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GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission

Regular Public Meeting
1452nd Meeting Session [3rd of 2017]

6:36 p.m. to 7:18 p.m.
Monday, February 13, 2017

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

1 Board Members:

2 ANTHONY HOOD, Chairman

3 ROBERT MILLER, Vice Chair

4 PETER MAY, Commissioner

5 MICHAEL TURNBULL, Commissioner

6 PETER SHAPIRO, Commissioner

7

8 Office of Zoning:

9 SHARON SCHELLIN, Secretary

10

11 Office of Planning:

12 MAXINE BROWN-ROBERS

13 JOEL LAWSON

14 JENNIFER STEINGASSER

15 KAREN THOMAS

16

17 Office of the Attorney General:

18 ALAN BERGSTEIN

19 MR. COHEN

20

21

22

23

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

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

6 My name is Anthony Hood. We are located in
7 the Jerrily R. Kress Memorial Hearing Room. Joining
8 me are Vice Chair Miller, Commissioner Shapiro,
9 Commissioner May, and Commissioner Turnbull. We're
10 also joined by the Office of Zoning staff, Ms. Sharon
11 Schellin, as well as the Office of Attorney General,
12 Mr. Bergstein and Mr. Cohen. Also, Office of
13 Planning, Ms. Steingasser, and Ms. Brown-Roberts, and
14 Ms. Thomas.

15 Copies of today's meeting agenda are
16 available to you and are located in the bin near the
17 door. We do not take any public testimony at our
18 meetings unless the Commission requests someone to
19 come forward.

20 Please be advised that this proceeding is
21 being recorded by a court reporter, is also webcast
22 live. Accordingly, we must ask you to refrain from
23 any disruptive noises or actions in the hearing room,
24 including the display of any signs or objects.
25 Please turn off all electronic devices.

1 Does the staff have any preliminary matters?

2 MS. SCHELLIN: Yes, sir. There are two
3 preliminary matters. The first one would be, it's
4 the first meeting in February and it is time to elect
5 officers.

6 CHAIRPERSON HOOD: Okay. Commissioners,
7 you've heard it's time to elect officers. Also,
8 we're joined by Mr. Lawson, who is with the Office of
9 Planning.

10 Okay, Commissioners, you've heard Ms.
11 Schellin, it's time to elect officers. What is your
12 pleasure? Vice Chair Cohen.

13 MR. MILLER: Mr. Chairman, I would --

14 CHAIRPERSON HOOD: Vice Chair. I said Cohen.
15 Vice Chair Miller.

16 MR. MILLER: Thank you, Mr. Chairman. I
17 would like to nominate you, Mr. Chairman, Anthony
18 Hood as Chairman again for, is this your 100th
19 straight year?

20 CHAIRPERSON HOOD: No, it's not yet. But it
21 won't get to 100, believe me.

22 MR. MILLER: Is it in double digits?

23 CHAIRPERSON HOOD: Let me see. I think it
24 is. It's getting there. It's probably about 10 now.

25 MR. MILLER: Yeah, and --

1 CHAIRPERSON HOOD: It's maybe nine.

2 MR. MILLER: Well, I'm very honored and
3 pleased to nominate you again, Mr. Chairman.

4 MR. TURNBULL: So, are you going to be
5 chairman for the --.

6 MR. MILLER: And I would ask for a second. I
7 would ask for a second.

8 MR. SHAPIRO: Second.

9 CHAIRPERSON HOOD: I didn't think I was going
10 to get a second. Okay. It's been moved and properly
11 seconded. Any further discussion?

12 [Vote taken.]

13 CHAIRPERSON HOOD: Ms. Schellin, would you
14 record the vote?

15 MS. SCHELLIN: I did not hear who seconded.

16 CHAIRPERSON HOOD: Commissioner Shapiro.

17 MS. SCHELLIN: Shapiro. Yes. Staff will
18 record the vote five to zero to zero to approve
19 Chairman Hood to remain chairman, Commissioner Miller
20 moving, Commissioner Shapiro seconding, Commissioners
21 May, Hood, and Turnbull in support.

22 CHAIRPERSON HOOD: Okay. So, with that I
23 would like to nominate Vice Chair Robert Miller to
24 remain in that position, and ask for a second.

25 MR. SHAPIRO: Second.

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

3 [Vote taken.]

