GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

ZONING COMMISSION

REGULAR MEETING

MONDAY

JUNE 30, 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
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 & Historic Preservation
    STEPHEN GYOR
    JOEL LAWSON
    STEPHEN MORDFIN
    MAXINE BROWN-ROBERTS
    BRANDICE ELLIOTT

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

    JACOB RITTING, ESQ.

The transcript constitutes the minutes from the Regular meeting held on June 30, 2014.
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CHAIRMAN HOOD: Okay, this meeting will please come to order. Good evening, ladies and gentlemen. This is a public meeting of the Zoning Commission of the District of Columbia. My name is Anthony Hood, and I'm going to ask the dias to introduce themselves this evening, starting to my left.

MR. RITTING: My name is Jacob Ritting. I'm an assistant attorney general.

MS. SCHELLIN: Sharon Schellin, secretary to the Zoning Commission with the Office of Zoning.

COMMISSIONER MILLER: Robert Miller, mayoral appointee.

VICE CHAIR COHEN: Marcie Cohen, vice chair, mayoral appointee.

COMMISSIONER MAY: Peter May, representing National Park Service.

MS. STEINGASSER: Jennifer Steingasser with the Office of Planning.
MR. LAWSON: Joel Lawson with the Office of Planning.

MS. BROWN-ROBERTS: Maxine Brown-Roberts, the Office of Planning.

CHAIRMAN HOOD: Okay, thank you everyone. It's nice to mix up things a little bit sometime. The contents of today's meeting agenda are available to you and are located in the bin near the door.

We do not take any public testimony at our meetings unless the Commission requests someone to come forward. Please be advised that this proceeding is being recorded by a court reporter and 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.

Does the staff have any preliminary matters?

MS. SCHELLIN: No, sir.
CHAIRMAN HOOD: Okay. If not, again I'm going to ask, as I've done lately in a few hearings, we have people who watch us on a videostream and one of the problems has been how we adjust in moving back and forth from the microphone.

I'm going to ask again, if anyone sees that we're getting away from this microphone, you just raise your hand and help us out. We greatly appreciate it.

Okay, I have two announcements. The July the 14th public meeting has been moved to Thursday, July the 17th at 5:00 p.m., again our scheduled regular meeting for July. Our first meeting for July the 14th public meeting has been moved to Thursday, July the 17th at 5:00 p.m.

And any discussion that was going to occur tonight on the ZRR this evening will now be held at a special public meeting on Thursday, July the 10th at 6:30 p.m. to allow commissioners more time to review what Office
of Planning submitted on June the 16th.

So anyone who's here tonight for the ZRR, we'll be taking that up at a special public meeting on July the 10th at 6:30 to allow us more time, and also our regularly scheduled meeting for July the 14th will be July the 17th.

Ms. Schellin, do we have anything else?

MS. SCHELLIN: An announcement for a closed meeting July 10th at 6 o'clock p.m.

CHAIRMAN HOOD: Okay. As chairperson of the Zoning Commission of the District of Columbia, in accordance with 405 and 406 of the District of Columbia Administrative Procedures Act, I move that the Zoning Commission hold a closed meeting on July the 10th, 2014 for the purpose of seeking legal advice for our council for Zoning Commission Case Number 08-06A, Office of Planning zoning regulations review per D.C. Official Code 2-575(b)(4). Is there a second?

VICE CHAIR COHEN: Second.
CHAIRMAN HOOD: Will the secretary please take a roll call vote of the motion before us now that it has been seconded?

MS. SCHELLIN: Chairman Hood?

CHAIRMAN HOOD: Yes.

MS. SCHELLIN: Vice Chair Cohen?

VICE CHAIR COHEN: Yes.

MS. SCHELLIN: Commissioner Miller?

COMMISSIONER MILLER: Yes.

MS. SCHELLIN: Commissioner May?

COMMISSIONER MAY: Yes.

MS. SCHELLIN: Commissioner Turnbull not present. Vote carries.

CHAIRMAN HOOD: Okay, thank you.

Any other preliminary matters?

MS. SCHELLIN: No, sir.

CHAIRMAN HOOD: Okay, let's go right into the agenda. Consent calendar items. Zoning Commission Case Number 06-10C, and let me just call out the next one, Zoning Commission Case Number 08-14C.
Let me ask this first before I go to Ms. Schellin. Does anyone have an issue with either one of these cases being on the consent calendar item?

Okay, not hearing any, Ms. Schellin? We can just do them one at a time. I just called them.

MS. SCHELLIN: Yes, sir. The first one, if you'll recall this case on the June 9th agenda but the Commission deferred action to allow the, well, for a submission from the ANC. ANC 5A did make a submission which you have before you, or you actually received this evening at Exhibit 9, and I'll ask that the Commission consider action this evening.

CHAIRMAN HOOD: Okay, colleagues, as Ms. Schellin has already stated we have an ANC letter, Exhibit 9, supporting the applicant's request in the reduction of spaces. Let's open up, any comments? Not hearing any comments, someone like to make a motion?

VICE CHAIR COHEN: Mr. Chairman, I
move that we approve ZC Case Number 06-10C, Morris & Gwendolyn Cafritz Foundation and Art Place at Ft. Totten, request for minor modification to PUD at Square 3765. Can I have a second?

COMMISSIONER MILLER: Second.

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

(Chorus of ayes)

CHAIRMAN HOOD: Not hearing any opposition, Ms. Schellin, record the vote.

MS. SCHELLIN: Staff records the vote 4 to 0 to 1 to approve final action in Zoning Commission Case Number 06-10C. Commissioner Cohen moving, Commissioner Miller seconding, Commissioners Hood and May in support. Commissioner Turnbull not present, not voting.

CHAIRMAN HOOD: Okay, Ms. Schellin, can we do Kelsey Gardens?

MS. SCHELLIN: Yes, sir. The
applicant is requesting two modifications that they are asking the Commission to consider as minor. Exhibit 6 is an OP report that is in support of this case being considered as minor. We ask the Commission to consider action this evening.

CHAIRMAN HOOD: Okay, colleagues. Any question or comments on 08-14C?

COMMISSIONER MILLER: Yes. Thank you, Mr. Chairman. The modification is a substitution of an amenity that was previously proffered to be $22,500 to the Shaw Middle School.

However, since the Shaw Middle School is closed, they offered a substitute amenity of three programs at the Kennedy Playground, or the Kennedy Recreation Center. And we have a letter from the Friends of Kennedy Playground identifying those three programs as an acting and modeling program, $9,000, December holiday party and gift distribution,
$3,000, and program banquet and awards ceremony, $2,500.

The problem is that that doesn't add up. That adds up to, I think, $14,500 if my math is correct, and it's supposed to be a substitute for $22,500. So I think we need something more from the applicant that totals up to the $22,500 that is being substituted for, and perhaps a letter from the ANC as well that supports this.

So I'm thinking that maybe we should defer it until we get that unless they're able to provide that right now that they're here.

CHAIRMAN HOOD: I would agree, Commissioner Miller. When I did the math it didn't add up of the three things that they were proffering. The money just didn't add up. But let me hear what others have to say.

Vice Chair Cohen?

VICE CHAIR COHEN: Thank you, Mr. Chairman. I concur with both you and Commissioner Miller. I do believe we need the
ANC to approve this transfer. It was requested by the, I think, the single member commissioner and who happens to also be the recipient. So I just think we need to have a confirmation that the ANC supports this transfer.

CHAIRMAN HOOD: Any other comments?

COMMISSIONER MAY: Yes, I would like to say I'm not particularly enamored of the planned spending even if they were to come up with $22,500 worth of spending. There are a couple items on here that I think are really quite ephemeral and not the sort of spending that we like to see associated with PUDs. I mean a holiday gift party and gift distribution and then an awards ceremony and banquet? I just don't see that those are the sorts of things that we can support.

The other, you know, I mean the acting and modeling program, at least it's an ongoing program and it has an educational benefit. I mean that's not to say these other
things aren't worthwhile, it's just I'd like to
think that we support things that have a little
bit more impact than what's shown here in these
couple of things.

So I would like to see a fairly
significant overhaul of what's being proposed
here, because I wouldn't support it if this is
all the money was going to.

