

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

+ + + + +

ZONING COMMISSION

+ + + + +

REGULAR MEETING

+ + + + +

MONDAY

FEBRUARY 24, 2014

+ + + + +

The Regular Meeting of the District of Columbia Zoning Commission convened in the Jerrily R. Kress Memorial Hearing Room, Room 220 South, 441 4<sup>th</sup> Street, N.W., Washington, D.C., 20001, pursuant to notice at 6:37 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

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OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER, Deputy Director,  
Development Review & Historic  
Preservation

KAREN THOMAS

JOEL LAWSON

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

JACOB RITTING, ESQ.

The transcript constitutes the  
minutes from the Regular or meeting held on  
February 24, 2014.

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

<u>WELCOME</u>	3
<u>PRELIMINARY MATTERS:</u>	5
Z.C. CASE NO. 13-10	
Vote: Five, zero, zero to approve	
<u>HEARING ACTION:</u>	
Z.C. CASE NO. 14-01	12
Office of Planning Report, Karen Thomas	13
Vote: Five, zero, zero to approve	
<u>CORRESPONDENCE:</u>	
Z.C. CASE NO. 13-16	45
Vote: Five, zero, zero to approve	
Z.C. CASE NO. 11-07	47
Vote: Three, zero, two to approve	
<u>ADJOURNMENT:</u>	52

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

6:37 p.m.

CHAIRMAN HOOD: Good evening, ladies and gentlemen. This is the regularly scheduled monthly meeting for the Zoning Commission -- 1,379<sup>th</sup> meeting. This is our fourth in 2014.

Today is Monday, February 24, 2014, 6:36 p.m. We're located in the Jerrily R. Kress Memorial Hearing Room.

My name is Anthony Hood. Joining me are Vice Chair Cohen, Commissioner Miller, Commissioner May and Commissioner Turnbull. We're also joined by the Office of Zoning Staff, Ms. Sharon Schellin; also the Office of Planning, Ms. Steingasser, Mr. Lawson and Ms. Thomas.

We do not really take any public testimony at our public meetings unless the Commission requests someone to come forward.

Okay. Let's go right into preliminary matters.

We have none. I do have preliminary matters. But I think what I'm

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1 going to do, Ms. Schellin and colleagues, is  
2 that I have a few announcements to read.  
3 I'd like to do one at the beginning and the  
4 other towards the end.

5 The first announcement that I  
6 would like to read at the beginning is due  
7 to a conflict in the schedule, I move that -  
8 - well, Commissioners, before I make a  
9 motion, you know there are some things going  
10 on in the City on March the 3<sup>rd</sup> in which a  
11 number of us would like to be in attendance.  
12 So the Applicant in this particular case,  
13 which is Zoning Commission Case No. 13-10  
14 and all parties involved, were agreeable to  
15 us moving that meeting. And I appreciate  
16 them for allowing us to do this so we can  
17 attend an activity that's going on here in  
18 the City.

19 So any discussion or questions?

20 COMMISSIONER MAY: Yes. I never  
21 got the final message on what was happening  
22 there. So can you tell me what you're  
23 proposing?

24 CHAIRMAN HOOD: I'm proposing to

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1 move it from March the 3<sup>rd</sup> to March the 13<sup>th</sup>.

2 COMMISSIONER MAY: Okay.

3 CHAIRMAN HOOD: Does anyone have  
4 any conflicts or any problems?

5 VICE CHAIR COHEN: Yes. I won't  
6 be here.

7 CHAIRMAN HOOD: Okay.

8 VICE CHAIR COHEN: Should I put  
9 it on the record?

10 CHAIRMAN HOOD: Yes.

11 VICE CHAIR COHEN: Yes, Mr.  
12 Chairman, I will not be able to attend the  
13 March 13<sup>th</sup>.

14 CHAIRMAN HOOD: Have we already  
15 noticed all of that? Would you like to read  
16 the record?

17 VICE CHAIR COHEN: I will  
18 probably read the record.

19 CHAIRMAN HOOD: Okay. If need  
20 be. Okay. All right.

21 If you want to participate, we'll  
22 move it.

23 VICE CHAIR COHEN: Sure.

24 COMMISSIONER MAY: What's the

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1 case?

2 CHAIRMAN HOOD: Zoning Commission  
3 Case No. 13-10.

4 VICE CHAIR COHEN: Which is?

5 CHAIRMAN HOOD: You didn't say  
6 what the name of it was.

7 But anyway, it's the ZP Georgia  
8 LLC. That's all I have. I don't know all  
9 it entails.

10 MS. SCHELLIN: It's a  
11 consolidated PUD and related map amendment.  
12 I have the square number in front of me.

13 VICE CHAIR COHEN: Yes, Mr.  
14 Chairman, I don't think it'll be an issue.  
15 I can read the record.

16 CHAIRMAN HOOD: Yes. If we get  
17 to that point.

18 Okay. Great. Anyone else?

19 (No audible response.)

20 CHAIRMAN HOOD: So due to the  
21 conflict in the schedule, I move that we  
22 postpone Case No. 13-10, ZP Georgia LLC from  
23 March 3, 2014 to March 13, 2014 at 6:30  
24 p.m., and ask for a second.

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1 COMMISSIONER MILLER: Second.

2 CHAIRMAN HOOD: Okay. It's been  
3 moved and properly seconded.

4 Any further discussion?

5 (No audible response.)

6 CHAIRMAN HOOD: All those in  
7 favor.

8 (A CHORUS OF AYES.)

