan,  
6 the Master Plan that was done and this zoning  
7 case.

8 And so I for one am looking  
9 forward to moving forward with this project,  
10 which I think really has the ability --  
11 creates an opportunity to provide economic  
12 development not only for the immediate  
13 neighborhood, which should benefit from it,  
14 but for the city as a whole and for the region  
15 as a whole.

16 So that's all I wanted to say.

17 CHAIRMAN HOOD: Okay. Thank you  
18 very much. Vice Chair?

19 VICE CHAIR COHEN: Thank you. I  
20 do want to support my colleague's statement  
21 about the importance of this project. And to  
22 emphasize that I still have a couple of

1 concerns. I still believe that had there been  
2 enough foresight by DMPED to go to like the  
3 group and ask them what the best way to  
4 proceed for energy, cogeneration,  
5 trigeneration, whatever, it would have been  
6 more helpful than to say this is our phase.  
7 This is how we are phasing it.

8 And, therefore, you know, it  
9 becomes an analysis that says well, this is  
10 uneconomic because you don't have the high  
11 energy generators.

12 So I really think that's a lost  
13 opportunity and that makes me very sad,  
14 because this is the type of project that  
15 cogeneration, trigeneration, whatever, is made  
16 for. A large project. And it also seems to  
17 me that, again, you know, our Federal  
18 Government is not talking to the local  
19 government and I don't have the history, so  
20 this is my impression from what is before me.

21 Again, I haven't been working on  
22 this as long as other people. And I know it

1 is going on for a long time, but I had --  
2 would have liked to have seen both sides of  
3 the Government, the feds and the city, kind of  
4 come up with a plan that could have maximized  
5 the use of -- for energy efficiency.

6 I mean, we all know that  
7 construction happens to be the greatest  
8 impact, provide the greatest impact on air  
9 pollution and carbon emissions. And so, as I  
10 said, it's sad. It's a lost opportunity.

11 The other point I want to make,  
12 and I had to go back to the hearing itself, is  
13 this is a great opportunity for a mixed income  
14 community and I think I heard that 8 percent  
15 is the minimum for affordable housing.

16 And I really think that, again,  
17 you have an opportunity to have a real mixed  
18 income where it could be one-third, one-third,  
19 one-third, one-third market, one-third  
20 moderate, one-third affordable.

21 So those are my concerns and I  
22 would like somebody to comment on them even

1 further with regard to why, why aren't we  
2 having a more energy efficient -- I mean, is  
3 it a marketing issue? Is it a financial  
4 issue? I have seen nothing from the, you  
5 know, CFO saying that, you know, we can't tiff  
6 this or it just is a problem that I'm kind of  
7 struggling with that we have known about this  
8 project for many years.

9 Just again, it's just a matter of  
10 how deeply involved one has been. And I must  
11 admit, I haven't been deeply involved. But  
12 as, you know, not just a Zoning Commissioner,  
13 but as a citizen, as I said, I think it's a  
14 lost opportunity.

15 CHAIRMAN HOOD: Okay.

16 Commissioner Turnbull?

17 COMMISSIONER TURNBULL: Thank you,  
18 Mr. Chair. I think my colleagues have  
19 addressed any of the points that I had. I  
20 want to thank Commissioner May for talking  
21 about the massing. And I think it is going to  
22 be -- I think I'm looking forward to seeing

1 the plans by OP also.

2 But I think Mr. Miller touched on  
3 that the key element of this is that it is a  
4 project that has been in the pipeline for a  
5 long time and it's good to look forward to  
6 seeing this really go forward.

7 CHAIRMAN HOOD: Okay. I will also  
8 agree with everything I heard and especially  
9 I would agree with Commissioner Miller, this  
10 has been in the pipeline for a while.

11 I do have one concern and I'm  
12 trying to remember, Ms. Steingasser, if you  
13 can help me, what are we doing with the  
14 church? What was proposed? Because I think  
15 in, let me just say this, Ms. Cuthbert's  
16 letter to us, it says that "The one thing that  
17 was loud and clear was the preservation of the  
18 church."

19 And I know that we preserve stuff  
20 like in O Street, we preserved stuff in that  
21 area. What are we proposing for the chapel?

22 MS. STEINGASSER: There are no



1 plans. The chapel is not considered eligible  
2 in terms of historic preservation with a  
3 Capitol Landmark. The community, as Ms.  
4 Cuthbert's statement says, considers it a  
5 community landmark.

6 There is no plans to rush out and  
7 demolish it, but there is also no plans that  
8 it be considered one of the buildings that  
9 would be saved in perpetuity with this plan.

10 COMMISSIONER MILLER: Mr.  
11 Chairman, on that point, can I just remind  
12 ourselves what was said, I thought, in the  
13 record from the Deputy Mayor's Office is that  
14 in the RFP for that parcel, that they would  
15 award greater -- knowing the community's great  
16 concern about the chapel, they would give more  
17 points to a proposal that came forward with  
18 preserving and incorporating it within a  
19 development.

20 CHAIRMAN HOOD: Okay. I thank  
21 you, Commissioner Miller, because I was  
22 getting ready to -- well, I'm still going to

1 say it, but I appreciate it. That gives me  
2 more of a comfort level, because I have been  
3 on this Commission for a while and I have seen  
4 it happen in other areas where development  
5 happens to preserve a structure.

6 And actually, some of them look  
7 pretty nice. One I'm not going to say where  
8 it is yet, because they haven't finished one  
9 of them and I don't want to go out on a limb  
10 and say how good it looks and it turns out to  
11 be the opposite.

12 But I think that anybody who knows  
13 Ms. Cuthbert and some of the others out there,  
14 they will tangle with you. And I think they  
15 have been out there a long time and trying to  
16 do the betterment of their community. And my  
17 hat is off to them.

18 And I think at the end of the day,  
19 folks who live right there should be able to  
20 get some say in or get some of the things that  
21 they ask for. And I'm hoping that -- and I  
22 appreciate you bringing that comment up and

1 I'm hoping that that actually materializes as  
2 this moves further on down the road.

3 And I'm glad to know the Deputy  
4 Mayor's Office is willing to do that. And for  
5 the record, I'm looking forward to seeing that  
6 happen.

7 Okay. Anything else? Any other  
8 comments? I would -- oh, let me ask this.  
9 Did we ever get any comments from Council  
10 Member Barry? Okay.