CHAIRMAN HOOD: Okay. So
Commissioner May, you're also asking them to
revisit the holiday party as well as the program
banquet, but you are fine with the acting and
modeling program?

COMMISSIONER MAY: Yes. And I
wouldn't say that necessarily it makes sense to
spend all the money on the acting and modeling
program either. You know, I think some other
programs probably make more sense.

CHAIRMAN HOOD: Okay.

COMMISSIONER MAY: I don't know
what they are, but they have to come up with a
proffer.
CHAIRMAN HOOD: I think from what we heard, colleagues, that we could defer this until another meeting. Ask the applicant, who I see Ms. Giadono (phonetic) here who is coming forward, to just take another look at it and try to nail some of those things down, especially amounts, and maybe revisit two of the activities that are being proposed.

Any other comments, Commissioners?

Commissioner Miller?

COMMISSIONER MILLER: Well, I would just say that I can appreciate the concern about the ephemeral -- is that the word you used? -- nature of those, but I think if the entire ANC endorses it I think it may have more weight, so if they aren't able to come up with other programs. So I just wanted to add that comment.

CHAIRMAN HOOD: Yes. And again my comments were just for them just to look at it. I didn't say make any major changes. I'm just taking in context of every commissioner that
I've heard up here who've expressed some concern about this.

Okay. So anything else? Ms. Giadono, I think if you have any questions you can ask Ms. Schellin. We're not turning you down so I don't think we need to hear from you. I think we're straight.

Okay, anything else? And we'll deal with this at another meeting.

All right, let's go to Final Action, Zoning Commission Case Number 13-17, Brownstein Commons, LP, Consolidated PUD and Related Map Amendment at Square 5933 and 5934.

Ms. Schellin?

MS. SCHELLIN: Yes, sir. At Exhibits 33 through 36 we have the applicant's post hearing submission. We ask the Commission to consider final action.

CHAIRMAN HOOD: Okay, let me open it up for any comments. Vice Chair Cohen?

VICE CHAIR COHEN: Thank you, Mr. Chairman. I just wanted to bring to
everybody's attention that we're really providing a five-year time frame for construction to begin, and that's two years more than, two or three years more than is often asked for. So I just want to acknowledge that they have reduced it, but from six years to five years.

CHAIRMAN HOOD: Okay, do you have any objection?

COMMISSIONER MAY: Well, it's actually five years to final, the final building permit. So the construction will be a couple of years after that.

VICE CHAIR COHEN: That's true. I'm sorry. Thank you for that correction.

COMMISSIONER MAY: Or a year after that.

VICE CHAIR COHEN: Yes, I think that's a very long period of time. I don't think I have a strong objection. I think it's an important project. But I just wanted to alert all of us that it's longer than we
normally allow.

COMMISSIONER MAY: I would agree. It is longer than we would normally allow and I'm not super enthusiastic about it. But if the tradeoff is that if we gave them less time they'd probably come back for an extension at some point. So I mean in this case I'll go along, not happily, with what they've offered.

CHAIRMAN HOOD: We can reduce the time and we'll sit back here and just add more time at a later date or just go ahead and deal with it today?

VICE CHAIR COHEN: No, I think we should deal with it today.

CHAIRMAN HOOD: All right.

VICE CHAIR COHEN: But I think we just wanted to express, to be on record that we're not happy with the length of the time that's been asked for.

CHAIRMAN HOOD: Okay, any other comments on the submissions?

COMMISSIONER MAY: Yes.
CHAIRMAN HOOD: Commissioner May?

COMMISSIONER MAY: So I did find that these submissions that were made, to address some of the comments that I had about the architecture, were not very strong. I mean at the very least, good images. I mean, you know, blurry images and, you know, just makes it hard to understand this.

So I think it was subpar and I don't want to let that pass. I think that their treatment of some of the things, like how the vents go through the walls, I mean basically it's going to blend in because it's the same color. I don't think that's particularly satisfying either, but it's not enough to reject the project.

So I'm just voicing a concern for anybody who would pay attention to it that designing the facade is more than just simply trying to make sure that everything is the same color.

I also think that the, again I'm not
going to make a big issue of it, but I agree with Commissioner Turnbull's concerns about the brackets. I don't think they're so great, but again I'll live with it.

CHAIRMAN HOOD: Okay, any other comments? Would somebody like to make a motion?

COMMISSIONER MILLER: Mr. Chairman, acknowledging the concerns of my fellow commissioners but I will move that we approve final action on Zoning Commission Case Number 13-17, Brownstein Commons, LP, Consolidated PUD and Related Map Amendment at Squares 5933 and 5934, and ask for a second.

CHAIRMAN HOOD: Second. It's been moved and properly seconded. Any further discussion? All those in favor?

(Chorus of ayes)

CHAIRMAN HOOD: Not hearing any opposition of those present, Ms. Schellin, will you record the vote.

MS. SCHELLIN: Staff records the
vote 4 to 0 to 1 to approve final action on
Zoning Commission Case Number 13-17.
Commissioner Miller moving, Commissioner Hood
seconding, Commissioners Cohen and May in
support. Commissioner Turnbull not present
and not voting.

CHAIRMAN HOOD: Okay. I should
have announced this at the beginning, looking
at the agenda. When we get to hearing action,
it's already written down as D, Office of
Planning's text amendment will be our A. And
then we will go in the correct order that's
already listed.

So again for those who are here,
it's Zoning Commission Case Number 14-10,
Office of Planning Text Amendment, Chapters 7
& 8 will be A. And then we will take the rest
in sequence as listed.

Okay, let's go to our next case.
Thank you, Ms. Schellin. Our Zoning
Commission Case Number 08-34E, Center Place
Holdings, PUD Modification at Square 564. Ms.
Schellin?

MS. SCHELLIN: Yes, Exhibits 30 through 31 are the applicant's post hearing submissions, and Exhibit 32 is an NCPC report which they reported no issues with this case.

CHAIRMAN HOOD: Okay, we've heard a report from Ms. Schellin. Commissioners, any comments in the submissions?

Vice Chair Cohen?

VICE CHAIR COHEN: Thank you, Mr. Chairman. Again I just wanted to note to the Office of Attorney General that on Page 9, Paragraph 53, we should date the north plaque modification plans and have them actually inscribed in the zoning order.

MR. RITTING: Okay, I'll do that in the final order that's released to the Office of Zoning.

CHAIRMAN HOOD: Ms. Schellin, do we have a proxy for Mr. Turnbull on this?

MS. SCHELLIN: We do not.

CHAIRMAN HOOD: Okay, I'm not sure
who brought up the exhibit, colleagues, Exhibit 30-30B, they are some renderings of drawings. I'm not sure who brought them up, but anyway they have them before us. Any comments or questions? Okay, somebody like to make a motion?

VICE CHAIR COHEN: Mr. Chairman, I will move to approve Zoning Case Number 08-34E Center Place Holdings, LLC and Property Group Partners' PUD Modification.

CHAIRMAN HOOD: It's moved, can I get a second?

COMMISSIONER MILLER: Second.

CHAIRMAN HOOD: Moved and properly seconded. Any further discussion? Again it's noted, NCPC had no issues. Any further discussion? All those in favor?

(Chorus of ayes)

CHAIRMAN HOOD: Not hearing any opposition of those present, Ms. Schellin will you please --

MS. SCHELLIN: Yes. Staff records
the vote 4 to 0 to 1 to approve final action,
Zoning Commission Case Number 08-34E.
Commissioner Cohen moving, Commissioner Miller
seconding, Commissioners Hood and May in
support. Commissioner Turnbull not present
not voting.

CHAIRMAN HOOD: Okay, next.
Zoning Commission Case Number 13-13, Oxbridge
Development at Ninth Street, LLC. Map Amendment
at Square 3831.

Ms. Schellin?

MS. SCHELLIN: Yes, sir. On this
one we have Exhibit 35 is the applicant's post
hearing submission, and ask the Commission to
consider final action.

CHAIRMAN HOOD: Colleagues, we
have the proposal in front of us. Any comments
or questions? I think it's pretty
straightforward. I would move approval of
Zoning Order Number 13-13 and ask for a second.

