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GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Office of Planning  
Text Amendment re: Rooftop Penthouse Regulations

Zoning Commission  
Various Agenda Items  
11/10/14 Public Hearing

6:44 p.m. to 7:20 p.m.  
Monday, November 10, 2014

Jerrily R.Kress Memorial Hearing Room  
Judiciary One Building  
441 4th Street, N.W., Suite 220 South  
Washington, D.C. 20001

1 Board Members:

2 ANTHONY HOOD, Chairperson

3 MARCIE COHEN, Vice-Chairperson

4 ROBERT MILLER, Commissioner

5 PETER MAY, Commissioner

6 MR. TURNBULL, Commissioner

7

8 Office of Zoning:

9 SHARON SCHELLIN, Secretary

10 Office of Planning:

11 STEPHEN COCHRAN

12 JENNIFER STEINGASSER

13 JOEL LAWSON

14 MAXINE BROWN-ROBERTS

15

16 Office of Attorney General:

17 JACOB RITTING

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

2 CHAIRPERSON HOOD: Okay. Are we ready to  
3 get started? Good evening ladies and gentlemen,  
4 this is regular public meeting 1,398 meeting  
5 session, 23rd of 2014. Today is Monday, November  
6 the 10th, 2014. We're located in Jerrily R. Kress  
7 Memorial Hearing Room located at 441 4th Street  
8 N.W. Suite 220 South.

9 My name is Anthony Hood. Joining me is  
10 Vice Chair Cohen, Commissioner Miller, Commissioner  
11 May, and Commissioner Turnbull. We're also joined  
12 by the Office of Zoning staff, Ms. Sharon Schellin,  
13 the Office of Attorney General, Mr. Ritting, Office  
14 of Planning, Ms. Steingasser, Mr. Lawson, Ms.  
15 Brown-Roberts, and Mr. Cochran.

16 We do not take any public comments at our  
17 meetings unless we ask someone to come forward.  
18 I'm reminding everyone that these proceedings are  
19 Webcast live. Ms. Schellin, do we have any  
20 preliminary matters?

21 MS. SCHELLIN: Yes, sir. Today the Office  
22 of Zoning and the Office of Planning were going to  
23 make their filing on the ZRR, Case No. 08-06A.  
24 While the Office of Planning was ready to make  
25 their submission today, the Office of Zoning was

1 not because the Office of the Attorney General was  
2 still reviewing subtitles X -- I'm sorry, Y and Z.  
3 So because the Office of the Attorney General still  
4 needs to review, do some review, the Office of  
5 Zoning decided to ask for an extension of time to  
6 file at the latest, this Friday the 14th of  
7 November.

8           And we contacted the Office of Planning  
9 because our subtitles have some references that  
10 they need for the subtitles that they're working on  
11 and so they held back their filing because they  
12 need to make some changes and the subtitles that  
13 they're working on. So, we would also ask that the  
14 extension be made for them so that they can make  
15 those corrections to the reference -- or those  
16 reference corrections in their subtitles and that  
17 we both be able to make that filing on Friday the  
18 14th.

19           CHAIRPERSON HOOD: Okay. Thank you, Ms.  
20 Young. Our colleagues at the request made of the  
21 Office of Zoning I would move that we accept the  
22 recommendation from Michelle and then ask for a  
23 second.

24           MR. TURNBULL: Second.

25           CHAIRPERSON HOOD: Moved and proffer a

1 second. Any further discussion?

2 All those in favor, aye.

3 (Vote taken.)

4 CHAIRPERSON HOOD: Any opposition?

5 Michelle will record the vote.

6 MS. SCHELLIN: Yes, sever record the vote,  
7 five to zero to zero to grant the extension of time  
8 to Friday, November 14th to allow the Office of  
9 Zoning and the Office of Planning to make the  
10 submission with regard to the ZRR Case No. 08-06A.  
11 Commissioner Hood moving, Commissioner Turnbull  
12 seconding, Commissioners Miller, Cohen, and May in  
13 support. Thank you.

14 CHAIRPERSON HOOD: Do we have any other  
15 preliminary matters?

16 MS. SCHELLIN: No, sir.

17 CHAIRPERSON HOOD: Okay. Let's go right  
18 along with the calendar. Zoning Commission Case  
19 No. 06-40C. This is the Gateway Market Center,  
20 Inc., correction to order number 06-40C. Michelle.

21 MS. SCHELLIN: Yes, so this order was  
22 published in the D.C. Register on March 14th, 2014.  
23 And since that publication it was discovered that  
24 an error existed regarding the loading facilities  
25 and staff would ask for permission to publish the

1 corrected order that the Commission has been  
2 provided with.

