

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

+ + + + +

ZONING COMMISSION

+ + + + +

PUBLIC MEETING

+ + + + +

MONDAY

July 28, 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 6:39 p.m., Anthony J. Hood, Chairman, presiding.

The transcript constitutes the minutes from the Regular meeting held on July 28, 2014.

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ZONING COMMISSION MEMBERS PRESENT:

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

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER, Deputy Director,  
Development Review & Historic Preservation  
JOEL LAWSON  
MAXINE BROWN-ROBERTS  
STEPHEN GYOR  
BRANDICE ELLIOTT

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, ESQ.  
ALAN BERGSTEIN, ESQ.

DISTRICT DEPARTMENT OF TRANSPORTATION STAFF  
PRESENT:

SAM ZIMBABWE  
JONATHAN ROGERS

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

2 6:40 p.m.

3 CHAIRMAN HOOD: This is will please  
4 come to order.

5 Good evening, ladies and gentlemen.  
6 This is the public meeting of the Zoning  
7 Commission for the District of Columbia. My  
8 name is Anthony Hood, and I'm actually this  
9 evening, is going to ask the dias again if you  
10 could introduce yourselves, to my left, all the  
11 way down to my right.

12 MS. NAGELHOUT: Mary Nagelhout  
13 with the Office of the Attorney General.

14 MR. BERGSTEIN: Alan Bergstein  
15 with the Office of the Attorney General.

16 MS. SCHELLIN: Sharon Schellin,  
17 Secretary to the Zoning Commission, Office of  
18 Zoning.

19 COMMISSIONER TURNBULL: Michael  
20 Turnbull representing the Architect of the  
21 Capitol.

22 COMMISSIONER MILLER: Rob Miller,

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1 Mayoral Appointee.

2 VICE CHAIR COHEN: Marcie Cohen,  
3 Mayoral Appointee and a Vice Chair.

4 COMMISSIONER MAY: Peter May  
5 representing the National Park Service.

6 MS. STEINGASSER: Jennifer  
7 Steingasser, Office of Planning.

8 MR. LAWSON: Joel Lawson, Office of  
9 Planning.

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

12 MR. GYOR: Stephen Gyor, Office of  
13 Planning.

14 MR. ZIMBABWE: Sam Zimbabwe, DDOT.

15 MR. ROGERS: Jonathan Rogers,  
16 DDOT.

17 CHAIRMAN HOOD: Thank you,  
18 everyone. Copies of today's meeting agenda  
19 are available to you and our located in the --  
20 near the door.

21 We do not take any public testimony  
22 at our meetings, unless the Commission requests

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1 someone to come forward.

2 Please be advise that this  
3 proceeding is being recorded by a Court  
4 Reporter and it's also webcast live.

5 Accordingly, we must ask you to  
6 refrain from any disruptive noises or actions  
7 in the hearing room, including the display of  
8 any signs or objects.

9 Please turn off all beepers and cell  
10 phones.

11 Does the staff have any preliminary  
12 matters?

13 MS. SCHELLIN: No, sir.

14 CHAIRMAN HOOD: Okay, I have a few  
15 announcements, I'm going to read for the  
16 audience, and also for those who are watching  
17 this webcast live.

18 The public meeting for September  
19 8th has been moved to September 15th, to allow  
20 for the ZRR hearings to be held the week of  
21 September 8th.

22 Again, the public meeting for

1 September 8th has been moved to September 15th,  
2 to allow for the ZRR hearings to be held the week  
3 of September 8th.

4 The schedule of ZRR hearings on  
5 September 4th, the Commission will hold a  
6 hearing on the original text set-down on  
7 September 9, 2013, and we'll hear from those who  
8 have not previously testified at another  
9 hearing.

10 The exception to this is the ANC  
11 Commissions will be able to testify, whether  
12 they have previously testified or not.

13 Again, on September 4th, the  
14 Commission will hold a hearing on the original  
15 text set-down, on September 9th, 2013, and  
16 we'll hear from those who have not previously  
17 testified at another hearing.

18 The exception is that the ANC  
19 Commission will be able to testify, whether  
20 they have previously testified or not.

21 On September 8th through the 11th,  
22 the Commission will hold hearing on the

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1 alternative text set-down on July 10, 2014.  
2 Anyone may testify at these hearings.

3 Further information on these  
4 hearings can be on the Office of Zoning's  
5 website at dcoz.dc.gov, by clicking on the  
6 'ZRR' icon.

7 Okay, let me correct myself. On  
8 September 4th, the Commission will hold a  
9 hearing on the original text set-down on  
10 September 9th, 2013, and we'll hear from those  
11 who have not previously testified at another  
12 hearing.

13 The exception to this is that the  
14 ANC Commissions will be able to testify,  
15 whether they have previously testified or not.

16 I read those statements, but again,  
17 it's on the Office of Zoning's website. You  
18 can call the Office of Zoning to get any further  
19 clarification, but do us a favor, just make sure  
20 we get clarification and not just put out there,  
21 anything and then get the whole City confused.

22 So, it will be very helpful. If you

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1 miss what I said tonight, please call Office of  
2 Zoning and find out exactly what's going on.

3 Okay, what I'd like to do,  
4 colleagues, do we have any other preliminary  
5 matters?

6 MS. SCHELLIN: No, sir.

7 CHAIRMAN HOOD: What I'd like to  
8 do, colleagues, is move the miscellaneous Item  
9 No. 6, right after the consent calendar item,  
10 and then go according to the agenda, as printed.

11 Okay, consent calendar Zoning  
12 Commission Case No. 08-14C Kelsey Gardens  
13 request for minor modifications to PUD @ Square  
14 421, Ms. Schellin.

15 MS. SCHELLIN: Yes, sir. This was  
16 a -- as you'll recall, is on the Commission's  
17 July 17th public meeting agenda, and the  
18 Commission did take this case up and voted on  
19 the rooftop changes and then deferred action on  
20 the proffers to this meeting.

21 The Applicant made a submission  
22 today, which you have at Exhibit-8, providing

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1 additional information for the Commission to  
2 consider making a decision this evening on the  
3 proffers, and we'd ask the Commission to make  
4 that consideration this evening.

5 CHAIRMAN HOOD: Thank you, Ms.  
6 Schellin. Okay, Commissioners, as stated by  
7 Ms. Schellin, we did receive something this  
8 afternoon, today some time, which is Exhibit-8,  
9 clarifying the proffers, and also an  
10 alterative, if we still had an issue with the  
11 proffer, and which I think a number of us had  
12 an issue with.

13 Let me just open it up. Any  
14 comments?

15 (No audible response)

16 CHAIRMAN HOOD: Any concerns?

17 COMMISSIONER MAY: Mr. Chairman?

18 CHAIRMAN HOOD: Commissioner May.

19 COMMISSIONER MAY: Yes, I  
20 appreciate the additional information about  
21 the programs that would be supported. I am  
22 still not enthusiastic about the support of the

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1 Kennedy Recreation Center holiday party, and  
2 would prefer that some other use of the funds  
3 be made than that.

4 Otherwise, the rest of it, I can go  
5 along with.

6 CHAIRMAN HOOD: Okay, Vice Chair  
7 Cohen?

8 VICE CHAIR COHEN: Mr. Chairman,  
9 thank you. I concur with my colleague,  
10 Commissioner May. Again, there is additional  
11 information.

12 I would prefer that we permit the  
13 funds to be placed in an escrow account that  
14 would be decided, as to where a more appropriate  
15 place would be, than the Christmas party, but  
16 I do not want to hold this project up. It's  
17 ready for its C of O.

18 I would just suggest that we have  
19 the Office of General Counsel work more closely  
20 with the Applicant's Counsel.

21 CHAIRMAN HOOD: I think also in  
22 Exhibit-8, colleagues, before I hear from all

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1 of the -- there is an alternative that has been  
2 proposed by the Applicant to basically, give  
3 additional funding for the Christmas party, to  
4 the Bread for the City.

5 So, I don't know if we accept that,  
6 the alternative, but --

7 COMMISSIONER MAY: I would find  
8 that acceptable and it's easier and less future  
9 work for all of us, if we did that, rather than  
10 do the escrow account.

11 CHAIRMAN HOOD: Okay.

12 COMMISSIONER TURNBULL: I would go  
13 along with that too, Mr. Chair.

14 CHAIRMAN HOOD: Okay.

15 COMMISSIONER MILLER: I have no  
16 problem, Mr. Chairman, with the alternative  
17 funds going to the Bread for the City, which is  
18 a previously approved recipient of this public  
19 amenity package. I also had no problem with  
20 the Kennedy Center recreation holiday party,  
21 but there are obviously four people who did.  
22 So, I'm ready to support the alternative.

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1                   CHAIRMAN HOOD: For me, I think  
2 that it -- when I look at public benefits, you  
3 know, the Christmas party was fine, but there  
4 is some --I'm sure the community could use more  
5 -- make more of an impact, a magnitude impact,  
6 as opposed to a one-time Christmas party.

7                   I think the Bread of Life may take  
8 that amount of money and exceed and do more for  
9 that surrounding community.

10                  So, I would agree with all of my  
11 colleagues, and I think this is ready for a  
12 vote. Somebody like to make a motion?

13                  COMMISSIONER TURNBULL: Mr.  
14 Chairman, I would move that we approve  
15 basically, what you have forwarded as the  
16 option, which was approved by the Applicant, of  
17 putting the money for Bread for the City into  
18 the caveat of that funding, and approve Zoning  
19 Case No. 08-14C, the Kelsey Garden request for  
20 minor modification to the PUD @ Square 421.

21                  VICE CHAIR COHEN: I'll second.

22                  CHAIRMAN HOOD: Okay, it's been

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1 moved and properly seconded. Any further  
2 discussion?

3 (No audible response.)

4 CHAIRMAN HOOD: All those in favor?

5 (Chorus of ayes.)

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

9 MS. SCHELLIN: Yes, staff closed it  
10 at 5-0-0 to approve the proffers proposed by the  
11 Applicant, with the exception of the Christmas  
12 funds going to the Bread for the City.

13 Commissioner Turnbull moving,  
14 Commissioner Cohen seconding, Commissioners  
15 Hood, May and Miller in support.

16 CHAIRMAN HOOD: I hope no one  
17 leaves here with the impression as again, that  
18 the Zoning Commission is against Christmas  
19 parties, because we're not. We're just trying  
20 to again, like I stated further, we're trying  
21 to do more of an impact for the community.

22 Okay, let's move to miscellaneous.

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1 Ms. Schellin, the Zoning Commission Case No.  
2 06-10B, Morris & Gwendolyn Cafritz Foundation  
3 status and phasing report. Ms. Schellin.

4 MS. SCHELLIN: Yes, sir, at the  
5 January 13th public meeting, the Commission  
6 asked the Applicant to provide a status and  
7 phasing report on this case by date in July,  
8 which they did provide at Exhibit-16 for your  
9 consideration this evening.

10 CHAIRMAN HOOD: Okay,  
11 Commissioners, again, we are asked, as you  
12 know, this was originally placed on the January  
13 13th agenda, the Zoning Commission's January  
14 13th agenda.

15 There was an issue about the phasing  
16 and there was nothing to say how we wanted to  
17 move forward with Building C and D, and how  
18 things will commence on construction.

19 We have a -- we have an actual  
20 phasing plan, which has been submitted for  
21 Building C and D. I'm not sure, Commissioners,  
22 if that is appropriate for us to move forward,

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1 as far as -- are we satisfied with what's been  
2 presented to us from the Applicant?

3 (No audible response.)

4 CHAIRMAN HOOD: And if you're like  
5 I am, with all the stuff we've had to read in  
6 the past few days, I need to refresh my memory.

7 COMMISSIONER MAY: Mr. Chairman,  
8 if I understand correctly, I mean, this is  
9 essentially just an update on the status of the  
10 entire project. We don't need to take any  
11 particular action at this point. It's not a  
12 request for any change to the case. It's just  
13 an update on where things are happening. No  
14 report again, on January, is that right?

15 CHAIRMAN HOOD: I thought we were  
16 being asked to accept the phasing.

17 COMMISSIONER MAY: Well, if we were  
18 being asked to do something, it would be a minor  
19 mod on the consent calendar, right?

20 CHAIRMAN HOOD: Give me a second.

21 VICE CHAIR COHEN: Mr. Chair?

22 CHAIRMAN HOOD: Yes, sure.

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1                   VICE CHAIR COHEN:     Okay, Mr.  
2     Chairman, just again, I think that for the  
3     Buildings C and D, commencement of construction  
4     is very vague, and I think that the date of the  
5     building permit would be more preferable, and  
6     to tighten up the schedule.

7                   I think again, it's very loose and  
8     you know, this project goes way out into 2024.

9                   So, I would like to see the schedule  
10    tighten a bit, and suggest that again, that  
11    commencement of construction is too vague a  
12    point.

13                  CHAIRMAN HOOD:    Okay, anyone else?  
14    So, Vice Chair, what we will do is, I guess ask  
15    the Applicant to tighten up the schedule, and  
16    tell us a little more, because it's kind of  
17    vague.

18                  MR. BERGSTEIN:   Well, I think that  
19    the vagueness was the term 'commencement of  
20    construction' and they're now committing that  
21    the trigger for the submission of the second  
22    stage is for the two additional buildings will

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1 be on the final -- the issuance of final  
2 building permit.

3 So, that was the vagueness that, at  
4 least I identified to you. There is two  
5 issues.

6 The first is whether or not they've  
7 given you a time frame for submitting the  
8 pre-hearing statement, which is a considerable  
9 period of time, but still, what they're saying  
10 is that we're not going to submit a pre-hearing  
11 statement, in terms of the applications before  
12 you, until this time.

13 So, what you're being asked to do is  
14 basically say yes, that you agree that that  
15 would be the time for them to submit the  
16 pre-hearing statement and that you accept the  
17 phasing report as the phasing report that's  
18 required by Condition 25 of the first stage  
19 order.

20 So, those are really the two things  
21 you have.

22 CHAIRMAN HOOD: Okay, so, none of

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1 this has to do with building. Building A will  
2 proceed, because I'm looking at some of these  
3 dates, now that I'm thinking about it, some of  
4 the dates do concern me.

5 But as long as Building A, because  
6 that area over there will just be vague, if  
7 we're talking about 2000 -- construction  
8 anticipated in 2019, 2023 and 2024.

9 As long as Building A is proceeding,  
10 unless my colleagues disagree, I don't  
11 necessarily have a problem with the phasing  
12 plan.

13 It may also be sooner, the way I  
14 understand it, the way I'm reading it, even  
15 though these are the projected dates of  
16 phasing, it may happen earlier than these  
17 dates. Did I read that right, Mr. Bergstein?

18 MR. BERGSTEIN: They can always  
19 commence. In terms of following the second  
20 stages, you have a second stage before you for  
21 Building B, and they're telling you when to  
22 expect the pre-hearing statement.

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1           Then they're giving you a time frame  
2           for doing C and D, based upon the issuance of  
3           building permit for the approved buildings.

4           So, yes, they could always submit  
5           the second stage applications before they say  
6           they're going to do it, and submit pre-hearing  
7           statement before it. They could always move  
8           things up, they just should not move things  
9           back.

10           CHAIRMAN HOOD: Okay, so, I guess  
11           the only thing that we are asked is if we agree  
12           with the phasing plan. Any problems with the  
13           phasing plan? Not hearing any?

14           VICE CHAIR COHEN: Well, I still  
15           think that it's just a very extended phasing  
16           plan.

17           I know that development relies on  
18           favorable market conditions and favorable  
19           financing conditions.

20           But it's hard to predict in, you  
21           know, real estate cycles, that this is feasible  
22           or not feasible and I just think that it's a very

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1 elongated process that I'm not sure everybody  
2 anticipated when this was originally approved,  
3 but that's just my reaction to it, that a few  
4 of the obstacles that they've faced, I believe  
5 were not exactly people believing that they're  
6 -- they didn't feel certain urgency to move this  
7 along.

8 CHAIRMAN HOOD: Commissioner  
9 Miller?

10 COMMISSIONER MILLER: Yes, I would  
11 generally agree with the Vice Chair's  
12 frustration with the length of time.

13 But I think just to clarify what you  
14 had -- to sort of supplement what you were  
15 saying, Mr. Chairman.

16 Building A is already -- is under  
17 construction, finally, thankfully, and  
18 Building B, they have provided a specific  
19 deadline in this phasing plan for pre-hearing  
20 statement, and then they have Building C tied  
21 to that.

22 So, I am comfortable that we have

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1 more specifics and look forward to further  
2 updates in progress.

3 CHAIRMAN HOOD: My only comment,  
4 fortunately, I ride by there all the time. So,  
5 I know what Building A is doing.

6 But I'm saying my comment was, as  
7 long as Building A is moving forward, I don't  
8 have a problem with the rest of the other  
9 buildings. Any other comments?

10 COMMISSIONER TURNBULL: Yes, Mr.  
11 Chairman, I think I would agree with you.

12 I mean, part of the issue here is  
13 that, you know, the Applicant has clearly state  
14 this, that there is a timing, there is a domino  
15 factor in here, and they're actually projecting  
16 that Building A, that the tenants cannot move  
17 until Building A until 2017.

18 So, that's a deadline. That is the  
19 date that they're working towards, and then  
20 they're saying that they anticipate filing a  
21 pre-hearing statement no later than September  
22 1, 2016.

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1                   So, I think timing-wise, that this  
2 begins to fall into place, and I don't have an  
3 issue with this. I think they're making a  
4 genuine effort to move forward.

5                   CHAIRMAN HOOD:     Anybody else?  
6 Commissioner May?

7                   COMMISSIONER MAY: No, I agree with  
8 the comments of my colleagues, and you know, we  
9 all want it to go faster, but I think what  
10 they're suggesting is acceptable at this point  
11 in time.

12                  CHAIRMAN HOOD: Okay, so, I think  
13 we have general consensus, as we will accept the  
14 phasing plan.

15                  Is that all we need to do, Mr.  
16 Bergstein, with that one?

17                  MR. BERGSTEIN: That will do it.

18                  CHAIRMAN HOOD: Okay, all right.  
19 Let's go back in order now. Let's go to Final  
20 Action Zoning Commission Case No. 14-06. This  
21 is the KGG 50 M, LLC Capitol Gateway overlay  
22 review @ Square 699. Ms. Schellin.

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1 MS. SCHELLIN: Yes, sir. We have  
2 the Applicant's post-hearing submissions at  
3 Exhibit-23 through 25, and would ask the  
4 Commission consider final action on this case.

5 COMMISSIONER MAY: Mr. Chairman?

6 CHAIRMAN HOOD: Commissioner May.

7 COMMISSIONER MAY: Yes, I just want  
8 to make sure everyone knows that I have reviewed  
9 the record on this and watched the hearing  
10 online, including the extra 10 minutes of  
11 discussion about how I would have an  
12 opportunity to catch up, read the record, watch  
13 it online, whatever. So, I watched it all.

14 Anyway, I'm fully up to speed and  
15 prepared to participate in the case, and I  
16 appreciate you giving me the opportunity.

17 CHAIRMAN HOOD: Okay, thank you.  
18 Okay, colleagues, this is relatively recent  
19 before us. Let's open it up for any  
20 discussion. Any comments that we've asked,  
21 before we have some submissions.

22 Again, we have another rendering,

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1       which is Exhibit-25, which shows I think some  
2       of the changes that were made, some of the  
3       issues that were mentioned at the hearing.  
4       Let's open it up.  Anyone?

5                   COMMISSIONER MAY:  Mr. Chairman,  
6       if I might?

7                   CHAIRMAN HOOD:  Yes.

8                   COMMISSIONER MAY:  I appreciate  
9       the discussion that the Commission had in my  
10      absence on this case, and I had the same concern  
11      about the supposed tower piece, not really  
12      reading like a tower.

13                   I think it's more comfortable to  
14      have the sort of trellis piece that they have  
15      there, but again, it isn't reading like a tower.

16                   You know, if it were only sort of  
17      scaled back, so that it actually related to the  
18      very strong vertical glass segment of the  
19      building, at the prominent corner, I think it  
20      would make more sense to have that.

21                   I mean, it's not exactly the  
22      treatment that I think is most desirable, but

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1 you know, we don't get to design the buildings  
2 here. We just get to talk about them.

3 But I think something that reads  
4 more like a tower would be better. So, if it  
5 were trimmed back just a bit, I think it would  
6 be better. I guess that's my opinion about  
7 where it stands right now.

8 CHAIRMAN HOOD: Mr. Turnbull, did  
9 you want --

10 COMMISSIONER TURNBULL: Sure,  
11 thank you, Mr. Chair. Well, I think they got  
12 rid of the curtain wall effect, which I think  
13 was a glaring thing last time that, to me, was  
14 a Height Act violation.

15 I agree with Commissioner May. I  
16 think, you know, they're getting there, but I  
17 think if they had simply -- and I thought we  
18 tried to convey this to them at the -- when we  
19 talked about this, was that I think you need  
20 some heavier elements to actually define the  
21 tower.

22 I think if that could have been

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1 done, to define the top of the building, so that  
2 it would read -- so that you would -- as  
3 Commissioner May had said, the vertical element  
4 that this is a -- this is the A-corner of the  
5 building. This is where they want. It's  
6 right cross from the metro. This is the point  
7 of the -- sort of the cornerstone of what  
8 they're trying to do.

9 I think if they had defined that as  
10 a tower and made it more readable, especially  
11 at the top, I don't think I'd have an issue with  
12 it.

13 But I think they need to make it read  
14 better as a tower, and do -- you know, lighten  
15 up that trellis. I mean, the trellis just  
16 looks heavily worked.

17 I think if they want the tower, they  
18 should do the tower, make it read like a tower  
19 and make it -- that whole vertical corner there,  
20 read better.

21 CHAIRMAN HOOD: Any other  
22 comments? Okay, Commissioner Miller?

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1                   COMMISSIONER MILLER: Thank you,  
2 Mr. Chairman. I appreciate the Applicant's,  
3 at least attempt to respond to the comments of  
4 the Commission about that corner element.

5                   From my perspective, it is much  
6 better. I know my architectural colleagues  
7 know a lot more about designing this than I do.

8                   But I think that the only comment  
9 that I made to them as a suggestion was to open  
10 it up, and they've done that.

11                  So, I am pleased with what has come  
12 forward and I look forward to this hotel being  
13 built in the ballpark District.

14                  CHAIRMAN HOOD: Okay, anyone else?  
15 I actually liked the first building, and I  
16 stated that at the hearing, and I'm not going  
17 to get into -- that's not a show-stopper for me.

18                  I will yield to my colleagues this  
19 time, on the architecture, and I hear what  
20 they're saying about making it read, but let me  
21 ask Commissioner May or Commissioner Turnbull.  
22 Do we want to give them another shot or is this

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1 a show-stopper for anyone?

2 COMMISSIONER MAY: I don't regard  
3 it as a show-stopper, and it's not really a  
4 matter of whether I like it or not. It's a  
5 matter of whether I think it's really a  
6 successful design, whether they really are  
7 trying to make that tower into the piece that  
8 it should be on the prominent corner.

9 You know, I think this is  
10 acceptable. I would be concerned that, you  
11 know, based on the limited feedback that we're  
12 giving them from the dias right now, that it  
13 would -- you know, sometimes we do this and it  
14 comes back and it's not really any better.  
15 It's maybe worse.

16 So, I'd be inclined to accept this.  
17 I think it's acceptable. It's not what I think  
18 it could be, but I think it's acceptable.

19 CHAIRMAN HOOD: Okay, that's where  
20 we all differ, because again like I said, I like  
21 the first one, but I'm not going to -- it's not  
22 a show-stopper. Mr. Turnbull?

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1                   COMMISSIONER TURNBULL:    I don't  
2 know.   I mean, part of this whole thing that the  
3 Capitol Gateway is, we're suppose to give our  
4 input on to the design of the building.

5                   But you're right, I'm not sure where  
6 we're going with this. I just think it's a weak  
7 solution, but I think, you know, architects  
8 have got to use both their hands when they're  
9 drawing this thing, and not one hand tied behind  
10 their back.

11                   I just think it's not a strong -- a  
12 strong solution that it could be for this site,  
13 but I'm not going to -- as Commissioner May  
14 said, you know, yes, I think it's weak, but I'm  
15 not going to stand in the way of it.

16                   CHAIRMAN HOOD:    Okay, anyone else?

17                   COMMISSIONER MAY:    I think since  
18 Commissioner Miller really likes it, then I'll  
19 go along.

20                   VICE CHAIR COHEN:    I was just going  
21 to say be careful what you ask for, because it  
22 could always be worse.

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1 I just want to make sure that based  
2 on some of the iterations that we have seen,  
3 that the zoning order reflects, and I don't  
4 believe it does, reflect the most recent  
5 description of the project. So, I just caution  
6 that.

7 CHAIRMAN HOOD: Okay, and again,  
8 Commissioner May, I wasn't saying whether you  
9 like it or not, because I know what we're trying  
10 to do, as you all have stated, this is an  
11 important corner. This is an important area.

12 I just thought that the first -- I  
13 don't want to keep going back to the first  
14 iteration, but I just thought that that did a  
15 lot for the community, up-bringing in that  
16 area. But anyway, that's just my comment.  
17 Any other comments?

18 COMMISSIONER MILLER: Mr.  
19 Chairman, I would move, if it's appropriate,  
20 that the Commission take final action on Zoning  
21 Commission Case No. 14-06 KGG 50 M, LLC, CG  
22 overlay review @ Square 699 and ask for a

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1 second.

2 MS. SCHELLIN: Second.

3 CHAIRMAN HOOD: Okay, it's been  
4 moved and properly seconded. Who second? The  
5 Vice Chair second. Any further discussion?  
6 All those in favor?

7 (Chorus of ayes.)

8 CHAIRMAN HOOD: Not hearing  
9 opposition from those of us here, Ms. Schellin  
10 -- well, we're all here. Ms. Schellin, would  
11 you record the vote?

12 MS. SCHELLIN: Yes, record the vote  
13 5-0-0 to approve final action on Zoning  
14 Commission Case No. 14-06. Commissioner  
15 Miller moving. Commissioner Cohen seconding.  
16 Commissioners Hood, May and Turnbull support.

17 CHAIRMAN HOOD: Okay, next let's go  
18 to Zoning Commission Case No. 14-03. This is  
19 the Office of Planning text amendment, Re:  
20 emergency shelters. Ms. Schellin?

21 MS. SCHELLIN: Yes, we just have  
22 one exhibit that's been received, Exhibit-15,

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1 which is the Agency PC report, stating that  
2 there are no issues with this text.

3 CHAIRMAN HOOD: Okay, thank you,  
4 and again as Ms. Schellin has mentioned, we have  
5 Exhibit-15 and we have a proposed order before  
6 us. Any comments or questions? If not, I'll  
7 accept the motion.

8 COMMISSIONER TURNBULL: Mr. Chair,  
9 I would move that we approve Zoning Case No.  
10 14-03, the Office of Planning for the amendment  
11 for the emergency shelters.

12 COMMISSIONER MILLER: Second.

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

16 (Chorus of ayes.)

17 CHAIRMAN HOOD: Any opposed?

18 (No audible response.)

19 CHAIRMAN HOOD: Ms. Schellin,  
20 would you record the vote?

21 MS. SCHELLIN: Staff records the  
22 vote 5-0-0 to approve final action on Zoning

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1 Commission Case No. 14-03. Commissioner  
2 Turnbull moving. Commissioner Miller  
3 seconding. Commissioners Cohen, Hood and May  
4 in support.

5 CHAIRMAN HOOD: Okay, let's go to  
6 Zoning Commission Case No. 11-07. This is  
7 American University order on remand. Ms.  
8 Schellin.

9 MS. SCHELLIN: Staff has nothing  
10 further to add for this case.

11 CHAIRMAN HOOD: Okay,  
12 Commissioners, as noted, the Courts have  
13 remanded some issues back to us, which in their  
14 discussion, felt like we needed to expound a  
15 little more.

16 We have received additional  
17 information from the Applicant, as well as  
18 Advisory Neighborhood Commission 3D, as well as  
19 the Spring Valley Wesley Heights Citizen's  
20 Association.

21 We do have Exhibit, is that 588,  
22 from the Office of Planning, which talks about

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1 the supplement report number two. Again, was  
2 re-submitted on proposed campus plan for  
3 American University, and that is -- we also have  
4 a graph, and we will be looking at this, that's  
5 been laid out by Counsel, to help us move along.

6 I will tell you, looking back at  
7 this with exception of a few items which we  
8 could discuss, I would say that I would be in  
9 favor of -- which exception of a couple of  
10 issues, and we can go through those, of looking  
11 at the order with the Applicant, as well as the  
12 Office of Attorney General, who has worked  
13 through all of the pieces that have been  
14 submitted, and I think they've done a fine job,  
15 even though we will discuss, as mandated and  
16 asked by the Courts.

17 There were some things that we  
18 probably need to revisit and look at, but I  
19 thought most of all, while they -- their  
20 explanation to us was -- the Commission's  
21 position on the issues was insufficient.

22 So, we want to make sure we close the

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1 loop on some of the outstanding issues in which  
2 the Courts have said. I thought we deliberated  
3 a lot on this, but there was some missing items,  
4 which we did not, I guess, address, that were  
5 given to us by parties, and as well as the Office  
6 of Planning.

