

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Zoning Commission

Regular Public Meeting  
1461th Meeting Session [12th of 2017]

6:43 p.m. to 8:30 p.m.  
Monday, May 22, 2017

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

OLENDER REPORTING, INC.  
1100 Connecticut Avenue NW, #810, Washington, DC 20036  
Washington: 202-898-1108 • Baltimore: 410-752-3376  
Toll Free: 888-445-3376

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 JENNIFER STEINGASSER
- 13 JOEL LAWSON
- 14 MAXINE BROWN-ROBERTS
- 15 STEVE COCHRAN

16

17 Office of the Attorney General:

- 18 ALAN BERGSTEIN
- 19 JACOB RITTING
- 20 CHRISTOPHER COHEN

21

22

23

24

25

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

2 CHAIRPERSON HOOD: For those who may not have  
3 a seat, we do have an overflow room if needed. I  
4 don't know if we have people in the hallway. I  
5 didn't see anyone when I just came in. But, I think  
6 we're good for now. Can you hear me now? Okay,  
7 great.

8 Okay. This meeting will please come to  
9 order. Good evening, ladies and gentlemen. This is  
10 a public meeting of the Zoning Commission for the  
11 District of Columbia.

12 My name is Anthony Hood. Joining me are Vice  
13 Chair Miller, Commissioner Shapiro, Commissioner May,  
14 and Commissioner Turnbull. We're also joined by the  
15 Office of Zoning staff, Ms. Hanousek, Office of  
16 Attorney General, Mr. Bergstein, and Mr. Ritting, and  
17 Mr. Cohen. Well, Mr. Cohen was here. Okay. Thank  
18 you. Office of Planning, Ms. Steingasser, Mr.  
19 Lawson. DCRA, Mr. Goldstein and Mr. Tondro, and  
20 Office of Planning, Mr. Cochran and Ms. Brown-  
21 Roberts.

22 Okay. Copies of today's meeting agenda are  
23 available to you and are located in the bin near the  
24 door.

25 We do not take any public testimony unless we

1 request someone to come forward. Accordingly, we  
2 must ask you to refrain from any disruptive noises or  
3 actions in the hearing room. Please turn off all  
4 electronic devices. Does the staff have any  
5 preliminary matters?

6 MS. HANOUSEK: No, sir.

7 CHAIRPERSON HOOD: One second.

8 [Pause.]

9 CHAIRPERSON HOOD: Okay. Let's proceed right  
10 with our agenda. Advance party status. Let's go to  
11 Ms. Hanousek.

12 MS. HANOUSEK: Yes. We have, in case 16-18A,  
13 an advance party status request at Exhibit 16 from  
14 the Georgetown University Student Association.

15 CHAIRPERSON HOOD: Thank you, Ms. Hanousek.  
16 And again, I would ask everyone to make sure we speak  
17 into the mics. We want to make sure everyone is able  
18 to hear us.

19 Okay, colleagues, as mentioned by Ms.  
20 Hanousek, we have a request from a Georgetown  
21 University Student Association for advance party  
22 status. Typically, Mr. Mack is their representative.  
23 They've only asked for three minutes and we have some  
24 rules that have changed. But typically, three  
25 minutes and they are a party in support, and I know

1 that our rules have changed where supposed to have  
2 more of advanced notice served on party -- I mean,  
3 served on the applicant, and give the applicant time  
4 to respond.

5           Again, you've heard me say this before, ZR-16  
6 is new, and a lot of it is still new to us, what our  
7 procedures, so at this point in time, this is not  
8 precedent setting, I would not have a problem with  
9 waiving to grant the students party status in this  
10 case. They're only asking for three minutes, and I  
11 think they should be heard. So, let me open it up  
12 for any discussion on that.

13           MR. MILLER: I would agree with you, Mr.  
14 Chairman.

15           CHAIRPERSON HOOD: Anybody else?

16           MR. MAY: So, there was an issue that they  
17 have not submitted the paperwork to document that the  
18 person submitting the application is actually  
19 officially representing the group, right? That was  
20 aa complication.

21           CHAIRPERSON HOOD: Yeah, they didn't tell  
22 us --

23           MR. MAY: We'd have to waive that  
24 requirement.

25           MR. SHAPIRO: Or we could ask for proof of

1 compliance by the June 8th meeting.

2 CHAIRPERSON HOOD: Well, you know, here's  
3 what I'd rather do. Let me backtrack. Let's do a  
4 provisional. Let's ask them to do the necessary  
5 requirements. First of all, one of the other rules  
6 that's supposed to be here, is Mr. Mack here? Mr.  
7 Mack is here. All right. That's one rule you got.  
8 Okay, good. We're still learning too.

9 What we ask, we'll do a provisional. If you  
10 could give us, what is it, the by-laws, constitution  
11 and by-laws?

12 MR. BERGSTEIN: I'll just point out the  
13 provision. They need to satisfy 404.1(f) that there  
14 is evidence that the requesting party has authorized  
15 the entities participation, and evidence that the  
16 entity requesting party status has designated a  
17 specific officer. And that can be done through  
18 either a resolution of the organization, or by the  
19 by-laws, indicating that that particular person may  
20 represent the person or the party, the organization,  
21 or a letter signed by all the members of the  
22 organization. That's 404.2. So --

23 CHAIRPERSON HOOD: Let me say this, Mr.  
24 Bergstein. Here's what I want to do, instead of  
25 going through. I appreciate that, and putting that

1 on the record. What I want you to do is call the  
2 Office of Zoning office, because we're still learning  
3 it, and that will help you. You heard some of what  
4 Mr. Bergstein said, when I was going through all  
5 that. Can you oblige that? Can you handle that?  
6 Can you present that?

7 Okay. Okay. I don't want you to talk from  
8 the audience. I just want to see by a (garbled  
9 speech), can you present that? And if you have any  
10 problems, call the Office of Zoning and they will be  
11 able to help you.

12 MR. MAY: You can also ask Mr. Avitabile  
13 behind you there. He'll point you right to it,  
14 right? He's nodding his head. He knows.

15 CHAIRPERSON HOOD: Okay. So, we good? All  
16 right, so let's make a motion that we'll do  
17 provisional for Mr. Mack and students of Georgetown  
18 with asking -- after they work with the Office of  
19 Zoning, present the correct information at the time  
20 of the hearing for us to consider it at that time.  
21 Let's do a provisional, and I would move that and ask  
22 for a second.

23 MR. MILLER: Second.

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

1 [Vote taken.]

2 CHAIRPERSON HOOD: Ms. Hanousek, would you  
3 record the vote?

4 MS. HANOUSEK: The Commission voted five,  
5 zero, zero to approve provisionally the advance party  
6 status application for the Georgetown University  
7 Student Association with Chairman Hood making the  
8 motion, Commissioner Turnbull seconding -- oh, sorry.  
9 Vice Chairman Miller seconding, and Hood, Miller,  
10 Shapiro, May, and Turnbull to approve.

11 CHAIRPERSON HOOD: All right. We're going to  
12 be all right. Okay.

13 Our next case on the consent calendar, minor  
14 modification and technical corrections, Zoning  
15 Commission Case No. 14-11E, Office of Planning  
16 technical corrections to Zoning Commission Order No.  
17 14-11B, Subtitles D, E, and U. Ms. Hanousek.

18 MS. HANOUSEK: At Exhibit 1 and 2, the Office  
19 of Planning has requested technical corrections to ZC  
20 Order No. 14-11B, Subtitles D, E, and U. We ask the  
21 Commission to consider authorizing immediate  
22 publication of the proposed rulemaking.

23 CHAIRPERSON HOOD: Okay. Commissioners, I  
24 believe that this was a technical correction which  
25 reflects the Commission's intent, or at least this

1 Commissioner, herein the DCRA is having applicants  
2 assert that they can choose either adjoining lots  
3 when measuring for a proposed rear addition tells me  
4 that these technical corrections are definitely  
5 necessary. Let me open it up for any discussion.

6 Let me, before that, Ms. Steingasser, was  
7 DCRA here to talk about that?

8 MS. STEINGASSER: No, sir, they're here 14-  
9 11D.

10 CHAIRPERSON HOOD: Oh, 14-11D. Okay. Well,  
11 if we have any questions for them we can still ask  
12 them, but anyway. Any comments on this? Somebody  
13 like to make a motion?

14 MR. TURNBULL: Mr. Chair, I would move that  
15 we -- hang on. Find my list here. That we would  
16 approve Zoning Commission No. 14-11E Office of  
17 Planning technical correction to Zoning Commission  
18 Order No. 14-11B, Subtitles D, E, and U.

19 MR. SHAPIRO: Second.

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

22 [Vote taken.]

23 CHAIRPERSON HOOD: Ms. Hanousek, would you  
24 record the vote?

25 MS. HANOUSEK: Second?

1 CHAIRPERSON HOOD: Commissioner Shapiro.

2 MS. HANOUSEK: Okay. The Commission voted  
3 five, zero, zero to approve the technical correction  
4 in Case 14-11E. The motion was made by Commissioner  
5 Turnbull and seconded by Commissioner Shapiro, with  
6 Hood, Miller, Shapiro, May and Turnbull to approve.

7 MR. BERGSTEIN: Mr. Chair, just to avoid any  
8 confusion, the Vote to approve was to approve the  
9 publication for notice of proposed rulemaking. This  
10 won't obviously become effective until the comment  
11 period ends and the Commission takes final action.

12 CHAIRPERSON HOOD: Okay. Thank you. All  
13 right. Let's go to another consent calendar,  
14 modification of consequence. This is not for  
15 deliberation. This is for determination and  
16 scheduling. Ms. Hanousek, you want to tee it up?

17 MS. HANOUSEK: The Commission has before it a  
18 request for a modification of consequence. There is  
19 an OP report at Exhibit 3 that has no objection to  
20 the case as a modification of consequence, but asks  
21 for additional information before deliberation, and a  
22 DDOT report at Exhibit 5 that requests the applicant  
23 to close the existing curb cut and restore the public  
24 space.

25 The Commission first needs to determine

1 whether the request is indeed a modification of  
2 consequence.

3 CHAIRPERSON HOOD: Okay, Commissioners.  
4 Thank you, Ms. Hanousek. We have reviewed the  
5 request. Let me see if anyone -- do we all believe  
6 this is a modification of consequence?

7 MR. SHAPIRO: Yes.

8 MR. MILLER: Yes.

9 CHAIRPERSON HOOD: Okay. So, we all believe  
10 they're modification of consequence, so I guess now  
11 we can just do scheduling.

12 MS. HANOUSEK: Yes. So, the next step is to  
13 set up a time frame. If the applicant has any  
14 additional information to submit, he could submit  
15 that by May 31st at 3:00. And then the ANC can have  
16 until 3:00 on June 22nd, and that's because their  
17 next meeting is June 20th. And then if the applicant  
18 has an additional response, that would be due by noon  
19 on June 26th, and the Commission can deliberate on  
20 this case at the June 26th meeting.

21 CHAIRPERSON HOOD: And as we already noted,  
22 the Office of Planning has asked for additional  
23 information before we do our deliberations, so I'm  
24 hoping that the applicant, in their filings, will  
25 adhere to what Office of Planning has asked for.

1 Anything else?

2 Okay. Let's move right on. Next  
3 modification of consequence. One second. Give me  
4 one second.

5 [Pause.]

6 CHAIRPERSON HOOD: Okay. Zoning Commission  
7 Case No. 05-38C, Mill Creek Residential Trust, LLC,  
8 PUD modification of consequence at Square 499. Ms.  
9 Hanousek.

10 MS. HANOUSEK: Yes. The Commission has  
11 before it a request for modification of consequence.  
12 There is an OP report at Exhibit 4 that supports the  
13 requested modification. The Commission first needs  
14 to determine whether the request is indeed  
15 modification of consequence.

16 CHAIRPERSON HOOD: Commissioners, anyone  
17 believe that this is not a modification of  
18 consequence?

19 Okay, not hearing anyone, this will be a  
20 modification of consequence. I would just note that  
21 the Office of Planning also has asked for plans where  
22 the bicycle parking will be relocated, and the only  
23 party in this case is another case, was the ANC. And  
24 the other case, it was ANC 5E. In this case it's ANC  
25 6D, are the only parties. Well, the only party in

1 this case.