COMMISSIONER MILLER: Second.

CHAIRMAN HOOD: It's been moved and
properly seconded. Any further discussion?
Are you ready for the question? All those in favor?

(Chorus of ayes)

CHAIRMAN HOOD: Not hearing any opposition, not hearing any, Ms. Schellin, record the vote.

MS. SCHELLIN: Staff records the vote 4 to 0 to 1 to approve final action Zoning Commission Case Number 13-13. Commissioner Hood moving, Commissioner Miller second, Commissioners Cohen and May in support. Commissioner Turnbull not present not voting.

CHAIRMAN HOOD: Okay, next. Zoning Commission Case Number 13-18, WBJ Wheeler Road, LLC, Consolidated PUD and Related Map Amendment at Square 5925.

Ms. Schellin?

MS. SCHELLIN: Yes, we have Exhibit 34, an OP supplemental information report, Exhibits 31 and 32 through 36, the applicant's post hearing submissions, and we'd ask the
Commission to consider final action.

CHAIRMAN HOOD: Okay, colleagues, maybe you all could help me but I had asked for some views. And I don't know if the applicant misunderstood what I asked for, but I didn't see them. But I have missed some things before, and I didn't see them in this file.

Maybe, and if these are the renderings that they gave me, this does meet what I was asking for to see of the views of that area. I don't think I've got it, but I will stand to be corrected. And I've looked through this a few times. Anyway let me open it up. That's one of my issues, but let me open it up for any comments.

COMMISSIONER MAY: I do think that there was some information that was submitted in Exhibit A, but it was a confusing submission. We got some information that I'm not sure we really asked for. Maybe it was stuff that was presented at the hearing that we didn't actually receive that night.
But yes, I did not find that information to be really that satisfactory. I also think that there are a number of other things that we had asked to be addressed or considered, and I understand why some of the things that might have been requested to be considered were not done.

But I don't feel that they were really very carefully addressed. I mean it was rather disappointing, frankly, across the board. There are a few things that were done and were clear. They did, you know, change the calculation to just treat the seventh floor as a penthouse.

But the simple stuff, like we had suggested that they move the rail away from the edge of the roof by four feet or so, or, you know, 42 inches or whatever, and that was not done.

They provided a dimension showing that the track that was running around was 42 inches from the rail, but I mean we were
suggesting that the rail be moved just as a safety precaution since they're promoting activity on the roof.

There are other things that I asked them to look into having to do with the design. I mean there were some things, like some of the trim detailing which they produced, really, inadequate drawings and didn't really explain why it should be the way it should be.

And we had suggested, or I had suggested that they look at having a rear corridor so that they could connect the retail spaces to the loading dock, and instead what they did was create a second trash room at the other end of the alley. So now we're going to have trash picking up in two locations and that's really not the right kind of solution.

I mean I guess I can understand why they would study these things and could explain why they don't work for this particular development. It consumes too much space or there are other practical reasons why it
wouldn't work, but that's not what we got.

What we got was, you know, suggested that they do one thing and instead they did something else and there's virtually no explanation of why that makes more sense. I mean there's some information, but I just didn't find it very satisfactory.

So I think they would actually, we would benefit by them doing a little bit more thorough job on addressing all of the concerns that we had raised. And the things that we raised that I didn't think were addressed, and I thought we had made it clear at the end of the hearing, I mean I had suggested that they look at a darker color for the penthouse. I mean they can consider that and reject it, but at least they ought to say something about it.

The rear road elevation, I think there was some issues that were raised there that they ought to address and they made no attempt to address that either.

And again it doesn't mean that they
necessarily have to change it, they just need to explain why they think that what they've done is right. And I don't see that.

And then I think we also asked for facade samples that were in the correct color, which we didn't see, and I don't know if anything like that was submitted. So I think as submissions go to try to address the concerns of the Commission, I found it lacking significantly.

CHAIRMAN HOOD: Okay, any other comments? Vice Chair Cohen?

VICE CHAIR COHEN: Thank you, Mr. Chairman. I just wanted, this would not necessarily influence my vote. I did ask the applicant to look at substituting any PVC material, and they did respond by saying cost prohibitive nature of the alternative materials, cost of installation, cost of maintenance.

And I just want to state for the record, and I want everybody to be aware that until recently much of the nation's affordable
housing was substandard due to the lowest cost
decision making in the traditional design and
construction.

And I think that we need to look at
future liability. I think we really need to be
very careful with the material decisions we're
making. I understand that there are some
issues about cost, but they're often recaptured
within the life of the project.

So that's just something I wanted to
bring up. But as I said, it wouldn't prohibit
me from voting for this. Affordable housing is
a tremendous need in the city. Excuse
me, I'm sorry.

CHAIRMAN HOOD: No, go ahead.

VICE CHAIR COHEN: At the levels
that are being proposed.

CHAIRMAN HOOD: Okay. Any other
comments? Commissioner Miller?

COMMISSIONER MILLER: Yes, I would
just echo Commissioner May's comment about the
railing. And I'm surprised, because I thought
at the hearing the applicant reacted positively to that suggestion to move it back a little bit. So maybe if they're, I don't know if they're here or the representative's here, if they're able to say whether they're willing to do that and they may have intended to do that. Is that addressed in the written statement of responding to changes? I didn't see it. So if they're able to say tonight that they're, I think that is a safety issue. The others are design issues which I think you all, some of you expressed concern about but you said you might be able to live with it. But on the safety issue, I think we need some response at least.

CHAIRMAN HOOD: Well, here's my issue. Before we get a response I think we have a number of issues that we've asked for. Before we hear from them I would like for us to just get it in writing for the record. We can come up and say anything tonight, but we have some -- here's the thing.
This application actually started off lacking, no disrespect to anyone, and it seems like some of the things we asked for are still lacking.

So I think we need to clarify and get clear evidence of things that we've asked for, especially when I asked for the views what was provided as far I'm concerned just doesn't get it for me. And I guess maybe I've gotten used to some type of, I've gotten used to a way that we get those views, and those live views with that rendering sitting down there and in what exists today.

Not just something cementitious or whatever you want to call it, artificial of how it works. We want a live view. That's what we're used to and that's what we need to get. So I think hearing from the applicant about the rail doesn't solve the whole problem. We need to get it all in concrete at a later date.

COMMISSIONER MAY: Mr. Chairman, can I just add something else?

CHAIRMAN HOOD: Sure.
COMMISSIONER MAY: One of the things I forgot to mention was that I think that in the way the applicant regarded or treated the penthouse structure it was really not like a penthouse. It was really like an extra floor of the building.

And I think we had a concern, at least I had a concern that we were going up to seven stories on this building and is that really appropriate given what the comp plan says.

We asked the Office of Planning to address that and they addressed a lot of the comp plan issues, but I don't believe that what the report gave us with regard to, I mean the report seems to just assume that the penthouse would be regarded as a penthouse and not as an extra floor.

So I was very confused by what we received from the Office of Planning. And if we're going to give the applicant some time to improve their response, I think actually it
would be helpful if the Office of Planning would look at that more carefully unless the Office of Planning is prepared to answer that better right now.

I mean my concern is just that having a seven-story building there may not exactly line up, but the comp plan designation, I think that we don't want to create a precedent for having seven-story buildings for whatever the comp plan designation was. I forget what it was, but -- so you'll do it in writing? Okay, thank you.

CHAIRMAN HOOD: So everything we'll get, we're looking for submissions in writing. May I ask sound bite submissions? Let's get right to the point of what we asked for. I think that will help us out with everything else we have going.

Any other comments? Ms. Schellin, do we have some dates? Can we come up with a date?

MS. SCHELLIN: Do you want to shoot
for the July 28th meeting?

CHAIRMAN HOOD: Will that work for the applicant?

MS. SCHELLIN: She's saying yes.

CHAIRMAN HOOD: Okay.

MS. SCHELLIN: So would allow one week for the ANC to respond, and Office of Planning.

Chairman Hood? We allow a one-week response from ANC and OP?

CHAIRMAN HOOD: Does that work for everybody?

