The transcript constitutes the minutes from the Regular meeting held on July 28, 2014.
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-ROMBERTS  
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
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>ITEM</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Opening Announcements</td>
<td>7</td>
</tr>
<tr>
<td>Consent Calendar</td>
<td></td>
</tr>
<tr>
<td>Z.C. Case No. 08-14C Kelsey Gardens</td>
<td>10</td>
</tr>
<tr>
<td>Miscellaneous</td>
<td></td>
</tr>
<tr>
<td>Z.C. Case No. 06-10B Morris &amp; Gwendolyn Cafritz Foundation</td>
<td>16</td>
</tr>
<tr>
<td>Final Action</td>
<td></td>
</tr>
<tr>
<td>Z.C. Case No. 14-06 KGG 50 M, LLC Capitol Gateway Review @ Square 699</td>
<td>25</td>
</tr>
<tr>
<td>Z.C. Case No. 14-03 Office Planning Text Amendment re: emergency shelter</td>
<td>34</td>
</tr>
<tr>
<td>Z.C. Case No. 11-07 American U. Order on Remand</td>
<td>36</td>
</tr>
<tr>
<td>Proposed Action</td>
<td></td>
</tr>
<tr>
<td>Z.C. Case No. 13-14 Vision McMillan Partners, LLC 1st Stage PUD &amp; Related Map Amendment &amp; Consolidated PUD @ Square 3128</td>
<td>62</td>
</tr>
<tr>
<td>Z.C. Case No. 14-02 A&amp;R Development Barry Farm 1st Stage PUD &amp; Related Map Amendment @ Square 5862</td>
<td>126</td>
</tr>
<tr>
<td>ITEM</td>
<td>PAGE</td>
</tr>
<tr>
<td>------</td>
<td>------</td>
</tr>
<tr>
<td>Hearing Action</td>
<td></td>
</tr>
<tr>
<td>Z.C. Case No. 08-07A Four Points, LLC &amp; Curtis Properties, Inc. Mod to PUD &amp; 2nd Stage PUD @ Square 5785</td>
<td>178</td>
</tr>
<tr>
<td>Z.C. Case No. 14-09 QC 369, LLC Consolidated PUD &amp; related map amendment @ Square 369</td>
<td>191</td>
</tr>
<tr>
<td>Z.C. Case No. 14-12 EAJ 1309 5th Street LLC, 1st Stage &amp; Consolidated PUD &amp; related map amendment @ Square 3591</td>
<td>204</td>
</tr>
<tr>
<td>Z.C. Case No. 14-13 Office of Planning Text amendment re: rooftop penthouse regulations for all non-low density residential development</td>
<td>232</td>
</tr>
</tbody>
</table>
P-R-O-C-E-E-D-I-N-G-S

6:40 p.m.

CHAIRMAN HOOD: This is will please come to order.

Good evening, ladies and gentlemen.

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

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

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

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

COMMISSIONER TURNBULL: Michael Turnbull representing the Architect of the Capitol.

COMMISSIONER MILLER: Rob Miller,
Mayoral Appointee.

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

COMMISSIONER MAY: Peter May
representing the National Park Service.

MS. STEINGASSER: Jennifer
Steingasser, Office of Planning.

MR. LAWSON: Joel Lawson, Office of
Planning.

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

MR. GYOR: Stephen Gyor, Office of
Planning.

MR. ZIMBABWE: Sam Zimbabwe, DDOT.

MR. ROGERS: Jonathan Rogers,
DDOT.

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

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

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

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

Please turn off all beepers and cell phones.

Does the staff have any preliminary matters?

MS. SCHELLIN: No, sir.

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

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

Again, the public meeting for
September 8th has been moved to September 15th, to allow for the ZRR hearings to be held the week of September 8th.

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

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

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

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

On September 8th through the 11th, the Commission will hold hearing on the
alternative text set-down on July 10, 2014. Anyone may testify at these hearings.

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

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

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

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

So, it will be very helpful. If you
miss what I said tonight, please call Office of Zoning and find out exactly what's going on.

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

MS. SCHELLIN: No, sir.

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

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

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

The Applicant made a submission today, which you have at Exhibit-8, providing
additional information for the Commission to consider making a decision this evening on the proffers, and we'd ask the Commission to make that consideration this evening.

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

Let me just open it up. Any comments?

(No audible response)

CHAIRMAN HOOD: Any concerns?

COMMISSIONER MAY: Mr. Chairman?

CHAIRMAN HOOD: Commissioner May.

COMMISSIONER MAY: Yes, I appreciate the additional information about the programs that would be supported. I am still not enthusiastic about the support of the
Kennedy Recreation Center holiday party, and would prefer that some other use of the funds be made than that.

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

CHAIRMAN HOOD: Okay, Vice Chair Cohen?

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

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

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

CHAIRMAN HOOD: I think also in Exhibit-8, colleagues, before I hear from all
of the -- there is an alternative that has been proposed by the Applicant to basically, give additional funding for the Christmas party, to the Bread for the City.

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

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

CHAIRMAN HOOD: Okay.

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

CHAIRMAN HOOD: Okay.

COMMISSIONER MILLER: I have no problem, Mr. Chairman, with the alternative funds going to the Bread for the City, which is a previously approved recipient of this public amenity package. I also had no problem with the Kennedy Center recreation holiday party, but there are obviously four people who did. So, I'm ready to support the alternative.
CHAIRMAN HOOD: For me, I think that it -- when I look at public benefits, you know, the Christmas party was fine, but there is some -- I'm sure the community could use more -- make more of an impact, a magnitude impact, as opposed to a one-time Christmas party.

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

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

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

VICE CHAIR COHEN: I'll second.

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

(No audible response.)

CHAIRMAN HOOD: All those in favor?

(Chorus of ayes.)

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

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

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

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

Okay, let's move to miscellaneous.
Ms. Schellin, the Zoning Commission Case No. 06-10B, Morris & Gwendolyn Cafritz Foundation status and phasing report. Ms. Schellin.

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

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

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

We have a -- we have an actual phasing plan, which has been submitted for Building C and D. I'm not sure, Commissioners, if that is appropriate for us to move forward,
as far as -- are we satisfied with what's been
presented to us from the Applicant?

(No audible response.)

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

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

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

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

CHAIRMAN HOOD: Give me a second.

VICE CHAIR COHEN: Mr. Chair?

CHAIRMAN HOOD: Yes, sure.
VICE CHAIR COHEN: Okay, Mr. Chairman, just again, I think that for the Buildings C and D, commencement of construction is very vague, and I think that the date of the building permit would be more preferable, and to tighten up the schedule.

I think again, it's very loose and you know, this project goes way out into 2024. So, I would like to see the schedule tighten a bit, and suggest that again, that commencement of construction is too vague a point.

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

MR. BERGSTEIN: Well, I think that the vagueness was the term 'commencement of construction' and they're now committing that the trigger for the submission of the second stage is for the two additional buildings will
be on the final -- the issuance of final building permit.

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

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

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

So, those are really the two things you have.

CHAIRMAN HOOD: Okay, so, none of
this has to do with building. Building A will proceed, because I'm looking at some of these dates, now that I'm thinking about it, some of the dates do concern me.

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

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

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

MR. BERGSTEIN: They can always commence. In terms of following the second stages, you have a second stage before you for Building B, and they're telling you when to expect the pre-hearing statement.
Then they're giving you a time frame for doing C and D, based upon the issuance of building permit for the approved buildings.

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

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

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

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

But it's hard to predict in, you know, real estate cycles, that this is feasible or not feasible and I just think that it's a very
elongated process that I'm not sure everybody anticipated when this was originally approved, but that's just my reaction to it, that a few of the obstacles that they've faced, I believe were not exactly people believing that they're -- they didn't feel certain urgency to move this along.

CHAIRMAN HOOD: Commissioner Miller?

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

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

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

So, I am comfortable that we have
more specifics and look forward to further updates in progress.

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

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

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

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

So, that's a deadline. That is the date that they're working towards, and then they're saying that they anticipate filing a pre-hearing statement no later than September 1, 2016.
So, I think timing-wise, that this begins to fall into place, and I don't have an issue with this. I think they're making a genuine effort to move forward.

CHAIRMAN HOOD: Anybody else?

Commissioner May?

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

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

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

MR. BERGSTEIN: That will do it.

CHAIRMAN HOOD: Okay, all right. Let's go back in order now. Let's go to Final Action Zoning Commission Case No. 14-06. This is the KGG 50 M, LLC Capitol Gateway overlay review @ Square 699. Ms. Schellin.
MS. SCHELLIN: Yes, sir. We have the Applicant's post-hearing submissions at Exhibit-23 through 25, and would ask the Commission consider final action on this case.

COMMISSIONER MAY: Mr. Chairman?

CHAIRMAN HOOD: Commissioner May.

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

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

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

Again, we have another rendering,
which is Exhibit-25, which shows I think some of the changes that were made, some of the issues that were mentioned at the hearing. Let's open it up. Anyone?

COMMISSIONER MAY: Mr. Chairman, if I might?

CHAIRMAN HOOD: Yes.

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

I think it's more comfortable to have the sort of trellis piece that they have there, but again, it isn't reading like a tower. You know, if it were only sort of scaled back, so that it actually related to the very strong vertical glass segment of the building, at the prominent corner, I think it would make more sense to have that.

I mean, it's not exactly the treatment that I think is most desirable, but
you know, we don't get to design the buildings here. We just get to talk about them.

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

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

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

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

I think if that could have been
done, to define the top of the building, so that it would read -- so that you would -- as Commissioner May had said, the vertical element that this is a -- this is the A-corner of the building. This is where they want. It's right cross from the metro. This is the point of the -- sort of the cornerstone of what they're trying to do.

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

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

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

CHAIRMAN HOOD: Any other comments? Okay, Commissioner Miller?
COMMISSIONER MILLER: Thank you, Mr. Chairman. I appreciate the Applicant's, at least attempt to respond to the comments of the Commission about that corner element.

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

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

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

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

I will yield to my colleagues this time, on the architecture, and I hear what they're saying about making it read, but let me ask Commissioner May or Commissioner Turnbull. Do we want to give them another shot or is this
a show-stopper for anyone?

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

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

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

CHAIRMAN HOOD: Okay, that's where we all differ, because again like I said, I like the first one, but I'm not going to -- it's not a show-stopper. Mr. Turnbull?
COMMISSIONER TURNBULL: I don't know. I mean, part of this whole thing that the Capitol Gateway is, we're suppose to give our input on to the design of the building.

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

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

CHAIRMAN HOOD: Okay, anyone else?

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

VICE CHAIR COHEN: I was just going to say be careful what you ask for, because it could always be worse.
I just want to make sure that based on some of the iterations that we have seen, that the zoning order reflects, and I don't believe it does, reflect the most recent description of the project. So, I just caution that.

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

I just thought that the first -- I don't want to keep going back to the first iteration, but I just thought that that did a lot for the community, up-bringing in that area. But anyway, that's just my comment.

Any other comments?

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

MS. SCHELLIN: Second.

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

(Chorus of ayes.)

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

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

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

MS. SCHELLIN: Yes, we just have one exhibit that's been received, Exhibit-15,
which is the Agency PC report, stating that there are no issues with this text.

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

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

COMMISSIONER MILLER: Second.

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

(Chorus of ayes.)

CHAIRMAN HOOD: Any opposed?

(No audible response.)

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

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

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

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

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

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

We do have Exhibit, is that 588, from the Office of Planning, which talks about
the supplement report number two. Again, was re-submitted on proposed campus plan for American University, and that is -- we also have a graph, and we will be looking at this, that's been laid out by Counsel, to help us move along.

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

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

So, we want to make sure we close the
loop on some of the outstanding issues in which the Courts have said. I thought we deliberated a lot on this, but there was some missing items, which we did not, I guess, address, that were given to us by parties, and as well as the Office of Planning.

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

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

CHAIRMAN HOOD: Okay, actually, that was in my description, but thank you, both. Again, as stated, two of our colleagues were not participating in this case. Okay, looking right at the proposed order, even though there's seven items in the opinion from the Court, from the Court of Appeals, I think one of those items have been expanded, noise and -- I think it's noise. But
anyway, we have eight items.

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

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

COMMISSIONER MAY: Yes, so the Court seemed to think that we did not fully explain the numbers correctly, and in effect, it wound up being sort of an apples and oranges calculation, because they were looking at the existing student enrollment cap, which did not include the Law School students versus the final cap of 13,600, which was approved in the plan that we approved, which included the law
students, enrollment of 2,000 students.

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

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

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

So, you know, I think that what we need to do is explain better, the math that went into this.
I think the key issue here is, we are not adding 2,000 law students or 1,700 law students. They are relocating from another location, within the same neighborhood, and I think that that relocation was not likely to increase or create any objectionable impact to the neighborhood.

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

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

So, the University was expanding
its facilities sufficiently to handle that additional number of students, and again, with all of the other controls that were put on the campus, to do so without any objectionable impacts to the neighborhood.

CHAIRMAN HOOD: Okay, any other comments?

COMMISSIONER TURNBULL: I would agree 100 percent with Commissioner May's analysis and going back on the history of this. You know, we had, I think three or five nights of hearings, I think on this -- on the campus plan, and I don't recall any major impacts being talked about from the Law School campus on its original location, as an off -- within the neighborhood. I don't recall it being that much of an impact.

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

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

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

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

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

So, any other comments on student
enrollment? Any comments about the freeze? Anyone want to comment on the freeze? I know I'm taking some of these out of --

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

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

CHAIRMAN HOOD: Okay, Mr. Bergstein, do we need to vote on each one of these individually or can we just comment?
MR. BERGSTEIN: I think at the conclusion, assuming that you don't change your mind about the merits of the application as a whole, you would just instruct us to draft an order, based upon your deliberations.

CHAIRMAN HOOD: Okay, all right.

Let's go to the -- let's talk about the buffer.

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

CHAIRMAN HOOD: Okay.

COMMISSIONER MAY: Okay?

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

COMMISSIONER MAY: Yes, certainly.

So, the Court found that our discussion of the potential impact of the University is in essence, consuming nearby commercial space, was not adequately addressed in the order, that we simply said that the University has, as a
matter of right, can acquire space through lease or purchase in commercial areas and use it for University purposes. It's just a -- it's a matter of right.