7 VICE CHAIR COHEN: Excuse me, Mr.  
8 Chairman, I just want to state for the record  
9 that I did not participate in this hearing or  
10 case.

11 COMMISSIONER MILLER: And that  
12 would go for me, as well. So, it's just the  
13 three of you.

14 CHAIRMAN HOOD: Okay, actually,  
15 that was in my description, but thank you, both.

16 Again, as stated, two of our  
17 colleagues were not participating in this case.

18 Okay, looking right at the proposed  
19 order, even though there's seven items in the  
20 opinion from the Court, from the Court of  
21 Appeals, I think one of those items have been  
22 expanded, noise and -- I think it's noise. But

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1 anyway, we have eight items.

2 Let's open it up and let's look at  
3 the -- one of the things that the Court  
4 mentioned that we did not give great weight to  
5 the Office of Planning and to Advisory  
6 Neighborhood Commission, in this case 3D.

7 Colleagues, we would like to --  
8 let's start off with the change in student  
9 enrollment, the enrollment cap versus the Law  
10 School, you know, that whole issue, and I think  
11 -- I don't know if I was quoted, but I think that  
12 there was a calculation error on our part.  
13 Commissioner May?

14 COMMISSIONER MAY: Yes, so the  
15 Court seemed to think that we did not fully  
16 explain the numbers correctly, and in effect,  
17 it wound up being sort of an apples and oranges  
18 calculation, because they were looking at the  
19 existing student enrollment cap, which did not  
20 include the Law School students versus the  
21 final cap of 13,600, which was approved in the  
22 plan that we approved, which included the law

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1 students, enrollment of 2,000 students.

2 So, the jump from 10-6 to 13-6 was  
3 quite substantial, whereas, they were not  
4 adding a Law School. It was simply being  
5 relocate from an existing commercial space in  
6 the neighborhood, to the Tenley Campus.

7 So, I think that, you know, I'm not  
8 sure how this gets phrased into the order, but  
9 what we are looking at, in terms of an actual  
10 increase in the student body, was overall, in  
11 the 13 percent or less range, because we were  
12 including -- we were assuming 10-6 for the  
13 existing headcount, plus the existing  
14 enrollment of 1770, the law students.

15 So, that was really a total of  
16 12,307 -- I'm sorry, 12,370, and then that would  
17 -- we allowed for increase of that to go up to  
18 1306 in total, of which some 230 could be law  
19 students.

20 So, you know, I think that what we  
21 need to do is explain better, the math that went  
22 into this.

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1 I think the key issue here is, we are  
2 not adding 2,000 law students or 1,700 law  
3 students. They are relocating from another  
4 location, within the same neighborhood, and I  
5 think that that relocation was not likely to  
6 increase or create any objectionable impact to  
7 the neighborhood.

8 In fact, I think it's likely to  
9 decrease the objectionable impact because that  
10 Law School was being relocated to an area  
11 approximate to the metro, and we were expecting  
12 greater public transit use for law students,  
13 less cars in the neighborhood for law students  
14 coming to class.

15 I also think that the capacity that  
16 the University was constructing on the Tenley  
17 Campus for the Law School and on the east campus  
18 and on the main campus for housing these  
19 students and providing them necessary  
20 services, I think all of that was included in  
21 our thinking.

22 So, the University was expanding

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1 its facilities sufficiently to handle that  
2 additional number of students, and again, with  
3 all of the other controls that were put on the  
4 campus, to do so without any objectionable  
5 impacts to the neighborhood.

6 CHAIRMAN HOOD: Okay, any other  
7 comments?

8 COMMISSIONER TURNBULL: I would  
9 agree 100 percent with Commissioner May's  
10 analysis and going back on the history of this.

11 You know, we had, I think three or  
12 five nights of hearings, I think on this -- on  
13 the campus plan, and I don't recall any major  
14 impacts being talked about from the Law School  
15 campus on its original location, as an off --  
16 within the neighborhood. I don't recall it  
17 being that much of an impact.

18 So, when we talked about the math  
19 error, or how it's not being included, I think  
20 it's kind of a -- as Commission May said, it's  
21 kind of apples and oranges. It was not just  
22 tallied in right, and it wasn't looked at

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1 correctly.

2 So, I think that the increase now,  
3 with the campus -- with the new Law School, and  
4 the overall campus growth, I think we're only  
5 looking at about 13 percent increase.

6 So, I think the impact -- I think we  
7 -- when we looked at it, at the time, and I think  
8 we judged it correctly, that the impact is going  
9 to be negligible.

10 CHAIRMAN HOOD: I would agree, Mr.  
11 Turnbull and Commissioner May, because when I  
12 look at what ANC 3D mentioned in their  
13 submission, that the cap of 13,600 is  
14 excessive, and will exacerbate already  
15 existing objectionable impacts.

16 I don't think we had anything in the  
17 record of that, but also, as Commission May  
18 pointed out, is that the Law School was already  
19 in the area, and I don't think the merits of the  
20 case show that it would exacerbate, as  
21 mentioned in ANC 3D's submission.

22 So, any other comments on student

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1 enrollment? Any comments about the freeze?  
2 Anyone want to comment on the freeze? I know  
3 I'm taking some of these out of --

4 COMMISSIONER MAY: No, I would just  
5 say that the -- we were acting on the  
6 assumptions that -- or acting on the -- based  
7 on the information that was presented on how the  
8 student -- you know, how the housing would be  
9 implemented and how the student enrollment  
10 would grow and how they would meet the target  
11 percentage, and I think that was a reasonable  
12 plan, and I don't believe that we needed to  
13 enact any sort of freeze or tie the enrollment  
14 to the expansion of the housing.

15 I mean, effectively, it was, but  
16 based on the expansion plan that they had  
17 provided for us, but we did not need to tie that  
18 enrollment cap to the specific numbers of  
19 housing provided.

20 CHAIRMAN HOOD: Okay, Mr.  
21 Bergstein, do we need to vote on each one of  
22 these individually or can we just comment?

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1                   MR. BERGSTEIN: I think at the  
2 conclusion, assuming that you don't change your  
3 mind about the merits of the application as a  
4 whole, you would just instruct us to draft an  
5 order, based upon your deliberations.

6                   CHAIRMAN HOOD: Okay, all right.  
7 Let's go to the -- let's talk about the buffer.

8                   COMMISSIONER MAY: Mr. Chairman,  
9 I'm sorry. Do we want to actually talk about  
10 the expansion of the community and displacement  
11 of local business first, as it relates to the  
12 enrollment?

13                   CHAIRMAN HOOD: Okay.

14                   COMMISSIONER MAY: Okay?

15                   CHAIRMAN HOOD: All right, you want  
16 to start us off?

17                   COMMISSIONER MAY: Yes, certainly.  
18 So, the Court found that our discussion of the  
19 potential impact of the University is in  
20 essence, consuming nearby commercial space,  
21 was not adequately addressed in the order, that  
22 we simply said that the University has, as a

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1 matter of right, can acquire space through  
2 lease or purchase in commercial areas and use  
3 it for University purposes. It's just a --  
4 it's a matter of right.

5 So, we really didn't get into a  
6 thorough discussion of that in the order. I  
7 think what the Court found is that we need to  
8 consider that issue in the context of the  
9 potential for objectionable impacts that may  
10 result from the expansion of the campus and the  
11 expansion of the enrollment.

12 Frankly, I think this relates very  
13 closely to what we've just discussed in terms  
14 of the enrollment caps, in that the University  
15 presented a reasonable plan for expanding its  
16 facilities on the main campus, the east campus  
17 and the Law School Campus, and that given that  
18 their ability to accommodate these facilities  
19 on their campus, which frankly, I would expect  
20 would be more desirable for them, that it's --  
21 this plan is likely to decrease the impact on  
22 neighboring commercial areas, if anything.

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1 I certainly don't expect it to have  
2 a measurable increase in the displacement of  
3 commercial businesses and so, I think -- I don't  
4 -- would not expect that as a result of the  
5 expanded enrollment, that there would be any  
6 objectionable impact to the neighborhood, as a  
7 result of displacement of nearby commercial  
8 enterprises.

9 CHAIRMAN HOOD: Okay, and I also  
10 believe that the way the Courts -- the example  
11 of encroachment, which the ANC cited, the  
12 Petitioners cited in the record, is not exactly  
13 what the Courts remanded back to us, and I'm  
14 looking at what the ANC mentioned.

15 I think basically what the  
16 Petitioners referred to was the closure of the  
17 -- of some of the retail in the area, well, this  
18 decision by the University, not to rent certain  
19 spaces to certain retailer that was proposed in  
20 the area.

21 So, that's what I think the Court  
22 was looking at, when they remanded that part

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1 back to us, and I think that the record is  
2 complete and I think as Commission May said, it  
3 didn't see any impacts of the non-commercial  
4 areas. Commissioner Turnbull?

5 COMMISSIONER TURNBULL: Thanks,  
6 Mr. Chair. Yes, and I think that the whole idea  
7 of potential acquisition is difficult to really  
8 address.

9 I don't really think that you can --  
10 you can theorize until you're blue, about what  
11 could happen.

12 But I don't think that there was any  
13 direct link that was shown between the current  
14 -- the past student body, about that the  
15 acquisition of off-campus properties is going  
16 to lead to the kind of impact that was possibly  
17 suggested.

18 CHAIRMAN HOOD: Okay, and again, I  
19 think what was mentioned in the order, what the  
20 Courts also looked at is that some of the things  
21 -- and I think the record sufficiently talked  
22 about some of the plans that American

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1 University -- I don't think they call it the  
2 'good neighbor policy', but they had a lot of  
3 off-campus requirements that were in place, and  
4 I think that will help remedy any of the  
5 concerns, at least anything different that is  
6 happening in some of those retail areas.

7 So, all those commercial -- all  
8 those university uses in the commercial areas  
9 and those retail -- and those other areas.  
10 Anything else?

11 (No audible response.)

12 CHAIRMAN HOOD: Okay, I don't know  
13 if we need to exactly go over every last one of  
14 these, but I think that the -- again, as I stated  
15 earlier, what we received from the Applicant,  
16 as well as ANC 3D, because I think they do bring  
17 up a valid point about the buffer.

18 So, I don't know, Commission May, if  
19 you want to go through all of these.

20 COMMISSIONER MAY: Yes, I don't  
21 think it would take long to just continue  
22 marching through them.

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1           I mean, we did not address the point  
2 about the availability of on-campus housing for  
3 undergraduates, but I think that is folded into  
4 what we've already discussed, in terms of the  
5 freeze and the growth and the housing.

6           So, if we can touch on the  
7 playground use, I think the University  
8 addressed that, that they would -- they already  
9 were working with the school administration at  
10 Horace Mann Elementary, and that they would  
11 continue to work with them, to make sure that  
12 there was -- that there was not an objectionable  
13 impact due to students from the east campus,  
14 making use of that playground or making  
15 inappropriate use of that playground.

16           We did not think it was a  
17 substantial issue, I think as a result of what  
18 we heard in testimony. So, I think it just  
19 didn't make it into the order.

20           But in truth, I think that it's an  
21 issue the University can easily address in  
22 cooperation with the school administration at

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1 Horace Mann.

2 CHAIRMAN HOOD: Okay, I would  
3 agree. I don't think we heard a whole lot of  
4 comments about Horace Mann playground, but as  
5 stated previously in my previous comments, I  
6 think they have, as you stated, some -- they've  
7 been working along with the -- the University,  
8 as well as the school, have been working along  
9 to mitigate any things that may come up. So,  
10 I think that is pretty well covered.

11 Okay, let's go to the east campus  
12 landscaping fence buffer zone, which was the  
13 ANC, I believe recommended to us, a fence, and  
14 I know we had a long discussion about that.

15 COMMISSIONER MAY: Yes, and they  
16 had requested no less than 65 feet continuous  
17 buffer area along the entire property line.

18 CHAIRMAN HOOD: Okay, and I think  
19 we had -- and I'm not sure, I'm trying to recall.  
20 I think we really didn't get into the fence, but  
21 I think that the ANC raises a good point. Maybe  
22 we need to look at that, and require the

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1 Applicant to do some type of fencing.

2 COMMISSIONER MAY: Right, and I  
3 think there was some discussion of fence in it.  
4 I don't remember what the exact conclusion was  
5 at the end of the hearing, but I think we know  
6 now that the University is willing to put in the  
7 fence, and I think it's a simply thing to  
8 include that in a revised order. It certainly  
9 makes sense that it would be that way.

10 Frankly, my recollection is that in  
11 the end, they decided to put in the fence  
12 because they wanted to make sure that it stayed  
13 essentially, as a green buffer and did not  
14 become a recreation space and place for  
15 students to hang out and make noise that's going  
16 to bother the neighbors in Westover.

17 CHAIRMAN HOOD: Okay.

18 VICE CHAIR COHEN: In terms of the  
19 distance or the width of that buffer at 65 feet,  
20 I think there was a -- in the end, our order was  
21 not completely up to speed with the  
22 conversation that occurred in the course of the

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1       hearings, and I think that the University at  
2       that point had already agreed to 65 feet across  
3       the entire length of it, with the exception of  
4       the parking area, where parking -- cars could  
5       be parked as close as 40 feet away in the one  
6       pinch point.

7                   I recall having some discussion of  
8       that and what the likely impacts would be from  
9       cars in that area, and I think frankly, with 40  
10      feet of buffer area that is planted fairly  
11      densely with trees that would, you know,  
12      include some evergreens, so there would be  
13      year-round foliage, I think that that gives  
14      sufficient separation and buffer to the  
15      neighbors in Westover Place.

16                   So, I am comfortable that we can  
17      stipulate that in an order and make clear that  
18      this is sufficient.

19                   CHAIRMAN   HOOD:       Commissioner  
20      Turnbull?

21                   COMMISSIONER TURNBULL:   I would  
22      agree with Commissioner May. I think we had a

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1       tremendous amount of interaction between  
2       Westover and the University on this, which was  
3       tied in not only to noise and sound, but the  
4       views.

5               I think we had a balloon study that  
6       talked about the heights of the various  
7       buildings, what they could see from their  
8       backyard or from their decks, and I think we  
9       went that whole -- I think Commissioner May is  
10      right, when he talks about how the buffer area  
11      was smaller at one point and then it grew, and  
12      I think the final buffer at 65 feet basically  
13      reflects exactly what the homeowners wanted  
14      back there, and I think that, as he also said,  
15      the pinch point was the parking lot, where it  
16      got to be 40 feet at that one corner.

17             I think, but as has been noted, that  
18      the University is willing to put up a fence  
19      also.

20             So, I am -- I think we did the right  
21      thing and I don't think there is anything that  
22      has to be changed on this.

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1                   CHAIRMAN HOOD:   Okay, all right.  
2                   Let's move to the noise, noise on the East  
3                   Campus. We haven't done that yet.

4                   COMMISSIONER MAY:   Well, I think  
5                   it's another area where the order perhaps, did  
6                   not reflect the level of detail, which the issue  
7                   of noise was discussed, and the measures that  
8                   the University would take to prevent noise from  
9                   -- noise impacts from student use.

10                  I mean, the dormitories are already  
11                  separated by the buffer area and the "buffer  
12                  buildings", which would be administrative or  
13                  classroom buildings that were closest to the  
14                  Westover homes.

15                  I think there was some concern about  
16                  whether the night-time noise levels were  
17                  appropriately measured, but I think that in  
18                  fact, in reviewing the record on this, I think  
19                  it was adequately addressed and I think that the  
20                  order can be revised to make that clear.

21                  CHAIRMAN HOOD:   I would agree that  
22                  our prior conclusions on this East Campus,

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1 including the buffer buildings, we had already  
2 made a decision, as Commissioner May had  
3 already -- I know we had a lot of deliberation  
4 on this.

5 I specifically remember  
6 Commissioner, Turnbull, I'm going back to this  
7 buffer issue, going back and forth for a while  
8 about the buffer.

9 So, I was perplexed, but you know,  
10 the Courts sent it back to us for clarification  
11 and for additional comments.

12 But the buffer buildings, we had  
13 found, at least I think the evidence in the  
14 record said that it would not create  
15 objectionable noise, as stated. Commissioner  
16 Turnbull, anything else?

17 COMMISSIONER TURNBULL: No, I  
18 would agree. I think this was part of the whole  
19 interaction that we had with Westover, the  
20 neighbors, the buffer, going through all these  
21 items. It was all tied in, noise, the green  
22 space, the view-shed, what you're going to

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1 hear, what you're going to see.

2 I think all of these items like you  
3 had said, were talked about at this time, very  
4 clearly talked about, noise analysis, the  
5 potential of sound impacts on the neighbors,  
6 and I think it was well addressed. I think it  
7 was covered.

8 CHAIRMAN HOOD: Okay, vehicular  
9 traffic. Basically, they were saying that  
10 there was some credit given the traffic study,  
11 in which I guess, there was some questions  
12 about the traffic study from the Courts.

13 COMMISSIONER MAY: So, in this  
14 case, the concern was that the Zoning  
15 Commission had relied on the information  
16 provided by the University's traffic  
17 consultant, who in turn, relied on a study that  
18 had been done by the GSA for their nearby  
19 facility, for the Department of Homeland  
20 Services, and parts of that study were  
21 eventually withdrawn and redone, and the  
22 concern was that we were relying on flawed

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1 traffic data.

2 I think that actually what occurred  
3 is a bit more subtle than that, and there is more  
4 information, not the entire GSA study was  
5 withdrawn and redone, and that the University,  
6 in examining this, their traffic consult relied  
7 on data that they confirmed with DDOT, was still  
8 valid.

9 I think we actually had extensive  
10 discussion of the validity of that study in the  
11 hearing, and came to that conclusion at that  
12 time. I just don't think it was necessarily  
13 explained very thoroughly in the order, but I  
14 think that we relied on good data in making the  
15 decisions.

16 CHAIRMAN HOOD: I would agree. I  
17 don't think it was flawed information given. I  
18 think we asked the questions, as stated,  
19 because I know specifically, the Commission  
20 spent a lot of time talking about Ward Circle  
21 in this Commission -- I mean, in the hearings,  
22 and I think we relied on the data and we looked

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1 at the impacts and I think we came to the  
2 conclusion that we did, and I think we just need  
3 to inform the Courts exactly, of how we got  
4 there, to that conclusion.

5 I think the conclusion stands. We  
6 just need to probably explain it a little more  
7 in the order. Commissioner Turnbull?

8 COMMISSIONER TURNBULL: Well, Mr.  
9 Chair, I think as both of you have already said,  
10 I think that this whole item was well-vetted at  
11 the time. I think we went back and forth over  
12 many issues, the streets, the counts, and I  
13 think by the time we got finished, I thought --  
14 I think we thought that what we had received  
15 from the Applicant's traffic consultant was  
16 correct.

17 CHAIRMAN HOOD: Okay, do we have  
18 any other issues? Did I leave any out? Is  
19 there anything more?

20 (No audible response.)

21 CHAIRMAN HOOD: Okay.

22 COMMISSIONER MAY: I think we've

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1 covered it all.

2 CHAIRMAN HOOD: Do we need to make  
3 a motion?

4 MR. BERGSTEIN: I think you can, by  
5 consensus, rule that we, OAG, are to draft an  
6 order of remand, consistent with your  
7 deliberations.

8 CHAIRMAN HOOD: Okay, by general  
9 consensus, Commissioners?

10 COMMISSIONER TURNBULL: Yes.

11 CHAIRMAN HOOD: Okay.

12 COMMISSIONER MAY: Yes.

13 CHAIRMAN HOOD: All right. So,  
14 we'll move in that fashion. Thank you.  
15 Again, thank you, OAG.

16 MR. BERGSTEIN: I think -- well,  
17 maybe just because this is on remand, you might  
18 want to take a vote on that --

19 CHAIRMAN HOOD: Okay.

20 MR. BERGSTEIN: -- the motion, to  
21 have us draft a revised order, based upon your  
22 deliberations.

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1                   COMMISSIONER MAY:    So, I would make  
2                   a motion that we affirm our previous decision  
3                   in favor of the American University campus  
4                   plan, as we had previously decided, and would  
5                   ask that the Office of the Attorney General  
6                   draft a modified order to address the areas of  
7                   concern that were raised by the Court.

8                   COMMISSIONER    TURNBULL:        I'll  
9                   second that and just add that it's Zoning Case  
10                  11-07.

11                  CHAIRMAN HOOD:    Okay, it's only  
12                  been a few years.

13                  Okay, so, anyway, it's moved and  
14                  properly seconded.  Any further discussion?

15                  (No audible response.)

16                  CHAIRMAN HOOD:    All those in favor?

17                  (Chorus of ayes.)

18                  CHAIRMAN HOOD:    Ms. Schellin,  
19                  would you record the vote?

20                  MS. SCHELLIN:    Yes, staff records  
21                  the vote as 3-0-2, to affirm the decision,  
22                  earlier decision of the Commission in Zoning

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1 Commission Case No. 11-07, and ask that OAG  
2 draft an order addressing the remand issues.  
3 Commissioner May moving. Commissioner  
4 Turnbull second. Commissioner Hood in  
5 support. Commissioners Cohen and Miller not  
6 voting, having not participated in the case.

7 CHAIRMAN HOOD: Okay, next let's go  
8 to proposed action Zoning Commission Case No.  
9 13-14. This is the Vision McMillan  
10 Apartments, LLC, 1st Stage PUD and related map  
11 amendment and consolidated PUD @ Square 3128.  
12 Ms. Schellin?

13 MS. SCHELLIN: Yes, so, there were  
14 a couple of requests to reopen the record, which  
15 the Commission -- which the Chairman received  
16 and approved. Those were Exhibit-839, 841,  
17 843, 845 and 847, which were received into the  
18 record.

19 In addition, to the numerous  
20 post-hearing submissions that were allowed in  
21 this case, there is a preliminary matter for the  
22 Commission to consider.

1           At Exhibit-814, an NCPC letter was  
2 received after the hearings ended. They  
3 submitted a request via email, after 3:00 p.m.  
4 It was actually during the last hearing, and was  
5 not processed until the next business day.

6           NCPC is out -- or what they did is,  
7 they asked that the record remain open 45 days  
8 beyond the final hearing, and so, it's  
9 something that the Commission needs to address  
10 and I would ask that in addition to considering  
11 this case, you'll propose action that you  
12 address that letter.

13           CHAIRMAN HOOD:        Okay, so,  
14 basically the NCPC has asked us to hold the  
15 record open but --

16           MS. SCHELLIN:    Their staff did,  
17 yes.

18           CHAIRMAN HOOD:    Okay, the staff,  
19 but before that, we need to waive the late  
20 filing of the -- the letter late.

21           MS. SCHELLIN:    It did come in late,  
22 yes.

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1                   CHAIRMAN HOOD:    Okay, when they  
2                   thought probably it was --

3                   MS. SCHELLIN:  They thought it was  
4                   on time because they submitted it actually  
5                   during the hearing, like around 7:00 p.m, but  
6                   they submitted via email and that's not  
7                   monitored and anything that comes in via email  
8                   after 3:00 p.m. is not processed until the next  
9                   business day.

10                  So, therefore, it was not a source  
11                  that was monitored until the next business day.

12                  CHAIRMAN HOOD:  Okay, thank you.  
13                  Commissioners, I would recommend that we grant  
14                  the waiver for the few hour late request, so one  
15                  day, or whatever you have it.

16                  I would be very interested in seeing  
17                  what the NCPC report coming to us on McMillan  
18                  would be.  Any objections?  Commissioner May?

19                  COMMISSIONER MAY:  No.

20                  CHAIRMAN HOOD:        Okay, any  
21                  objections?  Okay, so, Ms. Schellin, we'll  
22                  move in that fashion.  Anything else?

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1 MS. SCHELLIN: No, sir.

2 CHAIRMAN HOOD: Okay, Vice Chair  
3 Cohen?

4 VICE CHAIR COHEN: Thank you, Mr.  
5 Chairman. I just want to state for the record  
6 that I did not participate in this particular  
7 case.

8 CHAIRMAN HOOD: Okay.

9 MS. SCHELLIN: Yes, I guess there  
10 is one other thing. Are you going to grant the  
11 request for the 45 days, to leave the record  
12 open to allow NCPC to provide the information  
13 that they want to provide?

14 CHAIRMAN HOOD: Did they ask for 45  
15 days?

16 MS. SCHELLIN: They had asked for  
17 45 days post the hearing, which we'll probably  
18 pass that, at this point, because the last  
19 hearing was May 27th. So, we're passed that.

20 CHAIRMAN HOOD: Whatever it takes.  
21 I think that's very important to --

22 MS. SCHELLIN: So, do you want to

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1 set a date for them, and I'll advise them  
2 tomorrow? Commissioner May seems to have the  
3 --

4 COMMISSIONER MAY: Can we do that  
5 after we've had some discussion?

6 MS. SCHELLIN: Absolutely.

7 CHAIRMAN HOOD: Okay, so, we will  
8 hold that in abeyance until we finish having our  
9 discussion.

10 Is there any other thing, other --  
11 that we need to decide prior?

12 Okay, let's open it up, colleagues.  
13 We have a proposal of the McMillan case that  
14 we've heard a lot of -- this is again, the first  
15 stage.

16 We've heard a lot of parts, a lot of  
17 -- for me, a lot of different moving parts, and  
18 I don't know if we want to break up our  
19 discussions into how we had our hearing.

20 I think our first hearing was  
21 dealing with the master plan and parcels --  
22 whatever the parcels were. If we want to break

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1 it up, or if we just want to talk about the  
2 master plan in general. What is easier,  
3 colleagues?

4 COMMISSIONER MAY: I think I would  
5 rather discuss it in general, rather than try  
6 to break it up into pieces.

7 CHAIRMAN HOOD: Okay, all right.  
8 All right, so, someone like to start us off?  
9 Well, give me a minute.

10 COMMISSIONER MAY: So, I'll start  
11 off by just talking a little bit about the  
12 height issue. I think that was one of the  
13 concerns that I had had about the height and the  
14 potential impact on views.

15 I do believe that, you know, now  
16 that we've received some information on this,  
17 from the Applicant, that the chances of the  
18 development substantially affecting the  
19 important views from the Armed Forces  
20 Retirement Home and the vicinity of Lincoln  
21 Cottage toward the Capitol is not very likely,  
22 although I don't find that the information that

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1 they submitted is as complete as I would like  
2 it to be.

3 I am also interested in knowing what  
4 happened subsequent to the hearing, because I  
5 believe there was a subsequent meeting with the  
6 Applicant and NCPC on this topic, and I don't  
7 know that we've seen results from that.

8 I think that the -- this does lead  
9 to my other substantial issue on this, which is  
10 the overall height of the medical office  
11 building.

12 You know, I think when you think  
13 about -- this goes back, in some levels, to the  
14 consistency of this proposal with the  
15 comprehensive plan, which envisions a certain  
16 level of development, and the Applicant made  
17 the argument that in aggregate, when you  
18 consider all of the open space and the  
19 high-density buildings at the northern end,  
20 that in total, you know, the total FAR is  
21 something in the neighborhood of two and a half  
22 or less, which is consistent with the comp plan

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1 designation, certainly.

2 I understand that in principle, the  
3 issue is whether having the particular comp  
4 plan designation of medium-density commercial,  
5 moderate-density, residential or vice versa,  
6 is it vice versa, that whether that creates an  
7 expectation of a certain height and bulk of  
8 buildings, and whether we have seen -- we  
9 substantially stray from that.

10 Not that we're necessarily bound to  
11 it. I think that there is substantial  
12 flexibility in the comp plan and our actions on  
13 it, to balance that and to make a judgement.

14 I mean, it's the whole of the PUD,  
15 is putting -- you know, having flexibility in  
16 the development and putting the density where  
17 it makes sense, and keeping open space, or lower  
18 density in other areas. That's all part of the  
19 design approach and the benefit of a PUD  
20 overall.

21 In this circumstance, I am just a  
22 little bit uncomfortable with the height that

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1 we scale all the way up to -- and I mean, it's  
2 really just a portion of that one medical office  
3 building, where it goes all the way up to 130  
4 feet, or approaching 130 feet, and that is what  
5 makes me the most uncomfortable, that one wing  
6 that's that tall.

7 I think if they were in the vicinity  
8 of 110 or 115, I mean, 110 would be ideal, but  
9 I know that the rest of the building is at 115,  
10 roughly, I would be more comfortable with it.

11 I think that -- I mean, it is  
12 something that I would think could be designed  
13 just a bit differently, to be able to drop it  
14 down a bit.

15 It's still going to be quite  
16 substantial, and it's not going to address, I  
17 think the neighbors -- you know, the members of  
18 the neighborhood, who are really concerned  
19 about the density of this project.

20 I mean, I think if I understand them  
21 correctly, they'd like to see almost no  
22 development there, or just maybe a few

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1 townhouses, at most.

2 So, but that's not really -- I don't  
3 think there is a reason for us to decide that  
4 that very low level of density is the  
5 appropriate approach here.