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

12 MS. SCHELLIN: Yes. Staff  
13 records the vote five to zero to zero to  
14 postpone Zoning Commission Case No. 13-10  
15 from March 3<sup>rd</sup> to March 13<sup>th</sup> at 6:30 p.m.;  
16 Commissioner Hood moving; Commissioner  
17 Miller seconding; Commissioners Cohen, May  
18 and Turnbull in support.

19 CHAIRMAN HOOD: And I believe  
20 that is a Wednesday.

21 MS. SCHELLIN: Thursday.

22 CHAIRMAN HOOD: Oh, that's a  
23 Thursday. Okay. Good.

24 All right. I do have one more

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1 announcement. I think I'm going to go ahead  
2 and do it now and get this out of the way.

3 This is a ZRR Announcement of  
4 Next Steps -- a Zoning Revision, Next Steps.  
5 As we said, we want to keep the public  
6 attuned and apprised of how we're moving  
7 forward.

8 Over the last couple of weeks, we  
9 have announced that the Office of Planning  
10 will be holding Open Houses. We now know  
11 that the Office of Planning will be holding  
12 those on March 4<sup>th</sup>, 11<sup>th</sup>, 12<sup>th</sup> and 15<sup>th</sup>. You  
13 can check with their office and/or their  
14 website for the locations of the Open  
15 Houses.

16 In addition, the Office of  
17 Planning will hold Open Houses at their  
18 office every Friday from 9:00 a.m. to 5:00  
19 p.m. for people to walk in and have any  
20 questions they need to have answered.

21 Let me ask this. When it is  
22 going to be every Friday -- in the month of  
23 March?

24 MS. STEINGASSER: Yes, sir.

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1                   CHAIRMAN HOOD: Okay. So we'll  
2                   make it clear. Every Friday in the month of  
3                   March. So we want to make sure this starts  
4                   in March. We do have one more Friday in  
5                   February. So every Friday in the month of  
6                   March.

7                   Ms. Steingasser, is there a  
8                   telephone number they can call just in case  
9                   they may not have access possibly to the  
10                  website?

11                  MS. STEINGASSER: Yes, sir. That  
12                  would be 202-442-7600. That's the main  
13                  Office of Planning number.

14                  CHAIRMAN HOOD: Okay. Is there  
15                  anyone in particular they should ask for?

16                  MS. STEINGASSER: The  
17                  receptionist will have all this information  
18                  right there. They can always ask for me or  
19                  Mr. Lawson.

20                  CHAIRMAN HOOD: Okay. Okay.  
21                  Again, thank you, Ms. Steingasser.

22                  So that's what's going forward.  
23                  Again, the open houses will start in March.  
24                  Every Friday from 9:00 to 5:00, they're

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1 going to be doing their open houses.

2 You know what? I'm not going to  
3 deviate from this because I don't want to  
4 mix anybody up.

5 The Zoning Commission then will  
6 hold two further hearings. The first as we  
7 have previously decided, the Commission will  
8 hold a further hearing in Ward 8. At that  
9 hearing, which will be held on April the 21<sup>st</sup>  
10 at 6:00 p.m, the Commission will first hear  
11 from residents who reside in Wards 7 and 8  
12 and then from those who reside in the other  
13 Wards of the City who have not previously  
14 testified.

15 Second, on April 24<sup>th</sup> at 6:00  
16 p.m., the Commission will hold a hearing in  
17 this room and hear from anyone who has not  
18 previously testified -- and that's city-wide  
19 -- who has not previously testified whether  
20 it be here in this arena or in the Wards.

21 In addition, the Commission will  
22 keep the record open until 3:00 p.m. on  
23 Friday, April 25<sup>th</sup>. We will then decide the  
24 next steps at our April 28<sup>th</sup> meeting.

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1                   Anyone have anything they want to  
2                   add or any questions -- anything we want to  
3                   take away?

4                   (No audible response.)

5                   CHAIRMAN HOOD:   Okay.  Thank you.

6                   I think those were the only two  
7                   announcements, Ms. Schellin, that I had?

8                   MS. SCHELLIN:   That's right.

9                   CHAIRMAN HOOD:   Okay.  I thought  
10                  I had three of them.  I thought I'd lost one  
11                  of them on the way out here.

12                  Okay.  Let's go to Hearing  
13                  Action.  Office of Planning Zoning  
14                  Commission Case No. 14-01.  It's Jemal's  
15                  Hecht's, LLC, Consolidated PUD and Related  
16                  Map Amendment at Square 4037.

17                  Ms. Thomas?

18                  MS. THOMAS:   Good evening, Mr.  
19                  Chairman, Members of the Commission.

20                  The Office of Planning is  
21                  recommending the Commission set down Jemal's  
22                  Hecht's, LLC's requests for a consolidated  
23                  PUD and related map amendment from the CM2  
24                  to the C3C Zone to facilitate the reuse of

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1 the property known as the Hecht's Warehouse  
2 on New York Avenue, NE.

3 The requested map amendment is  
4 intended to accommodate the adaptive reuse  
5 of the long-vacant, historic Hecht Company  
6 Warehouse building, as it is one of the few  
7 District landmarks in an industrial  
8 district. It has a maximum height of 88  
9 feet which is 28 feet higher than permitted  
10 by right in the CM2 Zone and a 4.2 FAR which  
11 is minimally above matter-of-right in the  
12 underlying zone.

13 The Comprehensive Plan's Future  
14 Land Use Map provides generalized guidance  
15 and is to be read in combination with the  
16 policy map and the Comprehensive Plan  
17 policies. Unlike other land use categories,  
18 PDR future land use map designations are not  
19 rated by intensity of use. The requested  
20 C3C Zone would permit reuse of the upper  
21 floors for residential purposes. The Comp  
22 Plan's policies of the historic preservation  
23 and land-use elements stress restoration of  
24 vacant lands and redevelopment of obsolete

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1 industrial uses. The upper notice area  
2 elements policies speak to enhancing and  
3 infilling the New York Avenue gateway.