11 This is proposed. Hopefully maybe  
12 we will get some comments, because I know he  
13 brought up a concern. Obviously, it must be--

14 MS. SCHELLIN: Well, the record is  
15 closed, so unless you open it again, the  
16 record is not open for anything further.

17 CHAIRMAN HOOD: It's kind of hard  
18 to --

19 MR. BERGSTEIN: Well, except if  
20 you take proposed action, there will be a 30  
21 day written comment period.

22 MS. SCHELLIN: Yes. On the

1 proposed rule making.

2 CHAIRMAN HOOD: Right.

3 MR. BERGSTEIN: That would be an  
4 opportunity for him to comment in that  
5 fashion.

6 MS. SCHELLIN: Yes.

7 CHAIRMAN HOOD: It's hard to close  
8 the record for the Mayor for life. But  
9 anyway, I will not be supporting that.

10 But anyway, let me just say I  
11 would like to move approval of Zoning  
12 Commission Case No. 12-08 with all the  
13 necessary comments and ask for a second.

14 COMMISSIONER MILLER: Second.

15 CHAIRMAN HOOD: It has been moved  
16 and properly seconded. Any further  
17 discussion?

18 COMMISSIONER MAY: Mr. Chairman?

19 CHAIRMAN HOOD: Yes?

20 COMMISSIONER MAY: I would just  
21 want to stipulate that we would still expect  
22 to see from the Office of Planning the massing

1 drawings that they are working on.

2 CHAIRMAN HOOD: Okay. And we will  
3 get that before final. And I think, Vice  
4 Chair, you had something?

5 VICE CHAIR COHEN: Yes.

6 CHAIRMAN HOOD: Do you want to  
7 repeat it?

8 VICE CHAIR COHEN: Yes. I think  
9 we need -- I need more of a discussion with  
10 regard to how we are going to make this a  
11 better environmentally sound development and  
12 I want to -- also want to know about the  
13 affordability units, more specifics as to the  
14 numbers, because 8 percent is certainly not  
15 sufficient.

16 COMMISSIONER MAY: And, Mr.  
17 Chairman, I just want to say, you know, we do  
18 need that -- to see those other drawings from  
19 the Office of Planning, but is the rest of the  
20 Commission interested in seeing the sort of  
21 step-back provisions that I was discussing  
22 with the Office of Planning and STE 13, 16, 17

1 and 18? The Vice Chair seemed to be nodding  
2 her head.

3 CHAIRMAN HOOD: Since you asked  
4 for it --

5 COMMISSIONER TURNBULL: I would  
6 be. I would be interested.

7 CHAIRMAN HOOD: Since you asked  
8 for it, I think that is fine.

9 COMMISSIONER MAY: Okay.

10 CHAIRMAN HOOD: I don't think any  
11 of us would give it back to them. So I think  
12 if we can get five copies instead of one or  
13 two. You didn't get it. You'll get that  
14 later on this evening. Okay. Commissioner  
15 Miller?

16 COMMISSIONER MILLER: Yes, just  
17 following up on the Vice Chair's comments  
18 about the affordable housing. These parcels  
19 will go through individual dispositions from  
20 the District Government. I have not -- I  
21 don't recall in the past, at least 10, 12  
22 years, seeing a disposition for housing

1 development that didn't set aside at least 20  
2 percent of the units for affordable.

3 And so I think your comments are  
4 right on point in terms of --

5 VICE CHAIR COHEN: Okay.

6 COMMISSIONER MILLER: -- having a  
7 mixed income community there.

8 VICE CHAIR COHEN: Yes. Because I  
9 went back to the public hearing to check what  
10 I had heard in my notes and it seemed like a  
11 minimum of 8 percent. But you know, what does  
12 that mean, a minimum of 8 percent?

13 COMMISSIONER MILLER: Yes. It's  
14 the IZ -- that's the IZ requirement which, in  
15 this case, would be below the minimum of what  
16 has usually been done in dispositions.

17 VICE CHAIR COHEN: Okay. Thank  
18 you.

19 CHAIRMAN HOOD: Okay. It has been  
20 moved and properly seconded. Any further  
21 discussion? Are you ready for the question?

22 All those in favor?

1 COMMISSIONER MAY: Aye.

2 CHAIRMAN HOOD: Aye.

3 COMMISSIONER TURNBULL: Aye.

4 COMMISSIONER MILLER: Aye.

5 CHAIRMAN HOOD: Any opposition?

6 So ordered.

7 VICE CHAIR COHEN: I'm abstaining.

8 CHAIRMAN HOOD: Staff would you --  
9 could you record, Vice Chair Cohen's  
10 abstention? It has been moved or -- okay.

11 One abstention.

12 MS. SCHELLIN: Yes. Staff --

13 CHAIRMAN HOOD: Staff would you  
14 record the vote?

15 MS. SCHELLIN: Yes. Staff records  
16 the vote 4-0-1. Commissioner Hood moving,  
17 Commissioner Miller seconding. Commissioners  
18 May and Turnbull in support. Commissioner  
19 Cohen abstaining.

20 CHAIRMAN HOOD: Okay. Would it be  
21 possible to take a three minute break? A two  
22 minute break? Thank you. Can we take a two



1 minute break? Okay. Thanks.

2 (Whereupon, at 7:57 p.m. a recess  
3 until 8:04 p.m.)

4 CHAIRMAN HOOD: Okay. Let's move  
5 right in and continue on with Proposed Action,  
6 Zoning Commission Case No. 11-17. This is the  
7 Adams Morgan Hotel, Consolidated PUD and  
8 Related Map Amendment in Square 2560. Ms.  
9 Schellin?

10 MS. SCHELLIN: Yes. This one we  
11 have quite a few documents. I guess actually  
12 the first thing to decide are the motions. Is  
13 that correct, Mr. Bergstein?

14 MR. BERGSTEIN: Yes.

15 MS. SCHELLIN: Yes. We have --  
16 actually there is one motion. A motion to  
17 postpone deliberations and decision was filed  
18 by the Champlain Street Neighbors. I guess  
19 actually before we start, just to make sure we  
20 do have the interpreters here, has anybody  
21 gotten the headsets? Is there anybody here  
22 who needs headsets? No one is here. Okay.

