

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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REGULAR MEETING

+ + + + +

MONDAY

FEBRUARY 10, 2014

+ + + + +

The Regular Meeting of the District of Columbia Zoning Commission convened in the Jerrily R. Kress Memorial Hearing Room, Room 220 South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 6:30 p.m., Anthony J. Hood, Chairman, presiding.

## ZONING COMMISSION MEMBERS PRESENT:

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

## OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary

## OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER, Deputy Director,  
Development Review and Historic  
Preservation  
MAXINE BROWN-ROBERTS  
STEVEN COCHRAN  
JOEL LAWSON

## D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALAN BERGSTEIN, ESQ.  
ALLISON MYERS, ESQ.

The transcript constitutes the minutes from the Regular meeting held on February 10, 2014.

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

6:33 p.m.

CHAIRMAN HOOD: (presiding)

Okay, I would like to call this meeting to order.

Good evening, ladies and gentlemen.

This is the 1,378th meeting session, our third of 2014, for Monday, February 10th, 2014. It's 6:30 p.m. We are located in the Jerrily R. Kress Memorial Hearing Room.

My name is Anthony Hood. Joining me is Vice Chair Cohen, Commissioners Miller, May, and Turnbull. We are also joined by the Office of Zoning staff, Ms. Sharon Schellin. Also, from the Office of the Attorney General's staff, Mr. Bergstein.

And also, we're joined by our newest member, Assistant U.S. Attorney Ms. Allie Myers. We want to welcome you to the Zoning Commission.

MR. BERGSTEIN: Actually,

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Assistant Attorney General. Maybe she'll -- you'll never know, but --

CHAIRMAN HOOD: Okay. Okay. All right. Thank you.

Also, the Office of Planning, Ms. Steingasser, Mr. Lawson, Ms. Brown-Roberts, and Mr. Cochran.

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

We do not take any public testimony in our meetings unless Commission members request someone to come forward.

Please be advised that this proceeding is being recorded by a court reporter, and it is also webcast live. Accordingly, we must ask you to refrain from any disruptive noises or actions in the hearing room, including the display of any signs or objects. Please turn off all beepers and cell phones.

Ms. Schellin, does staff have any

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preliminary matters?

MS. SCHELLIN: Yes, sir, we do have one. We have received a request from Commissioner Holly Muhammad from ANC, SMD-8A01, requesting that the Commission hold a further hearing in her Ward prior to the record closing on April 17th. And we would ask the Commission at the appropriate time this evening if they would consider that request.

CHAIRMAN HOOD: Okay. Thank you. I do have some preliminary matters, Colleagues, and we'll get back to the request that Ms. Schellin has mentioned. But I have something I want to read.

But, first, I would like to move on the agenda. On the agenda, we have under "Other Business," the vote of officers. We need to elect our officers. Can we do that at this time?

COMMISSIONER TURNBULL: I think we can.

CHAIRMAN HOOD: Okay. Would

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somebody like to make a motion?

COMMISSIONER TURNBULL: I would move that the officers for the Zoning Commission remain as they currently are.

COMMISSIONER MILLER: I'll second that.

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

(No response.)

All those in favor?

(Chorus of ayes.)

Not hearing any opposition, Ms. Schellin, would you record the vote?

MS. SCHELLIN: Yes, staff records the vote 5-to-0-to-0 to approve Commissioner Hood as Chairman and Commissioner Cohen as Vice Chairman for this year, 2014. Commissioner Turnbull moving, Commissioner Miller seconding, Commissioners Cohen, Hood, and May in support.

CHAIRMAN HOOD: Okay. On behalf of Vice Chair Cohen and myself -- this is

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dangerous that I'm speaking for her -- but we would like to thank you all again for your confidence. So, we appreciate that.

So, let's move forward.

VICE CHAIR COHEN: That's acceptable.

CHAIRMAN HOOD: Okay. That's acceptable? Okay. Because I normally don't never do that.

I have an announcement to read, and this ties right with what Ms. Schellin had mentioned. Let me just say, first -- and this is a lot for the folks who may be watching this webcast live -- first, the Office of Planning will be holding open houses in at least two Wards east of the river and at least two Wards west of the river. Further details will be available on OP's website in the very near future at [planning.dc.gov](http://planning.dc.gov). And the Office of Zoning will also post a news item on its website at [dcoz.dc.gov](http://dcoz.dc.gov). I would encourage you to check the websites for further information.

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And one of the things that we have also heard is that everybody does not have a computer; everybody is not computer-savvy. So, for those who are not, you can feel free to call the Office of Zoning at 202-727-6311, and they will have the latest update, the same material that's posted on either one of the websites, either Office of Planning's website or Office of Zoning's website. If you're not able to get online and see the update, please call this office at 202-727-6311.

Second, as a result of these further hearings, the Zoning Commission has decided to leave the record open in this case until Thursday, April the 17th, instead of March the 3rd. That allows an additional six weeks to submit written comments.

And tomorrow night we will be in Wards for 3 and 4 at Wilson Senior High School. Wednesday night we'll be -- I'm treading dangerously here because I can't remember exactly where are we -- Wednesday we'll be in

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7A at the Department of Employment Services, which is at the Minnesota Avenue Metro, right over the top of it.

And then, on Thursday, weather permitting, we will be at the Housing Finance Agency. And I'm not sure, what's the closest Metro? Is it Shaw? I don't know.

I'm sorry, go to the website or call --

MR. COCHRAN: It's Shaw.

CHAIRMAN HOOD: It's Shaw?