4 Thus, given the exceptional  
5 physical attributes of the already-developed  
6 site including its historic nature, height  
7 and FAR as well as recognizing previous  
8 attempts to bring the building back to  
9 productive use, the proposed zone would not  
10 be inconsistent with land-use map and the  
11 Comprehensive Plan's written elements.

12 The Applicant would provide  
13 additional information at the public hearing  
14 regarding the proposed retail which may  
15 occupy the first two levels. The upper  
16 levels up to the sixth floor would be  
17 converted to residential space for  
18 approximately 333 residential units  
19 consisting primarily of one-bedroom units  
20 and some two-bedroom units. Eight  
21 percent of the residential gross floor area  
22 would be available to residents at 80  
23 percent AMI in conformance with  
24 requirements. Parking would be located

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1 within an adjacent parking structure under  
2 construction to the east of the building  
3 with access provided off of a new private  
4 street as shown in the plans referred to as  
5 Hecht Avenue. Loading facilities would be  
6 provided with access off Okie Street.

7 The flexibility requested with  
8 this obligation includes that for on-site  
9 parking, restructure and the ability to vary  
10 the number of residential units as the  
11 project design is finalized.

12 Benefits would include housing  
13 and affordable housing where none could  
14 exist as a matter-of-right, inclusion of  
15 sustainable features and employment and  
16 training opportunities for District  
17 residents and significant historic  
18 preservation on a prominent D.C. avenue.

19 The Applicant will coordinate  
20 with DDOT to address new curb cuts for the  
21 private street access from New York Avenue  
22 and provide additional details about the  
23 allocation of residential units.

24 We anticipate refinement of

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1 project benefits, amenities and the  
2 architectural drawings.

3 This concludes our report, and  
4 I'm available to answer any questions.

5 Thank you.

6 CHAIRMAN HOOD: Okay. Thank you,  
7 Ms. Thomas.

8 Commissioners, do we have any  
9 questions of the Office of Planning?

10 Commissioner May, would you like  
11 to go first?

12 COMMISSIONER MAY: Okay. So the  
13 first thing that jumps out with me is you  
14 stated in your report and it's in the  
15 written report, I guess, that the use of  
16 this property for residential purposes would  
17 not be inconsistent with the Comprehensive  
18 Plan. You specifically said not  
19 inconsistent with the Future Land Use Map,  
20 and in your report you show the Future Land  
21 Use Map and it shows that it's PDR and it  
22 says, "residential is not included."

23 So there are other reasons why it  
24 would be consistent or not inconsistent with

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1 the Comprehensive Plan, but tell me why you  
2 think that residential use in this PDR-  
3 designated area is in keeping with the  
4 Comprehensive Plan.

5 MS. STEINGASSER: Well, it's not  
6 so much that residential is consistent with  
7 the PDR designation as much as with this  
8 particular site and the physical constraints  
9 that preservation has in the adaptive reuse  
10 of this building, residential becomes a far  
11 more compatible use. So it's more project-  
12 and property-based which is why we felt the  
13 PUD was the appropriate way to bring it to  
14 the Commission as opposed to a map  
15 amendment.

16 COMMISSIONER MAY: Okay. And I  
17 think that's perfectly reasonable.

18 Is there anything in the Comp  
19 Plan that speaks specifically to this  
20 property and its future treatment?

21 MS. STEINGASSER: There is. And  
22 I think we included --

23 COMMISSIONER MAY: In the report,  
24 but then again, I miss things in the report

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1 sometimes.

2 MS. STEINGASSER: No.

3 It's either in our report or it's  
4 in the Applicant's.

5 COMMISSIONER MAY: Okay.

6 MS. STEINGASSER: But the site is  
7 called out for restoration and reuse.

8 COMMISSIONER MAY: Restoration  
9 and reuse, but no specific mention of  
10 residential use?

11 MS. THOMAS: Not specifically.

12 COMMISSIONER MAY: Not  
13 specifically. Okay.

14 And so then the other thing that  
15 we have to reconcile with this -- and again,  
16 I'm not throwing this up as a roadblock  
17 which is I think in order to be consistent  
18 with the Comprehensive Plan or not  
19 inconsistent with the Comprehensive Plan --  
20 is the fact this is a neighborhood  
21 conservation area. And so, there's a strong  
22 desire in the Comprehensive Plan that PDR  
23 uses remain the predominant use in that  
24 area. And I think there has been concern in

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1 the past that when some of these PDR uses go  
2 away that the City will be missing something  
3 substantial in terms of its ability to serve  
4 itself in the long run.

5 MS. STEINGASSER: And that is  
6 something we'll talk in more detail about at  
7 our hearing report.

8 But the Applicant has agreed to  
9 look at the type of residential compatible  
10 uses -- live-work-type of uses that could go  
11 into the site that could capture some of  
12 that cleaner industrial, smaller -- we call  
13 it the maker economy uses.

14 The property is really, really  
15 large. And it's not really compatible --  
16 I've been using that word a lot -- but with  
17 the heavy industrial use.

18 COMMISSIONER MAY: Right.

19 MS. STEINGASSER: And it's  
20 certainly not what the neighborhood is  
21 consistent with.

22 The other uses proposed on the  
23 site -- the extensive retail -- is indeed a  
24 permitted use. And office is also a

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1 permitted use in the industrial zones. And  
2 there is a significant element of that in  
3 this particular project.