2 Ms. Hanousek, can we do any scheduling?

3 MS. HANOUSEK: Yes. If the applicant could  
4 submit any requested information by May 31st, then  
5 the ANC would have until Monday, June 19th, at 3:00  
6 to file their comments, and the applicant would have  
7 until Thursday, June 22nd, at 3:00 to respond, and  
8 the Commission can deliberate on this case at its  
9 June 26th meeting.

10 CHAIRPERSON HOOD: Okay.

11 MR. TURNBULL: Mr. Chair, I wonder if we  
12 could, just as a point of clarification. Is the  
13 Office of Planning looking for floorplans of each  
14 building and where the bikes are located?

15 MR. LAWSON: That would probably be the  
16 easiest solution for the applicant to provide that,  
17 yes.

18 MR. TURNBULL: Okay, thank you.

19 CHAIRPERSON HOOD: Okay, next, let's go to  
20 Zoning Commission Case No. 15-34A, Sherman Avenue,  
21 LLC, PUD modification of consequence at Square 2873.  
22 Ms. Hanousek.

23 MS. HANOUSEK: The Commission has before it a  
24 request for modification of consequence. There are  
25 OP reports at Exhibit 4 and Exhibit 7, with OP

1 support in the latest exhibit. And there is a DDOT  
2 report at Exhibit 6 that conditionally supports the  
3 revised loading management plan if it includes the  
4 physical components shown on attachment A. The  
5 Commission first needs to determine whether the  
6 request is indeed a modification of consequence.

7 CHAIRPERSON HOOD: Thank you, Ms. Hanousek.  
8 Commissioners, the question is, do we believe this  
9 also is a modification of consequence?

10 Not hearing any objections as noted, I think,  
11 Ms. Hanousek, you remember what DDOT's recommendation  
12 was? I think you mentioned that recommendation that  
13 the modification include the physical components of  
14 the plan can be dealt with at the time of  
15 deliberation.

16 Did we have any scheduled dates?

17 MS. HANOUSEK: Yes. If there's any  
18 additional materials to submit, the applicant should  
19 submit them by May 31st. The ANC would have until  
20 Tuesday, June 6th, at 3:00 to submit. And then the  
21 applicant would have until Tuesday, June 8th, at 3:00  
22 to respond, and then the Commission could deliberate  
23 on this case at its June 12th meeting.

24 CHAIRPERSON HOOD: Vice Chair Miller?

25 MR. MILLER: Thank you, Mr. Chairman. This

1 has nothing to do with the modification of  
2 consequence that's being requested, which has to do  
3 with the loading plan, but just for the benefit of  
4 the public, I just wanted to point out there's a  
5 project at 965 Florida Avenue Northwest, where 30  
6 percent of the 428 units, there's also a grocery  
7 store on the ground floor. But the 30 percent set  
8 aside for affordable units, of those 75, 25 percent  
9 are reserved for households with incomes not  
10 exceeding 30 percent of the area median income, and  
11 75 percent would be reserved for households with  
12 incomes not exceeding 50 percent of AMI. Just for  
13 the benefit of the public, I wanted to put that on  
14 the record.

15 CHAIRPERSON HOOD: Okay. Thank you. All  
16 right. Anything else on this, Ms. Hanousek?

17 MS. HANOUSEK: No.

18 CHAIRPERSON HOOD: Okay. Let's move to final  
19 action. Zoning Commission Case No. 14-18A, Mid-City  
20 Financial Corporation, first-stage PUD modification  
21 of significance, and a second-stage PUD at Square  
22 3953, Ms. Hanousek.

23 MS. HANOUSEK: Yes. We have a preliminary  
24 matter in this case. At Exhibit 187 there is a  
25 response from the party to the applicant's proposed

1 benefits and conditions that is at Exhibit 186, and  
2 at Exhibit 188, there is the applicant's motion to  
3 strike the party's response. Do you want to deal  
4 with that first before I continue?

5 CHAIRPERSON HOOD: Yes, let's deal with that.

6 As Ms. Hanousek has already mentioned,  
7 colleagues, hold on one second.

8 We do have, I believe it's -- what did you  
9 say, Exhibit 187? Okay. We have Exhibit 187, then  
10 we have Exhibit 188 to strike from the applicant.

11 I would be inclined of keeping the exhibit  
12 in. We get a lot of information which goes above and  
13 beyond and out of the call of the scope of what we've  
14 asked for, but I think for the most part we can take  
15 out what's extraneous and what's not, so I would not  
16 be in favor of the applicant's motion to strike, and  
17 I would be in favor of letting the party in  
18 opposition's filings stay, stay true to the file.

19 Any questions or comments? Mr. Bergstein, do  
20 we need to vote or can we do it by general consensus?

21 MR. BERGSTEIN: You actually can do it by  
22 general consensus.

23 CHAIRPERSON HOOD: Okay. Any objections? No  
24 objections, so it will remain in the file and we will  
25 deny the applicant's motion to strike. Anything

1 else, Ms. Hanousek?

2 MS. HANOUSEK: Okay, the case was before the  
3 Commission at its April 24th meeting. In addition to  
4 the exhibits pertaining to the preliminary matter, we  
5 have the applicant's supplemental post-hearing  
6 submission at Exhibit 189 to 189B, the applicant's  
7 final benefits and conditions at Exhibit 190, and the  
8 party's response to the supplemental post-hearing  
9 statement at Exhibit 191. We ask the Commission to  
10 consider this case for final action.

11 CHAIRPERSON HOOD: Okay, before we get  
12 started, let's go to Commissioner Shapiro.

13 MR. SHAPIRO: Thank you, Mr. Chair. I just  
14 wanted to state for the record that I attended a  
15 second hearing. While I didn't attend the first  
16 hearing, I did review the record for the first  
17 hearing, so we'll be participating.

18 Thank you, Mr. Chair.

19 CHAIRPERSON HOOD: All right. Let's open it  
20 up for discussion, Colleagues. There are a number of  
21 things that are moving parts here, and for me I've  
22 realized that there were some things, particularly,  
23 that I asked for and I'll just start right off with  
24 that, and I think that the party in opposition, Mr.  
25 Merrifield and others, may have got some of my

1 comments incorrect.

2           So, what I did, I went back and looked at the  
3 transcript to make sure of what I said, and sometime  
4 maybe it doesn't come over exactly correctly. I was  
5 more concerned when it comes to the senior housing,  
6 and I think this goes on to it in a transcript. I'm  
7 more concerned about what I heard at the hearing  
8 about, I think one or two people came up and  
9 mentioned that -- and I didn't really see it, Mr.  
10 Tummonds. I didn't see this in the submissions. I'm  
11 concerned about seniors who have grown adults who may  
12 be autistic, may have special needs, of them not  
13 being able to stay with their loved one.

14           And I think we had a case of that, one case  
15 in particular, and I still didn't -- I mean, it was  
16 kind of waffled. I appreciate the try, but we need  
17 to nail that down a little more. It was, to me, it  
18 was kind of waffled. I'm not saying that -- I just  
19 think that in the order, the final order, if this  
20 moves forward, then we really need to nail that piece  
21 down. That, to me, is very important because I  
22 understand in your submission when you say seniors  
23 have the right to go to the senior building, or they  
24 can stay in the regular location. But I'm just  
25 concerned about -- I'm talking about the one senior

OLENDER REPORTING, INC.

1100 Connecticut Avenue NW, #810, Washington, DC 20036

Washington: 202-898-1108 • Baltimore: 410-752-3376

Toll Free: 888-445-3376

1 or the seniors that may go to the senior housing, who  
2 have somebody with special needs. And they're over -  
3 - they may be 30, you know. You live long enough, we  
4 never know what may happen to any of us, and if your  
5 parents are around you never know who you may have to  
6 stay with.

7           So, that is a concern of mine. So, Mr.  
8 Tummonds, if you all can point me to -- if I missed  
9 it, because what I saw in the submission is it was  
10 still waffled for me. We need to tighten that up.  
11 But that would have been -- that, to me, is really  
12 crucial. I think the young lady who came -- I think  
13 it was a young lady who came down and mentioned that,  
14 I think. We really need to make sure that that is  
15 one of the working.

16           Now, the other thing is the return plan, the  
17 relocation order. Through this whole process I was  
18 hearing that -- and I now people have to be in  
19 compliance, and I know some of the things are not  
20 within our jurisdiction. But I was hearing through  
21 this whole hearing that residents would always be on  
22 the property when they moved around or when one  
23 portion was built.

24           I need us to nail that down. To me it's not  
25 nailed down like it should be. Either, if that's

1 what you're going to do where residents do not -- and  
2 I'm talking about resident in compliance, because  
3 when you look at this, this development, it's going  
4 to take a while. And in previous cases, people get  
5 lost, and we want to make sure that -- I think the  
6 assurance was given by Mr. Meers, and you can correct  
7 me if I'm wrong, that people would not have to move  
8 off the site.

9 And then when I read it, it says, on site or  
10 off site. So, I never heard off-site until I started  
11 reading. So, I want us to nail that down. Okay? I  
12 want to hear what was said to me at the hearing. At  
13 the hearing, it was onsite. They didn't say nothing  
14 about off-site. So, I'm going to strike it. We need  
15 to strike off-site. Okay?

16 Now, I understand about the compliance. I  
17 know there are federal laws. I'm not trying to break  
18 any rules, but I just want to make sure that we deal  
19 with that. So, you know, that's how I'm going to  
20 start it off. Hopefully I have support on that. And  
21 let me open it up to others. Commissioner Turnbull.

22 MR. TURNBULL: Thank you, Mr. Chair. I guess  
23 just going back to your first point, and I'm just  
24 looking at the applicant's exhibit number, 189. We  
25 talked -- it says on page 2, it's about the third

1 paragraph, as noted in the April statement, all  
2 residents in the senior building must be 62 and  
3 older, except for qualified live-in aides. And I'm  
4 not sure whether a family member is established as a  
5 qualified live-in aide, or it has to be someone  
6 actually quote, certified. Whatever that is.

7           So, I think that needs to be defined as to  
8 who can actually live there. Can a -- is a family  
9 member a qualified live-in aide?

10           And then getting back to your points, as we  
11 go down, those existing households with seniors and  
12 grandchildren, or with seniors and adult children who  
13 have special needs, will have the opportunity to  
14 choose which housing option best suits their  
15 circumstances. Seniors in those households may elect  
16 to remain with their extended families in on-site  
17 buildings that are not age restricted or may elect to  
18 live in the senior building without their extended  
19 families.

20           To me, that's only one option. So, I think  
21 you need to -- it's either they're off-site, they  
22 can't live in the senior building. And I'm just  
23 wondering if there's a circumstances where you have a  
24 special need child that could -- I mean, there's --  
25 some of this stuff hinges on different things.

1 There's different opportunities that can happen, and  
2 I don't think it's really clarified as to how we're  
3 going to address those situations that are very --  
4 the need for certain people, and what they can do.

5 So, if you could maybe expand upon that  
6 explanation a bit for us?

7 I guess, when I say expand, I think I ought  
8 to clarify when he says that choose which housing  
9 option best suits their circumstances, there's only  
10 one option which is, you're going to live in another  
11 building with these -- the senior building does not  
12 become an option, then. You're either going to live  
13 with your special need child in another building.

14 But, what I don't understand then is, what's  
15 a qualified live-in aid? So, can that be a family  
16 member? I mean, there's things in these two  
17 sentences which are really not clear.

18 CHAIRPERSON HOOD: We really need to nail  
19 that down. And I was under the -- and I'm listening  
20 to what you read and I have to go back and find that.  
21 What page are you on? I know you're at 189.

22 I'm looking where it says the one option.

23 MR. TURNBULL: I mean, I guess Mr.  
24 Merrifield even pointed out, he said he had put in a  
25 statement saying, all remaining family members living

1 in multigenerational households will unequivocally be  
2 provided a unit of their own through and following  
3 the redevelopment process. Should a senior citizen  
4 in that household choose to live in the senior  
5 building, which that doesn't really -- I'm confused  
6 by what he really meant by that.

7           But again, I think we're getting at the same  
8 kind of issues as to what's a senior -- I'm not  
9 really sure what the clear path is on the options for  
10 a senior with a lot of these different  
11 characteristics.