MS. SCHELLIN: So with that in mind, if we could have the solutions by July 14th, 3 o'clock p.m. And if the ANC and OP chooses to respond to the submissions that are made, we need those responses by 3:00 p.m. July 21st, and we'll put it on the July 28th agenda.

CHAIRMAN HOOD: So the only party we had in this case was the ANC, correct?

MS. SCHELLIN: Yes.

CHAIRMAN HOOD: All right. So are
we all on the same page? Okay. Thank you. If you have any questions you can see Ms. Schellin.

Let me just add, let me ask everybody, is this doable? Is it doable? Okay. Any other questions you can ask Ms. Schellin, to my left. To my left.

Okay, Ms. Schellin, when you're ready you can call the next case. Hearing action, I'm sorry. Some people get me distracted.

Okay, let's go to Hearing Action, again I've asked to move D up first. Zoning Commission Case Number 14-10, Office of Planning Text Amendment to Chapters 7 and 8.

Mr. Mordfin?

MR. MORDFIN: Good evening, Chair, members of the Commission. The proposed text amendments are intended to address concerns of the Commission regarding the implementation of their criteria regarding animal uses, specifically issues related to adjacency to residential uses and residential zones.
Zone district lines extend to the center lines of streets and alleys as defined by the zoning regulations, therefore streets and alleys cannot provide a separation between commercial and residential zones.

OP worked with OAG using language that mimics language in the zoning regulations used to separate an industrial use and intermediate recycling facility from residential uses and that it requires separation of the use from residential uses in residential zones and not the zone districts from each other.

However, to be consistent with commercial uses required to be separated from residential properties OP chose a separation of 25 feet, the same as that required for gas stations, bowling alleys and fast food restaurants.

For residential uses located within the same building as an animal use, as in the case of mixed use buildings, OP recommends that
applicants would have to document to the Board of Zoning Adjustment that the proposed use would not cause noise or odors unduly objectionable to residential uses within the building or in similar to special exception criteria used elsewhere in the regulations.

At the suggestion of OAG, OP also recommends clarification of the criteria to avoid wording that would, 1) Separate noise from specific criteria addressing odor; 2) Replace the term "soundproof" with "no noise objectionable" for consistency with other special exception uses; 3) Clarify that only the doors and windows of an animal use are required to be kept closed and not all of the windows within a mixed use building; and 4) Eliminate Section 735.7 which dealt with animal uses that predated the regulations and is no longer relevant.

The Office of Planning recommends that the Commission set down to propose text amendments and is available for questions.
Thank you.

CHAIRMAN HOOD: Okay, thank you.

Any questions? Vice Chair Cohen?

VICE CHAIR COHEN: Thank you, Mr. Chairman. I think that we're very stringent when it comes to, and I guess for the record I should disclose I do own a dog. And I think it's really important for us to recognize that there are dog boarding places and areas that have state of the art noise attenuation.

And I think it would be appropriate that if we do see more of these that we actually get a letter from a professional that declares that the noise attenuation is the state of the art.

And as far as the waste, I think that again there's state of the art waste processors. One of the concerns that I have is that I don't know if you've ever gone to the seven veterinarian hospitals in the District, because I would suggest to you that most of their clients, well, they're dogs and cats.
And I think you're prohibiting dogs to be boarded in a veterinarian hospital, if I read that correctly. Is that true?

MR. MORDFIN: That was not the intent to prohibit dogs to be boarded. For medical reasons, is that what --

VICE CHAIR COHEN: Yes. 738.2, you may board any animal except domesticated dogs. Look at your 738.2. I may be reading it wrong.

MR. MORDFIN: Well, 738.2 is existing language that says a veterinarian hospital may board any animal permitted to be lawfully sold in the District of Columbia except domesticated dogs. So I'm looking to what exactly that means. It is existing. We're not proposing to change that.

VICE CHAIR COHEN: Well, that's what I'm asking you to look into. Because I think that many of the clients at veterinary hospitals are dogs and they are boarded overnight.
MS. STEINGASSER: We can clarify that language, Commissioner Cohen, to that at least for convalescent purposes. An animal being treated for medical reasons can stay overnight as long as it's medically necessary.

VICE CHAIR COHEN: And then just because you are using the same arguments for gasoline service stations and bowling alleys, there's a gasoline service station beneath a housing development. It's not 25 feet away in West End.

And then as far as bowling alleys, in Dupont that bowling alley's underground but it is within 25 feet of residential. So I really feel that we need to be much more consistent in our interpretations as well as in the fact that there is so much that has progressed in the care and feeding of animals.

The District happens to be one of the lowest cities where dog and cat ownership it's actually under 50 percent. In most communities -- cities, cities in the United
State are above 67 percent. So I just think you need to do a little bit more groundwork.

CHAIRMAN HOOD: Any other comments?

I want to thank the Office of Planning for actually dealing with the situation at hand in which I had an opportunity, and I'm sure that my other colleagues have, in dealing with the clarifying of language. So I appreciate Office of Planning doing with the task at hand of why we got to where we are here. So I appreciate that.

Any other comments? Commissioner Miller?

COMMISSIONER MILLER: Thank you, Mr. Chairman. On Vice Chair Cohen's comment about the boarding of dogs and veterinary hospitals, I think I'm recalling correctly, but I think there's some language in the ZRR that actually dealt with that. You might just want to take a look at using that language. I think this came up when we looked at that section in
the ZRR, and I think we took care of it.

VICE CHAIR COHEN: I was just reading what was put in front of me. On July 10th I'll be smarter.

CHAIRMAN HOOD: Okay, anything else? Anything different? Okay. I would move that we set down Zoning Commission Case Number 14-10 and ask for a second.

VICE CHAIR COHEN: Second.

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

(Chorus of ayes)

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

MS. SCHELLIN: Staff records the vote 4 to 0 to 1 to set down Zoning Commission Case Number 14-10 as a rulemaking case. Commissioner Hood moving, Commissioner Cohen seconding, Commissioners Miller and May in support. Commissioner Turnbull not present
and not voting.

CHAIRMAN HOOD: Okay. Next hearing action, Zoning Commission Case Number 05-22A. This is the View 14 Investments, LLC, Modification to PUD at Square 2868.

Mr. Gyor, thank you.

MR. GYOR: The applicant proposes to modify the Commission's order to allow a dog daycare/pet grooming and overnight boarding facility in a previously approved PUD, U14, located at 2303 14th Street NW, and in the C-2-B zone.

The proposal would not be inconsistent with the general intent of the approved PUD. The facility would occupy space identified in the PUD for retail and service uses, or with the comprehensive plan.

The proposal would not detrimentally alter the approved external appearance of the building or alter the approved benefits or amenities for the site, but would help to fulfill occupation of ground
floor commercial space with a use that is
generally desired by many District residents.

The applicant's proposal for the
dog daycare/pet grooming and overnight
boarding facility was recently denied by the
Board of Zoning Adjustment as not meeting the
requirements for these types of uses which are
permitted only by special exception within a
C-2-B zone.

The BZA denied the applicant's
special exception request in part due to issues
of adjacency with residential zones and uses.

OP is not opposed to this requested
modification of Zoning Commission Order 05-22
being set down for public hearing. However,
while OP supported the original BZA request, we
are concerned with this application to request
approval from the Zoning Commission of a
special exception use already denied by the
BZA.

I would be happy to take any
questions. Thank you.
CHAIRMAN HOOD: All right. Thank you, Mr. Gyor. Commissioners, you've heard the report of Office of Planning. Are there any comments? Commissioner May?

COMMISSIONER MAY: Yes, I think that the way to address this issue is the path that we've already stepped down with the set down of the modification language regarding such facilities, and I'm not inclined to set this down.

To me it's an attempt to relitigate what was decided by the BZA and I don't think that's a smart way to handle it in any form. I mean at this point I would be happy if we were to deny the set down or to defer it.

But I just don't see any reason to see this. I think we should let the case that we just set down take its course, and then this can be, you know, dealt with after that once the regulations have changed.

CHAIRMAN HOOD: Okay. Vice Chair Cohen?
VICE CHAIR COHEN: I really support Commissioner May's analysis of this. I'm not comfortable with second guessing the ZRR decision at this point -- I'm sorry. BZA. I'm still thinking about the dogs. And yes, I'm just not comfortable about revisiting that decision and I think that we should either defer or deny.

