

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

+ + + + +

REGULAR MEETING

+ + + + +

THURSDAY

JULY 17, 2014

+ + + + +

The Regular Meeting of the District of Columbia Zoning Commission convened in the Jerrily R. Kress Memorial Hearing Room, Room 220 South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 5:06 p.m., Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairman
MARCIE COHEN, Vice Chair
MICHAEL G. TURNBULL, FAIA,
Commissioner (AOC)
ROBERT MILLER, Commissioner

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER, Deputy Director,
Development Review & Historic
Preservation

JOEL LAWSON
KAREN THOMAS

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

JACOB RITTING, ESQ.
ALLISON MYERS, ESQ.

The transcript constitutes the
minutes from the Regular meeting held on July
17, 2014.

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

2 5:06 p.m.

3 CHAIRMAN HOOD: Okay. This
4 meeting will please come to order. Good
5 evening ladies and gentlemen. This is a Public
6 Meeting of the Zoning Commission for the
7 District of Columbia. My name is Anthony Hood.
8 Joining me this evening are Vice Chair Cohen,
9 Commissioner Miller and we'll be joined shortly
10 by Commissioner Turnbull.

11 We are also joined by the Office of
12 Zoning staff, Ms. Sharon Schellin, Office of
13 the Attorney General, Mr. Ritting and Ms.
14 Myers.

15 Office of Planning staff expected
16 shortly, Ms. Steingasser and Mr. Lawson and
17 also Mr. Jesick and Ms. Thomas.

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

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1 Please be advised this proceeding
2 is being recorded by a Court Reporter and it's
3 also web cast live. Accordingly, we must ask
4 you to refrain for any disruptive noises or
5 actions in the hearing room including display
6 of any signs or objects.

7 Please turn off all beepers and cell
8 phone.

9 Does the staff have any preliminary
10 matters?

11 MS. SCHELLIN: No, sir.

12 CHAIRMAN HOOD: Okay. What I'm
13 going to do is move some things around. We're
14 going to start, colleagues, with one case on
15 final action so we can allow some time for Mr.
16 Turnbull to get here to participate in the rest
17 of the actions.

18 And, Ms. Schellin, can you tell me
19 which case that is?

20 MS. SCHELLIN: It would be Final
21 Action on Zoning Commission Case Number 10-32B,
22 Georgetown University/MedStar Campus Plan

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1 Amendment and Further Processing for the Proton
2 Therapy Addition.

3 CHAIRMAN HOOD: Okay. Let me call
4 Zoning Commission Case Number 10-32B as stated
5 by Ms. Schellin, Georgetown University/MedStar
6 Campus Plan Amendment and Further Processing
7 for the Proton Therapy Addition.

8 Ms. Schellin, do you have anything
9 else?

10 MS. SCHELLIN: Yes, sir. At Exhibit
11 28 as the Commission will recall at the end of
12 the hearing the Commission had left the record
13 open to allow the ANC to provide its report
14 because they had not yet met. They have
15 provided their report that's from ANC-2E. The
16 report is in support of the project.

17 And then at Exhibits 29 and 30 we
18 have the Applicant's post-hearing submissions
19 and we'd ask the Commission to consider action
20 on this case this evening.

21 CHAIRMAN HOOD: Okay. Thank you,
22 Ms. Schellin.

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1 Commissioners I have looked at the
2 ANC report and I can tell you we've come along
3 with anything dealing with Georgetown and the
4 ANC and I want to commend that ANC especially
5 for working along with Georgetown. I think
6 this case is pretty straightforward. There
7 were some other submissions but I was more
8 interested in the comments from the ANC. I
9 think most of us were. I'm not sure.

10 Anybody else want to open up any
11 comments?

12 VICE CHAIR COHEN: Mr. Chairman, I
13 think the modifications that were made by the
14 Office of the Attorney General have satisfied
15 any kind of concerns that I had and so about the
16 project, I would move if that's acceptable to
17 approve Zoning Commission Case No. 10-32B,
18 Georgetown University/MedStar Georgetown
19 University Hospital Proton Therapy Addition.

20 COMMISSIONER MILLER: Second.

21 CHAIRMAN HOOD: Okay. It's been
22 moved and properly seconded. Any further

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1 discussion?

2 Hold on one second. I had
3 something I wanted to say. I might have
4 already said it. Anyway. I want to also add,
5 I think I wrote down a note to commend Mr. Moy
6 in what they've done with that ANC. So, I had
7 my notes here somewhere but anyway.

8 It's been moved and properly
9 seconded. Any further discussion?

10 All those in favor?

11 (AYES)

12 CHAIRMAN HOOD: Not hearing any
13 opposition of those present. And we also have
14 a proxy.

15 MS. SCHELLIN: Yes.

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

18 MS. SCHELLIN: Yes. Staff records
19 the vote, four to zero to one to approve Final
20 Action on Zoning Commission Case Number 10-32B,
21 Commissioner Cohen moving, Commissioner Miller
22 seconding, Commissioner Hood in support.