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

Frankly, I think this relates very closely to what we've just discussed in terms of the enrollment caps, in that the University presented a reasonable plan for expanding its facilities on the main campus, the east campus and the Law School Campus, and that given that their ability to accommodate these facilities on their campus, which frankly, I would expect would be more desirable for them, that it's -- this plan is likely to decrease the impact on neighboring commercial areas, if anything.
I certainly don't expect it to have a measurable increase in the displacement of commercial businesses and so, I think -- I don't -- would not expect that as a result of the expanded enrollment, that there would be any objectionable impact to the neighborhood, as a result of displacement of nearby commercial enterprises.

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

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

So, that's what I think the Court was looking at, when they remanded that part
back to us, and I think that the record is complete and I think as Commission May said, it didn't see any impacts of the non-commercial areas. Commissioner Turnbull?

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

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

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

CHAIRMAN HOOD: Okay, and again, I think what was mentioned in the order, what the Courts also looked at is that some of the things -- and I think the record sufficiently talked about some of the plans that American
University -- I don't think they call it the 'good neighbor policy', but they had a lot of off-campus requirements that were in place, and I think that will help remedy any of the concerns, at least anything different that is happening in some of those retail areas.

So, all those commercial -- all those university uses in the commercial areas and those retail -- and those other areas.

Anything else?

(No audible response.)

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

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

COMMISSIONER MAY: Yes, I don't think it would take long to just continue marching through them.
I mean, we did not address the point about the availability of on-campus housing for undergraduates, but I think that is folded into what we've already discussed, in terms of the freeze and the growth and the housing.

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

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

But in truth, I think that it's an issue the University can easily address in cooperation with the school administration at
Horace Mann.

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

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

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

CHAIRMAN HOOD: Okay, and I think we had -- and I'm not sure, I'm trying to recall. I think we really didn't get into the fence, but I think that the ANC raises a good point. Maybe we need to look at that, and require the
Applicant to do some type of fencing.

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

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

CHAIRMAN HOOD: Okay.

VICE CHAIR COHEN: In terms of the distance or the width of that buffer at 65 feet, I think there was a -- in the end, our order was not completely up to speed with the conversation that occurred in the course of the
hearings, and I think that the University at that point had already agreed to 65 feet across the entire length of it, with the exception of the parking area, where parking -- cars could be parked as close as 40 feet away in the one pinch point.

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

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

CHAIRMAN HOOD: Commissioner Turnbull?

COMMISSIONER TURNBULL: I would agree with Commissioner May. I think we had a
tremendous amount of interaction between
Westover and the University on this, which was
tied in not only to noise and sound, but the
views.

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

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

So, I am -- I think we did the right
thing and I don't think there is anything that
has to be changed on this.
CHAIRMAN HOOD: Okay, all right. Let's move to the noise, noise on the East Campus. We haven't done that yet.

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

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

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

CHAIRMAN HOOD: I would agree that our prior conclusions on this East Campus,
including the buffer buildings, we had already made a decision, as Commissioner May had already -- I know we had a lot of deliberation on this.

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

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

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

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

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

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

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

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

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

CHAIRMAN HOOD: I would agree. I don't think it was flawed information given. I think we asked the questions, as stated, because I know specifically, the Commission spent a lot of time talking about Ward Circle in this Commission -- I mean, in the hearings, and I think we relied on the data and we looked
at the impacts and I think we came to the conclusion that we did, and I think we just need to inform the Courts exactly, of how we got there, to that conclusion.

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

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

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

(No audible response.)

CHAIRMAN HOOD: Okay.

COMMISSIONER MAY: I think we've
covered it all.

CHAIRMAN HOOD: Do we need to make a motion?

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

CHAIRMAN HOOD: Okay, by general consensus, Commissioners?

COMMISSIONER TURNBULL: Yes.

CHAIRMAN HOOD: Okay.

COMMISSIONER MAY: Yes.

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

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

CHAIRMAN HOOD: Okay.

MR. BERGSTEIN: -- the motion, to have us draft a revised order, based upon your deliberations.
COMMISSIONER MAY: So, I would make a motion that we affirm our previous decision in favor of the American University campus plan, as we had previously decided, and would ask that the Office of the Attorney General draft a modified order to address the areas of concern that were raised by the Court.

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

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

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

(No audible response.)

CHAIRMAN HOOD: All those in favor?

(Chorus of ayes.)

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

MS. SCHELLIN: Yes, staff records the vote as 3-0-2, to affirm the decision, earlier decision of the Commission in Zoning
Commission Case No. 11-07, and ask that OAG
draft an order addressing the remand issues.
Commissioner May moving. Commissioner
Turnbull second. Commissioner Hood in
support. Commissioners Cohen and Miller not
voting, having not participated in the case.

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

Ms. Schellin?

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

In addition, to the numerous
post-hearing submissions that were allowed in
this case, there is a preliminary matter for the
Commission to consider.
At Exhibit-814, an NCPC letter was received after the hearings ended. They submitted a request via email, after 3:00 p.m. It was actually during the last hearing, and was not processed until the next business day.

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

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

MS. SCHELLIN: Their staff did, yes.

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

MS. SCHELLIN: It did come in late, yes.
CHAIRMAN HOOD: Okay, when they thought probably it was --

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

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

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

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

COMMISSIONER MAY: No.

CHAIRMAN HOOD: Okay, any objections? Okay, so, Ms. Schellin, we'll move in that fashion. Anything else?
MS. SCHELLIN: No, sir.

CHAIRMAN HOOD: Okay, Vice Chair Cohen?

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

CHAIRMAN HOOD: Okay.

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

CHAIRMAN HOOD: Did they ask for 45 days?

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

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

MS. SCHELLIN: So, do you want to
set a date for them, and I'll advise them
tomorrow? Commissioner May seems to have the
--

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

MS. SCHELLIN: Absolutely.

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

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

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

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

I think our first hearing was
dealing with the master plan and parcels --
whatever the parcels were. If we want to break
it up, or if we just want to talk about the master plan in general. What is easier, colleagues?

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

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

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

I do believe that, you know, now that we've received some information on this, from the Applicant, that the chances of the development substantially affecting the important views from the Armed Forces Retirement Home and the vicinity of Lincoln Cottage toward the Capitol is not very likely, although I don't find that the information that
they submitted is as complete as I would like it to be.

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

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

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

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

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

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

In this circumstance, I am just a little bit uncomfortable with the height that
we scale all the way up to -- and I mean, it's really just a portion of that one medical office building, where it goes all the way up to 130 feet, or approaching 130 feet, and that is what makes me the most uncomfortable, that one wing that's that tall.

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

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

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

I mean, I think if I understand them correctly, they'd like to see almost no development there, or just maybe a few
townhouses, at most.

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

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

So, you know, I think there are some really remarkable, wonderful things about this plan, and I think that overall, the density makes sense. I think the big concern I have is the height of the one building at 130 feet. I think it's just pushing it a little bit far.
I have some other concerns about the project overall. I'm still not happy about the loading for the grocery and things like that, but I just want to -- I would start it off just with a discussion of the height and density.

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

I will share the same concern about the healthcare facility.

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

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

CHAIRMAN HOOD: Yes, I saw the
COMMISSIONER MAY: Yes, but I don't think we actually asked them to scale it back.

CHAIRMAN HOOD: I thought we did.

COMMISSIONER MAY: Okay.

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

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

Let's just talk about the density right now, and I'm really interested in hearing what the -- not putting it off on the NCPC, but I'm really curious to hear their comments, that will come in hopefully, in a few weeks, because you know, I don't want to say a whole lot, because I want to hear what the Federal folks
are saying about this projects, and the views.

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

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

Anyone else on density? Anyone else? Commissioner Turnbull?

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

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

Yes, on item -- on Tab C of their
Exhibit-832, 832B, 832O, he goes back through and he gives his rationale, as to what he feels or how this -- how he feels the project meets the classification, and I don't know if any of you have gone through that and looked at that.

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

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

So, but I'm still a little uneasy about it. I just feel a little bit uncomfortable that this much development, and although Mr. Sher can say, "Well, we got all the
park at the one area, got all the -- most of the -- most of it's going up by the north of the property," and he feels that that, you know, sort of -- by the time you take away this and you take away that and you get down to the actual area, that it does meet the requirements of moderate and medium in these areas.

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

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

CHAIRMAN HOOD: Commissioner Miller?

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

I think it's a lot of -- that medical office building is 860,000 square feet, and the
neighbors are concerned about the adverse impacts of that, and there is something jarring about -- even though I think -- I think Mr. Sher's analysis, in terms of the trade offs and pushing all the density to the north, so you can't -- the big open space park to the south makes sense, makes sense to me.

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

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

So, I think that that could -- it's ten stories high now, because they have higher floor-to-ceiling, because of the type of facility it is. If it was nine stories, I would
think that that might help mitigate some of the adverse impacts that might result otherwise in the surrounding community.

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

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

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

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

COMMISSIONER MAY: Sure.

CHAIRMAN HOOD: -- which talks about loading.
COMMISSIONER MAY: Sure.

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

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

COMMISSIONER MAY: Okay, great.

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

That's why to have something of that
-- that has, you know, side by side back-end, diagonal semi-truck loading, off of a -- you know, of a very otherwise pedestrian-friendly street, is just -- just seems so completely out of place.

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

But gosh, I would think that even if they just shaved, you know, some of the square footage of the grocery store, they could come with a good drive-through solution here, that would address DDOT's concerns and make for a more pleasant pedestrian circumstance, because it's just -- you know, I could see this place just teaming with people in the busy times, and even in the, you know, early mornings when you might expect trucks to come in, there are going to be a lot of people out and about, because it's going to be a pretty great place to walk and work
and live, and you know, there are going to be big semi-trucks backing into this grocery store.

CHAIRMAN HOOD: Anyone else on loading?

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

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

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

So, they eliminated, you know, that possibility, but you're right, it is an awkward street there, and I think part of the other thing they've got along with that is that there were no 'stop' signs or anything. This was just -- so, you had cars coming, trucks coming and what was ironic is that we have the senior housing, which is -- and I guess that's the
other part that's the troubling aspect, with
the senior housing. It's just awkward, tied
into the rest of the -- of that whole block.

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

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

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

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

COMMISSIONER TURNBULL: Right.

CHAIRMAN HOOD: Okay, I would
agree, but you know, for the whole traffic report for me, I know that there was some things discussed about making a left on North Capitol, making a right on North Capitol.

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

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

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

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

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

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

When I hear 'generally', that means it may be or may not.
So, I mean, I'm troubled. I appreciate the work that went into this report, but I think this is too important to pass and not make sure we nail down some of the mitigation, because at the end of the day, the neighborhood, as well as residents in this city are going to be impacted.

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

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

But I'm just not sure if some of these are going to work. It's too much uncertainty, and I know, I keep hearing the argument about things will happen at the permitting process, but I think this is just too
important for a pass, and I'm talking about the whole transportation report, as well as the Applicant's submission in Exhibit-E.

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

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

So, that's my comment on it.

COMMISSIONER MAY: So, Mister --

CHAIRMAN HOOD: Both DDOT and the Applicant's.

COMMISSIONER MAY: So, Mr. Chairman, I was -- I'd like to ask a question of you and your assessment of the -- of the overall traffic load that this project will
generate, because this is a -- you know, unlike many of the very large PUD's that we've deal with, this is not in close proximity to a metro station, and it is reliant heavily on buses for public transit, potentially in the future, a street car line, as well, but that's an uncertain future. Certainly, and uncertain -- certainly, an uncertain timing for that.

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

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

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

CHAIRMAN HOOD: I will say your
latter point. I think that the -- getting the
issues with DDOT and the Applicant nailed down,
more specific, because right now for me, it's
all over the place. Everything is everything.
You know, everything goes.

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

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

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

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

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

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

COMMISSIONER MAY: Well, I agree that --

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

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

So, it's a very complicated situation and I think that the -- it would help a great deal to have a little bit more of the -- you know, the things that are unsettled
between the Applicant and DDOT, settled a
little bit more thoroughly.

So, I agree with you, Mr. Chairman.

CHAIRMAN HOOD: Okay, all right.

Thank you. Any other comments?

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

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

"The Applicant will also implement
transportation, infrastructure and improvements recommended by DDOT."

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

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

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

"The Applicant to incentivize onsite residents," they talk about smart-trip cards and, "The Applicant will explore the possibility of offering a shuttle service to connect the senior residents," they'll explore. It's not being provided. They're going to explore.
So, then when I look at this, I think, and like you say, I mean, it's -- public transportation, with all we -- we heard from the neighbors that they're concerned that they don't have enough, and with the increase in people and office users, and if you're trying to get people there, there is nothing positive.

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

I almost want to see a performance plan, public management plan that the applicant is working with its partner to say that, we get through building up in the north end, with the public -- with the hospital -- the medical
building, so many more buses are going to be added, or what they're going to do, and how is going to be monitored.

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

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

I don't see that. I'd like to see something in there, that would somehow develop a plan, and it's all pie in the sky. It's like,
well, it's all dependent upon funding, yet they want us to put this proposal forward, and the neighbors are not going to be able to get around. There may not be enough bus service to get around.

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

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

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

I'm not sure how we structure that
or how we get the Applicant to structure that, so that we can see how this development grows and how it's developed, and how public transportation has increased in this area, because if there is no metro, how are you going -- and again, a lot of these things are, "We're going to explore this. We're going to do that."

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

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

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

I think there's been a lot more movement by the Applicant to accept DDOT's recommendations, than has been acknowledged in
the discussion so far, but I do agree that it does need to be tightened up and strengthened and have performance monitoring, and specific benchmarks and a commitment to a shuttle bus, there should be a commitment to a shuttle bus, you know, not with a cap dollar amount on it, as Commissioner Turnbull has pointed out.

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

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

Yes, I would agree, there is some
agreement, but even -- when we look at one, it says, "The Applicant agrees to these changes, except for the Capitol BikeShare subsidies," null before the healthcare -- so, it's a lot of 'excepts', as Commissioner Turnbull mentioned.

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

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

COMMISSIONER MILLER: One other thing. I think we maybe need to have some analysis, both from a financial feasibility standpoint for the project, but also from a traffic impact analysis from the project, if there were to be hypothetically, a one-story reduction in that medical office building, what would be the lessened traffic impact, because that is -- in addition to all the mitigation
measures and improvements that need to be made there, and the transportation corridor bus improvements, I think we need to also have an analysis of what a lesser -- a one-floor less building, what the impact would be. I'd be interested in that.

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

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

Again, I know this is the first stage and we want to -- we need to nail down -- and because of the magnitude of this project,
we need to nail down as much as possible, and
again, traffic for the second stage parts of
this case, I would suggest that the Commission
always look at traffic, even with the other
parts of the second stage, as we move into the
-- some of the dates. I think some of the
dates, I don't know if some of us may not be
here, but regardless, I think the future
Commission needs to look at those, when they get
to those second stage, and make sure we always
look at the traffic in this case.

