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GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission

Public Meeting
1416th Meeting Session (16th of 2015)

6:38 p.m. to 7:45 p.m.
Monday, September 21, 2015

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

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1 Board Members:

2 ANTHONY HOOD, Chairperson

3 ROBERT MILLER, Commissioner

4 PETER MAY, Commissioner

5 MR. TURNBULL, Commissioner

6 SARA BARDIN, Director

7

8 Office of Zoning:

9 SHARON SCHELLIN, Secretary

10

11 Office of Planning:

12 JENNIFER STEINGASSER

13 JOEL LAWSON

14 ELISA VITALE

15 STEVE COCHRAN

16 KAREN THOMAS

17 MEGAN RAPPOLT

18

19 Office of Attorney General:

20 JACOB RITTING, ESQ

21 ALAN BERGSTEIN, ESQ

22

23

24

25

P R O C E E D I N G S

1
2 CHAIRPERSON HOOD: This meeting will
3 please come to order. Good evening, ladies and
4 gentlemen. This is the public meeting of the
5 Zoning Commission for the District of Columbia.

6 My name is Anthony Hood. Joining me are
7 Vice Chair Cohen, Commissioner Miller,
8 Commissioner May, and Commissioner Turnbull.
9 We're also joined by the Office of Zoning staff,
10 Ms. Sharon Schellin, and also our director is with
11 us tonight, Ms. Bardin. Office of Attorney
12 General, Mr. Bergstein and Mr. Ritting, Office of
13 Planning staff, Ms. Steingasser and Mr. Lawson,
14 Ms. Vitale, Ms. Thomas. Who is that? Okay. Ms.
15 Rappolt and Mr. Cochran.

16 The copies of today's meeting agenda are
17 available to you and are located in a bin near the
18 door. We do not take any public testimony at our
19 meetings unless we request someone to come
20 forward.

21 Please be advised this proceeding is
22 being recorded by a court reporter. It's also
23 webcast live. Accordingly we must ask you to
24 refrain from any disruptive noises or actions in
25 the hearing room, including display of any signs

1 and objects. Please turn off all beepers and cell
2 phones.

3 Does the staff have any preliminary
4 matters?

5 MS. SCHELLIN: Yes, sir, staff does. We
6 need to have the Commission vote on a closed
7 meeting scheduled for October 22nd at 6:00 p.m.

8 CHAIRPERSON HOOD: Okay. I have that in
9 front of me. Let's do that at this time. In
10 accordance with 405C of the Open Meetings Act,
11 D.C. Official Code 2-575C, I move that the Zoning
12 Commission hold a closed meeting on Thursday,
13 October the 22nd, 2015. The closed meeting will
14 begin at 6:00 p.m. and it's for the purpose of
15 obtaining legal advice from our counsel on Case
16 No. 08-06A, 08-06B, 08-06C, scheduling for final
17 action for that meeting. Is there a second?

18 MS. COHEN: Second.

19 CHAIRPERSON HOOD: Will the secretary
20 please take the roll call voter on the omission
21 before us now that has been seconded?

22 MS. SCHELLIN: Yes, sir. Chairman Hood.

23 CHAIRPERSON HOOD: Yes.

24 MS. SCHELLIN: Vice Chair Cohen.

25 MS. COHEN: Yes.

1 MS. SCHELLIN: Commissioner Miller.

2 MR. MILLER: Yes.

3 MS. SCHELLIN: Commissioner May?

4 MR. MAY: Yes.

5 MS. SCHELLIN: Commissioner Turnbull.

6 MR. TURNBULL: Yes.

7 MS. SCHELLIN: The vote carries.

8 CHAIRPERSON HOOD: Okay. It appears that
9 the motion is passed. I request that the Office
10 of Zoning provide notice of these closed meetings
11 in accordance with the act. Anything else, Ms.
12 Schellin?

13 MS. SCHELLIN: No, sir.

14 CHAIRPERSON HOOD: Okay. Colleagues,
15 what I would like to do, and for the public, move
16 the agenda around a little bit. I would like to
17 take correspondence first and then we will follow
18 the necessary agenda as already written.

19 So let's go straight to correspondence,
20 Zoning Commission Case No. 08-06A, Zoning
21 Regulations Review. We have a number of requests.
22 Ms. Schellin.

23 MS. SCHELLIN: Yes, sir. First we'd like
24 to have the Commission to consider ANC 4-A's
25 request to file their report late. They meet on

1 October 6th and they're asking that their ANC be
2 allowed to submit their report on October 16th.

3 CHAIRPERSON HOOD: Okay. Commissioners,
4 you've heard the request. What is your pleasure?
5 Any objections?

6 (No audible response.)

7 CHAIRPERSON HOOD: And when are we going
8 to take this up? October? I think --

9 MS. SCHELLIN: October 22nd.

10 CHAIRPERSON HOOD: I actually don't have
11 a problem, colleagues, with that. I think that's
12 reasonable. I don't think -- and you know, again,
13 we always say our ANC is the volunteers, so I
14 don't have a problem with them making -- any
15 issues? Do we need to take a vote on that?

16 MS. SCHELLIN: Yes, sir.

17 CHAIRPERSON HOOD: Okay. I would move
18 that we accept our ANC 4-A's request and ask for a
19 second.

20 MS. COHEN: Second.

21 CHAIRPERSON HOOD: It's been moved and
22 properly seconded, any further discussion?

23 MR. MILLER: I just had a question.

24 CHAIRPERSON HOOD: Commissioner Miller.

25 MR. MILLER: So we're just accepting --

1 we're not extending the --

2 CHAIRPERSON HOOD: No.

3 MR. MILLER: -- record for everybody
4 else. We're responding affirmatively to this
5 ANC's request.

6 CHAIRPERSON HOOD: And that request, if
7 it's not here tonight it's off because they have
8 put their requests in to us tonight to ask for
9 that additional time.

10 MR. MILLER: Just wanted to clarify that.

11 CHAIRPERSON HOOD: Right. Thank you.
12 Any further discussion. All those in favor?

13 [Vote taken.]

14 CHAIRPERSON HOOD: Any opposition? Not
15 hearing any, Ms. Schellin, would you record the
16 vote?

17 MS. SCHELLIN: Yes, sir. Staff records
18 the vote five to zero to zero to grant ANC 4-A's
19 request to file their report no later than October
20 16th, Commissioner Hood moving, Commissioner Cohen
21 seconding, Commissioner's May, Miller, and
22 Turnbull in support.

23 Next we have ANC 7-F's request to extend
24 the comment period. This is at Exhibit 975.
25 While they're asking to extend the comment period

1 they did not set a specific time period. In their
2 request they're also asking for a certain matrix,
3 a redline version of the regulations, and that OP
4 provide certain printed maps. It's my
5 understanding that OP actually responded to the
6 ANC's request today, but you would have to confirm
7 that with OP to see specifically what they did
8 provide, if you would like to do so.

9 CHAIRPERSON HOOD: Okay. Can we go to
10 the Office of Planning and find out what took
11 place after this request, or what took place prior
12 or after?

13 MS. VITALE: Certain. Lisa Vitale, for
14 the record.

15 We responded with the requested matrixes
16 that the ANC 7-F had requested in its submittal.
17 So just the matrixes were provided.

18 CHAIRPERSON HOOD: Okay. Any questions,
19 colleagues? Questions or comments?

20 And they are also asking us to extend the
21 time? Colleagues, let me just say this about
22 extending the time. We've extended the time and
23 extended the time and extended the time, and I
24 understand that this is a new undertaking, but we
25 extended the time. I think earlier we were asked

1 to extend it, we had a different range of time, 60
2 days, 90 days, 120 days. We extended it 90 days,
3 and on our own, because of the concern of things
4 ending in August, and you know I've always said,
5 if you want to do something in this city you do it
6 in July and August so of the problem that this
7 Commissioner saw then, we extended it again
8 another few days and it ended up extended on our
9 own in addition to 30 some odd days. I believe
10 that's maybe a little more than 30 some odd days.
11 So we went from 90 to 119 days.