6 I think we heard substantial  
7 testimony that the historic structure of the  
8 vaults is very difficult to preserve or to  
9 restore from its current condition. It's  
10 already been vetted by HPRB, and while they  
11 couldn't really support it because of the  
12 extent of the demolition, they essentially have  
13 assented to this as being a -- you know, a  
14 reasonable approach, but they still have to go  
15 through that extra step of going to the Mayor's  
16 Agent for demolition.

17 So, you know, I think there are some  
18 really remarkable, wonderful things about this  
19 plan, and I think that overall, the density  
20 makes sense. I think the big concern I have is  
21 the height of the one building at 130 feet. I  
22 think it's just pushing it a little bit far.

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1 I have some other concerns about the  
2 project overall. I'm still not happy about the  
3 loading for the grocery and things like that,  
4 but I just want to -- I would start it off just  
5 with a discussion of the height and density.

6 CHAIRMAN HOOD: Anybody else that  
7 would like to talk about height and the density,  
8 the overall plan? Commissioner May's issue?

9 I will share the same concern about  
10 the healthcare facility.

11 When I looked at what was given to  
12 us, I know we had asked them to kind of scale  
13 it back, and I thought that was what was done,  
14 but I'm seeing again that -- again, it just  
15 looks like it's just humongous for that area,  
16 I mean, for that street. I am not saying you  
17 said that.

18 COMMISSIONER MAY: No, no, but I  
19 think what they did is, we asked them for some  
20 additional views because we were concerned  
21 about that.

22 CHAIRMAN HOOD: Yes, I saw the

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1 views.

2 COMMISSIONER MAY: Yes, but I don't  
3 think we actually asked them to scale it back.

4 CHAIRMAN HOOD: I thought we did.

5 COMMISSIONER MAY: Okay.

6 CHAIRMAN HOOD: I can stand to be  
7 corrected, but if not, that was the intention,  
8 because I thought we did ask for views from  
9 North Capitol, I mean, from Michigan Avenue, as  
10 well as North Capitol, right. We did ask for  
11 those views, and I don't know, and that's why  
12 I was trying to pull my old file.

13 I didn't see where it was that much  
14 of a difference. Then again, I will pull the  
15 other file out, that was here.

16 Let's just talk about the density  
17 right now, and I'm really interested in hearing  
18 what the -- not putting it off on the NCPC, but  
19 I'm really curious to hear their comments, that  
20 will come in hopefully, in a few weeks, because  
21 you know, I don't want to say a whole lot,  
22 because I want to hear what the Federal folks

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1 are saying about this projects, and the views.

2 I know it was expressed, I heard  
3 this at the hearing, the views down to the  
4 Capitol, and I'm not sure what the NCPC is going  
5 to come back and say to us.

6 But to me, that may make a lot of  
7 changes, or it may not. I don't know. I don't  
8 have any advanced knowledge of what NCPC is  
9 going to say to us. I'll just have to wait for  
10 the letter.

11 Anyone else on density? Anyone  
12 else? Commissioner Turnbull?

13 COMMISSIONER TURNBULL: Yes, thank  
14 you, Mr. Chair. I think I had mentioned at the  
15 last hearing, that I was concerned about the  
16 classification of the project, where we talked  
17 about moderate density, medium density, and  
18 actually, I think I'm looking at what exhibit  
19 it was in there.

20 Mr. Sher did give a response, and  
21 I'm looking for the tab. Is it C?

22 Yes, on item -- on Tab C of their

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1 Exhibit-832, 832B, 8320, he goes back through  
2 and he gives his rationale, as to what he feels  
3 or how this -- how he feels the project meets  
4 the classification, and I don't know if any of  
5 you have gone through that and looked at that.

6 I don't know, and I think there  
7 still is a concern about the density of the  
8 site. You know, I think I relate to a lot of  
9 the neighbors who are very concerned about the  
10 amount of traffic that's going to be coming into  
11 the project, or at least going by the project.

12 So, I guess even though I've been  
13 reading Mr. Sher's data here and his analysis,  
14 I'm still -- I'm still concerned about it,  
15 myself, and I don't know if OP has had a chance  
16 to go back, and I think they were in agreement  
17 before with the project, as far as relating to  
18 what it was being classified as.

19 So, but I'm still a little uneasy  
20 about it. I just feel a little bit  
21 uncomfortable that this much development, and  
22 although Mr. Sher can say, "Well, we got all the

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1 park at the one area, got all the -- most of the  
2 -- most of it's going up by the north of the  
3 property," and he feels that that, you know,  
4 sort of -- by the time you take away this and  
5 you take away that and you get down to the actual  
6 area, that it does meet the requirements of  
7 moderate and medium in these areas.

8 So, it's a numbers game, and I guess  
9 if you really -- I mean, you'd really have to  
10 take a hard look at this. I'd have to go really  
11 through this, and satisfy myself that he's  
12 correct.

13 But I'm still a little uneasy about  
14 it too.

15 CHAIRMAN HOOD: Commissioner  
16 Miller?

17 COMMISSIONER MILLER: Thank you,  
18 Mr. Chairman. I concur with the comments of  
19 all of my colleagues, and especially the  
20 comments of Commissioner May.

21 I think it's a lot of -- that medical  
22 office building is 860,000 square feet, and the

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1 neighbors are concerned about the adverse  
2 impacts of that, and there is something jarring  
3 about -- even though I think -- I think Mr.  
4 Sher's analysis, in terms of the trade offs and  
5 pushing all the density to the north, so you  
6 can't -- the big open space park to the south  
7 makes sense, makes sense to me.

8 But there is something jarring  
9 about 130 foot high building, even though it's  
10 only the western part of that, western wing of  
11 that medical office building being 130 feet,  
12 when the comp plan says moderate density  
13 commercial.

14 I can see how the overall plan fits  
15 into that, with the two and a half FAR, or  
16 whatever it is, but to have the highest height  
17 in the city outside of downtown, far outside of  
18 downtown is a little bit jarring.

19 So, I think that that could -- it's  
20 ten stories high now, because they have higher  
21 floor-to-ceiling, because of the type of  
22 facility it is. If it was nine stories, I would

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1 think that that might help mitigate some of the  
2 adverse impacts that might result otherwise in  
3 the surrounding community.

4 So, that's where I am on that issue,  
5 Mr. Chairman.

6 CHAIRMAN HOOD: Okay, any other  
7 comments? Okay, we're going to go to traffic.  
8 Anything else about the master plan, or do you  
9 want to move to traffic?

10 COMMISSIONER MAY: I was going to  
11 -- wanted to move on to the -- it doesn't matter  
12 when we do it, but my other significant concern  
13 was the lowering for the grocery building, or  
14 the building -- the multiple -- the mixed-use  
15 building with the grocery store in it.

16 CHAIRMAN HOOD: Okay, you think we  
17 probably -- we probably could cover that, I  
18 think, because what I wanted to do,  
19 Commissioner May, was get to the BI report --

20 COMMISSIONER MAY: Sure.

21 CHAIRMAN HOOD: -- which talks  
22 about loading.

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1 COMMISSIONER MAY: Sure.

2 CHAIRMAN HOOD: I think we can  
3 cover that, but you can start off, but I think  
4 that will get to that.

5 So, let's go to traffic. I  
6 especially wanted to talk about that, but we can  
7 start with loading.

8 COMMISSIONER MAY: Okay, great.  
9 So, you know, we have seen some really  
10 remarkable PUD's here in the last few years,  
11 where in tight dense environments, we've gotten  
12 some really great grocery stores with actually,  
13 pretty sophisticated loading arrangements, and  
14 it's a -- I don't want to -- maybe we've gotten  
15 spoiled, but I am -- to have a major project like  
16 this, where you have such total flexibility  
17 over the sight, granted there are historic  
18 buildings that they have to -- you have to work  
19 about, but you still have pretty large blocks  
20 and you have big footprints for buildings, when  
21 you're making your blocks.

22 That's why to have something of that

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1 -- that has, you know, side by side back-end,  
2 diagonal semi-truck loading, off of a -- you  
3 know, of a very otherwise pedestrian-friendly  
4 street, is just -- just seems so completely out  
5 of place.

6 I'm accustomed to having kind of  
7 drive-in/drive-out loading on grocery stores,  
8 and you know, maybe they've studied it and  
9 exhausted all possibilities and can't come up  
10 with it.

11 But gosh, I would think that even if  
12 they just shaved, you know, some of the square  
13 footage of the grocery store, they could come  
14 with a good drive-through solution here, that  
15 would address DDOT's concerns and make for a  
16 more pleasant pedestrian circumstance, because  
17 it's just -- you know, I could see this place  
18 just teaming with people in the busy times, and  
19 even in the, you know, early mornings when you  
20 might expect trucks to come in, there are going  
21 to be a lot of people out and about, because it's  
22 going to be a pretty great place to walk and work

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1 and live, and you know, there are going to be  
2 big semi-trucks backing into this grocery  
3 store.

4 CHAIRMAN HOOD: Anyone else on  
5 loading?

6 COMMISSIONER TURNBULL: Well, it's  
7 tied in with that. They actually made a  
8 change, Commissioner May, if you recall.

9 They took the parking entry garage,  
10 which is on the one side of the entry way and  
11 moved it to the loading.

12 So, at least senior only get hurt,  
13 if they make a left turn, not if they make a  
14 right turn.

15 So, they eliminated, you know, that  
16 possibility, but you're right, it is an awkward  
17 street there, and I think part of the other  
18 thing they've got along with that is that there  
19 were no 'stop' signs or anything. This was  
20 just -- so, you had cars coming, trucks coming  
21 and what was ironic is that we have the senior  
22 housing, which is -- and I guess that's the

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1 other part that's the troubling aspect, with  
2 the senior housing. It's just awkward, tied  
3 into the rest of the -- of that whole block.

4 COMMISSIONER MAY: Well, you know,  
5 I think that the senior housing, the location  
6 senior housing in close proximity to the  
7 loading area, it's a bad combination.

8 I was less concerned about the  
9 location of the senior housing wing, as some  
10 folks move --

11 COMMISSIONER TURNBULL: No, I'm  
12 hearing you. I think they provide some  
13 supplemental information that addressed that,  
14 I think fairly well.

15 COMMISSIONER MAY: Yes, no, I don't  
16 mind the location of the wing itself, of where  
17 it is, but I think the combination of the truck  
18 dock, the loading area and the parking is still  
19 a very awkward situation for those people  
20 there.

21 COMMISSIONER TURNBULL: Right.

22 CHAIRMAN HOOD: Okay, I would

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1 agree, but you know, for the whole traffic  
2 report for me, I know that there was some things  
3 discussed about making a left on North Capitol,  
4 making a right on North Capitol.

5 When I looked at the Exhibit-837,  
6 which talks about different things that they  
7 agree with, what DDOT agreed with the  
8 Applicant, what they didn't agree with, but  
9 then when I went to Tab E, they have a list of  
10 things that they -- DDOT suggestions, and then  
11 the Applicant's response and what they agree  
12 with.

13 For me, and I think this is too  
14 important, for me to just sit here and try to  
15 figure out some of the things that we think need  
16 to be there, but it's also important to the  
17 community.

18 I'm not sure whether the second  
19 stage PUD, we have a bite at the apple. I think  
20 this is just too important to let it just go by  
21 reading, and not having an opportunity to be  
22 able to ask questions on some of these, "I agree

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1 with this, don't agree with this left turn."

2 I think it's just too important to  
3 that community, because we heard enough  
4 discussion about the community worried about  
5 traffic, and I think when I look at -- at least  
6 for me, from this Commission, when I looked at  
7 the traffic report, and I looked the laundry --  
8 cadre laundry list of, "DDOT has the following  
9 comments regarding changes made to the site  
10 design," it talked about the loading curb cuts,  
11 the impacts potential to negatively impact the  
12 operation of North Capitol Street, they twiddle  
13 with that a little bit, as mentioned.

14 Then it goes on to talk, for example  
15 -- I mean, I'm not going to read the whole thing,  
16 because it's a lot of bullets here.

17 "First Street, Northwest, DDOT  
18 finds the conceptual design of First Street as  
19 proposed by the Applicant to be generally  
20 acceptable."

21 When I hear 'generally', that means  
22 it may be or may not.

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1                   So, I mean, I'm troubled. I  
2 appreciate the work that went into this report,  
3 but I think this is too important to pass and  
4 not make sure we nail down some of the  
5 mitigation, because at the end of the day, the  
6 neighborhood, as well as residents in this city  
7 are going to be impacted.

8                   So, I don't know how we get there.  
9 Again, that's why if you notice, when we did the  
10 set down, I wanted to make sure that the  
11 transportation part was part of everything that  
12 we heard, because I've been here long enough to  
13 here, "You already voted on that."

14                   So, I want to make it clear that we  
15 -- I have not approved, or this Commission at  
16 least this far, at least this Commission as not  
17 approved any transportation mitigation.

18                   But I'm just not sure if some of  
19 these are going to work. It's too much  
20 uncertainty, and I know, I keep hearing the  
21 argument about things will happen at the  
22 permitting process, but I think this is just too

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1 important for a pass, and I'm talking about the  
2 whole transportation report, as well as the  
3 Applicant's submission in Exhibit-E.

4 I don't know what my other  
5 colleagues feel on that, but that's -- I don't  
6 know if we get to a limited scope hearing. I  
7 don't know if it can be approached a the second  
8 stage, but some of these mitigation matters --  
9 efforts, like they say, generally accepted.  
10 "We don't accept this. We don't agree with  
11 this. We agree with that."

12 You know, I think this is just too  
13 important of a project, too much mass, too much  
14 of an area, to give a pass.

15 So, that's my comment on it.

16 COMMISSIONER MAY: So, Mister --

17 CHAIRMAN HOOD: Both DDOT and the  
18 Applicant's.

19 COMMISSIONER MAY: So, Mr.  
20 Chairman, I was -- I'd like to ask a question  
21 of you and your assessment of the -- of the  
22 overall traffic load that this project will

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1 generate, because this is a -- you know, unlike  
2 many of the very large PUD's that we've deal  
3 with, this is not in close proximity to a metro  
4 station, and it is reliant heavily on buses for  
5 public transit, potentially in the future, a  
6 street car line, as well, but that's an  
7 uncertain future. Certainly, and uncertain --  
8 certainly, an uncertain timing for that.

9 So, I'm wondering, I mean, there are  
10 -- at a certain point, you can make all of the  
11 tweaks. You can add the -- you know, the  
12 left-turn lanes and the controls at the  
13 intersections and things like that.

14 But at a certain point, it's just a  
15 matter of well, there are just too many  
16 vehicles.

17 Do you have a concern that this  
18 level of density is going to simply bring too  
19 many vehicles or is it for you, a matter of  
20 getting all of the coordination with DDOT right  
21 on the roadway improvements and such?

22 CHAIRMAN HOOD: I will say your

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1       latter point. I think that the -- getting the  
2       issues with DDOT and the Applicant nailed down,  
3       more specific, because right now for me, it's  
4       all over the place. Everything is everything.  
5       You know, everything goes.

6               Yes, we have traffic, and as  
7       everyone knows, I cannot stand -- I hate to be  
8       in traffic.

9               But anyway, yes, I just don't think  
10       this is nailed down enough. I think this is  
11       just too important for us to give this a pass.  
12       That's just my opinion. Not saying it's too  
13       many cars going to come to the site. Not saying  
14       that at some point, this is going to be great  
15       for the community.

16               But I think that we owe the citizens  
17       of this city that much, to at least nail down  
18       this from a zoning perspective, try to nail  
19       down, I don't agree/disagree, DDOT generally  
20       agrees. What is it?

21               You know, I'm not picking on DDOT.  
22       I think DDOT has done a fine job, and so has the

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1 Applicant, to a point.

2 But we need to have a coordinated  
3 effort, to try to go forward with mitigation,  
4 because you know, mitigation may work, they may  
5 not. Personally, I don't think they work.

6 But I think that what we need to do  
7 is try to at least pull these together, so it's  
8 understood, how we're moving forward, as far as  
9 the transportation.

10 COMMISSIONER MAY: Well, I agree  
11 that --

12 CHAIRMAN HOOD: How we do that, I  
13 don't know.

14 COMMISSIONER MAY: There are a lot  
15 of moving parts in a project like this, with  
16 this many, you know, entrance points and exit  
17 points on two major thoroughfares and a third  
18 very significant thoroughfare.

19 So, it's a very complicated  
20 situation and I think that the -- it would help  
21 a great deal to have a little bit more of the  
22 -- you know, the things that are unsettled

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1 between the Applicant and DDOT, settled a  
2 little bit more thoroughly.

3 So, I agree with you, Mr. Chairman.

4 CHAIRMAN HOOD: Okay, all right.  
5 Thank you. Any other comments?

6 COMMISSIONER TURNBULL: Yes, Mr  
7 Chair. I just want to continue on that,  
8 Commissioner May made a good point, and as it  
9 was talked about, it was talked about in the  
10 hearings and we went through it, that this site,  
11 you know, which is a very prominent site, very  
12 -- it's a great site to be developed, but it's  
13 not near a metro.

14 Now, if I got to Exhibit-836 of the  
15 Applicant's -- with the Applicant, and page 21,  
16 where they talk about transportation features,  
17 "The site will be a multi-transit that will  
18 convey transit services, such as metro bus,  
19 circulator bus and future street car," talks  
20 about Capitol BikeShare, long-term bicycle  
21 storage.

22 "The Applicant will also implement

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1 transportation, infrastructure and  
2 improvements recommended by DDOT."

3 Then they come down and they say,  
4 "Recommended improvements to nearby bus routes  
5 to better serve the PUD site and neighbors."

6 "B) recommend an acceleration of  
7 planning and development of the planned  
8 Brookland Heights streetcar."

9 "C) the provision of an interim  
10 shuttle service to the Brookland Metro rail,"  
11 and they say that's going to be about  
12 one-million and a quarter, there's no time line  
13 on this. It's not tied into public bus  
14 improvements to the area. It's just a dollar  
15 amount that when it runs out, it's out.

16 "The Applicant to incentivize  
17 onsite residents," they talk about smart-trip  
18 cards and, "The Applicant will explore the  
19 possibility of offering a shuttle service to  
20 connect the senior residents," they'll  
21 explore. It's not being provided. They're  
22 going to explore.

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1           So, then when I look at this, I  
2 think, and like you say, I mean, it's -- public  
3 transportation, with all we -- we heard from the  
4 neighbors that they're concerned that they  
5 don't have enough, and with the increase in  
6 people and office users, and if you're trying  
7 to get people there, there is nothing positive.

8           We have -- we do have a letter.  
9 It's under Exhibit-D, from Council Member  
10 McDuffie, where he talks about, he is going to  
11 back to keep the funding that's already in  
12 place, and how he's going to try to -- he's going  
13 to back for funding for increase for DDOT, for  
14 other -- but there is nothing substantial that  
15 promises or can -- that the neighbors can say,  
16 "Here is -- you know, I can see what's going to  
17 happen as this development goes along."

18           I almost want to see a performance  
19 plan, public management plan that the applicant  
20 is working with its partner to say that, we get  
21 through building up in the north end, with the  
22 public -- with the hospital -- the medical

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1 building, so many more buses are going to be  
2 added, or what they're going to do, and how is  
3 going to be monitored.

4 The Applicant ought to be able to  
5 monitor this, that how many more buses are being  
6 brought in. When you develop the next section,  
7 you're going to get -- I think there ought to  
8 be an increase -- some kind of a step by step  
9 performance plan that shows how public  
10 transportation is going to increase and that it  
11 can be monitored, so that we, as a benchmark,  
12 you know that this project will come back for  
13 modifications in the future.

14 We then can look at something and  
15 say, "What have you done for public  
16 transportation? How is this increasing? How  
17 is this helping? What have we done in the area  
18 to get people around, so that they're not  
19 car-dependent?"

20 I don't see that. I'd like to see  
21 something in there, that would somehow develop  
22 a plan, and it's all pie in the sky. It's like,

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1 well, it's all dependent upon funding, yet they  
2 want us to put this proposal forward, and the  
3 neighbors are not going to be able to get  
4 around. There may not be enough bus service to  
5 get around.

6 I'd like to see some kind of at least  
7 tentative proposal, a benchmark plan that would  
8 say, "Here is what we would like to do. Here  
9 is what we're trying to do, as per, as we get  
10 through these different steps."

11 But I don't know how we do that.  
12 But I'm just concerned that the lack of public  
13 transportation in this area is going to  
14 increase, if we don't get any buses, anymore  
15 buses, it's going to be worse, and the people  
16 are going to come back and look at us and say,  
17 "Why did you approve this?"

18 It puts as an unknown factor, about  
19 this public transportation, that we just can't  
20 get our arms around, and I think you're fairly  
21 -- you know, that means more cars.

22 I'm not sure how we structure that

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1 or how we get the Applicant to structure that,  
2 so that we can see how this development grows  
3 and how it's developed, and how public  
4 transportation has increased in this area,  
5 because if there is no metro, how are you going  
6 -- and again, a lot of these things are, "We're  
7 going to explore this. We're going to do  
8 that."

9 I'd like to see something more  
10 definitive that the neighbors can look at and  
11 say, "Yes, I think this makes sense then."

12 CHAIRMAN HOOD: Okay, any other  
13 comments? Commissioner Miller?

14 COMMISSIONER MILLER: Thank you,  
15 Mr. Chairman. I mean, I would agree that the  
16 potential adverse impact of traffic from this  
17 development is the appropriate focus and  
18 concern of the neighbors and of this  
19 Commission.

20 I think there's been a lot more  
21 movement by the Applicant to accept DDOT's  
22 recommendations, than has been acknowledged in

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1 the discussion so far, but I do agree that it  
2 does need to be tightened up and strengthened  
3 and have performance monitoring, and specific  
4 benchmarks and a commitment to a shuttle bus,  
5 there should be a commitment to a shuttle bus,  
6 you know, not with a cap dollar amount on it,  
7 as Commissioner Turnbull has pointed out.

8 So, I mean, but I think there has  
9 been a -- there is a lot -- it's rather you see  
10 it -- it's just a matter of when you read -- when  
11 you read the Applicant's statement on  
12 transportation and DDOT's, there is a lot of  
13 agreement there, and I don't think we've  
14 acknowledged that there is some exceptions  
15 though, and I think where that's -- it's those  
16 exceptions that we need to tighten up, and maybe  
17 get worked out. But so, that's where I am.

18 CHAIRMAN HOOD: Okay, I think that  
19 just shows Commissioner Miller, how much  
20 transportation issues that we've heard from the  
21 merits in the case.

22 Yes, I would agree, there is some

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1 agreement, but even -- when we look at one, it  
2 says, "The Applicant agrees to these changes,  
3 except for the Capitol BikeShare subsidies,"  
4 null before the healthcare -- so, it's a lot of  
5 'excepts', as Commissioner Turnbull mentioned.

6 So, I mean, I'm not going to say  
7 there's no agreement. There are some  
8 consistent areas, but I think this is just too  
9 important, especially for First Street, and  
10 when there is some differences on First Street,  
11 and I know what First Street is like.

12 So, I just think this is just too  
13 important for a pass.

14 COMMISSIONER MILLER: One other  
15 thing. I think we maybe need to have some  
16 analysis, both from a financial feasibility  
17 standpoint for the project, but also from a  
18 traffic impact analysis from the project, if  
19 there were to be hypothetically, a one-story  
20 reduction in that medical office building, what  
21 would be the lessened traffic impact, because  
22 that is -- in addition to all the mitigation

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1 measures and improvements that need to be made  
2 there, and the transportation corridor bus  
3 improvements, I think we need to also have an  
4 analysis of what a lesser -- a one-floor less  
5 building, what the impact would be. I'd be  
6 interested in that.

7 CHAIRMAN HOOD: Okay, anything on  
8 the traffic, or did we hit that generally?

9 Okay, one the other things, you  
10 know, we talked about a lot of preservation of  
11 historic sites, as noted. We need to make sure  
12 there is a time table and if it was one, I may  
13 have missed it, a time table -- may have come  
14 in today, but at time table for the  
15 rehabilitation of the historic resources to be  
16 retained on this site and enforcement  
17 mechanisms to make sure that they are  
18 completed. So, we need that from the  
19 Applicant.

20 Again, I know this is the first  
21 stage and we want to -- we need to nail down -  
22 - and because of the magnitude of this project,

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1 we need to nail down as much as possible, and  
2 again, traffic for the second stage parts of  
3 this case, I would suggest that the Commission  
4 always look at traffic, even with the other  
5 parts of the second stage, as we move into the  
6 -- some of the dates. I think some of the  
7 dates, I don't know if some of us may not be  
8 here, but regardless, I think the future  
9 Commission needs to look at those, when they get  
10 to those second stage, and make sure we always  
11 look at the traffic in this case.

12 Okay, anything else?

13 COMMISSIONER MAY: Mr. Chairman?

14 CHAIRMAN HOOD: Commissioner May.

15 COMMISSIONER MAY: You mentioned  
16 time tables. I think that we were interested  
17 in knowing about the historic preservation  
18 features of the project, but also the  
19 recreation center is an important component,  
20 when that will be delivered.

21 In fact, I think the draft order  
22 that was supplied was lacking in all of the

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1 details, in terms of the time table, and I think  
2 we adhere to a general time table at some point  
3 during the hearing, and then might have been the  
4 submission about it, but I think that needs to  
5 be stated quite clearly, since we're approving  
6 the overall master plan and giving second stage  
7 approval theoretically, with that approval of  
8 the master plan, that we have very specific  
9 dates for the delivery of these key components.

10 I think we've seen too many PUD's  
11 come through where some of the important  
12 community serving benefits of the project are  
13 delivered very late in the development, in the  
14 overall development and I don't that should be  
15 the case here.

16 CHAIRMAN HOOD: All right, any  
17 other comments? Commissioner Turnbull?

18 COMMISSIONER TURNBULL: Mr. Chair,  
19 I had -- maybe I missed it. Did you talk about  
20 the monetary contributions?

21 CHAIRMAN HOOD: That's coming up.  
22 I was saving the best for last.

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1 COMMISSIONER TURNBULL: Okay.

2 CHAIRMAN HOOD: We might have some  
3 other issues, but let's go to the community  
4 benefits package that's -- we got a lot of  
5 letters.

6 Let me just respond to a few. Well,  
7 let me just say, some of the letters were  
8 different proposals.

9 The Commission -- we have to deal  
10 with the proposal that's in front of us. While  
11 I know other people want to see nothing but  
12 green space and whatever they want to see on  
13 this site, but the Commission deals with -- we  
14 don't propose anything. We deal with whatever  
15 is presented in front of us.

16 We try to find the proper land use,  
17 the size, the density of the mass, deal with  
18 adverse impacts. We don't necessarily -- if a  
19 proposal for all green space came in front of  
20 us, we would deal with that, but that's not --  
21 all green space is not in front of this  
22 Commission.

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1           So, I wanted to just comment on one  
2 of the letters I saw.

3           Another thing is that while I asked,  
4 and some time -- I think one of the people across  
5 town called me up. What is it, again? Michael  
6 from Bullitt. Michael from Bullitt.

7           What I usually do is try to ask  
8 Applicants to work with the community and I try  
9 to push that, because I think that's very  
10 important. I can't mandate that. Zoning does  
11 not fix everything. Zoning cannot do it all.  
12 Zoning is basically, the dealing with land use,  
13 and I saw some of those issues.

14           While I asked for them to meet with  
15 different subject associations, not the --  
16 legally, I don't think they have to meet with  
17 anybody.

18           But I think it's the good neighbor  
19 policy, that the Applicant continue to be.

20           The other thing is, one of the  
21 things that I didn't understand about community  
22 benefits package is, amenities are to kind of

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1 offset some of the adverse impacts it puts on  
2 the community, and I don't want to mess with  
3 anybody, what anybody negotiated.

4 But I was just concerned about  
5 stronghold, which is to the east of the  
6 development, and I know there is some other  
7 neighborhoods that are further away, and I was  
8 looking at some of the -- I don't know how we  
9 got there, but I would like to have an  
10 explanation of how we got to some of those  
11 amounts.

12 So, here is another thing. How are  
13 these CVA's -- how is this community benefits  
14 package going to be administered?

15 Just to give somebody \$30,000, I  
16 think the Commission, we've kind of gotten away  
17 from that, because sometime, it runs into  
18 problems because leaders in the community  
19 change, things do change.

20 We need to see how this is going to  
21 be administered because I'm not sure when all  
22 this will happen. When it's approved it's

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1 going to be so many years before some of that  
2 stuff triggers. Is it before the building  
3 permit for the CFO? It's a number of things  
4 that happen.

5 So, I don't want this Commission to  
6 -- and we usually don't create problems for  
7 communities later on, but I am curious about how  
8 stronghold got their amount versus others, and  
9 I'm not pushing for it. I'm just curious how  
10 that was balanced, how was it negotiated?

11 Now, we can't -- again, we can't  
12 make them negotiate with some other Civic  
13 Associations in areas which -- but we did ask.  
14 We can't make them do anything. We just -- the  
15 Applicant has the right to work -- I know they  
16 have to work by law, with ANC, in which they  
17 obviously did, from the letters that we have  
18 submitted.

19 So, that's my start on the community  
20 benefits, and let me open it up. That will get  
21 us started, I think, or was that the end? Okay,  
22 Commissioner Turnbull?