4 CHAIRPERSON HOOD: Ms. Schellin, would you
5 record the vote?

6 MS. SCHELLIN: Yes. Staff records the vote
7 five, to zero, to zero to approve -- or to have Vice
8 Chairman Miller to remain as Vice Chairman,
9 Commissioner Hood moving, Commissioner Shapiro
10 seconding, Commissioners May, Miller, and Turnbull in
11 support.

12 CHAIRPERSON HOOD: Okay. And with that I
13 think I can speak for Vice Chair Miller this time.
14 Usually I don't do that, but we thank you, appreciate
15 your confidence. We'll continue to try to make --
16 work with you all and make the best decisions that we
17 can possible for the best interest of the city.

18 MR. MILLER: I second that.

19 CHAIRPERSON HOOD: All right. Good. Okay.
20 Is there anything else?

21 MS. SCHELLIN: Yes, there's one more. We'd
22 ask the Commission to vote on a closed meeting for
23 this Thursday, February 16th, at 5:30 p.m.

24 CHAIRPERSON HOOD: Okay. Okay. Here we are.
25 In accordance with 405C of the Open Meetings Act,

1 D.C. Official Code 2-575-C, I move that the Zoning
2 Commission hold a closed meeting on Thursday,
3 February 16th, 2017, at 5:30 p.m. The closed meeting
4 is for the purpose of obtaining legal advice from our
5 counsel, and to deliberate upon, but not voting on
6 the contested cases scheduled for the final action of
7 the Commission's agenda for that evening. Is there a
8 second?

9 MR. TURNBULL: Second.

10 CHAIRPERSON HOOD: Okay. Will the secretary
11 please take roll call vote on a motion before us now
12 that has been seconded?

13 MS. SCHELLIN: Yes.

14 [Roll call vote taken.]

15 MS. SCHELLIN: The motion carries.

16 CHAIRPERSON HOOD: Okay, I request that the
17 Office of Zoning provide notice of these closed
18 meetings in accordance with the act.

19 Okay, Ms. Schellin, anything else?

20 MS. SCHELLIN: No, sir.

21 CHAIRPERSON HOOD: Okay, let's go right into
22 our agenda. Our first case is consent calendar item,
23 minor modification and technical corrections to
24 Zoning Commission Case No. 08-06K. Office of
25 Planning Technical corrections to Zoning Commission

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1 Order No. 08-06A, Subtitle U. Ms. Schellin.

2 MS. SCHELLIN: Yes, this is a request from
3 the Office of Planning to make technical corrections
4 to Subtitle U, Sections 301 and 401, to add
5 child/elderly development centers as a matter of
6 right in the RF zones. This use was the matter of
7 right in the 1958 Regulations, however, it did not
8 accurately get translated to the ZR-16. Would ask
9 the Commission to approve the immediate publication
10 of a proposed rulemaking.

11 CHAIRPERSON HOOD: Okay. Thank you, Ms.
12 Schellin, for teeing that up for us. Commissioners,
13 any questions or comments? If not, I think it's
14 something we'll straighten out. Somebody like to
15 make a motion?

16 MR. TURNBULL: Mr. Chair, I would move that
17 we accept the Zoning Case No. 08-06AK, a technical
18 correction and publication of the immediate
19 regulations for the proposed amendment, and look for
20 a second.

21 MR. MILLER: Second.

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

24 [Vote taken.]

25 CHAIRPERSON HOOD: Ms. Schellin, would you

1 record the vote?

2 MS. SCHELLIN: Yes. Staff records the vote
3 five, to zero, to zero to approve Case No. 08-06K for
4 the immediate publication of the proposed rulemaking,
5 Commissioner Turnbull moving, Commissioner May
6 seconding, Commissioners Hood, Miller, and Shapiro in
7 support.

8 CHAIRPERSON HOOD: Okay. Next, Zoning
9 Commission Case No. 09-03D. This is a consent
10 calendar item, Skyland Holdings, LLC. Ms. Schellin.

11 MS. SCHELLIN: Yes, sir. This is a request
12 by the applicant for a modification of consequence to
13 remove three levels of above grade parking from the
14 center of block 2; ask the Commission to decide
15 whether this is in fact a modification of consequence
16 and if so, set a schedule for the parties to file a
17 response to the request, and a date for
18 deliberations.

19 CHAIRPERSON HOOD: Okay. Commissioners, let
20 me just ask, does anyone not believe that this is a
21 modification of consequence?

22 Okay. So, I think we're all on the same
23 page. It's a modification of consequence. Ms.
24 Schellin, could you set the schedule?