3 CHAIRPERSON HOOD: Okay. Colleagues --  
4 thank you, Michelle. And colleagues, we see the  
5 corrected order in front of us. The correction  
6 dealing with the loading space has been deleted in  
7 this corrected order. I think this is very  
8 straight forward. Any comments?

9 I would move that we accept this corrected  
10 order and ask for a second.

11 MS. COHEN: Second.

12 CHAIRPERSON HOOD: It's moved in property  
13 second. Any further discussion? All those in  
14 favor, aye. Any opposition? Michelle, why don't  
15 you record the vote?

16 MS. SCHELLIN: Staff records the vote five  
17 to zero to zero to grant publication of the  
18 corrected order in Zoning Commission Case No. 06-  
19 40C. Commissioner Hood moving, Commissioner Cohen  
20 seconding, Commissioners May, Miller, and Turnbull  
21 in support.

22 CHAIRPERSON HOOD: Okay. Next let's go  
23 with the final action, Zoning Commission Case No.  
24 03-12S/03-13S Square 769, LLC. and DCHA, two year  
25 PUD time extension in Square 769. Michelle.

1 MS. SCHELLIN: The applicant is requesting  
2 a two year time extension in which to file for the  
3 building permit for the office building at 250 M  
4 Street Southeast. At Exhibit 5 we have an OP  
5 report in support of this request and we'd ask the  
6 Commission to consider final action on this case.

7 CHAIRPERSON HOOD: Okay. You've heard the  
8 request in front of us. Any comments? Vice Chair  
9 Cohen.

10 MS. COHEN: Thank you, Mr. Chairman. The  
11 ANC NOP has approved this, but I just wanted to  
12 express for the record that the information  
13 provided in support of the extension came from  
14 entities that have an identity of interest with the  
15 applicant. Well, with one of the applicants. And  
16 I actually find that to be of some concern, but I  
17 will -- it will not affect my vote on this. I just  
18 wanted to state it so that in the future people  
19 understand that they should have third-party --  
20 unaffiliated third-parties providing the backup for  
21 the extensions.

22 CHAIRPERSON HOOD: Okay. Any other  
23 comments?

24 MR. TURNBULL: Mr. Chair, I guess the only  
25 other thing is that this would be the third

1 extension which I think may be at the limit of us  
2 being able to extend it further. I think that  
3 should be noted.

4 CHAIRPERSON HOOD: Okay. I would agree.  
5 I like to call it the Herb Franklin Bill. Herb  
6 Franklin did not like a lot of extensions and every  
7 time I see us making these type of extensions we go  
8 back the Herb Franklin Bill. So if anybody still  
9 talks to him tell him I now call it the Herb  
10 Franklin Bill. But I would agree, Mr. Turnbull,  
11 and send a clear note that they need to move  
12 forward with this.

13 Any other comments, or questions? Would  
14 someone like to make a motion?

15 MR. TURNBULL: Mr. Chair, I would move  
16 that we approve final action in Zoning Case No. 03-  
17 12S/03-13S, Square 769, LLC. in DCHA two year PUD  
18 time extension at Square 769.

19 CHAIRPERSON HOOD: It's been moved and can  
20 I get a second movement to property second?

21 MR. MILLER: Second.

22 CHAIRPERSON HOOD: Any further discussion?

23 (No audible response.)

24 CHAIRPERSON HOOD: I would also ask that  
25 the applicant update -- yeah, I would ask that the

1 applicant also provide an update to the overall PUD  
2 status, including the projections and delivery of  
3 the remaining affordable housing units while  
4 compromising a commitment to a mix of incomes in  
5 future residential buildings. So, this is  
6 something that we're going to be looking from, from  
7 this applicant as we move forward. So moving  
8 properties. Anything else?

9 All those in favor, aye.

10 Any opposition? Michelle, would you  
11 record the vote?

12 MS. SCHELLIN: Staff records the vote five  
13 to zero to zero to approval final action in Zoning  
14 Commission Case No. 03-12S/03-13S, Commissioner  
15 Turnbull moving, Commissioner Miller seconding,  
16 Commissioners Cohen, Hood, and May in support.

17 CHAIRPERSON HOOD: Okay. Next, B Zoning  
18 Commission Case No. 14-04. This is Professional  
19 Associates and IFC Consolidated PUD in Square 74.  
20 Michelle.

21 MS. SCHELLIN: Yes, sir. This one we have  
22 Exhibits 37 and 39 are the applicant submissions  
23 regarding his draft of conditions and amenities,  
24 and we'd ask the Commission to consider final  
25 action on this case this evening.

1           CHAIRPERSON HOOD: Okay. Let's open up  
2 any comments, questions, or motions.

3           We did get something from Instant PC,  
4 right? Didn't we, on this one? Okay. Maybe I'm  
5 talking about something -- okay. All right.