Okay, anything else?

COMMISSIONER MAY: Mr. Chairman?

CHAIRMAN HOOD: Commissioner May.

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

In fact, I think the draft order
that was supplied was lacking in all of the
details, in terms of the time table, and I think we adhere to a general time table at some point during the hearing, and then might have been the submission about it, but I think that needs to be stated quite clearly, since we're approving the overall master plan and giving second stage approval theoretically, with that approval of the master plan, that we have very specific dates for the delivery of these key components.

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

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

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

CHAIRMAN HOOD: That's coming up. I was saving the best for last.
COMMISSIONER TURNBULL: Okay.

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

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

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

We try to find the proper land use, the size, the density of the mass, deal with adverse impacts. We don't necessarily -- if a proposal for all green space came in front of us, we would deal with that, but that's not -- all green space is not in front of this Commission.
So, I wanted to just comment on one of the letters I saw.

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

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

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

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

The other thing is, one of the things that I didn't understand about community benefits package is, amenities are to kind of
offset some of the adverse impacts it puts on
the community, and I don't want to mess with
anybody, what anybody negotiated.

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

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

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

We need to see how this is going to
be administered because I'm not sure when all
this will happen. When it's approved it's
going to be so many years before some of that stuff triggers. Is it before the building permit for the CFO? It's a number of things that happen.

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

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

So, that's my start on the community benefits, and let me open it up. That will get us started, I think, or was that the end? Okay, Commissioner Turnbull?
COMMISSIONER TURNBULL: Well, just continuing on with what you had talked about.

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

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

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

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

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

Five-hundred-thousand for neighborhood beautification project, $150,000
for North Capitol Main Street store.

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

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

CHAIRMAN HOOD: Any other comments?

COMMISSIONER MAY: Yes, Mr. Chairman, I would just note, I mean, we did receive the resolution from the ANC from their meeting and -- well, the resolution is from June 23rd, and you know, there is agreement with --
between the ANC and the Applicant on a revised benefit package.

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

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

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

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

As Commissioner Turnbull has already stated, that the -- how it's administered is key, and I think we've learned
that from lessons learned, cases we had to come back down here and hear about, how things weren't working for amendments to community benefits, because we had two people on both sides of the room who was suppose to get an amendment and they fell out and those kind of problems.

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

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

It needs to be spelled out in the
final process or beforehand, when each contribution will exactly be made, or when specific items and services -- what specific items each services -- and services each contribution will fund, who will provide each item of service, when each item be provided and commenced, and tied to a C of O or of other enforcement mechanism that we can rely upon.

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

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

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

(No audible response.)

CHAIRMAN HOOD: Okay, I guess next
steps. Do we want to have a lender disclosure hearing? Do we want to do a proposed tonight?

COMMISSIONER MAY: Mr. Chairman?

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

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

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

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

I think if they make a further submission to address these concerns and we
have the appropriate responses from the parties in the case, that we may be able to take proposed action in a subsequent meeting.

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

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

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

CHAIRMAN HOOD: Right.

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

CHAIRMAN HOOD: I just want to make sure that our goal --
COMMISSIONER TURNBULL: I think the Applicant should understand that.

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

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

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

Okay, are we leaving any of the issues out, because there were a lot of issues.
COMMISSIONER MAY: Well, I mean, I recapped most, but not all of them that we discussed. I mean, I did not mention particularly the time table for delivery of the historic preservation features and rec center and so on. I mean, the overall time table, as well as the tightening up of the benefits package, as well.

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

COMMISSIONER MAY: In terms of what we discussed today?

CHAIRMAN HOOD: Right.

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

I mean, I think there is some open -- I had some other questions about, you know, what period is the traffic monitoring, but I think that will all get tightened up with addressing the traffic program overall.
CHAIRMAN HOOD: Okay, so, we're going to move to wait, get responses. Do we have any dates, Ms. Schellin? Anything else, Commissioners? Anybody? Okay.

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

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

COMMISSIONER MAY: Right, yes.

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

MS. SCHELLIN: The Applicant has advised that they need at least six weeks of going from that. I think we should probably
shoot for taking this up at the October 20th meeting, in order to give them enough time and allow the parties an opportunity to respond. Does that work for the Commission?

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

MS. SCHELLIN: Yes.

CHAIRMAN HOOD: Okay.

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

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


CHAIRMAN HOOD: Okay, thank you.

MS. SCHELLIN: Yes, I did consider it. So, again, the Applicant's submission
would be due be 9/22 and the parties would have
two weeks, instead of one week, which would be
October 6th, all filings due by 3:00 p.m., and
I would ask the Commission if they are asking
DDOT and/or OP to respond to what the Commission
-- I mean, to what the Applicant also submits?

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

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

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

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

Okay, Commissioner Miller?

COMMISSIONER MILLER: Can I just
ask, just before we conclude this on the timing
issue?

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

MS. SCHELLIN: Actually --

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

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

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

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

MS. SCHELLIN: So, since they want to shoot for the 29th of September, then their submissions, they're saying now four weeks, so that would put them at August 25th, and then
allow the parties -- I know that the ANC's don't meet in August.

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

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

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

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

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

CHAIRMAN HOOD: Whatever time you need to get --

MS. SCHELLIN: -- for the package.

CHAIRMAN HOOD: -- there and --

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

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

MS. SCHELLIN: That gives them three weeks.

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

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

I want to make sure that it comes back right, whether it -- you know, I want to
give as much time needed, for everybody to be able to -- this is just too important to be trying to push it and rush and get through it.

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

(Off-mic audience member comment.)

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

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

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

CHAIRMAN HOOD: I just want it to be right. I mean, you know, all this September
29th. If September 29th works for everybody, let's do it. If it works, let's do it.

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

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

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

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

MS. SCHELLIN: Yes.

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

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

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

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

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

MS. SCHELLIN: Okay.

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

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

CHAIRMAN HOOD: Okay.
MS. SCHELLIN: -- said they needed.
That was what I went by.

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

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

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

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

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

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

CHAIRMAN HOOD: Okay, can we come
back to order, please? We ask that you take your conversations outside, because we want to try to come back to order. Thank you.

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

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

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

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

Then at Exhibit-80, the Office of
Planning asked for a waiver for the late submission of the letter in support that was filed by the MPD. MPD did not file. It was something that the Commission asked for and MPD did not file -- provide their letter in time for OP to make the submission timely.

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

If the Commission accepts the late filing of the MPD letter, the parties would have seven days to file a response to that letter.

It was filed on the 24th.

CHAIRMAN HOOD: Okay, Commissioners, let me ask about the MPD letter. Any objections to waiving our rules to accept it?

(Chorus of nay.)

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

MS. SCHELLIN: Right, until this
Thursday.

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

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

MS. SCHELLIN: Which one?

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

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

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

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

MS. SCHELLIN: That's correct.

So, it was timely, correct.

CHAIRMAN HOOD: Okay, so, this response -- their response was timely, but I think that the -- the way I see it is that I think that the party just wanted to respond to that,
and I think that -- I don't know, Commissioners. Let me open it up. Let me see how you all feel.

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

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

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

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

CHAIRMAN HOOD: Anyone else? Commissioner Miller?
COMMISSIONER MILLER: I also would concur, Mr. Chairman.

COMMISSIONER TURNBULL: I would agree on the timing also.

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

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

I think again, as stated, it was timely. I think that the party wants to just respond and I think that -- I don't necessarily
think that the Commission needs to -- we need to move tit for tat, but I can tell you that they were just basically -- from what I read in the July 21st submission from the Applicant, was the reiterated points they had already reiterated prior.

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

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

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

CHAIRMAN HOOD: Right, but in this letter, they're saying there are some additional items in the July 21st.
You know, again, I don't want to get tit for tat. I think it will be -- again, this is -- let me just say this. This is a first stage PUD. This is in the very preliminary stages, as the first one.

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

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

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

CHAIRMAN HOOD: I can assure you that in this case, there will be plenty of opportunity to be able to respond, okay?
All right, so, moving forward. We will deny this Motion to Strike, and state that the -- our scheduling of the timeliness was sufficient and it was not untimely.

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

PARTICIPANT: Second.

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

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

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

That may be on our own motion. So, I don't know if it's necessarily needed. We will hold that in abeyance, and pretty much, if we felt like -- just like the previous case, if
we felt like it, we will at some point, do a limited scope, if we get to that point, okay?

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

Ms. Schellin, anything else?

(No audible response.)

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

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

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

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

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

VICE CHAIR COHEN: Thank you, Mr. Chairman.

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

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

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

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

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

I just believe that we should encourage as many, many meetings as possible. I understand expectations, raising expectations for action isn't always in the Housing Authority's control, especially when it comes to money.
But I do believe that it's necessary to engage the residents of Barry Farm more, so that they're more comfortable. With what they are faced with, it is quite scary to be considered relocated.

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

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

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

The ANC is talking 1,100 units and the Applicant is talking 1,600 units, and that difference is quite significant.
From my experience in financing a lot of projects, it may be a result of, and I believe it is a result of financial consequences to make the project feasible. People will be looking at this project for financing, as it moves on, and I do believe that the numbers have to add up.

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

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

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

As an example, to allow everybody to return, if they're not lease-compliant, I would suggest that immediately, the people who are
not lease-compliant, because that is the only
obstacle to your returning, sit down with
management and go over some type of a plan to
get you lease-compliant.

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

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

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

CHAIRMAN HOOD: Let me also expand
on that. That was one of my comments that I
highlighted.
There are a lot of things that we can ask. When I read that, and I'm not sure who actually asked us to do that, to forego the lease agreements and forgiveness. That's not anything that this -- even within the jurisdiction of this Commission.

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

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

That's one thing, while we would love to be able to do that, that's one thing that we just -- just is not within our jurisdiction. It's actually not Zoning. So, I wanted to just second her comments. You may continue.
VICE CHAIR COHEN: I think that there was a concern about, you know, if they couldn't get the funding for their redevelopment, can they renovate this property?

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

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

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

One is it's not an efficient use of
worker -- of a workforce and there are too many
c Children and adults, who are affected by the
allergens and the --

(Off-mic audience member comment.)

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

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

Again, the idea of being relocated
is really --

(Off-mic audience member comment.)

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

So, I would ask everyone to be
respectful to us, like we've been respectful to
you all, and let us deliberate, okay? You
might hear some things you don't like. You
might hear some things you like.

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

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

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

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

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

But the problem that we're faced in
the United -- in the city, is a lot of owners
are what's called underwater. They owe too
much on their homes. They're highly leveraged and they can't afford to pay their mortgage even, because it's not worth the value.

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

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

(Off-mic audience member comment.)

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

CHAIRMAN HOOD: Wait a minute. Hold on. Hold on. Hold on a second. I'm going to ask you -- I'm going -- I'm going to ask you just -- I know we're passionate and I know we're concerned.
So, just hold tight. Let us have our day and --

(Off-mic audience member comment.)

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

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

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

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

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

Mayor, I need you to help me out. I'll tell you the reason why it's important, because if I have -- like I said, if we have to
empty people who are distracting us out, then
you're not going to hear what we're saying, and
I think it's too important for you all to be
outside or on your way home, and here we are,
up here making decisions of your community.

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

Okay, Vice Chair.

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

CHAIRMAN HOOD: Okay, anyone else
like to go?

VICE CHAIR COHEN: I have to breath
to ten.

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

COMMISSIONER MAY: Sure. So, you
know, I think a lot has been said about this
project through all the hearings, and obviously, a very important project and very important to accomplish something at Barry Farms.

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

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

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

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

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

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

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

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

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

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

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

There is not information in there that explains to us, how the Applicant got from what that original plan was, to the plan that we have now. It's not justified by financing.
It's not justified by broader planning concerns. At least, if it's -- if they attempted to do that, it didn't make its way through to me, and I read everything pretty carefully.

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

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

The range of unit counts there was between 990 and 1,305 units, and nothing was -- 1,400, 1,500, 1,600 in those groups and so, there is nothing that came out of the community or the conversation with the community that was driving this high unit count, at least in terms of the information that was presented. Maybe
there is other information that I -- that may have been submitted or has yet to be submitted, that can make that connection. It doesn't seem to be justified by that argument.

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

I'm not saying that it can't be explained. Maybe it can. It's just that this is a level of density that logically isn't working for me.
I also think that the Applicant didn't do themselves any favors in some of their explanation of why or what the benefits are or bringing this additional number of units into the project, because you know, it adds more potential for workforce housing or inclusionary zoning, however you want to refer to it for some of the ways that we subsidize housing.

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

It included full replacement for all of the occupied units. It also included substantial workforce housing, which is another word for saying 80 percent AMI housing, right?
So, it was all there before in maybe slightly different proportions, but it existed before. To say that this -- you know, we need to have 1,646 housing units, and that gives us the opportunity, gives us all this additional workforce housing, the record -- the information that was submitted does not support that. It contradicts that.

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

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

I would say that I was very disappointed that the only thing we saw in terms
of the revised master plan, was an attempt to reconcile the previous master plan with DDOT's concerns about street widths and public space. That was just kind of minimal.

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

So, those are my overarching comments.


COMMISSIONER TURNBULL: Yes, thank you, Mr. Chair. Well, I think Commissioner May
has expressed a lot of the issues that I had, and I don't want to repeat myself.

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

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

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

I think we're just at an impasse here. We really need to -- especially Commissioner May's comments, I think really
need to be analyzed more.

CHAIRMAN HOOD: Okay, anyone else?

Commissioner Miller?

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

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

On the -- in addition to the one-for-one replacement housing, I would like to see tightened up, the commitment that is described in various terms in the proposed findings of fact and in other Applicant documents, the commitment to the additional
workforce housing that Commissioner May alluded to.

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

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

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

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

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

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

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

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

People are concerned about being
able to return, and I think it's like six --
maybe six percent more off the top of my head,
that actually did not want to return, but 92 --
or maybe it's eight percent, but 92 percent said
that they wanted to return.

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

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

Now, I can only go but so far on the
Zoning Commission, but you know, I don't know
why I just got a diagram taking me around in a
circle, and I've read that diagram and I've
looked at it going around the circle, and I
looked at it again, going around the circle.
But think of -- and I'm talking to the Applicant now. If it was your house, or was where you live or where you grew up, how would you do it, and I said this with the stadium deal, same thing, and that worked out.