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1                   COMMISSIONER TURNBULL: Well, just  
2 continuing on with what you had talked about.

3                   A lot of the items that were  
4 mentioned violate some of our rules.

5                   I mean, one of the things that the  
6 benefits -- they have to be tangible and  
7 quantifiable, and they have to be measurable  
8 and able to be completed or arranged prior to  
9 the issuance of a C of O.

10                  I mean, I can give you some examples  
11 of items that are out there, if you'd like, but  
12 -- that are listed.

13                  They talk about \$1 million for a  
14 workforce development fund, and that's just --  
15 there is nothing really, that explains how that  
16 is -- what's happening there.

17                  One-hundred-twenty-five-thousand  
18 dollars to parent/teacher associations or  
19 other non-profit organizations. Again,  
20 that's just a vague number. There is nothing.

21                  Five-hundred-thousand                 for  
22 neighborhood beautification project, \$150,000

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1 for North Capitol Main Street store.

2 These items have to be tied to  
3 something quantifiable, just like you said. I  
4 mean, we have to be able to measure these. How  
5 did they get there, and we need to be able to  
6 identify -- when a certificate of occupancy is  
7 going to be issued, these things have been  
8 accomplished.

9 So, we're not there yet with this  
10 benefit package. We really don't know where  
11 the money is going, what it's -- how it's going  
12 to be, you know -- who sets up to receive it?  
13 How is it going to be done? How is it going to  
14 be dealt with, and I really think that has to  
15 be really flushed out more.

16 CHAIRMAN HOOD: Any other  
17 comments?

18 COMMISSIONER MAY: Yes, Mr.  
19 Chairman, I would just note, I mean, we did  
20 receive the resolution from the ANC from their  
21 meeting and -- well, the resolution is from June  
22 23rd, and you know, there is agreement with --

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1 between the ANC and the Applicant on a revised  
2 benefit package.

3 I mean, granted, the details need to  
4 be nailed down, as what -- as Commissioner  
5 Turnbull pointed out, but it's now -- the total  
6 value is \$5 million up from \$3.9 million.

7 I think that is a substantial  
8 improvement, and worthy of note. It's -- you  
9 know, I don't want to sound totally negative,  
10 what we're up here as discussing the project.  
11 I think that's an improvement and it's worth  
12 noting.

13 CHAIRMAN HOOD: I don't -- I  
14 wouldn't say -- and I'm not trying to correct  
15 you, Commissioner May, but I wouldn't say that  
16 we were negative.

17 I think though, as we all know, in  
18 the past, we don't want to create additional  
19 problems.

20 As Commissioner Turnbull has  
21 already stated, that the -- how it's  
22 administered is key, and I think we've learned

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1 that from lessons learned, cases we had to come  
2 back down here and hear about, how things  
3 weren't working for amendments to community  
4 benefits, because we had two people on both  
5 sides of the room who was suppose to get an  
6 amendment and they fell out and those kind of  
7 problems.

8 So, I think we need to do that up  
9 front. We learned that from lessons past and  
10 we're going to -- I think this Commission, as  
11 we've done recently, we proceed with caution,  
12 okay? Commissioner Turnbull, I mean, I'm  
13 sorry, Commissioner Miller.

14 COMMISSIONER MILLER: Thank you,  
15 Mr. Chairman. Yes, I also wanted to  
16 acknowledge the increase in the amenity package  
17 from \$3.9 million to \$5 million, and I think a  
18 lot of these things that the ANC negotiated are  
19 very valuable and are -- and can be tangible and  
20 quantifiable, that it just needs to be  
21 tightened up.

22 It needs to be spelled out in the

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1 final process or beforehand, when each  
2 contribution will exactly be made, or when  
3 specific items and services -- what specific  
4 items each services -- and services each  
5 contribution will fund, who will provide each  
6 item of service, when will each item be provided  
7 and commenced, and tied to a C of O or of other  
8 enforcement mechanism that we can rely upon.

9 So, I think that that can be  
10 addressed in the discussions between the Office  
11 of Attorney General and the Applicant, and but  
12 I think a lot of these are valuable, are of  
13 value, these neighborhood improvement programs  
14 and other workforce development funds.

15 I mean, that \$1 million for  
16 workforce development is nothing to sneeze at.  
17 So, I think it just needs to be specifically  
18 spelled out and be enforceable.

19 CHAIRMAN HOOD: Okay, any other  
20 comments? Questions on this?

21 (No audible response.)

22 CHAIRMAN HOOD: Okay, I guess next

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1 steps. Do we want to have a lender disclosure  
2 hearing? Do we want to do a proposed tonight?

3 COMMISSIONER MAY: Mr. Chairman?

4 CHAIRMAN HOOD: Yes, Commissioner  
5 May. I knew if I named a few things, I would get  
6 somebody.

7 COMMISSIONER MAY: Well, I am -- I  
8 would say that I don't really see the need at  
9 this moment, for limited scope hearing.

10 I am more inclined to ask the  
11 Applicant to work on some of the issues that we  
12 had addressed tonight, tightening up the  
13 transportation program, working on the loading  
14 of the grocery store, you know, some of the  
15 other transportation improvements, as well.

16 The first -- you know, working with  
17 NCPC on further response to their concerns,  
18 assuming they still have them. Dropping the  
19 height of the medical office building, I think,  
20 as well.

21 I think if they make a further  
22 submission to address these concerns and we

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1 have the appropriate responses from the parties  
2 in the case, that we may be able to take proposed  
3 action in a subsequent meeting.

4 CHAIRMAN HOOD: Okay, we will try  
5 to move forward in that fashion, as long as  
6 those things are met.

7 I was saying a limited scope, so  
8 when we got that, I don't know, unless we have  
9 additional hearings with our schedules coming  
10 up, but I think this is just too important.  
11 This is just too important, not to -- not to --

12 COMMISSIONER TURNBULL: Well, Mr.  
13 Chair, I think your limited hearing, I mean, if  
14 we get the next submission and we feel that it  
15 still hasn't reached that point, then maybe we  
16 are at a limited hearing, but so, that's still  
17 out there.

18 CHAIRMAN HOOD: Right.

19 COMMISSIONER TURNBULL: I think  
20 that's still out there.

21 CHAIRMAN HOOD: I just want to make  
22 sure that our goal --

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1                   COMMISSIONER TURNBULL:    I think  
2                   the Applicant should understand that.

3                   CHAIRMAN HOOD:    Right, I think our  
4                   goal is to try to make sure it's right.  This  
5                   is too big to -- again, I think, to pass, and  
6                   I think what I heard up here tonight, we may have  
7                   additional questions.

8                   So, Commissioner May, I would take  
9                   those submissions, unless my colleagues differ  
10                  on that.  We can try to look at those  
11                  submissions, try to pull it all together, but  
12                  who knows, we might still need to do that.

13                  I understand this has been going on  
14                  for a while, but you've got to remember, this  
15                  Commission just got most of this recently.  So,  
16                  it's taken us -- it won't take us the 20 years  
17                  that McMillan has been working on it, but I  
18                  think it will take us some time, because the  
19                  goal is to try to -- at least from my standpoint,  
20                  do it as right as possible.

21                  Okay, are we leaving any of the  
22                  issues out, because there were a lot of issues.

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1                   COMMISSIONER MAY: Well, I mean, I  
2                   recapped most, but not all of them that we  
3                   discussed. I mean, I did not mention  
4                   particularly the time table for delivery of the  
5                   historic preservation features and rec center  
6                   and so on. I mean, the overall time table, as  
7                   well as the tightening up of the benefits  
8                   package, as well.

9                   CHAIRMAN HOOD: Right, I think -- I  
10                  mean, but did we leave anything out, that we did  
11                  not mention, anything else that we --

12                 COMMISSIONER MAY: In terms of what  
13                 we discussed today?

14                 CHAIRMAN HOOD: Right.

15                 COMMISSIONER MAY: I mean, we hit  
16                 all the points that I had concerns about, I  
17                 think.

18                 I mean, I think there is some open  
19                 -- I had some other questions about, you know,  
20                 what period is the traffic monitoring, but I  
21                 think that will all get tightened up with  
22                 addressing the traffic program overall.

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1           CHAIRMAN HOOD:    Okay, so, we're  
2 going to move to wait, get responses. Do we  
3 have any dates, Ms. Schellin? Anything else,  
4 Commissioners? Anybody? Okay.

5           COMMISSIONER MAY:   I would just  
6 suggest we allow them substantial amount of  
7 time, because I think that they need to work on  
8 these things, they probably need to have some,  
9 you know, further community input on some of  
10 this, to get it all fully nailed down, and  
11 they'll certainly have to work with DDOT and so  
12 on.

13          CHAIRMAN HOOD:    And we will get  
14 responses from -- I guess from the parties on  
15 any submissions.

16          COMMISSIONER MAY:   Right, yes.

17          CHAIRMAN HOOD:    We're off the month  
18 of August. So, I don't know what our schedule  
19 looks like. I think it's pretty tight.

20          MS. SCHELLIN:    The Applicant has  
21 advised that they need at least six weeks of  
22 going from that. I think we should probably

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1 shoot for taking this up at the October 20th  
2 meeting, in order to give them enough time and  
3 allow the parties an opportunity to respond.  
4 Does that work for the Commission?

5 CHAIRMAN HOOD: October? Let me  
6 see. Is everybody here October 20th, so far?

7 MS. SCHELLIN: Yes.

8 CHAIRMAN HOOD: Okay.

9 MS. SCHELLIN: So, working  
10 backwards from that, if we could have the  
11 Applicant's submissions by September 22nd, and  
12 then typically the rules allow for seven days  
13 for the parties to respond, but since it may be  
14 a large submission, if we could grant them two  
15 weeks and give them until October 6th.

16 CHAIRMAN HOOD: What is the meeting  
17 before the October 20th meeting?

18 MS. SCHELLIN: Nine-twenty-nine.  
19 It's too close.

20 CHAIRMAN HOOD: Okay, thank you.

21 MS. SCHELLIN: Yes, I did consider  
22 it. So, again, the Applicant's submission

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1 would be due be 9/22 and the parties would have  
2 two weeks, instead of one week, which would be  
3 October 6th, all filings due by 3:00 p.m., and  
4 I would ask the Commission if they are asking  
5 DDOT and/or OP to respond to what the Commission  
6 -- I mean, to what the Applicant also submits?

7 CHAIRMAN HOOD: I don't know, does  
8 Office of Planning need to respond? Do we have  
9 anything for them to respond to, unless they  
10 just want to. They don't have anything else to  
11 do. They might want to just --

12 MS. STEINGASSER: We'd be happy to  
13 comment on, especially some of the planning  
14 issues.

15 MS. SCHELLIN: It's going to cut  
16 your time really short because of the ANC's.

17 CHAIRMAN HOOD: Okay, so, we will  
18 get the Office of Planning to respond and DDOT,  
19 definitely.

20 Okay, Commissioner Miller?

21 COMMISSIONER MILLER: Can I just  
22 ask, just before we conclude this on the timing

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1 issue?

2 Is there is a way we -- is there a  
3 way we could find a special meeting date in  
4 between September --

5 MS. SCHELLIN: Actually --

6 COMMISSIONER MILLER: -- 29th and  
7 October 20th?

8 MS. SCHELLIN: Commissioner  
9 Miller, excuse me, sorry for interrupting, but  
10 I'm being told that they want to actually change  
11 and shoot for the 29th of September.

12 So, they actually do want to go  
13 earlier. Is that okay?

14 COMMISSIONER MILLER: Well, I was  
15 willing to go earlier than October 20th,  
16 because that seems like a long time to --  
17 whether we're going to work these issues or not,  
18 you know.

19 MS. SCHELLIN: So, since they want  
20 to shoot for the 29th of September, then their  
21 submissions, they're saying now four weeks, so  
22 that would put them at August 25th, and then

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1 allow the parties -- I know that the ANC's don't  
2 meet in August.

3 So, I think if we allow them until  
4 September 15th, and also, if we -- asking if  
5 NCPC would also make their submission by August  
6 25th. So, that way, all parties would be able  
7 to respond to their submissions. Does that  
8 work for the Commission?

9 COMMISSIONER MAY: So, I have a  
10 question. Why? I mean, that leaves two weeks  
11 from the -- all of the responses, the time from  
12 when all the responses are due, until we  
13 actually take it up.

14 Could we actually give everybody  
15 another week and then get all of the responses  
16 in only one week in advance of the meeting?

17 You know, if we received everything  
18 by September 22nd, as opposed to September  
19 25th, that would still be in advance of the  
20 September 29th meeting.

21 MS. SCHELLIN: Right, just making  
22 time to -- so, that we can prepare it in the

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1 office --

2 CHAIRMAN HOOD: Whatever time you  
3 need to get --

4 MS. SCHELLIN: -- for the package.

5 CHAIRMAN HOOD: -- there and --

6 MS. SCHELLIN: Well, just prepare  
7 to have it --

8 CHAIRMAN HOOD: Let me just say  
9 this. I don't want them to --

10 MS. SCHELLIN: That gives them  
11 three weeks.

12 CHAIRMAN HOOD: All right, let me  
13 make statement, because I hear about the time  
14 we're trying to rush it.

15 I don't want this rushed. I think  
16 we need to do it right. If we're going to rush  
17 and try to get it, we're going to be in the same  
18 -- and I will try to propose, to get my  
19 colleagues to agree with a limited scope  
20 hearing.

21 I want to make sure that it comes  
22 back right, whether it -- you know, I want to

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1 give as much time needed, for everybody to be  
2 able to -- this is just too important to be  
3 trying to push it and rush and get through it.

4 My term is not up until 2018. The  
5 rest of us will be here at least another two  
6 years. So, come on, let's -- come on, let's  
7 take our time. Let's get the community and  
8 let's make sure that it works right, for the  
9 staff to have time, for the Applicant, for the  
10 neighborhood and everybody to have time.  
11 We're always rushing up here.

12 (Off-mic audience member comment.)

13 MS. SCHELLIN: Do you want me to  
14 rework the dates again?

15 CHAIRMAN HOOD: Wait a minute, now.  
16 I just made a comment. Now, Mayor, I want you  
17 to work with me tonight. Mayor, I want you to  
18 work, be good tonight, okay. Thank you.

19 MS. SCHELLIN: Are you asking me to  
20 rework the dates again?

21 CHAIRMAN HOOD: I just want it to be  
22 right. I mean, you know, all this September

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1 29th. If September 29th works for everybody,  
2 let's do it. If it works, let's do it.

3 COMMISSIONER MAY: I was just  
4 suggesting that a week would be sufficient time  
5 for all of the responses to come in.

6 I mean, granted, we're not talking  
7 about the initial submissions of information.  
8 We have already had that.

9 MS. SCHELLIN: I know. I was just  
10 thinking about staff. That was my thing. I  
11 just know what's going on, on the calendar, and  
12 that's what --

13 CHAIRMAN HOOD: Ms. Schellin, your  
14 staff is going to be considerate?

15 MS. SCHELLIN: Yes.

16 CHAIRMAN HOOD: You're in here all  
17 day, eight hours a day. I'm not. I come two  
18 hours. So, whatever works for staff, let's do  
19 it.

20 MS. SCHELLIN: Okay, NCPC? Are  
21 you guys good with NCPC also filing the August  
22 25th, so that the parties will have an

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1 opportunity to respond to that?

2 COMMISSIONER MILLER: They only  
3 asked for 45 days from May 27th. So, I think  
4 that should be fine.

5 MS. SCHELLIN: Okay, I just want to  
6 make sure you're okay with that, and again, OP  
7 and DDOT, if they choose to file a response to  
8 what the Applicant files, especially since it's  
9 transportation related, they can file a  
10 response?

11 COMMISSIONER MAY: Yes, they  
12 should. I would expect them to file responses,  
13 yes.

14 MS. SCHELLIN: Okay.

15 CHAIRMAN HOOD: Ms. Schellin, do  
16 you need to reiterate that? I don't usually  
17 get involved with a lot of the scheduling,  
18 because I know there are other components.  
19 That's why I'm quiet. I usually just --

20 MS. SCHELLIN: I was using the four  
21 weeks that the Applicant --

22 CHAIRMAN HOOD: Okay.

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1 MS. SCHELLIN: -- said they needed.  
2 That was what I went by.

3 CHAIRMAN HOOD: Could you give us  
4 the schedule again, so we're all on the same  
5 page?

6 MS. SCHELLIN: The Applicant's  
7 response and NCPC, 8/25 by 3:00 p.m. The  
8 parties and OP and DDOT, 9/15 by 3:00 p.m. and  
9 then, we'll put this on the 9/29 meeting agenda.

10 CHAIRMAN HOOD: Okay, are we all  
11 set? All right, thank you.

12 Let's go next to proposed actions on  
13 the Commission Case No. 14-02. This is A&R  
14 Development et al, Barry Farms, 1st stage PUD  
15 and related map amendment @ Square 5862, 5865  
16 and 5866.

17 Ms. Schellin, if we could take about  
18 five minutes, and we'll come right back, okay?

19 (Whereupon, the above-entitled  
20 matter went off the record at 8:30 p.m. and  
21 resumed at 8:40 p.m.)

22 CHAIRMAN HOOD: Okay, can we come

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1 back to order, please? We ask that you take  
2 your conversations outside, because we want to  
3 try to come back to order. Thank you.

4 Okay, let's move right along with  
5 our agenda. Please come to order. That was  
6 three times, three times a charm.

7 Okay, let's go back -- move right  
8 along with our agenda. Zoning Commission Case  
9 No. 14-02. This is the A&R Development, et al,  
10 Barry Farms, 1st stage PUD and related map  
11 amendment, Square 5862, 5865 and 5866. Ms.  
12 Schellin?

13 MS. SCHELLIN: Yes, sir. In  
14 addition to the numerous post-hearing  
15 submissions on this case, there are three  
16 preliminary matters for the Commission's  
17 consideration.

18 Exhibit-79 is the party in  
19 opposition's Motion to Strike, the Applicant's  
20 response to their's and ANC 8C's joint  
21 resolution filed at Exhibit-68.

22 Then at Exhibit-80, the Office of

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1 Planning asked for a waiver for the late  
2 submission of the letter in support that was  
3 filed by the MPD. MPD did not file. It was  
4 something that the Commission asked for and MPD  
5 did not file -- provide their letter in time for  
6 OP to make the submission timely.

7 Last, at Exhibit-81, the party in  
8 opposition BFTAA filed a Motion to Request  
9 Additional Hearings and asked the Commission to  
10 consider those items.

11 If the Commission accepts the late  
12 filing of the MPD letter, the parties would have  
13 seven days to file a response to that letter.  
14 It was filed on the 24th.

15 CHAIRMAN HOOD: Okay,  
16 Commissioners, let me ask about the MPD letter.

17 Any objections to waiving our rules  
18 to accept it?

19 (Chorus of nay.)

20 CHAIRMAN HOOD: Okay, so, the  
21 parties will have an opportunity to respond.

22 MS. SCHELLIN: Right, until this

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1 Thursday.

2 CHAIRMAN HOOD: Okay, this  
3 Thursday. Okay, let's go with Exhibit-79,  
4 which is a Motion to Strike from the record,  
5 Applicant's July 21, 2014 response to the  
6 Advisory Neighborhood Commission AC and the  
7 Barry Farms Tenant's and Allies Association  
8 Joint Resolution.

9 Colleagues, we received this. I  
10 think I opened the record. Didn't I accept it,  
11 the response?

12 MS. SCHELLIN: Which one?

13 CHAIRMAN HOOD: Per the  
14 Applicant's July 21st, did I do that?

15 MS. SCHELLIN: Actually, the  
16 Commission, at the close of the hearing, left  
17 the record open for certain submissions, and  
18 then all parties were allowed to respond to  
19 submissions that were made by the 14th. Then  
20 parties could make responses to the filings by  
21 July 21st.

22 CHAIRMAN HOOD: Okay, in this

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1 letter from the Barry Farms Tenants and Allies  
2 Association, it says, "Despite this clear  
3 schedule of filing as ordered by the Zoning  
4 Commission at the June 19, 2014 hearing, on July  
5 21, 2014, the Applicant provided a response to  
6 the parties in opposition by filing a document  
7 titled 'Applicant's July 21, 2014 Response to  
8 the Advisory Neighborhood Commission 8C and  
9 Barry Farms Tenant Allies Association' as seen  
10 as Exhibit-78 on the record."

11 What they're asking is, they were  
12 saying this was not timely. I think that the  
13 responses, the way I understand, was due July  
14 14th, and they have seven days to respond, which  
15 would then make it July 21st, is that correct,  
16 Ms. Schellin?

17 MS. SCHELLIN: That's correct.  
18 So, it was timely, correct.

19 CHAIRMAN HOOD: Okay, so, this  
20 response -- their response was timely, but I  
21 think that the -- the way I see it is that I think  
22 that the party just wanted to respond to that,

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1 and I think that -- I don't know, Commissioners.  
2 Let me open it up. Let me see how you all feel.

3 COMMISSIONER MAY: It seemed  
4 pretty clear to me. I mean, this was -- you  
5 know, we asked for submissions from certain --  
6 from the Applicant and from parties, and then  
7 there was a period, and that was due on the 14th.  
8 Those were due on the 14th from the Applicant  
9 and from the parties.

10 Then the Applicant and the parties  
11 would have seven days to respond to those  
12 submissions that were made on the 14th, and  
13 that's what this July 21st letter is.

14 So, I think it's fully compliant  
15 with what we asked for, and I don't think that  
16 it's something that should be stricken from the  
17 record.

18 VICE CHAIR COHEN: Mr. Chairman, I  
19 would concur with Commissioner May's  
20 interpretation.

21 CHAIRMAN HOOD: Anyone else?  
22 Commissioner Miller?

1                   COMMISSIONER MILLER: I also would  
2                   concur, Mr. Chairman.

3                   COMMISSIONER TURNBULL: I would  
4                   agree on the timing also.

5                   CHAIRMAN HOOD: Okay, I think it  
6                   was timely. But I think the issue here -- and  
7                   again, this goes back to us granting part -- at  
8                   least making the decision to give party status.

9                   A lot of people are not down here in  
10                  front of us a lot. I think that this Applicant  
11                  wants to respond to -- I mean, the party wants  
12                  to respond, because they say in their letter,  
13                  "So that parties may elaborate and raise  
14                  further contested points or concerns, based on  
15                  some of the new information, as well as to  
16                  clarify the many new points of mis-information  
17                  put forward by the Applicant in their  
18                  untimely," -- well we said it's untimely, but  
19                  they say untimely July 21st, 2014 submission.

20                  I think again, as stated, it was  
21                  timely. I think that the party wants to just  
22                  respond and I think that -- I don't necessarily

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1 think that the Commission needs to -- we need  
2 to move tit for tat, but I can tell you that they  
3 were just basically -- from what I read in the  
4 July 21st submission from the Applicant, was  
5 the reiterated points they had already  
6 reiterated prior.

7 So, you know, I don't know if anyone  
8 is interested in giving BFTAA an additional  
9 chance to respond. Any interest?  
10 Commissioner Miller?

11 COMMISSIONER MILLER: Well, isn't  
12 that exhibit with that request in that part of  
13 our record, so it kind of has content in it  
14 that's part of the response?

15 I have no problem with that content  
16 being part of the record, and the content in  
17 their other motion -- in their other motion that  
18 we're going to get to later, I don't have that  
19 problem with that being part of the record.

20 CHAIRMAN HOOD: Right, but in this  
21 letter, they're saying there are some  
22 additional items in the July 21st.

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1           You know, again, I don't want to get  
2 tit for tat. I think it will be -- again, this  
3 is -- let me just say this. This is a first  
4 stage PUD. This is in the very preliminary  
5 stages, as the first one.

6           You saw what we did with the first  
7 PUD. I think there will be a lot of time for --  
8 as this goes forward, depending on how this  
9 moves, either in the second stage PUD's, which  
10 are years to come, for time to respond, and then  
11 try to deal with any issues.

12           I don't know if there's any interest  
13 of anyone to get a response from BFTT -- from  
14 the Barry Farms Tenant's and Allies  
15 Association. Any interest?

16           COMMISSIONER MAY: No, not a  
17 specific response. There may be opportunity  
18 for further information to come into the  
19 record, after our discussion.

20           CHAIRMAN HOOD: I can assure you  
21 that in this case, there will be plenty of  
22 opportunity to be able to respond, okay?

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1 All right, so, moving forward. We  
2 will deny this Motion to Strike, and state that  
3 the -- our scheduling of the timeliness was  
4 sufficient and it was not untimely.

5 Did somebody make a motion? Okay,  
6 we already went -- do we need to make a motion  
7 on that?

8 PARTICIPANT: Second.

9 CHAIRMAN HOOD: Okay, general  
10 consensus. Okay, what were the other issues?  
11 We took care of two.

12 MS. SCHELLIN: There was a last one  
13 by BFTAA and they filed a Motion to Request  
14 Additional Hearings, Exhibit-81.

15 CHAIRMAN HOOD: Commission, I  
16 would recommend that we hold that in abeyance,  
17 because depending upon how the discussion goes  
18 tonight, we never know where we might get to.

19 That may be on our own motion. So,  
20 I don't know if it's necessarily needed. We  
21 will hold that in abeyance, and pretty much, if  
22 we felt like -- just like the previous case, if

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1 we felt like it, we will at some point, do a  
2 limited scope, if we get to that point, okay?

3 I don't think we just need to  
4 outright deny it. I think what we need to do  
5 is hold it abeyance because actually what  
6 they're asking for may actually happen. Not  
7 sure.

8 Ms. Schellin, anything else?

9 (No audible response.)

10 CHAIRMAN HOOD: Okay, somebody  
11 like to start us off? Commissioners, if we  
12 look at Exhibit-69, I think that's A through L,  
13 there were a lot of things we asked for, recite  
14 site plan, community outreach and engagement  
15 process, information regarding unit mix and  
16 targets.

17 There are a number of things to  
18 project, the development schedule, information  
19 regarding existing public housing units and  
20 residence. Compliance with applicable  
21 planning documents and information regarding  
22 the First Source employment and resident hiring

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1 commitment.

2 Those are some of the things that we  
3 asked for. The Applicant has submitted that.  
4 I'm sure he served it on the parties, and I would  
5 ask that we begin our discussions in that order  
6 or wherever anyone would like to start.

7 We also have an additional Office of  
8 Planning report. I think, Ms. Schellin, you  
9 already mentioned that, right, the Office of  
10 Planning report? Okay, thank you.

11 Okay, who would like to get us  
12 started? Anybody? Vice Chair Cohen?

13 VICE CHAIR COHEN: Thank you, Mr.  
14 Chairman.

15 CHAIRMAN HOOD: You've been kind of  
16 quiet. That's right, you haven't been on the  
17 cases, okay.

18 VICE CHAIR COHEN: I know, it's  
19 slightly unusual. I would just first like to  
20 make an observation. This is an  
21 extraordinarily substantive submission with  
22 regard to numerous meetings that the DC Housing

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1 Authority has documented.

2           However, there is a page that's  
3 under Exhibit-F, that I just would like to point  
4 out. It's not paginated any other way.

5           But I see that 76 percent of the  
6 respondents to a particular survey felt that  
7 they were somewhat informed and not very well  
8 informed, on what was going on Barry Farms.

9           So, although we received this  
10 significant package, and I do not want to in any  
11 way imply that many meetings were not held, I  
12 think that the Housing -- I believe the Housing  
13 Authority must continue to meet with the Barry  
14 Farm residents, so that very well informed  
15 becomes not 24 percent, but becomes the 76  
16 percent.

17           I just believe that we should  
18 encourage as many, many meetings as possible.  
19 I understand expectations, raising  
20 expectations for action isn't always in the  
21 Housing Authority's control, especially when  
22 it comes to money.

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1           But I do believe that it's necessary  
2           to engage the residents of Barry Farm more, so  
3           that they're more comfortable. With what they  
4           are faced with, it is quite scary to be  
5           considered relocated.

6           I want to make a couple of comments  
7           with regard to the small area plan and the  
8           comprehensive plan.

9           Having reviewed the materials that  
10          were submitted as testimony by both the  
11          Applicant and the party in opposition, I do  
12          believe that in OP's report, that the proposal  
13          for the development of Barry Farm does meet  
14          those two documents, the comprehensive plan and  
15          the Barry Farms small area plan, which was  
16          prepared earlier than the comprehensive plan.

17          One area that I think needs further  
18          explanation, however, is the increase in the  
19          number of units that are being proposed.

20          The ANC is talking 1,100 units and  
21          the Applicant is talking 1,600 units, and that  
22          difference is quite significant.

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1           From my experience in financing a  
2 lot of projects, it may be a result of, and I  
3 believe it is a result of financial  
4 consequences to make the project feasible.  
5 People will be looking at this project for  
6 financing, as it moves on, and I do believe that  
7 the numbers have to add up.

8           In all of my experience, that's  
9 usually the case, and I don't think 65 units per  
10 acre is something that we have not seen in this  
11 city.

12           So, I just think the Applicant must  
13 give us more detail on that particular issue.

14           I believe a lot of the issues raised  
15 by Barry Farms Tenants and Allies Association,  
16 I do not mean to make light of them. I think  
17 that they are of great concern, but they go  
18 beyond some of the jurisdiction of the Zoning  
19 Commission.