MR. COCHRAN: The northern end of the Shaw exit.

CHAIRMAN HOOD: Okay. The northern end of the Shaw exit. I would have had a long walk from Fort Totten.

All right. So, Colleagues, we have a request.

Any comments on what I have said so far about the Office of Planning and about us leaving the record open? And we'll be making those announcements again at each meeting this

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week.

(No response.)

Ms. Schellin, so can you refresh our memory?

MS. SCHELLIN: About the request?

CHAIRMAN HOOD: Yes.

MS. SCHELLIN: Yes, sir.

Again, it was a request from Commissioner Holly Muhammad from 8A01, and she requested a -- as you know, as you just stated, we are going or you guys are going out there to hold a hearing on Wednesday for Wards 7 and 8. She has requested an additional hearing in Ward 8 prior to the record closing on April 17th. So, she would like another hearing before April 17th in Ward 8.

CHAIRMAN HOOD: Okay, Commissioners, let me open it up.

Vice Chair?

VICE CHAIR COHEN: Thank you, Mr. Chairman.

Ms. Schellin, did she give you any

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additional explanation, since we will be out there on Wednesday, why she needs one after that?

MS. SCHELLIN: She wanted to have -- my understanding is that the Office of Planning, they went out on Thursday, last Thursday, and they're going again in March. She wanted to have an opportunity after the Office of Planning came and met with her constituents, and they had a better understanding to be able to, then, come for a hearing before the Commission.

CHAIRMAN HOOD: Did that answer your question, Vice Chair?

VICE CHAIR COHEN: It did. Thank you.

CHAIRMAN HOOD: Okay. Any other comments?

(No response.)

Okay. I don't know if we can come up with a date tonight, especially since the weather, you know, is very unpredictable right

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now. I understand they're calling for snow. So, I don't know what may even happen with that.

So, I think probably are we amenable? I think we pretty much are. But this is kind of like we can't call it. If we could, I would -- I'd better not say that. Well, I'm going to say it anyway. If I could, I would play the number and put a lot of money on it. But the problem is we can't predict how those interactions are going to go.

I know what she is requesting, but I don't know we can have a date certain because there may be some more conversation between the Office of Planning and Ward 8. I'm not really sure how to nail that one down at this point.

I think, let me ask this: is anyone up here objectionable or in disagreement with affording Ward 8 that opportunity?

(No response.)

Okay. So, I don't see anyone that's disagreeing.

And here's the thing: because of

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that request, we may have more than just Ward 8. So, that request, and I'm cognizant -- and I think we all are -- we may have more than just a request from Ward 8. And I think this Commission, at least I believe that we are amenable to try to resolve and give people a comfort level as we move forward.

So, I don't know, Ms. Schellin, is she trying to get a date tonight or --

MS. SCHELLIN: I don't know if she's looking for a date. What we could do is just respond to her that the Commission will come back with another date, another hearing, but at this time we don't have a date. But it will be done, and that you'll accommodate the date after OP goes back. Is that --

CHAIRMAN HOOD: Yes, that will be good.

MS. SCHELLIN: -- a good response?

CHAIRMAN HOOD: And what would be good is if we kind of peruse the text --

MS. SCHELLIN: Find out when OP is

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going back?

CHAIRMAN HOOD: But, also, peruse the text and be able to maybe ask OP some of those questions.

You all are going back again? You all were just there, right?

MS. STEINGASSER: Yes, sir, Chairman, we were there Thursday for about two hours going through it.

CHAIRMAN HOOD: Did everybody get a homework assignment?

MS. STEINGASSER: Everybody got a homework assignment.

CHAIRMAN HOOD: Okay. Good.

MS. STEINGASSER: They got handouts, maps. This afternoon we delivered a copy, a paper copy of the Comprehensive Plan and maps to Commissioner Muhammad as well.

They're not sure what date they want us to come back out. We just had volunteered to go back to them, once they had more time to look at the regulations themselves.

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CHAIRMAN HOOD: Okay. So, I think our date will be after the date that the Office of Planning goes back --

MS. SCHELLIN: That's what they asked, yes.

CHAIRMAN HOOD: -- whenever that is.

So, yes, I think, by general consensus, unless there are any objections, the answer is, yes, of course, we will be more than happy to do that.

MS. SCHELLIN: Okay.

CHAIRMAN HOOD: Okay. Do we have anything else?

Okay. Let's go right to the agenda.

Did we have any other discussions of next steps? The record is open until April 17th. I think we have covered everything.

Okay. Let's go to final action, Zoning Commission Case No. 08-33B. This is Conference Center Associates I, LLC, two-year

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PUD time extension at Parcel 121/31.

Ms. Schellin?

MS. SCHELLIN: Yes, sir.

As the Commission will recall, this case was on the January 27th agenda for consideration. And at that time, the Commission requested some additional information from the applicant, which you have before you this evening at Exhibit 9.

We would ask the Commission to consider taking action this evening.

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

Our Vice Chair?

VICE CHAIR COHEN: Thank you, Mr. Chairman.

I reviewed the information that was submitted, and it is more complete, deeper explanation as to the need for the extension. And I am satisfied. And if it's appropriate, I would move to approve Zoning Case No. 08-33B, Conference Center Associates I, LLC, two-year

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PUD time extension at Parcel 121/31.

COMMISSIONER TURNBULL: Second.

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

(No response.)

Are you ready for the question?

All those in favor.

(Chorus of ayes.)

Not hearing any opposition, Ms. Schellin, would you record the vote?