12 To extend it again and keep extending it,
13 and keep extending it, and keep extending it, I
14 think that this City would never have a zoning
15 code, or a new one which was forecast years ago.
16 So I would be in favor of denying that extension
17 because first of all it doesn't give a time period
18 unless I missed it. I have missed a few things to
19 they might want us to extend it for five years,
20 two weeks. It doesn't extend it. I think it's
21 very vague as far as extension, and I think we
22 have done due diligence for the residents of the
23 city and anyone who wanted to comment on this, of
24 all the time we extended. This is -- it's
25 probably eight years now. This is an eight year

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1 project. Okay. Any other comments?

2 MS. COHEN: No, Mr. Chairman, I certain
3 support your position and agree with you so I
4 would recommend that we deny this request.

5 CHAIRPERSON HOOD: So for those who are
6 watching online and those who may take the wrong
7 message, I'm just going to say, the Commission on
8 its own extended it additional. Nobody even put
9 that request in. We saw when it was ending in
10 August, and I'm being repetitive, but I think it's
11 clear to know because I hear all the time around
12 town, well, you all did this and you all did that.
13 But this Commission is very considerate and we
14 have -- again this is an eight year project. So,
15 do we need to make a motion on this?

16 Okay. I move that we deny 7-F's request
17 due to the fact -- first of all, there was no
18 comment, no deadline. And second of all I think
19 the Office of Planning has provided a matrix and
20 answered some of the questions what they have.
21 And plus, we have extended this, I think, enough.
22 So I would do that and ask for a second.

23 MS. COHEN: Second.

24 CHAIRPERSON HOOD: It's been moved and
25 properly seconded. Any further discussion?

1 MR. MILLER: Yeah, Mr. Chairman, I would
2 just comment; just concur with yours and the Vice
3 Chair's comments and just also note in addition to
4 the extended time periods for public comment on
5 the proposed action which would -- I think we
6 voted to take proposed action in December of last
7 year. And it's been a long time since we voted so
8 it's hard to remember exactly.

9 But there was a delay in the publication
10 of the proposal, which is why you did suggest a
11 later period of comment period on the final
12 action.

13 I just wanted to note, there was also all
14 of the going back in to the community with
15 hearings. There have been extended public comment
16 periods throughout the process that you've shared
17 and I think the public appreciates and I think the
18 product is a better one because of it.

19 CHAIRPERSON HOOD: Okay. Thank you for
20 that comment. Any other comments? Vice Chair
21 Cohen?

22 MS. COHEN: Thank you, Mr. Chairman. I
23 still think that again, ANC 7-F, if they have
24 concerns and questions, could discuss -- well, if
25 they have questions especially, they could discuss

1 it with the Office of Planning because they now
2 have that matrix that they need, needed or asked
3 for.

4 CHAIRPERSON HOOD: Okay. Any further
5 discussion.

6 [Vote taken.]

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

10 MS. SCHELLIN: Yes. Staff records the
11 vote five to zero to zero to deny ANC 7-F's
12 request, Commissioner Hood moving, Commissioner
13 Cohen seconding, Commissioners May, Miller, and
14 Turnbull in support of denial.

15 CHAIRPERSON HOOD: Okay. We have one
16 more.

17 MS. SCHELLIN: Yes, sir. Last we have
18 received multiple request for a translation and
19 extension of the comment period, and some also
20 added that OP go out and conduct workshops. Would
21 ask the Commission to consider these requests
22 before you this evening.

23 CHAIRPERSON HOOD: Okay. Commissioners,
24 before we get started, let me ask Mr. Bergstein.
25 Is there any legal requirement for this request?

1 MR. BERGSTEIN: No, sir. I did provide
2 the Zoning Commission of my analysis of this issue
3 and for the reasons stated in this analysis I do
4 not believe that there is any legal requirement
5 for the requested translations to be provided.

6 CHAIRPERSON HOOD: Okay. And I know that
7 one of the things that we were interested in as we
8 went out into the community, about making sure
9 that there was something suitable for those who
10 did not speak English. And Office of Planning,
11 could you elaborate on what you did when you went
12 out to the community?

13 MS. STEINGASSER: Yes, sir. In the 16
14 meetings that OP hosted directly we had a Zoning
15 Regulation Review Fact Sheet created in the
16 following languages, Aramaic, Chinese, English,
17 French, Spanish, and Vietnamese. And we took
18 those fact sheets with us to all 16 meetings.

19 CHAIRPERSON HOOD: Okay. Any questions
20 of Office of Planning on that?

21 Okay. Ms. Bardin, let me come to the
22 Office of Zoning. What would it cost if we were
23 to translate in each language?

24 MS. BARDIN: We received a quote of
25 approximately \$100,000 for each language.

1 CHAIRPERSON HOOD: \$100,000 for each
2 language. Okay. All right. Commissioners, let
3 me open it up for just -- thank you all for those
4 comments. Let me open it up. Commissioners what
5 do you think on this particular request?

6 I will -- Vice Chair Cohen.

7 MS. COHEN: Mr. Chairman, I believe we
8 should deny their request. There is no legal
9 requirement to provide it and there have been
10 opportunities where a variety of languages, I
11 mean, a variety of papers have been translated
12 into a variety of languages. And I think we have
13 done as much as we have been required to do.

14 CHAIRPERSON HOOD: Okay. Any other
15 comments?

16 MR. TURNBULL: Mr. Chair, I would agree
17 with the Vice Chair on this. And also, I mean,
18 the Office of Planning as they have stated, has
19 been very proactive. They've been very proactive
20 in going out and helping. And I think they've
21 gone beyond, I think, in many instances as to
22 report to the community as to the state of this
23 ERR. So I would not want to approve this. I
24 would deny this.

25 CHAIRPERSON HOOD: Okay. I would concur

1 with my comments -- of my colleagues' comments. I
2 think we've done -- we've exhausted it. I mean,
3 you know, I've been here for the whole ride. We
4 have exhausted it. We have twist, turned, and
5 done all we can do to make it work for those
6 concerns and I think -- anyway. Someone like to
7 make a motion besides me on this?

8 MR. TURNBULL: Mr. Chair, I would move
9 that we deny the request for translation,
10 extension, and I thought there was a third.

11 CHAIRPERSON HOOD: Work --

12 MR. TURNBULL: OP to do workshops. I
13 think those are the three items that Ms. Schellin
14 had mentioned.

15 CHAIRPERSON HOOD: I'll second that.
16 It's been moved and properly seconded. Any
17 further discussion?

18 [Vote taken.]

19 CHAIRPERSON HOOD: Not hearing any
20 opposition, Ms. Schellin, would you record the
21 vote?

22 MS. SCHELLIN: Yes, sir. Staff records
23 the vote five to zero to zero to deny the -- I'm
24 going to list the exhibits because I've been asked
25 to by OAG to deny the requests that were made in

1 Exhibits 923, 924, and 926 through 934, and 937
2 through 939, 942 through 949, 951 through 957,
3 961, 963, 964, 966, 967, 969, 970, 973 through
4 977. And there, you know, hopefully I didn't miss
5 any. But any of the requests that we were
6 requesting translation, extension of time, and OP
7 to do workshops. Commissioner Turnbull moving,
8 Commissioner Hood seconding, Commissioner's Cohen,
9 May, and Miller denying the request.

10 CHAIRPERSON HOOD: Okay. Thank you.
11 Okay. Any other comments on this so far? Okay.
12 Let's go right in to -- Ms. Bardin, can I speak
13 with you before you leave real quick? Okay.

14 Let's go right in to consent calendar
15 item. Ms. Schellin.

16 MS. SCHELLIN: Yes, sir. The first item
17 was deferred until the Commission takes final
18 action on the Case No. 06-11L, so we can skip that
19 one. So I'm going to give the information for
20 Case No. 12-18A. This is a request from the
21 applicant for -- I'm sorry. Get to my notes here.
22 The applicant is requesting a minor modification
23 to the previously approved PUD. They've been
24 unable to find a retail tenant for the second
25 floor space but are in negotiations with an office

1 tenant. And because of that they're in need of
2 this requested relief.