25 MS. SCHELLIN: Yes, sir. If we could have

1 the parties file their responses by -- in seven days.
2 Monday the 20th is a holiday, so if they could file
3 their responses by Tuesday the 21st, we could put
4 this on for the Commission's next meeting, which is
5 February 27th. Is that agreeable to the Commission?

6 CHAIRPERSON HOOD: Any objections,
7 colleagues?

8 No objections.

9 MS. SCHELLIN: Okay. Thank you.

10 CHAIRPERSON HOOD: Okay, next, let's go with
11 final action. Zoning Commission Case No. 04-14D,
12 Florida Rock Properties, Inc., second stage PUD at
13 Square 708. Ms. Schellin.

14 MS. SCHELLIN: Yes, sir. At Exhibits 30
15 through 30-B7, you have the applicant's post-hearing
16 submissions and you have a draft order, findings,
17 facts, conclusions of law also, I believe for your
18 review, or you've had it for your review, and we'd
19 ask that you consider final action this evening.

20 CHAIRPERSON HOOD: Okay, Commissioners. I
21 think, did we do a bench decision on this case?

22 MR. MAY: No. No, it's a single decision.

23 CHAIRPERSON HOOD: It's a single decision.
24 Okay.

25 MS. SCHELLIN: Single. Single.

1 CHAIRPERSON HOOD: I'm still trying to learn
2 the rules that you guys wrote. Anyway, any further
3 discussion? Any comments? Mr. Turnbull?

4 MR. TURNBULL: Oh, thank you, Mr. Chair. Mr.
5 Chair, I only have one question and I'm going to ask
6 all of you to look at something. It's Exhibit No. --
7 in Exhibit No. 30, the applicant's counsel put in,
8 submitted their response to the comments on different
9 topics. And on page 3, item 5, inclusionary zoning,
10 they refer to Sheet A-108, which reflects an updated
11 IZ floorplan that shows the units more evenly
12 distributed throughout the building. It also
13 confirms that the inclusionary units, it says, "Are
14 not stacked on each floor of the building."

15 So, I ask you to look at Sheet 108. And,
16 it's on the back side of 107, Mr. Chair.

17 CHAIRPERSON HOOD: Oh, all right.

18 MR. TURNBULL: Now, I guess if you look at
19 that, I want -- maybe I'm making a mountain out of a
20 mole hill here, but are these units stacked or not?

21 UNIDENTIFIED SPEAKER: Some of them are.

22 MR. TURNBULL: And are we -- I mean, to me it
23 looks like a lot of them are around the same place,
24 all the way, on every floor, all the way up. So,
25 when the applicant says that they're not stacked, I

1 just question the validity of that statement. And
2 would welcome your comments on that.

3 MR. MILLER: Mr. Chairman, I would tend to
4 agree with Commissioner Turnbull that the location is
5 the same, similar in each -- on each floor, and to
6 the extent that we don't want them to be stacked or
7 that the applicant made a representation that they
8 weren't going to be stacked, I would -- they appear
9 to be stacked.

10 MR. TURNBULL: Yeah.

11 MR. MILLER: I would note that along the IZ
12 they did, in response to encouragement, I think by
13 both OP and the Commission, that they increase the
14 deeper affordability level. They did make a gesture
15 in that direction. I think 25 percent of the IZ
16 units now are at the 50 percent.

17 MR. TURNBULL: And I think that's very
18 commendable.

19 MR. MILLER: Fifty percent, or 60?

20 MR. SHAPIRO: Sixty.

21 MR. MILLER: Sixty percent AMI.

22 MR. TURNBULL: Sixty percent. But very
23 commendable.

24 MR. MILLER: Yeah. And they also were
25 responsive to DOEE on the type of LEED, the more

1 updated LEED certification to get more energy
2 efficiency provided there, and they also
3 incorporated, in response to OP and the Commission's
4 request to provide more pervious paving on the public
5 space. They're providing a lot of public space here,
6 but we wanted more pervious planning and they are --
7 they do appear to be providing more pervious paving,
8 and they did seem to respond to the rooftop one-to-
9 one setback concerns as well. So, I just wanted to
10 point that out.