MS. SCHELLIN: Yes. Staff records the vote 5-to-0-to-0 to approve final actions in Zoning Commission Case No. 08-33B. Commission Cohen moving, Commissioner Turnbull seconding, Commissioners Hood, May, and Miller in support.

CHAIRMAN HOOD: Okay. I'm going to call the next case together. This is Zoning Commission Case No. -- let me do this: we have, under "Final Action," a time extension, as well as, under "Hearing Action," an additional

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setdown. So, I want to call this case together, these two cases together.

Zoning Commission Case No. 03-12R/03-13R, Capper Carrollsburg Venture, LLC, and DCHA five-year PUD time extension at Squares 739, 767, and 768.

And then, Zoning Commission Case, under "Hearing Actions," Zoning Commission Case No. 13-12Q/03-13Q, Capper Carrollsburg Venture, LLC, and DCHA modification to the 1st Stage PUD at Squares 739, 767, and 768.

Ms. Schellin?

Oh, no, let me go to Ms. Schellin for the extension and, then, I'll go to Mr. Cochran, okay, for the hearing action.

MS. SCHELLIN: Yes. Yes, very quickly, for the time extension, it is a request for a five-year PUD time extension. The applicant cites delays beyond its control. OP submitted a reported Exhibit 5 recommending a shorter extension period of two years.

Thank you.

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CHAIRMAN HOOD: Mr. Cochran, if you could talk to the hearing action?

MR. COCHRAN: Thanks, Mr. Chair.

OP recommends the Commission set down the modification request for the Capper Carrollsburg PUD 1st Stage Order. As the map on page 2 of the modification report that OP submitted shows, it would affect three squares within the first HPUD boundaries -- these are Squares 737, 767, and 768 -- and one Square outside of the PUD boundaries. This is Square 737. Two Squares are east of the Canal box park and two are west of the park.

The PUD Order requires there to be 736 dwelling units in the three PUD Squares, of which 237 are to be public housing rental units, known as ACC units. The applicant proposes to reallocate 30 of these ACC units into a mixed-use residential and retail project that is slated for construction in Square 737, directly north of the PUD boundary.

With the modification, there would

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continue to be a substantial mix of ACC and market-rate units in each of the preliminary PUD Squares, and there would be an affordable component introduced into Square 737, where that Square's inclusion in a TDR receiving zone now releases it from an IZ requirement.

While there would be a net loss of one ACC unit among these four Squares that I've talked about so far, the applicant has confirmed that one more than the required number of ACC units is being added to the consolidated PUD building that's now under construction in Square 882. That Square is located over at the eastern end of the PUD and is not part of the application. There would, therefore, be no net loss of ACC units within the overall PUD, if you also include Square 737.

The modification would also ensure that the 30 units that would be reallocated to the private development in Square 737 would be available several years sooner than if they were constructed as part of delayed projects

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within the three 1st Stage PUD Squares.

OP's January 31 report outlines additional information the applicant will need to supply by the public hearing. Most of that information focuses on details about the ACC units in Square 737, including the exact location of the receiving building within the Square, the duration of the affordability requirements, construction timing, and the distribution of units within the building.

The filing would also benefit from a more thorough explanation of how the reallocation of the units will improve the prospects of financing the 1st Stage PUD buildings in Squares 739, 767, and 768.

And that concludes our testimony. Of course, I'll be happy to answer any questions.

CHAIRMAN HOOD: Okay. Mr. Bergstein, let me ask for clarification. I know we've done this 100 times, but I always get confused.

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Do we need to deal with the time extension or can we wait and deal with that at the hearing?

MR. BERGSTEIN: You can certainly defer consideration of the time extension until you take final action on the modification.

CHAIRMAN HOOD: Okay. All right. Thank you.

Okay, Colleagues, any questions of Mr. Cochran?

Vice Chair?

VICE CHAIR COHEN: Thank you.

Mr. Cochran, I concur with what you have asked for in your review needed prior to the hearing. And I just want to confirm that you're also asking, or if you're not asking, I will, why we need to reduce -- again, I think you asked it as, how is it more financeable to reduce the number of ACC units in Squares 739 -- well, that's not being reduced -- 767 and 768. There is a reduction there, and I know that they're going to be making it up in the 737

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Square, which is not in the PUD, which is great. But, because there is such a critical need for affordable housing, I would think that we need all of those units and not just be committed to 707 that was part of the original PUD at HOPE VI Project.

So, I would like more of an explanation from the applicant with regard to we're reducing a number of ACC units in a couple of the projects. We're transferring that need to another Square. But I guess I really want to know why we can't keep it all. Does that make sense to you?

MR. COCHRAN: The important thing is that it make sense to the applicant.

VICE CHAIR COHEN: Okay. Does it make sense to the applicant? Thank you.

CHAIRMAN HOOD: All right. Any other questions of the Office of Planning? Anybody?

(No response.)

Okay. Do we need to deal with this

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request for waive of the hearing fees?

MR. BERGSTEIN: That's the next case, sir.

CHAIRMAN HOOD: Oh, I'm sorry. I'm jumping. How did I get to that case? Okay, that is the next case. Okay. I'm sorry.

All right. Any other questions at this time?

COMMISSIONER MAY: Did you already make a note of the ANC's --

CHAIRMAN HOOD: No, I didn't. No, I did not, but you're right. That's what I needed. Instead of the request for hearing fees, that's what we need. Do you want to comment?

COMMISSIONER MAY: No, I was just -- well, I guess I would note for the record at this moment that we had a strongly-worded email or letter, rather, from the ANC 6D expressing concerns about what's being proposed here in terms of the time extension and the modification, and the lack of discussions

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with the ANC.