3 At Exhibit 1E we have an ANC 6-C letter
4 in support. Exhibit 5 is an OP report in support.
5 And so we'd ask the Commission to consider final
6 action on Case No. 12-18A. Thank you.

7 CHAIRPERSON HOOD: Okay. Commissioners.
8 Ms. Schellin has teed it up for us. Any questions
9 or comments or responses to the request?

10 MS. COHEN: Mr. Chairman.

11 CHAIRPERSON HOOD: Yes.

12 MS. COHEN: I do note that the ANC 6-C
13 did support their request.

14 CHAIRPERSON HOOD: Okay. Are we all fine
15 with the comments? Somebody like to make a
16 motion?

17 MR. MILLER: Mr. Chairman, I would move
18 that the Zoning Commission approves on the consent
19 calendar, Zoning Commission Case No. 12-18A, H
20 Street Northeast Owner, LLC., request for minor
21 modification at Square 858 and ask for a second.

22 MR. TURNBULL: Second.

23 CHAIRPERSON HOOD: It's been moved and
24 properly seconded. Any further discussion?

25 [Vote taken.]

1 CHAIRPERSON HOOD: Not hearing any
2 opposition of those present, Ms. Schellin, would
3 you record the vote?

4 MS. SCHELLIN: Staff records the vote
5 five to zero to zero to approve final action in
6 Zoning Commission Case No. 12-18A. Commissioner
7 Miller moving, Commissioner Turnbull seconding,
8 Commissioners Cohen, Hood, and May in support.

9 CHAIRPERSON HOOD: Okay. Before I go to
10 final action, as anyone who has followed my career
11 down here, when we have folks in the -- I mean,
12 where the council members, mayors, I think this is
13 the first time we've had the mayor's father, so
14 I'm going to recognize our First Father of the
15 City. Mr. Joseph Bowser. This is the first time
16 we've done that. Could you wave your hand, Mr.
17 Bowser, so that -- okay. So I wanted to make sure
18 I do that because I think it's just proper.

19 Okay. Let's go to final action, the
20 Zoning Commission Case 10-26C, Two Year PUD Time
21 Extension at Square 34. Ms. Schellin.

22 MS. SCHELLIN: Yes, sir. In this case
23 the applicant is requesting a two year time
24 extension. There have been delays due to the
25 property having a history of a gasoline station

1 use and that has resulted in soil contamination
2 due to a release of petroleum to the sub-surface
3 soils and groundwater. As a result the applicant
4 has had delays in getting the necessary approvals
5 to move forward with this development.

6 At Exhibit 5 we have an OP report in
7 support and Exhibit C6, I'm sorry, ANC 1-A report
8 in support. Would ask the Commission to consider
9 final action in this case.

10 CHAIRPERSON HOOD: Okay. Colleagues,
11 you've heard the report of the secretary of some
12 of the reasons again for the asking for another
13 extension. What is your pleasure? Any comments?

14 MR. MAY: Mr. Chairman, I mean, I think
15 this one is pretty straightforward. You know,
16 it's a little concerning that there have been a
17 number of sales of the property, but I think
18 regardless the project was not going to be moving
19 along very swiftly given the contamination issues
20 that they had to deal with. So it's
21 understandable. So I have no problem with
22 granting this extension.

23 CHAIRPERSON HOOD: Okay. Any other
24 comments?

25 MS. COHEN: Yeah. I hope that -- I would

1 suggest that all of the people involved now with
2 the clean-up feel a sense of urgency, as this has
3 been a long time in coming. So it's the only
4 words that I have to make sure that this is the
5 final extension.

6 CHAIRPERSON HOOD: Okay. Commissioner
7 Miller.

8 MR. MILLER: Thank you, Mr. Chairman. I
9 was just going to note that as has been alluded
10 to, this applicant only purchased the property on
11 August 28th, 2014, which was more than three years
12 after the Commission approved the original PUD,
13 and that I think there's ample evidence in the
14 record that since acquiring the property in August
15 of last year, they have worked diligently to
16 secure the environmental approvals that are
17 necessary to mitigate the contamination and move
18 forward with the development. And so I guess I
19 think we all look forward to getting that
20 development underway.

21 CHAIRPERSON HOOD: Okay. Would somebody
22 like to make a motion for the extension, please?

23 MR. TURNBULL: Yeah, Mr. Chair. I would
24 move that we approve Zoning Case No. 10-26C, ZGZP
25 333, LLC., two year PUD time extension at Square

1 3040, and ask for a second.

2 MS. COHEN: Second.

3 CHAIRPERSON HOOD: Okay. It's been moved
4 and properly seconded. Any further discussion?

5 [Vote taken.]

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

9 MS. SCHELLIN: Yes, sir. Staff records
10 the vote five to zero to zero to approve final
11 action in Zoning Commission Case No. 10-26C,
12 Commissioner Turnbull moving, Commissioner Cohen
13 seconding, Commissioners Hood, May, and Miller in
14 support.

15 CHAIRPERSON HOOD: Okay. Next, Zoning
16 Commission Case No. 06-11L, George Washington
17 University and Hillel, Campus Plan Amendment and
18 Further Processing of Variances at Square 42.
19 Joint request for a postponement. Ms. Schellin.

20 MS. SCHELLIN: Yes, sir. This is the
21 fifth joint request for a postponement of
22 decision. At Exhibit 65 there is an e-mail from
23 the West End Citizen's Association to the
24 applicant indicating agreement to the
25 postponement, at Exhibit 66, ANC 6-A's response to

1 this request, and they are saying that if the
2 Commission grants the postponement that it not be
3 decided before October 29th, after their October
4 21st meeting. So I don't think that that works
5 with the schedule that the applicant and the
6 church as proposed.

7 CHAIRPERSON HOOD: Okay. Commissioners,
8 I think that we can -- I know what the applicant
9 and the church, and what they have proposed. But
10 I think that this is our -- is this our -- this is
11 our fifth time in postponement. So first of all I
12 wanted to bring it to the full Commission about
13 this postponement because this is our fifth time
14 and I know we commented on it when it was our
15 fourth time.

16 So and I know what the comments are from
17 the community group, but let me open it up and see
18 what the thoughts are of my colleagues on this
19 particular issue. You know what's being requested
20 of us. You've heard from West End, what they're
21 requesting, if we decide to grant the
22 postponement, that it not be decided in this. Ms.
23 Schellin has already mentioned that it does not go
24 with the schedule of the applicant. So let's open
25 it up and have a conversation on that.

1 MR. TURNBULL: Mr. Chair, it sounds like
2 it's going to be a short extension. We haven't
3 really pinned down a date other than it's sometime
4 after October 19th or --

5 MS. SCHELLIN: The applicant has actually
6 set out a schedule in their exhibit so that the
7 Commission would take this up at their October
8 19th meeting. The ANC filed a letter today
9 stating that they would like for their full ANC to
10 be able to take this up at their October 21st
11 meeting, and therefore ask that the Commission, if
12 they grant this postponement, that the Commission,
13 the Zoning Commission not make a decision until
14 after October 29th to allow the ANC an opportunity
15 to be able to take it up at their October 21st
16 meeting and be able to provide a report.

17 MR. TURNBULL: So we're looking for a
18 meeting in November. I don't know what date that
19 would be then.

20 CHAIRPERSON HOOD: Okay. And that is
21 what I would suggest, Mr. Turnbull. Vice Chair
22 Cohen?

23 MS. COHEN: Yeah, Mr. Chairman, I really
24 am annoyed when we go extension after extension,
25 but I think this one is so short and tight, and

1 that if they don't get it done in November I think
2 they should probably think of withdrawing and just
3 start the process again. But it's really not an
4 egregious amount of time. So I would be willing
5 to grant their modest extension.

6 CHAIRPERSON HOOD: Okay. And I would
7 also just add again, that we -- you know, our ANCs
8 and I think this is the fifth time, and they asked
9 for an opportunity and I think that should be
10 included in our timeframe. Any other comments?