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

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

But there are some people who are legitimate and who would like to return, and we need to find ways to make that happen for them,
because I can tell you, I know for a fact, the vouchers are in Gaithersburg, okay. I know that, and I'm not the quasi-quasi guru on housing, but I can tell you this, the vouchers are in Gaithersburg. It's no secret.

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

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

The next thing, and I think that overwhelmingly came across to me, 100 percent. "I am concerned about what will happen to me."
We all are, at some point, but in this case, the residents here are concerned, and that came across loud and came across in the hearing, and I need to have something a little more. I don't know if the Housing Authority has something already out there or what, but I didn't see it.

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

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

Okay, that's what people in that development -- if you're telling them that, that's not predictable. That's unpredictable.
Okay, we already talked about the -- now, this is where we can't get into the rent costs and being able to do the forgiveness and all that. That's not -- definitely not within our jurisdiction.

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

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

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

Again, I know this is the first stage. I'm going to hear that, but I don't want to hear that. I want to hear what are we doing to make sure there is some predictability in this moving forward and giving people a level of comfort, those that would -- some probably
won't be able to return, from what I'm reading.

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

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

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

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

(Off-mic audience member comment.)

So, Commissioner Muhammed, now, you know, I'm going to call you out. I'm going to come right to your meeting and I'm going to do
the same thing.

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

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

So, let me get on with it. Again, okay, I have this, Rhode Island Avenue Road, approximately 40 percent of the construction contracting was awarded to certified business
enterprises, minority business enterprises, participation exceeded 50 percent. It will increase 40 percent.

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

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

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

But I just really think for me, out of all the density and all the issues, for me, it's about predictability and people being --
having some kind of security, that there is a plan in place, or if they even work hard, I think kind of where the Vice Chair was going, if they even work hard and work on it now, they'll be able to return.

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

(No audible response.)

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

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

COMMISSIONER MAY: Mr. Chairman, you suggested for the previous case, the limited hearing, and I think actually in this case, that would be the -- I think I'm ready to go straight to a limited hearing on this, that we see a revised proposal and we ask the Applicant to address the concerns that we
raised, and then we have another presentation, we get to ask some more questions of them.

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

COMMISSIONER MAY: Yes.

CHAIRMAN HOOD: Anybody else? Questions?

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

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

VICE CHAIR COHEN: Okay.

CHAIRMAN HOOD: It's still open.

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

MS. SCHELLIN: The difference with the last case and this case is that we did
already set aside a date for this case.

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

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

COMMISSIONER MAY: At the close of the hearing --

MS. SCHELLIN: We did.

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

MS. SCHELLIN: Right, and so --

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

MS. SCHELLIN: Right.

COMMISSIONER MAY: -- and have another discussion.

MS. SCHELLIN: And I think that since we have that date, we could go ahead. If the Commission wants to proceed with that schedule, the dates for the submissions to be
submitted prior to the hearing, so that you can have those, and if you want the parties to go ahead and respond to those submissions prior to the hearing date, then you would have those also, and then have the hearing. However you want to proceed.

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

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

But only thing I would ask, as we're thinking through this loudly, I would ask that we find out what -- I would -- I'm not trying to go out and single out one person, but I think Bishop Hudson is key, because Matthew's
Memorial in this case, I need to know why he raised his hand, and I can't ask him when I see him in the street, because that's inappropriate.

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

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

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

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

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

MS. SCHELLIN: Ms. Cuthbert?

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

MS. SCHELLIN: Okay.
CHAIRMAN HOOD: I'm going to ask anybody who knows Bishop Hudson.

(Off-mic audience member comment.)

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

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

CHAIRMAN HOOD: I think we should.

MS. SCHELLIN: Yes.

CHAIRMAN HOOD: If we can address the concerns, that would help --

MS. SCHELLIN: Prior, so, you would have it ahead of time.

So, if they could -- but you don't need the parties to respond to those, prior?
CHAIRMAN HOOD: They will have time to cross-examine at the hearing.

MS. SCHELLIN: At the hearing, okay. So, if we could have --

CHAIRMAN HOOD: I mean, they -- I don't know. I mean, what is the -- what helps us the most, that's what I am trying to figure out.

COMMISSIONER MAY: I mean, what would you say, seven days in advance, they would submit?

CHAIRMAN HOOD: The parties?

COMMISSIONER MAY: No, no, no, the Applicant. I'm asking Ms. Schellin.

MS. SCHELLIN: We would need the Applicant actually to make their submission by September 2nd. If the parties were going to respond, they would have to make their submission by September 9th, and submissions would have to be due by noon.

COMMISSIONER MAY: You know, I think the responses are less critical because
we won't have the opportunity for them to present their responses, when we actually have the hearing.

MS. SCHELLIN: Okay, so, if the Applicant can make their submission by September, that we could give them a little more time then, if they can make their submission by 3:00 p.m. on September 5th, yes.

CHAIRMAN HOOD: Okay, do we have anything else? Is everybody -- well --

MR. BERGSTEIN: If I may, the hearing is suppose to be on designated issues. That's what the rules say.

So, I am comfortable with saying that the designated issues are the issues raised by the Commission in its deliberations tonight, but if there is anything specific you want identified in this notice, it would be helpful to hear that now, and I just want confirmation that I can use that broad formulation of the issues, as being issues you've raised.
CHAIRMAN HOOD: Okay, anything other than what we've talked right here tonight, that we would like to include it in the announcement? Anything else?

(No audible response.)

CHAIRMAN HOOD: Okay, no.

MR. BERGSTEIN: Okay, the second question is that under the procedure, the notice only has to be provided to the parties, and that's what we would normally do.

Do you want any further type of notice, such as a notice in the D.C. Register, just saying that the hearing would be held on those issues?

CHAIRMAN HOOD: I think to the parties, I think that the word would get out of what we're doing. Ms. Cuthbert and Mr. Muhammed and others will help.

MR. BERGSTEIN: Then that's all the questions I have. Thank you very much.

CHAIRMAN HOOD: I know I volunteered him, but I know him. So, I know
Okay, anything else on this case?

MS. SCHELLIN: No, sir.

CHAIRMAN HOOD: Okay, so, let's move to hearing action, Zoning Commission Case No. 08-07A. This is the Four Points, LLC in Curtis Properties, Inc., modification to PUD and 2nd stage PUD @ Square 5785. We're asking for set-down. We also have a request for partial waiver fee of the hearing. Ms. Schellin, when you're ready.

(Off-mic audience member comment.)

CHAIRMAN HOOD: Mayor, Mayor, Mayor. No, I don't want any potato salad. No, I don't want anything.

Actually, you getting better. Next time, I want you to be even better. So, work with us, Mayor.

(Off-mic audience member comment.)

CHAIRMAN HOOD: You ready? I called the first case. I'm sorry, hearing action, okay.
Let me see. The first case is hearing -- let me call it again.

Okay, hearing action, Zoning Commission Case No. 08-07A Four Points, LLC and Curtis Properties, Inc., modification to PUD and 2nd state PUD @ Square 5785. Set-down, we have a request for a partial waiver of hearing fees. Ms. Brown-Roberts?

MS. BROWN-ROBERTS: Good evening, Mr. Chairman and Member of the Commission.

Four Points, LLC submitted an application for modification to the 1st stage PUD and 2nd stage PUD review to construct Building 1 at 25 -- at 2255 MLK Avenue in Anacostia, to accommodate 71 unit residential building.

The building would be six stories and an FAR of 2.85 and would accommodate a mixture of studios one and two-bedroom units.

The development would provide a mix of market rate and affordable units with 56 units between 60 and 30 percent of AMI, and 15
units above 60 percent of AMI.

Some of the units would be targeted for workforce housing for teachers and live-work units for artists. The residences would be supported by 26 below-grade parking spaces.

The building at the southern end of the PUD's adjacent to row houses in lower density commercial uses, as well as being across from properties in the Anacostia historic district.

One of the aims of the overall PUD was to activate the ground floor of all the buildings. In this residential building, the MLK frontage would be activated by the placement of the entrance at MLK and Chicago Street, having the entrance -- and also having the entrance to some of the live-work units and others access directly from MLK Avenue.

Subsequent to the approval, the Applicant undertook some detail studies and assessment of the development for Building 1,
which resulted in changes to some of the zoning standards above that approved by the 1st stage PUD, but they would remain within the parameters of the C3 A zone.

The Applicant has therefore requested modification to the audit to accommodate these changes.

The Applicant has requested flexibility to vary the number of units by plus or minus 10 units, a reduction in the portion of a side yard, a reduction in parking spaces and the grouping of compact spaces, reduction of a loading break from 50 to 30 feet, and also to vary interior components, the selection of exterior materials and minor refinements to exterior details.

The first stage PUD included a number of benefits and amenities that would be provided with the development. While not all are applicable to this building, the benefits proffered are consistent with the 1st stage PUD, and would include affordable housing,
first source and CB agreements and an easement, which would be open to the public, new street trees, bicycle racks, brick paving along MLK Avenue and access to the roof terrace by the ANC twice a year.

In the 1st stage order, the Commission recommended that the equivalent of LEED silver should be considered as a strong environmental proffer. The Applicant is offering green communities and also states that this is equivalent to LEED full housing mid-rise.

The Applicant states that they are not providing a LEED silver building.

The overall PUD was found to be not inconsistent with the comprehensive plan, and this building will not be inconsistent with the comprehensive plan.

The Office of Planning therefore recommends that the application be set down for public hearing and the details of the proposed CB and first source agreement and details on the
non-provision of the LEED silver building be
provided, prior to the public hearing.

In addition, Mr. Chairman, today we
received some correspondence from the ANC,
which is 8A, stating that they did not think
that the building reflects the character of the
historic Anacostia.

I would like to note that a proposal
is not within the historic district, but we
would recommend that if this application is set
down, that the Applicant continues to meet with
the ANC, to address these concerns. Thank you,
Mr. Chairman.

CHAIRMAN HOOD: Thank you, Ms.
Brown-Roberts. Okay, Commissioners, any
questions? Comments? Commissioner May?

COMMISSIONER MAY: I have just a
few quick comments.

First of all, I want to know when it
comes to the hearing, what makes the live-work
units really live-work units? I mean, they
look like they have store fronts and nine foot
ceilings, but I'm not sure exactly how they're going to work or what makes them really live-work. So, more information about those would be helpful.

I'm encouraged by seeing them. I think it's a great idea.

The elevator core is odd. I would just say that the -- I would suggest that the Applicant could move that core away from the front entrance of the building.

I think it's remarkable that it's such a low overhead, that it only rises three feet above the roof, and I want to know more about that, because we've never seen anything like that, that low in overhead.

But in any case, even though it's three feet, ought to be pushed up, so that it's away from the front edge of the building.

Then the last thing is that I would like to know more about the LEED equivalent system, whatever they are using, so we know what it actually translates to.
I mean, we've been dealing with LEED for so long, that's the only green language, I think I'm comfortable with, in terms of these check lists and such.

I mean, even just to do a check list on LEED would be helpful, to know how this would crosswalk, just something that gives us some sense of the equivalency. That's all for me.

CHAIRMAN HOOD: Okay, Vice Chair Cohen?

VICE CHAIR COHEN: Thank you, Mr. Chairman. I kind of totally agree about the LEED issue.

I don't understand why we can't have more green on the roof, and if it is a cost factor, there are resources, like the enterprise green zone, which may be accessed. I'm assuming that that's a possibility, and if it's not, why not?

So, more explanation, as to -- as you mentioned, Ms. Brown-Roberts, the non-provision of a LEED silver building.
I got a little confused on your review, page six. You're talking about guestrooms, and so, I'm assuming that's a typo.

MS. BROWN-ROBERTS: It's a typo, I'm sorry.

VICE CHAIR COHEN: Thank you. Okay, I also would like to know more about the safety features of the roof decks, since there are families in this property, and on page eight of your review, you mention that the Applicant is asking for the first source to be signed prior to the issuance of a certificate of occupancy.

Why isn't the workforce in place at the time of certificate of the -- you know, getting the building permits? I'd like more of an explanation on that.

CHAIRMAN HOOD: Okay, anybody else, any comments? Commissioner Miller?

COMMISSIONER MILLER: Thank you, Mr. Chairman. I would concur with the comments of my colleagues and I am prepared to support
set-down of this project tonight for a hearing, and in the future.

It has a lot of excellent components. You know, 80 percent of the housing is -- well, significant portion of the housing is between 30 and 60 percent AMI and then the rest is between 60 and 80 percent AMI, I think.

Then there is the live-work units and the partnership with Teaching for America, to target it to teachers. I think this is excellent.

So, in addition to the additional information that -- well, as long as we receive the additional information that's been asked for by both Office of Planning and by my colleagues, I am prepared to support this tonight.

CHAIRMAN HOOD: Okay, any other comments? Commissioner Turnbull?

COMMISSIONER TURNBULL: Yes, thank you, Mr. Chair. I guess as Ms. Brown-Roberts
has noted from the ANC, I think architecturally, I'd like to see some more information.

I'm really concerned about the townhouses, the row houses next to it. I'd like to see, again, architecturally, how these relate. I'd like to see a section or something that shows the height of this building, in relationship to the townhouses next to it.

I'd like to see a rendering down the street, that shows the character of these houses and what the proposed building is going to look like.

I think it's missing some character to it, that should -- could possibly be picked up from the row houses, which are basically shown as blank right here, on the drawings we have.

I would echo Commissioner May's concern about the penthouse, especially since it's on the front of the building and MLK being a Height Act violation, and it's got a very
basic mechanical system.

I mean, it's basically a mechanical farm on the roof. It's not very -- there is not much to it. I mean, it has a white roof, but that's about it.

The only other thing I would be concerned about is on the roof terrace at the corner of Chicago Street and MLK. I think the lighting should be downplayed on this, that this should not be a feature, I mean, to interfere with the -- especially with the neighbors down below, the row houses, the town homes.

Other than that, I think it's going to add to the PUD, and I think it's a nice corner that is -- but I think it needs some more work. Thank you.

CHAIRMAN HOOD: Okay, thank you, Commissioner Turnbull. Any other comments? I have none. I think my colleagues have covered it.

Let's see how we want to proceed.
Vice Chair Cohen?

VICE CHAIR COHEN: Yes, I would move to approve the request for the hearing fee, and to set down Zoning Case No. 08-07 2nd stage approval for Lot 839 and a portion of Lot 906, in Square 5785, and ask for a second.

COMMISSIONER MAY: Second.

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

(Chorus of ayes.)