CHAIRMAN HOOD: Okay. Commissioner Miller, do you want to add?

COMMISSIONER MILLER: I would concur with my colleagues. I think that the previous case changing the regulations does provide a path forward for this, for that applicant to go forward after that case is done.

CHAIRMAN HOOD: Right. I would also agree with what I've heard. We definitely don't want to relitigate anything that the BZA has already done. I withheld some of my comments because I actually sat on that case. But one of the questions I want to ask my colleagues, do we want to deny it or do
we want to put it in abeyance?

COMMISSIONER MILLER: I would prefer that we defer it and put it in abeyance, and there are a number of options that the applicant could seek after, if we move forward on the text amendment.

VICE CHAIR COHEN: I'm comfortable with that.

COMMISSIONER MAY: That's fine.

CHAIRMAN HOOD: So we will hold this in abeyance and we will deal with the amendment that was before us previous to this case and we will hold this in abeyance.

I don't think we need to have a date certain. There are some other avenues that's already been mentioned that this applicant may want to pursue depending upon what happens with the case before this one. So we're not denying it. What we're doing is putting it in abeyance so we can deal with the amendments before us in the previous case. And there's some other avenues that the applicant may want
to take, and I don't want to get into all that.

    But anything else? Ms. Schellin, we don't need no dates, okay, and we don't need to hear from the applicants. We did not turn them down. So this case is still ongoing, we're just not going to set it down. We're going to hold off on it.

    Any questions? All right, let's move to the next case. Okay, Zoning Commission Case Number 14-07, 1250 4th Street, EDENS, LLC, Consolidated PUD and Related Map Amendment at Square 3587.

    Ms. Vitelli (phonetic)? Did I get that right?

    MS. ELLIOTT: I'm so sorry. You're not even in the same ballpark.

    CHAIRMAN HOOD: Don't tell me. Don't tell me. Give me the first initial. Just give me the first initial. Don't tell me.

    MS. ELLIOTT: B.

    CHAIRMAN HOOD: Forget it. Forget it. I've got too much going on. I apologize.
I know the first name is, anyway I don't know what the first name is.

MS. ELLIOTT: It's unique. We can blame it on my parents of Brandice Elliott.


MS. ELLIOTT: Sometimes. That's nice too.

CHAIRMAN HOOD: Okay. Ms. Elliott, you can call me Anthony.

MS. ELLIOTT: Thank you, Commissioner Anthony. OP recommends set down for a public hearing of the application for a PUD and PUD related map amendment that would facilitate redevelopment of a property located at 1250 4th Street NE, in the Florida Avenue Market area.

Property's currently zones C-M-1, and the applicant has requested a designation of C-3-C. This PUD would be the second located in the Florida Avenue Market study area. The
first was Gateway Market Center located at 340 Florida Avenue NE.

The subject site is one of several owned by the developer, but in general the study area is challenged with fragmented ownership as there are over 70 property owners within the Florida Avenue Market boundaries. OP has been working with the applicant and D.C. agencies to coordinate the development of this area and to ensure that the goals and objectives of the Florida Avenue market study area are implemented.

The proposed project would incorporate the facade of an existing warehouse into the ground floor of an 11-story mixed use building. The development has a proposed height of 110 feet and FAR of 8.

The ground floor would provide retail, while the remaining ten stories would provide up to 520 residential units. The development would comply with inclusionary zoning requirements providing just under
30,000 square feet of affordable housing.

Up to 550 parking spaces would be provided with this development where only 179 are required. However, the applicant has indicated that there are few locations within this study area where below grade parking can be constructed due to the disjointed property ownership as well as the size of those properties and existing historic structures.

As a result, the applicant intends to provide fewer larger pools of parking with certain projects. OP anticipates that a parking management plan would clarify this.

The applicant does request flexibility from several areas including the rooftop structures of varying heights, rear yard open and closed courts and loading, and the Florida Avenue Market study anticipates high density development in exchange for significant benefits and amenities.

And some of those benefits and amenities include affordable housing, urban
design, architecture and landscape, streetscape improvements that would incorporate low impact development design principles, storefronts with heights ranging between 14 to 22 feet, and a building designed to the LEED certified standard.

The comprehensive plan designation for the site is high density residential, high density commercial PDR. The proposal for the mixed use retail/residential development is not inconsistent with the comprehensive plan's objectives for the area and to the generalized land use and policy maps. The project furthers the goals and objectives of the Florida Avenue Market small area plan.

OP will continue to work with the applicant to provide information noted in the report, which includes refined and detailed elevations and roof plans, contracting goals for small local businesses, the aforementioned parking management plan, and additional information concerning public streetscape
improvements and an updated comprehensive benefits and amenities package.

The Office of Planning recommends that the Commission set down the application for a public hearing, and I would be happy to answer any questions you may have.

CHAIRMAN HOOD: Okay. Thank you, Ms. Elliott. Any questions? Vice Chair Cohen?

VICE CHAIR COHEN: Thank you. Ms. Elliott, I would like a greater explanation by the applicant, and you can work with them on this.

On Page 9 of their submission they talk about the average median income for a family in the census track. And then again on Page 18 they're talking about they'd like to provide current neighborhood residents seeking new housing opportunities the ability to live in the property. However, if you have, the median income translates to, or their income level translates to 44 percent, approximately,
median income, which would make everybody, or
the average person ineligible to live in that
project.

    So I would like more of an
explanation how they think they're going to
meet the needs of the neighborhood and any type
of change of moving into the project.

    The other things that I'm uncomfortable
with is the number of parking spaces. It
really concerns me when there's a greater
desire to house cars than to house people.

    And by going down four or five
levels, if they did fewer parking spaces they
could probably get deeper affordability in the
building. So I need to understand what their
thinking is regarding affordability versus,
you know, digging deep into the earth.

    In addition, they talk about a LEED
rating but they don't indicate how many points
or, you know, we need to see more information.
We want to get them to look at LEED Silver of
course, so I'd like more information there.
And they're talking about jobs, and what I would like them to do is see if there's any in construction and in retail, but maybe we can also expand this into business development. What efforts they will make towards that so that people don't just have jobs but they could also own a business. So those are my comments. Thank you.

CHAIRMAN HOOD: Thank you. Any other questions? Commissioner May?

COMMISSIONER MAY: Thank you. So the first thing I would say is that overall I think the design of the building has a lot of potential. I appreciate the fact that it's not, you know, just another great big glass box or some of the other standard formula kinds of approaches that we have for the design of buildings like this.

I would say that the applicant has gone to some effort to save the facade of the existing, nonhistoric warehouse and incorporating into this, which I think has some
substantial value, but then the rest of the
design of the retail just seems to bury it
completely and it looks like a fairly ordinary
retail experience after that.

    Now maybe I'm just not seeing it the
right way, but it just seems like it's, you
know, maybe it's just the new normal to have
everything all dressed up and showing lots of
steel beams and big signs and so on, but it just
seems like they could do more to bring out the
character of the existing facade and make it
feel more like the warehouse district that they
are trying, you know, based on their images in
their presentation that they seem to be
striving for.

    There's some interesting things
going on in the roof. There are penthouse
rooms that are not currently permitted under
zoning. Those loft spaces, I know we may be
taking that up shortly to try to figure out how
to permit such activities, and I know that
they're now legal under the Height Act, the
newly revised Height Act.

But they're not legal now so, and the zoning doesn't address it and I wouldn't want to just deal with it as a variance or some other method like that I'm not sure of. So that has to be wrestled out.

The recreation space is up there. It's labeled as accessory. We'll obviously need to have calculations of that because that can be permitted under the, no, actually it can't be permitted under the current regulations because we're at the Height Act limit at 110.

It's only permitted under the Height Act limit, right? Limit of 110 and the zoning reg's 110, so they can't use that as accessory recreation space without the changes to the zoning regs to follow on the most recent changes of the Height Act.

MS. STEINGASSER: That is correct. And that's something we're going to talk to the Commission about during our status report.
COMMISSIONER MAY: Okay. All right. So it may be that we can't fully decide this until we figure some of those things out. Yes.