11 MS. SCHELLIN: I think that the applicant
12 would still make their submission on October 5th,
13 which would allow the ANC -- I'm getting a nod
14 from the applicant's attorney. So the ANC would
15 still have that information in time for their
16 meeting. So if we could set the dates, if you
17 guys want to do that. The applicant would still
18 make their submission on October 5th.

19 CHAIRPERSON HOOD: Let me just say this.
20 As long as it meets with what the ANC has in their
21 limited amount of time.

22 MS. SCHELLIN: Right. And I was going to
23 say, then the ANC --

24 CHAIRPERSON HOOD: Because after five
25 times, I mean, we really --

1 MS. SCHELLIN: Right.

2 CHAIRPERSON HOOD: -- extend the olive
3 branch.

4 MS. SCHELLIN: And then the ANC's meeting
5 would be October 21st, and they could maybe submit
6 their filing on October 30th, and then the
7 Commission would take it up on their November 9th
8 meeting. Does that work for the Commission?

9 CHAIRPERSON HOOD: Yeah, does it work for
10 the -- no one is here -- Chairperson Kennedy is
11 not here for the ANC.

12 MS. SCHELLIN: And WICA (phonetic) of
13 course.

14 [Someone speaking off mic.]

15 MS. SCHELLIN: The parties would file on
16 October 30th. All parties. Including WICA.

17 CHAIRPERSON HOOD: And we will notify the
18 ANC.

19 MS. SCHELLIN: ANC, yes. I'll send Mr.
20 Kennedy an e-mail.

21 CHAIRPERSON HOOD: So do we need to vote
22 on that or --

23 MS. SCHELLIN: No.

24 CHAIRPERSON HOOD: Okay. General
25 consensus? Okay. General consensus by the

1 Commission.

2 MS. SCHELLIN: Thank you.

3 CHAIRPERSON HOOD: Okay. Next let's go
4 to Zoning Commission Case 14-19, M Street
5 Development Group, LLC. et al., Consolidated PUD
6 and Related Map Amendment at Square 772. Ms.
7 Schellin.

8 MS. SCHELLIN: Yes, sir. At Exhibits 38
9 and 40 through 40B, we have the applicant's
10 responses to information requested at proposed
11 action. In Exhibit 41 we have an NCPC report
12 advising that the project was inconsistent with
13 the comprehensive plan for the National Capital
14 and other federal interests due to a minimal
15 violation of the penthouse setback requirements of
16 the Height Act. We ask the Commission to consider
17 final action on this case this evening. Thank
18 you.

19 CHAIRPERSON HOOD: Okay, Commissioners.
20 Somebody like to get us started on that
21 conversation? Commissioner May.

22 MR. MAY: So we have received, in
23 addition to the NCPC letter, information from the
24 applicant clarifying that the setback issue was
25 addressed, or they have addressed it. And I think

1 that what they've put in to the record does in
2 fact adequately address the setback issue that
3 NCPC was concerned about. I was pretty sure that
4 that actually had been dealt with at the time we
5 took proposed or before we took proposed, and
6 somehow I'm not sure that the information was
7 communicated successfully to NCPC. But in any
8 case, it doesn't really matter. I think it has
9 been addressed so I have no qualms about moving
10 forward based on that issue.

11 In fact, I'm not sure I have any issues
12 at all. Yeah, I mean, I think the only
13 outstanding thing from my perspective was the
14 direction of the mural. And I think that they've
15 sort of opened things up a little bit and
16 established a new process by which the mural would
17 be designed and executed. And that's fine. I
18 mean, I kind of like to be able to see it before
19 the thing gets final approval but I know that
20 that's not practical. So I will hope that the
21 others who do have a say in what this finally
22 looks like will exercise the best possible
23 artistic judgment and what we have will be really
24 very attractive and an asset to the neighborhood
25 and not looking like a billboard or something like

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1 that. So that's all I have.

2 CHAIRPERSON HOOD: Okay. Any other
3 comments?

4 MR. TURNBULL: Mr. Chair, I would agree
5 with Commissioner May. I think there must be some
6 internal miscommunication within an NCPC. I think
7 either they didn't get -- or they haven't looked
8 at the updated revisions that were provided by the
9 applicant. But we clearly addressed this in the
10 hearing and afterwards. I think we went back
11 several -- we made sure because we all had issues
12 with this penthouse issue.

13 And even the latest drawings which were
14 submitted on Exhibit 40A, and drawing number A54
15 clearly shows -- and A55, that they had addressed
16 our issues and our concerns. And I believe if
17 NCPC hasn't seen these, maybe they need to take a
18 look at this. But I think it addresses all of the
19 issues regarding the height act on this. So I'm
20 satisfied that it meets the Height Act
21 requirements.

22 CHAIRPERSON HOOD: Vice Chair Cohen.

23 MS. COHEN: Thank you, Mr. Chairman. I
24 noticed they submitted some examples of murals
25 throughout the city. I think that it really

1 enlivens the neighborhood, and because the ANC
2 will participate in the selection of the artist
3 for the mural, I'm sure it will meet the needs of,
4 you know, the city and the neighborhood, as far as
5 design quality. So I really am supportive of the
6 mural.

7 MR. MILLER: Thank you, Mr. Chairman.
8 Yeah, I would concur with the Vice Chair's
9 comments on the mural and appreciate the
10 applicant's -- the process that they developed and
11 to make sure that it does fit in to the context of
12 the neighborhood in both its theme and content and
13 design. And I agree with Commissioners May and
14 Turnbull that the applicant did address -- did
15 make revisions to the rooftop penthouse to address
16 the height setback concerns that had been
17 expressed.

18 And I think in addition to those, being
19 responsive to those requests, I think the
20 applicant -- I think since the time of the public
21 hearing, did strengthen the LEED certification
22 from Silver to Gold, and also strengthened the
23 affordable housing. So I'm pleased to move if we
24 can move forward with this project this evening.

25 CHAIRPERSON HOOD: Okay. I don't think I

1 have any other comments. Commissioner May?

2 MR. MAY: Yeah, I just want to clarify.
3 You know, I think there may have been one small
4 area where they did make a further change in the
5 penthouse setback having to do with the alley at
6 the northeast corner, or that northeast facade,
7 all the way at that top section where they had to
8 add that same setback that they had already added
9 at the north. So maybe that's the issue that NCPD
10 was concerned about.

11 I'm not totally concerned, or I'm not
12 totally clear on that, but it doesn't really
13 matter. I think it's been fully addressed in the
14 submissions that we have in the record now.

15 CHAIRPERSON HOOD: Okay. If there's not
16 any further discussion, somebody like to make a
17 motion?

18 MS. COHEN: Mr. Chairman.

19 CHAIRPERSON HOOD: Vice Chair Cohen.

20 MS. COHEN: Mr. Chairman, I move to
21 approve the Zoning Case No. 14-19, M Street
22 Development Group, LLC., Consolidated PUD and
23 Related Map Amendment at Square 772, and ask for a
24 second.

25 MR. MILLER: Second.

1 CHAIRPERSON HOOD: Okay. It's been moved
2 and properly seconded. Any further discussion?

3 [Vote taken.]

4 CHAIRPERSON HOOD: Not hearing any
5 opposition of those present, Ms. Schellin, would
6 you record the vote?

7 MS. SCHELLIN: Yes. Staff records the
8 vote five to zero to zero to approve -- yes, final
9 action in Zoning Commission Case No. 14-19,
10 Commissioner Cohen moving, Commissioner Miller
11 seconding, Commissioner's Hood, May, and Turnbull
12 in support.

13 CHAIRPERSON HOOD: Okay. Next let's go
14 to proposed action in Zoning Commission Case No.
15 15-04, Comstock 6th Street, LLC., Consolidated PUD
16 and Related Map Amendment at Square 3788. Ms.
17 Schellin.