12           CHAIRPERSON HOOD: Okay. I think what I  
13 would like to see is -- and I'm looking at what's  
14 proposed, but for some reason the translation for me  
15 didn't all carry over. I know what I heard at the  
16 hearing, and I know what a lot of the concerns were.  
17 But it seems to me that some of that got lost. You  
18 know, you could do a lot of things with words, and I  
19 want us to make sure that we nail this down to where  
20 we have some assurances.

21           I'm still on the seniors with kids, or maybe  
22 adults. I'm not even talking about grandkids now.  
23 I'm talking about adults who have special needs, if  
24 they want to stay in the senior part. And I thought  
25 we had a -- I thought we were at an understanding,

1 but I don't see it. I didn't see where it got -- if  
2 somebody can point me to it, I didn't see where it  
3 got translated into what's in writing because five  
4 years from now ain't nobody going to remember what  
5 Anthony Hood said or what Mr. Meers said, anything.  
6 They're going to remember what's in writing, and  
7 that's very important.

8 MR. MAY: So, is the applicant prepared to  
9 address these questions right now? I mean --

10 CHAIRPERSON HOOD: I thought they addressed  
11 them the last time, but I didn't see it in writing,  
12 so.

13 MR. MAY: I understand. But you know, it's  
14 not in writing. If we can get clarity now then we  
15 can move forward.

16 CHAIRPERSON HOOD: Okay.

17 MR. MAY: Make a decision about this.

18 CHAIRPERSON HOOD: Mr. Tummonds, can we nail  
19 some of it down now so we can move forward?

20 The applicant comes up, I'm also going to  
21 bring the party in opposition up.

22 While we're waiting, Vice Chair Miller, you  
23 had something? We can go to some other issues if  
24 that's not one of them.

25 MR. MILLER: No, I was going to say that I --

1 it may not have been a satisfactory answer, but I saw  
2 the response that said that if the senior with the  
3 special needs child who is an adult, there would be  
4 an option to be in a multifamily or other building  
5 that they could choose to live in. I didn't see that  
6 they could be in the senior building. So, and that  
7 may be what you wanted to see.

8 But, I saw that they could choose another  
9 building, a multi-family building and they would have  
10 that option.

11 CHAIRPERSON HOOD: And I think this is what  
12 you're referring to. For example, those existing  
13 households with seniors and grandchildren, or seniors  
14 and adult children who have special needs, will have  
15 the opportunity to choose which housing options best  
16 suits their circumstances. So, I could read that as  
17 they can go into the senior building, the way I read  
18 it. You know, that's why it's five of us. Everybody  
19 looks at something and reads something differently.

20 MR. MILLER: I see what you're saying.

21 CHAIRPERSON HOOD: So, they have that option,  
22 but we just need to nail it down. So, you see where  
23 I'm coming from? Do you agree with --

24 MR. MILLER: No, I read it a different way,  
25 that they would need to choose the other building,

1 but I see the ambiguity that you want clarified right  
2 now.

3 CHAIRPERSON HOOD: Maybe I'll read it your  
4 way and I'll understand it another way.

5 Is your mic off? Oh, that was for the other  
6 night. You can do it now.

7 MR. TUMMONDS: Thank you. Good evening, Paul  
8 Tummonds with Goulston and Storrs. Mr. Miller's  
9 reading is our view of what we intended to convey,  
10 which is that if you are a senior and you have a  
11 special needs child, you would not be able to live in  
12 the senior's building with that special needs child.  
13 They could not be considered to be a qualified live-  
14 in aide. So, the choice you would make is that you  
15 would stay with your special needs child elsewhere  
16 onsite.

17 MR. MAY: Which is, if it's happening now,  
18 that's where they are, they're living in the unit and  
19 not in the senior building.

20 MR. TUMMONDS: Correct.

21 MR. TURNBULL: Okay. On a separate  
22 situation, is another family member, could he be  
23 considered someone who is not -- is suitable? Could  
24 they be considered a live-in aide?

25 MR. TUMMONDS: I do not know what is the

1 requirement to be a qualified live-in aide.

2 MR. TURNBULL: Well, that's what I was  
3 wondering. What does that mean?

4 MR. TUMMONDS: Right. I believe it is a term  
5 of art that I think it probably requires some  
6 licensing.

7 MR. TURNBULL: Okay.

8 MR. TUMMONDS: And it's not just a family  
9 member.

10 MR. TURNBULL: Okay. That was my question.

11 CHAIRPERSON HOOD: Okay. I don't know, for  
12 some reason I thought that at the hearing, and I do  
13 go back and revisit, I go back and look at what  
14 people say I said, but for some reason I really  
15 thought, colleagues, that if the person wanted to  
16 stay in the senior home, they also had the option to  
17 take the adult child who was there at one time, the  
18 child, the adult person with them as well, to the  
19 senior home. But I'm hearing that was not the case.  
20 Okay. All right.

21 But they will be able to stay on site, the  
22 senior will be able to have a place with whoever it  
23 is who may need to have physical needs. I'm kind of  
24 talking and I'm looking at you all so you can shake  
25 your head, because I want to see it in the order.

1 Okay? All right.

2 All right. Let's open it up. And we also  
3 need to nail down the being in compliance and no one  
4 moving off the site who is in compliance. We need to  
5 nail it -- I don't know, do you all think that was  
6 nailed down enough? Do we need to --

7 MR. MAY: No, I think there was language in  
8 the proposal that basically left a little bit of  
9 wiggle room. I think that we did hear assertions  
10 that everybody stays on site, but there is wiggle  
11 room there that leaves the door open for moving  
12 people off-site if that becomes necessary.

13 And well, I mean, it's a question of whether  
14 that's something that's acceptable to us. Even  
15 though it was -- that was the first stage language.  
16 Question is whether now we seek to tighten that up to  
17 get assurances.

18 CHAIRPERSON HOOD: Let me just say, I think I  
19 would be inclined to tighten that up, but let me go  
20 to Commissioner Shapiro.

21 MR. SHAPIRO: I was going to say the same  
22 thing, Mr. Chair, that I think we would look for some  
23 for -- consider that modification of the first-stage  
24 PUD modification that would tighten that up. And I  
25 believe it's part of the tenant relocation plan.

1 That's why the language would need to be tightened  
2 up.

3 CHAIRPERSON HOOD: So, that was in the first  
4 stage. So, we can tighten that up. Mr. Tummonds,  
5 you need to come back to the table?

6 MR. TUMMONDS: I think you are correct.  
7 Commissioner May was correct. In the first stage  
8 order, there was some flexibility. I think that we  
9 are confident now that based on the numbers that  
10 exist today, we are in agreement to remove that  
11 flexibility and unequivocally stay to that all tenant  
12 relocation will occur on site.

13 CHAIRPERSON HOOD: Okay. Let me do this.  
14 Mr. Merrifield. Did you have -- we're not going to  
15 reargue the case, but did you have anything that you  
16 wanted to add? Not because I -- since I've been  
17 bringing the applicant, I want to make sure I bring  
18 the party in opposition up as well. Sure, you can  
19 come.

20 MR. MERRIFIELD: I would just -- I'm sorry,  
21 William Merrifield, attorney for the party in  
22 opposition.

23 You know, in listening to Mr. Tummonds, I  
24 would just say that, you know, as there's more  
25 restrictions put on these senior family units, if we

1 know now that family members won't be able to come  
2 into the senior building, we have to remember that of  
3 the project based contract that's being renewed, 200  
4 units of those 373 units are reserved for those  
5 senior, in that senior building.

6           So, my point is that we are staring down the  
7 barrel of running of units as people choose not to  
8 live in the senior building, or as people are  
9 disqualified from living in the senior building,  
10 because their family members can't come with them  
11 into the senior building.

12           And that's been the point that I think, you  
13 know, we've been trying to raise this whole time is  
14 that these 373 units are restrictive. Two hundred of  
15 them are very restrictive.

16           CHAIRPERSON HOOD: Okay. All right. Thank  
17 you. And I'm not going to -- I think you hear our  
18 conversation and the way it's going, so we, just like  
19 my comments, my comments were taken in your  
20 submission totally different from what I said, so  
21 that's why I went back and relooked at what I said.

22           MR. MERRIFIELD: And can I respond to that  
23 question?

24           CHAIRPERSON HOOD: Sure. Go ahead.

25           MR. MERRIFIELD: I think what I interpreted

1 as your comments raised a very important question  
2 too. If seniors, if there's a senior who does choose  
3 to live in the senior building, will their family  
4 members, their remaining family members be guaranteed  
5 a unit through redevelopment in the new redeveloped  
6 property? I mean, I think that's a very important  
7 question because again we get to --

8 CHAIRPERSON HOOD: Well, let's get an answer  
9 to that right now.

10 MR. MERRIFIELD: Yes. Thank you.

11 CHAIRPERSON HOOD: Mr. Tummonds. And I'm  
12 talking about qualified, because you know, I can't  
13 make anybody qualified. Qualified. That's what I  
14 kept reading.

15 MR. TUMMONDS: I think it's been clear in our  
16 submissions that you know, there are the two  
17 components. There are the 373 Section 8 units, and  
18 then there is the commitment made in the first-stage  
19 order that everyone who is in good standing at the  
20 time development commences in 2018, can remain. And  
21 that continues to be the commitment of the applicant.

22 CHAIRPERSON HOOD: And we're talking about  
23 affordable.

24 MR. TUMMONDS: Correct. With -- yes. And we  
25 know that we've discussed this and it's about the

1 vouchers, because we've said, there's 373 units and  
2 then the remaining or market rate units with  
3 vouchers.

4 CHAIRPERSON HOOD: Okay.

5 MR. TUMMONDS: And I know that that's --

6 CHAIRPERSON HOOD: All right. Well, any  
7 other questions of them? You all can go back to your  
8 seats. Let's finish discussing this. I think I've -  
9 - let's now talk I guess about any other thing, that  
10 anything comes up for anybody else. Anything else?  
11 To me, that was important.

12 MR. SHAPIRO: There's one other issue not  
13 related to that, but there's one issue around the  
14 condition B-4-A of the applicant's proffers and  
15 conditions.

16 Just to clarify, around the programs that the  
17 applicant would be providing for children and for  
18 seniors, and to make sure that that's described in a  
19 way that is quantifiable, that's, according to our  
20 rules it needs to be benefits that are tangible and  
21 quantifiable items. And the language in the  
22 condition is vague and doesn't really fit in with our  
23 rules.

24 So, I'm not quite sure how to address that  
25 issue beyond. I mean, is there a way to put a dollar

1 amount to it, or you know, do we have any suggestions  
2 about -- can you see a way that you can tighten that  
3 up so it fits in with our rules?

4           The head nod, Mr. Chair, I'm not sure if  
5 that's going to be sufficient, how you want to handle  
6 it.

7           CHAIRPERSON HOOD: Well, head nods, and I  
8 like to see what's in black and white. But for the  
9 most part I think -- and I think we can tweak the  
10 order to get some of the things that we've asked for,  
11 because I'm sure going to look for those things  
12 before I sign it, if I sign it. Depends upon how we  
13 do, how we're moving forward. Those things are  
14 consistent with this discussion, then we can -- I  
15 think that will be sufficient enough for us to move  
16 forward. Anything else?

17           Vice Chair Miller?

18           MR. MILLER: I would agree with that, Mr.  
19 Chairman, and I have some tweaking suggestions to  
20 change some may's to shalls and I think -- then they  
21 go into the list of programs to offer, and you could  
22 just put an or at the end so that it's clear that  
23 they don't have to provide every single one of those.  
24 But they have to provide, to make sure that they are  
25 providing those enrichment programs.

1           But, I don't know how -- but, maybe get  
2 advice, further advice from counsel as to how to  
3 tweak it further to make it quantifiable.

4           CHAIRPERSON HOOD: All right. Anything else?  
5 Any other comments? Do we have everything covered?

6           MR. MILLER: Yeah, I did want to -- I  
7 hesitate to say this, but you know, we do have the  
8 commitments that we had from the first-stage order,  
9 which were -- the hard and fast commitment was the  
10 373 Section 8 households, which this developer has no  
11 legal obligation to continue, because that's  
12 expiring.