And I assume that all of that will be remedied by the time we have a hearing, and that there will be good and fruitful discussions with the ANC by the time it comes to us.

CHAIRMAN HOOD: I would concur, and, hopefully, we could work out some of those issues. I think, though, there is an issue here that says about the notice, of ANC for filing of notice of hearing date for the time extension.

Ms. Schellin, can you kind of help us, how that situation works?

MS. SCHELLIN: Yes, sir. The regulations require, when there is a request made for a time extension, that the applicant serve all parties. And I did check, and the Certificate of Service shows that the ANC was served on December 31st by mail. And then, the regs require that the parties are allowed 30 days to provide a response. And then, we add

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three days if they're served by mail. And that's why it was not placed on before the Commission until today, because I allowed enough time for the ANC to provide their response. So, they were served, and that's how they got their notice, was by the applicant serving them.

CHAIRMAN HOOD: Okay. Well, we just want to --

MS. SCHELLIN: So, that was complied with.

CHAIRMAN HOOD: We just want to emphasize, though, this ANC is pretty sharp. So, let's make sure that they have those discussions with ANC. I'm sure the applicant is going to do that.

This is one of the ANCs that I noted, this Commission knows is very engaged. So, regardless of what happened in the past, let's move forward. Let's get them engaged. And I think this ANC works real hard. So, let's try to make sure that the next note we see shows that

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everybody is working together.

Okay. Anything else?

(No response.)

Would somebody like to make a motion?

Or are there any other comments?

Do you have a question?

VICE CHAIR COHEN: Yes. Again, on the extension request, I don't believe there is a very compelling argument with regard to the need for the extension. There are a number of financing vehicles available for affordable housing. There is tax-exempt bonds, low-income housing tax credits. I'm not sure if that was caught up with insufficient subsidies. That might be a very compelling reason. But it's not provided.

And I think that it should be standard operating procedure to provide as much detailed information with regard to the steps taken to secure financing, not just say, "We couldn't get financing."

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Our larger banks in this area still need Community Reinvestment Act credits. And so, you know, it leaves us up here puzzling as to why this delay has been so long in coming. And I could probably imagine why, but that's not my job.

Your job is to outline exactly what happened, where you went for the financing, and why things did not come together.

So, that was my only comment, I guess, on the extension.

In the meantime, though, Mr. Chairman, I will offer to set down Zoning Case 13- -- oh, I'm sorry -- Zoning Case No. 03-12R/03-13R, Capper Carrollsburg Venture, LLC and DCHA modification to 1st Stage PUD at Squares 739, 767, and 768.

Actually, I take it back. It's the Q's that I'm offering a resolution to adopt, not the R's.

CHAIRMAN HOOD: All right. Thank you for that clarification. And you're right,

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it is 03-12Q and 03-13Q that we're setting down.

VICE CHAIR COHEN: Yes.

CHAIRMAN HOOD: Okay. It's been moved. Can I get a second?

COMMISSIONER MILLER: I'll second it, Mr. Chairman.

And I just wanted to comment.

CHAIRMAN HOOD: Sure. Discussion?

COMMISSIONER MILLER: Mr. Cochran's comment about the additional unit, that was going to be my question, why there had to be any loss of housing, affordable housing, in the entire PUD. So, I was happy to hear that.

And I'll have additional questions at the hearing.

CHAIRMAN HOOD: Okay. And any further discussion?

(No response.)

Okay. Again, the issue for the time extension that was asked for by the Vice

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Chair, hopefully, we'll see that, well, I'm sure we'll see that and throughout this discussion, when we get to the time extension versus the second.

Okay. Anything further?  
Anything else?

(No response.)

It's been moved and properly seconded. All those in favor?

(Chorus of ayes.)

Not hearing any opposition, Ms. Schellin, would you record the vote?

MS. SCHELLIN: The staff records the vote 5-to-0-to-0 to set down Zoning Commission Case No. 03-12R/03-13 -- I'm sorry -- Q/03-13Q, as contested case. Commissioner Cohen moving, Commissioner Miller seconding, Commissioners Hood, May, and Turnbull in support.

CHAIRMAN HOOD: I thank you.

I want to apologize for making everybody go to Case No. B. So, let's go to it

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now.

Zoning Commission Case No. --

MR. BERGSTEIN: I'm sorry, Mr. Chairman, just to clarify, that motion, I assume, included the deferral of the time extension to final action on the modification?

CHAIRMAN HOOD: Yes, yes.

VICE CHAIR COHEN: That's exactly what I mean.

CHAIRMAN HOOD: That's exactly what she meant and that's exactly what Commissioner Miller seconded, and that's what we all voted on. Okay.

Thank you for that clarification, Mr. Bergstein.

Okay. Let's go to the case that everybody wants, Zoning Commission Case No. 13-17, Brownstein Commons, LP, Consolidated PUD and related Map Amendment at Squares 5933 and 5934.

Ms. Brown-Roberts?

MS. BROWN-ROBERTS: Good evening,

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Mr. Chairman and Members of the Commission.

Brownstein Commons, LP, requests a review of a Consolidated PUD and a related Map Amendment from the R-5-A to the R-5-B zone for residential development in the Congress Heights neighborhood.

The property formerly housed the Trenton Terrace public housing, which was demolished in the year 2005 due to its dilapidated condition.

In December of 2005, a Zoning Case for its redevelopment was submitted, but was withdrawn and was followed by a BZA case for 12 more primary buildings and a total of 240 condominium units.