1                   CHAIRMAN HOOD:  Is there anyone  
2 present who needs interpretation or  
3 translation?

4                   MS. SCHELLIN:  Okay.

5                   CHAIRMAN HOOD:  Okay.

6                   MS. SCHELLIN:  Let the record  
7 reflect that we did --

8                   CHAIRMAN HOOD:  Let the record  
9 reflect --

10                  MS. SCHELLIN:  -- have  
11 interpreters here.

12                  CHAIRMAN HOOD:  -- that.

13                  MS. SCHELLIN:  Okay.  So we do  
14 have a motion to postpone deliberations and  
15 decision filed by the Champlain Street  
16 Neighbors at Exhibit 206 for the Commission to  
17 rule on.

18                         And at Exhibit 207 is the  
19 applicant's opposition to the motion to  
20 postpone.  And if the Commission would take  
21 that up first, then I can go over the rest of  
22 the documents that have been received.

1                   CHAIRMAN HOOD:  Colleagues, we  
2                   have a request by the Champlain Street  
3                   Neighbors, a motion to postpone deliberations  
4                   and the decision filed by the Champlain Street  
5                   Neighbors.

6                   I think we can take that up.  And  
7                   also, we have the -- Exhibit 207, as already  
8                   stated, the decision filed -- I mean, the  
9                   applicant's opposition to the motion to  
10                  postpone.

11                  Let's open it up.  Let's have a  
12                  discussion on that.  Ms. Schellin, is this the  
13                  package?

14                  MS. SCHELLIN:  The document, that  
15                  thick package I handed out this evening, so  
16                  that was their filing from last week.  They  
17                  just did not provide enough copies and so they  
18                  delivered them this evening.

19                  CHAIRMAN HOOD:  Okay.  All right.

20                  MS. SCHELLIN:  Do you need a copy  
21                  of it?  You can't put your hands on it?  I can  
22                  grab that for you.  It was probably on the

1 table and it was emailed to you today. There  
2 was the one that was emailed and then there  
3 was a copy on the table.

4 CHAIRMAN HOOD: Okay. Ms.  
5 Schellin, is this the email that we received  
6 earlier? This is what we received earlier  
7 today?

8 MS. SCHELLIN: Yes.

9 CHAIRMAN HOOD: Okay. I remember  
10 now. This was a request by Champlain Street  
11 Neighbors as a result waiting for some  
12 information, which was coming from  
13 Congresswoman Norton. I actually read this  
14 earlier today.

15 MS. SCHELLIN: Jim Graham.

16 CHAIRMAN HOOD: Okay. Councilman  
17 Graham, okay.

18 MS. SCHELLIN: Jim Graham wanting  
19 to meet with their participants.

20 CHAIRMAN HOOD: Right. I don't  
21 really think, Commissioners, that -- and I  
22 actually read this, I just needed to refresh

1 my memory. We only have but one or two things  
2 to do during the day.

3 But let me just say that after I  
4 read this earlier today, I think that I would  
5 be inclined to deny this motion, because I  
6 think that the meetings and the deliberations  
7 or whatever the Council Member Graham or  
8 whatever Congresswoman Norton have to input on  
9 this particular case would not affect any  
10 actions that, at least the way I see it now,  
11 we may proceed with as far as the zoning case.

12 And I would open it up for any  
13 further discussions. Commissioner Miller?

14 COMMISSIONER MILLER: I would just  
15 concur, Mr. Chairman, with your comments that  
16 the record is, in this case, very full and  
17 complete with over 200 exhibits. Many or  
18 several hearings and with all parties having  
19 an opportunity to reflect to before their  
20 perspective position, so I think we should be  
21 prepared to go forward today.

22 CHAIRMAN HOOD: Okay. So any

1 other comments?

2 MS. SCHELLIN: Chairman Hood, I'm  
3 sorry, just one second. I did not realize  
4 that Mr. Otten placed on the dias this evening  
5 a response to a response. He actually handed  
6 up here, I just now noticed it, a response to  
7 the applicant's motion to postpone  
8 deliberations, which as you know, we don't  
9 have a process for that, but that's for you  
10 guys to decide what you want to do with this.

11 Do I put it in the record or not?

12 CHAIRMAN HOOD: I'm going to say  
13 no, unless my colleagues disagree. I don't  
14 think we -- that's not the way we do business.

15 MS. SCHELLIN: Right.

16 CHAIRMAN HOOD: I'm going to say  
17 no to that. And I'm going to move that we  
18 deny this request for the motion to postpone  
19 for tonight's hearing by the Champlain Street  
20 Neighbors and ask for a second.

21 COMMISSIONER MILLER: Second.

22 CHAIRMAN HOOD: It has been moved

1 and properly seconded. Any further  
2 discussion? Are you ready for the question?

3 All those in favor?

4 ALL: Aye.

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

8 MS. SCHELLIN: Staff records the  
9 vote 5-0-0 to deny the Champlain Street  
10 Neighbors motion to postpone deliberations.  
11 Commissioner Hood moving, Commissioner Miller  
12 seconding. Commissioners May, Turnbull and  
13 Cohen in support of denial.

14 CHAIRMAN HOOD: Okay. Do we have  
15 any other preliminary actions?

16 MS. SCHELLIN: I was just going to  
17 advise that the rest of the documents that  
18 have come in, Exhibits 194, 195 are the  
19 applicant's post-hearing submission, rebuttal  
20 and closing. 196 and 197 are supplemental  
21 DDOT and OP reports. 198 is the applicant's  
22 response to DDOT's supplemental report. 199

1 is Champlain Street Neighbors' preliminary  
2 post-hearing submission.

3 Exhibit 200 was a motion for  
4 extension of time, which was granted to the  
5 Champlain Street Neighbors, that was where  
6 they had asked for some of the documents to be  
7 translated into Spanish. Exhibits 201, 202 is  
8 Kalorama Citizens Association's proposed  
9 conditions for the order and their response to  
10 the applicant's rebuttal.

11 203 is the applicant's response to  
12 Champlain Street Neighbors' motion for  
13 extension, which I think the applicant -- I'm  
14 sorry, the Commission has already seen. 204  
15 is the applicant's submission of those  
16 documents, that they translated into Spanish.  
17 And 205 is the Champlain Street Neighbors'  
18 secondary post-hearing submission, which was  
19 handed to you this evening.

20 CHAIRMAN HOOD: Okay.

21 Commissioners, let's look at, in this order I  
22 guess, Exhibit 194 and 195 and also 196, 197



1 and 198. Again, as Ms. Schellin has already  
2 mentioned, that's the applicant's post-hearing  
3 submission, which was the rebuttal and  
4 closing. And then also the supplemental DDOT  
5 and OP reports. And then the applicant's  
6 response to DDOT's supplemental report. If we  
7 can take those in that order before we get  
8 into the neighborhood's submissions.