13           And I think it ought to be recognized that  
14 that's a commitment that should be lauded, even  
15 though somehow this case has become the posterchild  
16 for displacement and gentrification. There also is  
17 the commitment to try to work for the over 100 other  
18 tenants who are assisted with the housing choice  
19 voucher program to try to make that continue -- so  
20 they can continue to be there as well. And that's  
21 out of a lot of people's control, but a lot of people  
22 can work on trying to continue that commitment.

23           But this, another -- this developer could  
24 just sell this building and it could all be market  
25 rate, just subject to our little eight percent set-

1 aside IZ program, which we've tried to tighten up.

2           So, there isn't a strong affordable housing  
3 commitment that I think should be recognized that is  
4 being preserved in this case. And in addition to  
5 upgrading the housing that is there for the current  
6 tenants. And I think there is a good-faith  
7 commitment to try to ensure that everybody who is  
8 there can return and be able to afford the units,  
9 certainly the Section 8, the 373 Section 8, that's  
10 hard and fast. But the others as well. I think that  
11 there is a commitment to try to ensure that the  
12 federal and district programs that exist for that can  
13 be adjusted or maintained so that the people who are  
14 there can return to quality affordable housing in a  
15 decent neighborhood.

16           CHAIRPERSON HOOD: Any other comments?

17           Okay. I appreciate the comments of the Vice  
18 Chair. But I also, you know, this is near and dear.  
19 This is, you know, there are people who helped raise  
20 me, like Ms. Elliott, and when you get down here --  
21 they sent me downtown years ago to do the right  
22 thing. So, I'm trying to do the right thing within  
23 my scope. I'm not going to say jurisdiction, because  
24 I get beat up for saying jurisdiction. So, the new  
25 word is scope.

1           So now I'm trying to make sure I do the right  
2 thing within the scope, within our jurisdiction. We  
3 might have pushed a little bit, but I appreciate the  
4 applicant, Mr. Meers --

5           MR. MILLER: I agree with everything that  
6 you're pushing and I agree with that whole direction.

7           CHAIRPERSON HOOD: So, I appreciate what Mr.  
8 Meers has done. I noticed Mr. Meers in some other  
9 cases that we had, which did not fall -- and I think  
10 your statement, and I'm not making light of your  
11 statement, I think your statement is exactly correct.  
12 So, I'm trying to see what we can do within our scope  
13 to look out for people like Ms. Elliott, and I'm  
14 using her name because I know she won't get mad from  
15 me using her name.

16           Now, I know some others, but they may get mad  
17 with me. So, but the thing is, I'm going to sit down  
18 here to try to do the right thing, and Mr. Meers was  
19 here when we were fighting, hashing through some  
20 other cases, and he was trying to observe, and he  
21 tried to come down here with what we look for. So,  
22 you know, the reality, and this is real. I know we  
23 have regulations, but these are lives, these are  
24 people that are going to be, you know, when you're  
25 moved up and down, sometimes you have uncertainty.

1           So, as far as this Commission goes, as me  
2 being the chairman, I want to try to get as much  
3 certainty out there as possible because this is real.  
4 This is real, and I think I do this -- try to do this  
5 across the city, not just in my neighborhood.

6           So, that's enough of my soapbox. Anything  
7 else?

8           All right. So, we have some things that  
9 we're going to ask for. I mean, we're going to  
10 tighten up, I think. I'm ready to vote, but I will  
11 be reading those conditions, Mr. Tummonds. I will be  
12 reading them.

13           All right. I think the record is complete.  
14 Somebody like to make a motion?

15           MR. SHAPIRO: Mr. Chair, I'll move that we  
16 approve case No. 14-18A, MidCity Financial Corp.,  
17 first-stage PUD, modification of significance, and  
18 second-stage PUD at square 3953.

19           CHAIRPERSON HOOD: And I'll second that  
20 motion with the caveat of discussion that we've had  
21 today.

22           Any further discussion?

23           [Vote taken.]

24           CHAIRPERSON HOOD: So ordered. Ms. Hanousek,  
25 would you record the vote?

1 MS. HANOUSEK: Yes. The Commission voted  
2 five, to zero, zero to take final action in Case 14-A  
3 on a motion made by Commissioner Shapiro, as seconded  
4 by Chairman Hood, with Hood, Miller, Shapiro, May,  
5 and Turnbull to approve.

6 CHAIRPERSON HOOD: Okay. Next case we have  
7 is --

8 MR. BERGSTEIN: Mr. Chair, I'm sorry, but I'd  
9 like to make sure that I have permission to work with  
10 both the applicant's counsel and the counsel for the  
11 party in opposition as necessary, to make sure the  
12 order accurately reflects their position, and also to  
13 work with Mr. Tummonds to tighten up the conditions.

14 CHAIRPERSON HOOD: Yes, you do. Yes, you do.

15 All right. Let's go to Zoning Commission  
16 Case No. 16-21, North Capitol Hospitality, LLC. I'm  
17 going to give everybody about three minutes. If you  
18 want to stay and see how we do other cases, you're  
19 more than welcome. But if you need to leave, you  
20 can.

21 So, I'm going to give everybody three minutes  
22 to exit, please. If you can go ahead and exit as  
23 soon as possible so we can continue.

24 [Pause.]

25 CHAIRPERSON HOOD: All right. Let's go back

1 on the clock. I mean, on the whatever it is. Let's  
2 go back on the record.

3 Okay. Zoning Commission Case No. 16-21,  
4 North Capitol Hospitality, LLC, map amendment at  
5 Square 617. Ms. Hanousek.

6 MS. HANOUSEK: The Commission took proposed  
7 action at the end of the hearing for this case on  
8 April 20th. The applicant's draft order is at  
9 Exhibit 30, and we ask the Commission to consider  
10 this case for final action.

11 CHAIRPERSON HOOD: Okay, Commissioners, I  
12 don't believe we had anything outstanding on this  
13 case, but let me open it up. Did we?

14 Somebody like to make a motion?

15 MR. TURNBULL: I don't think we did, Mr.  
16 Chair.

17 CHAIRPERSON HOOD: Somebody like to make a  
18 motion?

19 MR. TURNBULL: Sure. Mr. Chair, I would move  
20 that we take final action on Zoning Commission 16-21.  
21 It's a zoning map amendment petition to remap 1326  
22 North Capitol Street Northwest from MU-4 to MU-5-A.  
23 Look for a second.

24 MR. SHAPIRO: Second.

25 CHAIRPERSON HOOD: Okay, it's been moved and

1 properly seconded. Any further discussion?

2 MR. SHAPIRO: I just want to make sure I'm --  
3 for the record, I just want to make sure we're  
4 talking about the same case because I had different  
5 information on my list in front of me.

6 CHAIRPERSON HOOD: 16-21?

7 MR. SHAPIRO: The description was different.  
8 I'm not sure if it matters.

9 But second, in any case.

10 CHAIRPERSON HOOD: Which case did you second,  
11 16-21?

12 MR. SHAPIRO: 16-21 North Capital  
13 Hospitality.

14 CHAIRPERSON HOOD: Okay. We're good. Okay.  
15 It's been moved and properly seconded. Any further  
16 discussion?

17 [Vote taken.]

18 CHAIRPERSON HOOD: Ms. Hanousek, would you  
19 record the vote?

20 MS. HANOUSEK: Yes. The Commission voted  
21 five, zero, zero, to take final action in Case 16-21  
22 on a motion made by Commissioner Turnbull as seconded  
23 by Commissioner Shapiro, with Hood, Miller, Shapiro,  
24 May, and Turnbull to approve.

25 MR. TURNBULL: Yeah, Mr. Chair, I was just

1 reading from the Office of Planning report.

2 CHAIRPERSON HOOD: Okay, we're good. All  
3 right. Let's go to Zoning Commission Case No. 16-  
4 14D, Mid-Atlantic Realty Partners, LLC, PUD  
5 modification of significance at Square 3584. Ms.  
6 Hanousek.

7 MS. HANOUSEK: This case was deferred from  
8 the May 8th meeting so that the applicant could  
9 provide more information on the project's phasing,  
10 which the applicant submitted at Exhibit 54 to 54C,  
11 and we ask the Commission to consider this case for  
12 final action.

13 CHAIRPERSON HOOD: Okay. On this one,  
14 Commissioners, if you recall, we deferred action on  
15 this case from last month's meeting, to allow the  
16 applicant to provide a further submission on phasing  
17 of the PUD. They provided a submission. That's on  
18 Exhibit 54/54C.

19 Any comments on the phasing plan? I forgot  
20 who asked for it.

21 MR. SHAPIRO: Mr. Chair, I think a number of  
22 us were asking for it. My read on this, this is  
23 exactly the direction where we were going, and  
24 certainly the direction that I would support. So,  
25 I'm happy to make a motion depending on where the

1 rest of the Commission is.

2 CHAIRPERSON HOOD: Okay. Other  
3 commissioners, any questions or comments? Are we all  
4 good with what we've asked for?

5 All right, so, Commissioner Shapiro?

6 MR. SHAPIRO: I move that we take final  
7 action on Zoning Commission Case No. 6-14D, Mid-  
8 Atlantic Realty Partners, LLC, PUD modification of  
9 significance at Square 3854.

10 MR. MILLER: Second.

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

13 [Vote taken.]

14 CHAIRPERSON HOOD: Ms. Hanousek, would you  
15 record the vote?

16 MS. HANOUSEK: The Commission voted five,  
17 zero, zero to take final action in Case 06-14D on a  
18 motion made by Commissioner Shapiro, as seconded by  
19 Commissioner Miller, with Commissioners Hood, Miller,  
20 Shapiro, May, and Turnbull to approve.

21 CHAIRPERSON HOOD: Okay. Next, let's go to  
22 hearing action.

23 Zoning Commission Case No. 14-11D, Office of  
24 Planning text amendment to subtitle A, a vesting of  
25 Zoning Commission Order No. 14-11B. We're asking to

1 do two things here, emergency action and set down.

2 Ms. Hanousek, you have anything else to add,  
3 or did I -- oh, that's right. Hold on. Let me go  
4 over to the Office of Planning. I've gotten used to  
5 calling you so much tonight. Let me go over here.

6 MS. STEINGASSER: You summarized it quite  
7 well. The Office of Planning is recommending the  
8 Commission set down a consideration of a vesting rule  
9 for Case 14-11B. The Commission had taken final  
10 action in March of this year, March 22nd. At that  
11 time, we had proposed a vesting rule that allowed for  
12 prospective permits all the way up to July. The  
13 Commission was not interested in entertaining a  
14 future going forward. However, that caught several  
15 permits and DCRA is here to address the details of  
16 those if need be.

17 They estimate there were about 20 permits  
18 that were caught. Several of those had already  
19 received zoning clearance. They were now subject to  
20 the new regulations. They would have to be kicked  
21 out and reapplied to the Board of Zoning Adjustment.

22 We recommend emergency action to allow for  
23 the orderly procession of these permits, and we ask  
24 that that vesting rule be applicable only up until  
25 March 23rd. So, it would be all permits that were

1 filed and in the process of being reviewed prior to  
2 the Commission taking final action.

3 CHAIRPERSON HOOD: Okay. Let me ask first,  
4 we know Mr. Goldstein has been here, but Mr. Tondro,  
5 have you been here to the Zoning Commission before?

6 MR. TONDRO: No.

7 CHAIRPERSON HOOD: Oh, you haven't. Well,  
8 we're going to welcome -- we see you when we're all  
9 on the BZA, so I should have done this earlier, but  
10 we just got to this case. But we're going to welcome  
11 you to the Zoning Commission.

12 MR. TONDRO: Thank you.

13 CHAIRPERSON HOOD: We usually take it light  
14 on you the first time, but the second -- don't come  
15 back the second time.

16 So, any questions of either DCRA or Ms.  
17 Steingasser?

18 MR. TURNBULL: Well, I'd hate to have them  
19 come here and not say anything. We ought to give  
20 them an opportunity. Mr. Tondro is very good at --  
21 in his comments. So, I guess maybe just how many of  
22 these things are before the DCRA that are causing a  
23 problem?

24 MR. GOLDSTEIN: Thank you for the question.  
25 Again, for the record, my name is Paul Goldstein.

1           We went back and tried to look through the  
2 data to give you a sense of how many permits are out  
3 there consistent with the Office of Planning's  
4 proposal for March 27th being the vesting date  
5 applications accepted as complete, you know, on or  
6 before March 27th.