11 MR. TURNBULL: No, I --

12 MR. MILLER: Yeah. No --

13 MR. TURNBULL: I think that --

14 MR. MILLER: -- so as long as I had the mic,
15 I wanted just to take my turn.

16 MR. TURNBULL: I absolutely --

17 MR. MILLER: But yeah. I think you're right
18 on this stacking.

19 MR. TURNBULL: I think they met -- I meant,
20 they met all our other concerns and I was just -- my
21 only issue was on the IZ locations.

22 MR. MAY: So, it looks to me like some of
23 them are in the same location for some of the floors.
24 But when it comes to -- and that's for the one-
25 bedroom units. For the two-bedroom units they all

1 seem to be the same location. But it doesn't look
2 like there are many options for where the second --
3 the two-bedroom unit can be. I don't know how many
4 there are in total, but I think they were quite a bit
5 more constrained than they are with the one-bedroom
6 units.

7 So, yeah, they didn't -- it's incorrect to
8 say that they are not stacked. You know, honestly, I
9 don't think it's that big a deal from my perspective.
10 I think there is some distribution of the units and I
11 don't -- you know, it's a long hallway. I'm not sure
12 like it's -- and there's nothing really about those
13 units that -- particularly the two-bedroom units that
14 make them not very good. I mean, they're not, you
15 know, over the loading dock or facing the alley or
16 anything like that. I mean, it's a pretty good unit.
17 So, I don't really have a problem with it in this
18 circumstance.

19 CHAIRPERSON HOOD: Mr. Turnbull, let me
20 ask --

21 MR. TURNBULL: Well, that was my concern. I
22 wanted everybody's input on this, noting that the
23 applicant's -- the language that they said in their
24 response is not -- does not, is not reflected in the
25 floorplans. And I don't think it ought to be

1 reflected in the order. I think the order should
2 not --

3 CHAIRPERSON HOOD: Okay. So, we can strike
4 that from the order.

5 MR. TURNBULL: Language.

6 CHAIRPERSON HOOD: Unless you're looking for
7 something else.

8 MR. TURNBULL: No.

9 CHAIRPERSON HOOD: Okay. But we can just
10 strike that if it's in the order. I did not catch
11 that.

12 MR. TURNBULL: I'm not sure if Mr. --

13 MR. BERGSTEIN: It actually doesn't
14 specifically say that. It just says, in the
15 conditions, that the units shall be distributed in
16 accordance with the plans, and if that's how the
17 plans are shown, that's how the plans are shown.
18 There's nothing in the order itself that says it's
19 not stacked.

20 CHAIRPERSON HOOD: Okay. Anything else? Any
21 other issues outstanding?

22 [No audible response.]

23 CHAIRPERSON HOOD: All right. I'm not
24 hearing any. I would move that we do final approval
25 of Zoning Commission Case No. 04-14D, Florida Rock

1 Properties, Inc., second stage PUD at Square 708, and
2 ask for a second.

3 MR. MILLER: Second.

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

6 [Vote taken.]

7 CHAIRPERSON HOOD: Ms. Schellin, would you
8 record the vote?

9 MS. SCHELLIN: Yes, sir. Staff records the
10 vote five, to zero, to zero, to approve final action
11 in Zoning Commission Case 04-14D, and to approve the
12 issuance of the applicant's draft order as revised,
13 Commissioner Hood moving, Commissioner Miller
14 seconding, Commissioners May, Shapiro, and Turnbull
15 in support.

16 CHAIRPERSON HOOD: Okay. Next, let's go to
17 hearing action, Zoning Commission Case No. 16-24,
18 1336 8th Street, SPE LLC, consolidated PUD and
19 related map amendment at Square 399. Ms. Thomas.

20 MS. THOMAS: Yes. Good evening, Mr. Chair
21 and members of the Commission. OP is recommending
22 set down of the redevelopment of the surface lots at
23 1336 8th Street Northwest, through a joint
24 partnership with the District and SPE LLC.

25 This proposal involves a consolidated PUD and

1 related map amendment from the MU-4 to the MU-6 Zone
2 district, where the Comprehensive Plan Future Land
3 Use Map indicates that all of the subjects where is
4 appropriate for mix or medium density residential and
5 medium density commercial uses.

6 The proposed nine-story, 18-unit building at
7 6.56 FAR is well within the density limits
8 anticipated under the Comp Plan.

9 Further, the convention center's small area
10 plan provides a guidance for vacant sites within this
11 square as appropriate consideration for high and
12 medium density residential development with improved
13 FAR which will be provided through this PUD.