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

MS. SCHELLIN: Yes, staff records the vote 5-0-0, set-down Zoning Commission Case No. 08-07A, as a contested case, and to waive for a partial waiver of the hearing fee.

CHAIRMAN HOOD: Okay, next we have Zoning Commission Case No. 14-09. It's QC 369, LLC, consolidated PUD related map amendment @ Square 369. Mr. Gyor?

MR. GYOR: Good evening, Mr. Chairman and Members of the Commission.

OP recommends set-down for a public hearing of the application for a consolidated PUD and PUD related map amendment from DDC 2A and DDC 2C, to DDC 3C, to facilitate redevelopment of the properties located at 9th and L Streets, Northwest.

The Applicant proposes to construct a new 12-story mixed-use hotel and residential building with ground floor retail development.

The proposal consists of two phases. The first phase would include two Marriott hotels, as well as retail and services uses. The second phase would include a new residential building with approximately 200 units.

Portions of six buildings
contributing to the Shaw Historic District along 9th Street Northwest, as well as the Lorgan and historic apartment building on L Street Northwest would be incorporated into the design.

The overall development would also include approximately 233 parking spaces on two levels below grade. Residential parking and loading would be accessed from the alley to the west of the site and hotel parking would be accessed from 9th Street.

The application requests flexibility from the zoning regulations in regard to roof enclosures, loading and compact parking spaces.

OP will continue to work with the Applicant on issues raised in our report, including the provision of more detailed renderings, and more details concerning the proposed building's pallet of materials.

The Applicant previously worked with OP, including historic preservation, as
well as the community, to address the height, massing and design of the building prior to filing this application.

The proposal for the mixed-use hotel residential project is not inconsistent with the comprehensive plans objectives for the area and to the generalized land-use and policy maps.

In general, the project would better utilize available space in close proximity to transit. The Office of Planning recommends that the Commission set-down the application for a public hearing. I would be happy to take any questions. Thank you.

CHAIRMAN HOOD: Okay, thank you, Mr. Gyor. Commissioners, any questions of Mr. Gyor? Normal order, Commissioner May.

COMMISSIONER MAY: Sure, just a few comments on this.

The apartment building facade seems to need something, and I am not sure what it needs, but it's not -- you know, the rest of the
hotel facades seem to be working and are -- I don't know, have the right level of complexity and the right level of simplicity to be a good backdrop for the historic buildings.

But the apartment building just seems to be kind of all over the place, and maybe it's just the two strict vertical division of the materials, or something like that. It's just -- it's missing something, to me.

I don't want to get too far into the design aspects of it, because I know this has been through HPRB, but I just feel like it needs something.

I have a concern about the set-back for -- or the lack of set-back for the rooftop communal space on the apartment building, because it's right up against the side of the building that is adjacent to the historic building on the south side of the property, and you know, that is going to be very obvious and it amplifies the height of the building.

So, doing something to minimize
that or possibly reconfiguring the space on the rooftop, the communal space on the rooftop would help minimize that bit of -- that sense of it being too tall in that circumstance.

The other things are -- and I need a very simple kind of diagram of what's going on with the roof heights, because the -- there is just too much information and it's a little confusing on the diagram that's in there.

So, a simple diagram of rooftop heights and set-backs and so on, and then the last thing is that the hotel awning is really huge, and I mean, I'm -- I don't know if it would look much better if it were smaller, but it just seems really imposing on the block.

So, I don't know. Those are my thoughts.

VICE CHAIR COHEN: Actually, I wish that I had gone first, because I had a problem with the hotel awning and I wanted to be the architect tonight. That's okay.

I would like more explanation as to
the timing that the hotel will come first, and
then the apartment and maybe it's just my lack
of knowledge, but I don't understand why in a
so-called housing priority area, we're going
for hotel use first. It may be a market issue,
but I would like that explained to me.

I had one other comment, I think.
On the illustrations from the HPO, again,
they're going to make their final decision, but
I again, liked more of the organic shaping of
the building. I think it's much more
interesting than what we usually see in
generic.

So, that's only my own opinion.
That's all I have to say.

CHAIRMAN HOOD: Any other
comments? Somebody can make a motion. Sorry,
Commissioner Turnbull?

COMMISSIONER TURNBULL: Can we
still do comments?

CHAIRMAN HOOD: Yes, sure.

COMMISSIONER TURNBULL: Okay.
CHAIRMAN HOOD: You can always do comments.

COMMISSIONER TURNBULL: All right. Well, I think this is an interesting project. I think it's one of the first we've had of adaptive re-use to this extent on a -- in a development. I don't think we've had -- I mean, we've had preservation issues at some point, but adaptive re-use with a number of buildings, I think is unique.

I would echo. I guess one of the things, it's hard to find on the drawings, the access, the garage access on L Street. I had to go to the -- the best plan that I found was on -- was A601. It wasn't part of the regular sequence of plans, and it looks like that there is an easement and you -- they're building over it. One is an alley and now, they're getting an easement through it.

I'm not sure I totally understand that, and I'd like to know more about how you access and if people are going to continue on
straight through the alley, it looks like you
do go through. Hopefully, we're going to get
loading diagrams that show how trucks get in and
out on the alley back there.

It seems like everything happens on
that back alley, so, I'd like to see a little
bit more information as to access, turning
radii and how that really works back there.

I agree with Commissioner May, we
need more information on the roof. Roof plan,
sections, blow-ups, what is going on with
set-backs, and some dimensions on these things.
It's really hard to read the roof plan and look
at the building and know what's going on.

I agree with some of your comments,
Mr. Gyor. I think I'd like to see the street
level renderings, to see what this building
really looks -- what the -- what the
street-scape is really going to look like, and
maybe -- and I would agree that the canopy is
a little bit heavy for the street-scape. I think
it may be a little bit overdone.
But I'm looking forward to seeing this set-down.

CHAIRMAN HOOD: Okay, Commissioner Miller?

COMMISSIONER MILLER: Thank you, Mr. Chairman.

Yes, I'm looking forward to it being set-down too, and think that the questions asked by my colleagues are good ones.

I also would like some more information, just about the timing of the Mayor's agent cases for the historic -- for the parts of the property to be -- the two -- I think it was two of the townhouse-type structures, which are of course, being demolished, I think, and seven or nine were to be adaptively reused.

Just more information on the situation with the historic multi-family building on L Street. What is -- HPO seemed to be saying that what the Applicant was proposing was a demolition and that would require, in terms of what they were -- taking out the floors
and so, if -- I just want more information on what is -- is that going before the Mayor's agent also, or is there just -- are they just working with HPO staff on a plan to adaptively reuse that, and won't have to go through Mayor's agent?

Do you know, I don't know, is it -- is that building vacant?

MR. GYOR: I believe it is.

COMMISSIONER MILLER: Yes, it's been vacant for years and years?

MR. GYOR: Yes.

COMMISSIONER MILLER: Okay, you know, it shows how -- how the -- this type of project being proposed here, when two hotels that connects the convention centers, just kind of remarkable, when we had -- when we -- we fighting all those years, to try to find a way to structure that.

In part, the convention center hotel just to the south, and now, we have a private development coming forward with 200
more units, but it's the same operator, actually, ends us being the same -- it's just kind of ironic.

But it shows how economically positive our climate is right now.

This is a huge up-zoning. It's like double -- more than doubling the existing permitted height and density there. It's consistent with the comp plan, of course, and the comp plan calls for that.

But if some of those units, 200 units could be at 80 percent AMI, that would be -- in the downtown area, that would be workforce housing, as opposed to the 80 percent AMI elsewhere in the city, which ends up being market rate.

But downtown, it might -- it might be an amenity that would be valuable to have in this type of project.

So, I'm prepared to move that we set-down the project.

CHAIRMAN HOOD: Okay.
COMMISSIONER TURNBULL: Mr. Chair,
I wonder if I could just ask Mr. Gyor.

Mr. Gyor, I guess one other thing, which I forgot to mention is, there is a grillage of sort of -- shown on some of the elevations, and it looks -- if I read some of the elevations, it looks like it's terra cotta, but I'm not sure.

I'd like some more information on these thin grills that are showing up on the hotel part and then it shows up later on, by some of the window elevations.

So, if we could get some blow-ups as to what the really looks like and how that works. Thank you.

CHAIRMAN HOOD: Okay, any other comments?

(No audible response.)

CHAIRMAN HOOD: Somebody like to make a motion?

COMMISSIONER TURNBULL: Mr. Chair,
I would move that we set-down Zoning Case No.
14-09 QC 369 LLC, consolidated PUD and related map amendment @ Square 369.

COMMISSIONER MILLER: Second.

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

(Chorus of ayes.)

CHAIRMAN HOOD: Any opposition?

Staff, would you record the vote?

MS. SCHELLIN: Yes, staff records the vote 5-0-0 to set-down Zoning Commission Case No. 14-09. Commissioner Turnbull -- I'm sorry, set-down as a contested case.

Commissioner Turnbull moving.

Commissioner Miller seconding. Commissioners Cohen, Hood and May in support of set-down.

CHAIRMAN HOOD: Okay, next let's go to Zoning Commission Case No. 14-12 EAJ, 1309 5th Street, LLC 1st stage and consolidated PUD and related map amendment @ Square 3591. Ms. Schellin? Ms. Elliott? I was going to get there. I had to -- I have to say the whole name
first. Ms. Elliott.

    MS. ELLIOTT: I thought we had
turned a leaf on that. So, okay.

    CHAIRMAN HOOD: We have, okay, but
I have to say -- I have to say Brandice Elliott
first. I have to say it like that.

    MS. ELLIOTT: Thank you, Mr. Chairman. Good evening, Mr. Chairman, Members
of the Commission.

    OP recommends set-down for a public
hearing of the application for a consolidated
and 1st stage PUD and PUD related map amendment,
that would facilitate the redevelopment and
expansion of Union Market, which is located at
1309 5th Street Northeast in the Florida Avenue
market area.

    The property is currently zoned CM1
and the Applicant has requested a designation
of C3C.

    The PUD would be the third, located
in the Florida Avenue market study area. The
Commission may recall that the second PUD
located on 4th Street in Florida market, proposing an 11-story 110 foot mixed-use building, consisting of retail and residential uses, was actually just set-down about a month ago.

This application is the same Applicant that was for the previous application.

The proposed project would use the existing footprint of Union market, expanding it upwards to a height of 120 feet. Union market would serve as the ground floor of the structure and would remain operational during construction.

The middle volume would serve as the 8 screen Angelica Film Center and four levels of office would be provided above the theater.

The maximum FAR would be 2.52 for the south building.

The first stage PUD proposes to expand the building located north of Union market to a height of 120 feet and would consist
of either office or residential uses and would have a maximum FAR of 3.78.

The Applicant has requested flexibility from rooftop structures for variable height, courts and loading. However, we believe there is some clarification necessary regarding the rear yard, because it seems that some flexibility may be required because the rear yard has been measured from a public street, rather than a service alley.

Also, the Applicant has provided an alternative penthouse plan that would allow occupy-able space above the building's maximum height, and request flexibility to revise the design in compliance with anticipated amendments to the zoning regulations.

Temporary flexibility has been requested for the south building for parking and bicycle parking, but these requirements would be fulfilled upon the completion of the north building.

The Florida Avenue market study
anticipates high density development in exchange for significant benefits and amenities. The Applicant has identified several contributions to the Florida Avenue market that include incubating unique local businesses, increased lighting and security for pedestrians and reduced rents for local artists.

These contributions provide context regarding the developer's intent and OP will continue to work with the Applicant to refine in detail, benefits and amenities that are proposed.

OP, working in partnership with other District agencies, has suggested a District energy system as a potential benefit and amenity, which would be consistent with the Mayor's sustainable D.C. plan.

However, there are other opportunities for benefits and amenities that would address broader area needs, and may also be considered.
OP will continue to work with the Applicant to obtain details about benefits and amenities that are intended for this development. The comprehensive plan designation for this site is medium density residential, high density commercial PDR.

The proposal for the mixed-use development is not inconsistent with the comprehensive plan's objectives for the area and to the generalized land-use and policy maps.

The project furthers the goals and objectives of the Florida Avenue market small area plan. OP will continue to work with the Applicant to provide information noted in the report, which includes refined and detailed elevations and roof plans, clarification concerning the rear-yard flexibility, contracting goals for small local businesses, details concerning the curbless street and the parking management plan, as well as plaza materials and design and additional
information concerning the benefits and amenities.

The Office of Planning recommends that the Commission set-down the application for public hearing, and I'd be happy to answer any questions.


Let's switch it up.

COMMISSIONER MILLER: I would just -- thank you, Mr. Chairman.

I would comment that I think the OP report is very thorough and I agree with a lot of the -- I agree with all of the suggestions that are made in there for -- and I think the District energy system is an interesting concept.

In addition to the -- all of the positive benefits that you outline in the report, another benefit would be that it would
help support the PDR, the production
distribution repair striping of -- in this
area, in addition to the high density
commercial, medium density residential.

But I would agree that an updated
benefit -- they say they're going to be working
on the updated benefits and amenities package,
so, that's great.

I didn't quite understand, I
thought I read somewhere that the bike -- the
adjacent bike parking on the south building
wouldn't be provided until the north building
was completed, which I didn't understand why.
Maybe I just got it wrong. I guess I need
clarification on what bike spaces will be
provided on the space adjacent to the south
building, prior to the north building being
built.

This is a very exciting project.
This is another one of these dynamic theaters
moving into the eastern part of the city,
finally. So, I think that's just incredible
development for our city, and prepared to support set-down tonight.

CHAIRMAN HOOD: Okay, Commissioner Turnbull, any comments?

COMMISSIONER TURNBULL: Absolutely, Mr. Chair. Thank you, Ms. Elliott, for an excellent report and I appreciate all your comments. I think you've hit the majority of the ones that we usually hit upon. So, thank you for that.

Especially, I think we need more information on the group plans and the things like that, and sections through the building that clearly identify any projections and over-hangs, etcetera.

This is an exciting project. I think the fact that there -- that you have an existing building that's going to be kept in use, while the rest of it is being built overhead, I think is exciting. I think that's -- we don't see too many of those happening, but I think that's something very interesting.
One of the things that caught me, which I was -- they're talking about maintaining the existing facade of the market building, thereby maintaining its esthetic effect, the retail component.

But on the next page, they talk about requesting flexibility to design the retail facades in accordance tentative market requirements, while still maintaining the majority of the existing facade of the existing south structure.

If I look at the typical -- an elevation down Florida Avenue, looking at Union market, it's basically reflecting sort of the character of what's there with the over -- with the awnings and everything.