7           On May 11th, we collected some data and we  
8 looked back from permits that have been submitted  
9 between September and March 27th. September 6th  
10 being ZR-16 date. And March 27th. And we looked at  
11 permits that were coded in our system for new  
12 buildings, additions, alteration repair, additions,  
13 alteration repairs. The type of permits that could  
14 have some type of construction which could be  
15 implicated by 14-11B. More specifically, the 10-foot  
16 rear addition rule.

17           We came up with a total that there were 488  
18 pending permits as of May 11 that fit those  
19 parameters. Three hundred and 74 of those were in  
20 residential zones, and 308 of those were actually in  
21 zones that 14-11B specifically impacted. The R-1, R-  
22 1-A, R-1-B, a number of the R zones, as well as the  
23 RF Zones.

24           We came up with about 20 permits that we  
25 think needed additional 14-11B scrutiny. So, there's

1 a class of permits that we are in some state of  
2 asking -- we had to hold them for corrections and ask  
3 applicants for additional information about  
4 compliance. Some of those 20 we've already sort of  
5 identified would not comply with 14-11B. It would  
6 need to go to the Board of Zoning Adjustment for  
7 relief.

8           So, yeah, when the rule took effect on April  
9 28th, part of it we had to look back at permits that  
10 were pending and part is as new permits came in we  
11 needed to apply 14-11B. So, it kind of had two  
12 pieces for us.

13           MR. TURNBULL: Thank you.

14           CHAIRPERSON HOOD: Mr. Goldstein, I hate to  
15 have you repeat that, but I was looking at something.  
16 I have to do that. Sometimes I have to go ahead.  
17 But when you say it -- what did you say, about 300  
18 and --

19           MR. MAY: If you weren't paying attention you  
20 could have mentioned that he played basketball for  
21 Georgetown. Sorry.

22           CHAIRPERSON HOOD: Okay, Mr. Goldstein, I'm  
23 talking to you right now. I'm not talking to  
24 Commissioner May.

25           MR. GOLDSTEIN: Oh, okay.

1           CHAIRPERSON HOOD: Let me ask a question.  
2 You said in the pipe, and I think that was a good  
3 question, I just started looking at something else.  
4 But the amount that you said were in the pipeline was  
5 how many?

6           MR. GOLDSTEIN: Yeah, let me put a little bit  
7 finer point on this. The default vesting rule, if  
8 you don't adopt any more specific vesting rule is  
9 permits that are pending that have not yet received a  
10 permit issuance, is how the vesting rule works. So,  
11 we went back and tried to kind of start defining the  
12 university. It's kind of peeling off layers to get  
13 down to the ones where it's effected.

14           So, really, at its essence were 308 pending  
15 permits in our system that had -- could potentially  
16 be effected by 14-11B. Our zoning reviewers went  
17 back and started looking through these cases more  
18 specifically and identified about 20 that really  
19 looked like they could have a 14-11B issue.

20           You know, once it's identified we really --  
21 we also need to reach out to the applicants and get  
22 more information to see if you know, to be able to  
23 determine compliance.

24           So, I'd say approximate 20 is what we're  
25 looking at right now. These cases all likely

1 received zoning approval at this point, but had not  
2 yet gotten their building permit. It could be a  
3 situation where they just didn't come to pick it up  
4 yet, or had to pay a fee and pick it up.

5 It could be a situation where other  
6 disciplines at DCRA were still looking at those  
7 permits. But they made it through zoning review but  
8 had not yet advanced to the final permit stage.

9 There's a bigger class of permits as well of  
10 ones that are still in zoning review. And those are  
11 a little bit easier from our agency, to be able to  
12 handle the review on because we have interactions  
13 still with the applicants. But we came to about a  
14 number of 20 at the moment.

15 CHAIRPERSON HOOD: So, as you know, this is a  
16 big issue in the city for us, and I'm not going to  
17 say we get hammered but -- and that's why I was  
18 concerned about exactly how many -- 20, I can live  
19 with, but the 300 number, I really think we need to  
20 really scrutinize, and I think they need to follow  
21 the rules. That's kind of where I am.

22 And when I first heard that, that's why I  
23 needed to hear it again because I was ready to --  
24 prepared to vote against some of this. But anyway, I  
25 think I'm fine with it, as long as it's just 20

1 because we're getting hammered. So, okay.

2 All right. Ms. Steingasser, did you want to  
3 add something? Give me a comfort, more comfort  
4 level?

5 MS. STEINGASSER: No, sir. I just wanted to  
6 make sure you were comfortable, that the range we're  
7 dealing with is about 20.

8 CHAIRPERSON HOOD: Okay. Okay. Can we put a  
9 cap on that, make sure we don't go over 20? No, I'm  
10 just --

11 Okay, any other questions or comments?

12 Does somebody want to --

13 MR. MILLER: I'll be happy --

14 CHAIRPERSON HOOD: It sounds like maybe I  
15 don't need to put a cap on it. I'm sorry, Vice  
16 Chair?

17 MR. MILLER: I was just, if you were asking  
18 for someone to make a motion, I was prepared to -- I  
19 think in the interest of certainty, for those who got  
20 caught up legitimately got caught up in the process,  
21 that small number, we don't want to unburdenly -- put  
22 an undue burden on them, because it is such a  
23 limited --

24 CHAIRPERSON HOOD: Well, 20 -- but 300, and  
25 we're getting hammered on this case. So, that's why

OLENDER REPORTING, INC.

1100 Connecticut Avenue NW, #810, Washington, DC 20036

Washington: 202-898-1108 • Baltimore: 410-752-3376

Toll Free: 888-445-3376

1 we're, you know, the setback, pop-back, pop-up, pop-  
2 around. So, you know, we really need to put some  
3 governing structures on this. So, that's kind of  
4 where I was.

5 And the 20, I can live with. I probably  
6 can't, but we can live with 20. So, because the  
7 government should be predictable.

8 MR. MILLER: Right.

9 CHAIRPERSON HOOD: You know, we shouldn't put  
10 stuff in place and then somebody operates under some  
11 regulations that we didn't have out, under  
12 regulations that we had out there. And then we turn  
13 around and put something in, now you've got to come  
14 back and -- I wouldn't want that to happen to me.

15 MR. MILLER: Right.

16 CHAIRPERSON HOOD: So, 20, I think, it might  
17 get beat up a little bit, but not as much with 300.  
18 So, okay. All right. So, you want to make a motion?

19 MR. MILLER: Sure. So, Mr. Chairman, I would  
20 move that the -- and correct me if I'm wrong, Office  
21 of Zoning staff and counsel, I would move that the  
22 Zoning Commission both set down and take proposed  
23 emergency action. Is that the right terminology, on  
24 Zoning Commission Case No. 14-11D, Office of Planning  
25 text amendment to subtitle A regarding vesting Zoning

OLENDER REPORTING, INC.

1100 Connecticut Avenue NW, #810, Washington, DC 20036

Washington: 202-898-1108 • Baltimore: 410-752-3376

Toll Free: 888-445-3376

1 Commission Order No. 14-11B, and ask for a second.

2 MR. TURNBULL: Second.

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

5 [Vote taken.]

6 CHAIRPERSON HOOD: Ms. Hanousek, would you  
7 record the vote?

8 MS. HANOUSEK: Yes, the Commission voted five  
9 to zero, zero to take emergency action, and to  
10 approve set down of Case 14-11D as a rulemaking on a  
11 motion made by Vice Chairman Miller, as seconded by  
12 Commissioner Turnbull, with Hood, Miller, Shapiro,  
13 May, and Turnbull to approve.

14 CHAIRPERSON HOOD: And I would ask, I see  
15 that we have some people who may be a little taken  
16 aback by our actions just now, but I will tell you, I  
17 expect to see, when we have a hearing, we set it  
18 down, even though we did emergency action, I'd like  
19 for you to come down at that point in time and I'd  
20 really like to hear your input so we can try to craft  
21 this for the best. Because the only way we're going  
22 to really get this right is by your input.

23 Anything else? Commissioner Shapiro.

24 MR. SHAPIRO: Mr. Chair, just a procedural  
25 issue for our attorney. My experience is that when

1 we take emergency action we need to define the action  
2 in some way.

3 MR. RITTING: I think that the testimony from  
4 Mr. Goldstein and Ms. Steingasser was adequate to do  
5 that.

6 MR. SHAPIRO: Thank you. Thank you, Mr.  
7 Chair.

8 CHAIRPERSON HOOD: Thank you. All right,  
9 let's go to hearing action Zoning Commission Case No.  
10 17-06, Capital Vista Community Partners and the  
11 District of Columbia Consolidated PUD and related map  
12 amendment at Square 536N. Mr. Cochran.

13 MR. COCHRAN: Thank you, Mr. Chair. OP  
14 recommends that the Commission set down this  
15 application for a consolidated PUD at a map amendment  
16 from MU-4 to D-4-R, with flexibility requested for  
17 the 1,500 square foot minimum lot size for a PUD, as  
18 well as for loading open court width and the ability  
19 for limited variations for interior and exterior  
20 design, as long as those variations are consistent  
21 with the PUD's approved plans generally.

22 The 9,648 square foot triangular vacant site  
23 is bounded by New Jersey Avenue, 2nd and H Streets  
24 Northwest, and is owned by the District of Columbia  
25 Government.

1 Capital Vista Community Partner is the joint  
2 applicant with the government for a development of a  
3 proposed 104-unit, 11.36 FAR, 130-foot tall, all  
4 affordable apartment building with some ground floor  
5 retail.

6 The dwelling units would be reserved for  
7 three income levels, households earning no more than  
8 30, 50, and 60 percent of the area median income,  
9 which HUD classifies as extremely low to low incomes.  
10 Not the very low to low income levels that we had  
11 noted in our report.

12 As permitted by the zoning regulations for  
13 downtown, there would be no off-street parking.  
14 Loading would be from the street under arrangements  
15 that have to be worked out with DDOT.

16 The application is not inconsistent with the  
17 Comprehensive Plan. The generalized policy map  
18 designates the site as a land-use change area and the  
19 generalized future land-use map shows the site is  
20 appropriate for high-density residential and/or high  
21 density commercial uses.

22 OP's set down report discusses 78 of the many  
23 guiding principles and policies of this plan's  
24 written elements, and that the project would further.

25 Page 3 of our report also summarizes some

1 topics about which the applicant would need to  
2 provide additional information about consistency with  
3 certain plan policies if it is set down.

4 Also, after set down the applicant would need  
5 to supply a full transportation and loading report,  
6 and a TDM plan, as well as further information about  
7 the community benefits proffers, additional graphics  
8 showing context and a physical context, and give  
9 further consideration to some of the architectural  
10 materials and details.

11 The applicant has already clarified that the  
12 affordable control period for the units would be 99  
13 years. That's our report and I'm available for  
14 questions.

15 CHAIRPERSON HOOD: Okay. Thank you, Mr.  
16 Cochran. Commissioners, any questions, comments?  
17 Vice Chair Miller?

18 MR. MILLER: Thank you, Mr. Chairman. That  
19 was going to be my question about -- since that was  
20 the question in your original report about the  
21 affordable control period, so I'm very pleased to  
22 hear the virtually in perpetuity 99-year commitment  
23 for an all-affordable, mostly deeply affordable  
24 housing project on the edge of downtown. That's  
25 pretty remarkable.

1           I guess I didn't read all of the applicant's  
2 statement. I would just be interested, not because  
3 it's in our purview, Mr. Chairman, but I would be  
4 interested in how this is being finance, just because  
5 I think it's something the city probably is  
6 encouraging and somehow incentivizing. So, I'm just  
7 very pleased to see this level and this amount of  
8 affordable on the edge of downtown.

9           I don't need to see that now, but if the  
10 applicant can present something at the hearing.

11           CHAIRPERSON HOOD: Okay. Anyone else?  
12 Commissioner May?

13           MR. MAY: Yeah, so I appreciate the very  
14 thorough report, and I agree with you that the design  
15 needs some attention. I'm not sure exactly -- I  
16 don't know that I have any things to focus on. I  
17 think the selection of colors is a little bit odd and  
18 it makes an otherwise substantial building kind of  
19 feel a little flimsy. But I'm sure you'll work with  
20 the applicant to improve the design there. And it is  
21 a really very, very interesting site, so I think it  
22 will be a terrific building once it's built.