9 So if we can get in front of us  
10 194, 195, 196, 197 and 198? I'm sorry, 194,  
11 195, 196, 197 and 198.

12 COMMISSIONER MAY: Mr. Chairman,  
13 on 194, one of the issues was a suggestion  
14 that the applicant study removing the bracket  
15 detail and use only corbeling. You know, I  
16 have seen the revised elevations and I think  
17 they have even got a step beyond just doing  
18 corbeling there with the further refinement of  
19 the facade.

20 And so I'm very comfortable with  
21 what they have got now. I think that the --  
22 there is an open issue with the actual

1 treatment of the facades of the penthouses  
2 themselves. I don't think what they have  
3 shown there is really great. I think it makes  
4 them look heavier than they need to look.

5 I think just a very simple brick  
6 facade would be fine there, but I'll, you  
7 know, leave that up to them to decide in  
8 working with HPRB staff. So I'm perfectly  
9 comfortable with that.

10 The roof -- sorry, some of these  
11 other issues.

12 CHAIRMAN HOOD: Since --

13 COMMISSIONER MAY: Yes? This is  
14 all 194.

15 CHAIRMAN HOOD: Thank you. Yes,  
16 194. Can we just go down those issues?

17 COMMISSIONER MAY: Go down the  
18 list, yes. I didn't have issue No. 2, which  
19 is the clear review of Champlain immediately  
20 opposite the hotel.

21 CHAIRMAN HOOD: I'm not sure who  
22 had that issue. I might of had. I might have

1       agreed with it, but does anyone remember  
2       asking for that?

3                   COMMISSIONER MAY:   Well, I didn't  
4       think I had that issue.   Maybe I did.

5                   CHAIRMAN HOOD:   Okay.   Well, the  
6       Sheet 15, as already stated.

7                   COMMISSIONER MAY:   I'm good.

8                   CHAIRMAN HOOD:   You're good?  
9       Everybody good?   Okay.   All right.  
10      Commissioner May, you're doing such a good  
11      job.

12                  COMMISSIONER MAY:   Sure.   No. 3,  
13      the roof structure, stair one.   I think that  
14      they have done more to consolidate the roof  
15      structure, so I'm certainly more comfortable  
16      with that.   I'm good with that one.

17                  CHAIRMAN HOOD:   Let me ask, is  
18      everybody on this case?   All of us?

19                  VICE CHAIR COHEN:   Yes.

20                  CHAIRMAN HOOD:   Okay.

21                  VICE CHAIR COHEN:   I believe.

22                  CHAIRMAN HOOD:   Okay.   Okay.

1 Let's go to 4.

2 COMMISSIONER MAY: Okay. The  
3 applicant submitted information with regard to  
4 roof activities and how they would be  
5 controlled. And confirmation that their  
6 acoustician believes we would not have  
7 problems with noise coming from the top of the  
8 roof.

9 I would tend to agree with that.  
10 I know -- understanding something about how  
11 the way noise propagates, if there is not  
12 going to be amplified sound up there, I don't  
13 -- I would not expect it to be a problem with  
14 noise coming through the neighborhood from  
15 that roof, given how high up it is.

16 CHAIRMAN HOOD: Okay.

17 COMMISSIONER MAY: Oh, and they  
18 also submitted lighting details, which I also  
19 think is helpful and I don't expect, from what  
20 they have proposed, that there will be much  
21 light spill-over from the roof.

22 CHAIRMAN HOOD: Okay. Let's go to

1 5. The Commission requested additional  
2 information regarding funding of those aspects  
3 of the applicant's community's benefit  
4 package.

5 COMMISSIONER MAY: Perhaps  
6 somebody else wants to talk to that one.

7 VICE CHAIR COHEN: You know, I  
8 think a lot of this has been agreed to with  
9 the Reed-Cooke Overlay Association, the ANC.  
10 I think it has all been negotiated and I don't  
11 recall if there is any other issue beyond the  
12 fact that the proffers were approved and --  
13 well, have been negotiated and approved.

14 CHAIRMAN HOOD: Okay. I would  
15 agree with the Vice Chair. Let's go to the  
16 Commission requested information regarding the  
17 status of the projects review by the District  
18 of Columbia Historic Preservation Review  
19 Board. The applicant has stated and the  
20 applicant has attached a closing statement,  
21 which HPRB reviewed the revised project on  
22 October 25, 2012, and voted unanimously to

1 approve concept and delegated the rest to  
2 staff.

3 The Commission requested the  
4 applicant to study the suggestions made by the  
5 Kalorama Citizens Association. I think that  
6 was mine. That the report -- I don't think  
7 that was mine. I'm not sure who asked for s  
8 to study that, the Kalorama Association.

9 The applicant, through its expert  
10 witness in traffic analysis and management,  
11 further studied the suggestion and the  
12 applicant's response is included in the  
13 rebuttal.

14 COMMISSIONER MILLER: I think I  
15 had requested that.

16 CHAIRMAN HOOD: Okay.

17 COMMISSIONER MILLER: And I see  
18 that the location that is in the application  
19 is a superior location.

20 CHAIRMAN HOOD: So we're fine with  
21 the resolution as presented? Anyone else have  
22 anything? We're all okay on that? Okay.

1 Let's go to Exhibit -- what was that, 194?

2 Let's go to Exhibit 195. I think  
3 a lot of it is the closing.

4 COMMISSIONER MAY: Mr. Chairman, I  
5 believe most of this is just recapping of, you  
6 know, sort of the big picture on this. I  
7 didn't see a lot of new information on it.  
8 And I think that -- I mean, the thing of it I  
9 think is it sort of sums up a lot of the  
10 concern about the neighborhood.

11 I mean, this project when it first  
12 walked in the door was just way too big and  
13 did not fit well with the neighborhood. And  
14 I think that the Exhibit A in the rebuttal  
15 presentation kind of sums things up when you  
16 look at that image of the over-large original  
17 proposal and its unusual design. And then --

18 COMMISSIONER TURNBULL: I think  
19 garish is the word you want.

20 COMMISSIONER MAY: Garish?

21 COMMISSIONER TURNBULL: Yes, yes.

22 COMMISSIONER MAY: And then we

1 look at the revised design and it just -- it's  
2 a much more fitting proposal in terms of the  
3 size and in terms of the detail and the  
4 architecture.