20           As an example, to allow everybody to  
21 return, if they're not lease-compliant, I would  
22 suggest that immediately, the people who are

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1 not lease-compliant, because that is the only  
2 obstacle to your returning, sit down with  
3 management and go over some type of a plan to  
4 get you lease-compliant.

5 People have to have a lease. We all  
6 have responsibilities. We have obligations to  
7 pay taxes, to pay rent, to pay utilities,  
8 whatever it concerns.

9 So, I again, do not mean to minimize  
10 people's concerns, people's fears. They're  
11 very, very real, however, they are not  
12 necessarily -- they have -- in our control to  
13 tell the Housing Authority what to do on certain  
14 issues.

15 We are really concerned about  
16 massing and height and access to the site, and  
17 the whole design of the site, but we don't go  
18 into details, unfortunately, on issues related  
19 to leases.

20 CHAIRMAN HOOD: Let me also expand  
21 on that. That was one of my comments that I  
22 highlighted.

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1           There are a lot of things that we can  
2 ask. When I read that, and I'm not sure who  
3 actually asked us to do that, to forego the  
4 lease agreements and forgiveness. That's not  
5 anything that this -- even within the  
6 jurisdiction of this Commission.

7           If you sat here earlier, you heard  
8 us with a remand. If we were to do something  
9 like -- or try to do something like that and  
10 impose that on the Applicant, first of all, they  
11 would not do it, and second of all, we would have  
12 another remand.

13           So, as the Vice Chair has mentioned,  
14 and I wanted to expound on that because I also  
15 highlighted, there are certain things that the  
16 Zoning Commission, as I said in other cases, is  
17 not the fix for all.

18           That's one thing, while we would  
19 love to be able to do that, that's one thing that  
20 we just -- just is not within our jurisdiction.  
21 It's actually not Zoning. So, I wanted to just  
22 second her comments. You may continue.

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1                   VICE CHAIR COHEN: I think that  
2 there was a concern about, you know, if they  
3 couldn't get the funding for their  
4 redevelopment, can they renovate this  
5 property?

6                   Having had some familiarity many  
7 years ago with Barry Farm, it was understood by  
8 many of the people I know there, that it really  
9 is beyond the useful life of that property. I  
10 cannot be restored.

11                   Putting money into it, I think the  
12 Inspector General of HUD would question the  
13 Housing Authority's decision making on that,  
14 because there are -- have been throughout the  
15 years, many studies about the feasibility of  
16 renovating those properties, and the decision  
17 has been to go ahead and try to apply for  
18 financing.

19                   As far as starting the project and  
20 having people stay on site, so that it is  
21 phased, it's hard to do for a number of reasons.

22                   One is it's not an efficient use of

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1 worker -- of a workforce and there are too many  
2 children and adults, who are affected by the  
3 allergens and the --

4 (Off-mic audience member comment.)

5 CHAIRMAN HOOD: Mayor, come on now,  
6 let us deliberate. Let us deliberate.

7 VICE CHAIR COHEN: They're  
8 affected by the allergens and the safety, when  
9 workers are onsite, and I think feasibility of  
10 that is probably quite difficult.

11 Again, the idea of being relocated  
12 is really --

13 (Off-mic audience member comment.)

14 CHAIRMAN HOOD: Okay, what I'm  
15 going to ask, because all of us have not had an  
16 opportunity to give our viewpoints, is that  
17 everyone just hold tight. This is where we do  
18 all our deliberating on comments that you --  
19 we've heard from you.

20 So, I would ask everyone to be  
21 respectful to us, like we've been respectful to  
22 you all, and let us deliberate, okay? You

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1 might hear some things you don't like. You  
2 might hear some things you like.

3 So, just stay tuned and let us move  
4 forward. Thank you.

5 VICE CHAIR COHEN: I think I was  
6 back on the construction site.

7 One of the things that I think is  
8 very important too is, again, the idea of  
9 home-ownership. It's sometimes not in the  
10 control of the Applicant.

11 A homeowner has to be bankable and  
12 therefore, again, hopefully, you will have the  
13 opportunity to work with social service  
14 providers, to get your credit in order, to  
15 prepare yourself for home-ownership.

16 I think it is an important aspect of  
17 community. I understand why people want to be  
18 homeowners, even though I think I made a mess  
19 of it, myself.

20 But the problem that we're faced in  
21 the United -- in the city, is a lot of owners  
22 are what's called underwater. They owe too

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1 much on their homes. They're highly leveraged  
2 and they can't afford to pay their mortgage  
3 even, because it's not worth the value.

4 So, I just want to say do take  
5 advantage of the social services that will be  
6 provided as part of this whole development, or  
7 at least as I read it. This has been going on  
8 supposedly, I was surprised to read, 2006 and  
9 it's surprising, but I think again, they need  
10 the financing, which I think has been committed  
11 by this Mayor's Office, to do this outreach to  
12 each and every family.

13 It's up to you to take advantage of  
14 it.

15 (Off-mic audience member comment.)

16 VICE CHAIR COHEN: If you need to  
17 leave, do so.

18 CHAIRMAN HOOD: Wait a minute.  
19 Hold on. Hold on. Hold on a second. I'm  
20 going to ask you -- I'm going -- I'm going to  
21 ask you just -- I know we're passionate and I  
22 know we're concerned.

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1                   So, just hold tight. Let us have  
2                   our day and --

3                   (Off-mic audience member comment.)

4                   CHAIRMAN HOOD: But here is the  
5                   problem. Here is the problem I'm going to have.

6                   I think this is very important to  
7                   you, who are speaking out, and here is the  
8                   problem I'm going to have.

9                   I'm going to have a problem if I have  
10                  to -- we have to adjourn for a few moments and  
11                  I'm going to have to empty the room.

12                  I think it's too important for you  
13                  all not to hear what we're saying. So, I would  
14                  ask you to control your emotions. I know it's  
15                  very emotional, not to you, but to some of us.

16                  So, I would ask you to just be cool,  
17                  chill out for a moment and let us get through  
18                  our conversation up here, and I'll tell you the  
19                  reason why it's important.

20                  Mayor, I need you to help me out.  
21                  I'll tell you the reason why it's important,  
22                  because if I have -- like I said, if we have to

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1 empty people who are distracting us out, then  
2 you're not going to hear what we're saying, and  
3 I think it's too important for you all to be  
4 outside or on your way home, and here we are,  
5 up here making decisions of your community.

6 So, just hold tight. Hold it in.  
7 Take a deep breath. Okay, there you go, Mayor.  
8 You're not getting to be -- we're working well  
9 together, and then let us finish, and then let's  
10 see what happens, okay?

11 Okay, Vice Chair.

12 VICE CHAIR COHEN: Mr. Chairman, I  
13 think that I will come back and speak, if I  
14 recall, the remainder of remarks.

15 CHAIRMAN HOOD: Okay, anyone else  
16 like to go?

17 VICE CHAIR COHEN: I have to breath  
18 to ten.

19 CHAIRMAN HOOD: Anybody else would  
20 like to -- Commissioner May?

21 COMMISSIONER MAY: Sure. So, you  
22 know, I think a lot has been said about this

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1 project through all the hearings, and  
2 obviously, a very important project and very  
3 important to accomplish something at Barry  
4 Farms.

5 I think that this -- this has become  
6 a very difficult decision making arena for us,  
7 because what we're seeing is a very substantial  
8 re-invention of the neighborhood and we're also  
9 hearing from a substantial of the folks who live  
10 there or live nearby, that what is proposed is  
11 simply not acceptable.

12 I mean, I understand people not  
13 agreeing with the plan. The difficulty is that  
14 what's being proposed in the alternative is a  
15 simple renovation of the existing buildings.

16 It's simply not going to work, and  
17 we need to have some substantial  
18 re-invigoration of the neighborhood and I  
19 really -- you know, a substantial make-over,  
20 and I think what was done in the original  
21 planning at 1,100 units was certainly,  
22 something in the right ballpark, and it's -- you

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1 know.

2 So, I think that we all need to get  
3 used to the idea that it's going to be a very  
4 different kind of neighborhood, but it's going  
5 to be, I think, a lot better than what's there  
6 right now, in the end.

7 The question now is, is it 1,100  
8 units or is it 1,600 units? Is it somewhere in  
9 between? Does the plan that's before us need  
10 to change in some way, to be more responsive to  
11 community concerns?

12 I think what is -- you know, what  
13 makes it very difficult for us to try to reach  
14 consensus is to simply say -- is to simply hear,  
15 "No, no, it can't be redeveloped. No, you  
16 know, we have to go back to renovating the  
17 existing housing."

18 It's simply not realistic. So, I  
19 think we need to be focusing on what's before  
20 us, and what was done before, and whether we can  
21 get closer to a consensus on it.

22 I agree with Commissioner Cohen,

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1 that, if I understand what she was saying  
2 correctly, that what's proposed here, in terms  
3 of the number of units at 1,650 is not  
4 inconsistent with the comp plan.

5 Yes, I mean, I see and I understand  
6 the justification that it's not inconsistent  
7 with the comp plan and the level of density is  
8 non-consistent with the comp plan, and it's  
9 generally in the same ballpark as the plan that  
10 was done before, that was only 1,100 units  
11 roughly.

12 However, there is a big jump between  
13 1,100 units and 1,650, a really, really big  
14 jump, and I have a problem with that on two  
15 fronts.

16 One is that the information that we  
17 received in this most recent submission does  
18 not support that leap.

19 There is not information in there  
20 that explains to us, how the Applicant got from  
21 what that original plan was, to the plan that  
22 we have now. It's not justified by financing.

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1 It's not justified by broader planning  
2 concerns. At least, if it's -- if they  
3 attempted to do that, it didn't make its way  
4 through to me, and I read everything pretty  
5 carefully.

6 In fact, a lot of the information  
7 that was submitted was actually contrary to  
8 that argument.

9 You know, we saw what looked like  
10 results from a Charrette that was done within  
11 the last couple of years, and there were  
12 different groups that were working on different  
13 development scenarios, and those were  
14 summarized for us in the information that we  
15 received.

16 The range of unit counts there was  
17 between 990 and 1,305 units, and nothing was --  
18 1,400, 1,500, 1,600 in those groups and so,  
19 there is nothing that came out of the community  
20 or the conversation with the community that was  
21 driving this high unit count, at least in terms  
22 of the information that was presented. Maybe

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1       there is other information that I -- that may  
2       have been submitted or has yet to be submitted,  
3       that can make that connection.  It doesn't seem  
4       to be justified by that argument.

5                   The other thing about this is that  
6       the highest unit count version that came out of  
7       that Charrette process or whatever it was, was  
8       1,305 units.  That assumed there would be no  
9       townhouses, and so, that leads me to the other  
10      disconnect here, which is that I don't  
11      understand how the numbers can actually work  
12      and how you can get to 1,646 units and have so  
13      much land devoted to townhouses, without making  
14      those -- the higher density multi-family  
15      buildings, very high density, either very small  
16      units or very tall units or very bulky units or  
17      bulky buildings, and that needs to be explained  
18      to me better than it has been.

19                   I'm not saying that it can't be  
20      explained.  Maybe it can.  It's just that this  
21      is a level of density that logically isn't  
22      working for me.

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1 I also think that the Applicant  
2 didn't do themselves any favors in some of their  
3 explanation of why or what the benefits are or  
4 bringing this additional number of units into  
5 the project, because you know, it adds more  
6 potential for workforce housing or  
7 inclusionary zoning, however you want to refer  
8 to it for some of the ways that we subsidize  
9 housing.

10 It's actually -- it makes the  
11 original argument somewhat disingenuous  
12 because the original 1,100 unit plan included  
13 replacement housing, full replacement housing,  
14 not just the small number that's been  
15 represented in the application, the smaller  
16 number, not a small number, but the smaller  
17 number of 269 or something like that.

18 It included full replacement for  
19 all of the occupied units. It also included  
20 substantial workforce housing, which is  
21 another word for saying 80 percent AMI housing,  
22 right?

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1           So, it was all there before in maybe  
2 slightly different proportions, but it existed  
3 before. To say that this -- you know, we need  
4 to have 1,646 housing units, and that gives us  
5 the opportunity, gives us all this additional  
6 workforce housing, the record -- the  
7 information that was submitted does not support  
8 that. It contradicts that.

9           Overall, I would say though that I  
10 am supportive of substantial increase in  
11 density and a substantial number of units. I  
12 could be persuaded that more than 1,100 is  
13 appropriate and that this level of FAR is  
14 appropriate.

15           But the information that has been  
16 submitted so far does not support it, and I  
17 would -- I would hope that what we could get out  
18 of this is some improved information and  
19 frankly, a better master plan that's more  
20 descriptive of what would happen here.

21           I would say that I was very  
22 disappointed that the only thing we saw in terms

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1 of the revised master plan, was an attempt to  
2 reconcile the previous master plan with DDOT's  
3 concerns about street widths and public space.  
4 That was just kind of minimal.

5 I was hoping for something more  
6 substantive, and again, I go back to what I --  
7 I guess what was brought up in the hearing,  
8 which is that the planner who is currently  
9 working on this has been on the project for a  
10 very short time, and I don't believe that we've  
11 gotten the full benefit of their expertise on  
12 this project, because I think that they're very  
13 capable and could do a good job for the  
14 community and for the city, but I am just not  
15 seeing much evidence of it yet.

16 So, those are my overarching  
17 comments.

18 CHAIRMAN HOOD: Okay, anybody  
19 else? Commissioner Turnbull? Commissioner  
20 Miller? Commissioner Turnbull?

21 COMMISSIONER TURNBULL: Yes, thank  
22 you, Mr. Chair. Well, I think Commissioner May

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1 has expressed a lot of the issues that I had,  
2 and I don't want to repeat myself.

3 So, I guess trying to be brief, I  
4 think that the Applicant needs to submit some  
5 more documentation and some more analysis, and  
6 as per Commissioner May has said.

7 I'm also -- I was also trying to  
8 reconcile Exhibit-68, which is the Advisory  
9 Neighborhood Commission 8C and Barry Farm  
10 Tenants and Allies Association joint  
11 resolution, and the response from the  
12 Applicant, which is Exhibit-78, and it leaves  
13 a lot to be desired.

14 It look like there is still a lot of  
15 room here between the parties, and so, I guess  
16 I'm at a point where we're similar to where we  
17 were on the last proposal action, and I think  
18 we're going to need some more information from  
19 the Applicant.

20 I think we're just at an em passe  
21 here. We really need to -- especially  
22 Commissioner May's comments, I think really

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1 need to be analyzed more.

2 CHAIRMAN HOOD: Okay, anyone else?  
3 Commissioner Miller?

4 COMMISSIONER MILLER: Thank you,  
5 Mr. Chairman. I think we all agree that this  
6 project has the potential and the need to  
7 transform this neighborhood into a revitalized  
8 community that serves the existing residents,  
9 where they do return to higher quality housing  
10 in a one-for-one replacement scenario.

11 I think the answer -- the questions  
12 that Commissioner May raised, I think can be  
13 answered. I don't have the answers, but I  
14 think they probably do relate to financing, and  
15 I think that we need to get that information as  
16 part of our record.

17 On the -- in addition to the  
18 one-for-one replacement housing, I would like  
19 to see tightened up, the commitment that is  
20 described in various terms in the proposed  
21 findings of fact and in other Applicant  
22 documents, the commitment to the additional

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1 workforce housing that Commissioner May  
2 alluded to.

3 I think the Applicant, on page four  
4 of their July 14th submission, talks about the  
5 one-for-one replacement housing and then talks  
6 about the affordable -- which will be 20 percent  
7 of the total units there, of the 1,600 units,  
8 and then talks about another 20 to 30 percent  
9 of the units being affordable rental.

10 I just think we need to make sure  
11 that that's a firm commitment that is part of  
12 this proposal, that always was part of the new  
13 communities initiative, the one-third,  
14 one-third, one-third general market rate,  
15 one-third and one-third workforce and  
16 one-third one-to-one replacement.

17 So, I think, you know, it's going to  
18 be approximate, but I think we need to have that  
19 other affordable housing as a commitment that's  
20 part of this project, so, it is a true  
21 mixed-income community that serves the  
22 residents there and the surrounding

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1 neighborhood.

2 So, that's the only comments I have  
3 at this time, Mr. Chairman.

4 CHAIRMAN HOOD: Okay, as I look  
5 through the submissions and some of the things  
6 that were given to us by the Applicant, one  
7 thing that stood out for me, it says, "I am  
8 concerned about what will happen to me," and  
9 this goes about the key-pad survey.

10 "I am concerned about what would  
11 happen to me and my family, when they start  
12 rebuilding Barry Farms, and I need more  
13 information about that."

14 Now, I know they have probably been  
15 meeting since then, but the Applicant provided  
16 this to me.

17 If I'm correct looking through this  
18 whole key-pad survey, strongly agree 100  
19 percent, this was the only thing that was 100  
20 percent, and then that came across in flying  
21 colors at the hearing.

22 People are concerned about being

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1 able to return, and I think it's like six --  
2 maybe six percent more off the top of my head,  
3 that actually did not want to return, but 92 --  
4 or maybe it's eight percent, but 92 percent said  
5 that they wanted to return.

6 My issue is the relocation. Yes, I  
7 see the diagram and I know this is a first stage  
8 PUD, but that doesn't get it for me. That  
9 doesn't get it for me, and I really don't need  
10 -- I don't need amen corp.

11 But I'm just saying, I am trying to  
12 get to where I think we need to be, as far as  
13 the relocation. But you know, sometimes it's  
14 a little different for us, when we're in that  
15 situation. I know if Anthony Hood was in that  
16 situation it would be a little different.

17 Now, I can only go but so far on the  
18 Zoning Commission, but you know, I don't know  
19 why I just got a diagram taking me around in a  
20 circle, and I've read that diagram and I've  
21 looked at it going around the circle, and I  
22 looked at it again, going around the circle.

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1           But think of -- and I'm talking to  
2           the Applicant now. If it was your house, or was  
3           where you live or where you grew up, how would  
4           you do it, and I said this with the stadium deal,  
5           same thing, and that worked out.

6           So, you know, people are concerned  
7           and need some predictability, and I know there  
8           are some other rules and regulations that come  
9           into place, which I don't have any jurisdiction  
10          over, or the Commission doesn't, but I think  
11          it's very important.

12          When I look at this survey and see  
13          100 percent of the people are concerned, we can  
14          do better than that, and I know the letters  
15          support it. I know it needs to be a change, but  
16          I think yes, everybody obviously probably won't  
17          be able to return, at least the six percent or  
18          the eight percent that didn't want to return.  
19          I'm not saying everyone.

20          But there are some people who are  
21          legitimate and who would like to return, and we  
22          need to find ways to make that happen for them,

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1 because I can tell you, I know for a fact, the  
2 vouchers are in Gaithersburg, okay. I know  
3 that, and I'm not the quasi-quasi guru on  
4 housing, but I can tell you this, the vouchers  
5 are in Gaithersburg. It's no secret.

6 So, we don't need to paint a rosy  
7 picture down here, and let's just do it like it  
8 -- we just need the Applicant -- I need the  
9 Applicant to give me something more, and I know  
10 this is the first stage and I'm going to hear  
11 all, yes, we can get to the second stage, but  
12 no, this is -- as we said in the last case, this  
13 is important to people's lives and where they  
14 live.

15 Put yourself in that situation,  
16 okay? You may not be in it today, but I tell  
17 my staff, sometime we only an accident away from  
18 being physically challenged. So, be very  
19 careful.

20 The next thing, and I think that  
21 overwhelmingly came across to me, 100 percent.  
22 "I am concerned about what will happen to me."

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1 We all are, at some point, but in this case, the  
2 residents here are concerned, and that came  
3 across loud and came across in the hearing, and  
4 I need to have something a little more. I don't  
5 know if the Housing Authority has something  
6 already out there or what, but I didn't see it.

7 The other thing, I think  
8 Commissioner May and Turnbull all talked about  
9 the density, and it says here, and I'm not --  
10 I read it, "The families will continue to pay  
11 30 percent of their adjusted income for housing  
12 costs. However, because of the differences in  
13 the public housing and the voucher program,  
14 mobility counseling workshops highlight the  
15 additional responsibilities and  
16 expectations." What does that mean?

17 Sounds good. I highlighted it.  
18 Looks good, but what does it mean?

19 Okay, that's what people in that  
20 development -- if you're telling them that,  
21 that's not predictable. That's  
22 unpredictable.

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1           Okay, we already talked about the --  
2           now, this is where we can't get into the rent  
3           costs and being able to do the forgiveness and  
4           all that. That's not -- definitely not within  
5           our jurisdiction.

6           One of the things I also mentioned  
7           was about the -- I understand that the HOA --  
8           and I think I asked about the HOA. Now, it's  
9           called the Community Resident's Association.

10           Has that community been told about  
11           that? Those are the questions I'm asking now.

12           I see the key-pad. I'm not sure  
13           when the key-pad surveys were done. The 249  
14           replacement public housing units to 344, Barry  
15           Farm Wade Road, I understand all of that. I see  
16           it, but what has been conveyed?

17           Again, I know this is the first  
18           stage. I'm going to hear that, but I don't want  
19           to hear that. I want to hear what are we doing  
20           to make sure there is some predictability in  
21           this moving forward and giving people a level  
22           of comfort, those that would -- some probably

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1 won't be able to return, from what I'm reading.

2 But you know, from a zoning  
3 standpoint, the relocation is part of this, and  
4 here is another question I had to ask, and I  
5 don't know how we do this, because Bishop  
6 Hudson, when I asked who was here in opposition,  
7 he raised his hand.

8 But yet, we're going to use the  
9 facility over at Matthews Memorial for some of  
10 the relocation. Something don't add up.

11 I don't know what it is, and I don't  
12 know if we can go out and ask Bishop Hudson,  
13 because I saw him. I knew Bishop Hudson. He  
14 raised his hand and he was here in opposition.

15 So, how is that being worked out  
16 with the Housing Authority? So, what's going  
17 on there? Why is Bishop Hudson in opposition  
18 to this case? I don't know. I don't know.

19 (Off-mic audience member comment.)

20 So, Commissioner Muhammed, now, you  
21 know, I'm going to call you out. I'm going to  
22 come right to your meeting and I'm going to do

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1 the same thing.

2 Okay, let's see, I had a couple more  
3 on this, and then the -- what was very helpful  
4 to me though, when we talk about people getting  
5 engaged, and I don't want think everything is  
6 negative. It looks to me like there was a great  
7 amount of the community that were at these  
8 Charrette's or whatever it is, because we do  
9 have the sign-in sheet, and I carefully went  
10 down.

11 I looked for some of the names of  
12 some of the people I saw here on the parties in  
13 opposition, and I did not see that name, at  
14 least I may have missed it, might be on here,  
15 but I looked for some of those names to see who  
16 all participated, and I didn't -- I was not able  
17 to recognize any, as looking through these  
18 survey sheets.

19 So, let me get on with it. Again,  
20 okay, I have this, Rhode Island Avenue Road,  
21 approximately 40 percent of the construction  
22 contracting was awarded to certified business

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1 enterprises, minority business enterprises,  
2 participation exceeded 50 percent. It will  
3 increase 40 percent.

4 You know, I see all these numbers.  
5 I read them all the time, but I went by  
6 Restaurant Road every day. I guess I -- only  
7 thing I didn't do is go up and ask people where  
8 they live at. I knew the one person that worked  
9 on that project at Restaurant Road.

10 Now, I may be wrong and I stand to  
11 be corrected, but the one person I knew,  
12 eventually stopped working down there.

13 So, you know, all these numbers  
14 sound good when they come in here, in front of  
15 us in this room, but what happens when we go out  
16 the door is a different story, and I'm not just  
17 picking on this Applicant. That's something  
18 I'm going to deal with for the years to come that  
19 I'm here.

20 But I just really think for me, out  
21 of all the density and all the issues, for me,  
22 it's about predictability and people being --

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1 having some kind of security, that there is a  
2 plan in place, or if they even work hard, I think  
3 kind of where the Vice Chair was going, if they  
4 even work hard and work on it now, they'll be  
5 able to return.

6 Again, I really am concerned about  
7 why Bishop Hudson raised his hand in opposition  
8 to this case, and those are my comments. Any  
9 other comments, Commissioners?

10 (No audible response.)

11 CHAIRMAN HOOD: Okay, how do we  
12 proceed? Any recommendations, or if I'm the  
13 Chairman, do I need to make a recommendation?

14 COMMISSIONER TURNBULL: I would  
15 say we push back proposed action.

16 COMMISSIONER MAY: Mr. Chairman,  
17 you suggested for the previous case, the  
18 limited hearing, and I think actually in this  
19 case, that would be the -- I think I'm ready to  
20 go straight to a limited hearing on this, that  
21 we see a revised proposal and we ask the  
22 Applicant to address the concerns that we

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1 raised, and then we have another presentation,  
2 we get to ask some more questions of them.

3 CHAIRMAN HOOD: Okay, all right.  
4 Okay, I can go along with that.

5 COMMISSIONER MAY: Yes.

6 CHAIRMAN HOOD: Anybody else?  
7 Questions?

8 VICE CHAIR COHEN: I guess if -- we  
9 don't have a limited hearing for the prior case,  
10 is that correct? We were going to just, you  
11 know, have them submit information?

12 CHAIRMAN HOOD: Right now, but the  
13 question of a limited hearing for the prior case  
14 is still open. Yes, the book is not closed on  
15 that.

16 VICE CHAIR COHEN: Okay.

17 CHAIRMAN HOOD: It's still open.

18 VICE CHAIR COHEN: I would feel  
19 more comfortable if we followed that example  
20 for this case, as well.

21 MS. SCHELLIN: The difference with  
22 the last case and this case is that we did

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1 already set aside a date for this case.

2 CHAIRMAN HOOD: See, we're already  
3 thinking ahead.

4 MS. SCHELLIN: We did, and so, I  
5 mean --

6 COMMISSIONER MAY: At the close of  
7 the hearing --

8 MS. SCHELLIN: We did.

9 COMMISSIONER MAY: -- we thought  
10 there was enough unsettled. I mean, I feel  
11 very strongly, this is --

12 MS. SCHELLIN: Right, and so --

13 COMMISSIONER MAY: -- about  
14 half-baked and we need to let them put it in the  
15 oven a little bit longer --

16 MS. SCHELLIN: Right.

17 COMMISSIONER MAY: -- and have  
18 another discussion.

19 MS. SCHELLIN: And I think that  
20 since we have that date, we could go ahead. If  
21 the Commission wants to proceed with that  
22 schedule, the dates for the submissions to be

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1 submitted prior to the hearing, so that you can  
2 have those, and if you want the parties to go  
3 ahead and respond to those submissions prior to  
4 the hearing date, then you would have those  
5 also, and then have the hearing. However you  
6 want to proceed.

7 CHAIRMAN HOOD: Why don't we -- I  
8 think the Applicant has heard some of our  
9 concerns tonight. I don't know if we need to  
10 rehash all of our comments, positive concerns  
11 or concerns of interest that we need to have a  
12 limited scope hearing.

13 I think on the issues that were  
14 raised so far, that we would do it in the normal  
15 course, where they would come down and present  
16 and provide, I think you said, to the parties.  
17 We would have the same parties.

18 But only thing I would ask, as we're  
19 thinking through this loudly, I would ask that  
20 we find out what -- I would -- I'm not trying  
21 to go out and single out one person, but I think  
22 Bishop Hudson is key, because Matthew's

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1 Memorial in this case, I need to know why he  
2 raised his hand, and I can't ask him when I see  
3 him in the street, because that's  
4 inappropriate.

5 So, I'd rather for him to come down  
6 here, or either send a letter, and I didn't see  
7 a letter from Bishop Hudson. So, some kind of  
8 way, we need to get -- make contact with him.  
9 I need to know why he was in opposition. That's  
10 very important.

11 MS. SCHELLIN: Are you asking the  
12 Applicant to contact him or --

13 CHAIRMAN HOOD: I don't know, they  
14 may not be able to contact him.

15 MS. SCHELLIN: I'm not sure if that  
16 --

17 CHAIRMAN HOOD: Because he was in  
18 opposition, I'm going to ask --

19 MS. SCHELLIN: Ms. Cuthbert?

20 CHAIRMAN HOOD: -- Ms. Cuthbert, to  
21 contact --

22 MS. SCHELLIN: Okay.

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1 CHAIRMAN HOOD: I'm going to ask  
2 anybody who knows Bishop Hudson.

3 (Off-mic audience member comment.)

4 CHAIRMAN HOOD: Mayor, Mayor, you  
5 and I been getting -- Mayor?

6 MS. SCHELLIN: Mayor, we could have  
7 Ms. Cuthbert contact him and see if she could  
8 have him attend the hearing then, and that's at  
9 6:30 p.m. on September 18th, and so,  
10 Commissioner -- I mean, Chairman Hood, if I  
11 understand you correctly, you're not asking the  
12 Commission -- asking the Applicant to make any  
13 prior submissions before the hearing or you  
14 are?