6           Any other comments?

7           MR. MAY: There was a referral in the  
8 record.

9           CHAIRPERSON HOOD: Yeah, I saw the  
10 referral but I thought we got something.

11          MR. MAY: We didn't get a -- not yet?  
12 Okay.

13          MS. SCHELLIN: I think they met on  
14 Thursday, maybe. Did they take it up on Thursday?

15          MR. MAY: Yes, they met on Thursday and  
16 it's all a blur.

17          MS. SCHELLIN: Right. And I don't think  
18 they've submitted anything. I mean, we haven't --  
19 I haven't seen --

20          MR. MAY: I don't recall this actually  
21 being taken up then.

22          MS. SCHELLIN: Yeah. Haven't gotten  
23 anything. If it's not in the record we didn't get  
24 anything.

25          MR. MILLER: It might be on the delegated

1 actions.

2 MR. MAY: Yeah, it probably was delegated.

3 MR. MILLER: To the executive director.

4 CHAIRPERSON HOOD: Okay. Well, all right,  
5 well, anyway.

6 MR. MAY: Did the applicant have the  
7 delegated --

8 MR. RITTING: Yeah, but it's not on the  
9 record.

10 MR. MAY: That's okay.

11 CHAIRPERSON HOOD: Okay, well --

12 MR. RITTING: I'm sorry; I didn't say that  
13 into the microphone. I said that there is a  
14 delegated action from NCPC, but it's not in the  
15 record before you.

16 CHAIRPERSON HOOD: Okay. All right.

17 MR. MAY: We could accept it into the  
18 record in order to make the record complete, right?

19 MS. SCHELLIN: No, because the record is  
20 only open for NCPC to make the submission.

21 CHAIRPERSON HOOD: Okay, do we --

22 MR. MAY: Well, we could waive our rules  
23 and --

24 CHAIRPERSON HOOD: Yeah, we can waive. We  
25 can do anything. Well, I won't say could do

1 anything. We shouldn't do anything, but -- is this  
2 a show-stopper Colleen with making --

3 MS. SCHELLIN: No.

4 CHAIRPERSON HOOD: Okay. All right.

5 MR. MILLER: Mr. Chairman, I would move  
6 that we take final action on Zoning Commission Case  
7 No. 14-04, Professional Associates and IFC  
8 Consolidated PUD at Square 74 and ask for a second.

9 MS. COHEN: Second.

10 CHAIRPERSON HOOD: It's been moved in  
11 property second. Any further discussion. All  
12 those I favor, aye. Any opposition? So would the  
13 staff record the vote?

14 MS. SCHELLIN: Staff records the vote five  
15 to zero to zero to approve final action, Zoning  
16 Commission Case No. 14-04, Commissioner Miller  
17 moving, Commissioner Cohen seconding, Commissioners  
18 Hood, May, and Turnbull in support.

19 CHAIRPERSON HOOD: Okay before we -- I  
20 don't want to rearrange the -- before we take the  
21 next proposed -- I mean, the next final action, I  
22 want to read the ZRR Next Steps while we have an  
23 audience, because typically I save this for last  
24 and when we get to the end the room will be empty  
25 and I'll be speaking to my colleagues and Webcast

1 Live and that will be it. And this is very  
2 important.

3 The Zoning Commission's next steps for  
4 ZRR, status Next Steps update. The Office of  
5 Planning is in the -- I'm sorry, the Office of  
6 Zoning is in the process of developing a program  
7 for use once the Commission takes proposed action.  
8 And the proposed rulemaking is published in the  
9 D.C. Register for the public comment period.

10 This program would allow users to access  
11 the text and make comments on each subtitle,  
12 section, and/or subsections. This will be in real  
13 time, meaning that each person making comments will  
14 be able to see the other comments of all others  
15 while making their comments. This will not be done  
16 through ISIS, so there is no need for an account to  
17 be set up. Just simply type in your name and start  
18 making comments.

19 And that is how we're going to proceed  
20 with the ZRR Next Steps. If I was not clear in  
21 what I said you can always contact the office, or  
22 for those who may watch it Webcast Live, you can  
23 replay it because I had to read it two or three  
24 times to make sure I understood the way we were  
25 proceeding.

1           So, let's go back to the agenda,  
2 colleagues. C, Zoning Commission Case No. 13-14,  
3 Vision McMillan Partners, LLC., First H PUD related  
4 map amendment and consolidated PUD as Square 3128.  
5 Ms. Schellin.