18 MS. SCHELLIN: Yes, sir. Exhibit 47 is a
19 DDOT supplemental report regarding the street
20 requirements that the Commission asked them to
21 submit at Exhibits 48 through 48D and 49. We have
22 the applicant's post-hearing submissions. At
23 Exhibit 50 we have the Concerned Citizens of North
24 Michigan Park's response to the applicant's
25 submission. And then Exhibit 51 we have ANC 5-

1 A's. ANC 5-A submitted a copy of their agreement
2 with UDC. And also this evening at 6:00, I
3 received an e-mail from Ms. Alston. She's
4 actually here now. But she advised that one of
5 the things that the applicant had asked was for
6 them to make a submission regarding the \$12,000
7 that the ANC would receive, how that would be
8 distributed. She advised that the ANC would not
9 have a meeting until September 30th. And so
10 that's why they were not able to make that
11 submission. And so they would like for the
12 record, to be able to make that submission prior
13 to final action.

14 CHAIRPERSON HOOD: Okay. Let's just hold
15 that request in abeyance.

16 MS. SCHELLIN: Okay.

17 CHAIRPERSON HOOD: Because we may not --
18 depends when we get to final action. I don't like
19 to say we're going to get somewhere when we don't
20 know whether we'll get there or not. But let's
21 just hold that in abeyance and then we'll do that
22 on the back end. Anything else I missed, Ms.
23 Schellin?

24 MS. SCHELLIN: No, sir.

25 CHAIRPERSON HOOD: Okay. Vice Chair

1 Cohen?

2 MS. COHEN: Yes, Mr. Chairman, for the
3 record I just want to state that I reviewed the
4 entire record.

5 CHAIRPERSON HOOD: Okay. You'll be
6 participating.

7 MS. COHEN: Yes, I'll be participating.

8 CHAIRPERSON HOOD: All right. Thank you.
9 Okay. Colleagues, Exhibit 48. It starts off with
10 some of the things that we requested,
11 architectural and building designs, comments, site
12 design, proposed pedestrian bicycle connection. I
13 think we asked for some additional information on
14 that. Community outreach as well and I think that
15 the applicant has submitted that and those
16 responses are followed in those documents.

17 And the construction management plan is
18 either -- I think it's D.

19 Okay. Let me open it up for any comments
20 or questions, or responses to anything that we
21 asked for.

22 MR. MAY: Mr. Chairman, you know, they
23 submitted some changes to the drawings to address
24 some of the concerns that we had. You know, they
25 were fairly minor concerns, and you know, they

1 have made some minor changes. And still I would
2 say it's perhaps not as refined as it might have
3 been. I mean, there's certainly more comments
4 that I could make about it but I'm not sure at
5 this point if there's anything that's substantive.
6 So I'm prepared to move forward with this without
7 any further need for revision. At least on the --
8 when it comes to the architecture.

9 CHAIRPERSON HOOD: Okay. Anyone else?
10 Any comments on architecture?

11 MR. TURNBULL: Well, Mr. Chair, I
12 remember I had asked them about the playground and
13 we did receive two drawings on the playground.
14 One is a landscape drawing clearly showing what
15 the landscaping around the playground is. And the
16 other with regards to the bio filter and retention
17 around the playground. So that answered one of my
18 questions.

19 They also did -- not an architectural
20 issue, but I think you brought it up also, about
21 the garbage collection.

22 CHAIRPERSON HOOD: Okay.

23 MR. TURNBULL: And that was going to be
24 in the covenant, how they would pick it up. So I
25 think those are two items that we were concerned

1 about at the time.

2 CHAIRPERSON HOOD: Okay. Any other
3 comments? Commissioner Miller.

4 MR. MILLER: Thank you, Mr. Chairman.
5 Yeah, I just, along those lines, I think I had
6 asked about the pedestrian bicycle connection of
7 the possibility of adding a security camera and
8 I'm appreciative that they looked into that and
9 they are committing to installing a surveillance
10 camera along the path in coordination with the
11 Metropolitan Police Department's Capitol Shield
12 Program, and I think that's important to provide a
13 degree of public safety there.

14 CHAIRPERSON HOOD: Okay. Any other
15 comments? So I guess I am the only one -- well,
16 did anyone have any concerns about the --

17 MS. COHEN: I do.

18 CHAIRPERSON HOOD: -- vehicle traffic?
19 And I will tell you that I heard it loud and clear
20 from the community, as well as -- well, other
21 folks who testified at that hearing. I don't
22 think they were against the development. I think
23 I even asked that. I don't think anyone was
24 against the development. I think the issue is the
25 impacts of vehicle traffic.

1 And I know the impacts possibly are
2 minimal but the Zoning Commission's job, at least
3 the way I see it, is we're not supposed to
4 exacerbate or add on to impacts. I don't know if
5 anyone else feels that way, like I do. And I know
6 we cannot compel anyone to open the street. But
7 what I would like to see done is that, let's
8 rethink this. I know the pedestrian and the
9 bicycle pathway, I know that's there. But you
10 know, there is a problem. And I know the problem
11 exists now. And what we're going to do is add on
12 to the problem, and I just don't think that's the
13 Commission's job.

14 As long as I've been down here, we try to
15 mitigate and work through problems. I would like
16 to see this applicant possibly go back and find
17 out some other ways. And I know that's a
18 difficult site, and I'll give you an example.
19 When I thought about -- when I heard it at the
20 hearing, I thought about over in East Ling
21 Gardens, another case that we dealt with.

22 And years ago I mentioned Stone's Throw
23 Picnic (phonetic). When you go in there it's one
24 way in and one way out. And I just don't see us -
25 - I would like for the applicant to revisit that

1 circulation pattern. And I know it's not a whole
2 lot, but I think some more thought, we can kind of
3 curb some of what we're getting ready to do down
4 there. So that's why I'm on that. I don't know
5 if anyone else feels that way with me.

6 Well, can I get -- honestly, it's
7 important. Commissioner May?

8 MR. MAY: So, Mr. Chairman, there's no
9 doubt in my mind that it would be a better thing
10 overall from a planning perspective from a city
11 transportation perspective from the, you know, the
12 overall development of the city, to have a
13 complete grid of the city here, and actually to
14 have those connections. So I, you know, if the
15 applicant wants to reconsider it and wants to make
16 that, you know, part of what they're proffering, I
17 think that would be a welcome benefit. And I know
18 that they're a -- you know, some neighbors would
19 not be happy about that. And I appreciate that,
20 but I also appreciate the benefit of having those
21 connections within the city and having streets
22 that connect instead of ones that just sort of
23 come close but not all the way.

24 That being said, I don't think that we
25 have evidence in the record that supports

1 compelling the applicant to make that change. We
2 certainly didn't see strong support or a demand on
3 the part of DDOT to make that change in order to
4 make this project viable.

5 I think this is a relatively -- this is a
6 relatively small project with very very modest
7 potential to impact the traffic network, the road
8 network within that part of the city. And, for
9 the release that they're actually requesting here,
10 I don't know that it justifies the expense of --
11 and the difficulty and the process of establishing
12 that roadway.

13 But again, you know, if the applicant
14 wants to proffer that before we take final action,
15 that would be fine by me. But I'm prepared to
16 move forward with what they've proposed.

17 CHAIRPERSON HOOD: Okay. I want to
18 clarify, I didn't say how it could be done. I
19 didn't say open up anything. I just asked them to
20 relook at how we can navigate because again, for
21 me, I think that the -- I think we're going to
22 compound, you know, at some point in time again,
23 we always talk down here about the tipping point.
24 And I think there will become some addition
25 adverse impacts. I know what exists now and I

1 understand that the other homeowners in Emerson
2 Park, I understand where they are too, about not
3 wanting a whole lot of traffic or anything, but at
4 the end of the day it's, how do we move here in
5 the city? You know. D.C. is on the move so how
6 do we move? How are we transporting people? How
7 are we getting people down here, a lot about
8 bicycles, you know? Even to the point, I'm going
9 to eventually start riding. So --

10 MR. MAY: Well, and you'll be able to get
11 through.

12 CHAIRPERSON HOOD: No, but I'm talking
13 about in general. One of the things that we
14 always do down here, we try to balance. Some
15 people ride bikes, some people walk, some people
16 jog, some people drive cars. So again, what
17 impacts are we putting on a neighborhood. It was
18 something else when we already did with the Rocky
19 Gorge case years ago, you know. We made that
20 exception.