23           I'm wondering. Have you -- has there been  
24 coordination with DDOT on the street car path and the  
25 other roadway changes that they're contemplating in

1 that vicinity?

2 MR. COCHRAN: Yes, there has.

3 MR. MAY: Okay, because the roadway project  
4 and the streetcar project were not coordinated  
5 amongst themselves. So, we discovered that because  
6 of the parcel land, the Park Service controls that  
7 triangle of land to the north there and both -- we  
8 got sort of -- we were asked about the roadway  
9 project and we said, well, have you talked to the  
10 street car project people? And they hadn't. So,  
11 there was some sort of -- or it didn't seem they had.  
12 So, I would just want to make sure that everything is  
13 very clear about what the future holds there, because  
14 you know, they had to modify the roadway project. I  
15 mean, talking about -- well, I won't go into the  
16 details of it, but it was not clear that DDOT was  
17 coordinating well in and of itself on the two  
18 projects, and I just want to make sure pretty clearly  
19 what's in store for both of these projects.

20 MR. COCHRAN: I'll make sure that's in our --

21 MR. MAY: Yeah.

22 MR. COCHRAN: -- next report.

23 MR. MAY: Yeah. Okay. And regarding the  
24 control period, what happens after the control period  
25 is over, assuming the building remains?

1 MR. COCHRAN: Well, according to the IZ  
2 rules, if the building -- you know, we're talking 99  
3 years.

4 MR. MAY: Right.

5 MR. COCHRAN: Presuming the building stays,  
6 it would have to --

7 MR. MAY: Meet the IZ requirements.

8 MR. COCHRAN: -- meet the IZ requirements,  
9 whatever they may be --

10 MR. MAY: Yeah.

11 MR. COCHRAN: -- in the next century.

12 MR. MAY: Right. Okay. No problem. Thank  
13 you.

14 CHAIRPERSON HOOD: Okay. Anything else?

15 MR. TURNBULL: Yeah. Thank you, Mr. Chair.

16 Mr. Cochran, thank you, and I agree with all  
17 of your comments that you've made regarding the  
18 architecture and what they need to provide back to  
19 us.

20 I just had a couple of questions. They seem  
21 to want to put the 130 feet to the top of this sun  
22 shade, and I'm wondering why it's not measured to the  
23 top of the roof.

24 MR. COCHRAN: They did measure it both to the  
25 top of the roof, and to the top of the sunshade.

OLENDER REPORTING, INC.

1100 Connecticut Avenue NW, #810, Washington, DC 20036

Washington: 202-898-1108 • Baltimore: 410-752-3376

Toll Free: 888-445-3376

1 It's 129 and some change to the top of the roof, and  
2 130 to the sun shade.

3 MR. TURNBULL: Yeah, just curious. I just  
4 don't often see that that's labeled separately rather  
5 than a separate measurement.

6 MR. COCHRAN: It may have been in abundance  
7 of caution.

8 MR. TURNBULL: Okay. I guess one question,  
9 architecturally is, you're going to have a lot of air  
10 conditioning units, and exhaust units in these metal  
11 panels. I think when we see drawings of what this is  
12 going to look like, I'd like to see blow ups of how  
13 they're going to handle that because a lot of times  
14 these exposed units can look a little ugly after a  
15 few years in use. So, I'd like to see exactly how  
16 they're handling those kind of devices on the  
17 exterior of the building, see what it really looks  
18 like.

19 And those are, I guess, my questions. Thank  
20 you.

21 CHAIRPERSON HOOD: Okay. Anybody else? All  
22 right. On this case we do have it, and I'm trying to  
23 remember. We have a waiver of the hearing fee. Do  
24 we usually do that at the hearing or do we do that at  
25 set down? I get confused.

1 [Discussion off the record.]

2 MR. MILLER: The PUD minimum.

3 CHAIRPERSON HOOD: No, I thought it was a  
4 waiver for the --

5 MR. MILLER: Size?

6 [Discussion off the record.]

7 CHAIRPERSON HOOD: The wrong case? Oh, I had  
8 the right case? It's this case. Okay. So, there is  
9 an exhibit. Let's look at Exhibit No. 3 from DHCD.  
10 If I recall, they're asking for 100 percent waiver  
11 and typically in the past we have just waived the  
12 part for affordable. I think we -- affordable.

13 MR. SHAPIRO: Is this all affordable?

14 CHAIRPERSON HOOD: Is the whole thing  
15 affordable? So, I guess that's why they asked for  
16 100 percent. That's what happens when you try to  
17 remember stuff off the top of your head.

18 MR. MAY: Well, I mean, there is the retail  
19 component which wouldn't fall under affordable  
20 housing.

21 MR. RITTING: In response to your direct  
22 question, Mr. Hood, that the Commission is to decide  
23 that issue at set down. So, now is the appropriate  
24 time.

25 CHAIRPERSON HOOD: Thank you. So, this is

1 the appropriate time. Colleagues, what is your  
2 pleasure?

3 MR. MILLER: I would be supportive of the  
4 waiver, Mr. Chairman. This is an all-affordable  
5 project on the edge of downtown, which is pretty  
6 remarkable.

7 CHAIRPERSON HOOD: Okay. Anybody else?  
8 Okay, somebody like to make a --

9 MR. TURNBULL: Mr. Chair, I just had one  
10 other comment when conferring with Commissioner  
11 Miller. The only balconies are on the north end at  
12 the triangle, the very north end of the building.  
13 I'm wondering if they have looked at the possibility  
14 of trying to incorporate any other balconies on the  
15 sides of the building, or recessed, even a Juliette  
16 balcony, if they could look at the possibility of  
17 trying to incorporate something like that.

18 MR. MILLER: I would support that, Mr.  
19 Turnbull. Thank you for bringing it up.

20 CHAIRPERSON HOOD: Okay. Would somebody like  
21 to -- any other questions on this? Somebody like to  
22 make a motion?

23 MR. MILLER: Yes.

24 CHAIRPERSON HOOD: And include the waiver in  
25 it?

1           MR. MILLER: Yes, Mr. Chairman. I would move  
2 that the Zoning Commission set down for hearing and  
3 waive the Zoning Commission hearing fee for Case No.  
4 17-06 Capital Vista Community Partners and District  
5 of Columbia consolidated PUD and related map  
6 amendment at Square 536N, and ask for a second.

7           CHAIRPERSON HOOD: I'll second it. It's been  
8 moved and properly seconded. Any further discussion?

9           [Vote taken.]

10          CHAIRPERSON HOOD: So ordered. Ms. Hanousek,  
11 would you record the vote?

12          MS. HANOUSEK: Yes. The Commission voted  
13 five, zero, zero to approve set down of Case 17-06 as  
14 a contested case, and included a waiver of the  
15 portion of the hearing fees for the above referenced  
16 application attributable to the construction of  
17 residential units, on a motion made by Vice Chair  
18 Miller and seconded by Chairman Hood, with --

19          CHAIRPERSON HOOD: So, Mr. Freeman will feel  
20 easy, it's 100 percent waiver.

21          Never mind. Mr. Freeman got it, though.

22          MS. HANOUSEK: With Hood, Miller, Shapiro,  
23 May, and Turnbull to approve.

24          So, did you want me to modify what I said  
25 about the fee waiver?

1 CHAIRPERSON HOOD: No, we just -- the motion  
2 was made that was -- you said 100 percent, right?  
3 Well, if you didn't, it's 100 percent.

4 MS. HANOUSEK: Okay, it's 100 percent fee  
5 waiver.

6 CHAIRPERSON HOOD: All right. All right.  
7 Anything else?

8 All right. Let's go to the next case.  
9 Zoning Commission Case No. 05-28R, Parkside  
10 Residential, LLC, second-stage PUD and modification  
11 of a significant -- modification of significance to  
12 first-stage PUD at Square 5041. Mr. Lawson.

13 MR. LAWSON: Good evening, Mr. Chair.  
14 Actually, the Zoning Commission -- or sorry, the  
15 Office of Planning reviewed this application  
16 concurrent with the next one on your agenda, which is  
17 05-28S. They're kind of two parts to the same  
18 puzzle.

19 CHAIRPERSON HOOD: Okay. Well, let me do  
20 this. Let's also call Zoning Commission Case No. 05-  
21 28S. Mr. Lawson.

22 MR. LAWSON: Thank you. OP recommends that  
23 the Commission set down for a public hearing, these  
24 two Parkside applications which request modifications  
25 to the first-stage PUD, as well as approval of the

1 second-stage applications.

2           The two parcels aren't congruous. They don't  
3 touch each other, but the applications do mirror one  
4 another, so OP recommends that they be reviewed  
5 concurrently.

6           The application is for the development of two  
7 lots located in the central portion of the Parkside  
8 PUD area between Kenilworth Terrace and Parkside  
9 Place. They're separated by a development parcel,  
10 which is also currently under review by the  
11 Commission. That's Case 05-28Q.

12           Each of these two parcels would be developed  
13 with a seven-story L-shaped multifamily building with  
14 a mix of one-bedroom to two-bedroom units. Facing  
15 Parkside Place would be 25 four-story single-family  
16 row homes, five of which would be available as  
17 workforce housing.

18           The application includes a request for  
19 flexibility to provide either retail or residential  
20 use in the ground floor of the two apartment  
21 buildings, depending on market conditions at the  
22 time. OP has suggested the applicant provide a  
23 firmer commitment and justification regarding this  
24 retail space, but does not oppose this flexibility  
25 being advertised.

1           Modifications to the first-stage approval  
2 reflect the current proposal, and despite the  
3 development parameters originally set for the entire  
4 block, to those of the two parcels.

5           The application and the OP report provide a  
6 summary of the benefits and amenities package  
7 proposed to date. OP will continue to work with the  
8 applicant to refine these prior to the public  
9 hearing.

10           The proposal is consistent with -- is  
11 generally consistent with a first-stage approval,  
12 which was deemed by the Commission to be not  
13 inconsistent with the Comprehensive Plan. And the  
14 site is designated on the future land-use map for  
15 medium density residential use, and on the  
16 generalized policy map as within a neighborhood  
17 enhancement area. The proposal is not inconsistent  
18 with these designations.

19           As detailed in our report, the proposal would  
20 particularly further policies and actions within the  
21 land-use, the transportation, housing, environmental  
22 protection, economic development, and urban design  
23 city-wide elements, as well as the policies of the  
24 far northeast and southeast area element.

25           OP will continue to work with the applicant

1 to refine the proposal, and to address the issues  
2 raised in our report prior to a hearing, as well as  
3 any issues raised by the commission at set down. And  
4 with that, I'm available for questions. Thank you.

5 CHAIRPERSON HOOD: Okay. Thank you, Mr.  
6 Lawson. Any comments? Vice Chair Miller?

7 MR. MILLER: Thank you, Mr. Chairman. So, I  
8 just, I guess I need clarification on the application  
9 of Inclusionary Zoning to this project. And these  
10 are modifications to first-stage, so whatever  
11 requirement, workforce housing requirement which I  
12 think is -- what is that, 80 to 120, or some  
13 ridiculous amount?

14 MR. LAWSON: It's typically in that range.  
15 In this case the Zoning Commission established an  
16 affordable housing requirement as part of the stage-  
17 one approval. The applicant has already largely met  
18 that requirement. They've front-loaded a lot of the  
19 affordable units. As noted in our report, 74 percent  
20 of the residential units approved so far have been  
21 affordable to 60 percent AMI.

22 At this point, they're looking to provide  
23 some of the market rate housing, which will round out  
24 that mix within the Parkside PUD.

25 MR. MILLER: Okay. So, I guess I just need

1 to see how those numbers all work. And it may  
2 already be there, I may have just missed that. So --

3 MR. LAWSON: We can certainly ask the  
4 applicant to provide a table clearly showing --

5 MR. MILLER: Right.

6 MR. LAWSON: -- each of the projects so far.

7 MR. MILLER: Right. I think I saw that --

8 MR. LAWSON: And the number of affordable  
9 units.

10 MR. MILLER: -- in the previous Parkside  
11 case, so that would be helpful. And one of your  
12 other comments, piggybacking on what Commissioner  
13 Turnbull brought up, was additional balconies for the  
14 residential, which I always like to see. So, if they  
15 can look at that again, that would be helpful.