5 So I think it is a huge, huge  
6 improvement. That's not to say that it all  
7 boils down to the architecture of the  
8 building, but I do think the biggest issue  
9 with this project when it first came in was  
10 the size. And this does capture the fact that  
11 the size of the building has been reduced from  
12 what we originally saw and were originally  
13 very, very uncomfortable with.

14 Otherwise, the rest of it, you  
15 know, what's in the rebuttal is a summary of  
16 the reasons of why this is a complete PUD  
17 submission and addresses all the necessary  
18 issues.

19 CHAIRMAN HOOD: Okay. Thank you,  
20 Commissioner May.

21 COMMISSIONER TURNBULL: Mr. Chair,  
22 I would just like to concur with Commissioner



1 May's agreement that when this project first--  
2 when we had it at set down, you know, I think  
3 there was eye shock at the structure. I think  
4 we were all -- just felt very uncomfortable  
5 with what it looked like and how it was going  
6 to sit in with the neighborhood.

7 And I think we made extensive  
8 comments that this was just inappropriate.

9 COMMISSIONER MAY: Some of us  
10 didn't want to set it down.

11 COMMISSIONER TURNBULL: Right.  
12 It's true.

13 CHAIRMAN HOOD: Yes, I will tell  
14 you I --

15 COMMISSIONER TURNBULL: That's  
16 true.

17 CHAIRMAN HOOD: -- would agree  
18 with both of you, because it came very close.

19 COMMISSIONER TURNBULL: Yes.

20 CHAIRMAN HOOD: Not to be --

21 COMMISSIONER TURNBULL: And I  
22 think this applicant 180 degree turn and with

1 the architecture and the sensitivity to the  
2 neighborhood, you know, I think the building  
3 that we have ended up with -- you know, they  
4 looked at the brackets, got rid of those. I  
5 think it's a very sensible, scaled-down,  
6 sensitive design that works in the  
7 neighborhood.

8 Architecturally, I think it is  
9 fine. I think it works well.

10 CHAIRMAN HOOD: Okay. Any  
11 comments on 196, 197 and 198? I don't  
12 necessarily have. Anyone? Do you need time?

13 COMMISSIONER MAY: No, I mean, I  
14 think those clarified some questions about  
15 traffic and loading and so on, but I think it  
16 is all pretty straightforward with those  
17 submissions.

18 CHAIRMAN HOOD: I also want to  
19 thank the Office of Planning and DDOT for  
20 responding to it. I think I asked them to  
21 respond to what -- the Kalorama Citizens  
22 Association and the record is sufficient.

1                   And I have no further concerns on  
2                   that. I just asked them to respond to the  
3                   issue raised by Kalorama. Anything else?

4                   Okay. Now, I would like to go to  
5                   Exhibit 199, which is the Champlain Street  
6                   Neighbors. You know, I read a lot of what I  
7                   see here in Exhibit 199, but actually when --  
8                   you know, I understand the concern, at least  
9                   that I heard from the individual testimony,  
10                  and I'm not speaking in terms of the party,  
11                  but the individual testimony of some of the  
12                  people who needed translation and some of the  
13                  folks who we thought, we wanted to make sure.

14                  And I want to thank the Vice Chair  
15                  for making sure that those -- the folks that  
16                  we thought that may have been disenfranchised  
17                  or may have had -- there was a language  
18                  barrier there, and I know she was very  
19                  passionate about making sure that happened.  
20                  And that gap was closed and it was done thanks  
21                  to the Office of Zoning.

22                  And I appreciate the Office of

1 Zoning in making sure the translator is here,  
2 even though tonight they are here and I don't  
3 think you all have anybody, but that happened  
4 a couple of nights during the hearing, but I  
5 want to thank you all for doing that. And I  
6 want to thank the Translators for coming and  
7 being here available, readily available if  
8 needed.

9 But when we actually started  
10 hearing from some of those who were  
11 represented as being not knowing what was  
12 going on, they actually -- I think both of  
13 them started -- two young ladies who got  
14 there, both of them started off saying the  
15 exact same thing.

16 I'm not against the project, but  
17 and I think we hear that across the city when  
18 people are concerned about their taxes being  
19 raised and other things. But you know,  
20 obviously, those are things that bring a  
21 neighborhood to life and actually make it more  
22 vibrant.

1 I don't know other than the party  
2 that was -- the person who was representing  
3 the party or the party was represented, the  
4 people that were being represented, when they  
5 came up and testified individually, I heard  
6 some talking that's my view of it, because I  
7 remember how they both started, because I was  
8 very concerned about what was being said from  
9 the Champlain Street Neighbors.

10 But when those two ladies, the two  
11 that I remember, got up and spoke and there  
12 was some others, but most people said I'm not  
13 against it, but they had concerns about their  
14 taxes. That's something that just doesn't  
15 happen on Champlain Street. It happens across  
16 the city, especially when development is going  
17 on.

18 But people want development. They  
19 want their neighborhoods to start thriving.  
20 So, you know, in the end, it all works out.  
21 So I don't necessarily have any concerns. And  
22 I think the applicant has addressed a lot of

1 concerns for those in close proximity, from  
2 the way I read the record.

3 Okay. So with that, any other  
4 comments on 199? Anybody move to do anything  
5 else?

6 VICE CHAIR COHEN: I just want to  
7 say something. I think the proffers that have  
8 been negotiated are proffers that are open to  
9 the entire community and would benefit the  
10 entire community. So I was very pleased to  
11 see what was put forward. And I thought that,  
12 you know, getting -- the ANC/Reed-Cooke did a  
13 very good job of it.

14 CHAIRMAN HOOD: Okay. Exhibit  
15 200. Oh, I'm sorry, Commissioner Miller?

16 COMMISSIONER MILLER: Yes, just to  
17 follow-up with the Vice Chair's comment.  
18 Among those amenities or part of the  
19 requirements for this project is the -- are  
20 the jobs that will be available to District  
21 residents, not only to District residents, but  
22 to the neighborhood's residents, both during

1 the construction phase and in the operational  
2 phase of the hotel.

3 I think that's a very important  
4 along with -- an important requirement along  
5 with all the other amenities that are now  
6 going to be conditions for this project.

7 CHAIRMAN HOOD: Okay. Thank you.  
8 Ms. Schellin, Exhibit 200, which was a motion  
9 by Champlain Street Neighbors to reopen, I did  
10 that. We already reopened that, so that was  
11 done. Okay. I'm just trying to go down all  
12 exhibits.