14 The District's land disposition agreement for
15 this site provides for a generous affordable housing
16 AMI with 24 percent of the GFA of residential units
17 would be set aside as affordable units at 15 percent
18 and 80 percent AMI.

19 We have asked the application to provide
20 clarification of consents with its proposed
21 projections into public space, and a need for
22 flexibility as highlighted in our report. We will be
23 requesting comments from agencies, and we will
24 continue to work with the applicant to address the
25 concerns in our report, and any other concerns you

1 may have at this time. Thank you, and I'd be
2 available for any questions.

3 CHAIRPERSON HOOD: Thank you, Ms. Thomas.
4 Colleagues, any comments or questions from up here?
5 Commissioner May?

6 MR. MAY: I had one comment. The report had
7 mentioned that they were seeking some relief on the
8 setback for the elevator overrun, and you requested
9 more information on that. I agree with that. I was
10 trying to figure out exactly where it was. It's not
11 totally clear from the drawings, where that relief
12 would be needed. And of course, you know I'm very
13 skeptical about such requests for relief, so
14 hopefully they can figure out a way to avoid it.

15 And then I think there -- I'm sure others
16 would want to talk about this, but I think one of the
17 other things that you pointed out is for the planned
18 donations getting greater clarity on that and not
19 just on what's being proffered, but to know that what
20 will be accomplished by those planned donations. So,
21 in other words, demonstrating that the donations of
22 the particular charity -- what the funds will be used
23 for and then demonstrating that they actually have
24 been used as opposed to simply a cash donation to a
25 particular cause. So, much greater specificity is

1 needed.

2 So, others may want to add to that.
3 Otherwise, I agree with the issues raised your report
4 and look forward to seeing that flushed out better at
5 the hearing.

6 CHAIRPERSON HOOD: Okay. I would just echo
7 the comment about the contributions and we need to
8 tighten that up. Any other questions or comments?

9 MR. TURNBULL: Thank you, Mr. Chair.

10 CHAIRPERSON HOOD: Mr. Turnbull.

11 MR. TURNBULL: I just had one, Ms. Thomas.
12 It looks like, when it says approximate 1240 square
13 feet for use by the church, that looks like it's a
14 windowless office area back by the loading dock and
15 the entry drive. Am I correct?

16 MS. THOMAS: I believe so. Could you tell me
17 what page you're referring to?

18 MR. TURNBULL: Thirteen on the drawings. It
19 says, parish office in blue. And is that just --
20 unless there's windows or there can be windows
21 somewhere in there, maybe they're back by the loading
22 dock, I guess.

23 MS. THOMAS: I think that there's an entrance
24 from the loading area. But --

25 MR. TURNBULL: There's an entrance from the

1 lobby into this place. But --

2 MS. THOMAS: But I'm not sure if there is a
3 window there.

4 MR. TURNBULL: Well, I would like to see some
5 views of the building from the alley; some renderings
6 that would show us what it's going to look like back
7 there. Thank you.

8 CHAIRPERSON HOOD: Any other comments or
9 questions?

10 MR. MILLER: Yeah.

11 CHAIRPERSON HOOD: Vice Chair Miller.

12 MR. MILLER: Thank you, Mr. Chairman, and
13 thank you, Ms. Thomas, for your report, and in
14 general I think this is a great project that will
15 continue the revitalization of that area.

16 Half of the -- so 30 percent of the total
17 residential units are required to be set aside as
18 affordable, as I understand it, and half will be at
19 the 50 percent AMI level, or below it, and half will
20 be at the 80 percent AMI.

21 MS. THOMAS: That's correct.

22 MR. MILLER: Okay. And they're seeking --
23 none of the affordable units would be in the
24 townhouses. Do they -- that requires a specific
25 waiver from us in terms of our IZ regulations. Well,

1 maybe he doesn't have clarity on that if they -- if
2 we need to be noting that in our, either in our
3 order, either as a waiver or just nothing it as part
4 of our approval. I just wanted to clarify -- make
5 sure we clarify that we get it right.

6 And, that's all really I -- the only question
7 I have. Thank you.

8 CHAIRPERSON HOOD: Any other questions or
9 comments? Ms. Thomas, I think I have one. Pull it
10 up. And this may be just a figure of speech, but I
11 just never seen this word in Office of Planning
12 preliminary recommendation. Maybe, probably it has
13 been in there. Maybe I just missed it. Is that
14 anything significant, preliminary recommendation? Is
15 this a preliminary recommendation for set down or --
16 I've just never seen it worded that way.