4 COMMISSIONER MAY: Okay.

5 VICE CHAIR COHEN: Excuse me,  
6 Commissioner May. I just wanted to  
7 interject for a second.

8 On page 24 of the Applicant's  
9 submission under Policy Action, 2.36, there  
10 is, "Hecht's Warehouse encouraged the reuse  
11 of the historic Hecht's Warehouse building."

12 COMMISSIONER MAY: Right. And my  
13 question was where it specifically mentions  
14 housing.

15 VICE CHAIR COHEN: Oh. Okay.  
16 Sorry.

17 COMMISSIONER MAY: That's all  
18 right. That's all right.

19 And maybe my question wasn't that  
20 clear either.

21 I'll look forward to further  
22 development of the design for the building.  
23 There are some unusual units in there -- the  
24 units that the only windows are skylights.

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1 That's a bit odd.

2 And I understand the challenges  
3 of the building given the size of the floor  
4 plate and the fact that you're already, I  
5 guess, creating courtyards that didn't  
6 otherwise exist. So I know it's going to be  
7 complicated. But I think that as you start  
8 to think through it, particularly when you  
9 think about some of the other uses like  
10 live-work units, maybe there are some ways  
11 that things can be done a little bit more  
12 differently. So I'll look forward to seeing  
13 how that develops.

14 And where is it in the Historic  
15 Preservation process at this point? Is it  
16 only at the discussion stage with your  
17 staff?

18 MS. STEINGASSER: No. It has  
19 been to the Board, received concept  
20 approval.

21 COMMISSIONER MAY: Okay. All  
22 right.

23 All right. Thanks.

24 CHAIRMAN HOOD: Any other

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1 questions or comments?

2 Commissioner Miller, Vice Chair?

3 COMMISSIONER MILLER: Thank you,  
4 Mr. Chairman.

5 What's the rationale behind going  
6 to the C3C map amendment versus C3B, C3A,  
7 C2C, C2B, all which would allow the height  
8 in the FAR? I'm just curious what the  
9 rationale is for C3C.

10 MS. STEINGASSER: I think --  
11 correct me if I'm wrong -- it's been several  
12 weeks since I read the application. But the  
13 thinking was to get a zone that was as  
14 consistent as possible with the PDR  
15 designation. And the C3C is fully  
16 compatible with the PDR designation as  
17 opposed to one that has an absolute  
18 residential requirement. And I'm not sure --  
19 - no?

20 MS. THOMAS: No, I would just add  
21 that it would permit a wider variety of uses  
22 and for the retail complement as well.

23 COMMISSIONER MILLER: Right. I  
24 saw the reference in the report to the

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1 knowledge economy and the technological  
2 creative use -- called the creative-type  
3 uses. I don't know if they're not permitted  
4 in those other less intense zones.

5 But I should know this off the  
6 top of my head, but I don't. Is the  
7 inclusionary zoning requirement lesser in  
8 the C3C map and something that would be  
9 lesser?

10 MS. THOMAS: No.

11 COMMISSIONER MILLER: No?

12 The only other comment I would  
13 make on the inclusionary zoning, I would  
14 share the Office of Planning's encouragement  
15 to the Applicant to explore whether some of  
16 the units could be made available to persons  
17 who are within the 50 or 60 percent AMI  
18 category even though the IC only requires  
19 the 80 percent. I think it's  
20 fantastic that over 300 residential units  
21 would be provided by this project and two  
22 floors of retail and other uses. But I just  
23 think that the affordable housing should be  
24 a little more targeted.

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1                   So that's all I have, Mr.  
2                   Chairman.

3                   CHAIRMAN HOOD:   Okay.  Thank you.  
4                   Vice Chair?

5                   VICE CHAIR COHEN:  Thank you, Mr.  
6                   Chairman.

7                   I concur with Commissioner  
8                   Miller's suggestion that there be greater  
9                   depth of affordability, especially since I  
10                  understand that housing was not a permitted  
11                  use under the current zoning and therefore  
12                  the change of zoning requires IZ.  I don't  
13                  see it as a major public benefit unless it  
14                  really does go into deeper affordability.  
15                  So if you could work with the Applicant and  
16                  have them expand upon why it should also be  
17                  a major public benefit.

18                  And I also concur with  
19                  Commissioner May with regard to the loft  
20                  units being maybe greater live-work space.  
21                  When that's combined, it usually saves  
22                  households money if they can actually live  
23                  and work in the same unit and therefore, it  
24                  gets to households that are making maybe

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1 less money as well by removing the need for  
2 a special office.

3 I would also like the Office of  
4 Planning to give us some examples in D.C.  
5 where there has been successful mixed-use  
6 office and residential. I have familiarity  
7 with other cities where that hasn't really  
8 worked well. But I was trying to recall if  
9 there's anything in the District that has  
10 those mixed-uses. And retail and  
11 residential, yes. Retail and office, but  
12 I'd like to know more about the office and  
13 residential.

14 I'd like to know why we need more  
15 parking in that particular property because  
16 we have the parking lot with an extensive  
17 number of spaces nearby. So I need more  
18 information.

19 MS. THOMAS: The flexibility from  
20 the parking is just because it's not on the  
21 same lot as the building. So the parking  
22 would be provided.