So, I'm a little bit funny, as to what they mean by retail flexibility. I mean, I think there is a certain character there, which they talk about maintaining.

So, adding this question about flexibility sort of muddies what they're really
trying to do, as far as an image.

I guess the other thing, I'd like to know more information about the Casablanca side that you see, as you're going down Florida. It's suppose to be an LED, and I think that there is another one around the corner. Hopefully, it's not -- I think we need more information on that. Hopefully, it's not actually a moving -- I see it as an attractive nuisance, if it's people driving and they're watching. Hopefully, it's not continually moving.

So, I'm a little bit confused about that. A little bit -- there is one -- I wanted to more about the event space that they talk about, and I guess there's going to be no parking for this first phase.

So, I'm assuming -- we're assuming that people are either parking somewhere nearby or are they metroing, busing, biking?

MS. ELLIOTT: If you remember the PUD that was set-down about a month ago, there was actually -- and this is the one that's on
4th Street.

COMMISSIONER TURNBULL: Yes.

MS. ELLIOTT: There was a surplus of parking --

COMMISSIONER TURNBULL: Okay.

MS. ELLIOTT: -- that would be provided with that, and depending on the timing, that actually may be able to accommodate the overflow for Union market.

COMMISSIONER TURNBULL: Okay, do you know the phase -- have there -- is there -- I didn't -- maybe I missed it, the phasing for the north building, or how does this project look to be?

MS. ELLIOTT: I think we need some details on that point.

COMMISSIONER TURNBULL: Okay.

MS. ELLIOTT: I don't think that was specified.

COMMISSIONER TURNBULL: All right, if we could get that, that would be great, and with that, Mr. Chair, I think are my comments.
CHAIRMAN HOOD: Okay, Vice Chair Cohen?

VICE CHAIR COHEN: Thank you, Mr. Chairman. In your report -- well, I'll be excited about this project too, since everybody else is, and just everybody -- Angelica show, if it's the same brand as New York City, they show foreign films. So, that makes me happy.

On page five of your report, under the 'innovative technologies for pedestrian movement', I have no idea what a deaf space design principle is.

MS. ELLIOTT: I think that that term has been used to refer mostly to the curbless street that has been proposed, and my understanding is that it allows easy -- it facilitates easier movement, since, you know, there is a lot of -- you speak with your hands, you're not necessarily making -- paying attention, before you step off the curb. You know, activities like that.

VICE CHAIR COHEN: Thank you,
because I didn't hear that, I think with the warf, when they had the same type of multi-modal space and walking, biking, I don't know.

Again, the explanation of the parking, and now, that you reminded us of the prior project having an excess that could be used is helpful.

I noticed that in C2, that there's an explanation of demolition and it talks about once that the existing building facilities onsite, if they're affected by the proposed demolition, construction should be abandoned and/or removed at the time of demolition. That needs further explanation, at least for somebody like me.

In A9, I think the architect needs to carefully review each sheet, because there is a dusty pink, which I think I know what it is, but it's not in the key. It's not in the legend.

So, they need to go back and look at making sure they cover each color in the legend,
but A9 is an example.

    Again, the concern about the timing
and the -- we need clarification about the
loading for the south building, on pages 19 and
22 of the Applicant's submission.

    We need a 'worse case scenario', in
case they don't go ahead with that, and
especially because they're proposing an A and
a B.

    One of the concerns that I had is,
in your inter-agency group, which by the way,
if you can do anything with a District Agency
for energy, would be great, but it seems like
the warf project on the co-generation, and I
know there is a difference between the two, but
that was found to be too costly.

    Since this particular neighborhood
seems less dense than the warf will be, you
know, the economics need to be explored and
explained to us, as to the feasibility.

    But inter-agency group that you're
talking about omits housing, the Department of
Housing, and one of the possibilities is to have housing, and so, that was a tremendous concern to me because what is happening in our city, we're building housing, but it's not matching the need, necessarily.

I mean, it's anticipating what seems to be the need, based on job creation, but it's also not addressing the real need of people who have lived here all their lives.

Okay, LEED rating, I think you mentioned this, it needs to be further explored and why we can't get higher LEED ratings for this property.

Just let me -- one second. I was confused on the -- your OP report page 7C, and it looks like we're really not retaining and reinforcing our industrial fabric.

So, I was a bit confused. Maybe you can explain that to me, in greater detail, that our industrial space is going away. That may be a good thing for our future, but I'm not sure. It just wasn't clear to me, what you meant in
that paragraph.

Again, it's paragraph C on page seven.

MS. ELLIOTT: So, that's in reference to the Ward 5 industrial land transformation study.

The Florida Avenue market area study actually precedes that, and that actually identifies the density.

So, what's being proposed is conforming with the small area plan in that regard. The industrial land transformation study aims to promote like maker-uses, and I think that Union market does actually achieve that already, to an extent --

VICE CHAIR COHEN: Yes.

MS. ELLIOTT: -- by bringing in, you know, local farmers, gardeners and they actually, you know, sell their goods and wares there.

So, I'm happy to look into that further and get you more information.
VICE CHAIR COHEN: That would be helpful, because I haven't read that report, or maybe, you know, another thing to put on my list for August, I don't know.

But anyway, yes, I was a little confused with that.

MS. ELLIOTT: I believe it was only recently finalized, as well. So, it's new reading for everyone.

VICE CHAIR COHEN: Okay, thank you.

CHAIRMAN HOOD: Okay, Commissioner May?

COMMISSIONER MAY: Yes, just a few questions. So, I do not understand how the south building could possibly be a maximum of 2.52 FAR.

It's a seven-story building, and it seems a lot -- to occupy more than half of its site. There's something wrong with the math, unless there is a lot more land area that's being included in the calculation that's -- that we're not seeing.
Similarly, the -- you know, the north building at 3.5 something also doesn't work. They've got to be, I don't know, six or more, in my mind, based on -- just on the -- just eyeballing it. Between the two of them, I'd say it's an average of about six.

Again, unless there is some extra land, there is one drawing that shows the big yard that's immediately to the north, which was part of Morris Electric, their storage yard, I think, that is drawn as if it's a part of the site, but on page D3, but I assume that's not going to be the case. I assume that that's a future development site.

So, anyway, that's my one question there.

The next thing is, I find it very odd that the office -- this office component on this building is -- has got these huge balconies. Is there some reason for that? Are they office use -- seeking offices uses that need large balconies? It just seems odd. Maybe it's
more than just the design idea or -- yes, I'm not sure exactly what it is.

I'm looking forward to seeing details on the rooftop basketball court, which you can sort of see in the plans.

Anyway, and I agree with all my colleagues and the concerns that you had in your report, as well.

I mean, overall, this is certainly another very exciting project. It's not as thoroughly developed as I would have liked at this point, but I think it's good enough, and the design team, the developer, I think will be able to get it in shape with the Office of Planning, so, before our hearing.

CHAIRMAN HOOD: A wise man came down and told this Commission one time, if you fail to plan, you plan to fail.

But I can tell you this, and I think you all know who that wise man was, but anyway, I'm just curious, when I look at these reports, Ms. Elliott, and maybe this may go to Ms.
I'm not condemning the Ward 5 land transformation study. I definitely do that, because I helped to pick some people that went on that task force.

But one of the things that concerns me is in the reports, and I'm starting to see that. We have a lot of plans, and I know we're bound to not necessarily, as a guiding tool as the comprehensive plan, but I notice we have the Ward 5 industrial land transformation study, and normal vision plan and development strategy, the Florida Avenue market small area.

When I looked at that, I said, okay, some time I think that causes communities confusion. I'm just putting that out there. It's not necessarily germane to this case, and I don't want the Ward 5 task force to say I'm knocking it, because I'm not.

But I just think that we have some many different ways, and I know some years ago, when we had the comprehensive plan task force,
at least the first one, that was one of the things that we looked at, was trying to minimize the different directions for this Commission to go with.

I think, Ms. Steingasser, with all these different plans that we're starting to look at, and I think we -- one plan, we had a case where -- I can't think of the plan, but it was over on 7th Street Northwest, where people thought we was suppose to do planning the way it was. People said, "You're suppose to look at the do-plan," and I notice in Ms. Elliott's report, she mentions that one of the plans was not adopted by Counsel.

So, I guess what I'm -- I guess making a long story that I can make about this short, is that we need to make sure we narrow it down to what actually we're suppose to be looking at and what we should look at, and I know we take all these other plans in consideration. Is that what we're doing?

MS. STEINGASSER: Yes, sir. There
is the comprehensive plan and there is the small area plan, but OP also looks at areas in terms of strategic action, which is what the -- I think the NoMa and development strategy.

That's not really a small area plan, but we saw it moving very quickly. First it say dormant a long time, and it was going to be this big industrial data center farm.

So, we started looking at ways of how can we motivate that development, without doing a small area plan?

We also work a lot with DemPed on doing strategic plans that were frameworks, so that as projects go into request for proposal for development, there is some context for them, where there may not be a small area plan.

Then like this transformation study, that was just looking at what's going on. It's not really a plan in terms, but it does provide planning background and some context.

So, we feel we want to mention it all, and a site like this is kind of sitting in
an apex.

There is also some study going on, on New York Avenue, which we didn't bother to get into for the Commission, but when it's a site that's as centrally located as the Florida Avenue market is, and over the last 15 years, there has been a lot of different looks at this site, we just -- we put it all in there, so the Commission has the full context both in terms of strategic studies, as well as the small area plans and the comp plans.

CHAIRMAN HOOD: Okay, well, I really appreciate that, but I just -- I know a lot of times, residents come there and they say, "Well, the new plan says this, and this plan says that," and you know, that's what they want us to look at.

I'm not disregarding the plans. I think they're good, but I think we need to -- I guess, all of us need to do part and make sure people understand it. This is what the general -- the comprehensive plan, generalized policy
map and the small --

Now, I've even heard some people mention that the small area plan is not a guide that the Commission goes by. I've heard it both ways.

So, I guess when I looked at this, and I'm definitely not saying anything against the Ward 5 industrial land transformation study. I just was saying, I noticed that was here, and I think if I read the report, I would be confused, okay, which plan do I use, even though they don't necessarily -- in this case, I don't think they contradict each other to a point, but in some cases, they do contradict each other and depending on which side of the story you're on, it's which side of the plan you want to present to the Commission, that you want the Commission to go by.

So, I'm raising that, just as a point for future reference, because maybe we all can work on that.

MS. STEINGASSER: Well, we can
maybe rank them. The comprehensive plan is the regulatory document. It's legislatively adopted by the City Council. I think OAG over the years, has issued a couple different background memos on the relationship of the small area plans, and that it provides further guidance.

It doesn't supplant the comprehensive plan, and these other things are, like I said, more background. They may be focused on particular issues, such as industrial land versus overall comprehensive planning.

But we can think about that when we get an area that's -- and looked at as much as this, because you'll see the developer has their own ideas, even.

So, we can try to rank those and organize them in a way that kind of makes them feed into each other for the Commission.

CHAIRMAN HOOD: Okay, I don't have any further questions. Thank you, Ms.
Steingasser, for engaging me in that.

Okay, any other questions or comments?

COMMISSIONER TURNBULL: Well, Mr. Chair, I just have one other comment.

The ever-observant Mr. Bergstein has just pointed out to me that there is, on page 24 of the Applicant's submittal, a time line.

Construction of the south building would commence upon receipt of the building permits expected to take 18 to 24 months. The Applicant requests stage one approval for the north building for five years, from the date of approval, and within such time, the Applicant will file an application with the Zoning Commission for a stage two PUD approval for the north building.

So, I missed that totally, so Mr. Bergstein did not.

CHAIRMAN HOOD: Okay.

COMMISSIONER TURNBULL: Thank you, Mr. Bergstein.
CHAIRMAN HOOD: Okay, any other comments or questions? Someone like to make a motion?

COMMISSIONER MILLER: Mr. Chairman, I would move the set-down for public hearing on Zoning Commission Case No. 14-12 EAJ 1309 5th Street, LLC, 1st stage and consolidated PUD's and related map amendment @ Square 3591 and ask for a second.

VICE CHAIR COHEN: Second.

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

(Chorus of ayes.)

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

MS. SCHELLIN: Staff would record the vote at 5-0-0 to set-down Zoning Commission Case No. 14-12 as the contested case.

CHAIRMAN HOOD: Okay, let's go to D, Zoning Commission Case No. 14-13. This is the Office of Planning text amendment rooftop penthouse regulations for all non-low density residential development.

We need to do a waiver for the late filing and then we'll do the set-down. Any issues on the late filing?

PARTICIPANT: No.

CHAIRMAN HOOD: We'll just waive our rules on that. Again, we know that the Office of Planning has a lot going on right now.

So, who the -- I guess it's only two people left. Mr. Lawson.

MR. LAWSON: Thank you, Mr. Chair, and certainly, our apologies for the late filing of that report.

This report is provided in response to a request from the Zoning Commission, as well as from the development community, for proposed amendments to the zoning regulations, which reflect the recent Federal amendments to the
The recently adopted amendments to the Height Act included allowing habitable space within the penthouse space, and establishing a limit of 20 feet of height and one story for habitable penthouse space.

The zoning regulations are currently much more restrictive than the Height Act, in that they limit permitted uses within the penthouse to mechanical equipment and for a very limited range, the ancillary spaces associated with rooftop recreation space for residential buildings, which are located below the Height Act height limit.

The zoning regulations also limit the height of a penthouse to 18'6" maximum, and provide limits on the size of the rooftop penthouse equivalent to .37 FAR or one-third of the roof area below -- of the roof area which is located below the penthouse.

Like the Height Act, the zoning regulations require a one-to-one setback from
the edge of the roof below.

So, this is of course, a complex issue. It impacts building form. It impacts policy objectives. It impacts the land and building economics, and there is certainly differing -- we're hearing there is differing expectations regarding the Federal Height Act amendments and how they should be implemented through zoning.

So, OP in this whole report, recommended -- made a series of recommendations that we are recommending would apply to all low-density residential construction. A clarification on the report though, that we would not intend these to -- or it was not our intent that these would apply to parts of the city where there are currently specific limits for penthouses.

An example would be the Capitol interest overlay, which limits the height of penthouses below what the zoning regulations regulate -- do for the rest of the city.
The arts overlay does the same as the Fort Totten overlay.

So, we wouldn't intend that these changes would apply in those areas, or at least we would want to look at how they would apply in those -- which of these changes would most appropriately apply there.