15 CHAIRMAN HOOD: I think we should.

16 MS. SCHELLIN: Yes.

17 CHAIRMAN HOOD: If we can address  
18 the concerns, that would help --

19 MS. SCHELLIN: Prior, so, you would  
20 have it ahead of time.

21 So, if they could -- but you don't  
22 need the parties to respond to those, prior?

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1 CHAIRMAN HOOD: They will have time  
2 to cross-examine at the hearing.

3 MS. SCHELLIN: At the hearing,  
4 okay. So, if we could have --

5 CHAIRMAN HOOD: I mean, they -- I  
6 don't know. I mean, what is the -- what helps  
7 us the most, that's what I am trying to figure  
8 out.

9 COMMISSIONER MAY: I mean, what  
10 would you say, seven days in advance, they would  
11 submit?

12 CHAIRMAN HOOD: The parties?

13 COMMISSIONER MAY: No, no, no, the  
14 Applicant. I'm asking Ms. Schellin.

15 MS. SCHELLIN: We would need the  
16 Applicant actually to make their submission by  
17 September 2nd. If the parties were going to  
18 respond, they would have to make their  
19 submission by September 9th, and submissions  
20 would have to be due by noon.

21 COMMISSIONER MAY: You know, I  
22 think the responses are less critical because

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1 we won't have the opportunity for them to  
2 present their responses, when we actually have  
3 the hearing.

4 MS. SCHELLIN: Okay, so, if the  
5 Applicant can make their submission by  
6 September, that we could give them a little more  
7 time then, if they can make their submission by  
8 3:00 p.m. on September 5th, yes.

9 CHAIRMAN HOOD: Okay, do we have  
10 anything else? Is everybody -- well --

11 MR. BERGSTEIN: If I may, the  
12 hearing is suppose to be on designated issues.  
13 That's what the rules say.

14 So, I am comfortable with saying  
15 that the designated issues are the issues  
16 raised by the Commission in its deliberations  
17 tonight, but if there is anything specific you  
18 want identified in this notice, it would be  
19 helpful to hear that now, and I just want  
20 confirmation that I can use that broad  
21 formulation of the issues, as being issues  
22 you've raised.

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1           CHAIRMAN HOOD:     Okay, anything  
2     other than what we've talked right here  
3     tonight, that we would like to include it in the  
4     announcement?  Anything else?

5                     (No audible response.)

6           CHAIRMAN HOOD:     Okay, no.

7           MR. BERGSTEIN:     Okay, the second  
8     question is that under the procedure, the  
9     notice only has to be provided to the parties,  
10    and that's what we would normally do.

11                    Do you want any further type of  
12    notice, such as a notice in the D.C. Register,  
13    just saying that the hearing would be held on  
14    those issues?

15           CHAIRMAN HOOD:     I think to the  
16    parties, I think that the word would get out of  
17    what we're doing.  Ms. Cuthbert and Mr.  
18    Muhammed and others will help.

19           MR. BERGSTEIN:     Then that's all the  
20    questions I have.  Thank you very much.

21           CHAIRMAN HOOD:     I know I  
22    volunteered him, but I know him.  So, I know

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1 they'll help.

2 Okay, anything else on this case?

3 MS. SCHELLIN: No, sir.

4 CHAIRMAN HOOD: Okay, so, let's  
5 move to hearing action, Zoning Commission Case  
6 No. 08-07A. This is the Four Points, LLC in  
7 Curtis Properties, Inc., modification to PUD  
8 and 2nd stage PUD @ Square 5785. We're asking  
9 for set-down. We also have a request for  
10 partial waiver fee of the hearing. Ms.  
11 Schellin, when you're ready.

12 (Off-mic audience member comment.)

13 CHAIRMAN HOOD: Mayor, Mayor,  
14 Mayor. No, I don't want any potato salad. No,  
15 I don't want anything.

16 Actually, you getting better.  
17 Next time, I want you to be even better. So,  
18 work with us, Mayor.

19 (Off-mic audience member comment.)

20 CHAIRMAN HOOD: You ready? I  
21 called the first case. I'm sorry, hearing  
22 action, okay.

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1           Let me see. The first case is  
2 hearing -- let me call it again.

3           Okay, hearing action, Zoning  
4 Commission Case No. 08-07A Four Points, LLC and  
5 Curtis Properties, Inc., modification to PUD  
6 and 2nd state PUD @ Square 5785. Set-down, we  
7 have a request for a partial waiver of hearing  
8 fees. Ms. Brown-Roberts?

9           MS. BROWN-ROBERTS: Good evening,  
10 Mr. Chairman and Member of the Commission.

11           Four Points, LLC submitted an  
12 application for modification to the 1st stage  
13 PUD and 2nd stage PUD review to construct  
14 Building 1 at 25 -- at 2255 MLK Avenue in  
15 Anacostia, to accommodate 71 unit residential  
16 building.

17           The building would be six stories  
18 and an FAR of 2.85 and would accommodate a  
19 mixture of studios one and two-bedroom units.

20           The development would provide a mix  
21 of market rate and affordable units with 56  
22 units between 60 and 30 percent of AMI, and 15

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1 units above 60 percent of AMI.

2 Some of the units would be targeted  
3 for workforce housing for teachers and  
4 live-work units for artists. The residences  
5 would be supported by 26 below-grade parking  
6 spaces.

7 The building at the southern end of  
8 the PUD's adjacent to row houses in lower  
9 density commercial uses, as well as being  
10 across from properties in the Anacostia  
11 historic district.

12 One of the aims of the overall PUD  
13 was to activate the ground floor of all the  
14 buildings. In this residential building, the  
15 MLK frontage would be activated by the  
16 placement of the entrance at MLK and Chicago  
17 Street, having the entrance -- and also having  
18 the entrance to some of the live-work units and  
19 others access directly from MLK Avenue.

20 Subsequent to the approval, the  
21 Applicant undertook some detail studies and  
22 assessment of the development for Building 1,

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1 which resulted in changes to some of the zoning  
2 standards above that approved by the 1st stage  
3 PUD, but they would remain within the  
4 parameters of the C3 A zone.

5 The Applicant has therefore  
6 requested modification to the audit to  
7 accommodate these changes.

8 The Applicant has requested  
9 flexibility to vary the number of units by plus  
10 or minus 10 units, a reduction in the portion  
11 of a side yard, a reduction in parking spaces  
12 and the grouping of compact spaces, reduction  
13 of a loading break from 50 to 30 feet, and also  
14 to vary interior components, the selection of  
15 exterior materials and minor refinements to  
16 exterior details.

17 The first stage PUD included a  
18 number of benefits and amenities that would be  
19 provided with the development. While not all  
20 are applicable to this building, the benefits  
21 proffered are consistent with the 1st stage  
22 PUD, and would include affordable housing,

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1 first source and CB agreements and an easement,  
2 which would be open to the public, new street  
3 trees, bicycle racks, brick paving along MLK  
4 Avenue and access to the roof terrace by the ANC  
5 twice a year.

6 In the 1st stage order, the  
7 Commission recommended that the equivalent of  
8 LEED silver should be considered as a strong  
9 environmental proffer. The Applicant is  
10 offering green communities and also states that  
11 this is equivalent to LEED full housing  
12 mid-rise.

13 The Applicant states that they are  
14 not providing a LEED silver building.

15 The overall PUD was found to be not  
16 inconsistent with the comprehensive plan, and  
17 this building will not be inconsistent with the  
18 comprehensive plan.

19 The Office of Planning therefore  
20 recommends that the application be set down for  
21 public hearing and the details of the proposed  
22 CB and first source agreement and details on the

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1 non-provision of the LEED silver building be  
2 provided, prior to the public hearing.

3 In addition, Mr. Chairman, today we  
4 received some correspondence from the ANC,  
5 which is 8A, stating that they did not think  
6 that the building reflects the character of the  
7 historic Anacostia.

8 I would like to note that a proposal  
9 is not within the historic district, but we  
10 would recommend that if this application is set  
11 down, that the Applicant continues to meet with  
12 the ANC, to address these concerns. Thank you,  
13 Mr. Chairman.

14 CHAIRMAN HOOD: Thank you, Ms.  
15 Brown-Roberts. Okay, Commissioners, any  
16 questions? Comments? Commissioner May?

17 COMMISSIONER MAY: I have just a  
18 few quick comments.

19 First of all, I want to know when it  
20 comes to the hearing, what makes the live-work  
21 units really live-work units? I mean, they  
22 look like they have store fronts and nine foot

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1 ceilings, but I'm not sure exactly how they're  
2 going to work or what makes them really  
3 live-work. So, more information about those  
4 would be helpful.

5 I'm encouraged by seeing them. I  
6 think it's a great idea.

7 The elevator core is odd. I would  
8 just say that the -- I would suggest that the  
9 Applicant could move that core away from the  
10 front entrance of the building.

11 I think it's remarkable that it's  
12 such a low overhead, that it only rises three  
13 feet above the roof, and I want to know more  
14 about that, because we've never seen anything  
15 like that, that low in overhead.

16 But in any case, even though it's  
17 three feet, ought to be pushed up, so that it's  
18 away from the front edge of the building.

19 Then the last thing is that I would  
20 like to know more about the LEED equivalent  
21 system, whatever they are using, so we know what  
22 it actually translates to.

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1 I mean, we've been dealing with LEED  
2 for so long, that's the only green language, I  
3 think I'm comfortable with, in terms of these  
4 check lists and such.

5 I mean, even just to do a check list  
6 on LEED would be helpful, to know how this would  
7 crosswalk, just something that gives us some  
8 sense of the equivalency. That's all for me.

9 CHAIRMAN HOOD: Okay, Vice Chair  
10 Cohen?

11 VICE CHAIR COHEN: Thank you, Mr.  
12 Chairman. I kind of totally agree about the LEED  
13 issue.

14 I don't understand why we can't have  
15 more green on the roof, and if it is a cost  
16 factor, there are resources, like the  
17 enterprise green zone, which may be accessed.  
18 I'm assuming that that's a possibility, and if  
19 it's not, why not?

20 So, more explanation, as to -- as  
21 you mentioned, Ms. Brown-Roberts, the  
22 non-provision of a LEED silver building.

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1 I got a little confused on your  
2 review, page six. You're talking about  
3 guestrooms, and so, I'm assuming that's a typo.

4 MS. BROWN-ROBERTS: It's a typo,  
5 I'm sorry.

6 VICE CHAIR COHEN: Thank you.  
7 Okay, I also would like to know more about the  
8 safety features of the roof decks, since there  
9 are families in this property, and on page eight  
10 of your review, you mention that the Applicant  
11 is asking for the first source to be signed  
12 prior to the issuance of a certificate of  
13 occupancy.

14 Why isn't the workforce in place at  
15 the time of certificate of the -- you know,  
16 getting the building permits? I'd like more of  
17 an explanation on that.

18 CHAIRMAN HOOD: Okay, anybody  
19 else, any comments? Commissioner Miller?

20 COMMISSIONER MILLER: Thank you,  
21 Mr. Chairman. I would concur with the comments  
22 of my colleagues and I am prepared to support

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1 set-down of this project tonight for a hearing,  
2 and in the future.

3 It has a lot of excellent  
4 components. You know, 80 percent of the  
5 housing is -- well, significant portion of the  
6 housing is between 30 and 60 percent AMI and  
7 then the rest is between 60 and 80 percent AMI,  
8 I think.

9 Then there is the live-work units  
10 and the partnership with Teaching for America,  
11 to target it to teachers. I think this is  
12 excellent.

13 So, in addition to the additional  
14 information that -- well, as long as we receive  
15 the additional information that's been asked  
16 for by both Office of Planning and by my  
17 colleagues, I am prepared to support this  
18 tonight.

19 CHAIRMAN HOOD: Okay, any other  
20 comments? Commissioner Turnbull?

21 COMMISSIONER TURNBULL: Yes, thank  
22 you, Mr. Chair. I guess as Ms. Brown-Roberts

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1 has noted from the ANC, I think  
2 architecturally, I'd like to see some more  
3 information.

4 I'm really concerned about the  
5 townhouses, the row houses next to it. I'd like  
6 to see, again, architecturally, how these  
7 relate. I'd like to see a section or something  
8 that shows the height of this building, in  
9 relationship to the townhouses next to it.

10 I'd like to see a rendering down the  
11 street, that shows the character of these  
12 houses and what the proposed building is going  
13 to look like.

14 I think it's missing some character  
15 to it, that should -- could possibly be picked  
16 up from the row houses, which are basically  
17 shown as blank right here, on the drawings we  
18 have.

19 I would echo Commissioner May's  
20 concern about the penthouse, especially since  
21 it's on the front of the building and MLK being  
22 a Height Act violation, and it's got a very

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1 basic mechanical system.

2 I mean, it's basically a mechanical  
3 farm on the roof. It's not very -- there is not  
4 much to it. I mean, it has a white roof, but  
5 that's about it.

6 The only other thing I would be  
7 concerned about is on the roof terrace at the  
8 corner of Chicago Street and MLK. I think the  
9 lighting should be downplayed on this, that  
10 this should not be a feature, I mean, to  
11 interfere with the -- especially with the  
12 neighbors down below, the row houses, the town  
13 homes.

14 Other than that, I think it's going  
15 to add to the PUD, and I think it's a nice corner  
16 that is -- but I think it needs some more work.  
17 Thank you.

18 CHAIRMAN HOOD: Okay, thank you,  
19 Commissioner Turnbull. Any other comments?  
20 I have none. I think my colleagues have covered  
21 it.

22 Let's see how we want to proceed.

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1 Vice Chair Cohen?

2 VICE CHAIR COHEN: Yes, I would  
3 move to approve the request for the hearing fee,  
4 and to set down Zoning Case No. 08-07 2nd stage  
5 approval for Lot 839 and a portion of Lot 906,  
6 in Square 5785, and ask for a second.

7 COMMISSIONER MAY: Second.

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

11 (Chorus of ayes.)

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

15 MS. SCHELLIN: Yes, staff records  
16 the vote 5-0-0, set-down Zoning Commission Case  
17 No. 08-07A, as a contested case, and to waive  
18 for a partial waiver of the hearing fee.

19 Commissioner Cohen moving.  
20 Commissioner May seconding. Commissioners  
21 Hood and Miller and Turnbull in support of  
22 set-down.

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1 CHAIRMAN HOOD: Okay, next we have  
2 Zoning Commission Case No. 14-09. It's QC 369,  
3 LLC, consolidated PUD related map amendment @  
4 Square 369. Mr. Gyor?

5 MR. GYOR: Good evening, Mr.  
6 Chairman and Members of the Commission.

7 OP recommends set-down for a public  
8 hearing of the application for a consolidated  
9 PUD and PUD related map amendment from DDC 2A  
10 and DDC 2C, to DDC 3C, to facilitate  
11 redevelopment of the properties located at 9th  
12 and L Streets, Northwest.

13 The Applicant proposes to construct  
14 a new 12-story mixed-use hotel and residential  
15 building with ground floor retail development.

16 The proposal consists of two  
17 phases. The first phase would include two  
18 Marriott hotels, as well as retail and services  
19 uses. The second phase would include a new  
20 residential building with approximately 200  
21 units.

22 Portions of six buildings

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1 contributing to the Shaw Historic District  
2 along 9th Street Northwest, as well as the  
3 Lorgan and historic apartment building on L  
4 Street Northwest would be incorporated into the  
5 design.

6 The overall development would also  
7 include approximately 233 parking spaces on two  
8 levels below grade. Residential parking and  
9 loading would be accessed from the alley to the  
10 west of the site and hotel parking would be  
11 accessed from 9th Street.

12 The application requests  
13 flexibility from the zoning regulations in  
14 regard to roof enclosures, loading and compact  
15 parking spaces.

16 OP will continue to work with the  
17 Applicant on issues raised in our report,  
18 including the provision of more detailed  
19 renderings, and more details concerning the  
20 proposed building's pallet of materials.

21 The Applicant previously worked  
22 with OP, including historic preservation, as

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1 well as the community, to address the height,  
2 massing and design of the building prior to  
3 filing this application.

4 The proposal for the mixed-use  
5 hotel residential project is not inconsistent  
6 with the comprehensive plans objectives for the  
7 area and to the generalized land-use and policy  
8 maps.

9 In general, the project would  
10 better utilize available space in close  
11 proximity to transit. The Office of Planning  
12 recommends that the Commission set-down the  
13 application for a public hearing. I would be  
14 happy to take any questions. Thank you.

15 CHAIRMAN HOOD: Okay, thank you,  
16 Mr. Gyor. Commissioners, any questions of Mr.  
17 Gyor? Normal order, Commissioner May.

18 COMMISSIONER MAY: Sure, just a few  
19 comments on this.

20 The apartment building facade seems  
21 to need something, and I am not sure what it  
22 needs, but it's not -- you know, the rest of the

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1 hotel facades seem to be working and are -- I  
2 don't know, have the right level of complexity  
3 and the right level of simplicity to be a good  
4 backdrop for the historic buildings.

5 But the apartment building just  
6 seems to be kind of all over the place, and maybe  
7 it's just the two strict vertical division of  
8 the materials, or something like that. It's  
9 just -- it's missing something, to me.

10 I don't want to get too far into the  
11 design aspects of it, because I know this has  
12 been through HPRB, but I just feel like it needs  
13 something.

14 I have a concern about the set-back  
15 for -- or the lack of set-back for the rooftop  
16 communal space on the apartment building,  
17 because it's right up against the side of the  
18 building that is adjacent to the historic  
19 building on the south side of the property, and  
20 you know, that is going to be very obvious and  
21 it amplifies the height of the building.

22 So, doing something to minimize

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1 that or possibly reconfiguring the space on the  
2 rooftop, the communal space on the rooftop  
3 would help minimize that bit of -- that sense  
4 of it being too tall in that circumstance.

5 The other things are -- and I need  
6 a very simple kind of diagram of what's going  
7 on with the roof heights, because the -- there  
8 is just too much information and it's a little  
9 confusing on the diagram that's in there.

10 So, a simple diagram of rooftop  
11 heights and set-backs and so on, and then the  
12 last thing is that the hotel awning is really  
13 huge, and I mean, I'm -- I don't know if it would  
14 look much better if it were smaller, but it just  
15 seems really imposing on the block.

16 So, I don't know. Those are my  
17 thoughts.

18 VICE CHAIR COHEN: Actually, I wish  
19 that I had gone first, because I had a problem  
20 with the hotel awning and I wanted to be the  
21 architect tonight. That's okay.

22 I would like more explanation as to

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1 the timing that the hotel will come first, and  
2 then the apartment and maybe it's just my lack  
3 of knowledge, but I don't understand why in a  
4 so-called housing priority area, we're going  
5 for hotel use first. It may be a market issue,  
6 but I would like that explained to me.

7 I had one other comment, I think.  
8 On the illustrations from the HPO, again,  
9 they're going to make their final decision, but  
10 I again, liked more of the organic shaping of  
11 the building. I think it's much more  
12 interesting than what we usually see in  
13 geometric.

14 So, that's only my own opinion.  
15 That's all I have to say.

16 CHAIRMAN HOOD: Any other  
17 comments? Somebody can make a motion. Sorry,  
18 Commissioner Turnbull?

19 COMMISSIONER TURNBULL: Can we  
20 still do comments?

21 CHAIRMAN HOOD: Yes, sure.

22 COMMISSIONER TURNBULL: Okay.

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1                   CHAIRMAN HOOD:  You can always do  
2                   comments.

3                   COMMISSIONER TURNBULL:  All right.  
4                   Well, I think this is an interesting project.  
5                   I think it's one of the first we've had of  
6                   adaptive re-use to this extent on a -- in a  
7                   development.  I don't think we've had -- I  
8                   mean, we've had preservation issues at some  
9                   point, but adaptive re-use with a number of  
10                  buildings, I think is unique.

11                  I would echo.  I guess one of the  
12                  things, it's hard to find on the drawings, the  
13                  access, the garage access on L Street.  I had  
14                  to go to the -- the best plan that I found was  
15                  on -- was A601.  It wasn't part of the regular  
16                  sequence of plans, and it looks like that there  
17                  is an easement and you -- they're building over  
18                  it.  One is an alley and now, they're getting  
19                  an easement through it.

20                  I'm not sure I totally understand  
21                  that, and I'd like to know more about how you  
22                  access and if people are going to continue on

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1 straight through the alley, it looks like you  
2 do go through. Hopefully, we're going to get  
3 loading diagrams that show how trucks get in and  
4 out on the alley back there.

5 It seems like everything happens on  
6 that back alley, so, I'd like to see a little  
7 bit more information as to access, turning  
8 radii and how that really works back there.

9 I agree with Commissioner May, we  
10 need more information on the roof. Roof plan,  
11 sections, blow-ups, what is going on with  
12 set-backs, and some dimensions on these things.  
13 It's really hard to read the roof plan and look  
14 at the building and know what's going on.

15 I agree with some of your comments,  
16 Mr. Gyor. I think I'd like to see the street  
17 level renderings, to see what this building  
18 really looks -- what the -- what the  
19 street-scape is really going to look like, and  
20 maybe -- and I would agree that the canopy is  
21 a little bit heavy for the street-scape. I think  
22 it may be a little bit overdone.

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1                   But I'm looking forward to seeing  
2 this set-down.

3                   CHAIRMAN HOOD:   Okay, Commissioner  
4 Miller?

5                   COMMISSIONER MILLER:   Thank you,  
6 Mr. Chairman.

7                   Yes, I'm looking forward to it being  
8 set-down too, and think that the questions  
9 asked by my colleagues are good ones.

10                  I also would like some more  
11 information, just about the timing of the  
12 Mayor's agent cases for the historic -- for the  
13 parts of the property to be -- the two -- I think  
14 it was two of the townhouse-type structures,  
15 which are of course, being demolished, I think,  
16 and seven or nine were to be adaptively reused.

17                  Just more information on the  
18 situation with the historic multi-family  
19 building on L Street.   What is -- HPO seemed to  
20 be saying that what the Applicant was proposing  
21 was a demolition and that would require, in  
22 terms of what they were -- taking out the floors

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1 and so, if -- I just want more information on  
2 what is -- is that going before the Mayor's  
3 agent also, or is there just -- are they just  
4 working with HPO staff on a plan to adaptively  
5 reuse that, and won't have to go through Mayor's  
6 agent?

7 Do you know, I don't know, is it -  
8 is that building vacant?

9 MR. GYOR: I believe it is.

10 COMMISSIONER MILLER: Yes, it's  
11 been vacant for years and years?

12 MR. GYOR: Yes.

13 COMMISSIONER MILLER: Okay, you  
14 know, it shows how -- how the -- this type of  
15 project being proposed here, when two hotels  
16 that connects the convention centers, just kind  
17 of remarkable, when we had -- when we -- we  
18 fighting all those years, to try to find a way  
19 to structure that.

20 In part, the convention center  
21 hotel just to the south, and now, we have a  
22 private development coming forward with 200

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1 more units, but it's the same operator,  
2 actually, ends us being the same -- it's just  
3 kind of ironic.

4 But it shows how economically  
5 positive our climate is right now.

6 This is a huge up-zoning. It's  
7 like double -- more than doubling the existing  
8 permitted height and density there. It's  
9 consistent with the comp plan, of course, and  
10 the comp plan calls for that.

11 But if some of those units, 200  
12 units could be at 80 percent AMI, that would be  
13 -- in the downtown area, that would be workforce  
14 housing, as opposed to the 80 percent AMI  
15 elsewhere in the city, which ends up being  
16 market rate.

17 But downtown, it might -- it might  
18 be an amenity that would be valuable to have in  
19 this type of project.

20 So, I'm prepared to move that we  
21 set-down the project.

22 CHAIRMAN HOOD: Okay.

1                   COMMISSIONER TURNBULL: Mr. Chair,  
2 I wonder if I could just ask Mr. Gyor.

3                   Mr. Gyor, I guess one other thing,  
4 which I forgot to mention is, there is a  
5 grillage of sort of -- shown on some of the  
6 elevations, and it looks -- if I read some of  
7 the elevations, it looks like it's terra cotta,  
8 but I'm not sure.

9                   I'd like some more information on  
10 these thin grills that are showing up on the  
11 hotel part and then it shows up later on, by some  
12 of the window elevations.

13                   So, if we could get some blow-ups as  
14 to what the really looks like and how that  
15 works. Thank you.

16                   CHAIRMAN HOOD: Okay, any other  
17 comments?

18                   (No audible response.)

19                   CHAIRMAN HOOD: Somebody like to  
20 make a motion?

21                   COMMISSIONER TURNBULL: Mr. Chair,  
22 I would move that we set-down Zoning Case No.

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1 14-09 QC 369 LLC, consolidated PUD and related  
2 map amendment @ Square 369.

3 COMMISSIONER MILLER: Second.

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

7 (Chorus of ayes.)

8 CHAIRMAN HOOD: Any opposition?  
9 Staff, would you record the vote?

10 MS. SCHELLIN: Yes, staff records  
11 the vote 5-0-0 to set-down Zoning Commission  
12 Case No. 14-09. Commissioner Turnbull -- I'm  
13 sorry, set-down as a contested case.

14 Commissioner Turnbull moving.  
15 Commissioner Miller seconding. Commissioners  
16 Cohen, Hood and May in support of set-down.

17 CHAIRMAN HOOD: Okay, next let's go  
18 to Zoning Commission Case No. 14-12 EAJ, 1309  
19 5th Street, LLC 1st stage and consolidated PUD  
20 and related map amendment @ Square 3591. Ms.  
21 Schellin? Ms. Elliott? I was going to get  
22 there. I had to -- I have to say the whole name

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1 first. Ms. Elliott.

2 MS. ELLIOTT: I thought we had  
3 turned a leaf on that. So, okay.

4 CHAIRMAN HOOD: We have, okay, but  
5 I have to say -- I have to say Brandice Elliott  
6 first. I have to say it like that.

7 MS. ELLIOTT: Thank you, Mr.  
8 Chairman. Good evening, Mr. Chairman, Members  
9 of the Commission.

10 OP recommends set-down for a public  
11 hearing of the application for a consolidated  
12 and 1st stage PUD and PUD related map amendment,  
13 that would facilitate the redevelopment and  
14 expansion of Union Market, which is located at  
15 1309 5th Street Northeast in the Florida Avenue  
16 market area.

17 The property is currently zoned CM1  
18 and the Applicant has requested a designation  
19 of C3C.

20 The PUD would be the third, located  
21 in the Florida Avenue market study area. The  
22 Commission may recall that the second PUD

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1 located on 4th Street in Florida market,  
2 proposing an 11-story 110 foot mixed-use  
3 building, consisting of retail and residential  
4 uses, was actually just set-down about a month  
5 ago.

6 This application is the same  
7 Applicant that was for the previous  
8 application.

9 The proposed project would use the  
10 existing footprint of Union market, expanding  
11 it upwards to a height of 120 feet. Union  
12 market would serve as the ground floor of the  
13 structure and would remain operational during  
14 construction.

15 The middle volume would serve as the  
16 8 screen Angelica Film Center and four levels  
17 of office would be provided above the theater.

18 The maximum FAR would be 2.52 for  
19 the south building.

20 The first stage PUD proposes to  
21 expand the building located north of Union  
22 market to a height of 120 feet and would consist

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1 of either office or residential uses and would  
2 have a maximum FAR of 3.78.

3 The Applicant has requested  
4 flexibility from rooftop structures for  
5 variable height, courts and loading. However,  
6 we believe there is some clarification  
7 necessary regarding the rear yard, because it  
8 seems that some flexibility may be required  
9 because the rear yard has been measured from a  
10 public street, rather than a service alley.

11 Also, the Applicant has provided an  
12 alternative penthouse plan that would allow  
13 occupy-able space above the building's maximum  
14 height, and request flexibility to revise the  
15 design in compliance with anticipated  
16 amendments to the zoning regulations.

17 Temporary flexibility has been  
18 requested for the south building for parking  
19 and bicycle parking, but these requirements  
20 would be fulfilled upon the completion of the  
21 north building.

22 The Florida Avenue market study

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1 anticipates high density development in  
2 exchange for significant benefits and  
3 amenities. The Applicant has identified  
4 several contributions to the Florida Avenue  
5 market that include incubating unique local  
6 businesses, increased lighting and security  
7 for pedestrians and reduced rents for local  
8 artists.

9 These contributions provide  
10 context regarding the developer's intent and OP  
11 will continue to work with the Applicant to  
12 refine in detail, benefits and amenities that  
13 are proposed.

14 OP, working in partnership with  
15 other District agencies, has suggested a  
16 District energy system as a potential benefit  
17 and amenity, which would be consistent with the  
18 Mayor's sustainable D.C. plan.

19 However, there are other  
20 opportunities for benefits and amenities that  
21 would address broader area needs, and may also  
22 be considered.

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1           OP will continue to work with the  
2 Applicant to obtain details about benefits and  
3 amenities that are intended for this  
4 development. The comprehensive plan  
5 designation for this site is medium density  
6 residential, high density commercial PDR.

7           The proposal for the mixed-use  
8 development is not inconsistent with the  
9 comprehensive plan's objectives for the area  
10 and to the generalized land-use and policy  
11 maps.

12           The project furthers the goals and  
13 objectives of the Florida Avenue market small  
14 area plan. OP will continue to work with the  
15 Applicant to provide information noted in the  
16 report, which includes refined and detailed  
17 elevations and roof plans, clarification  
18 concerning the rear-yard flexibility,  
19 contracting goals for small local businesses,  
20 details concerning the curbsless street and the  
21 parking management plan, as well as plaza  
22 materials and design and additional

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1 information concerning the benefits and  
2 amenities.