6           MS. SCHELLIN: Yes, sir. On 13-14 we have  
7 Exhibits 863, 864, the applicant's post-hearing  
8 submission. We had a request from DDOT to reopen  
9 the record for a late submission which was granted  
10 and their submission is at Exhibit 866. We had a  
11 request to reopen the record from Stronghold Civic  
12 Association, which was granted. And their  
13 submission is at Exhibit 868, 67A. There was a  
14 request to reopen the record from Friends of  
15 McMillan Park, which was granted, and their  
16 submissions are at Exhibits 868A and 868B. And the  
17 applicants submitted a response to both submissions  
18 that were made by Stronghold Civic Association and  
19 the Friends of McMillan Park at Exhibit 869.

20           CHAIRPERSON HOOD: Okay. Let's open it up  
21 for comments. There were some last minute. If we  
22 need to refresh our memories with some of the  
23 things that were reopened as late as about an hour  
24 and a half ago, we can take our time and try to  
25 walk through these if there are any other comments.

1 Let me open it up.

2 Vice Chair Cohen.

3 MS. COHEN: Well, thank you, Mr. Chairman.  
4 I just wanted to restate for the record that I did  
5 not participate in this hearing.

6 CHAIRPERSON HOOD: Okay.

7 MS. COHEN: Nor will I participate in the  
8 decision, of course.

9 CHAIRPERSON HOOD: All right. So there's  
10 four of us, gentlemen, so let's start with the  
11 Stronghold. You know, I'm always disturbed when I  
12 see a community which -- I think I mentioned  
13 Stronghold, and I realize they were not a party,  
14 but I'm always concerned when a community right  
15 next to, adjacent to any project, has raised a  
16 level of concerns. That concerns me.

17 I thought that there was still some more  
18 discussion. I know there's some other groups out  
19 there that are still having discussions, but I'm  
20 very concerned about this letter we just received  
21 from Stronghold. I mean, from -- yeah, from  
22 Stronghold. And what it says, "As the elected  
23 president of Stronghold Civic Association I write  
24 this letter on our organization's behalf. We  
25 respectfully request that the docket be reopened

1 for case 13-14 and that you consider the following  
2 information regarding Exhibit 864, Vision McMillan  
3 Partners provides proffers of public benefits and  
4 amenities. The Stronghold Civic Association is  
5 very disappointed in your decision, and acting as  
6 duly appointed sworn stewards of Washington, D.C.  
7 real proposed for the citizens of the more forward  
8 -- to move forward with VNP's plan. We in fact are  
9 the neighborhood that is most affected by the  
10 McMillan Project."

11           And I actually know they are. They're  
12 right across on North Capitol. I just, that  
13 concerned me. I'm not necessarily -- you know, we  
14 get criticized and people don't like a lot of  
15 decisions we make. Some of the decisions that we  
16 make I actually don't like, but I vote against them  
17 when I don't. But I just think that to me, I'm not  
18 sure what discussions were had because I haven't  
19 really had a full chance to digest a lot of this  
20 letter and what some of the issues are. And I know  
21 they were not a party. But they are definitely  
22 going to be a part of what goes on in that  
23 community.

24           So that's kind of where I am on this. I  
25 would personally probably would maybe want

1 additional time to look at this, but I don't want  
2 to keep delaying it. If there's something  
3 substantive in here, maybe I took a few minutes and  
4 just continue to review this letter if somebody  
5 else has something to say on this.

6 And then we'll go to Friends of McMillan's  
7 letter. Let me open it up. Any comments? Or  
8 anything else? You don't necessarily have to  
9 comment on Stronghold. Anything else?

10 (No audible response.)

11 CHAIRPERSON HOOD: Okay.

12 MR. MAY: Mr. Chairman.

13 CHAIRPERSON HOOD: Yes.

14 MR. MAY: I would just note that we had  
15 asked for some additional information at proposed  
16 action. The views of Michigan Avenue and the  
17 medical office building, more in the view shed from  
18 the Armed Forces Retirement Home, and additional  
19 information on transportation, and the amenities.  
20 And I believe we received information that was  
21 responsive on those counts.

22 CHAIRPERSON HOOD: Okay. Anything else?  
23 Commissioner Miller?

24 MR. MILLER: Thank you, Mr. Chairman.  
25 Yes, another thing that we had asked for both

1 during the hearing and I think at proposed action,  
2 was some specific language in the order that ties  
3 the timing of various aspects of the project to a  
4 specific deadline. And I see that the revised  
5 order that's before us does tie various important  
6 components of the project, including the Community  
7 Center, to a deadline related to the healthcare  
8 facility. So I think that that's good that we know  
9 that there's a definite track that this is on, or  
10 that we can keep the applicant in compliance with.