13 Exhibit 201 and 202, this is the  
14 Kalorama Citizens Association proposed  
15 conditions for the order. These are some  
16 things that they have asked us to include by  
17 President James, who I do not see tonight. Is  
18 anyone moved by 201 or 202? Let's take a  
19 moment and see if there's anything that we  
20 would like to see inserted in the order.

21 VICE CHAIR COHEN: Mr. Chairman,  
22 it is my recollection that there will be no

1 nightclub in the hotel, so I think that that  
2 has already been agreed to.

3 CHAIRMAN HOOD: Okay. Ms.  
4 Schellin, was that the agreement? I remember  
5 when that conversation came out. I usually  
6 ask Ms. Schellin, not that she remembers  
7 everything like we do, but she looks in the  
8 audience and gets a nod or a shake.

9 MS. SCHELLIN: That's correct.

10 CHAIRMAN HOOD: Okay.

11 MS. SCHELLIN: No nightclub.

12 CHAIRMAN HOOD: Okay. I'm not  
13 going to belabor this. Anything else?

14 VICE CHAIR COHEN: Nothing.

15 CHAIRMAN HOOD: We did 201. 202?  
16 Okay. We don't need to do 203, that has been  
17 dealt with. Translation, that's been dealt  
18 with. 205 that's been dealt with. Anything  
19 else?

20 And I just want to associate  
21 myself with Commissioner Turnbull. This has  
22 come a long way. It has been -- what did you



1 say 180 or -- I won't say 360, because then  
2 we're right back to where we were. But I  
3 would agree with Mr. Turnbull and I want to  
4 associate myself with him.

5 I think that this is a case that  
6 we had to make sure that everyone was  
7 accommodated and I want to thank my colleagues  
8 and also the public, whether you were a  
9 proponent or in opposition, because everything  
10 was vetted, I think, an opportunity.

11 And I also want to commend the  
12 Office of Zoning. I really thank you all for  
13 doing that as well as the translators.

14 Okay. I am ready to move forward  
15 with this case. Any other comments?

16 COMMISSIONER MAY: Mr. Chairman, I  
17 wanted to add a couple of things.

18 CHAIRMAN HOOD: Yes, sure.

19 COMMISSIONER MAY: You know, this  
20 was a complicated case to hear and it did  
21 evolve significantly. We heard a lot of  
22 community comment on it.

1           I think we can't lose sight of the  
2 fact that the ANC approved the project 7-1.  
3 The Reed-Cooke Neighborhood Association voted  
4 6-1 in support. And that both organizations  
5 were very closely involved in negotiating the  
6 project.

7           I mean, the reason it made the  
8 progress that it did is not because they came  
9 before us and we gave them a hard time. I  
10 mean, the neighborhood did all the heavy  
11 lifting and it came to us in a significantly  
12 improved form.

13           And I think, you know, while there  
14 are certainly still objections from some  
15 members of the community about it, I think  
16 that we see, you know, it's clear to me, that  
17 the major issues have been addressed. And it  
18 is -- you know, there mere truth of it is that  
19 some -- you know, there may be some effects on  
20 some folks that they regard as quite negative,  
21 but I think in the long run, it is going to be  
22 a superb project for the neighborhood.

1                   So I'm prepared to move forward.

2                   CHAIRMAN HOOD:   Okay.   Anyone  
3                   else?   Commissioner Miller?

4                   COMMISSIONER MILLER:   Yes, yes.   I  
5                   just wanted to associate myself with  
6                   Commission May's comments.   And just remind  
7                   ourselves of what this project is really all  
8                   about.   It's -- or one of the things it's all  
9                   about.

10                   It's the, you know, excellent  
11                   adaptive reuse of a very important historic  
12                   building in this neighborhood.   And it has now  
13                   been incorporated with a new building that has  
14                   been greatly modified to address this  
15                   Commissions' concerns and the neighborhood's  
16                   concerns or most of the neighborhood's  
17                   concerns.

18                   And in my view, the project will  
19                   be of enormous economic benefit to the  
20                   community and to the city as a whole.

21                   CHAIRMAN HOOD:   Okay.   I can  
22                   agree.   I would agree.   I don't know how much

1 more I can add to what has already been said.

2 So with that, I would move that we  
3 approve Zoning Commission Case No. 11-17 and  
4 ask for a second.

5 VICE CHAIR COHEN: Second.

6 CHAIRMAN HOOD: It has been moved  
7 and properly seconded. Any further  
8 discussion? Commissioner Miller?

9 COMMISSIONER MILLER: I just had a  
10 question. Is the -- we are voting as part of  
11 our -- what we are voting on is the draft  
12 order that is in front of us?

13 MR. BERGSTEIN: No.

14 COMMISSIONER MILLER: No? We're  
15 not voting on that?

16 MR. BERGSTEIN: You are merely  
17 voting to send this to NCPC, that's what  
18 proposed action --

19 COMMISSIONER MILLER: Okay.

20 MR. BERGSTEIN: -- is.

21 Ultimately, you will approve the final order  
22 when you take Final Action, because I think I

1 may have to tweak it anyway.

2 COMMISSIONER MILLER: Right. It  
3 was some of your suggested tweaks that I  
4 wanted to know if we needed to put on the  
5 record in terms of the transportation  
6 recommendations that the applicant is agreeing  
7 to. Not just the transportation --

8 MR. BERGSTEIN: We need to  
9 embellish the order to describe the  
10 applicant's response to the supplemental DDOT  
11 report. And I think eventually -- we didn't  
12 have a right today, but there will be a  
13 procedural order issued in this case to work  
14 out the final proffers and we will want to  
15 make sure that all the commitments to DDOT are  
16 reflected in the conditions of this order.

17 COMMISSIONER MILLER: Right.  
18 That's all I wanted to make sure of that.  
19 Appreciate your response. Thanks.

20 CHAIRMAN HOOD: Okay. Any further  
21 discussion? It has been moved and properly  
22 seconded.

1 All those in favor?

2 ALL: Aye.

3 CHAIRMAN HOOD: Any opposition?

4 So ordered. Staff would you record the vote?

5 MS. SCHELLIN: Yes. Staff would  
6 record the vote 5-0-0 to approve Proposed  
7 Action in Zoning Commission Case No. 11-17.  
8 Commissioner Hood moving, Commissioner Cohen  
9 seconding. Commissioners May, Miller and  
10 Turnbull in support.

11 While some of the parties I know  
12 are in the audience, I'll just let them know  
13 that I will be emailing a procedural order to  
14 them in the next day or two.