The proposal was approved in July of 2006. However, the development did not materialize due to a financing problem for both the developer and prospective buyers.

With improvements in the financial market, the proposal is now before you to build a development consisting of an apartment

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building with 190 units and 71 for-sale rowhouses. The five-story apartment building with front on Mississippi Avenue and will be separated in two by a central one-story portion. Each portion would have 95 units with attendant parking and loading spaces.

The 71 two- and three-bedroom rowhouses would be along the other street frontages and would have units that are rear-loaded, front-loaded, a few units with parking pads, and two units without parking.

The development would include a 15-foot-wide alley to serve the rear-loading units along Trenton and 11th Place. Due to the steep slopes on the side, the units along 10th Place cannot be rear-loaded, cannot have rear-loaded garages.

A central portion of the site is to remain undeveloped because of the steep slope, and it also provides a separation between the multi-family buildings and the rowhouses.

The applicant proposes rezoning the

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property to the R-5-B and has requested flexibility for sideyard setback, loading and roof structure requirements on the multi-family building, and for sideyard and parking on a few of the townhouses.

Amenities and public benefits would include affordable housing, employment and training opportunities, and LEED certification for the multi-family building.

Four double units will consist of 10 multi-family units up to 50 percent of AMI and 108 units up to 60 percent of AMI. Ten percent, or 7 of the 71 rowhouses, would be affordable, 50 percent and 80 percent of AMI. Overall, approximately 75 percent of the units would meet or exceed the IZ requirements.

The proposal is not inconsistent with the moderate density residential recommendation of the Comprehensive Plan and would further many of the citywide and area elements and policies. Therefore, the Office of Planning recommends that the application be

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set down for public hearing.

We will continue to work with the applicant to address additional articulation on the sides of the rowhouse units which front on adjacent roadways, bicycle parking, and TDM measures, details on retaining walls, and details regarding the proposed Green Building Initiative.

Thank you, Mr. Chairman, and I've available for questions.

CHAIRMAN HOOD: Okay. Thank you, Ms. Brown-Roberts.

Colleagues, any questions of the Office of Planning?

The Vice Chair?

VICE CHAIR COHEN: Ms. Brown-Roberts, can you tell me what is the name of the multi-family building that looks like it's vacant to the east of the property site and slightly to the north on Trenton Place? One is on 13th Street Southeast.

MS. BROWN-ROBERTS: I'm not sure of

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the exact name, but I could get that information for you.

VICE CHAIR COHEN: That would be helpful.

CHAIRMAN HOOD: Yes.

(Pause.)

VICE CHAIR COHEN: I'm sorry. Do you know if the -- it appeared to me that the applicant was asking for credit, you know, public benefit credit for the park. Is that a misunderstanding of mine?

MS. BROWN-ROBERTS: They included it as part of your package. Usually, we don't because those are projects that have been done prior to this, prior to the proposed development.

VICE CHAIR COHEN: Uh-hum.

MS. BROWN-ROBERTS: So, that is something that we will discuss with them further.

VICE CHAIR COHEN: And also, the permanent supportive housing, the intent of the

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number of years that it will be permanent supportive housing, I would like to know that, as well as the Community of Hope, I presume they are not managing the units, but they're managing the clients. Could you just confirm that?

MS. BROWN-ROBERTS: Okay.

VICE CHAIR COHEN: Because having two management companies is not a good idea.

Those are my questions, Mr. Chairman. Thank you.

CHAIRMAN HOOD: Okay. Any others?  
Commissioner May?

COMMISSIONER MAY: Yes, I have some questions. I also have some comments.

First of all, in the apartment building, the end walls are showing two pairs of garage doors. So, can you tell me what's going on there? Why do we need to sets? And one looks like a giant loading garage, a loading door kind of thing. Do you know what's happening?

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MS. BROWN-ROBERTS: I think one is for the loading and one is for the parking.

COMMISSIONER MAY: Okay. I mean, do we have a plan somewhere that shows that? I see a site plan, but I'm not --

MS. BROWN-ROBERTS: On A-15?

COMMISSIONER MAY: Where is it?

MS. BROWN-ROBERTS: A-15. Oh, do you want a floor plan? Or, no, the elevation?

COMMISSIONER MAY: A floor plan of the garage level. I'm not seeing anything that really shows what's happening in the garage level. Maybe I missed that. I see access routes on D-11.

Anyway, I find that the excessive amount of those end elevations being taken up by garage doors to be excessive, it seems like.

COMMISSIONER TURNBULL:  
Commissioner May, I think on A-01.

COMMISSIONER MAY: A-01? Maybe I'll see a better explanation there. There we go. Okay.

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So, it's up 2 percent for loading, up 4 percent for loading. Oh, and so, it's just a loading dock.

I mean, it sure would be nice if there were some way to cut that down because of the end elevations. It's just like, at the ground floor, it's all garage doors.

Let me see if I can point you to the elevation I'm talking about. Yes. So, it's on A-15, we just have a lot of garage doors showing there, and the garage doors are up against big retaining walls. And maybe there's a way to make, you know, a single garage door work and access the loading area as well as the parking, and maybe reduce the height of that retaining wall. I don't know. Big retaining walls, big garage doors are not good things.

What's happening in the green area in the middle? Is that going to be replanted and become a natural area? I mean, right now, it's all kind of scrubby.

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Okay. So, we need to know more about what's happening there and what it is going to be into the future, and if it's just going to be left to grow on its own, and who's going to own it, and is anybody going to clean it up if it gets, you know, people start dumping stuff back there. It would just be good to know what's happening there. What I fear is, with the alley there, that people will be pulling around back and just throwing stuff out.