11 That's all for now. Thank you.

12 CHAIRPERSON HOOD: Okay. Any other  
13 comments? Let me go back to the Stronghold letter.  
14 As I read my conclusion quickly it says, "In  
15 closing request that the Zoning Commission will  
16 reconsider requiring NVP to work with the civic  
17 associations directly affected. To be successful  
18 coalition of community groups," and I think we've  
19 been through that. To me I think we're revisiting  
20 some of the things we've already visited, not just  
21 ANC 5E.

22 Obviously this is a big project. There's  
23 obviously some disagreement of how to proceed and  
24 how things are proceeding, but I think the zoning  
25 commission, a lot of folks may not agree with my

1 assessment, but I think this Commission has done  
2 its due diligence and pushing back and asking for  
3 transportation issues to be resolved. And looking  
4 out for a lot of the entrances of the community.

5           So I am -- while I know this may not be  
6 exactly what Stronghold wants to hear, but I am in  
7 favor of moving forward with this tonight because  
8 when I look at this it says -- they answer the  
9 question. It says, not just the ANC 5E. I think  
10 under the Administrative Procedures Act as well as  
11 the ANC Act here in the city, we have to give the  
12 ANCs great weight. Not that we discount any civic  
13 associations. I'm a 20 year president myself, so I  
14 know I don't want to be discounted. I think we  
15 took a lot of that into consideration in our  
16 deliberations and in our conversations. That's why  
17 this was not voted on the first time. I don't even  
18 think it -- it may have not been voted on the  
19 second time. And there was some concerns from this  
20 Commission in trying to answer some of the concerns  
21 of the community in that area because of the  
22 voluminous part of the big amount of what was being  
23 proposed for that area.

24           So I am not going to -- I was thinking  
25 about it, but when I finished reading it, I'm not

1 going to delay my vote tonight. I will be moving  
2 forward and from this standpoint, knowing the fact  
3 that we did do -- we were good stewards, I think,  
4 and have always been good stewards in my 16 years  
5 on the Zoning Commission.

6 Okay. Let's open up. Any other --  
7 Commissioner Miller.

8 MR. MILLER: Thank you, Mr. Chairman.  
9 Well, yeah, just a follow up on your statement  
10 there, which I concur with. I mean, the Stronghold  
11 letter talks about the traffic impact which is  
12 something that we were all most concerned about  
13 with this project, and I think we've seen an  
14 evolution of the traffic mitigation managers which  
15 is something that is stronger than what was  
16 originally proposed. And the same thing is true  
17 for workforce and educational development proffers  
18 that are part of the public benefits and amenities  
19 package. There are specific mitigation measures  
20 and public benefits that I think address each of  
21 the points that they raise.

22 CHAIRPERSON HOOD: Okay. Any other  
23 comments, questions?

24 MR. TURNBULL: Yeah, Mr. Chair, I just  
25 wanted to make sure that in the final order the

1 provision of interim shuttle service, I believe the  
2 way the language is structured, talks about with --  
3 I believe the applicants say that, "Without regard  
4 to cost but at an estimated value of 1.7 --  
5 1,750,000." This would reflect the language that  
6 they said in Exhibit 848. The applicant has now  
7 budgeted 1.75 million, 500,000 over the previous  
8 commitment to cover the cost of the private  
9 shuttle, but also commits to expend the actual  
10 amount needed without limitation to mitigate the  
11 additional trips caused by the projects that are  
12 not provided through public transit service.

13           So I want to make sure that that language  
14 is clearly in there.

15           The only other thing is that in that  
16 August -- in that same letter of August 25th, they  
17 talked about a -- and it's a minor point, but an  
18 electric car charging in parcel 1. I don't know if  
19 that's referenced anywhere, but that was, I believe  
20 proffered in that letter of August. So I want to  
21 make sure if that's going to be in there also.

22           The only other thing that, as far as a  
23 mitigation, we usually see it in PUDs and I haven't  
24 seen it here, from a mitigation, and it's not  
25 really a zoning related issue but it's usually

1 referenced, is a construction management plan where  
2 the applicant is going to enter into an agreement  
3 with the ANC and the civil neighborhoods nearby,  
4 and talk about the -- because we did talk about  
5 where trucks were going to come through the  
6 neighborhood. That was a big concern in the  
7 hearing, and how that's going to -- in that  
8 contractors aren't going to park on their streets,  
9 that they're parking on the site. And I don't see  
10 that referenced anywhere about how they're going to  
11 -- and a point person that they can call and set  
12 up.

13 I think the final order needs to talk  
14 about something like that and address that. I  
15 mean, it's not a zoning but it's usually in our  
16 PUDs that we reference the fact that the applicant  
17 has set up something with the neighbors, with the  
18 civic associations, to address construction issues.