21 So when is the tipping point? When do we
22 really be disruptive? So I would just ask the
23 applicant. I didn't say how you had to do it. I
24 was going to ask the applicant to look at some of
25 that ingress and egress down in that area. Okay.

1 Do I have any support for that other than
2 Commissioner May?

3 MR. TURNBULL: I don't mind if the
4 applicant takes a look at the possibility of
5 making the connection. I think there was a couple
6 of items that is whether or not a road can be made
7 that would be the appropriate size that would be
8 acceptable to the Department of Transportation.
9 And the other issue is that the road comes on to
10 private property. And to connect up with the
11 other road, I think what is troublesome is that
12 the Capitol Area Foodbank, I think part of that
13 street may also be private property owned by the
14 Capitol Foodbank. So there would be a lot of
15 coordination involved with this. But I'm not
16 opposed to having them look at it.

17 CHAIRPERSON HOOD: Okay.

18 MR. TURNBULL: But there are some other
19 issues that get wrapped up in to trying to make it
20 work.

21 CHAIRPERSON HOOD: Right. I understand
22 that, and I understand about the private issue
23 versus the public issue and certain diameters and
24 width of the streets. But I know private streets,
25 the way I believe, private streets do not have a

1 width. But we have to make it work. And I think
2 your comments are well taken, Mr. Turnbull. And
3 I'm sure that hopefully we can coordinate and then
4 make a win/win for the neighbors, for the
5 applicant, for the new neighbors, for the existing
6 neighbors, for Emerson Park. And then I'm just
7 trying to see if we can get to that point. Again,
8 I'm asking them to relook at that before final
9 action, because obviously I think we will probably
10 get to final action from what I'm hearing. But
11 I'm asking them to at least look at it and be
12 considerate and see what we can do to work it out.

13 I know it can be done because I've been
14 here long enough and history -- let me just say
15 this, it was done at National Stadium, so I know
16 it can be done. And I'm not going to say exactly
17 what was done, but it was done. Okay? So I know
18 it can be done. Anything else.

19 MS. COHEN: Mr. Chairman.

20 CHAIRPERSON HOOD: Vice Chair Cohen.

21 MS. COHEN: Thank you. I just would like
22 to see, before final, the applicant be more
23 specific about the scholarships for UDC that --
24 their new scholarships. And so I would like
25 clarification of that proffer, as well as the

1 proffer with the creation of a new entity. I'd
2 like to see if that's reasonable and feasible to
3 do. So I'd like more detail on that as well.

4 CHAIRPERSON HOOD: Okay. Any other
5 comments, questions, Commissioner Miller. Any
6 other question or comment?

7 MR. MILLER: No. I was just prepared to
8 make a motion to approve that the Commission take
9 final action on Zoning Commission Case No. --
10 proposed action.

11 CHAIRPERSON HOOD: Proposed.

12 MR. MILLER: I'm so sorry. Proposed
13 action, because part of my motion will be that
14 they look at certain things that Commissions and
15 fellow Commissioners, including the Chairman, have
16 asked them to look at between proposed action and
17 final.

18 CHAIRPERSON HOOD: Thank you.

19 MR. MILLER: So with that caveat I would
20 move approval of proposed action on Zoning
21 Commission Case No. 15-04, Comstock 6th Street,
22 LLC., Consolidated PUD and Related Map Amendment
23 at Square 3788 and expect a response to the
24 request made here today, and ask for a second.

25 MR. TURNBULL: Second.

1 CHAIRPERSON HOOD: Okay. It's been move
2 and properly seconded. Any further discussion?

3 [Vote taken.]

4 CHAIRPERSON HOOD: Any opposition? Not
5 hearing any, Ms. Schellin, would you record the
6 vote?

7 MS. SCHELLIN: Yes, sir. Staff records
8 the vote five to zero to zero to approve proposed
9 action in Zoning Commission Case No. 15-04,
10 Commissioner Miller moving, Commissioner Turnbull
11 seconding, Commissioners Cohen, Hood, and May in
12 support.

13 Chairman Hood, in addition to the
14 applicant having to go through the process of the
15 conditions and benefits, you know, going through
16 that process, did you want to set a date for them
17 to provide something as far as making a submission
18 with regard to reconsidering or considering the
19 possibility of a, maybe a different
20 ingress/egress, as you guys called it. Or a road
21 or --

22 CHAIRPERSON HOOD: I've asked him to look
23 at it.

24 MS. SCHELLIN: To look at it.

25 CHAIRPERSON HOOD: Not necessarily -- no,

1 look at it and come up with something. Come back
2 with something. Possibly come back with
3 something. I obviously don't have the votes, but
4 come back. I don't want to say reconsider because
5 it makes it look like I'm making them change the
6 whole --

7 MS. SCHELLIN: Making them -- right.

8 CHAIRPERSON HOOD: -- project. But what
9 I'm saying is --

10 MS. SCHELLIN: Maybe take a look at it.

11 CHAIRPERSON HOOD: -- there's a way we
12 can look at it, and I'm getting there without
13 getting there. But it's a way we can look at it.
14 It's a way as Mr. Turnbull said, that may
15 encompass other areas to make that area work,
16 because my issue is, we're impacting -- we're
17 putting, just compiling, and again we always talk
18 about the tipping point. So I don't know what --
19 the applicant does it all the time. They know
20 what I'm asking for, even though it's very
21 germane. But I think they get my drift. And I'll
22 just leave it at that.

23 MS. SCHELLIN: And so --

24 CHAIRPERSON HOOD: I just don't want to
25 use the word reconsider because it makes it look -

1 - because if the Chairman is asking you to
2 reconsider and he -- to me that's like redesigning
3 your project. I'm not asking you to --

4 MS. SCHELLIN: Right. And you've already
5 voted on something. So you're just asking them to
6 consider --

7 CHAIRPERSON HOOD: That's right. I'm
8 asking --

9 MS. SCHELLIN: -- take a look at
10 something.

11 CHAIRPERSON HOOD: To look at -- I want
12 them to look at the ingress and the egress of that
13 area of what already exists now, and how can we --
14 not necessarily be -- because their project is
15 going to add to it. It's already an issue. And
16 I'm not saying the issue wasn't there before them.
17 The issue is there. But we're adding on top of
18 that issue. What can they do to help mitigate
19 that. That's where I am.

20 MS. SCHELLIN: Okay. So I just wanted to
21 set a date because I see Ms. Bell in the audience,
22 and Ms. Alston. If we could just set a date for
23 the applicant to provide that submission separate
24 from what they have to do as far as going through
25 the benefits and you know, 240315 through 21.

1 Separate from that process, if we could go ahead
2 and set that date so that Ms. Bell and Ms. --

3 CHAIRPERSON HOOD: I guess the question
4 though, is how much time does the applicant think
5 they need to --

6 MS. SCHELLIN: Right. And that's what I
7 wanted to set so that --

8 CHAIRPERSON HOOD: Okay. Let's do that
9 first and then we'll go to Ms. Bell.

10 MS. SCHELLIN: How much time do you guys
11 think? Okay. The applicant has advised two
12 weeks, so that would be October 5th. And then the
13 parties are entitled to seven days to file a
14 response but the 12th is a holiday. So we would
15 make that October 13th. Ms. Bell and Ms. Austin
16 would be able to file a response to that filing,
17 and the response would be only to what they file
18 on that day. Okay?

19 CHAIRPERSON HOOD: Well, but let me back
20 up. Commissioner Alston asked for --

21 MS. SCHELLIN: Yes.

22 CHAIRPERSON HOOD: -- an issue. So --

23 MS. SCHELLIN: Yes.

24 CHAIRPERSON HOOD: Is that encompassing
25 that date; those dates?

1 MS. SCHELLIN: Since they meet on
2 September 30th, I think that she should file her
3 report, or her submission on October 5th, also.