3 The Office of Planning recommends  
4 that the Commission set-down the application  
5 for public hearing, and I'd be happy to answer  
6 any questions.

7 CHAIRMAN HOOD: Okay, who would  
8 like to start us off? Any questions of Office  
9 of Planning? Ms. Elliott? Thank you, Ms.  
10 Elliott. Anyone? Commissioner Miller?  
11 Let's switch it up.

12 COMMISSIONER MILLER: I would just  
13 -- thank you, Mr. Chairman.

14 I would comment that I think the OP  
15 report is very thorough and I agree with a lot  
16 of the -- I agree with all of the suggestions  
17 that are made in there for -- and I think the  
18 District energy system is an interesting  
19 concept.

20 In addition to the -- all of the  
21 positive benefits that you outline in the  
22 report, another benefit would be that it would

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1 help support the PDR, the production  
2 distribution repair striping of -- in this  
3 area, in addition to the high density  
4 commercial, medium density residential.

5 But I would agree that an updated  
6 benefit -- they say they're going to be working  
7 on the updated benefits and amenities package,  
8 so, that's great.

9 I didn't quite understand, I  
10 thought I read somewhere that the bike -- the  
11 adjacent bike parking on the south building  
12 wouldn't be provided until the north building  
13 was completed, which I didn't understand why.  
14 Maybe I just got it wrong. I guess I need  
15 clarification on what bike spaces will be  
16 provided on the space adjacent to the south  
17 building, prior to the north building being  
18 built.

19 This is a very exciting project.  
20 This is another one of these dynamic theaters  
21 moving into the eastern part of the city,  
22 finally. So, I think that's just incredible

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1 development for our city, and prepared to  
2 support set-down tonight.

3 CHAIRMAN HOOD: Okay, Commissioner  
4 Turnbull, any comments?

5 COMMISSIONER TURNBULL:  
6 Absolutely, Mr. Chair. Thank you, Ms.  
7 Elliott, for an excellent report and I  
8 appreciate all your comments. I think you've  
9 hit the majority of the ones that we usually hit  
10 upon. So, thank you for that.

11 Especially, I think we need more  
12 information on the group plans and the things  
13 like that, and sections through the building  
14 that clearly identify any projections and  
15 over-hangs, etcetera.

16 This is an exciting project. I  
17 think the fact that there -- that you have an  
18 existing building that's going to be kept in  
19 use, while the rest of it is being built  
20 overhead, I think is exciting. I think that's  
21 -- we don't see too many of those happening, but  
22 I think that's something very interesting.

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1                   One of the things that caught me,  
2                   which I was -- they're talking about  
3                   maintaining the existing facade of the market  
4                   building, thereby maintaining it's esthetic  
5                   effect, the retail component.

6                   But on the next page, they talk  
7                   about requesting flexibility to design the  
8                   retail facades in accordance tentative market  
9                   requirements, while still maintaining the  
10                  majority of the existing facade of the existing  
11                  south structure.

12                  If I look at the typical -- an  
13                  elevation down Florida Avenue, looking at Union  
14                  market, it's basically reflecting sort of the  
15                  character of what's there with the over -- with  
16                  the awnings and everything.

17                  So, I'm a little bit funny, as to  
18                  what they mean by retail flexibility. I mean,  
19                  I think there is a certain character there,  
20                  which they talk about maintaining.

21                  So, adding this question about  
22                  flexibility sort of muddies what they're really

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1 trying to do, as far as an image.

2 I guess the other thing, I'd like to  
3 know more information about the Casablanca side  
4 that you see, as you're going down Florida.  
5 It's suppose to be an LED, and I think that there  
6 is another one around the corner. Hopefully,  
7 it's not -- I think we need more information on  
8 that. Hopefully, it's not actually a moving --  
9 I see it as an attractive nuisance, if it's  
10 people driving and they're watching.  
11 Hopefully, it's not continually moving.

12 So, I'm a little bit confused about  
13 that. A little bit -- there is one -- I wanted  
14 to more about the event space that they talk  
15 about, and I guess there's going to be no  
16 parking for this first phase.

17 So, I'm assuming -- we're assuming  
18 that people are either parking somewhere nearby  
19 or are they metroing, busing, biking?

20 MS. ELLIOTT: If you remember the  
21 PUD that was set-down about a month ago, there  
22 was actually -- and this is the one that's on

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1 4th Street.

2 COMMISSIONER TURNBULL: Yes.

3 MS. ELLIOTT: There was a surplus  
4 of parking --

5 COMMISSIONER TURNBULL: Okay.

6 MS. ELLIOTT: -- that would be  
7 provided with that, and depending on the  
8 timing, that actually may be able to  
9 accommodate the overflow for Union market.

10 COMMISSIONER TURNBULL: Okay, do  
11 you know the phase -- have there -- is there --  
12 I didn't -- maybe I missed it, the phasing for  
13 the north building, or how does this project  
14 look to be?

15 MS. ELLIOTT: I think we need some  
16 details on that point.

17 COMMISSIONER TURNBULL: Okay.

18 MS. ELLIOTT: I don't think that  
19 was specified.

20 COMMISSIONER TURNBULL: All right,  
21 if we could get that, that would be great, and  
22 with that, Mr. Chair, I think are my comments.

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1                   CHAIRMAN HOOD:    Okay, Vice Chair  
2                   Cohen?

3                   VICE CHAIR COHEN:   Thank you, Mr.  
4                   Chairman.    In your report -- well, I'll be  
5                   excited about this project too, since everybody  
6                   else is, and just everybody -- Angelica show,  
7                   if it's the same brand as New York City, they  
8                   show foreign films.    So, that makes me happy.

9                   On page five of your report, under  
10                  the 'innovative technologies for pedestrian  
11                  movement', I have no idea what a deaf space  
12                  design principle is.

13                  MS. ELLIOTT:    I think that that  
14                  term has been used to refer mostly to the  
15                  curbless street that has been proposed, and my  
16                  understanding is that it allows easy -- it  
17                  facilitates easier movement, since, you know,  
18                  there is a lot of -- you speak with your hands,  
19                  you're not necessarily making -- paying  
20                  attention, before you step off the curb.    You  
21                  know, activities like that.

22                  VICE CHAIR COHEN:    Thank you,

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1 because I didn't hear that, I think with the  
2 warf, when they had the same type of multi-modal  
3 space and walking, biking, I don't know.

4 Again, the explanation of the  
5 parking, and now, that you reminded us of the  
6 prior project having an excess that could be  
7 used is helpful.

8 I noticed that in C2, that there's  
9 an explanation of demolition and it talks about  
10 once that the existing building facilities  
11 onsite, if they're affected by the proposed  
12 demolition, construction should be abandoned  
13 and/or removed at the time of demolition. That  
14 needs further explanation, at least for  
15 somebody like me.

16 In A9, I think the architect needs  
17 to carefully review each sheet, because there  
18 is a dusty pink, which I think I know what it  
19 is, but it's not in the key. It's not in the  
20 legend.

21 So, they need to go back and look at  
22 making sure they cover each color in the legend,

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1 but A9 is an example.

2 Again, the concern about the timing  
3 and the -- we need clarification about the  
4 loading for the south building, on pages 19 and  
5 22 of the Applicant's submission.

6 We need a 'worse case scenario', in  
7 case they don't go ahead with that, and  
8 especially because they're proposing an A and  
9 a B.

10 One of the concerns that I had is,  
11 in your inter-agency group, which by the way,  
12 if you can do anything with a District Agency  
13 for energy, would be great, but it seems like  
14 the warf project on the co-generation, and I  
15 know there is a difference between the two, but  
16 that was found to be too costly.

17 Since this particular neighborhood  
18 seems less dense than the warf will be, you  
19 know, the economics need to be explored and  
20 explained to us, as to the feasibility.

21 But inter-agency group that you're  
22 talking about omits housing, the Department of

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1 Housing, and one of the possibilities is to have  
2 housing, and so, that was a tremendous concern  
3 to me because what is happening in our city,  
4 we're building housing, but it's not matching  
5 the need, necessarily.

6 I mean, it's anticipating what  
7 seems to be the need, based on job creation, but  
8 it's also not addressing the real need of people  
9 who have lived here all their lives.

10 Okay, LEED rating, I think you  
11 mentioned this, it needs to be further explored  
12 and why we can't get higher LEED ratings for  
13 this property.

14 Just let me -- one second. I was  
15 confused on the -- your OP report page 7C, and  
16 it looks like we're really not retaining and  
17 reinforcing our industrial fabric.

18 So, I was a bit confused. Maybe you  
19 can explain that to me, in greater detail, that  
20 our industrial space is going away. That may  
21 be a good thing for our future, but I'm not sure.  
22 It just wasn't clear to me, what you meant in

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1 that paragraph.

2 Again, it's paragraph C on page  
3 seven.

4 MS. ELLIOTT: So, that's in  
5 reference to the Ward 5 industrial land  
6 transformation study.

7 The Florida Avenue market area  
8 study actually precedes that, and that actually  
9 identifies the density.

10 So, what's being proposed is  
11 conforming with the small area plan in that  
12 regard. The industrial land transformation  
13 study aims to promote like maker-uses, and I  
14 think that Union market does actually achieve  
15 that already, to an extent --

16 VICE CHAIR COHEN: Yes.

17 MS. ELLIOTT: -- by brining in, you  
18 know, local farmers, gardeners and they  
19 actually, you know, sell their goods and wares  
20 there.

21 So, I'm happy to look into that  
22 further and get you more information.

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1                   VICE CHAIR COHEN: That would be  
2 helpful, because I haven't read that report, or  
3 maybe, you know, another thing to put on my list  
4 for August, I don't know.

5                   But anyway, yes, I was a little  
6 confused with that.

7                   MS. ELLIOTT: I believe it was only  
8 recently finalized, as well. So, it's new  
9 reading for everyone.

10                  VICE CHAIR COHEN: Okay, thank you.

11                  CHAIRMAN HOOD: Okay, Commissioner  
12 May?

13                  COMMISSIONER MAY: Yes, just a few  
14 questions. So, I do not understand how the  
15 south building could possibly be a maximum of  
16 2.52 FAR.

17                  It's a seven-story building, and it  
18 seems a lot -- to occupy more than half of its  
19 site. There's something wrong with the math,  
20 unless there is a lot more land area that's  
21 being included in the calculation that's --  
22 that we're not seeing.

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1                   Similarly, the -- you know, the  
2 north building at 3.5 something also doesn't  
3 work. They've got to be, I don't know, six or  
4 more, in my mind, based on -- just on the -- just  
5 eyeballing it. Between the two of them, I'd  
6 say it's an average of about six.

7                   Again, unless there is some extra  
8 land, there is one drawing that shows the big  
9 yard that's immediately to the north, which was  
10 part of Morris Electric, their storage yard, I  
11 think, that is drawn as if it's a part of the  
12 site, but on page D3, but I assume that's not  
13 going to be the case. I assume that that's a  
14 future development site.

15                   So, anyway, that's my one question  
16 there.

17                   The next thing is, I find it very odd  
18 that the office -- this office component on this  
19 building is -- has got these huge balconies.  
20 Is there some reason for that? Are they office  
21 use -- seeking offices uses that need large  
22 balconies? It just seems odd. Maybe it's

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1 more than just the design idea or -- yes, I'm  
2 not sure exactly what it is.

3 I'm looking forward to seeing  
4 details on the rooftop basketball court, which  
5 you can sort of see in the plans.

6 Anyway, and I agree with all my  
7 colleagues and the concerns that you had in your  
8 report, as well.

9 I mean, overall, this is certainly  
10 another very exciting project. It's not as  
11 thoroughly developed as I would have liked at  
12 this point, but I think it's good enough, and  
13 the design team, the developer, I think will be  
14 able to get it in shape with the Office of  
15 Planning, so, before our hearing.

16 CHAIRMAN HOOD: A wise man came  
17 down and told this Commission one time, if you  
18 fail to plan, you plan to fail.

19 But I can tell you this, and I think  
20 you all know who that wise man was, but anyway,  
21 I'm just curious, when I look at these reports,  
22 Ms. Elliott, and maybe this may go to Ms.

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1 Steingasser.

2 I'm not condemning the Ward 5 land  
3 transformation study. I definitely do that,  
4 because I helped to pick some people that went  
5 on that task force.

6 But one of the things that concerns  
7 me is in the reports, and I'm starting to see  
8 that. We have a lot of plans, and I know we're  
9 bound to not necessarily, as a guiding tool as  
10 the comprehensive plan, but I notice we have the  
11 Ward 5 industrial land transformation study,  
12 and normal vision plan and development  
13 strategy, the Florida Avenue market small area.

14 When I looked at that, I said, okay,  
15 some time I think that causes communities  
16 confusion. I'm just putting that out there.  
17 It's not necessarily germane to this case, and  
18 I don't want the Ward 5 task force to say I'm  
19 knocking it, because I'm not.

20 But I just think that we have some  
21 many different ways, and I know some years ago,  
22 when we had the comprehensive plan task force,

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1 at least the first one, that was one of the  
2 things that we looked at, was trying to minimize  
3 the different directions for this Commission to  
4 go with.

5 I think, Ms. Steingasser, with all  
6 these different plans that we're starting to  
7 look at, and I think we -- one plan, we had a  
8 case where -- I can't think of the plan, but it  
9 was over on 7th Street Northwest, where people  
10 thought we was suppose to do planning the way  
11 it was. People said, "You're suppose to look  
12 at the do-plan," and I notice in Ms. Elliott's  
13 report, she mentions that one of the plans was  
14 not adopted by Counsel.

15 So, I guess what I'm -- I guess  
16 making a long story that I can make about this  
17 short, is that we need to make sure we narrow  
18 it down to what actually we're suppose to be  
19 looking at and what we should look at, and I know  
20 we take all these other plans in consideration.  
21 Is that what we're doing?

22 MS. STEINGASSER: Yes, sir. There

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1 is the comprehensive plan and there is the small  
2 area plan, but OP also looks at areas in terms  
3 of strategic action, which is what the -- I  
4 think the NoMa and development strategy.

5 That's not really a small area plan,  
6 but we saw it moving very quickly. First it say  
7 dormant a long time, and it was going to be this  
8 big industrial data center farm.

9 So, we started looking at ways of  
10 how can we motivate that development, without  
11 doing a small area plan?

12 We also work a lot with DemPed on  
13 doing strategic plans that were frameworks, so  
14 that as projects go into request for proposal  
15 for development, there is some context for  
16 them, where there may not be a small area plan.

17 Then like this transformation  
18 study, that was just looking at what's going on.  
19 It's not really a plan in terms, but it does  
20 provide planning background and some context.

21 So, we feel we want to mention it  
22 all, and a site like this is kind of sitting in

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1 an apex.

2           There is also some study going on,  
3 on New York Avenue, which we didn't bother to  
4 get into for the Commission, but when it's a  
5 site that's as centrally located as the Florida  
6 Avenue market is, and over the last 15 years,  
7 there has been a lot of different looks at this  
8 site, we just -- we put it all in there, so the  
9 Commission has the full context both in terms  
10 of strategic studies, as well as the small area  
11 plans and the comp plans.

12           CHAIRMAN HOOD:     Okay, well, I  
13 really appreciate that, but I just -- I know a  
14 lot of times, residents come there and they say,  
15 "Well, the new plan says this, and this plan  
16 says that," and you know, that's what they want  
17 us to look at.

18           I'm not disregarding the plans. I  
19 think they're good, but I think we need to --  
20 I guess, all of us need to do part and make sure  
21 people understand it. This is what the general  
22 -- the comprehensive plan, generalized policy

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1 map and the small --

2 Now, I've even heard some people  
3 mention that the small area plan is not a guide  
4 that the Commission goes by. I've heard it  
5 both ways.

6 So, I guess when I looked at this,  
7 and I'm definitely not saying anything against  
8 the Ward 5 industrial land transformation  
9 study. I just was saying, I noticed that was  
10 here, and I think if I read the report, I would  
11 be confused, okay, which plan do I use, even  
12 though they don't necessarily -- in this case,  
13 I don't think they contradict each other to a  
14 point, but in some cases, they do contradict  
15 each other and depending on which side of the  
16 story you're on, it's which side of the plan you  
17 want to present to the Commission, that you want  
18 the Commission to go by.

19 So, I'm raising that, just as a  
20 point for future reference, because maybe we  
21 all can work on that.

22 MS. STEINGASSER: Well, we can

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1 maybe rank them. The comprehensive plan is the  
2 regulatory document. It's legislatively  
3 adopted by the City Council. I think OAG over  
4 the years, has issued a couple different  
5 background memos on the relationship of the  
6 small area plans, and that it provides further  
7 guidance.

8 It doesn't supplant the  
9 comprehensive plan, and these other things are,  
10 like I said, more background. They may be  
11 focused on particular issues, such as  
12 industrial land versus overall comprehensive  
13 planning.

14 But we can think about that when we  
15 get an area that's -- and looked at as much as  
16 this, because you'll see the developer has  
17 their own ideas, even.

18 So, we can try to rank those and  
19 organize them in a way that kind of makes them  
20 feed into each other for the Commission.

21 CHAIRMAN HOOD: Okay, I don't have  
22 any further questions. Thank you, Ms.

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1 Steingasser, for engaging me in that.

2 Okay, any other questions or  
3 comments?

4 COMMISSIONER TURNBULL: Well, Mr.  
5 Chair, I just have one other comment.

6 The ever-observant Mr. Bergstein  
7 has just pointed out to me that there is, on page  
8 24 of the Applicant's submittal, a time line.

9 Construction of the south building  
10 would commence upon receipt of the building  
11 permits expected to take 18 to 24 months. The  
12 Applicant requests stage one approval for the  
13 north building for five years, from the date of  
14 approval, and within such time, the Applicant  
15 will file an application with the Zoning  
16 Commission for a stage two PUD approval for the  
17 north building.

18 So, I missed that totally, so Mr.  
19 Bergstein did not.

20 CHAIRMAN HOOD: Okay.

21 COMMISSIONER TURNBULL: Thank you,  
22 Mr. Bergstein.

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1                   CHAIRMAN HOOD:    Okay, any other  
2                   comments or questions?  Someone like to make a  
3                   motion?

4                   COMMISSIONER    MILLER:            Mr.  
5                   Chairman, I would move the set-down for public  
6                   hearing on Zoning Commission Case No. 14-12 EAJ  
7                   1309  5th  Street,  LLC,  1st  stage  and  
8                   consolidated PUD's and related map amendment @  
9                   Square 3591 and ask for a second.

10                   VICE CHAIR COHEN:  Second.

11                   CHAIRMAN HOOD:    Okay, it's been  
12                   moved and properly seconded by the seconder.  
13                   Any further discussion?  All those in favor?

14                                   (Chorus of ayes.)

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

17                   MS. SCHELLIN:    Staff would record  
18                   the vote at 5-0-0 to set-down Zoning Commission  
19                   Case No. 14-12 as the contested case.

20                                   Commissioner    Miller        moving.  
21                   Commissioner  Cohen  second.    Commissioners  
22                   Hood, May and Turnbull in support.

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1                   CHAIRMAN HOOD: Okay, let's go to  
2 D, Zoning Commission Case No. 14-13. This is  
3 the Office of Planning text amendment rooftop  
4 penthouse regulations for all non-low density  
5 residential development.

6                   We need to do a waiver for the late  
7 filing and then we'll do the set-down. Any  
8 issues on the late filing?

9                   PARTICIPANT: No.

10                  CHAIRMAN HOOD: We'll just waive  
11 our rules on that. Again, we know that the  
12 Office of Planning has a lot going on right now.

13                  So, who the -- I guess it's only two  
14 people left. Mr. Lawson.

15                  MR. LAWSON: Thank you, Mr. Chair,  
16 and certainly, our apologies for the late  
17 filing of that report.

18                  This report is provided in response  
19 to a request from the Zoning Commission, as well  
20 as from the development community, for proposed  
21 amendments to the zoning regulations, which  
22 reflect the recent Federal amendments to the

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1 1910 Height Act.

2 The recently adopted amendments to  
3 the Height Act included allowing habitable  
4 space within the penthouse space, and  
5 establishing a limit of 20 feet of height and  
6 one story for habitable penthouse space.

7 The zoning regulations are  
8 currently much more restrictive than the Height  
9 Act, in that they limit permitted uses within  
10 the penthouse to mechanical equipment and for  
11 a very limited range, the ancillary spaces  
12 associated with rooftop recreation space for  
13 residential buildings, which are located below  
14 the Height Act height limit.

15 The zoning regulations also limit  
16 the height of a penthouse to 18'6" maximum, and  
17 provide limits on the size of the rooftop  
18 penthouse equivalent to .37 FAR or one-third of  
19 the roof area below -- of the roof area which  
20 is located below the penthouse.

21 Like the Height Act, the zoning  
22 regulations require a one-to-one setback from

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1 the edge of the roof below.

2 So, this is of course, a complex  
3 issue. It impacts building form. It impacts  
4 policy objectives. It impacts the land and  
5 building economics, and there is certainly  
6 differing -- we're hearing there is differing  
7 expectations regarding the Federal Height Act  
8 amendments and how they should be implemented  
9 through zoning.

10 So, OP in this whole report,  
11 recommended -- made a series of recommendations  
12 that we are recommending would apply to all  
13 low-density residential construction. A  
14 clarification on the report though, that we  
15 would not intend these to -- or it was not our  
16 intent that these would apply to parts of the  
17 city where there are currently specific limits  
18 for penthouses.

19 An example would be the Capitol  
20 interest overlay, which limits the height of  
21 penthouses below what the zoning regulations  
22 regulate -- do for the rest of the city.

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1           The arts overlay does the same as  
2 the Fort Totten overlay.

3           So, we wouldn't intend that these  
4 changes would apply in those areas, or at least  
5 we would want to look at how they would apply  
6 in those -- which of these changes would most  
7 appropriately apply there.

8           So, the recommendations, which I  
9 can describe in more detail if you wish me to,  
10 but just kind of in general.

11           They are number one, to allow 20  
12 feet of height for all rooftop penthouses.  
13 This would be an increase from the current 18  
14 foot six inches and would be consistent with the  
15 Height Act amendment.

16           Number two, permit two levels or two  
17 stories within the 20 foot penthouse -- rooftop  
18 penthouse height, if the penthouse is located  
19 entirely below the Height Act limit, that --  
20 what I mean is the entire volume of the  
21 penthouse would be below the Height Act limit.

22           The zoning regulations currently do

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1 not address the number of stories that are  
2 permitted within a penthouse, but this limit or  
3 this proposal to allow two stories would  
4 establish some certainty, but also ensure  
5 additional flexibility and opportunity to  
6 better utilize the permitted volume.

7 Number three, we are proposing that  
8 the regulations eliminate the limits on  
9 percentage of roof area and a limit on FAR. This  
10 would allow the one-to-one set-back  
11 requirement to dictate the maximum area of a  
12 penthouse. Again, that is consistent with the  
13 Height Act itself.

14 Number four, to allow all forms of  
15 habitable space within a rooftop penthouse.  
16 Habitable space, of course, is a term used in  
17 the amended Height Act, but it's not actually  
18 defined in the Height Act amendment.

19 However, it does appear to us clear,  
20 that the Height Act amendment does not propose  
21 to limit permitted uses, rather it's intended  
22 to provide for a significant additional

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1 flexibility in permitted uses. The zoning  
2 regulation should allow that same flexibility.

3 However, as we note in our report,  
4 the Zoning Commission may wish to consider  
5 whether there are some uses that should be  
6 permitted on a rooftop, only by special  
7 exception. If so, this could certainly be  
8 advertised in the alternative to allow the  
9 public discussion on those kinds of use issues.

10 Finally, of course, the Zoning  
11 Commission also indicated, in some of your  
12 discussions on this issue, that you wanted to  
13 provide for a linkage between new roof  
14 structure, habitable space and affordable  
15 housing. OP is proposing to achieve this  
16 through the inclusionary zoning program for new  
17 residential habitable space, and utilizing the  
18 existing housing linkage program, to provide  
19 that linkage for new habitable office space.

20 These recommendations will be  
21 consistent with the Height Act and the recent  
22 Height Act amendments. They'd be not

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1 inconsistent with the comprehensive plan for  
2 the District of Columbia, and it is proposed  
3 that these recommendations proceed forward at  
4 this time, to allow for full vetting of the  
5 issues at a public hearing. That's why the  
6 Office of Planning is recommending that this be  
7 set-down.

8 Office of Planning would, of  
9 course, continue to work with the Office of the  
10 Attorney General, to draft specific amendment  
11 text, which may include alternatives, if the  
12 Zoning Commission directs us to do so, and we  
13 would prepare that prior to the publication of  
14 the notification for public hearing.

15 Also, of course, prior to any  
16 hearing, OP will provide any additional  
17 analysis that the Zoning Commission requests us  
18 to provide, including any additional  
19 alternatives that you would like us to look at,  
20 and that's my report, and I'm happy to answer  
21 any questions.

22 CHAIRMAN HOOD: Okay, Commissioner

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1 May?

2 COMMISSIONER MAY: So, first I have  
3 a more technical question. I guess Mr.  
4 Bergstein is already gone.

5 But normally, when we set-down a  
6 text amendment, we actually have the language  
7 drafted. So, I mean, this is an unusual  
8 circumstance, but you're still proposing  
9 essentially that we will be setting down for a  
10 hearing, language that is still to be  
11 developed? Is that right?

12 MR. LAWSON: I think the Zoning  
13 Commission could take two approaches. You  
14 could set this down in concept, to allow for  
15 more conceptual discussion, at this point.

16 But I think that there are a lot of  
17 people who would want to see what language might  
18 look like, and so, we would propose that that  
19 language be created and that language be made  
20 public, so that people would have a good sense  
21 of what it might be.

22 COMMISSIONER MAY: Okay, well, I'm

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1 not sure we're going to come down on that. It's  
2 just kind of unusual. In some ways, it's  
3 reminiscent of what we try to do in the initial  
4 round of ZRR, trying to talk about, you know,  
5 teeing up certain issues and making decisions  
6 between the various issues, and using that as  
7 a guide to draft language. Maybe that's a  
8 model to use here. Maybe it's not, and I don't  
9 know.

10 I have one other more technical  
11 question, which is how do you see this potential  
12 availability of new habitable space being  
13 factored into FAR calculations? Is it all free  
14 above and above, above and beyond FAR, or is it  
15 counted against FAR or should we be tweaking FAR  
16 to allow for it?

17 MR. LAWSON: Well, I think that's  
18 also a question that I'm sure would come up at  
19 the public hearing. I think that our thought  
20 was that -- and our recommendation is that the  
21 FAR limit for the penthouse be eliminated and  
22 that this space be in addition to the permitted

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1 FAR for the building.

2 COMMISSIONER MAY: Okay, I just  
3 want to make that clear.

4 Yes, I'm not sure I would stand on  
5 that, because on the one hand, you know, you  
6 want to have the -- it's not a bad thing to have  
7 that bonus space and bonus taxable space and so  
8 on, but on the other hand, one of the things that  
9 was a big topic of discussion in the Height Act  
10 was the desire to have greater flexibility on  
11 the form of buildings, and so, being able to  
12 actually push some of the FAR a little bit  
13 higher up, allows you do to a little bit more  
14 with the form of the building. So, it's a  
15 trade-off either way.

16 I know that we had -- that we are  
17 permitted under the Height Act change, to go to  
18 20 feet, but I also know that we started out the  
19 ZRR with the discussion of 20 feet, but I think  
20 dropped back to 18'6" based on some resistance  
21 to that.

22 Is that -- is my memory correct on

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1 that?

2 MS. STEINGASSER: It is.

3 COMMISSIONER MAY: Yes, so, maybe  
4 we should, in this circumstance, set-down 20  
5 feet and 18'6" in the alternative, just so we  
6 know -- we send a signal that we're -- we haven't  
7 made a decision one way or the other.

8 We're -- and I -- you know,  
9 functionally, in terms of habitable space, I'm  
10 not sure it makes that much difference. I  
11 think that it was -- when they were pushing for  
12 20 feet, it was driven by, I don't know,  
13 mechanical equipment or something like that.

14 I think the idea of tying some of  
15 this use of space to production of affordable  
16 housing is an important thing. In fact, I think  
17 we should try to pursue that fairly  
18 aggressively, and for example, if there is  
19 going to be penthouse space that's used for  
20 individual housing units, apartments or  
21 something like that, that they're actually --  
22 you know, for anything that winds up being in

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1 the penthouse level, there ought to be an equal  
2 amount of space in addition to any required IZ  
3 space within the rest of the building.

4 I mean, that's a pretty aggressive  
5 formula, but if we're adding penthouse space  
6 that's very, very valuable, maybe that is a good  
7 way to get the right trade-off.

8 I would also say that, you know, one  
9 of the things that was very important to me in  
10 all of the discussions of the Height Act, if we  
11 were going to go this direction, was to  
12 emphasize rooftop recreation space.

13 So, communal space on the rooftop,  
14 I do not think should be tied to any kind of  
15 inclusionary zoning. I think it's something  
16 that, you know, we should be promoting the  
17 communal use of the rooftop more than anything  
18 else, in my mind.