So, the recommendations, which I can describe in more detail if you wish me to, but just kind of in general.

They are number one, to allow 20 feet of height for all rooftop penthouses. This would be an increase from the current 18 foot six inches and would be consistent with the Height Act amendment.

Number two, permit two levels or two stories within the 20 foot penthouse -- rooftop penthouse height, if the penthouse is located entirely below the Height Act limit, that -- what I mean is the entire volume of the penthouse would be below the Height Act limit.

The zoning regulations currently do
not address the number of stories that are permitted within a penthouse, but this limit or this proposal to allow two stories would establish some certainty, but also ensure additional flexibility and opportunity to better utilize the permitted volume.

Number three, we are proposing that the regulations eliminate the limits on percentage of roof area and a limit on FAR. This would allow the one-to-one set-back requirement to dictate the maximum area of a penthouse. Again, that is consistent with the Height Act itself.

Number four, to allow all forms of habitable space within a rooftop penthouse. Habitable space, of course, is a term used in the amended Height Act, but it's not actually defined in the Height Act amendment.

However, it does appear to us clear, that the Height Act amendment does not propose to limit permitted uses, rather it's intended to provide for a significant additional
flexibility in permitted uses. The zoning regulation should allow that same flexibility.

However, as we note in our report, the Zoning Commission may wish to consider whether there are some uses that should be permitted on a rooftop, only by special exception. If so, this could certainly be advertised in the alternative to allow the public discussion on those kinds of use issues.

Finally, of course, the Zoning Commission also indicated, in some of your discussions on this issue, that you wanted to provide for a linkage between new roof structure, habitable space and affordable housing. OP is proposing to achieve this through the inclusionary zoning program for new residential habitable space, and utilizing the existing housing linkage program, to provide that linkage for new habitable office space.

These recommendations will be consistent with the Height Act and the recent Height Act amendments. They'd be not
inconsistent with the comprehensive plan for the District of Columbia, and it is proposed that these recommendations proceed forward at this time, to allow for full vetting of the issues at a public hearing. That's why the Office of Planning is recommending that this be set-down.

Office of Planning would, of course, continue to work with the Office of the Attorney General, to draft specific amendment text, which may include alternatives, if the Zoning Commission directs us to do so, and we would prepare that prior to the publication of the notification for public hearing.

Also, of course, prior to any hearing, OP will provide any additional analysis that the Zoning Commission requests us to provide, including any additional alternatives that you would like us to look at, and that's my report, and I'm happy to answer any questions.

CHAIRMAN HOOD: Okay, Commissioner
May?

COMMISSIONER MAY: So, first I have a more technical question. I guess Mr. Bergstein is already gone.

But normally, when we set-down a text amendment, we actually have the language drafted. So, I mean, this is an unusual circumstance, but you're still proposing essentially that we will be setting down for a hearing, language that is still to be developed? Is that right?

MR. LAWSON: I think the Zoning Commission could take two approaches. You could set this down in concept, to allow for more conceptual discussion, at this point.

But I think that there are a lot of people who would want to see what language might look like, and so, we would propose that that language be created and that language be made public, so that people would have a good sense of what it might be.

COMMISSIONER MAY: Okay, well, I'm
not sure we're going to come down on that. It's just kind of unusual. In some ways, it's reminiscent of what we try to do in the initial round of ZRR, trying to talk about, you know, teeing up certain issues and making decisions between the various issues, and using that as a guide to draft language. Maybe that's a model to use here. Maybe it's not, and I don't know.

I have one other more technical question, which is how do you see this potential availability of new habitable space being factored into FAR calculations? Is it all free above and above, above and beyond FAR, or is it counted against FAR or should we be tweaking FAR to allow for it?

MR. LAWSON: Well, I think that's also a question that I'm sure would come up at the public hearing. I think that our thought was that -- and our recommendation is that the FAR limit for the penthouse be eliminated and that this space be in addition to the permitted
COMMISSIONER MAY: Okay, I just want to make that clear.

Yes, I'm not sure I would stand on that, because on the one hand, you know, you want to have the -- it's not a bad thing to have that bonus space and bonus taxable space and so on, but on the other hand, one of the things that was a big topic of discussion in the Height Act was the desire to have greater flexibility on the form of buildings, and so, being able to actually push some of the FAR a little bit higher up, allows you do to a little bit more with the form of the building. So, it's a trade-off either way.

I know that we had -- that we are permitted under the Height Act change, to go to 20 feet, but I also know that we started out the ZRR with the discussion of 20 feet, but I think dropped back to 18'6" based on some resistance to that.

Is that -- is my memory correct on
that?

MS. STEINGASSER: It is.

COMMISSIONER MAY: Yes, so, maybe we should, in this circumstance, set-down 20 feet and 18'6" in the alternative, just so we know -- we send a signal that we're -- we haven't made a decision one way or the other.

We're -- and I -- you know, functionally, in terms of habitable space, I'm not sure it makes that much difference. I think that it was -- when they were pushing for 20 feet, it was driven by, I don't know, mechanical equipment or something like that.

I think the idea of tying some of this use of space to production of affordable housing is an important thing. In fact, I think we should try to pursue that fairly aggressively, and for example, if there is going to be penthouse space that's used for individual housing units, apartments or something like that, that they're actually -- you know, for anything that winds up being in
the penthouse level, there ought to be an equal amount of space in addition to any required IZ space within the rest of the building.

   I mean, that's a pretty aggressive formula, but if we're adding penthouse space that's very, very valuable, maybe that is a good way to get the right trade-off.

   I would also say that, you know, one of the things that was very important to me in all of the discussions of the Height Act, if we were going to go this direction, was to emphasize rooftop recreation space.

   So, communal space on the rooftop, I do not think should be tied to any kind of inclusionary zoning. I think it's something that, you know, we should be promoting the communal use of the rooftop more than anything else, in my mind.

   Also, when we get into the hearings, it would be helpful to see some diagrams of sort of proto-typical conditions and I'm particularly concerned, and I think this will
show up in the diagrams, as we start to nail -- analyze it is, set-backs from side lot lines.

This came up in one of the earlier set-down cases, because I think that we don't want to, you know, just assume that the only thing we really need a set-back from is the front facade, because those side facades are often very visible, because there is a historic building next door or something like that, and I think we need to have some set-backs in those circumstances.

Maybe it's not the same one-to-one, but I think that it's something that should be addressed and understood.

I think that hits all the issues that I was interested in this time around, and again, I'm still not sure of what the -- whether we want to review concepts or whether we want to review the actual text next time.

VICE CHAIR COHEN: I'm sure Commissioner May was channeling me, since, you know, all night, yes.
I haven't been as deeply engaged with the nuances and the specifics of the Height Act. Actually, I've been -- I want to ask Commissioner May.

He's talking about setting it down with 18'6" and 20, and I didn't understand why that would ever be necessary, because the Height Act, I thought is up to 20 feet, but --

COMMISSIONER MAY: Well, just because --

VICE CHAIR COHEN: That's the nuance I missed.

COMMISSIONER MAY: Well, I think we got some push-back in the initial ZRR discussions, about bumping it up to 20 feet, and so, obviously some members of the community are concerned about it going any higher than it is.

Certainly, we even heard that in the Height Act discussions at NCPC, you know, people were questioning the 20 feet. People were questioning, you know, all of the penthouse changes.
So, it was just as an alternative, and again, if you're going to do two -- if you're going to do a single story, you don't really need to have 20 feet, a single story of habitable space.

VICE CHAIR COHEN: Well, again, 20 is the maximum. It isn't --

COMMISSIONER MAY: Right, we don't have to go to the maximum though. It's a maximum.

VICE CHAIR COHEN: Well, that is our discretion. That's what I was hoping we would have the opportunity to implement, our discretion on these.

COMMISSIONER MAY: Right.

VICE CHAIR COHEN: Yes.

COMMISSIONER MAY: Right, and so, but I'm just suggesting that we might want to advertise 18'6" and 20 as two alternatives, to send folks the message that we're -- we haven't made up our mind.

VICE CHAIR COHEN: I won't belabor
this because obviously, we're going to be
having a public hearing on this.

But I do really emphasize the
importance, as was articulated by my colleague,
about the affordable housing and pushing that,
where as I said many, many times, I see it --
and I am not Chicken Little. There is a crisis
in housing.

So, anything we can try to promote
in addressing that issue, I think is very
important to the city and its live-ability for
many people.

So, I thought this was a very
complete memorandum. I prefer text, but you
know, whatever the majority wants, I can go
along with. Thank you.

CHAIRMAN HOOD: Okay, anybody
else? Commissioner Miller?

COMMISSIONER MILLER: Thank you,
Mr. Chairman, and thank you, Ms. Steingasser
and Mr. Lawson, for coming forward with this
set-down report, which many of us -- several of
us asked you to do, and I know you have a lot of other things to do, but you have come forward with something that I support.

I support the direction that's in this report, almost in its entirety.

On the point of the text versus -- your own report says, on page two, based on what is set-down by the Commission, OP will work with OAG to draft specific text and -- amendment text, which may include alternatives, prior to publication of the notification of the public hearing.

So, I assumed from that sentence, that we were going to see that text and maybe do some kind of sign off or check off on it, since -- if there were time to do it, but that's what I would support, that we do advertise text in this matter. That seems to be what you were proposing.

I also support the comments of Commissioner May and Vice Chair Cohen on affordable housing. I had argued during the
Height Act debate, that the very point that you made, Commissioner May, that there needs to be that linkage, if we're going to be giving the most valuable additional space on top of the building for it, additional habitable space, whether it's residential or commercial, that we ought to have -- I think I need to set a time one-to-one -- a one-to-one requirement of affordable housing.

So, I would support advertising in the alternative from what OP has presented, not just having IZ, the normal IZ applied, but a stronger affordability level, a one-to-one amount and they -- a deeper affordability level, just make it go to 60 percent, for this particular.

I know we have the IZ case that we're going to be getting, but this is moving. So, and I'd like to see that as an alternative.

Mr. Lawson, when you said two levels of storage on the second point, within the 20 foot roof penthouse height, if the penthouse is
located entirely below the Height Act amendment, and maybe I'm just -- is it entirely at or below the Height Act limit? It's entirely within the Height Act limit? You did use the word 'within' in one part of that.

MR. LAWSON: I was going -- it's kind of hard to explain that one, and this is resulting from conversations with OAG.

They feel that the Height Act is explicit enough that you've -- if a portion of the height of the penthouse exceeds the height limit for that location, then only one story would be permitted.

So, this would only be in an instance where the zoning regulations limit the height of the building to, I guess 20 feet or more below what the Height Act would allow for that building.

In other words, the entire height of the penthouse would have to be below the height of a building that the Height Act would allow.

It couldn't bisect that penthouse
somehow.

COMMISSIONER MILLER: Okay, I may need to see a drawing, at an earlier hour.

MR. LAWSON: Yes.

COMMISSIONER MILLER: Just to understand the --

MR. LAWSON: We totally understand the desire for some drawings on this, and we actually started to put some drawings together and realized that just because of the variabilities that are involved in this, that the diagrams weren't quite working out, given the time frame that we had.

But we think it's a great idea and we'll make sure that we diagram those out, so that they're much clearer.

COMMISSIONER MILLER: Right, and on your point number four, concept number four, rooftop penthouse use, allow all forms of habitable space within a rooftop penthouse, provided the use is permitted within that zone.

I think that is the appropriate way
to go. I don't think we need to start carving
out uses that go to special exception or not.
I think that -- I personally think that that's
the way to go. Should it be all uses that are
permitted in that zone?

The example that you provided about
a nightclub would be regulated by another
regulatory body, that we're all familiar with.
So, I'm not sure we need to be getting to noise
and other issues related to restaurants and
nightclubs on roofs, when they go for an ABC
license, they can deal with that, with somebody
else.

Anyway, I'm very supportive of this
going forward. Thank you.

CHAIRMAN HOOD: Okay, on that
point, tonight my colleagues and -- well, the
ones who did the remand, we had to get into
noise.

So, anyway, that's just -- I'll
comment when it's my appropriate time.

Commissioner Turnbull?
COMMISSIONER TURNBULL: Thank you, Mr. Chair. Yes, I am assuming that when you talk about the height, you're talking from the top of the roof deck of the main building, to the top of the roof deck of the penthouse, as 20 feet.

MR. LAWSON: That is correct, exactly the same way that we measure the height now.

COMMISSIONER TURNBULL: Okay.

MR. LAWSON: Yes.

COMMISSIONER TURNBULL: I was just -- Commissioner, are you waiting for text, before we set this down then, or --

COMMISSIONER MILLER: Well, I'm prepared to set it down. It sounded like they were going to develop the text before they go to a public hearing notice. So, we're going to --

COMMISSIONER TURNBULL: So, we'll see --

COMMISSIONER MILLER: We'll get to
see it. I'm prepared to --

COMMISSIONER TURNBULL: Okay.

MS. SCHELLIN: Typically, the Commission does not see our public hearing notices. When you set it down OP and OAG work together on the text, and then we publish it.

COMMISSIONER MAY: Yes, and usually, we have some form of draft of the text that we actually set-down with some guidance --

MS. SCHELLIN: Right.

COMMISSIONER MAY: -- from OAG and OP, about what needs to be tweaked.

So, this is just -- it's a little unusual.

MS. SCHELLIN: Little different, right.

COMMISSIONER MAY: I mean, and if in effect, what you're saying is that we see it again, it seems to me that all we're doing now is giving them some suggestions on how to write the text, and then we'd set it down when we see the text. I'm not sure if that's what --
COMMISSIONER TURNBULL: Well, we would -- will we be seeing something before the hearing or it will appear at the hearing?

MS. STEINGASSER: You would definitely see it before the hearing. You would see it at least 60 days, it would be in the -- you know --

COMMISSIONER TURNBULL: Okay.

MS. STEINGASSER: -- fully noticed as any text amendment would be.

I think what Ms. Schellin is saying is that you would not see it before it got notice, before it --

COMMISSIONER TURNBULL: Okay.

MS. STEINGASSER: -- went into the D.C. Register.

COMMISSIONER MILLER: I guess I'm comfortable with that, as long as you provide it to us, so that when you send it to the D.C. Register, at least have the courtesy to send it to us, so we know what we just set-down.

CHAIRMAN HOOD: Okay, I am not sure
about some of the bullet points here.

But anyway, I will wait to see how this pans out, especially when we get some text, because I did not have the opportunity to do a lot with NCPC, to understand some of the issues that took place there.

I do know about what the Council, and I guess the Congress mentioned about what can do with additional space.