19 It's a big mitigation with, you know,  
20 trucks coming through and you're going to have a,  
21 you know, a lot of stuff and contractors parking.  
22 And I just want to -- I don't see it referenced,  
23 but we've talked about it. And I think from a  
24 mitigation standpoint it should be in the final  
25 order. Something should reference this.

1           CHAIRPERSON HOOD: Okay. I would agree.  
2 And also for the parts, let me just echo -- let me  
3 just add something to that.

4           Also for the parts that are not  
5 consolidated, we need to have another bite at  
6 looking at transportation and how that's evolving.  
7 I don't know if my colleagues agree with that, but  
8 I'm not sure exactly how we do that, but this  
9 Commission should be afforded opportunity to ask  
10 other transportation questions as things evolved.  
11 I don't want to stifle us and cut us off.

12           Anything else? Commissioner Miller.

13           MR. MILLER: I was just going to agree  
14 with you, Mr. Chairman, that as we get that second  
15 stage for one part of this so that we, again,  
16 review the traffic mitigation measures, that was  
17 the number one issue and it's something that needs  
18 to be reviewed throughout, and I think the  
19 applicant agrees that it needs to be reviewed  
20 throughout, and DDOT agrees that it needs to be  
21 reviewed throughout, and strengthen and revised as  
22 necessary.

23           CHAIRPERSON HOOD: Okay.

24           MR. MILLER: On Mr. Turnbull's point, on  
25 the interim shuttle service, I would just echo what

1 you said and note that at least on the applicant's  
2 revised proffer of public benefits and amenities  
3 dated October 20th, the Redline version which I  
4 have, does specifically call out for the provision  
5 of an interim shuttle service to the Brookland  
6 Metro Rail Station prior to the District's  
7 implementation of a circulator bus route and street  
8 car line that would serve the PUD site without  
9 regard to cost and an estimated value of  
10 \$1,750,000.

11 MR. TURNBULL: Right. I just want to make  
12 sure that that's what gets carried forward.

13 MR. MILLER: I agree.

14 MR. TURNBULL: Mr. Chair, the only other  
15 comment I had, there was a comment in the draft  
16 findings of fact that says that the proposed  
17 development is consistent with the present  
18 character of the area. I struggle to agree with  
19 that. I think a lot of the neighbors would  
20 struggle to agree, so I would like that stricken.

21 CHAIRPERSON HOOD: Okay. Let's deal with  
22 this -- I've never had this request before.  
23 National Capital Planning Commission hearing, I was  
24 not there on the 6th, so I think the issue is there  
25 was some information given at that hearing, and

1 I've never seen where we bring another hearing into  
2 -- just like, I'm not disregarding what the Friends  
3 of McMillan are saying, but I'm just, I'm trying to  
4 figure out what we're being asked to do. That was  
5 another proceeding.

6 I'm hoping that the points or the evidence  
7 was given to the National Capital Planning  
8 Commission at that time, because I'm not sure how  
9 we can bring another proceeding into this  
10 proceeding. It's just like, I guess, me or the ABC  
11 board doing stuff that the ABC Board should be  
12 handling here at this hearing.

13 I'm not sure how do we deal with that  
14 because I don't think that's within our  
15 jurisdiction, about something that was testified at  
16 that hearing. I think what was here, we've  
17 addressed the issues that we had in front of us.  
18 I'm not sure how you mix hearings together. And we  
19 can start making decisions on what NCPC does, so I  
20 think that -- I'm going to -- even though I opened  
21 the record because I wanted to see what it was, but  
22 I think this is really out of order. I don't know.  
23 Let me open it up, colleagues. I think it's out of  
24 order. I don't know what my colleagues think, and  
25 Mr. Turnbull or someone else? Not necessarily an

1 NCPC purpose but --

2 MR. TURNBULL: I think I would agree with  
3 you.

4 CHAIRPERSON HOOD: Yeah, I don't think  
5 that's within our order. So any disagreements with  
6 that?

7 (No audible response.)

8 CHAIRPERSON HOOD: Okay. All right. So  
9 anything else?

10 All right. I would move that we approve  
11 Zoning Commission Case 13-14, McMillan Sand  
12 Filtration Site with all the comments that we've  
13 made throughout these hearings, and especially ones  
14 tonight, and ask for a second.

15 MR. MILLER: Second.

16 CHAIRPERSON HOOD: It's been moved in  
17 property second, any further discussion?

18 All those in favor, aye. Any opposition?  
19 Any abstentions?

20 Ms. Schellin, would you record the vote?

21 MS. SCHELLIN: Yes. Staff records the  
22 vote four to zero to one to approve final action in  
23 Zoning Commission Case No. 13-14, Commissioner Hood  
24 moving, Commissioner Miller seconding,  
25 Commissioner's May and Turnbull in support,

1 Commissioner Cohen not voting having not  
2 participated.

3 CHAIRPERSON HOOD: Okay. Next, let's go  
4 to hearing action Zoning Commission Case No. 14-17.  
5 This is the AE Tower, LLC map amendment at Square  
6 4310.