19 Also, when we get into the hearings,  
20 it would be helpful to see some diagrams of sort  
21 of proto-typical conditions and I'm  
22 particularly concerned, and I think this will

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1 show up in the diagrams, as we start to nail --  
2 analyze it is, set-backs from side lot lines.

3 This came up in one of the earlier  
4 set-down cases, because I think that we don't  
5 want to, you know, just assume that the only  
6 thing we really need a set-back from is the  
7 front facade, because those side facades are  
8 often very visible, because there is a historic  
9 building next door or something like that, and  
10 I think we need to have some set-backs in those  
11 circumstances.

12 Maybe it's not the same one-to-one,  
13 but I think that it's something that should be  
14 addressed and understood.

15 I think that hits all the issues  
16 that I was interested in this time around, and  
17 again, I'm still not sure of what the -- whether  
18 we want to review concepts or whether we want  
19 to review the actual text next time.

20 VICE CHAIR COHEN: I'm sure  
21 Commissioner May was channeling me, since, you  
22 know, all night, yes.

1 I haven't been as deeply engaged  
2 with the nuances and the specifics of the Height  
3 Act. Actually, I've been -- I want to ask  
4 Commissioner May.

5 He's talking about setting it down  
6 with 18'6" and 20, and I didn't understand why  
7 that would ever be necessary, because the  
8 Height Act, I thought is up to 20 feet, but --

9 COMMISSIONER MAY: Well, just  
10 because --

11 VICE CHAIR COHEN: That's the  
12 nuance I missed.

13 COMMISSIONER MAY: Well, I think we  
14 got some push-back in the initial ZRR  
15 discussions, about bumping it up to 20 feet, and  
16 so, obviously some members of the community are  
17 concerned about it going any higher than it is.

18 Certainly, we even heard that in the  
19 Height Act discussions at NCPC, you know,  
20 people were questioning the 20 feet. People  
21 were questioning, you know, all of the  
22 penthouse changes.

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1           So, it was just as an alternative,  
2           and again, if you're going to do two -- if you're  
3           going to do a single story, you don't really  
4           need to have 20 feet, a single story of  
5           habitable space.

6           VICE CHAIR COHEN: Well, again, 20  
7           is the maximum. It isn't --

8           COMMISSIONER MAY: Right, we don't  
9           have to go to the maximum though. It's a  
10          maximum.

11          VICE CHAIR COHEN: Well, that is  
12          our discretion. That's what I was hoping we  
13          would have the opportunity to implement, our  
14          discretion on these.

15          COMMISSIONER MAY: Right.

16          VICE CHAIR COHEN: Yes.

17          COMMISSIONER MAY: Right, and so,  
18          but I'm just suggesting that we might want to  
19          advertise 18'6" and 20 as two alternatives, to  
20          send folks the message that we're -- we haven't  
21          made up our mind.

22          VICE CHAIR COHEN: I won't belabor

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1 this because obviously, we're going to be  
2 having a public hearing on this.

3 But I do really emphasize the  
4 importance, as was articulated by my colleague,  
5 about the affordable housing and pushing that,  
6 where as I said many, many times, I see it --  
7 and I am not Chicken Little. There is a crisis  
8 in housing.

9 So, anything we can try to promote  
10 in addressing that issue, I think is very  
11 important to the city and its live-ability for  
12 many people.

13 So, I thought this was a very  
14 complete memorandum. I prefer text, but you  
15 know, whatever the majority wants, I can go  
16 along with. Thank you.

17 CHAIRMAN HOOD: Okay, anybody  
18 else? Commissioner Miller?

19 COMMISSIONER MILLER: Thank you,  
20 Mr. Chairman, and thank you, Ms. Steingasser  
21 and Mr. Lawson, for coming forward with this  
22 set-down report, which many of us -- several of

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1 us asked you to do, and I know you have a lot  
2 of other things to do, but you have come forward  
3 with something that I support.

4 I support the direction that's in  
5 this report, almost in its entirety.

6 On the point of the text versus --  
7 your own report says, on page two, based on what  
8 is set-down by the Commission, OP will work with  
9 OAG to draft specific text and -- amendment  
10 text, which may include alternatives, prior to  
11 publication of the notification of the public  
12 hearing.

13 So, I assumed from that sentence,  
14 that we were going to see that text and maybe  
15 do some kind of sign off or check off on it,  
16 since -- if there were time to do it, but that's  
17 what I would support, that we do advertise text  
18 in this matter. That seems to be what you were  
19 proposing.

20 I also support the comments of  
21 Commissioner May and Vice Chair Cohen on  
22 affordable housing. I had argued during the

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1 Height Act debate, that the very point that you  
2 made, Commissioner May, that there needs to be  
3 that linkage, if we're going to be giving the  
4 most valuable additional space on top of the  
5 building for it, additional habitable space,  
6 whether it's residential or commercial, that we  
7 ought to have -- I think I need to set a time  
8 one-to-one -- a one-to-one requirement of  
9 affordable housing.

10 So, I would support advertising in  
11 the alternative from what OP has presented, not  
12 just having IZ, the normal IZ applied, but a  
13 stronger affordability level, a one-to-one  
14 amount and they -- a deeper affordability  
15 level, just make it go to 60 percent, for this  
16 particular.

17 I know we have the IZ case that we're  
18 going to be getting, but this is moving. So,  
19 and I'd like to see that as an alternative.

20 Mr. Lawson, when you said two levels  
21 of storage on the second point, within the 20  
22 foot roof penthouse height, if the penthouse is

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1 located entirely below the Height Act  
2 amendment, and maybe I'm just -- is it entirely  
3 at or below the Height Act limit? It's  
4 entirely within the Height Act limit? You did  
5 use the word 'within' in one part of that.

6 MR. LAWSON: I was going -- it's  
7 kind of hard to explain that one, and this is  
8 resulting from conversations with OAG.

9 They feel that the Height Act is  
10 explicit enough that you've -- if a portion of  
11 the height of the penthouse exceeds the height  
12 limit for that location, then only one story  
13 would be permitted.

14 So, this would only be in an  
15 instance where the zoning regulations limit the  
16 height of the building to, I guess 20 feet or  
17 more below what the Height Act would allow for  
18 that building.

19 In other words, the entire height of  
20 the penthouse would have to be below the height  
21 of a building that the Height Act would allow.

22 It couldn't bisect that penthouse

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1           somehow.

2                   COMMISSIONER MILLER:   Okay, I may  
3           need to see a drawing, at an earlier hour.

4                   MR. LAWSON:   Yes.

5                   COMMISSIONER MILLER:       Just to  
6           understand the --

7                   MR. LAWSON:   We totally understand  
8           the desire for some drawings on this, and we  
9           actually started to put some drawings together  
10          and realized that just because of the  
11          variabilities that are involved in this, that  
12          the diagrams weren't quite working out, given  
13          the time frame that we had.

14                   But we think it's a great idea and  
15          we'll make sure that we diagram those out, so  
16          that they're much clearer.

17                   COMMISSIONER MILLER:   Right, and  
18          on your point number four, concept number four,  
19          rooftop penthouse use, allow all forms of  
20          habitable space within a rooftop penthouse,  
21          provided the use is permitted within that zone.

22                   I think that is the appropriate way

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1 to go. I don't think we need to start carving  
2 out uses that go to special exception or not.  
3 I think that -- I personally think that that's  
4 the way to go. Should it be all uses that are  
5 permitted in that zone?

6 The example that you provided about  
7 a nightclub would be regulated by another  
8 regulatory body, that we're all familiar with.  
9 So, I'm not sure we need to be getting to noise  
10 and other issues related to restaurants and  
11 nightclubs on roofs, when they go for an ABC  
12 license, they can deal with that, with somebody  
13 else.

14 Anyway, I'm very supportive of this  
15 going forward. Thank you.

16 CHAIRMAN HOOD: Okay, on that  
17 point, tonight my colleagues and -- well, the  
18 ones who did the remand, we had to get into  
19 noise.

20 So, anyway, that's just -- I'll  
21 comment when it's my appropriate time.  
22 Commissioner Turnbull?

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1                   COMMISSIONER TURNBULL: Thank you,  
2 Mr. Chair. Yes, I am assuming that when you  
3 talk about the height, you're talking from the  
4 top of the roof deck of the main building, to  
5 the top of the roof deck of the penthouse, as  
6 20 feet.

7                   MR. LAWSON: That is correct,  
8 exactly the same way that we measure the height  
9 now.

10                  COMMISSIONER TURNBULL: Okay.

11                  MR. LAWSON: Yes.

12                  COMMISSIONER TURNBULL: I was just  
13 -- Commissioner, are you waiting for text,  
14 before we set this down then, or --

15                  COMMISSIONER MILLER: Well, I'm  
16 prepared to set it down. It sounded like they  
17 were going to develop the text before they go  
18 to a public hearing notice. So, we're going to  
19 --

20                  COMMISSIONER TURNBULL: So, we'll  
21 see --

22                  COMMISSIONER MILLER: We'll get to

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1 see it. I'm prepared to --

2 COMMISSIONER TURNBULL: Okay.

3 MS. SCHELLIN: Typically, the  
4 Commission does not see our public hearing  
5 notices. When you set it down OP and OAG work  
6 together on the text, and then we publish it.

7 COMMISSIONER MAY: Yes, and  
8 usually, we have some form of draft of the text  
9 that we actually set-down with some guidance --

10 MS. SCHELLIN: Right.

11 COMMISSIONER MAY: -- from OAG and  
12 OP, about what needs to be tweaked.

13 So, this is just -- it's a little  
14 unusual.

15 MS. SCHELLIN: Little different,  
16 right.

17 COMMISSIONER MAY: I mean, and if  
18 in effect, what you're saying is that we see it  
19 again, it seems to me that all we're doing now  
20 is giving them some suggestions on how to write  
21 the text, and then we'd set it down when we see  
22 the text. I'm not sure if that's what --

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1                   COMMISSIONER TURNBULL: Well, we  
2 would -- will we be seeing something before the  
3 hearing or it will appear at the hearing?

4                   MS. STEINGASSER: You would  
5 definitely see it before the hearing. You would  
6 see it at least 60 days, it would be in the --  
7 you know --

8                   COMMISSIONER TURNBULL: Okay.

9                   MS. STEINGASSER: -- fully noticed  
10 as any text amendment would be.

11                   I think what Ms. Schellin is saying  
12 is that you would not see it before it got  
13 notice, before it --

14                   COMMISSIONER TURNBULL: Okay.

15                   MS. STEINGASSER: -- went into the  
16 D.C. Register.

17                   COMMISSIONER MILLER: I guess I'm  
18 comfortable with that, as long as you provide  
19 it to us, so that when you send it to the D.C.  
20 Register, at least have the courtesy to send it  
21 to us, so we know what we just set-down.

22                   CHAIRMAN HOOD: Okay, I am not sure

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1 about some of the bullet points here.

2 But anyway, I will wait to see how  
3 this pans out, especially when we get some text,  
4 because I did not have the opportunity to do a  
5 lot with NCPC, to understand some of the issues  
6 that took place there.

7 I do know about what the Council,  
8 and I guess the Congress mentioned about what  
9 can do with additional space.

10 But there are some concerns that I  
11 have, especially when we're talking about  
12 rooftop and I understand what I'm -- the  
13 discussion I'm hearing about the one-to-one  
14 set-back, unless I don't understand it.

15 But you know, rooftops and  
16 penthouses are your most expensive. I don't --  
17 if we can't even get affordability most of the  
18 time on regular floors, I don't know how we're  
19 going to get it on the rooftop.

20 But anyway, that may be an issue out  
21 on the stand. Maybe I need to delve into this  
22 a little more, as we proceed further, and then

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1 as far as any activities that go on, not  
2 disagreeing with my colleague, Commissioner  
3 Miller, but I think any activities, and I'm  
4 going to be consistent with what I said about  
5 another activity we did here on the Commission.

6 Special exception, any time you  
7 have public input, I'm going to be consistent,  
8 I always like to see -- make sure that we have  
9 public input. If we're talking about  
10 different uses, I think, you know, we still need  
11 to make sure -- and I agree with the argument  
12 about there is other bodies that deal with  
13 noise, but when you said that tonight, I just  
14 thought back about a few minutes -- couple hours  
15 ago, where Commissioner May and Turnbull and  
16 Hood were sitting up here dealing with noise  
17 issues that were remanded back to this body.

18 So, I think while I may not  
19 understand all the inconsistencies of this, I'm  
20 looking forward to talking about this, because  
21 the last two bullet points kind of give me  
22 pause, and I will -- I guess, maybe I just need

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1 a little more understanding.

2 But however we move with it, let me  
3 ask this, colleagues, are we talking about  
4 setting this down, or we're waiting for text?  
5 I've heard two different discussions. So, you  
6 know?

7 COMMISSIONER MAY: I don't know.  
8 I mean, I -- this is -- it's just so different  
9 for us to not have the text in front of us.

10 CHAIRMAN HOOD: Maybe that's  
11 personally what I need, to help me understand  
12 a little more, because these last two bullet  
13 points -- and I understand the argument about  
14 affordable housing. I'll tell you, Vice Chair  
15 Cohen, I was riding by Wendy's one day, and I  
16 said, "Well, maybe we can put some housing on  
17 top of that Wendy's."

18 But I'm not making light of it. I  
19 just think -- I think affordable -- and I've  
20 always asked this question, affordable to who?  
21 What is affordable housing? That's the  
22 question.

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1           So, I don't need anybody to answer  
2           it, but I mean, that's just a question. But did  
3           we throw anything down for doing different  
4           things to provide more housing, and it's really  
5           not affordable and we're not reaching the  
6           people that we need to reach?

7           But that's an argument for another  
8           day. Let's comment on whether we're going  
9           set-down the text.

10           COMMISSIONER MILLER:           Mr.  
11           Chairman, if I could just clarify. I was not  
12           talking -- I don't think the report was  
13           recommending or anybody else was advocating for  
14           the affordable housing linkage, to put the  
15           affordable housing on the roof.

16           It was that if we're going to allow  
17           market rate housing on the most valuable  
18           housing on the roof, that they have to provide  
19           a one-top-one elsewhere in the building.  
20           That's what I was talking --

21           COMMISSIONER MAY:    And above and  
22           beyond the IZ that might --

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1 COMMISSIONER MILLER: Yes, and --

2 CHAIRMAN HOOD: And again, I  
3 preface my remarks with maybe I don't  
4 understand it at all, but as we do this, and  
5 especially when we talked about eliminating the  
6 special exception of different uses up on the  
7 roof. I think that's what we were saying.

8 But anyway, I don't want to get into  
9 a debate. I'm just saying where this  
10 Commissioner is, maybe -- I said that up front,  
11 that I may not understand all the  
12 inter-workings. I did not have the privilege  
13 or opportunity to get into what was going on  
14 over at NCPC. I did it right here.

15 So, I mean, you know, you hear  
16 through the grapevine, but I did not attend that  
17 hearing. So, some of the things that went on  
18 over there, I'm sure that probably will -- as  
19 we already knew, would come over here, and this  
20 is one of the things that I am not up to speed  
21 on, but I will get up to speed, depending upon  
22 when we get text or whether we do it as we've

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1 done when we did the ZRR context hearings.

2 So, I am not sure. I'm still  
3 confused though. Are we asking for text or are  
4 we waiting on text or we're setting this down  
5 as --

6 COMMISSIONER MAY: Mr. Chairman, I  
7 mean, I am -- maybe I'm just old fashioned about  
8 this, but I would be more comfortable setting  
9 down actual text, or alternatively having a  
10 meeting where we do the sort of thing that we  
11 did at the beginning of ZRR, where we -- you  
12 know, we have these different questions posed  
13 to us and we determine a direction and then the  
14 text gets set down from that.

15 I mean, frankly I don't think that  
16 is the best strategy, because that's, I think  
17 going to take us too long. I'd just assume have  
18 them draft text, based on the feedback that  
19 we've given them tonight, and then, you know,  
20 we'll take it up at another meeting in a month  
21 or so, and set it down then with the actual text  
22 in hand.

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1                   CHAIRMAN HOOD:    Okay, and that's  
2    why I was asking.    I wasn't clear, the  
3    direction I was hearing.    I know what I need to  
4    do, but I was just trying to clear direction  
5    from how this Commission wanted to proceed.  
6    Vice Chair Cohen?

7                   VICE CHAIR COHEN:    Yes, I am  
8    willing or hoping to set it down, and getting  
9    the text as it's worked out between OP and OAG,  
10   and that will be published and we'll have it in  
11   hand.    So, we are prepared for the meeting, and  
12   basically, we saw the substance of what will be  
13   interpreted into text, and they have our  
14   feedback, OP does.

15                   So, I am willing to move ahead with  
16   this and I guess, listen to my other colleagues,  
17   as well, including yourself.

18                   CHAIRMAN HOOD:    Okay, thank you.  
19   Commissioner Miller?

20                   COMMISSIONER MILLER:    Yes, I could  
21   support that approach.    You know, if we were --  
22   part of the issue is that we're going -- about

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1 to go into this little August recess, and I  
2 don't know how long it's going take OP and OAG  
3 to draft something for this, but I assume it's  
4 not before Thursday.

5 So, which is our last meeting before  
6 the August recess. So, I'm comfortable with  
7 what the Vice Chair proposed, and we'll see it  
8 60 days beforehand, and if we have concerns  
9 about it, we can express them like the public  
10 can at the public hearing.

11 MS. SCHELLIN: Chairman Hood,  
12 could I make a suggestion?

13 I don't know if this would help  
14 Commissioner May, maybe and maybe not, but I was  
15 just going to throw out a suggestion.

16 If you set it down tonight, staff  
17 could circulate the text to the Commission  
18 before publishing it and get your approval. If  
19 that does not work --

20 CHAIRMAN HOOD: The problem with --  
21 I want to go to Commissioner Turnbull --

22 MS. SCHELLIN: Okay, Chairman --

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1 Commissioner May is shaking his head, so that  
2 does not --

3 CHAIRMAN HOOD: The problem --  
4 okay, we're good. You already did. I wanted  
5 to tell what my problems are with that.

6 Okay, Commissioner Turnbull?

7 COMMISSIONER TURNBULL: If we stay  
8 here much longer, I'm going to need a new razor.  
9 I'm going to need a shave.

10 No, all foolishness aside. Mr.  
11 Chair, you have a direction you want to go. I  
12 will second your direction. If you want to  
13 defer it, defer it.

14 CHAIRMAN HOOD: I want to go in the  
15 -- obviously, from my comments, I need to see  
16 text.

17 COMMISSIONER TURNBULL: Okay, then  
18 we're going to see text.

19 CHAIRMAN HOOD: That's where I am.

20 COMMISSIONER TURNBULL: And the  
21 discussion.

22 CHAIRMAN HOOD: You could see that

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1 from my comments.

2 COMMISSIONER TURNBULL: All right.

3 CHAIRMAN HOOD: I didn't even  
4 understand what -- so, anyway, I don't know what  
5 it takes to get us there. Do we need to set it  
6 down or do we need to wait or whatever we need  
7 to do. Do we need to vote on it?

8 MS. SCHELLIN: Can I look to -- not  
9 if you're going to defer it. Can I just look  
10 to --

11 CHAIRMAN HOOD: Well, three want  
12 text.

13 MS. SCHELLIN: Okay.

14 CHAIRMAN HOOD: I think.

15 MS. SCHELLIN: So, that --

16 CHAIRMAN HOOD: Thank you,  
17 Commissioner.

18 MS. SCHELLIN: Well, that would be  
19 deferring.

20 CHAIRMAN HOOD: Because I guess you  
21 recognized my comments, that I needed to see  
22 something.

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1 MR. LAWSON: Absolutely.

2 CHAIRMAN HOOD: Okay, so, three  
3 wanted the text. Three out-number two. So,  
4 we will see text.

5 MS. SCHELLIN: So, our next meeting  
6 would be September 15th. So, I would ask OP if  
7 that first meeting in September works for them?  
8 Would they have text in time for that meeting?

9 MR. LAWSON: We could certainly  
10 have text well in advance of that.

11 Our concern, our reason we brought  
12 this forward is that there are a lot of people  
13 out there who are very confused about what they  
14 can do in their penthouse, and you've been  
15 hearing that in some of your recent cases.

16 We are concerned about that kind of  
17 delay. To be honest, I don't think the text  
18 will be particularly difficult to create for  
19 the most part. Certainly bullet points one  
20 through four, whether they're what you want to  
21 proceed with or not, it would not be hard to  
22 draft that text.

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1           The more difficult part is  
2           addressing point number five, which is the  
3           housing linkage. That might be a little bit  
4           more complicated to create, but I think we have  
5           a very -- I think we have a pretty good sense  
6           of the Zoning Commission's direction.

7           03 So, do we have an opportunity for  
8           a special public meeting before the 15th? Can  
9           we do it like at six o'clock on one of the nights  
10          of our other --

11          MS. SCHELLIN:       Those hearings  
12          actually start at six o'clock. They are the  
13          ZRR hearings.

14          CHAIRMAN HOOD:    We could do it at  
15          5:15.

16          COMMISSIONER MAY:   Do it at 5:15,  
17          yes.

18          CHAIRMAN HOOD:    Why is it when I say  
19          special public meeting, everybody gets upset.  
20          When somebody else says it, it's all right?

21          MS. SCHELLIN:    Yes, all of those  
22          meetings -- the prior hearings, prior to the

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1 September 15th meeting all start at six  
2 o'clock, because they're all ZRR hearings.

3 So, we could do a special public  
4 meeting on September 4th, although I'm not sure  
5 that is going to be early enough for a few.  
6 Sounds like they want to do it before then. I  
7 don't know.

8 Is that early enough? September  
9 4th?

10 MR. LAWSON: Well, I mean, it's  
11 very much up to the Zoning Commission, how they  
12 want to proceed. If you shared our kind of  
13 urgency of dealing with this issue, no matter  
14 how you decide to vote on it, we could try to  
15 bring forward text, actually for July 31st.

16 CHAIRMAN HOOD: Does anybody want  
17 to have a quick meeting in August?

18 COMMISSIONER MAY: Thursday?

19 CHAIRMAN HOOD: No, in August.

20 COMMISSIONER MAY: No, no, no, are  
21 you suggesting --

22 MS. SCHELLIN: He is saying this

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1 Thursday.

2 CHAIRMAN HOOD: Thursday, okay,  
3 well, I'll take August back.

4 COMMISSIONER MAY: I mean, if we  
5 could get text Thursday, I'd talk about it again  
6 on Thursday.

7 CHAIRMAN HOOD: Thursday what  
8 time? Five-fifteen? Five o'clock? I don't  
9 know what time. What time does the hearing  
10 start?

11 MS. SCHELLIN: We're suppose to  
12 have five days to publish a -- to notice a  
13 special public meeting. We don't have time.

14 CHAIRMAN HOOD: We can't waive the  
15 rule?

16 COMMISSIONER MAY: Monday?

17 CHAIRMAN HOOD: Because of the  
18 urgency?

19 COMMISSIONER MAY: Monday?

20 COMMISSIONER MILLER: Is that a  
21 continuation of this meeting?

22 COMMISSIONER MAY: Yes, really.

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1                   CHAIRMAN HOOD: Monday is August.  
2 We'll do one -- you want to do one meeting in  
3 August?

4                   MS. SCHELLIN: I won't be here, but  
5 Donna will be.

6                   CHAIRMAN HOOD: Okay, well, what  
7 about -- can we do the 31st?

8                   MS. SCHELLIN: You can waive the  
9 rule --

10                  CHAIRMAN HOOD: Because of the  
11 urgency --

12                  MS. SCHELLIN: -- and then if it's  
13 a problem, I'm sure OAG will advise us.

14                  MR. LAWSON: Actually, I hate to  
15 interject. Ms. Steingasser just reminded me  
16 that I'm actually scheduled to be at a community  
17 meeting on the 31st. So, it would be unlikely  
18 that I would be here to discuss any text  
19 amendments that we bring forward. Sorry.

20                  MS. SCHELLIN: Can we just do a  
21 special public meeting on August 11th? I'll be  
22 here. Does anybody want to come in? No?

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1                   CHAIRMAN HOOD:  It's going to take  
2                   us all night to figure this out.

3                   COMMISSIONER MAY:  Well, you know,  
4                   on the one hand, I appreciate the urgency of  
5                   trying to get it moved as quickly as possible,  
6                   because people are concerned about what they  
7                   can do.

8                   But you know what?  The zoning  
9                   regulations are what they are right now and they  
10                  can do what they can right now.  If they're so  
11                  anxious about it, they should just, you know,  
12                  move it.  We're only talking about 30 days.  
13                  It's been around for 100 years.

14                  MS. SCHELLIN:  So, then are we back  
15                  to special public meeting on September 4th?

16                  CHAIRMAN HOOD:  Let's go back to  
17                  the normal schedule, September 4th.

18                  MS. SCHELLIN:  At 5:15?

19                  CHAIRMAN HOOD:  Is 5:15 -- you  
20                  think that's enough time?

21                  MS. SCHELLIN:  Forty-five minutes?

22                  MS. STEINGASSER:  We'll be ready.

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1                   CHAIRMAN HOOD:        Because our  
2 hearing starts at six.

3                   MS. SCHELLIN:   Six, o'clock.

4                   CHAIRMAN HOOD:   Why don't we say --  
5 can we just say five o'clock?

6                   MS. SCHELLIN:   Five o'clock?

7                   CHAIRMAN HOOD:   We might as well  
8 just say five o'clock, just in case.

9                   MS. SCHELLIN:   Okay, 5:00 special  
10 public meeting, September 4th, it's a Thursday.

11                   MS. STEINGASSER:   Could I get some  
12 clarification on the housing linkage issue?

13                                Are you interesting in linking only  
14 residential uses or are you also interest --  
15 housing linkage and Mr. May had talked --  
16 Commissioner May had talked about not including  
17 communal use of the roof.

18                   COMMISSIONER MAY:   Yes, I mean, I  
19 didn't see the importance of doing that as a --  
20 doing the linkage, in order to get that space,  
21 but I'm -- that was just my initial reaction.  
22 You know, I could see it, if there's an argument

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1 to do it the other way around, that's fine too.

2 I think you should just make a  
3 proposal, and we'll discuss it, based on the  
4 text.

5 CHAIRMAN HOOD: Okay.

6 MS. STEINGASSER: And just to wrap  
7 back up. The Commission did discuss just two  
8 weeks ago, the option of accepting alternative  
9 drawings from Applicants, if they were at that  
10 point, that critical decision making junction,  
11 that they could go ahead and submit to, without  
12 trampling on any sense of protocol with the  
13 Commission. So, that option still exists.

14 CHAIRMAN HOOD: Yes, I think we  
15 mention and I think that is still on the table.

16 Anything else? Ms. Steingasser or  
17 Mr. Lawson?

18 MR. LAWSON: No, thank you.

19 CHAIRMAN HOOD: Okay, all right.  
20 Ms. Schellin, do we have anything else?

21 MS. SCHELLIN: No, sir.

22 CHAIRMAN HOOD: Okay, I want to

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1 thank everyone.

2 COMMISSIONER TURNBULL: Mr. Chair,  
3 I just want to ask the Office of Planning.

4 One of the things which I asked  
5 about once before, and it's nit-picking one  
6 thing, was temporary roof structures, which I  
7 guess the ZA approves, but some of these roof  
8 structures, these tents are up for at least  
9 almost eight months of the year. Some of them  
10 look like they don't meet the setback  
11 requirements. I don't even know if they meet  
12 the height requirements.

13 But some of these are huge and  
14 they're up there, they're almost some like,  
15 permanent structures, and I'm just -- I'm not  
16 going to name some of these buildings, but  
17 they're up at least, as I say, over half a year,  
18 and to me, they're -- I don't know if they're  
19 regulated or if they're governed by anything,  
20 there is -- or whatever.

21 It just seems like they're an  
22 anomaly that exists, and maybe no one is

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1 complaining about it, other than -- I look at  
2 them sometimes, and just say, what the hell is  
3 this?

4 So, I don't know if it's something  
5 you want to think about and get back to us.

6 MS. STEINGASSER: We'll work with  
7 the Zoning Administrator and see if we can't  
8 wrap that into ZRR. We have talked about  
9 temporary uses, and how we could link that to  
10 --

11 COMMISSIONER TURNBULL:  
12 Structures, okay. Thank you.

13 CHAIRMAN HOOD: Okay, anything  
14 else, anyone? All right, I want to thank  
15 everyone for their participation in this  
16 meeting, and if you're not going to join us on  
17 Thursday, we hope you enjoy the month of August,  
18 and we have a very busy schedule coming up in  
19 September and October, November and December,  
20 and I thank my colleagues for all the work they  
21 put in, Office of Planning, Office of Attorney  
22 General, as well as the Office of Zoning staff.

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1                   With that, this -- and DDOT.  
2           Anybody else? Am I missing anybody? I want to  
3           thank everybody. If I didn't name you, I want  
4           to thank you too.

5                   Okay, so with that, this meeting is  
6           adjourned.

7                   (Whereupon, the above-entitled  
8           matter went off the record at 11:00 p.m.)

9