23 VICE CHAIR COHEN: No, I'm  
24 talking about why we even need additional

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1 parking even though it's not the same lot.  
2 I'm having one of my colleagues --

3 COMMISSIONER MAY: Did we not  
4 approve the additional -- I mean, the  
5 parking lot next door --

6 VICE CHAIR COHEN: Yes.

7 COMMISSIONER MILLER: -- already?

8 MS. THOMAS: Yes.

9 COMMISSIONER MAY: So they're  
10 just using the parking that exists next  
11 door.

12 VICE CHAIR COHEN: Oh, I thought  
13 they were adding some.

14 MS. THOMAS: No, no.

15 VICE CHAIR COHEN: Okay. I'm  
16 sorry. I misunderstood. Totally  
17 misunderstood.

18 Thank you for the clarification.

19 Again, New York Avenue is very  
20 heavily trafficked. So in the -- well, in  
21 the drawings somehow I'd like them to  
22 address the noise attenuation and ear  
23 pollution issues with regard to creating  
24 this warehouse into housing. And I'd also

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1 like more information as to how New York  
2 Avenue itself -- not just the site -- is  
3 safety for bicycles. I would not try to  
4 ride a bike on New York Avenue myself.

5 Would you, Commissioner May? It  
6 depends upon the day of the week and what  
7 happened at the office.

8 COMMISSIONER MAY: Well, yes.

9 VICE CHAIR COHEN: Well, I just  
10 would like more information on that because  
11 it doesn't seem like it really works well  
12 for bicycles at this point in time. And  
13 there may be a plan. Maybe DDOT can expand  
14 on that as well as the Applicant.

15 So those are my questions and  
16 concerns.

17 CHAIRMAN HOOD: Okay. Thank you.

18 Mr. Turnbull, do you have any  
19 questions?

20 COMMISSIONER TURNBULL: Thank  
21 you, Mr. Chair.

22 I just wanted to get back to  
23 Commissioner May's topic on the PDR area.  
24 And I guess looking in the Applicant's

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1 report on page 11, they talk about the  
2 project implements, "the number of urban  
3 design and architectural best practices  
4 which will assist in the further development  
5 of New York Avenue into a major mixed-use  
6 corridor." And it goes on to talk about  
7 retail.

8 I'm just wondering were we're  
9 looking at as a PDR. So how does this fit  
10 in with the PDR?

11 MS. STEINGASSER: Well, the  
12 proposed ground floor uses are all retail.  
13 It's a very detailed retail package that the  
14 Applicant has been proposing for the site.  
15 All of that is consistent with the PDR  
16 designation.

17 COMMISSIONER TURNBULL: Well, I  
18 guess the greater question is are there  
19 other areas in this PDR that you see are  
20 going to be developed as housing?

21 MS. STEINGASSER: There are no  
22 other areas that have a significant historic  
23 landmark like this site does. And that's  
24 what makes this site unique. And that's why

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1 we requested the Applicant bring it forward  
2 as a PUD to allow for that housing.

3 They have owned the property for  
4 I think over a year and a half and have  
5 courted many large-scale office tenants as  
6 well as some industrial uses and been unable  
7 to get any interest in the property.

8 They've also been faced with  
9 considerable constraints in how the building  
10 is adapted because of all the glass block  
11 and the windows. But by putting in  
12 residential, it allows, through courtyards,  
13 the reuse of that space in a much more  
14 compatible way.

15 So I don't see anything similar  
16 to this anywhere else in the District. I  
17 mean, this is a very unique site because of  
18 that landmark.

19 COMMISSIONER TURNBULL: So this  
20 will probably be the only residential area  
21 in this whole half mile?

22 MS. STEINGASSER: It's the only  
23 one we feel comfortable with bringing  
24 forward right now. I mean, unless there's

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1 significant changes through the  
2 Comprehensive Plan that are based on --  
3 there's a Ward 5 industrial land-use  
4 transformation study that's being completed.  
5 That's looking at certain areas and how  
6 there's a change in industrial uses. But  
7 unless there's some changes to the  
8 Comprehensive Plan, we really don't see --

9 COMMISSIONER TURNBULL: You don't  
10 see the future land-use map changing?

11 MS. STEINGASSER: And we don't  
12 see this being a precedent for any other  
13 area.

14 COMMISSIONER TURNBULL: Okay.

15 MR. LAWSON: I -- sorry, Joel  
16 from the Office of Planning.

17 I'll just note that there are  
18 some sections of New York Avenue that are  
19 already designated for residential. For  
20 example, the site at New York Avenue and  
21 Bladensburg --

22 COMMISSIONER TURNBULL: Right.

23 MR. LAWSON: -- is designated for  
24 some residential. And there are other

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1 parts. So it wouldn't be the only  
2 residential building on all of New York  
3 Avenue.

4 But I think Ms. Steingasser is  
5 correct that at this point we're not looking  
6 at -- and we don't think this would serve as  
7 a precedent -- for other industrial lands  
8 going from industrial to residential.

9 COMMISSIONER TURNBULL: Well, I  
10 guess my only concern is since there's no  
11 Metro really that close, it's not really  
12 accessible to a lot of -- I mean, there's a  
13 bus or two I think that goes up and down.  
14 But is this going to be mainly an auto-  
15 oriented site then?

16 MS. STEINGASSER: Well, the  
17 Applicant will address that during their  
18 application. I don't want to argue the  
19 case. They'll address their whole traffic  
20 management plan. They've been working  
21 closely with DDOT on both New York Avenue  
22 and then how it faces just to the south.

23 COMMISSIONER TURNBULL: Okay.

24 And I guess I would just go back

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1 to a couple of the other comments about the  
2 housing. And I guess my concern is we're  
3 doing a map amendment which I think is in  
4 itself a bonus or something that we're  
5 offering because of the problems with trying  
6 to make this site work. I don't know if it  
7 necessarily follows then that the housing  
8 element is a public benefit totally. I  
9 think it becomes now that you've got housing  
10 which is required now in this zone, you're  
11 required to do it. But I understand that  
12 the reason why now they're going from CM to  
13 C3C. And I'm like I'm still hedging on  
14 that.