17 MS. THOMAS: Where do you see -- oh.

18 CHAIRPERSON HOOD: It's just on the front
19 page.

20 MS. THOMAS: Yeah. Yes, set down. Yes.

21 CHAIRPERSON HOOD: Is this -- do you normally
22 -- we normally word it that way? It's not a big
23 issue, but --

24 MS. STEINGASSER: No, sir, we normally just
25 say recommendation and --

1 CHAIRPERSON HOOD: Okay. I thought we were
2 doing something different, preliminary. So, I was
3 looking for the catch in here that may have been
4 majored. Okay. Okay. All right. Just semantics,
5 for me.

6 Anything else?

7 [No audible response.]

8 CHAIRPERSON HOOD: All right. Somebody like
9 to make a motion?

10 MR. MILLER: Mr. Chairman, I would move that
11 we set down for public hearing, Zoning Commission
12 Case No. 16-24, 1336 8th Street, SPE, LLC,
13 consolidated PUD and related map amendment at Square
14 399, and ask for a second.

15 MR. SHAPIRO: Second.

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

18 [Vote taken.]

19 CHAIRPERSON HOOD: Ms. Schellin, would you
20 record the vote? Thank you, Ms. Thomas.

21 MS. SCHELLIN: Staff records the vote five,
22 to zero, to zero to approve Case No. 16-24 for set
23 down as a contested case, Commissioner Miller moving,
24 and I believe it was Commissioner May second,
25 Commissioners Hood, Shapiro, and Turnbull in favor.

1 CHAIRPERSON HOOD: Okay. Next, let's go with
2 Zoning Commission Case No. 16-22, Valor Benning, LLC,
3 consolidated PUD and related map at Square 4510. Ms.
4 Thomas.

5 MS. THOMAS: Yes. Good evening again, Mr.
6 Chair. OP is recommending set down as a PUD and a
7 related map amendment by Valor Benning, LLC, for the
8 redevelopment of the combined lots of a former church
9 site fronting on Benning Road and 16th Streets
10 Northeast, as well as alley lots which functioned as
11 surface parking for the church.

12 A map amendment would change the zoning of
13 lots fronting Benning Road from MU-4 to MU-6, and the
14 16th Street lots from MU-4 to MU-5-A, and the alley
15 lots would remain RF-1 zoned.

16 Your proposal includes construction of a
17 nine-story building of 295 units with Benning Road
18 frontage, a three-story apartment building with eight
19 units facing 16th Street, and a community garden on
20 the alley lots on the rear of these buildings.

21 The overall 5.89 FAR reflects the medium
22 density commercial zone under the development
23 guidance of the Benning Road small area plan, where
24 the subject property is identified as an opportunity
25 site for redevelopment under medium density

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1 commercial designation.

2 The site is within the Benning Road framework
3 plan as I mentioned, which was adopted by council in
4 2008. And a small area plan is prepared for areas in
5 the city where District action is necessary to manage
6 growth, promote revitalization, and achieve other
7 long-range planning goals.

8 The Comp Plan explains that the relationship
9 to small area plans is to supplement the Comp Plan by
10 providing detailed direction for areas ranging in
11 size from a few city blocks to entire neighborhoods
12 or corridor. Thus, the proposal for this project is
13 guided by the map and interpreted in conjunction with
14 the text of the Comp Plan, as well as the approved
15 small area plan, as the Comp Plan refers to under
16 Section 226.

17 This project would further the trend of
18 redevelopment along Benning Road in the path of the
19 street car and east of 8th Street, the intersection
20 and in the area of the Hechinger Mall site. The
21 project includes a designed with IZ affordability of
22 50 percent AMI, and would provide a significant
23 amenity in the provision of community garden.

24 Our report highlights those areas where OP
25 would like additional clarification, including truck

1 turning movements due to the location of the loading
2 dock, but this project costs would be unbundled from
3 housing costs and whether RPP would apply.

4 Also, we're asking that a proposed employment
5 agreement be identified and to narrow the requested
6 flexibility for the material changes. We will work
7 with the applicant and relevant agencies prior to the
8 public hearing to address those consents, and any
9 that the Commission may express at this time, and
10 thank you for listening, and I'm available for any
11 questions.

12 CHAIRPERSON HOOD: Okay. Thank you, Ms.
13 Thomas.

14 Let's open up any comments or questions.
15 Commissioner May?

16 MR. MAY: All right, I'll start with the easy
17 stuff. There are a number of architectural issues.
18 They're not huge, but you know, when we ultimately
19 hear this case I want it to be addressed.