And the other question is, you said that the houses along 10th Place are front-loaded because of the slope at the rear. Is the slope, I mean, the slope at the rear is parallel with the slope at the front. Is it really that much steeper that it makes it impossible?

MS. BROWN-ROBERTS: I don't know.

COMMISSIONER MAY: Well, I think that if they're going to argue that it's that different and couldn't be fixed with some regrading, then I think I need to know what the

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benefit is of doing that.

MS. BROWN-ROBERTS: Okay.

COMMISSIONER MAY: Because it's not apparent to me that there is a substantial benefit to doing that. I mean, a few times we have approved townhouses with garage doors on the front, and I cringe whenever I drive by one and see one. And I just want to avoid it, if we can possibly do that.

MS. BROWN-ROBERTS: Okay.

COMMISSIONER MAY: The last thing -- sorry, I have to turn my thing back on here -- I mean, I have to say, overall, that I find the site plan here to be truly uninspired. I mean, I understand kind of what's trying to be, what they're trying to do with the development, but it's just a small collection of formulas for how one builds townhouses in semi-suburban locations and how one builds multi-family houses on a site with a slope. And I would just think that there is an opportunity to do something more interesting

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and something better here.

You know, we have a really long alley serving, you know, that's single-loaded, serving townhouses. We have townhouses that have garages opening up onto the street. We have large retaining walls, making the larger building possible.

Just once, I would like to see a really inventive, progressive, creative design for a site like this, instead of just -- you know, how do we do what we usually do in flat sites, how do we make that work here? And that's what we've got.

I mean, we'll deal with what we have, if we have to, but I think that a serious reconsideration of the site plan is probably worthwhile. I don't have any good ideas about what to do with it. I just think you could get so much more value out of this and so much nicer homes if some more thought was put into it.

I agree that there needs to be some work on the end units. You know, it's

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interesting because, when you see the end units that do not have the optional attic, there actually is an attempt to rationalize that facade. I'll point you to the exact drawing in a second.

So, just as an example, on A-18, it's not exactly right-on, but A-18, the image on the far right, there is an eave that is created where the roof pitch starts to try to make it into a more formal gable end. The windows are not particularly well-placed from the outside. There's no symmetry and no art. But there's a little bit of an attempt to have it make sense.

But, then, you look at the other end of the page and you see it's shown with the optional attic. And there, all that happens is that you pop the roof up a little bit higher with a dormer. No attempt to try to make that gable and still have a presence on the facade. It's just, you know, let's just pop up the roof and throw in another window because that's cheap

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and easy. And it's so inartful, if that's the right word, if that's a word.

And there are other things about the detailing. I mean, I see what looks like Fypon moldings plastered onto these things, and I'm not a big fan of that kind of decoration. And I'd rather see something a little bit -- and shutters, I mean, you know, the shutters are never going to close. It's a purely decorative feature. I mean, I understand it's some of the stuff that people like, but, again, something more interesting and creative would be nice to see.

Maybe this is all too much to fix, but I'm disappointed with what I see and it's not going to be an easy thing to approve as it is, just because the architecture is less than what it could be.

So, thank you.

CHAIRMAN HOOD: Okay.

Commissioner May, are you finished?

COMMISSIONER MAY: Yes.

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CHAIRMAN HOOD: Okay. Thank you.

Anybody? Commissioner Turnbull?

COMMISSIONER TURNBULL: Thank you,  
Mr. Chair.

Ms. Brown-Roberts, thank you for  
your comments for the applicant that you noted  
on page 1.

I would agree with my colleagues,  
with a lot of their comments.

I guess my first concern was the  
multi-family. I mean, I guess this is a great  
site. It's a great opportunity for a really  
great development, and I think it's a great  
opportunity that can be used.

I guess the multi-family building  
is really long. I mean, it's like 800-feet  
long with just a one-story little connecting  
building in the middle. It would have been  
nice to see something happening a little bit.  
Eight hundred feet is just a huge mass to see  
along.

And I guess what bothers me is that

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you see the front elevation, which is very multi-colored, the brick, the chromatic. And then, I go to the rear elevation, and it's the 1950s and I have a black-and-white TV. It's very monochromatic. It's like it's the back side.

And I guess, getting back to what Commissioner May was saying about the site planning, you've got this green sward that they've made in the middle, the bioswale, and everything else. And everything looks back on this green, but it's the backs of the building, and they've dumbed-down the backs of the building. So, if you're going to go back and look out over this greenspace, the rest of the architecture doesn't match the experience of what the greenspace ought to be.

I think it would be nicer to have a little bit better color/architecture or something in there that would be more amenable to the rest of the -- I guess I hate facade architecture, the Hollywood set design, where

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you do the front, and, oh, it's the back.

There are certain parts of the city where you've got an alley and you don't want to put all your money on the alley; I understand that. But there's still a way of handling it as you turn a corner and go to the other elevations on what to do with it to make it, at least in a situation like this -- and again, I think the site planning has something to do with it.

The same thing with the townhouses. In the townhouses, I saw something that indicated decks on plans, but I don't really see any decks on elevations or sections. So, maybe I missed that. But it looks like they're planning to put decks on some of these houses. So, if they're going to do that, I think we ought to see some information on what they're going to do.

But I guess, getting back to Commissioner May's comment, I think there's an opportunity here to maybe play with this site

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plan a little better. And I think the architecture could reflect that a little bit more.