15 I think that it's again basically  
16 the minimum. It's eight percent. I'd like  
17 to see some more input on that because of  
18 the nature of the site and what it's doing.  
19 I just think that the Applicant needs to  
20 come back and explain this a little bit  
21 more. And I think the proffer maybe isn't  
22 quite as strong as what it could be.

23 MS. STEINGASSER: Okay. Well,  
24 we'll be happy to talk with the Applicant.

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1 The position has long been that if the zone  
2 doesn't require housing or the matter-of-  
3 right doesn't require housing, housing  
4 constitutes a benefit. So there's benefits  
5 and there's amenities.

6 The inclusionary zoning would  
7 then be triggered or is being proffered  
8 which would otherwise not be required. And  
9 so that's why it's historically been  
10 accepted as a benefit. And we'll ask the  
11 Applicant to provide a little bit more  
12 detail and some similar where the Zoning  
13 Commission has made those kind of  
14 determinations.

15 COMMISSIONER TURNBULL: Yes. I  
16 guess the argument in this particular case  
17 doesn't seem quite as strong. I mean,  
18 they're getting a benefit because of the map  
19 change. And I understand where we were  
20 before. It sounds like we're making a deal  
21 here and we're not getting enough out of it.

22 Anyways, the Applicant's heard.  
23 So I think they know where I'm coming from.

24 The rooftop structures are all

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1 historic. I'd like to know if the water  
2 tower is going to be used as a water tower  
3 or if it's just going to be a decorative  
4 feature. I'd like a little bit more  
5 information on the rooftop structures as to  
6 what they're going to be used for.

7 The Applicant says they're going  
8 for LEED Silver. And I think we've seen  
9 some information on that. Is that strong or  
10 are they going for a certified LEED Silver  
11 or are they just going for the goal of LEED  
12 Silver?

13 And I guess getting back to the  
14 PDR, I just wonder if the Office of Planning  
15 might look at PDRs and give us an  
16 inclination as to areas that PDRs that  
17 they're concerned. I mean, I'm just  
18 concerned about residential getting into any  
19 of the PDR or making too many changes that I  
20 think Commissioner May had said are we going  
21 to be losing this land. Is it going to  
22 become gentrified? And is Washington losing  
23 an enterprise where we're not a  
24 manufacturing area that everything is being

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1           outsourced outside?

2                       MS. STEINGASSER:   And we are in  
3           the process of looking at -- he's calling  
4           for help --

5                       (LAUGHTER.)

6                       MS. STEINGASSER:   -- the Ward 5  
7           land use transformation study that has  
8           looked specifically at Ward 5 and how those  
9           industrial lands are used, their proximity  
10          to adjoining residential.  That's often a  
11          problem as the interface between industrial  
12          and residential.  And those areas that could  
13          be encouraged for alternate types of --  
14          we're looking at possibly new industrial  
15          zones.  I'm not sure what the status is of  
16          when that study will be released.  But we  
17          have looked at it.                       And previously,  
18          we also did a study -- it's not a plan -- it  
19          was an actual study of the District's land  
20          use through all the wards.  And that helps  
21          us as well.

22                      COMMISSIONER TURNBULL:  Okay.  
23          All right.  Thank you.  I'm sure Mr. Hood  
24          will be very interested in that.

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1                   CHAIRMAN HOOD: I'm so interested  
2 I'm going to start out with this point.

3                   I'm not actually that taken back  
4 by the conformation of doing away with some  
5 of the industrial land because it seems like  
6 the urgency of a concern -- and I'm not  
7 throwing this at my colleagues. I'm just  
8 talking about since I've been here. It  
9 always seems when we get cases down here and  
10 it goes in Ward 5, there's a concern about  
11 changing from industrial land. And I think  
12 the residents of Ward 5 have a different  
13 concern.

14                   So I appreciate what the Office  
15 of Planning is doing in this particular  
16 situation. But I do have a concern.

17                   Let me just say this. When I  
18 look at this, I'm just wondering what we  
19 created. I know there's a shelter on New  
20 York Avenue. I hear that people are not  
21 residing -- I guess we consider that --  
22 don't we consider that residential in the  
23 City?

24                   MS. STEINGASSER: Well, if it's a

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1           hypothermia shelter.

2                         CHAIRMAN HOOD:  I'm not asking  
3           the Office of Planning.  I'm not asking the  
4           people that put it there.  I'm asking the  
5           Office of Planning.

6                         Don't we have a shelter on New  
7           York Avenue?

8                         MS. STEINGASSER:  I believe we  
9           do.  I believe we have one on Adams Place.

10                        CHAIRMAN HOOD:  Okay.  Don't we  
11           also have one on New York Avenue?

12                        MS. STEINGASSER:  I don't know.

13                        CHAIRMAN HOOD:  Right.  So, yes,  
14           we have one on New York Avenue.

15                        MS. STEINGASSER:  Okay.

16                        CHAIRMAN HOOD:  So we already  
17           have some residents living there anyway.  I  
18           guess whether you want to call it from 12 to  
19           eight or whatever.  I have no problem with  
20           the shelter.

21                        But let me ask this.  One of the  
22           things that I read in the report -- unless I  
23           misunderstood -- I don't want us to create a  
24           problem where -- and I heard about the

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1 readaptive use -- and also on one site we're  
2 going to have CM2 and CM3 on the other side?  
3 Or are we going to do away with that?  
4 Because I don't know. We need to probably  
5 look at that whole strip as far as maybe  
6 C3C. I mean, that's just where I am, I  
7 think.