20 It's not clear to me that penthouse setbacks
21 are being met. You can look at pages A-52 and 53,
22 where the section drawings seem to indicate that the
23 height of the parapet of the penthouse wall is above
24 the 45-degree line.

25 Also, the penthouse facades should be more

1 uniform and darker. They're, you know, there are
2 some very light colors, and darker color, and it
3 winds up bringing more attention to the penthouse,
4 which is not something I would support.

5 The front facades, they're using these large
6 bricks which in the straight on elevation just looks
7 very, very strange. They just look strangely out of
8 scale. Maybe it's perfectly fine. I'll wait to see
9 on that.

10 However, above the -- really, above the
11 street level there's split-face CMU which I would
12 never put on the front of a building and I can tell
13 you right now, I'm never going to approve a building
14 that has that on the front façade of the building. I
15 just won't. I've made a stink about certain
16 materials on buildings and I'm just never going to
17 approve that. So, I mean, maybe the building can get
18 approved that way, but who knows.

19 The so-called townhouse building on 16th
20 Street is not actually a townhouse building in any
21 way, shape, or form, and so I would stop calling it
22 that. It's a small apartment building, and Ms.
23 Thomas correctly addressed it that way. But it's
24 shown in the drawings as the townhouse. It's not a
25 townhouse, so don't call it that.

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1 And then the east walls, I know that
2 ultimately something is going to be developed there,
3 but right now they're big blank walls and I'm hoping
4 that something can be done to make those a little bit
5 more attractive.

6 And then on page A-52, there is some of that
7 problematic language having to do with flexibility to
8 make whatever changes are necessary to meet building
9 codes, which is just way too broad. So, that needs
10 to be fixed ultimately.

11 And that's all the small stuff. The big
12 issue with this is the consistency with the
13 Comprehensive Plan. The future land-use map shows
14 low density commercial and moderate density
15 residential. So, we're really talking 40, 50 foot --
16 well, 40-foot buildings at most.

17 Small area plan calls for medium density
18 commercial residential, so we're talking about
19 something else that could be quite a bit taller. But
20 what's being proposed here is effectively high
21 density. And I know that if you look at it in
22 aggregate, maybe the FAR isn't quite high density,
23 but that's taking advantage of the fact that you're
24 not developing one parcel at all, which is the
25 community garden. And then you've got that small

1 apartment building.

2 So, I am very uncomfortable with setting this
3 down as it is proposed. I think that the applicant
4 needs to look at a building that is more consistent
5 with the Comprehensive Plan, or somehow demonstrate
6 to our satisfaction that it is consistent with the
7 Comp Plan, because you know, reading all of the
8 policies in total it still doesn't get to me what is
9 effectively a high density building on Benning Road.
10 So, that's what I think.

11 CHAIRPERSON HOOD: Okay. Any other comments
12 or questions up here? Vice Chair Miller.

13 MR. MILLER: Thank you, Mr. Chairman.
14 Regarding the Comprehensive Plan, I would agree with
15 Commissioner May that we need a lot more
16 justification as to how this is not inconsistent with
17 the land use map designation as moderate density
18 residential, low density commercial, since -- and
19 it's on the generalized policy map of the
20 Comprehensive Plan, and I think it's in a
21 neighborhood conservation area, which why the Comp
22 Plan land use map and policy map has those lower
23 designation and conservation policies on a major
24 corridor like this, when across the street I think is
25 higher density buildings, is questionable. But then

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1 that needs to be resolved in the Comprehensive Plan
2 and the small area plan, which does call for medium
3 density. But that is, as Ms. Thomas pointed out, is
4 supplemental guidance. The small area plan can't
5 amend -- doesn't amend the Comprehensive Plan. We've
6 had this discussion before in other cases where
7 something is out of order, here. You know, the Comp
8 Plan needs to be amended to accommodate this
9 particular project, or the project needs to be
10 modified by at least a couple floors, probably. The
11 higher -- the taller building.

12 So, that's -- there are the step-downs and
13 smaller building that's adjacent to the small
14 rowhouse neighborhood nearby. How tall are those
15 rowhouses? They're not very tall, are they?