But there are some concerns that I have, especially when we're talking about rooftop and I understand what I'm -- the discussion I'm hearing about the one-to-one set-back, unless I don't understand it.

But you know, rooftops and penthouses are your most expensive. I don't -- if we can't even get affordability most of the time on regular floors, I don't know how we're going to get it on the rooftop.

But anyway, that may be an issue out on the stand. Maybe I need to delve into this a little more, as we proceed further, and then
as far as any activities that go on, not disagreeing with my colleague, Commissioner Miller, but I think any activities, and I'm going to be consistent with what I said about another activity we did here on the Commission.

Special exception, any time you have public input, I'm going to be consistent, I always like to see -- make sure that we have public input. If we're talking about different uses, I think, you know, we still need to make sure -- and I agree with the argument about there is other bodies that deal with noise, but when you said that tonight, I just thought back about a few minutes -- couple hours ago, where Commissioner May and Turnbull and Hood were sitting up here dealing with noise issues that were remanded back to this body.

So, I think while I may not understand all the inconsistencies of this, I'm looking forward to talking about this, because the last two bullet points kind of give me pause, and I will -- I guess, maybe I just need
a little more understanding.

But however we move with it, let me ask this, colleagues, are we talking about setting this down, or we're waiting for text? I've heard two different discussions. So, you know?

COMMISSIONER MAY: I don't know. I mean, I -- this is -- it's just so different for us to not have the text in front of us.

CHAIRMAN HOOD: Maybe that's personally what I need, to help me understand a little more, because these last two bullet points -- and I understand the argument about affordable housing. I'll tell you, Vice Chair Cohen, I was riding by Wendy's one day, and I said, "Well, maybe we can put some housing on top of that Wendy's."

But I'm not making light of it. I just think -- I think affordable -- and I've always asked this question, affordable to who? What is affordable housing? That's the question.
So, I don't need anybody to answer it, but I mean, that's just a question. But did we throw anything down for doing different things to provide more housing, and it's really not affordable and we're not reaching the people that we need to reach?

But that's an argument for another day. Let's comment on whether we're going set-down the text.

COMMISSIONER MILLER: Mr. Chairman, if I could just clarify. I was not talking -- I don't think the report was recommending or anybody else was advocating for the affordable housing linkage, to put the affordable housing on the roof.

It was that if we're going to allow market rate housing on the most valuable housing on the roof, that they have to provide a one-top-one elsewhere in the building. That's what I was talking --

COMMISSIONER MAY: And above and beyond the IZ that might --
COMMISSIONER MILLER: Yes, and --

CHAIRMAN HOOD: And again, I preface my remarks with maybe I don't understand it at all, but as we do this, and especially when we talked about eliminating the special exception of different uses up on the roof. I think that's what we were saying.

But anyway, I don't want to get into a debate. I'm just saying where this Commissioner is, maybe -- I said that up front, that I may not understand all the inter-workings. I did not have the privilege or opportunity to get into what was going on over at NCPC. I did it right here.

So, I mean, you know, you hear through the grapevine, but I did not attend that hearing. So, some of the things that went on over there, I'm sure that probably will -- as we already knew, would come over here, and this is one of the things that I am not up to speed on, but I will get up to speed, depending upon when we get text or whether we do it as we've
done when we did the ZRR context hearings.

    So, I am not sure. I'm still confused though. Are we asking for text or are we waiting on text or we're setting this down as --

COMMISSIONER MAY: Mr. Chairman, I mean, I am -- maybe I'm just old fashioned about this, but I would be more comfortable setting down actual text, or alternatively having a meeting where we do the sort of thing that we did at the beginning of ZRR, where we -- you know, we have these different questions posed to us and we determine a direction and then the text gets set down from that.

    I mean, frankly I don't think that is the best strategy, because that's, I think going to take us too long. I'd just assume have them draft text, based on the feedback that we've given them tonight, and then, you know, we'll take it up at another meeting in a month or so, and set it down then with the actual text in hand.
CHAIRMAN HOOD: Okay, and that's why I was asking. I wasn't clear, the direction I was hearing. I know what I need to do, but I was just trying to clear direction from how this Commission wanted to proceed.

Vice Chair Cohen?

VICE CHAIR COHEN: Yes, I am willing or hoping to set it down, and getting the text as it's worked out between OP and OAG, and that will be published and we'll have it in hand. So, we are prepared for the meeting, and basically, we saw the substance of what will be interpreted into text, and they have our feedback, OP does.

So, I am willing to move ahead with this and I guess, listen to my other colleagues, as well, including yourself.

CHAIRMAN HOOD: Okay, thank you.

Commissioner Miller?

COMMISSIONER MILLER: Yes, I could support that approach. You know, if we were -- part of the issue is that we're going -- about
to go into this little August recess, and I
don't know how long it's going take OP and OAG
to draft something for this, but I assume it's
not before Thursday.

So, which is our last meeting before
the August recess. So, I'm comfortable with
what the Vice Chair proposed, and we'll see it
60 days beforehand, and if we have concerns
about it, we can express them like the public
can at the public hearing.

MS. SCHELLIN: Chairman Hood,
could I make a suggestion?

I don't know if this would help
Commissioner May, maybe and maybe not, but I was
just going to throw out a suggestion.

If you set it down tonight, staff
could circulate the text to the Commission
before publishing it and get your approval. If
that does not work --

CHAIRMANN HOOD: The problem with --
I want to go to Commissioner Turnbull --

MS. SCHELLIN: Okay, Chairman --
Commissioner May is shaking his head, so that does not --

CHAIRMAN HOOD: The problem -- okay, we're good. You already did. I wanted to tell what my problems are with that.

Okay, Commissioner Turnbull?

COMMISSIONER TURNBULL: If we stay here much longer, I'm going to need a new razor. I'm going to need a shave.

No, all foolishness aside. Mr. Chair, you have a direction you want to go. I will second your direction. If you want to defer it, defer it.

CHAIRMAN HOOD: I want to go in the -- obviously, from my comments, I need to see text.

COMMISSIONER TURNBULL: Okay, then we're going to see text.

CHAIRMAN HOOD: That's where I am.

COMMISSIONER TURNBULL: And the discussion.

CHAIRMAN HOOD: You could see that
from my comments.

    COMMISSIONER TURNBULL: All right.

    CHAIRMAN HOOD: I didn't even understand what -- so, anyway, I don't know what it takes to get us there. Do we need to set it down or do we need to wait or whatever we need to do. Do we need to vote on it?

    MS. SCHELLIN: Can I look to -- not if you're going to defer it. Can I just look to --

    CHAIRMAN HOOD: Well, three want text.

    MS. SCHELLIN: Okay.

    CHAIRMAN HOOD: I think.

    MS. SCHELLIN: So, that --

    CHAIRMAN HOOD: Thank you, Commissioner.

    MS. SCHELLIN: Well, that would be deferring.

    CHAIRMAN HOOD: Because I guess you recognized my comments, that I needed to see something.
MR. LAWSON: Absolutely.

CHAIRMAN HOOD: Okay, so, three wanted the text. Three outnumber two. So, we will see text.

MS. SCHELLIN: So, our next meeting would be September 15th. So, I would ask OP if that first meeting in September works for them? Would they have text in time for that meeting?

MR. LAWSON: We could certainly have text well in advance of that.

Our concern, our reason we brought this forward is that there are a lot of people out there who are very confused about what they can do in their penthouse, and you've been hearing that in some of your recent cases.

We are concerned about that kind of delay. To be honest, I don't think the text will be particularly difficult to create for the most part. Certainly bullet points one through four, whether they're what you want to proceed with or not, it would not be hard to draft that text.
The more difficult part is addressing point number five, which is the housing linkage. That might be a little bit more complicated to create, but I think we have a very -- I think we have a pretty good sense of the Zoning Commission's direction.

So, do we have an opportunity for a special public meeting before the 15th? Can we do it like at six o'clock on one of the nights of our other --

MS. SCHELLIN: Those hearings actually start at six o'clock. They are the ZRR hearings.

CHAIRMAN HOOD: We could do it at 5:15.

COMMISSIONER MAY: Do it at 5:15, yes.

CHAIRMAN HOOD: Why is it when I say special public meeting, everybody gets upset. When somebody else says it, it's all right?

MS. SCHELLIN: Yes, all of those meetings -- the prior hearings, prior to the
September 15th meeting all start at six o'clock, because they're all ZRR hearings.

So, we could do a special public meeting on September 4th, although I'm not sure that is going to be early enough for a few. Sounds like they want to do it before then. I don't know.

Is that early enough? September 4th?

MR. LAWSON: Well, I mean, it's very much up to the Zoning Commission, how they want to proceed. If you shared our kind of urgency of dealing with this issue, no matter how you decide to vote on it, we could try to bring forward text, actually for July 31st.

CHAIRMAN HOOD: Does anybody want to have a quick meeting in August?

COMMISSIONER MAY: Thursday?

CHAIRMAN HOOD: No, in August.

COMMISSIONER MAY: No, no, no, are you suggesting --

MS. SCHELLIN: He is saying this
Thursday.

CHAIRMAN HOOD: Thursday, okay, well, I'll take August back.

COMMISSIONER MAY: I mean, if we could get text Thursday, I'd talk about it again on Thursday.

CHAIRMAN HOOD: Thursday what time? Five-fifteen? Five o'clock? I don't know what time. What time does the hearing start?

MS. SCHELLIN: We're suppose to have five days to publish a -- to notice a special public meeting. We don't have time.

CHAIRMAN HOOD: We can't waive the rule?

COMMISSIONER MAY: Monday?

CHAIRMAN HOOD: Because of the urgency?

COMMISSIONER MAY: Monday?

COMMISSIONER MILLER: Is that a continuation of this meeting?

COMMISSIONER MAY: Yes, really.
CHAIRMAN HOOD: Monday is August.

We'll do one -- you want to do one meeting in August?

MS. SCHELLIN: I won't be here, but Donna will be.

CHAIRMAN HOOD: Okay, well, what about -- can we do the 31st?

MS. SCHELLIN: You can waive the rule --

CHAIRMAN HOOD: Because of the urgency --

MS. SCHELLIN: -- and then if it's a problem, I'm sure OAG will advise us.

MR. LAWSON: Actually, I hate to interject. Ms. Steingasser just reminded me that I'm actually scheduled to be at a community meeting on the 31st. So, it would be unlikely that I would be here to discuss any text amendments that we bring forward. Sorry.

MS. SCHELLIN: Can we just do a special public meeting on August 11th? I'll be here. Does anybody want to come in? No?
CHAIRMAN HOOD: It's going to take us all night to figure this out.

COMMISSIONER MAY: Well, you know, on the one hand, I appreciate the urgency of trying to get it moved as quickly as possible, because people are concerned about what they can do.

But you know what? The zoning regulations are what they are right now and they can do what they can right now. If they're so anxious about it, they should just, you know, move it. We're only talking about 30 days. It's been around for 100 years.

MS. SCHELLIN: So, then are we back to special public meeting on September 4th?

CHAIRMAN HOOD: Let's go back to the normal schedule, September 4th.

MS. SCHELLIN: At 5:15?

CHAIRMAN HOOD: Is 5:15 -- you think that's enough time?

MS. SCHELLIN: Forty-five minutes?

MS. STEINGASSER: We'll be ready.
CHAIRMAN HOOD: Because our hearing starts at six.

MS. SCHELLIN: Six, o'clock.

CHAIRMAN HOOD: Why don't we say -- can we just say five o'clock?

MS. SCHELLIN: Five o'clock?

CHAIRMAN HOOD: We might as well just say five o'clock, just in case.

MS. SCHELLIN: Okay, 5:00 special public meeting, September 4th, it's a Thursday.

MS. STEINGASSER: Could I get some clarification on the housing linkage issue? Are you interested in linking only residential uses or are you also interested -- housing linkage and Mr. May had talked -- Commissioner May had talked about not including communal use of the roof.

COMMISSIONER MAY: Yes, I mean, I didn't see the importance of doing that as a -- doing the linkage, in order to get that space, but I'm -- that was just my initial reaction. You know, I could see it, if there's an argument
to do it the other way around, that's fine too.

I think you should just make a proposal, and we'll discuss it, based on the text.

CHAIRMAN HOOD: Okay.

MS. STEINGASSER: And just to wrap back up. The Commission did discuss just two weeks ago, the option of accepting alternative drawings from Applicants, if they were at that point, that critical decision making junction, that they could go ahead and submit to, without trampling on any sense of protocol with the Commission. So, that option still exists.

CHAIRMAN HOOD: Yes, I think we mention and I think that is still on the table.

Anything else? Ms. Steingasser or Mr. Lawson?

MR. LAWSON: No, thank you.

CHAIRMAN HOOD: Okay, all right.

Ms. Schellin, do we have anything else?

MS. SCHELLIN: No, sir.

CHAIRMAN HOOD: Okay, I want to
thank everyone.

COMMISSIONER TURNBULL: Mr. Chair,

I just want to ask the Office of Planning.

One of the things which I asked about once before, and it's nit-picking one thing, was temporary roof structures, which I guess the ZA approves, but some of these roof structures, these tents are up for at least almost eight months of the year. Some of them look like they don't meet the setback requirements. I don't even know if they meet the height requirements.

But some of these are huge and they're up there, they're almost some like, permanent structures, and I'm just -- I'm not going to name some of these buildings, but they're up at least, as I say, over half a year, and to me, they're -- I don't know if they're regulated or if they're governed by anything, there is -- or whatever.

It just seems like they're an anomaly that exists, and maybe no one is
complaining about it, other than -- I look at them sometimes, and just say, what the hell is this?

So, I don't know if it's something you want to think about and get back to us.

MS. STEINGASSER: We'll work with the Zoning Administrator and see if we can't wrap that into ZRR. We have talked about temporary uses, and how we could link that to --

COMMISSIONER TURNBULL: Structures, okay. Thank you.

CHAIRMAN HOOD: Okay, anything else, anyone? All right, I want to thank everyone for their participation in this meeting, and if you're not going to join us on Thursday, we hope you enjoy the month of August, and we have a very busy schedule coming up in September and October, November and December, and I thank my colleagues for all the work they put in, Office of Planning, Office of Attorney General, as well as the Office of Zoning staff.
With that, this -- and DDOT.

Anybody else? Am I missing anybody? I want to thank everybody. If I didn't name you, I want to thank you too.

Okay, so with that, this meeting is adjourned.

(Whereupon, the above-entitled matter went off the record at 11:00 p.m.)