4 CHAIRPERSON HOOD: And this is coming
5 from the full Commission, correct?

6 MS. SCHELLIN: From the full Commission,
7 absolutely.

8 CHAIRPERSON HOOD: Full Commission, so we
9 get the great weight. Okay.

10 MS. SCHELLIN: Right.

11 CHAIRPERSON HOOD: All right.

12 MS. SCHELLIN: The final action would not
13 occur until the November meeting. November 9th.

14 CHAIRPERSON HOOD: Okay. And that would
15 be our typical schedule either way.

16 MS. SCHELLIN: Yes, sir.

17 CHAIRPERSON HOOD: Okay. All right.
18 Anything else on this case?

19 MS. SCHELLIN: No, sir.

20 CHAIRPERSON HOOD: Okay. Thank you all
21 very much. Let's move right on to hearing action,
22 Zoning Commission Case No. 15-19, 411 New York
23 Holdings, LLC., Consolidated PUD and Related Map
24 Amendment at Square 3594. Ms. Rappolt.

25 MS. RAPPOLT: Thank you. Good evening,

1 Chairman Hood and members of the Commission. OP
2 recommends the Zoning Commission set down the
3 applicant's request for a PUD and related zoning
4 map amendment for the property known as 411 New
5 York Avenue Northeast, located along the norther
6 boundary of the Florida Avenue Market area.

7 The 14,000 square foot property is
8 currently zoned to the C-M-1 District. The
9 applicant requests a map amendment to the C-3-C
10 District, which permits the requested maximum 8.0
11 FAR at a maximum height of 130 feet. The PUD
12 consists of an 11 story hotel building of 110 feet
13 in height. And a range of up to a maximum of 178
14 hotel rooms. The PUD also includes two
15 restaurants, one on the ground floor and one of
16 the 11th floor, as well as arts uses which
17 includes a classroom, nine studio spaces, and
18 gallery spaces, all to be managed by Cultural D.C.

19 As detailed in OP's report, the Florida
20 Avenue Market area as well as the immediately
21 surrounding areas are currently undergoing
22 substantial development pursuit. As quite a few
23 PUD requests have recently been entitled, some are
24 under review by OP and others are anticipated to
25 be filed in the near term.

1 In terms of the Comprehensive Plan Future
2 Land Use Map, the property is striped for a mixed
3 use, high density residential, commercial, and
4 production distribution and repair uses.

5 The generalized policy map also denotes
6 the property as part of a multi-neighborhood
7 center. The proposal would further -- the
8 comprehensive plan maps, as well as policy
9 guidance, encouraging hotel development and arts
10 uses in general.

11 The applicant has requested flexibility
12 to allow relief from the provision of required
13 parking, roof structure setback, interior and
14 exterior design components, as well as for the
15 provision of a maximum number of units.

16 OP has asked for confirmation from the
17 applicant regarding the necessary rear yard
18 setback and/or court relief that's necessary. A
19 detailed roof plan is needed as well in order to
20 evaluate the roof structure setback relief.

21 Additionally OP has requested more
22 information regarding the vision, the intensity,
23 management, and affordability of the arts uses, as
24 well as the status of the proposed alley closing
25 for which this project is contingent upon. In

1 terms of public benefits and amenities it appears
2 the project will provide facade preservation,
3 affordable art spaces, as well as the design
4 element -- excuse me, as well as design elements
5 for hearing impaired.

6 OP has requested more detailed
7 information with regard to these benefits.
8 Enclosed in the proposal is not inconsistent with
9 the proposed zoning district. The written
10 portions of the comprehensive plan and the maps
11 regarding the hotel and arch development, and as
12 such the Office of Planning recommends the PUD and
13 related map amendment request be set down for a
14 public hearing, and I'd be happy to take any
15 questions.

16 CHAIRPERSON HOOD: Okay. Thank you, Ms.
17 Rappolt. I meant to ask the gentleman who was
18 taking pictures, was our pictures going to be over
19 the Wilson building again in the men's room, and
20 I'm not sure if they were in the ladies room, but
21 -- or on the subway. And I was hoping that we
22 weren't taking pictures for all that.

23 Ms. Schellin, do you know where the
24 gentleman with the camera was from?

25 MS. SCHELLIN: I'm sorry, I don't. He

1 called --

2 CHAIRPERSON HOOD: Okay. But I just
3 wanted to make sure our pictures don't show up
4 where they did once before.

5 MS. SCHELLIN: He called someone else
6 from the office.

7 CHAIRPERSON HOOD: Okay. Okay. I just
8 wanted to make sure I didn't have to call somebody
9 to get them down out of the Wilson building's
10 men's room and all that kind of stuff, and on the
11 subway.

12 So anyway, let's open it up. Sorry for
13 that digress, but I just, I had a flashback.

14 MS. SCHELLIN: No, I don't think those
15 pictures were that good, that came from that kind
16 of camera.

17 CHAIRPERSON HOOD: Oh, okay. Okay. Any
18 questions of Ms. Rappolt on this case? Vice Chair
19 Cohen?

20 MS. COHEN: Thank you, Mr. Chairman. I
21 would like to learn more about the access to the
22 site. I mean, there was some discussion but a
23 boutique hotel, in my experience, is usually in a
24 seasoned neighborhood and we're still in the
25 process of overhauling New York Avenue. And

1 therefore I would like to know more about the
2 operator of the hotel as you mentioned, because
3 this could be an excellent idea, and I'm just not
4 sure the timing is appropriate for its existence
5 in this neighborhood.

6 I'd also like to know if there's any type
7 of agreement, existing agreement, for parking at
8 the, you know, Barwood Hotel, or motel. I mean,
9 it's a different attraction. It's not attracting
10 the same type of people, so I have no idea if
11 they're compatible but is there an agreement for
12 the parking at least?

13 I would like to know more about -- again,
14 they propose internships for going to hotel
15 management school. I don't think they gave us
16 much information and you did ask for the greater
17 detail on the proffers.

18 In the drawings that they provided, on
19 the 11th floor there is a balcony. But it doesn't
20 -- I don't know if there is access to that
21 balcony. If there is, it doesn't look like there
22 is a protective security. I can't really tell
23 from this drawing. Maybe my colleagues can, but I
24 could not.

25 And on the west elevation, A23, there's a

1 huge shadow and I don't know what that's meant to
2 indicate, is that we're all going to be blank, or
3 is it -- I don't know what it's showing. Again,
4 maybe I'm not as familiar with the vocabulary of
5 drawings as my colleagues might be, but it looks
6 like it's a blank wall and it doesn't look very
7 attractive to me.

8 Let's see. And I'd like to know more
9 about -- well, you've asked for more information
10 about the studios, their pricing, you know,
11 because that is a proffer to provide below market
12 pricing. And I presume those are the artists that
13 are existing there. So I don't know if it's net
14 new space, so if you can find that out too,
15 because it may be an agreement of vacate the space
16 now and you can come back. So that's not clear
17 from anything that I read.

18 That's really my questions. Thank you.

19 CHAIRPERSON HOOD: Okay. Any other
20 questions you missed? Commissioner Miller.

21 MR. MILLER: Thank you, Mr. Chairman.
22 This is, I think in general, a very exciting
23 project that will contribute to the revitalization
24 of this neighborhood. And preserves the historic
25 facade of -- or at least the concept of the

1 façade of the existing industrial building that's
2 there, and adds attractive elements to the larger
3 building that's going to be created. And I
4 particularly like the preweathered copper panels
5 and all the indentations in the building.

6 So in addition to all of the items, I
7 would agree with all the items that have been
8 requested by the Office of Planning and by the
9 Vice Chair, I think we do need some more
10 information about what's going to happen with the
11 -- or what the comparison is between the existing
12 artists that are in the building today, and the
13 amount of space that will be created afterwards,
14 and the type of space of that's there now versus
15 the type of space that's going to be there later.
16 But I mean, I think it's all very -- the details -
17 - additional details should be provided at the
18 hearing and that would be helpful.