16 MS. THOMAS: Two stories.

17 MR. MILLER: Yeah. So, and I think it is a
18 justification, because they are doing a community
19 garden and a smaller building, that they are getting
20 -- it's not quite a high density FAR at the 5.69, was
21 it? But it's certainly not moderate density
22 residential either. So, which is what the land use
23 map calls for.

24 So, I agree, we need a lot more information,
25 I think from both -- if we're going to set it down,

1 we would need to have a lot more information before
2 set down, a filing from the applicant and OP that
3 addresses this issue in one way or the other. If
4 we're going to set it down.

5 CHAIRPERSON HOOD: Okay. Any other comments?
6 Mr. Turnbull?

7 MR. TURNBULL: Oh, thank you, Mr. Chair. I
8 would agree. I'm not really comfortable right now on
9 setting it down. I agree with both my colleagues'
10 stance on the Comp Plan issues and I think we will
11 need a lot more explanation before we can go further
12 on this, and I would agree with Commissioner May on
13 the architectural issues and I want to thank him for
14 pointing out the wishy-washy language on
15 architectural materials. It seems to become
16 prevalent on certain projects, so -- but you know,
17 Mr. Chair, I think we should not set it down.

18 CHAIRPERSON HOOD: Okay. Commissioner
19 Shapiro?

20 MR. SHAPIRO: Mr. Chair, I would just join
21 with my colleagues and share the same concerns
22 related to the inconsistency with the Comprehensive
23 Plan.

24 CHAIRPERSON HOOD: Okay. I would agree. The
25 only thing I would have to say is I think there's a

1 heavy lift. And I don't even think they can, with
2 the guidance that we have in front of us as far as
3 the Comprehensive Plan, I don't even think they could
4 provide me anything that would tell me why this
5 project is suitable for this site. So, I would like
6 for them, as I think I heard Commissioner May say, go
7 back and revisit and relook at it. I just think, I
8 mean, you can make it sound good, but I think that we
9 have some specific guidance that we need to move
10 forward with and that we're bound to look at and
11 bound to keep in compliance with.

12 And that's where I am with this case. I
13 don't think this is right, even if we got some
14 submissions from them telling us why this is not
15 inconsistent, I don't think that -- to me, it's a
16 heavy lift. I don't think they can lift that much.
17 That's just where I am.

18 So, but if you all think you want to get a
19 submission like that, that's fine. But I too am not
20 ready to set this down. I would encourage them more
21 to go back and relook at this. Okay? And that's my
22 strong encouragement. Vice Chair?

23 MR. MILLER: Can we defer set down to a
24 certain date and see if they come back with a revised
25 project that maybe addresses our concerns rather than

1 taking a denial action tonight? Can we just defer
2 them and see if we can get something that is more
3 consistent with the Comprehensive Plan?

4 CHAIRPERSON HOOD: I would agree with that,
5 Vice Chair.

6 MR. SHAPIRO: I would be -- I support that as
7 well.

8 CHAIRPERSON HOOD: I would agree with that,
9 Vice Chair Miller. I think that, Ms. Schellin, I'm
10 going to work with you on it, and if you can work
11 with the applicant, because I try not to look in the
12 audience. And I know who they are because there's a
13 lot of people here. But, I was thinking, do they
14 need three months?

15 MS. SCHELLIN: How much time? Two months?
16 Okay. So, we could schedule it -- and I'm assuming
17 you want to have an opportunity for OP to file --

18 CHAIRPERSON HOOD: Yes. Uh-huh.

19 MS. SCHELLIN: -- a revised report.

20 CHAIRPERSON HOOD: Yes.

21 MS. SCHELLIN: So, two months. We have one
22 meeting in April. That would be April 24th. So, if
23 we could have the applicant make their submission by
24 April 3rd, and then OP would have until April 18th to
25 file their report. Or, actually, let's have OP file

1 their report by April 14th. So, that way the Office
2 of the Attorney General will have time to review it
3 in time for the Commission. And then we'll put it on
4 the April 24th meeting agenda.

5 CHAIRPERSON HOOD: Okay. So, everybody is
6 all set with those dates? All right. Thank you.

7 Ms. Schellin, do we have anything else?

8 MS. SCHELLIN: Nothing else, unless OP
9 wants --

10 CHAIRPERSON HOOD: Office of Planning, you
11 have anything?

12 MS. SCHELLIN: Nothing.

13 CHAIRPERSON HOOD: Okay. So, with that I
14 want to thank everyone for their participation
15 tonight and all the work you've put into this, and
16 this meeting is adjourned at 7:18 p.m.]

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