7 Yes, Mr. Lawson?

8 MR. LAWSON: Yes.

9 CHAIRPERSON HOOD: Okay.

10 MR. LAWSON: Thank you, Mr. Chair. I'm  
11 just very quickly going to introduce a new member  
12 of the Office of Planning staff. She's appeared  
13 before you more than once at the Board of Zoning  
14 Adjustment. This is her first time before the  
15 Zoning Commission, so this is Megan Rappolt. She  
16 joined us just a little while ago with a wealth of  
17 experience and she is the project manager for this  
18 case for OP. Thank you. And she'll present the OP  
19 position.

20 CHAIRPERSON HOOD: Okay. But first,  
21 before you do that, let me welcome you, Ms.  
22 Rappolt, to the Zoning Commission. Tonight you'll  
23 probably get off very easy, but what we do is we  
24 reel you in and then we beat up on you. No, I'm  
25 just playing.

1           Welcome to the Zoning Commission, and you  
2 may begin.

3           MS. RAPPOLT: Thank you. Thanks, Joel,  
4 and good evening Chairman Hood and members of the  
5 Commission.

6           AE Tower, LLC., the applicant, requests --  
7 am I now? Sorry. There you go. Okay.

8           AE Tower, LLC., the applicant, requests a  
9 zoning map amendment for a portion of the proposed  
10 zoned to the R1B District, to the C2A district.

11           The conference of plan future land use map  
12 indicates the proposed in its entirety as  
13 appropriate for low density commercial development.  
14 The applicable comp plan policies for the in-fill  
15 development opportunities on the vacant land along  
16 major corridors like Rhode Island Avenue, are there  
17 to serve neighborhoods with pedestrian oriented  
18 local serving retail.

19           The policies also recognize the  
20 established neighborhoods of the upper Northeast  
21 area and that they should be protected and  
22 enhanced.

23           The existing R1B zoning on a portion of  
24 the proposed would preclude the ability to develop  
25 low-scale commercial uses or a mix of uses on the

1 proposed. C2A zoning the entirety of the proposed  
2 would allow for a low to medium density commercial  
3 and residential uses of a maximum of 50 feet in  
4 height. The C2a zoning on the R1B portion of the  
5 proposed would help implement both the future land  
6 use map designation of low-density commercial  
7 development as well as the policy guidance of in-  
8 fill retail development along Rhode Island Avenue.

9 The Office of Planning therefore  
10 recommends the map amendment request be set down  
11 for a public hearing and I'd be happy to take any  
12 questions.

13 CHAIRPERSON HOOD: Okay. Thank you, Ms.  
14 Rappolt. Let's see if any questions or comments,  
15 commissioners.

16 MR. MAY: Remind me, what's the -- in the  
17 comp plan, what's the high end of low-density  
18 commercial? What zone? Is it C2A?

19 MS. RAPPOLT: C2A.

20 MR. MAY: Okay. Thanks.

21 CHAIRPERSON HOOD: Was your question --  
22 you finished answering? Oh. Okay. I'm sorry.

23 Commissioner Turnbull.

24 MR. TURNBULL: Okay. I missed it, was  
25 there a question and an answer?

1 MS. RAPPOLT: C2A was the answer.

2 MR. TURNBULL: Oh, all right.

3 MR. MAY: Clearly when I speak somebody is  
4 not listening.

5 CHAIRPERSON HOOD: It must be a volleyball  
6 now because he was real fast.

7 MR. TURNBULL: I guess. I just have a --  
8 I mean, in one way I understand where we're going  
9 on the site and can relate to it. And maybe I'm  
10 just overly concerned. The height, there's only 10  
11 feet difference between R1B, maximum height, and  
12 C2A at 50 feet. But I'm just wondering the  
13 properties across the street, like on Monroe  
14 Street, I guess I just struggle. I guess the  
15 applicant should really talk about that, but I  
16 mean, I'm just -- I mean, in one way I see this and  
17 I can go along with this. But I mean, I guess you  
18 need to just -- I don't know. I struggled with  
19 bringing commercial further down the street and  
20 worried about a domino affect later on about things  
21 growing.