16 CHAIRPERSON HOOD: Okay. Commissioner  
17 Shapiro.

18 MR. SHAPIRO: Thank you, Mr. Chair. In the  
19 OP report I appreciate that you're asking the  
20 applicant to provide -- to explore the possibility of  
21 solar panels on the townhomes. And I would encourage  
22 you to work with them, to continue to work with them  
23 on that. But specifically, where you asked them to  
24 explore increasing the amount of green roof proposed  
25 and/or provide solar panels. I would just like to

1 have them give a good explanation for why they can't  
2 do solar panels. I'd prefer that they do, and I  
3 would have that more of a priority than the green  
4 roof. And they can, you know, deal with issues  
5 around storm water retention using other mechanisms.

6 CHAIRPERSON HOOD: Okay, any other questions  
7 or comments of either one of these cases?  
8 Commissioner May?

9 MR. MAY: Yeah, so the design of the row  
10 houses need work and I think you note that in your  
11 report. I'll point out a couple things that are  
12 particularly problematic. The side elevations are  
13 really not very good. They don't look like side  
14 elevations. And you know, it's one thing if you're  
15 facing an alley, but some of these are facing  
16 streets, and they just don't look like, you know, the  
17 buildings turn the corner and that's the way it  
18 should be. I mean, this is a recurring theme for me.

19 And also, the use of the large-scale hardy  
20 panel on the fourth floor facing the street, I mean,  
21 granted they're not really going to be that visible,  
22 but they're visible when you get up into the other  
23 houses, and this is something that is typically done  
24 by -- for this type of unit, I think it's probably  
25 this designer in particular who has done it before,

1 and I see them around town and they look terrible,  
2 and I just think that there should be, you know -- I  
3 mean, I'm not saying it all has to be brick. I mean,  
4 they could use the thin brick solution which some  
5 people use when they get up that tall and they don't  
6 have a masonry bearing wall for it, and don't want to  
7 put in steel.

8 But you know, something better than looking  
9 at those large Hardy panels. Just awful.

10 And I also appreciate some of the other  
11 things that you noted in the report, the flexibility  
12 on materials, material -- changes to materials needs  
13 to be tightened up from what they propose. Same  
14 thing for flexibility on signage.

15 There was something odd that was in your  
16 report having to do with the parking, the below-grade  
17 parking and suggesting that it actually extends under  
18 the townhouses, which is not really correct,  
19 according to the plans. I think that's just an  
20 oversight on the part of whoever wrote the report. I  
21 can see how it extends out under the rear yard garden  
22 area, but it doesn't go across the alley as far as I  
23 can tell.

24 And the apartment buildings themselves also  
25 need work. I think the -- I can't remember. One of

1 them has got a little more color in it than the other  
2 one. They're both looking pretty flat and pretty  
3 dull. And so, I'm sure that we'll see greater detail  
4 and we'll see more information on them. I'm not  
5 looking for them to be, you know, really extravagant  
6 or anything, but and maybe it's just a rendering  
7 thing. Maybe the design that we are not seeing here  
8 is -- it is there, it's just not showing well. I  
9 mean, I had to look twice at the one rendering to see  
10 is this, you know, it's just so gray and washed out I  
11 almost wondered if it was printed properly at all.  
12 So, a little more life to the buildings, I think is  
13 helpful.

14 Do we know, are those -- I forgot. They're  
15 85 feet tall. So, are they stick-built on a podium,  
16 or are they --

17 MR. LAWSON: I would expect that they will  
18 be. I don't think they're 85 --

19 MR. MAY: I'm seeing nods. Nods in the  
20 audience.

21 MR. LAWSON: -- feet tall. Yeah. I don't  
22 think they're quite 85 feet tall. I don't have the  
23 number right in front of me, but as far as I know,  
24 they're stick built.

25 MR. MAY: I saw a nod in the audience, so you

1 know, this is rapidly becoming one of my least  
2 favorite types of building, because they just look  
3 kind of obviously cheap and I wonder what the future  
4 holds for them, you know, 50 years from now. Are  
5 they going to be robust and get, you know, updated  
6 and reskinned, and I mean, or are they just going to  
7 get, you know, torn down, recycled, land-filled or  
8 whatever, and then rebuilt? I don't know. I just, I  
9 think there has to be an extra effort with buildings  
10 like this to make sure it looks good and looks  
11 substantial.

12 So, and so I'll stop. Thanks.

13 CHAIRPERSON HOOD: Okay. Anything else?

14 MR. TURNBULL: Yeah, Mr. Chair.

15 CHAIRPERSON HOOD: Yes.

16 MR. TURNBULL: I would agree with all the  
17 comments of my colleagues so far. I think -- and the  
18 Office of Planning's comments, I think, are very  
19 good. I would just, if I looked at Drawing A-4.01,  
20 which is a perspective, I don't want to be harsh, but  
21 if I wanted to do a drawing of a communist block  
22 housing from the '60s, you're coming close. This  
23 looks dull. This looks -- this does not look  
24 attractive.

25 Some of your other elevations have got color,

1 they've added some other panels. But this particular  
2 view, if you were doing a set design, you've hit the  
3 bullseye. To me, I don't think this is very becoming  
4 for housing in our city. I think you really need to  
5 up the bar and give it -- and either -- maybe it's  
6 the drawing. Maybe Commissioner May -- maybe it's  
7 just the presentation, the quality of the graphics  
8 that just don't present it. But I think you've  
9 really got to get back and do the graphics, and  
10 you've really got to put together something that is a  
11 little bit more meaningful for the people that are  
12 going to live there. 401 has got to change. There's  
13 something about that that just strikes me as being  
14 not very livable. And I really think you've really  
15 got to put an effort in this.

16 And so, with that, Mr. Chair, I'll end my  
17 comments.

18 CHAIRPERSON HOOD: Okay, thank you. Only  
19 comment I have is that I think they asked to pin  
20 these cases the same night. Is that still on the  
21 table? Does anybody know? Anyway.

22 MR. MAY: Well, and they even asked to  
23 combine it with another one that's already scheduled  
24 as I recall, on the 19th.

25 CHAIRPERSON HOOD: Yeah.

1 MR. MAY: Anything in the middle?

2 CHAIRPERSON HOOD: Let me just say this about  
3 that. In the past, when we've dealt with this, we  
4 said no. We did try to do it the same week in the  
5 05-28Q and 05-28T. For some reason, we said no. I  
6 can't remember why we said no at that time, but maybe  
7 we can do the same thing here. With some of the  
8 comments I heard, the case -- normally I like to try  
9 to get things moved through them and not have to come  
10 down here for about 30 minutes, and then you know,  
11 have to come back the next night for another 45  
12 minutes.

13 So, but I think in this case, though, we  
14 might want to be consistent. The same thing we did  
15 previously. As far as the scheduling. So, I'm not  
16 sure what others think about that, but we can have  
17 the discussion.

18 MR. MAY: Well, we're already, I mean -- I  
19 mean, they're talking about adding this to the block  
20 9 application, which is that one where we scheduled  
21 them, two hearings in the same week. It's the 19th  
22 and the 22nd.

23 CHAIRPERSON HOOD: Right.

24 MR. MAY: So, we're talking about adding it  
25 to that same pile up.

1 CHAIRPERSON HOOD: But I think -- I'm not  
2 actually inclined to do that. I'm inclined to do it  
3 like we did that one, you know, the same week. But I  
4 think they've --

5 MR. MAY: Yeah.

6 CHAIRPERSON HOOD: This was asked for  
7 previously, and we said no.

8 MR. MAY: Yeah, I mean --

9 CHAIRPERSON HOOD: In another case.

10 MR. MAY: You know, as much as I want to be  
11 efficient with everyone's time, I also want to be  
12 able to review and scrutinize these projects  
13 appropriately. And we're trying to, you know, do too  
14 much at one time. That becomes a problem.

15 So, I would -- and you know, plus there's the  
16 whole fact that we'd have to waive notice and notice  
17 requirements. So, I would be inclined to -- I mean,  
18 we would go ahead I think and do blocks 8 and 10 at  
19 the same time. That makes sense. But nine  
20 separately on the 19th and whatever it was, 11 on the  
21 22nd.

22 CHAIRPERSON HOOD: Okay. I'm in favor of  
23 setting it -- let me just ask, I mean, I'm sorry,  
24 Commissioner Shapiro.

25 MR. SHAPIRO: Thank you. I just, I want to

1 make sure I'm understanding the direction that you're  
2 going because it does make sense to me to have these  
3 two cases heard at the same time, since they're  
4 essentially mirrors of each other. Even if we don't  
5 align it with one of their other projects. Is that  
6 what I'm hearing?

7 CHAIRPERSON HOOD: Yeah, but I'm saying, not  
8 the same night, though, because we didn't do it the  
9 same night previously. I just want us to be  
10 consistent because at 10:30, in the seat that I sit  
11 in, and everybody is getting mad with me, the  
12 audience and the people that are sitting up here.  
13 So, those are kind of -- it's rough to be in that  
14 situation. And I've been there a few times. And you  
15 know, I don't mind going to 10 minutes to 12:00.

16 MS. HANOUSEK: Excuse me, Commissioner. I  
17 just wanted to point out that in addition to trying  
18 to get the cases heard with 05-28Q, they're also just  
19 asking to combine 05-28R and S and it basically make  
20 them into one case; merge them into one case. That's  
21 a separate ask.

22 MR. SHAPIRO: It sounds like we're  
23 comfortable with that. You're just saying, but let's  
24 not have that hearing when we're having their other  
25 case as well.

1 CHAIRPERSON HOOD: No, I don't want to --

2 MR. SHAPIRO: So, these two can go together,  
3 but not combined with anything else?

4 CHAIRPERSON HOOD: Well, I don't know. Let's  
5 open it up. I mean, first of all -- hold on, let me  
6 do this. What are you all asking for? Let me ask  
7 them what they're asking for because we're up here  
8 trying to figure out what they're asking for and we  
9 might be getting it crossed up. We don't usually get  
10 things crossed up, so we're going to ask you to help  
11 us.

12 MS. RODDY: No, I think that you understand.  
13 We are asking -- we're not asking to merge the two  
14 cases for parcels 8 and 10. We do think that makes  
15 sense for those two parcels -- two cases to be heard  
16 together. We also think it makes sense to hear them  
17 with the middle parcel, parcel 9, that you have  
18 already set down. And that's because when we went  
19 through the first-stage, it was all referred to as  
20 Block F. So, everything in the first-stage approval  
21 is one block.

22 And there's also several integrated  
23 considerations with the applications, the loading is  
24 all accessed from similar drive aisles. So, we just  
25 thought that made sense to do the three of those

1 together.

2           So, we would -- we think that it makes more  
3 sense to combine them for the June 19th hearing  
4 that's already been scheduled for parcel 9. Barring  
5 that, we think that it makes sense to keep 8 and 10  
6 together, since they are mirrors of each other.

7           CHAIRPERSON HOOD: Okay. I think that if I'm  
8 not mistaken, Commissioner May I think, unless  
9 somebody wants to change that, you're not inclined of  
10 what we've already set down, correct? Anybody is?

11           MR. MILLER: What are you asking?

12           MR. SHAPIRO: I mean, I'm right --

13           MR. MAY: I appreciate the notion that there  
14 are certain efficiencies to having 8, 9, and 10 all  
15 on the same night. However, 8 and 10 make perfect  
16 sense, 9 I feel like, you know, we might be getting  
17 into just too much to be able to review it thoroughly  
18 on that night.

19           Besides, we will have already heard the block  
20 9 case by the time we got to hear blocks 8 and 10.  
21 So, we'll, you know, we'll have an idea of how  
22 loading is supposed to work and everything, from the  
23 other case. So, I'm inclined to combine these two,  
24 but not do it on the 19th with Block 9.

25           MR. MILLER: Can I ask a question, Mr.

1 Chairman?

2           So, this Commission heard all three of the  
3 parcels in the first-stage at one time, as a part of  
4 Block F. So, would the applicant, instead of waiving  
5 our notice requirement for these two to occur on, is  
6 it June 19th?

7           MR. MAY: I think so.

8           MR. MILLER: Would you object to us  
9 scheduling all three on a date that would be set  
10 later than June 19th so that the notice can be given  
11 for these cases, and then we can be efficiently  
12 considering all of Block F together? Or do you guys  
13 want to go ahead, if we're not going to combine them  
14 on June 19th, these two on June 19th, what is your  
15 preference?