So, thank you.

CHAIRMAN HOOD: Any other comments?

Commissioner Miller?

COMMISSIONER MILLER: Thank you, Mr. Chairman.

Yes, in addition to the additional information that Ms. Brown-Roberts requested in her Office of Planning report, I would share, I would concur in the comments of Commissioners May and Turnbull regarding needing better end and back, that they need to look a little bit more attractive in the back and on the ends where those garages were.

And on the front of the multi-family building, which, by the way, it's great that it's all -- the program I think is great in terms of all affordable rental here. I think it was 10 percent, 50 percent AMI and the rest of it,

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180 units, at 60 percent AMI. So, I think that's to be commended.

But, on that nearly-800-foot front, I would like to see a little more -- and I know they tried to do a lot with the materials and the colors and the bays, which I think is all good, but maybe it needs further articulation to break up that length, which is, you know, over two football fields, I guess. Each one of those ends, the east and west end, is longer than a football field.

And so, if we could see maybe balconies on this front -- it's overlooking a park. It's facing south. I think it might be an attractive amenity, and this would help break up the overwhelming length here.

And if we could get a better depiction or illustration of what that one-story central lobby entrance looks like, that would be helpful, too.

But, with that, I'm ready to move forward.

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CHAIRMAN HOOD: Anyone else?

(No response.)

Okay. I would concur with all the architectural issues. I do have a multi-family building -- to me, it needs a little work. I'm not sure, maybe I need to see the materials board, but a lot of this -- I would just ask, I'm not going to get too specific because I think enough specifics have been articulated by my colleagues. But, in a whole nutshell, I'll just say let's revisit and look at some of the design that we have here and see how we can make this look a little better, at least from my standpoint, of how we're doing other parts of the city. I'll just say that.

The other thing is I'm very interested in making sure that the CBE and First Source Agreement is done and make sure, as soon as possible, we can get that in place because certain areas of the city could really benefit from this. And I want to make sure that we exhaust all our resources in doing this.

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I think it's been already mentioned about the retaining walls.

Make sure that we continue to work as stated in the OP report, ANC 8E, that we continue to work. Obviously, you've gotten some positive feedback, Ms. Brown-Roberts, for what you have in your report, but let's make sure we continue to keep them engaged and keep getting that positive feedback, and make sure that they're in tune with exactly what's happening.

But the comments that we have heard today about the architecture, I would hope that the applicant would really revisit some of that. So, that's just where I am. I think my colleagues hit it dead-on, and I would agree with all the architectural comments that I've heard.

And again, let's make sure we keep 8E engaged and helping them through this process, if needed, because I'm going to be looking at that.

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That's all I have. I think the rest can be spelled out and mentioned at the meeting, I mean at the hearing, if it's set down.

Okay. Colleagues, anything else?  
Okay.

Commissioner Miller?

COMMISSIONER MILLER: Just one more thing, Mr. Chairman. Ms. Brown-Roberts touched upon needing additional information on the Green Building Initiative, but I just wanted to concur in that and emphasize the paragraph that's written in the OP report that states that OP recommends that the rowhouses at least meet the Green Community Standards and that the applicant should also provide information regarding the level of LEED certification for the multi-family building and provide the Scorecard checklist as well.

CHAIRMAN HOOD: Okay. Thank you.

Mr. Bergstein, can you help me understand or respond to the request about the waiver of the hearing fee?

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MR. BERGSTEIN: Yes, Mr. Chairman.

DHCD has made a request, pursuant to 3042 of the regulations, to waive the hearing fee because of their assertion that this is a low- or moderate-income subsidized housing development. And 3042.2 defines subsidized housing development as a housing development that receives -- present tense -- funding from a recognized District of Columbia or federal housing subsidy program.

The waiver request indicates that, rather than this development now receiving that funding, that upon the submission of a proper application for such funding, DHCD will consider that.

And I reached out to the applicant's counsel to see if I could understand why they can't make that representation now or soon, that the housing development actually receives the funding. And the indication that I heard was that DHCD has changed its requirements for funding, so that you actually have to show

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entitlement, such as being granted a PUD, before they'll provide you with the funding.

So, we have a problem now that our regulations contemplate that DHCD will provide the funding before even the hearing on the PUD, and DHCD is saying, "We won't provide you the funding until you have been granted the PUD."

So, the only way around it is for, unless you deny the request -- but, then, you'll have to deny every single request going forward, if, in fact, DHCD has changed its prerequisites -- is to consider a subsidized housing project as a project that is eligible to receive funding, as opposed to a project that actually receives funding.

And obviously, you can make that interpretation today. That would be binding upon any future applications. And you might want to consider ultimately a rule that codifies that.

So, that's the quandary that you have at the moment.

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CHAIRMAN HOOD: So, we would not have to have the rule in play? We could come to that assumption today, and we would not have to ask the Office of Planning to bring forth a tax amendment or a rule to change that and become in compliance with DHCD's process prior to this hearing? We can do that now without delaying moving forward with this --

MR. BERGSTEIN: That's correct, you could.

CHAIRMAN HOOD: The Vice Chair?

VICE CHAIR COHEN: Yes. I think the change that DHCD made was an important one in the development process because projects were getting some setbacks and not moving forward, for one reason or the other. This actually makes total sense, and I would recommend that we modify our language at the appropriate time. So, as I said, I think DHCD moved in the right direction finally.

CHAIRMAN HOOD: Okay.  
Commissioner Miller, did you -- I'm sorry.