22 I mean, we went through this years ago on  
23 Georgia Avenue, and changing and going the other  
24 way, making things residential rather than  
25 commercial. And so it's sort of a dough boy. You

1 know, you stick him in here and he sticks out  
2 further on the other side, so I'm just a little bit  
3 concerned about encroaching further into  
4 residential areas. So, I --

5 MS. RAPPOLT: Okay.

6 MR. TURNBULL: -- just struggle with it a  
7 bit.

8 MR. LAWSON: Sure. I would just note that  
9 in this case there could be no further  
10 encroachment. The comprehensive plan clearly  
11 designates the rest of the street as well as the  
12 area across Monroe Avenue for low-density  
13 residential.

14 MR. TURNBULL: Yes.

15 MR. LAWSON: This is the one property that  
16 is designated on the comprehensive plan for  
17 commercial development, and so that's why we  
18 consider it an appropriate map consistency case.

19 MR. TURNBULL: Okay. All right. Good  
20 enough.

21 CHAIRPERSON HOOD: Mr. Lawson, this is --  
22 I'm just trying to get an orientation to reference.  
23 Is this where the gas station is?

24 MS. RAPPOLT: The gas station is sort of  
25 up Rhode Island a little bit further.

1 CHAIRPERSON HOOD: It's further up. So  
2 this is -- tell me where we're talking.

3 MS. RAPPOLT: There is a used auto sales  
4 shop.

5 CHAIRPERSON HOOD: Okay. I know where --

6 MS. RAPPOLT: Okay.

7 CHAIRPERSON HOOD: -- it is. I know where  
8 it is. Okay. All right. I just was trying to get  
9 a reference. I thought it was a gas station.

10 Okay. Any other questions or comments,  
11 Commissioner Miller? Or Mr. Miller.

12 MR. MILLER: Thank you, Mr. Chairman. I  
13 just would like to -- I mean, I think it's clearly  
14 a zoning consistency case with the comp plan, so I  
15 have no problem with that. The applicant's  
16 statement says that the petitioner, the contract  
17 person or the proposed envisions developing a  
18 matter of right residential or mixed use project on  
19 the site. I know we're not looking at a specific  
20 proposal but at the hearing I might want to just  
21 see what the range of uses square footage of retail  
22 and, you know, if it's retail on the ground floor  
23 and residential above, how many units we would be  
24 getting out of that, and if the applicant has a  
25 vision for a particular mix of uses or at that time

1 I think it just would be useful to see it.

2 But it certainly will be anything to get  
3 this vacant, under utilized asphalt parking lot  
4 developed in a way that benefits the community will  
5 be good. So I look forward to the hearing.

6 CHAIRPERSON HOOD: And I would agree with  
7 Commissioner Miller, but I would go a step further.  
8 I am curious of what's planned. I know typically  
9 we don't do that, but in some cases we get an  
10 inkling of exactly what's possibly coming down the  
11 pipe. So I would be interested in that in the  
12 Woodridge Community.

13 So, okay. Anything else?

14 MR. MAY: Mr. Chairman. Yeah, I just have  
15 one note about this, which is that given that  
16 almost everything else around it is residential and  
17 the commercial that exists a little further up the  
18 street seems to be very low rise, and you know, C2A  
19 can bring a fair amount of density. I would just  
20 want to make sure that the people who are living in  
21 close proximity, they truly understand what  
22 potentially could come of this. I'd hate to have  
23 it sort of go through this and then people start  
24 learning about it late in the process and come down  
25 here, you know, all upset about what could be

1 happening. So.

2 CHAIRPERSON HOOD: Okay. So someone like  
3 to make a motion?

4 MR. MILLER: Mr. Chairman. Mr. Chairman,  
5 I would move that we -- the Zoning Commission set  
6 down Zoning Commission Case No. 14-17 AE Tower,  
7 LLC. for a map amendment at Square 4310 and ask for  
8 a second.

9 CHAIRPERSON HOOD: I'll second that  
10 motion. It's been moved and property second. Any  
11 further discussion? All those in favor, aye. Any  
12 opposition?

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

15 MS. SCHELLIN: Yes, staff records the vote  
16 five to zero to zero to set down Zoning Commission  
17 Case No. 14-17 as a contested case. Commissioner  
18 Miller moving, Commissioner Hood seconding,  
19 Commissioners Cohen, May, and Turnbull in support.

20 CHAIRPERSON HOOD: Okay. We have anything  
21 else, Ms. Schellin?

22 MS. SCHELLIN: No, sir.

23 CHAIRPERSON HOOD: In honor of Ms.  
24 Schellin's birthday we want to wish her a happy  
25 birthday. We're going to let her out early tonight

1 so she can go home and enjoy her birthday, and  
2 we'll all celebrate your birthday tonight.

3 MS. SCHELLIN: Thank you.

4 CHAIRPERSON HOOD: So with that, this  
5 meeting is adjourned.

6 (Hearing adjourned at 7:20 p.m.)

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