8 We did this once before in Fort  
9 Totten. And everybody was concerned again  
10 about you're doing away with the industrial  
11 land and going to residential. I can tell  
12 you, being from Ward 5, the folks that live  
13 in Ward 5, we're not concerned. Because  
14 other parts of the City have already done  
15 that. They just beat us to the punch.

16 So I would like for the same  
17 consideration to be done that we do with  
18 everyone else that comes down here. I think  
19 this is a good start. I'm not saying do  
20 away with all of it because we have the  
21 Sieman's Plans, we have the trash transfer  
22 stations, we have no undesirables. But my  
23 only concern is what we're trying to do here  
24 -- this retail and the malls -- whatever

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1 else is planned there -- I think it's great.  
2 But the retail there will I think -- CM3 is  
3 next to the end zone is one of the least  
4 restrictive. Am I correct?

5 MS. STEINGASSER: That's correct.

6 CHAIRMAN HOOD: So if we got it  
7 right next to a fabulous -- I mean, I just  
8 don't see the mix. And I think we need to  
9 have a broader scope and look at a broader  
10 scope in that area as opposed to just this  
11 project in C3C. Because we've got CM2 on  
12 one side, CM3 on the other side. And that's  
13 a concern.

14 I think what we're doing is  
15 eventually potentially creating a problem.  
16 And I would think if we were going to do C3C  
17 -- which I think is the way we need to go --  
18 or something as my colleague, Commissioner  
19 Miller, mentioned, we need to also not  
20 create a problem for the future with that  
21 CM2 and CM3. That's something we need to  
22 look at -- something I'd like for us to  
23 discuss at the hearing. I'll be looking  
24 forward to hearing from the Applicant on

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1 that.

2 Restoration, I think that was  
3 mentioned. But I think for me, I got  
4 distracted. Because I think that is a big  
5 issue for me. The concern is always -- and  
6 I'm not saying it just started -- the  
7 concern is always losing industrial land  
8 when it comes to Ward 5. I've been here  
9 long enough, and nobody disputed it. I've  
10 seen it. It'd be different if I hadn't  
11 lived it. I've lived it.

12 Commissioner May, you're chomping  
13 at the bit. Do you want to get in on this?

14 COMMISSIONER MAY: No, I just  
15 want to say we've heard you explain this  
16 interest specifically --

17 CHAIRMAN HOOD: Oh, you were here  
18 when I said that?

19 COMMISSIONER MAY: Oh, of course.  
20 Several times.

21 And I would not disagree with  
22 that overall interest and the understanding  
23 that that's what residents probably want.  
24 All we're pointing out is the fact that it

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1 is the issue of consistency with the Comp  
2 Plan. And that's just something that needs  
3 to be addressed in the course of the case.  
4 That's all.

5 CHAIRMAN HOOD: And that's why  
6 I'm saying let's look at that whole other  
7 part. If that's what's being designated --  
8 restoration -- from the way I understand it  
9 -- let's not create a problem. Let's not  
10 create CM2. And I think that's how we got  
11 to some of these areas.

12 And as far as losing land, trust  
13 me, we've got plenty of it. As Ms.  
14 Steingasser said, they're looking around for  
15 it. If you need some assistance, I can show  
16 you where a lot more of it is.

17 So I'm not going to stay on that  
18 point. That's probably a bigger issue than  
19 just this project.

20 And also, I'd be looking forward  
21 to seeing how the Applicant I'm sure is  
22 working with the ANC. Hopefully, that is  
23 still going on like it did previously.

24 The other issue is the first

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1 source. And this is again a neighborhood  
2 that could definitely benefit from some of  
3 the first source. I want to hear what that  
4 is. How are we getting our residents ready  
5 -- not just in Ward 5, but in the City --  
6 ready for something like this long before we  
7 get to the point where it's going to start  
8 doing the readaptive use? So let's put that  
9 out there early on so if we don't have a  
10 pool, we can come up with a pool. We'll  
11 have a pool ready to move forward on that.

12 Okay. That's all I have. I've  
13 done my soapbox.

14 Would somebody like to make a  
15 motion?

16 COMMISSIONER MILLER: I would  
17 move, Mr. Chairman, that we set down for  
18 hearing Zoning Commission Case No. 14-01,  
19 Consolidated PUD and Related Map Amendment  
20 from CM2 to C3C, 14-01. 1535 New York  
21 Avenue, Square 4037, parts of Lot 7 and 804,  
22 and ask for a second.

23 COMMISSIONER MAY: Second.

24 CHAIRMAN HOOD: Okay. It's been

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1 moved and properly seconded.

2 Any further discussion?

3 (No audible response.)

4 CHAIRMAN HOOD: All those in  
5 favor?

6 (A CHORUS OF AYES.)

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

10 MS. SCHELLIN: Staff records the  
11 vote five to zero to zero to set down Zoning  
12 Commission Case No. 14-01 as a contested  
13 case. Commissioner Miller moving;  
14 Commissioner May seconding; Commissioners  
15 Cohen, Hood and Turnbull in support.

16 CHAIRMAN HOOD: Okay. Thank you.  
17 Let's move right along.

18 Correspondence, Zoning Commission  
19 Case 13-16, Forest City South East Forest  
20 City, LLC, Applicant's response to OP and  
21 DDOT Issues.

22 Ms. Schellin?

23 MS. SCHELLIN: Yes, sir. At the  
24 conclusion of the hearing held on February

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1 3, the Commission advised the Applicant that  
2 the order would not be issued until it  
3 provided a response to the record addressing  
4 the issues of OP and DDOT. The Applicant  
5 has provided a response which is before you  
6 this evening at Exhibit 31 in the record.  
7 And we would ask that you advise whether  
8 that response is adequate.