19 On the setbacks on the roof, I think the
20 Office of Planning has requested this, and the
21 applicant makes note of asking for flexibility
22 from the north and south sides. The north, I
23 think, is the front side. And it's only asking
24 for three feet there. But I think there was zero
25 setback on the south side and then there was -- it

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1 looks to me like on the east side there's also a
2 zero setback on the penthouse structure. Maybe
3 I'm just looking at the rendering wrong. But I
4 think we need perspectives that clearly show from
5 the adjacent properties and from the street, as to
6 what these -- if there's going to be relief from
7 setback, what that's going to look like from
8 across the street and in the neighborhood.

9 And I think that is all the comments that
10 I had, Mr. Chairman. Thank you.

11 CHAIRPERSON HOOD: Okay. Thank you.
12 Commissioner Turnbull.

13 MR. TURNBULL: Yeah, thank you, Mr.
14 Chair. I would agree with the comments of my
15 colleagues and basically agree with the Office of
16 Planning on their comments, requiring the need for
17 some better drawings, with more clarification of
18 the drawings that would describe the penthouse and
19 the roof area a lot better, sections, elevations,
20 and some -- just some better ideas of what's
21 really happening with the setbacks up there.

22 So I would agree with all that, and I
23 would agree with Commissioner Miller that the
24 incorporation of the existing -- at least the
25 façade of the old building is well worth

1 mentioning. I think that's a good point that
2 they've done.

3 We do need more information on the
4 amenities. I think the Office of Planning
5 mentioned that also, so. But I guess the only
6 thing that I would say I want to see go away is
7 411 NY AVE up on the top of the building. I
8 really don't think you need that up there. So I
9 think that could go away. But that's just this
10 Commissioner's particular point of view.

11 And I think that's -- I think we've had
12 comments, so I think I'd be just going over the
13 same ground as others. Thank you.

14 CHAIRPERSON HOOD: Okay. Commissioner
15 May.

16 MR. MAY: Thanks. So again, you know, I
17 agree with my colleagues' comments. And I have
18 just a couple things to add. You know, on the
19 setback issue, I think the most concerning is
20 anything that would be on the front side of the
21 building and of course anything that's going to be
22 on a public way. So anything that's on the -- you
23 know, set back from the alley.

24 But given that this is 110 foot building
25 and you're asking for 130 feet, C-3-C Zone which

1 would allow 130 feet, I guess theoretically it
2 might be possible to consider the mechanical
3 penthouse historian or treatment of the zoning.
4 But then I'm not sure what that does to the rest
5 of the zoning calculations. But I know that's the
6 way setback issues have been addressed on occasion
7 in the past.

8 But it's a real concern because I would
9 not be inclined to sign off on a penthouse setback
10 relief on the front of the building under, you
11 know, any circumstance.

12 I'm a little confusing about the purpose
13 of the alley closing and what that accomplished.
14 So maybe that's something that you can answer
15 immediately. I mean, do you know what the purpose
16 of that is?

17 MS. RAPPOLT: Yes, for a hotel PUD the
18 required square footage is 15,000 square feet, and
19 the side air is actually 14,000 square feet so
20 they need the alley closing to meet the PUD
21 directional requirement.

22 MR. MAY: The minimum square footage.

23 MS. RAPPOLT: Exactly.

24 MR. MAY: So isn't it the 15,000
25 requirement that we could waive? So if we have

1 the ability to waive that isn't that easier than
2 closing the street?

3 MR. LAWSON: We can check on that and
4 we'll check on that with OAG as well. Typically
5 the waiver of the lot sizes for a residential
6 project, that's what the regulations state, so we
7 can check and see whether there's a provision that
8 would allow a waiving of the minimum lot size for
9 a nonresidential project.

10 MR. MAY: Okay. All right. It just, it
11 seems, just seems odd to have to go through all
12 that trouble. And I mean, there may be very sound
13 reasoning why we would not waive, in this
14 circumstance, that minimum requirement. But I
15 think it's something we ought to look at.

16 Do we know when the building to the west
17 is going to be built? We do not. So I think the
18 treatment of that west façade, which is now a
19 large blank -- fairly blank wall, becomes very
20 important because if there's no -- you know, if
21 it's not imminent that a new building is going to
22 built to that same height or a similar height,
23 then that building -- that façade has to be done
24 like a real façade, and not just a blank wall or a
25 shadow.

1 And I agree with Commissioner Turnbull's
2 concerns about the issue with the sign at the top
3 of the building. I think that's something that
4 needs to be looked at again. And then I have one
5 last -- and this is a very personal concern, but
6 what about the guy who had the door stripping
7 business in the basement of this building? Does
8 that -- am I thinking about the wrong building, or
9 is he long gone?

10 [No audible response.]

11 MR. MAY: He's gone. Okay. So I'd like
12 to find out where he's gone. Again, a very
13 personal concern. No, that's the only reason I
14 know that building is going and dropping off doors
15 at, you know, 9:00 at night for some reason. I
16 don't know why. He had weird hours. But that's
17 where you went to get your doors stripped. And
18 now I don't know where you go. Anyway, thanks.

19 CHAIRPERSON HOOD: Did you take them to
20 the business or you're just dropping them off and
21 DPW had to come pick them up and --

22 MR. MAY: No, no, no.

23 CHAIRPERSON HOOD: Oh, okay. Just
24 wondering.

25 MR. MAY: You know, I handed them to the

1 guy and, you know, he --

2 CHAIRPERSON HOOD: Oh, that's a good
3 question. Did you take your bike and bring them
4 over there? How did you get to my neighborhood?

5 MR. MAY: You know, occasionally I drive.

6 CHAIRPERSON HOOD: Oh, okay.
7 Occasionally.

8 MR. MAY: One of my two cars, yes.

9 CHAIRPERSON HOOD: Actually, I don't have
10 a whole lot of questions and I'm looking forward
11 to setting this down. This is another exciting
12 part, I think the community. Especially what we
13 did further down the street. I've been the
14 recipient of some of the things that this
15 Commission has voted on as far as going to
16 utilized Planet Fitness and those kind of things.
17 So I'm excited about this. This adds to some more
18 things that this community has been looking for
19 for a long time. Maybe some tweaks as we move
20 forward. But it's time for those of us where I
21 live to benefit with some of these.

22 So I'm excited about it. I think this
23 adds to jumpstarting a lot of things that's
24 already happening over in that neighborhood,
25 especially with some of the development that's

1 going up and down New York Avenue that's being
2 very useful to the residents. And I can tell you,
3 we're using it. And yes, we still have a lot of
4 empty stores, Vice Chair. A lot of empty door
5 fronts. But they're starting to fill in. We're
6 starting to get pedestrians that walk through and
7 this just adds to that. So I may ask a few
8 circulation questions, how are some things going
9 to operate at the hearing. But I'm in favor of
10 setting this down. So any other questions or
11 comments?

12 So with that I would move that we set
13 down Zoning Commission Case No. 15-19, take into
14 consideration some of the comments that we'd be
15 looking forward to hearing, and ask for a second.

16 MR. MILLER: Second.

17 CHAIRPERSON HOOD: It's been moved and
18 properly seconded. Any further discussion.

19 [Vote taken.]

20 CHAIRPERSON HOOD: Not hearing any
21 opposition, Ms. Schellin, would you record the
22 vote?

23 MS. SCHELLIN: Yes, sir. Staff records
24 the vote five to zero to zero to set down Zoning
25 Commission Case No. 15-19 as a contested case,

1 Commissioner Hood moving, Commission Miller
2 seconding, Commissioners Hood, May -- I'm sorry,
3 Cohen, May, and Turnbull in support.

4 CHAIRPERSON HOOD: Okay. Ms. Schellin,
5 do we have anything else?

6 MS. SCHELLIN: No, sir.

7 CHAIRPERSON HOOD: Okay. I want to thank
8 everyone for their participation tonight and this
9 meeting is adjourned.

10 [Meeting adjourned at 7:20 p.m.]

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