So I did notice an interesting and different approach to the streetscape and I'm looking forward to see how that gets worked out with the Office of Planning. I don't have any strong feelings one way or another but it's an interesting approach.

The thing that strikes me about this project is that we're going from essentially a current 3.0 Matter of Right FAR to a 8.0 is what's allowed under the zone with a PUD, and I think that's what's proposed. It's hard for me to keep all these straight. Yes, they're proposing 8.0. That's a big, big jump.

And the benefits that go with this, I mean yes, it's an interesting building and nice streetscape and, you know, trying to preserve some of the warehouse character, those are good things. But they don't add up to that
kind of a jump.

And I think this needs to be beefed up substantially and I think that affordable housing is one way to do it. Because to proffer only eight percent, I mean that's the minimum that you have to do and it's just not enough.

And I agree that parking is a problem. I think this thing's overparked and I understand the desire to kind of plan for the future, but, you know, are we teeing it up for future relief that might be driven by this? I mean it's in close proximity to Metro and I think in an area where we'd like to have fewer cars rather than a whole lot more.

MS. STEINGASSER: Could I add?

COMMISSIONER MAY: Please.

MS. STEINGASSER: What's interesting about this PUD is it's the first of what will be a much larger context. The Florida Avenue Market itself is coming in. As Ms. Elliott suggested, there's almost 70 property owners.
But this one property owns four, if not five, substantial sites and they're beginning to bring them in and you'll see that they are all connected. And we've talked to the applicant about making sure that that connection is clear to the Commission so you can see how the parts work together.

So this PUD, while it looks like it has an enormous amount of parking, it's actually serving as kind of a central parking hub for the market itself.

This owner also owns the Union Market. They will be bringing that project forward within the next several weeks which will have very limited parking because they're looking to create a larger synergy throughout the Market. So there will be some place making, some streetscapes work.

They also own the site north of Penn, the triangular site. They own that one. That will also be coming in in the near future, and then they're also trying to connect down to
COMMISSIONER MAY: You mean Maurice Lighting?

MS. STEINGASSER: Yes.

COMMISSIONER MAY: Where am I going to buy light fixtures?

MS. STEINGASSER: Well --

COMMISSIONER MAY: I'm just kidding. All right.

MS. STEINGASSER: So while the PUD, it's the first of many and it kind of stands alone before you this evening, it does fit within a larger context that's going to be implementing the Florida Avenue Market. So it's --

COMMISSIONER MAY: Okay, well, I appreciate that. That's a good start toward an explanation for why the parking is necessary and I'm sure we'll get into it in more detail as these projects are submitted and we even actually get to a hearing for this. Thanks.

CHAIRMAN HOOD: Any other
questions or comments? Commissioner Miller?

COMMISSIONER MILLER: Thank you, Mr. Chairman. Well, I think this is a very exciting project. It's comments, really, that I have more than questions.

But the 400 to 500 units of housing is great, and this project will be a catalyst for development of this area in a very exciting and transformational way. I think the Union Market is fantastic as it is right, I mean as one of the first developments down there.

But this is, not that we're going to get into a debate now about this, but since Commissioner May, it is a big jump in density but this is designated on the comp plan for high density residential and high density commercial and PDR.

So your lighting fixtures, we do have to take care of those somewhere, but since I've called your name out you can take my time if you need to respond to something.

COMMISSIONER MAY: I mean I don't
disagree that the zone is appropriate and that it matches up with the comp plan. It's just that, you know, this is a lot that's accruing, a lot of benefit that's accruing to the developer of the property by that jump in FAR.

COMMISSIONER MILLER: Right, and I would agree with you and with Vice Chair Cohen on that that the benefits need to be, and the Office of Planning, that there need to be an updated comprehensive list of benefits and amenities that justify that increased density. I think the design is very exciting.

But so two of the benefits that I do think beefing up that I hope OP will work with the applicant on it is the affordable housing component. It's got to get below 80 percent AMI to serve, as Vice Chair said, residents of the surrounding area, and then many of the workers who are in the nearby neighborhoods and in the Union Market.

And also the Vice Chair's comments about getting up to LEED Silver, I think that's
what we have been insisting upon. So with all those caveats of things of additional work that we want to see, I'm prepared to move forward to set down at the appropriate time, Mr. Chairman.

CHAIRMAN HOOD: Thank you. Again I would echo, I think this is a very exciting project. It may need some tweaks here and there, some clarifications here and there, but I think this is very exciting.

Again this helps continue the jumpstart of that particular area there, Florida Avenue Market area. So I would move that we set down Zoning Commission Case Number 14-07 and ask for a second.

COMMISSIONER MILLER: Second.

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

(Chorus of ayes)

CHAIRMAN HOOD: Not hearing any opposition of those present, Ms. Schellin, would you record the vote.
MS. SCHELLIN: Yes, staff records the vote 4 to 0 to 1 to set down Zoning Commission Case Number 14-07 as a contested case. Commissioner Hood moving, Commissioner Miller seconding, Commissioners Cohen and May in support. Commissioner Turnbull not present not voting.

CHAIRMAN HOOD: Okay, next we will go to Zoning Commission Case Number 14-08. This is the Portner Place, LLC - Consolidated PUD and Related Map Amendments to Square 204.

MR. GYOR?

MR. GYOR: OP recommends set down for a public hearing of the application for a consolidated PUD and PUD related map amendment to facilitate redevelopment of the property located between U and V and 14th and 15th Streets NW.

The applicant proposes to replace Portner Place Apartments, HUD Section 8 garden style apartment complex with a mixed use building. The applicant purchased the subject
property in collaboration with the existing Portner Place Tenant Association.

The project would be divided into Wing A fronting on V Street in Zone R-5-D, and Wing B fronting on U Street in Zone CR. Wing A would include an eight-story building with 96 residential units all of which would be devoted to residents earning up to 60 percent of the area's median income of which not less than 15 percent would be devoted to households earning 50 percent or less of AMI.

The existing building's affordable units would be replaced on a two to one basis and would comprise about 20 percent of the project's gross floor area. The applicant's proposal to locate all the project's affordable units in Wing A is a result of both the project's financing as well as the preference of the Portner Place Tenants Association.

Wing B would include an 11-story building with 278 market rate units and retail on the ground level. The overall development
would also include approximately 137 parking spaces on two levels below grade.

Parking and loading for both buildings would be accessed from V Street. The application requests flexibility from the zoning regulations in regard to close courts, rooftop structures, compact parking spaces, loading and inclusionary zoning design standards.

OP will continue to work with the applicant on issues raised in our report including the phasing and relocation plan. The applicant had previously worked with OP including historic preservation as well as the community to address the high massing and design of the building prior to filing this application.

The proposal for the mixed use residential retail project is not inconsistent with the comprehensive plan's objectives for the area and to the generalized land use and policy maps. In general, the project would
better utilize available space in close proximity to transit.

The Office of Planning recommends that the Commission set down the application for a public hearing. I'd be happy to take any questions. Thank you.

CHAIRMAN HOOD: Okay, thank you, Mr. Györ. Any questions? Vice Chair Cohen?

VICE CHAIR COHEN: This is a project that I think is very deserving of being set down and moving forward, but I do have a number of questions. First, I didn't find a letter from the residents of Wing A, and they are a big part of what's driving at least the affordable units. So I'd like to see something from those residents that the developer's working with.

In addition, I'd like to have a resume and a discussion of transition housing services and their success in relocating people and bringing them back to the site, and what those services are going to provide them.
I think it's important to have lists of the amenities that are different. For example, the laundry room. There will be a laundry room in Wing A, and I guess individual laundry facilities in Wing B. But I'd like to know what else is going to be different.

I would like more of an explanation of the loading. Is there going to be one management company for both buildings? And how will they work retail versus residential needs?

And I guess the biggest question I have is the, to move forward this project appears to need the Section 8, which is expiring, I believe, and how confident is the developer in their negotiations with HUD?

I'm not terribly confident about HUD's performance, especially because of their budget restrictions. So I just think we need to have additional comfort, and if the Section 8 is not extended, you know, what's Plan B?