16           MS. RODDY: We would still like to move  
17 forward with the application on June 19th. Timing is  
18 of the essence in that application. Just want to  
19 note that there is the e-mail from the ANC. We've  
20 vetted this request with them. They are comfortable  
21 with the waiver of the notice requirements, and they  
22 actually said that they supported hearing them  
23 together in one evening.

24           MR. MILLER: That's in our record.

25           MS. RODDY: That's included in the filing

1 that we made.

2 CHAIRPERSON HOOD: Okay. Commissioner  
3 Shapiro?

4 MR. SHAPIRO: Thank you. I mean, I don't  
5 think any of us are going to fall on the sword on  
6 this, but I do think the efficiencies make sense, and  
7 I would prefer that we move ahead on the 19th with  
8 all of it. It's helpful for me and my sometimes  
9 feeble brain to see them all -- you know, it's three  
10 buildings right next to each other. So, it certainly  
11 feels like one project. But I hear what Commissioner  
12 May is saying. I just, I would disagree and I would  
13 be better served if we moved them together at the  
14 same time.

15 CHAIRPERSON HOOD: Here's my only problem  
16 with the ANC concurring. Everybody don't go to the  
17 ANC meetings. And if anybody knows that, the five of  
18 us do. And well, I'm including Office of Planning as  
19 well. And we're including OAG. All of us up here  
20 know that. So, I'm not going to put a whole lot of  
21 credence on the ANC because what's going to happen is  
22 the ANC will have agreed, and then we're going to  
23 have somebody come down and say, well, we don't even  
24 agree with the ANC. And it's going to be a group of  
25 neighbors who live in an effected area, in that area,

1 who are going to say the same thing. So, I just want  
2 to make sure we move efficiently, effective, and make  
3 sure that we are consistent. And I don't want to be  
4 here until 10 minutes to 12 trying to -- because you  
5 can't predict. I don't know. Do you have any  
6 opposition? Do you know if you have any opposition?

7 MS. RODDY: I'm not making a commitment at  
8 this time, but we have been working diligently with  
9 the community.

10 CHAIRPERSON HOOD: Okay. So, all that, you  
11 know, we don't know what may come in. And then we  
12 get in -- we done scheduled three cases, and here we  
13 are at 9:30, and we just still on the first one. So,  
14 those are the risks that we run.

15 And I think, though, that we can hear what we  
16 have planned, and if you all want to put the other  
17 two, if you think that we can get through with them  
18 in one night, I don't have a problem with putting the  
19 other two together, but not mixing it with what we  
20 already have set down. And I think that's where I  
21 am.

22 MR. MAY: I think I agree with you. I'm okay  
23 with blocks 8 and 10 together, but I'm not in favor  
24 of joining it with block 9. I'd rather --

25 CHAIRPERSON HOOD: That's the one we already

1 have scheduled.

2 MR. MAY: Right.

3 CHAIRPERSON HOOD: Right. That's what I'm  
4 saying. I'm saying the same thing.

5 MR. MAY: I'm not in favor of that. I mean,  
6 I think that we'll -- I understand the potential  
7 efficiencies of it, but I just feel like there are  
8 things that we have to think about, and talk about,  
9 and hear about on each of these cases, and they may  
10 be a little bit different. I mean, we're talking  
11 about some significantly different projects, and so  
12 I'd rather have two manageable hearings than a single  
13 marathon.

14 CHAIRPERSON HOOD: Okay. Would somebody like  
15 to make a motion, if they can figure all that out?

16 MR. MAY: Mr. Chairman, I would move that we  
17 set down Zoning Commission Case 05-28R for Square  
18 5041, and 05-28S for Square 5056, Parkside first-  
19 stage modification and second-stage planned unit  
20 development.

21 CHAIRPERSON HOOD: Okay.

22 MR. MILLER: Second.

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

25 And we're going to hear those two the same

1 night?

2 MR. MAY: Yes.

3 CHAIRPERSON HOOD: Okay. All right. So,  
4 that's the caveat. Hold on a second. Let me carry  
5 the motion.

6 It's been moved and properly seconded. And  
7 we're going to hear them the same night. You got  
8 those two the same night.

9 [Vote taken.]

10 CHAIRPERSON HOOD: So ordered. Ms. Hanousek,  
11 would you record the vote?

12 MS. HANOUSEK: Question. Did you mean that  
13 as contested case, and did you mean to merge 08-28S  
14 into -- I'm sorry, 05-28S into 05-28R?

15 CHAIRPERSON HOOD: No. No.

16 MR. MAY: They're not merged into a single  
17 case, they'll just -- they're separate cases heard in  
18 the same night --

19 CHAIRPERSON HOOD: Separate cases, but --

20 MR. MAY: -- and we never include whether or  
21 not they're contested in the motion.

22 MS. HANOUSEK: Okay.

23 MR. MAY: But I assume it would be.

24 CHAIRPERSON HOOD: Yeah, these are contested  
25 cases.

1 MR. MILLER: But we can't hear them at the  
2 same time?

3 MR. MAY: No, we would hear them at the same  
4 time.

5 MR. MILLER: Okay.

6 MR. MAY: Or we're going to ask to be heard  
7 at the same time. But they're just not --

8 MR. MILLER: The second, I just wanted to  
9 know that --

10 MR. MAY: -- merged into a single case.

11 MR. MILLER: Okay. Okay.

12 CHAIRPERSON HOOD: So, we'll hear them the  
13 same night. But let me just go on notice --

14 MR. SHAPIRO: No, we'll hear them at the same  
15 time.

16 MR. MILLER: Same time. Okay.

17 CHAIRPERSON HOOD: Okay, well let me just say  
18 this, when it gets to be 10:30, I don't want nobody  
19 to say anything because I'm going to keep right on  
20 going.

21 MR. MAY: No, maybe I'm unclear about what  
22 I'm suggesting and I mean, it would be a single  
23 presentation that would cover everything, right?

24 MR. MILLER: Right. That's what I --

25 MR. MAY: But they're still going to retain

1 their separate numbers, R and S.

2 MR. MILLER: Okay.

3 MR. SHAPIRO: Yes.

4 MS. HANOUSEK: Okay. Okay.

5 MR. MILLER: The single presentation was what  
6 I was asking about. Thank you.

7 CHAIRPERSON HOOD: Yeah. Yeah, that's fine.  
8 But at 10:30, quarter of 11:00, nobody say nothing to  
9 me. Okay. We're all straight.

10 MS. HANOUSEK: Okay.

11 CHAIRPERSON HOOD: All right. Anything else,  
12 Ms. Hanousek? Did you record the vote?

13 MS. HANOUSEK: No. The Commission voted  
14 five, zero, zero in block to set down cases 05-28R  
15 and 05-28S as contested cases on a motion made by  
16 Commissioner May, as seconded by Vice Chairman  
17 Miller, with Hood, Miller, Shapiro, May, and Turnbull  
18 to approve.

19 CHAIRPERSON HOOD: Okay. Let's go to our --

20 MR. RITTING: Before you move on, I just  
21 wanted to interrupt you. I'm sorry. I just wanted  
22 to get clarification that you're denying the request  
23 to provide the shorter timeline and have the hearing  
24 on the 19th.

25 CHAIRPERSON HOOD: 19th of July.

1 MR. RITTING: Of June.

2 MR. SHAPIRO: Yes, we are.

3 CHAIRPERSON HOOD: Yeah, we're doing that.

4 MR. RITTING: Okay. Thank you very much.

5 CHAIRPERSON HOOD: Okay. Let's go to  
6 correspondence. We have a submission,  
7 correspondence. Ms. Hanousek, you want me to tee  
8 this one up, or you want to do it?

9 MS. HANOUSEK: Either.

10 CHAIRPERSON HOOD: Okay. You can go ahead.

11 MS. HANOUSEK: Okay. The Committee of 100  
12 has requested waivers to the rules to allow a non-  
13 party to make an untimely request for reconsideration  
14 in Case 15-18 at Exhibit 55. At Exhibit 56, the  
15 applicant submitted opposition to the waiver  
16 requests.

17 CHAIRPERSON HOOD: Okay. And let me just add  
18 that the order, I have information that the order in  
19 this case was published on March 10th. Any  
20 reconsideration -- if we choose to waive our rules,  
21 because they were not a party. But any request for  
22 reconsideration should have been filed by March the  
23 20th. So, Commissioners, what is your pleasure on  
24 the two waivers?

25 First, do we want to waive our rule for

1 untimely filing? And once we do that, then we want  
2 to waive to accept the filing from a nonparty.

3 Okay, would somebody like to put a motion and  
4 let's see if we all go with it, or we need more time  
5 or --

6 MR. SHAPIRO: So, I'm not quite sure the  
7 proper wording of the motion, but I'm happy to make a  
8 motion to not take this up, to deny.

9 So, is it as simple as the motion is to deny  
10 Zoning Commission No. 15-18?

11 CHAIRPERSON HOOD: No. No. Let me ask this.  
12 Let me ask this, because I think we have -- if we do  
13 the timely issue --

14 MR. SHAPIRO: But we deny the request for  
15 waiver.

16 CHAIRPERSON HOOD: But let me ask Mr.  
17 Ritting. If we do the timely issue, do we have to do  
18 anything else?

19 MR. RITTING: Well, I mean, either basis is  
20 as adequate to deny the request for a waiver so, if  
21 you're convinced that the one is sufficient, then  
22 that would do it.

23 CHAIRPERSON HOOD: I'll tell you what, let's  
24 just -- I'm in favor -- let me just -- they're asking  
25 for both waivers. I'm in favor of denying both

1 waivers. Especially because of the way our rules  
2 are. Then they actually want to come in as a  
3 nonparty and be a party, the way I understand it.  
4 So, I'm in favor of denying both waivers. And  
5 typically, that's what we've done.

6 Vice Chair Miller, you want to add something?

7 MR. MILLER: I just wanted to agree with you,  
8 Mr. Chairman.

9 CHAIRPERSON HOOD: Okay. All right.

10 MR. SHAPIRO: So, then the motion would be to  
11 waive for untimely filing and to waive to accept the  
12 filing from nonparty?

13 CHAIRPERSON HOOD: Deny. Oh, you want to  
14 accept them.

15 MR. SHAPIRO: Deny them both.

16 CHAIRPERSON HOOD: Okay. All right. It's  
17 been moved to deny both, and that's the untimely  
18 filing, and the --

19 MS. HANOUSEK: Who seconded?

20 CHAIRPERSON HOOD: Nobody seconded it yet. I  
21 was just repeating. And to waive to accept to the  
22 filing from a nonparty. That was a motion made by  
23 Commissioner Shapiro. Is there a second?

24 MR. TURNBULL: Second.

25 CHAIRPERSON HOOD: It's been moved and

1 properly seconded.

2 MR. SHAPIRO: Under discussion?

3 CHAIRPERSON HOOD: Any further discussion,  
4 Commissioner Shapiro?

5 MR. SHAPIRO: I'm just questioning our  
6 attorney's face to make sure we got the wording  
7 correct.

8 MR. RITTING: It's fine.

9 MR. SHAPIRO: Okay.

10 [Vote taken.]

11 CHAIRPERSON HOOD: So ordered. Ms. Hanousek,  
12 would you record the vote?

13 MS. HANOUSEK: Sure. The Commission denies  
14 the waiver requests by the Committee of 100 for a  
15 nonparty to make an untimely filing of  
16 reconsideration in Case 15-18, on a motion made by  
17 Commissioner Shapiro, as seconded by Commissioner  
18 Turnbull, with Commissioners Hood, Miller, Shapiro,  
19 May and Turnbull to deny.

20 CHAIRPERSON HOOD: Okay, Ms. Hanousek, did we  
21 have anything else?

22 MS. HANOUSEK: No, sir.

23 CHAIRPERSON HOOD: Okay, Ms. Steingasser, you  
24 have anything?

25 MS. STEINGASSER: No, sir.

1           CHAIRPERSON HOOD: Okay, with that, I want to  
2 thank everyone for their participation. This meeting  
3 is adjourned.

4           [Whereupon, the regular public meeting  
5 adjourned at 8:30 p.m.]

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25