15 CHAIRMAN HOOD: Okay. And let's  
16 go to the, you know, I'm trying to figure it  
17 out, ZRR Guidance and we can kind of do that  
18 in tandem, because we may have to come back  
19 and ask some questions about any  
20 correspondence also, Ms. Steingasser.

21 MS. STEINGASSER: We have no  
22 additional update.

1 CHAIRMAN HOOD: Oh, for the ZRR?

2 MS. STEINGASSER: Yes.

3 CHAIRMAN HOOD: Oh, okay. Okay.

4 Let's go to the Correspondence. We have  
5 Zoning Commission Case No. 08-06, Letter from  
6 Committee of 100 re: ZRR Ward Meetings. Ms.  
7 Schellin?

8 MS. SCHELLIN: Yes. Are we on the  
9 first correspondence item on that?

10 CHAIRMAN HOOD: Yes,  
11 correspondence.

12 MS. SCHELLIN: Yes, this was a  
13 letter received from the Committee of 100. I  
14 think they have some concern about when OP is  
15 scheduling their ward meetings, but we did  
16 just have a discussion on this last week that  
17 the Commission kind of, I think, was happy  
18 because it was following along with our  
19 schedule.

20 So I don't know if you want to say  
21 anything about it or not.

22 CHAIRMAN HOOD: It actually

1 follows along with our schedule. And let me  
2 ask this question to Ms. Steingasser or Mr.  
3 Lawson. Have the letters went out to the ANC?  
4 And does it go out to like the chairperson or  
5 to different ANC members?

6 MS. STEINGASSER: It did go out  
7 Saturday morning. It went out to every SMD  
8 and we did both the official email address  
9 that is on the ANC website to each individual  
10 as well as then went back and double checked  
11 each individual ANC's website to make sure  
12 that we got the individuals, because a lot of  
13 them get them sent to a Yahoo address or a  
14 personal email. So we did both of those.

15 CHAIRMAN HOOD: Did it go email or  
16 by regular mail?

17 MS. STEINGASSER: It went by  
18 email, at this point, and it will go by  
19 regular mail by the end of the week.

20 CHAIRMAN HOOD: So the  
21 Commissioner and I spoke yesterday and we do  
22 our own little perusing time to make sure



1 people get involved and get engaged, who told  
2 me on Sunday she did not get it. She probably  
3 will get that some time either -- she probably  
4 got it today, if it went out by email. And  
5 probably will get it by mail maybe later this  
6 week.

7 MS. SCHELLIN: Right.

8 CHAIRMAN HOOD: Okay.

9 MR. LAWSON: Sorry, Joel Lawson  
10 with the office of Planning. If a Commission  
11 Member did not receive it, we would love to  
12 receive their current email address. We can  
13 only go by what is up on their website. And  
14 that may not -- we have found already a couple  
15 of instances where that is actually not the  
16 Commission Member's current email address that  
17 they use.

18 So if anybody is listening, if  
19 they have an email address they would rather  
20 receive the information at, we would love to  
21 get that email address and we'll make sure  
22 that that notice goes out.

1                   CHAIRMAN HOOD:  And let me ask  
2                   this next question.  As we know and we have  
3                   stated this, as you know some of the  
4                   Commissioners who are Commissioners now, and  
5                   I know we can't do everything, but, in  
6                   December -- at the December meetings will not  
7                   be Commissioners in January.

8                   Say if you go to -- I'm not sure  
9                   where you are going first.  I forgot.  But say  
10                  that --

11                  MS. STEINGASSER:  I think I  
12                  understand where you are going.  We have  
13                  already talked, contacted the ANC, Office of  
14                  the ANC and gotten the email addresses and  
15                  contacts for the new Commissioners who will  
16                  take office in January.

17                  CHAIRMAN HOOD:  Okay.  Great.  And  
18                  they will be invited to maybe another meeting  
19                  that may not be in their ward.

20                  MS. STEINGASSER:  That's correct.

21                  CHAIRMAN HOOD:  Okay.  Good.

22                  MS. STEINGASSER:  Again, and they

1 are invited --

2 CHAIRMAN HOOD: Okay.

3 MS. STEINGASSER: -- to these. I  
4 mean, these are citywide. Anybody can come to  
5 them. They are for the full public, not just  
6 the ANC.

7 CHAIRMAN HOOD: Okay. So we are  
8 going to have the ward meetings. Is there  
9 another way of advertisement that may be out  
10 there?

11 MS. STEINGASSER: Well, it's, of  
12 course, on our website, the mail. Well,  
13 Channel 16 will be recording --

14 CHAIRMAN HOOD: Okay.

15 MS. STEINGASSER: -- some of the  
16 sessions.

17 CHAIRMAN HOOD: So Channel 16 --

18 MS. STEINGASSER: Yes, sir.

19 CHAIRMAN HOOD: -- will be  
20 recording. Okay. Great. That is actually  
21 great news, because I think with Channel 16  
22 recording and also can will it be viewed on

1 like the Office of Planning's website? Can  
2 you view a webstream?

3 MS. STEINGASSER: We can certainly  
4 talk to them about that. You mean make links  
5 to the different --

6 CHAIRMAN HOOD: Yes, I was just  
7 going to --

8 MS. STEINGASSER: They did say  
9 they could link it to the Office of Planning  
10 website. We can also ask that they link it to  
11 the Office of Zoning website.

12 CHAIRMAN HOOD: Good.

13 MS. STEINGASSER: We will have to  
14 work with the Office of Zoning. They are  
15 pretty proprietary about their website.

16 CHAIRMAN HOOD: Well, hopefully  
17 that can happen. I just wanted to commend the  
18 Office of Planning.

19 MS. SCHELLIN: Our Director is  
20 listening, so I'm sure -- and she is very  
21 interested in this process being as smooth as  
22 possible.

1                   CHAIRMAN HOOD:   Okay.

2                   MS. SCHELLIN:   So I'm sure that  
3 she will be very willing to work with the  
4 Office of Planning.

5                   CHAIRMAN HOOD:   So it sounds to me  
6 like, and for those who are listening webcast,  
7 we have exhausted the way of advertisement,  
8 even to the point that I mentioned  
9 individually getting people to get involved  
10 with the ward meetings.

11                   I have told the folks in Ward 5 I  
12 want to see more than 10 people at the  
13 meeting.

14                   MR. LAWSON:   Yes, we are also  
15 going to be sending out notices to all known  
16 community groups.  We are kind of compiling  
17 that list using assistance from our  
18 Neighborhood Planning Division, which really  
19 keeps up on this kind of thing.