But I am very pleased to see this
come before us. I know that it's been in the works for awhile, so those are my immediate questions. Thank you.

CHAIRMAN HOOD: Okay, any other questions? Okay, Commissioner Miller?

COMMISSIONER MILLER: Thank you, Mr. Chairman. I agree with the vice chair that I will be supporting the set down of this housing development.

I think we do need more, as the OP has stated and as the vice chair stated, I think we do need more clarity on the affordable housing units and the mix of units, the size of units, the AMI levels.

I'm a little confused by the 15 percent would be devoted to households earning 50 percent. It says the Wing A would add 96 residential units, all of which would be devoted to residents earning up to 60 percent of the area's median income of which not less than 15 percent would be devoted to households earning 50 percent or less.
But 15 percent is only like 14 units, and they say they're replacing all of the units that are there, Section 8 units that are there now. I assume all of them are below, all those 48 or 47, whatever it is, units, I assume the AMI levels of those households are all below 50 percent.

So it would be a higher percentage that would be devoted to the less than 50 percent. So I just think we just need more greater clarity on what the AMI levels of the existing residents and clarity that there will be a set-aside that meets those AMI levels in Wing A.

And because all the affordable housing of this development is in one wing versus another that that does mean that the relief isn't necessarily from the inclusionary zoning requirement that says it has to be distributed throughout.

I think the applicant had a phrase there that if that's deemed necessary, which I
think it's very clear that the applicant needs relief from that provision. And they've stated that that's what the tenants association wanted, which we want to see that commitment, see that desire in writing. But we just want to make that clear.

The other thing on the inclusionary zoning, it says the 60 percent AMI units are going to be only, I think there was a statement in the application that there are only going to be, the duration of those units at 60 percent AMI was going to be for 40 years. And I guess that tracks the tax, the low income tax credit program perhaps.

But I see of course the set-aside is in perpetuity for the life of the project. So we just have to make sure that, I realize these are deeper levels than what IZ requires and I'm appreciative of that, but we just have to make sure that at least there is a life of the project set-aside as well, because that's what the inclusionary zoning, for certain of the units
because that's what IZ requires.

So with all that additional information I'd be provided by the time we get to hearing, I'd be prepared to set down, Mr. Chairman.

CHAIRMAN HOOD: Okay, any other questions? Commissioner May?

COMMISSIONER MAY: Just some minor things. I agree with my colleagues on their clarification of the affordable housing situation overall, the pictures. I mean there's a lot of moving parts so it would be helpful to get all that spelled out so that even I can understand it.

There is a little bit further refinement that needs to be done on the architecture. I'm sure the Office of Planning will be working closely with the applicant on that. I appreciate what's already gone into that though.

I don't think we're in the same situation for rooftop use. I mean they're
showing accessory recreational use, but I think it's below the Height Act height, right? Yes. So there we just need the calculations to demonstrate that it's accessory.

And there, I think, should be some effort to simplify the rooftop structures because there just is a lot going on, and I think with a little bit careful planning that can be, all sorts of ups and downs can be simplified, reduced. I don't know, a more cohesive treatment of the roof, I think, would be helpful.

Those are all minor points. I think the big thing is straighten out the affordability issue, otherwise it looks like a very strong project and I look forward to setting it down and hearing the case.

CHAIRMAN HOOD: Okay, Vice Chair Cohen?

VICE CHAIR COHEN: Yes, I just had one other really for clarification and that's on the rooftop accessory units on Wing A. My
concern is that often if you have storage or anything, you know, the kids get sent to the roof.

So I want to make sure that there's safety factors in place such as a railing. Any time kids go to the roof I get, I guess, nervous, and therefore I want to make sure that there is safety precautions up there.

CHAIRMAN HOOD: Okay. Commissioners, any other questions? You know, during the time of set down it looks like we, I'm going to agree also with setting this down.

We have a request for a waiver of fees, so I would ask if anyone make a motion that they acknowledge or include whether or not they want to include the waiver request from Department of Housing and Community Development, okay, whoever makes that motion.

COMMISSIONER MILLER: Mr. Chairman?

CHAIRMAN HOOD: Commissioner Miller?
COMMISSIONER MILLER: I would move that we set down for public hearing, Zoning Commission Case Number 14-08, 1441 and 1449 U Street NW, Square 204 Lot 208, and accept the applicant's request for a waiver of the approximately 28 percent of the fee.

We have a letter from the applicant and a letter from DHCD as required for this type of situation where there are subsidized, where there are going to be subsidized housing units.

So I would move that we set down and approve the waiver of 28 percent of the fee.

VICE CHAIR COHEN: I'll second that.

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

(Chorus of ayes)

CHAIRMAN HOOD: Not hearing any opposition of those present, Ms. Schellin, will you record the vote.

MS. SCHELLIN: Yes, staff records...
the vote 4 to 0 to 1 to set down Zoning Commission Case Number 14-08 and to waive 28 percent of the hearing fee. Commissioner Miller moving, Commissioner Cohen seconding, Commissioners Hood and May as approved. Commissioner Turnbull not present and not voting.

And the set down is a contested case. I probably did not say that.

CHAIRMAN HOOD: Thank you. Let's go right into correspondence on the Commission Case 13-14. This is the Vision McMillan Partners, LLC and DMPED. Letter from Friends of McMillan Park objection to the Commission asking the applicant's witnesses questions at the July 28th meeting, and we also have a letter from Holland & Knight, the applicant's representative, stating no objections to cross examination of Friends of McMillan Park at the July 28th meeting.

Ms. Schellin?

MS. SCHELLIN: Staff has nothing
further to add.

CHAIRMAN HOOD: Okay. Let me just add that the intent was never not to allow anyone cross examination. I don't even think that even came up.

If we get to that point, right now we have not gotten to that point, and again at 11 o'clock at night a lot of things may get misunderstood and misinterpreted, and things may be said at 11 o'clock that might not be said at 6:30.

So there's never an intention to not allow cross examination. Everyone knows that we allow, anytime someone makes a presentation and if they are parties in the ANC they are allowed to be able to cross examine.

So if that was misunderstood or maybe didn't come across correctly by me, then I apologize. But I mean I've been here awhile and I know that you get a chance to cross examine any witnesses in a contested case.

So we will decide how we're going to
move further. There's a possibility at some point if the Commission deems necessary that we may have a limited scope hearing, but I don't know what may happen.

But I just want to assure the applicant we will not be asking questions of the applicant at our meeting. If we decide in our deliberations that we want to have a limited scope hearing we'll do that or whatever we decide we'll move forward.

And there's always opportunity to cross examine which within our regulations statute, I went back and reviewed what was said, and there was no time it was mentioned that the party in opposition would not be able to cross. Sometimes it's good to go back and look and review. And I know it was late, but if that was misunderstood I will take full responsibility for that.

Okay, any other comments on that?

Mr. Miller?

COMMISSIONER MILLER: Thank you,
Mr. Chairman. Just to clarify. So there are certain written submissions that are due, and maybe Ms. Schellin can just review that. Certain submissions are due in mid-July or something, and we have July 28th as a date where we will decide how to proceed in this case?

CHAIRMAN HOOD: On the 28th we will start deliberating among ourselves and if we feel like we need to go back to the applicant we will set a limited scope hearing, at which time all of the participants, the ANC as well as the other party will be able to do any cross examination if we get to that point.

COMMISSIONER MILLER: Okay, thank you.

CHAIRMAN HOOD: Anything else? Okay, let's go to Zoning Commission Case Number 11-17, Adams Morgan Church Hotel, LLC. Ms. Schellin?

MS. SCHELLIN: Before we go on I'd like just to clarify. Are the applicant's witnesses still needing to be at the July 28th
meeting, or from what I'm hearing no witnesses need to be there?

CHAIRMAN HOOD: No. We don't need any witnesses. Once we deliberate on the information and look at what's being --

MS. SCHELLIN: If you decide you need a full hearing then --

CHAIRMAN HOOD: We will decide whether or not we're going to have a limited scope hearing. I don't think we need a full, but I'm not going to say that. We will decide what the next steps are.

MS. SCHELLIN: Yes, I just wanted to make sure. Because I think some of the witnesses were from out of town, so we just, that way the applicant's attorney knows not to have them there.