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COMMISSIONER MILLER: No, I would concur. I would suggest that we agree with Mr. Bergstein's suggestion that we interpret the regulation to mean eligible for funding, and that we at some point take up that tax amendment to deal with it.

CHAIRMAN HOOD: Okay. I would like to put that on the fast track, as recommended by counsel. But, in the motion, if we could state that, that we take that interpretation? And then, I know the Office of Planning has their hands full, but I think this is a simple amendment that we probably could deal with sooner than later.

Does anyone have any problems with that?

COMMISSIONER TURNBULL: No, I would agree with you 100 percent. I would ask that OP get a letter from DHCD clarifying their current stance, though, so that we have that on the record. I mean, it sounds like it is. But, for our recordkeeping, we should have a

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formal letter from them stating that they have moved their position. And then, I think OP could submit a change.

CHAIRMAN HOOD: Okay. It sounds good.

Any other comments?

(No response.)

Would somebody like to make a motion?

COMMISSIONER MILLER: I would move that we waive the hearing fee, pursuant to Section 3042, and then, adopt that interpretation, that it's eligible to receive funding. I would make that motion.

Okay. I will make a combined motion to not only waive the hearing fee, because the project is eligible to receive funding from the government for its subsidized housing, but also I move to set down the case. And that is Case No. 12-17, Brownstein Commons, LP, Consolidated PUD and related Map Amendment at Squares 5933 and 5934. And I ask for a

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second.

VICE CHAIR COHEN: Second.

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

(No response.)

All those in favor?

(Chorus of ayes.)

Not hearing any opposition, so ordered.

Staff, would you record the vote?

MS. SCHELLIN: Yes. Staff records the vote 5-to-0-to-0 to set down Zoning Commission Case No. 13-17 as a contested case; and, also, record that the Commission has waived the hearing fee, as discussed. Commissioner Miller moving, Commissioner Cohen seconding, Commissioners Hood, May, and Turnbull in support.

CHAIRMAN HOOD: And I would just encourage the applicant to especially listen to those architectural comments and take real

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serious heed and revisit some of those architectural comments. I would really encourage that. As a matter of fact, I would strongly encourage that.

Okay. Anything else? Ms. Schellin, do we have --

MS. SCHELLIN: Yes, we have one item under correspondence, Case No. 13-14. This case, if you will recall, was set down, I believe, at the January 27th hearing -- I'm sorry -- meeting. At that time the Commission advised the applicant to provide a suggested hearing schedule for the Commission to approve at a public meeting prior to any hearings being scheduled.

You have before you this evening the suggestion of four hearings, the last one being for any additional community comments, rebuttal testimony, if needed, and closing.

And I would ask the Commission to approve, change, deny, but consider the request that's before you this evening, so that staff

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can proceed with scheduling hearings on this case.

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

Commissioners, we have Exhibit 16 in front of us. This is the proposal. This is kind of in line with a number of big items that we have had and how we have broken it up.

The only thing I would say is I don't want to be binding to hearing one with the transportation plan. I would like to discuss that in all three or all four hearings, be able to discuss transportation.

Because, previously, we have been told that we've already approved stuff, and I know we're not going to approve anything, but I would like to be able to have the opportunity to discuss that when we get to the multi-family retail buildings as well as the healthcare facility, and whatever else comes up. That's the only caveat that I have.

Other than that, Commissioner May?

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COMMISSIONER MAY: No, I think it's an excellent suggestion. I would want to be able to talk about transportation, you know, sort of parcel-by-parcel, if you will.

And I think the schedule is fine. If we manage to do it in three hearings, great, but scheduling a fourth is probably smart.

CHAIRMAN HOOD: Okay. Well, we'll set it up as -- but the question is, are we going to do Mondays and Thursdays or we are going to do every night? How are we going to do this?

MS. SCHELLIN: I think the plan is to do --

CHAIRMAN HOOD: Especially volleyball night.

MS. SCHELLIN: I think the plan was to do Monday, Thursday, Monday, Thursday, based on availability. I mean, it could be Thursday, Monday, Thursday, Monday, just depending on what's available on the schedule.

CHAIRMAN HOOD: Would you all like to put that together? Not together? Like we

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might have it on a Monday and, then, we don't hear it for two more weeks, and, then, we hear it three weeks later on a Thursday?

MS. SCHELLIN: No, that wasn't the plan.

COMMISSIONER MAY: Yes, they should be in order. They should be continuous.

MS. SCHELLIN: Right. Exactly, based on availability. Right.

CHAIRMAN HOOD: Monday, Thursday, Monday, Thursday, but consecutive?

MS. SCHELLIN: Yes.

CHAIRMAN HOOD: Okay. I'm good.

MS. SCHELLIN: We'll do it at a time when we actually have those four nights together.

CHAIRMAN HOOD: Okay. Do we need to make a motion or --

MS. SCHELLIN: No, I just need your approval.

CHAIRMAN HOOD: Yes. Any objections?

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VICE CHAIR COHEN: No.

CHAIRMAN HOOD: Okay, you got it.

MS. SCHELLIN: Thank you.

CHAIRMAN HOOD: Do we have anything  
else?

MS. SCHELLIN: No, sir.

CHAIRMAN HOOD: Okay.

MS. SCHELLIN: Not unless OP wants  
to say something.

CHAIRMAN HOOD: OP, Office of  
Planning, do you have anything else?

Okay. So, we're done.

I want to thank everyone for their  
meeting tonight, I mean for their participation  
in this meeting.

And this meeting is adjourned.

(Whereupon, at 7:31 p.m., the  
meeting was adjourned.)

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