20                   So we will be making sure that it  
21 is not just through the ANCs, although we have  
22 noticed that already some of the ANCs have

1 posted the information on their own websites  
2 and are distributing the information.

3 So word is just definitely getting  
4 out.

5 CHAIRMAN HOOD: Okay. I just  
6 wanted Mr. Clark, I don't know if he is  
7 watching it, to know we take his letter very  
8 seriously, but we are doing the best we can as  
9 far as getting the word out about the  
10 participation in this process.

11 And what was good to hear is that  
12 the Office of Planning is echoing and  
13 following our lead and not taking -- I think  
14 you all were following our lead as far as how  
15 you arranged stuff and not doing it during the  
16 holiday time.

17 MS. STEINGASSER: That is correct.

18 CHAIRMAN HOOD: Okay. So I  
19 appreciate that. Any other comments?

20 COMMISSIONER MAY: I just wanted  
21 to clarify. When exactly are the meetings  
22 that are upcoming?

1 MS. STEINGASSER: December 8th, 11th  
2 and 13th.

3 COMMISSIONER MAY: Okay. And then  
4 in January?

5 MS. STEINGASSER: January they  
6 start on Saturday, the 5th.

7 COMMISSIONER MAY: Yes. Yes,  
8 okay. I mean, that all sounds fine to me.  
9 You know, I have heard this sort of feedback  
10 from people in the past before who seem to  
11 think that anything in December is off limits  
12 for a public meeting, anything in July is off  
13 limits for a public meeting.

14 You know, I'm sorry, the world  
15 does work 12 months a year. And there are  
16 certain things that have to happen. And I  
17 mean, we certainly want to get the word out,  
18 but, you know, it's hard for Government to  
19 function and not have public meetings during  
20 the first two weeks of December or to lay --  
21 I mean, people would have us stop having  
22 public meetings, you know, today and not

1 restart until mid-January.

2 You can't function. So I think  
3 that they are doing the right thing and they  
4 are doing a good job of getting the word out  
5 and I'm sure that the word will get out.

6 CHAIRMAN HOOD: Okay.  
7 Commissioner Miller?

8 COMMISSIONER MILLER: No. I think  
9 I would agree with that comment. You have  
10 send it to the Ward Council Members as well  
11 for the individual ward?

12 MS. STEINGASSER: We have not sent  
13 it to the Council Members, but we have  
14 contacted their staff.

15 COMMISSIONER MILLER: Okay.  
16 Thanks.

17 CHAIRMAN HOOD: Well, I just think  
18 that when we say Channel 16, I have a comfort  
19 level totally now.

20 COMMISSIONER MILLER: It will only  
21 be repeated 1,000 times.

22 CHAIRMAN HOOD: 1,000 times.



1                   COMMISSIONER MILLER:  And not just  
2                   during January and December.

3                   COMMISSIONER MAY:  It will be  
4                   gripping, too.

5                   CHAIRMAN HOOD:  We may have to  
6                   call and ask them to turn it off.  Okay.  All  
7                   right.  So thank you very much.

8                   Do we need to do any action?  
9                   Hopefully Mr. Clark was listening tonight,  
10                  because we do take his comments very serious.  
11                  And hopefully it works out.

12                  I'm hoping that when we do start  
13                  these hearings that people come down and say  
14                  I'm sure we are going to hear, I was notified,  
15                  and I'm just saying this because I expect to  
16                  hear we were notified.  We want to thank the  
17                  Office of Planning for getting the word out to  
18                  us.

19                  So we are looking for those  
20                  comments.  Okay.  All of us up here are  
21                  looking for those comments.

22                  Okay.  Ms. Schellin, so do we need

1 to do any action with that?

2 MS. SCHELLIN: No, no action.

3 CHAIRMAN HOOD: Let's go to the  
4 next action, Zoning Commission Case No. --

5 MS. SCHELLIN: Actually, the next  
6 two items, if you want, they are both 11-15A  
7 and 07-26. These were just copies of letters  
8 I received from the Zoning Administrator  
9 regarding determinations that the Zoning  
10 Administration has made on prior Zoning  
11 Commission cases.

12 And I just wanted you to see the  
13 copy of the letter I was provided with.

14 CHAIRMAN HOOD: So no action is  
15 required?

16 MS. SCHELLIN: Not unless you feel  
17 like he made an improper action.

18 CHAIRMAN HOOD: Does anyone, and  
19 I'm glad we actually saw this, feel like there  
20 is something improper from the Zoning  
21 Administrator?

22 COMMISSIONER MAY: Nothing

1 improper, but I want to make a comment about  
2 O Street. I mean, every time we turn around,  
3 this building grows another few inches. I  
4 mean, you know, we wouldn't set it down  
5 because it was too tall. It was finally  
6 decided that -- you know, I mean, we finally  
7 decided to have the case and have the hearing  
8 and it was voted upon at a certain height.

9           They came back with a modification  
10 to raise the height and now they are  
11 stretching the limits within what the ZA can  
12 do. I mean, I'm just complaining, but it's --  
13 I hope that it's all worth it when it is said  
14 and done. But they have been really kind of  
15 pushing the limits here.

16           COMMISSIONER TURNBULL: Well, if  
17 they try again, then we will step in. No,  
18 but, you know, I think we -- the Zoning Regs  
19 grant the ZA certain flexibility within the  
20 PUD Guidelines. And I think it is  
21 appropriate.

22           I think it is also appropriate --

1 I'm glad we get these letters from him that  
2 explain what he is doing, so that if we do see  
3 something, just what Commissioner May is  
4 pointing out, if there is something that is  
5 sort of raises our hackles, but we do have an  
6 opportunity to be able to do something about  
7 it.

8 CHAIRMAN HOOD: Okay. So do we  
9 feel strong enough now? Okay. Because this  
10 is the famous recall case. Every time I hear  
11 O Street Market, I think about the recall, the  
12 recall of Anthony Hood and Greg Jeffries.

13 So anyway, do we have anything  
14 else?

15 MS. SCHELLIN: No, sir.

16 CHAIRMAN HOOD: Okay. I want to  
17 thank everyone for their participation  
18 tonight. And this hearing -- I mean, this  
19 meeting is adjourned.

20 (Whereupon, the Regular Public  
21 Meeting was concluded at 8:44 p.m.)  
22

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In the matter of: Public Meeting

Before: DCZC

Date: 11-19-12

Place: Washington, DC

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