9 CHAIRMAN HOOD: Okay.  
10 Commissioners, we have the response in front  
11 of us and we asked for it. Does anyone have  
12 any objections, any concerns, any comments?

13 I don't think we need a vote  
14 here. Can we just do general consensus?

15 Vice Chair?

16 VICE CHAIR COHEN: Mr. Chairman,  
17 I think I expressed concern about sort of  
18 tidying up the record and having the  
19 Applicant address the outstanding issues.  
20 And I am satisfied.

21 I should ask actually is OP  
22 satisfied with their part of it?

23 MR. LAWSON: We are. Thank you.

24 VICE CHAIR COHEN: Thank you.

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1 CHAIRMAN HOOD: Okay. Anybody  
2 else?

3 (No audible response.)

4 CHAIRMAN HOOD: Okay. We don't  
5 need to do a motion. We'll just do it by  
6 general consensus. Okay?

7 Okay. Next, Zoning Commission  
8 Case No. 11-07, American University,  
9 Applicant's request to reopen the record.

10 Ms. Schellin?

11 MS. SCHELLIN: Yes, sir. In this  
12 case, we have a request from the Applicant  
13 that all of the parties be allowed to  
14 provide comments and proposed findings on  
15 the specific and limited issues requested by  
16 the Court of Appeals in their November 14,  
17 2013, decision. And I'd ask that the  
18 Commission advise whether they will grant  
19 that request or not.

20 CHAIRMAN HOOD: Okay.  
21 Commissioners, let's open it up. Vice  
22 Chair?

23 VICE CHAIR COHEN: Well, Mr.  
24 Chairman, I just want to state for the

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1 record, I did not participate in this  
2 particular case. So I have no interest in  
3 either opening it or keeping it closed. So  
4 I just want to state that.

5 CHAIRMAN HOOD: Mr. Ritting, at  
6 what point can she participate? She can  
7 participate in this, right?

8 COMMISSIONER MILLER: I also did  
9 not participate in the original case.

10 MR. RITTING: As I understand the  
11 question, Commissioner Cohen didn't  
12 participate in the case. And the question  
13 is whether they can participate in this  
14 procedural vote in this case. And to be  
15 honest, I don't know the answer off the top  
16 of my head. And so, I'm reluctant to give  
17 one on the record right now.

18 I understand that you have three  
19 Commissioners who are participating and  
20 perhaps it would be prudent to just see if  
21 you have the votes with those three.

22 CHAIRMAN HOOD: Okay.

23 For the three of us that are  
24 participating -- Mr. Turnbull?

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1                   COMMISSIONER TURNBULL: Well, I'm  
2 not sure what the issues on remand are. We  
3 haven't seen anything yet.

4                   But I would have no objection to  
5 leaving it open.

6                   CHAIRMAN HOOD: Grant Applicant's  
7 request?

8                   COMMISSIONER TURNBULL: Yes.

9                   CHAIRMAN HOOD: Okay. Would  
10 somebody like to make a motion?

11                   COMMISSIONER TURNBULL: I would  
12 move that the Commission grant the  
13 Applicant's request to reopen the record for  
14 this, Zoning Commission Case --

15                   CHAIRMAN HOOD: 11- --

16                   COMMISSIONER TURNBULL: -- for  
17 Zoning Commission Case 11-07, that the  
18 Commission grant the Applicant's request to  
19 reopen the record for the purpose of the  
20 party submitting proposed orders responding  
21 to the remand instructions of the Court of  
22 Appeals. All proposed orders must be served  
23 on the other parties and filed at the Office  
24 of Zoning no later than March 28, 2014. No

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1 replies to the proposed orders will be  
2 accepted

3 CHAIRMAN HOOD: That sounds very  
4 to the point to me. I would agree.

5 COMMISSIONER MAY: Second.

6 CHAIRMAN HOOD: It's moved and  
7 properly seconded.

8 Any further discussion?

9 (No audible response.)

10 CHAIRMAN HOOD: All those in  
11 favor?

12 (A CHORUS OF AYES.)

13 CHAIRMAN HOOD: Not hearing any  
14 opposition, Ms. Schellin, would you record  
15 the vote?

16 MS. SCHELLIN: Yes. Staff would  
17 record the vote three to zero to two to  
18 grant the request from the Applicant that  
19 the parties be allowed to provide comments  
20 or actually to provide proposed orders  
21 responding to the remand instructions from  
22 the Court and that they be filed by March  
23 28, and no replies be accepted. The motion  
24 was made by Commissioner Turnbull; seconded

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1 by Commissioner May; and in favor by  
2 Commissioner Hood. So it's three to zero to  
3 two. Commissioners Cohen and Miller not  
4 voting having not participated.

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

7 Do we have anything else?

8 MS. SCHELLIN: No. It's just  
9 that staff will send an email to all the  
10 parties advising of that action since none  
11 are in attendance this evening.

12 CHAIRMAN HOOD: Okay.

13 Ms. Steingasser, did you have  
14 anything you wanted to add?

15 MS. STEINGASSER: Yes, sir. We  
16 just had a status report that tomorrow the  
17 Office of Planning will be wishing you a  
18 happy birthday.

19 CHAIRMAN HOOD: Oh, that's so  
20 nice. Thank you very much. I appreciate  
21 that.

22 Okay. I appreciate that. And  
23 Office of Planning and Office of Zoning, we  
24 appreciate everything.

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1                   So with that, this meeting is  
2           adjourned.

3                   (Whereupon, at 7:20 p.m., the  
4           hearing was adjourned.)

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