CHAIRMAN HOOD: Right, they don't need to come.


CHAIRMAN HOOD: Okay.
MS. SCHELLIN: I'm sorry. The next correspondence item was a letter from ANC 1C requesting clarification of Zoning Commission Order Number 11-17, and there was a response from the applicant responding as the Commission deny the request. And we'd ask the Commission to consider this.

CHAIRMAN HOOD: Okay. Thank you. Commissioners, we do have a request from ANC 1C. Again our rules do not authorize clarification of orders, and orders, what it is, the dismissal of the appeal ends the Commission's role in this matter.

I don't think, as I stated we don't have room to clarify any of our orders. And also this was on the appeal, and the appeal was dismissed. Any other further conversation?

Okay, do we need to vote on this, Ms. Schellin, or just we can acknowledge it. But this is not within, we do not clarify our orders. Our rules do not authorize us to clarify the orders.
MR. RITTING: Well, I mean that's certainly true that your rules don't authorize it. As to whether you need to have a vote on it or not, it couldn't hurt to have a vote. I don't know whether or not you're absolutely required to or not.

CHAIRMAN HOOD: Let's just do this. Can we just do a general consensus that we would not move on ANC 1C's due to the fact that are rules do not allow us to, for clarification for orders? Can we just do a general consensus?

Okay, so we'll make it look like we're denying the ANC. Because we appreciate what our ANCs do, but our rules do not allow us to do this. And I think by general consensus that we will acknowledge it, but our rules do not allow for us to do clarification of orders.

All right, anything else on that? Okay. Let's go to, we had put ZRR off until July the 10th. A status report, Ms. Steingasser.

MS. STEINGASSER: Yes, Chairman
Hood and Commissioners, we wanted to talk to
with the Commission this evening about this
rooftop structure issue and the Height Act.
There's been a lot of design work that's being
done for submittals that will be coming to you
either in July or later this fall.

And everybody's kind of, they don't
know how to approach the Height Act issue and
the rooftop structures. Obviously they don't
want to miss the opportunity to incorporate
them.

They also don't want to have to go
through the amendment process and nor does, and
the Office of Planning is somewhat sympathetic
because that would require an entire hearing.
Because we would not consider any type of
rooftops to be a minor modification.

So there would have to be a set down,
there would have to be another set of hearings.
It was suggested to us last week that people
could submit alternatives. One that meets
today's code as a matter of right, and one roof
structure that kind of anticipates, I guess the
maximum would be my best guess.

And this has come from three
separate landowners unrelated to each other.
They don't want to offend the Commission by
presuming your action, but they also want to
respect the Commission's time by not
overloading the Commission with a bunch of
amendments if the opportunity could be
discussed as part of an alternative, the same
way the Commission has considered at times a
hotel versus a residential building and the
Commission has accepted alternative drawings
and said it could be one or the other.

So we just want to kind of fly that
by you and get your feedback on it before we
advise them. And everybody would be fully
aware that it's nonbinding feedback, but it
would at least give them some direction on how
to proceed and how to instruct the architects.

VICE CHAIR COHEN: I guess my first
question would be when's the earliest you can
get a text amendment to us?

MS. STEINGASSER: Bringing that to you in July.

VICE CHAIR COHEN: In July. And then we would have, that we'd set that down, have a hearing.

MS. STEINGASSER: Hearing would be late fall.

VICE CHAIR COHEN: Late fall. So I think that we have no real alternative, but if some are coming forward with both scenarios and we haven't acted on the entire text amendment, I think it behooves us to have, at least it's my opinion to look at both scenarios and to comment on them.

MS. STEINGASSER: And they would be fully aware that there could be a third option that they didn't anticipate. They're just kind of stymied there with what to do for those that are already in the design.

And you saw it this evening on the one PUD where they're guessing of what it's
going to be, but others are not quite, it's not
that they're not comfortable, but like I said
they don't want to presume. They don't want to
be in a position where they're presuming what
the Commission would do. So if that's
acceptable.

VICE CHAIR COHEN: I think I=m fairly
predictable, myself.

COMMISSIONER MAY: Well, I think
the big question is what we hear from the
general public as well, because there was
substantial concern of certain members of the
community about doing any changes to the Height
Act whatsoever and they were opposed to even
doing what was eventually done.

And we certainly want to hear from
the public before we make any decisions about
it. I guess I want to clarify a little bit.
Would this be on the mid-July meeting or the
late July meeting?

MR. LAWSON: Joel Lawson with the
Office of Planning. We're still working on it.
There's a chance it could be on the 17th, but at this point it's not a given. It's not a promise.

COMMISSIONER MAY: Okay, that's fine. I won't be here on the 17th, but I would really enjoy reading all about it while I'm on vacation so I can phone in some comments.

And hearing in late fall? Is it really going to take that long to get to the hearing?

MS. STEINGASSER: Well, I would leave it to the Office of Zoning, and just in knowing the cases that we've been bringing forward, October would be the earliest.

COMMISSIONER MAY: Okay, so that's not quite late fall at least, okay. I was picturing December which --

MS. STEINGASSER: Oh, I would consider that winter.

COMMISSIONER MAY: Yes. Oh, okay.

MS. STEINGASSER: I work by holidays. So if it's after Thanksgiving it's
COMMISSIONER MAY: All right.
That's why I needed the clarification, I guess.
Yes, I mean because I would not be opposed to
taking this up on a special hearing date even
on a volleyball night.

(Simultaneous speaking)
COMMISSIONER MAY: I know you love
putting things on volleyball night. But since
it's something that's a pressing concern, I
think, you know, if we needed to have a special
hearing for it I would certainly be willing to
do that.

CHAIRMAN HOOD: Okay, Commissioner
Miller?

COMMISSIONER MILLER: Yes, I would
agree that, I mean even though it took 104 years
to amend the Height Act and we don't want to take
that long to implement the change that's been
made, I would urge, that's why I would ask that
we get an options memo, I think, a week before
or the week that it was passed by the Congress.
And so I look forward to getting that information in the next few weeks and setting down the hearing.

I would support a special date so that we don't unnecessarily delay this particular text amendment and don't delay how we deal with the applications that we're fortunate enough to have in this market that are coming forward. So I would support expeditious scheduling of all that.

CHAIRMAN HOOD: Okay, thank you.

Any other comments? Commissioner May?

COMMISSIONER MAY: Yes, I didn't respond directly to the question that was raised by the Office of Planning about whether we are open to the idea of kind of two scenarios being posed and, yes, I presume in PUD cases.

Certainly that there's benefit to that and I wouldn't be bothered if that were being proposed. I'd rather have that than just an assumption that certain things are going to happen. But yes, it's very much up in the air,
I think, what will eventually happen. But hopefully we can have that hearing in short order.

And I would prefer it if we could do it on a regular date. I think October may not, I don't know how soon after the set down you'd be ready to actually have the hearing. Would be as soon as possible?

MR. LAWSON: I would say as soon as possible, absolutely.

COMMISSIONER MAY: All right, so we could do that.

VICE CHAIR COHEN: And lastly, I think it might be helpful to see the scenarios to see how they're thinking of balancing the additional height that is allowed. So that might be educational as well, for me. I don't know about Commissioner May.

CHAIRMAN HOOD: He's not the only commissioner up here.

VICE CHAIR COHEN: He's the architect.
CHAIRMAN HOOD: Don't make no difference. We still all look at architecture, Commissioner Miller, myself.

MALE PARTICIPANT: You're budding architects as well.

VICE CHAIR COHEN: Okay, all my commissioners need to see this.

CHAIRMAN HOOD: That's all right. We won't lose any sleep over it. Commissioner Miller?

COMMISSIONER MILLER: I also didn't comment on the, I would support then the applicant submitting alternative scenarios so that they aren't unnecessarily delayed in their processing.

CHAIRMAN HOOD: Okay, and ditto for me. I would agree. Okay, anything else, Ms. Schellin?

MS. SCHELLIN: No.

CHAIRMAN HOOD: All right. Anything else, Ms. Steingasser? Okay, so with that I want to thank everyone for their
participation in this meeting and this meeting is adjourned.

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