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1 Commissioner May in support by absentee ballot.
2 Commissioner Turnbull not voting, having not
3 participated.

4 CHAIRMAN HOOD: Okay. Do we have
5 anything else that Mr. Turnbull did not
6 participate in?

7 MS. SCHELLIN: No, sir.

8 CHAIRMAN HOOD: Okay. So, at this
9 point let's give Mr. Turnbull about -- I was
10 trying for the sake of efficiency try to get
11 started. Let's give him a few minutes, maybe
12 five minutes or so to join us so I'll ask
13 everyone to indulge us for about another five
14 minutes.

15 (Whereupon, the above-entitled
16 matter went off the record at 5:10 p.m. and
17 resumed at 5:11 p.m.)

18 CHAIRMAN HOOD: Okay. Staff has
19 just informed me that we can do another one.

20 First of all, let me ask. Is there
21 anyone who would like to see anything? We have
22 two items on the Consent Calendar, Zoning

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1 Commission Case No. 06-08B and Zoning
2 Commission Case No. 08-14C. Right on time.

3 Mr. Turnbull, we didn't take any
4 actions on any cases that you heard. We did the
5 one that you didn't hear so right on time.

6 Did you do BikeShare or did you walk
7 over? I'm sure you didn't drive.

8 COMMISSIONER TURNBULL: I couldn't
9 find out how to get in the garage.

10 CHAIRMAN HOOD: Oh, okay.

11 COMMISSIONER TURNBULL: They moved
12 it.

13 CHAIRMAN HOOD: They moved it?

14 COMMISSIONER TURNBULL: Moved the
15 entrance. And I couldn't even -- never mind,
16 you don't need to know.

17 CHAIRMAN HOOD: Well, when you find
18 the answers could you let the rest of us know
19 just in case we may need to use it?

20 COMMISSIONER TURNBULL: Absolutely.

21 CHAIRMAN HOOD: Okay. We also have
22 been joined by Office of Planning, Ms.

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1 Steingasser and Mr. Lawson as we mentioned
2 earlier. Also, Commissioner Turnbull.

3 Okay. So, let's go back to -- well,
4 we'll go in order.

5 Let's go the Consent Calendar item,
6 colleagues. We have two now. As you know, one
7 has been approved to Hearing Action. We have
8 two on the Consent Calendar. Does anyone see
9 a need for anything -- now, I understand about
10 the request. But does anyone see a need for
11 anything to come off the Consent Calendar?

12 Okay. Let's go to Zoning
13 Commission Case Number 06-08D. This is the
14 Fort Lincoln/Gateway Village, LLC, Request for
15 Minor Modification to PUD at Square 4325.

16 Ms. Schellin?

17 MS. SCHELLIN: Yes, sir. The
18 Applicant has supplemented their request at
19 Exhibit 13 asking for a further deferment to
20 January 15th in order to work out the
21 contribution that they were going to provide
22 from information as far as the use of what that

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1 contribution would be for. They have also
2 stated that OP is agreeable to this deferment.
3 And so that they're asking for this evening is
4 that the Commission defer action on this case
5 until January, after the January 15th date,
6 whatever meeting that might be.

7 CHAIRMAN HOOD: Okay. Does anyone
8 have any problems with deferring? We can just
9 do that by general consensus.

10 I think that there are a lot of
11 programs and I see we have a letter from Single
12 Member District Commissioner King.

13 MS. SCHELLIN: Yes.

14 CHAIRMAN HOOD: There are a lot of
15 things going on before Lincoln got youth
16 baseball so I'm sure they will find something.
17 I'm not directing to anything but I think we
18 should come back with something hopefully this
19 next time we come back.

20 How long are we deferring it?

21 JUDGE JAMES: If we could have a
22 solution from the Applicant by 3:00 p.m.,

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1 January 15th. I'm assuming that's a weekday
2 and then whatever meeting is after that, the
3 meeting after that I'll put it on the agenda.

4 VICE CHAIR COHEN: January?

5 MS. SCHELLIN: January. It's six
6 more months.

7 CHAIRMAN HOOD: Okay. Again, get
8 with Commissioner King and all the rest of them
9 up there. There are a lot of things going on
10 at Fort Lincoln and I'm sure that could be well
11 utilized.

12 Okay. So, we will defer that until
13 January the 15th.

14 MS. SCHELLIN: The meeting after
15 January 15th.

16 CHAIRMAN HOOD: Or the meeting
17 after, somewhere around that time. Okay. So,
18 we did that by general consensus.

19 So Commissioner May is an
20 agreement. Okay.

21 Zoning Commission Case No. 08-14C,
22 Kelsey Garden, Request for Minor Modification

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1 to PUD at Square 421.

2 Ms. Schellin.

3 MS. SCHELLIN: Yes, sir. If the
4 Commission will recall, this case was on the
5 Commission's last meeting for the Applicant to
6 provide further information on the \$22,500
7 contribution and to allow the ANC to submit a
8 letter. The Applicant has supplemented its
9 information at Exhibit 7 which includes an
10 attachment of a letter from the Friends of
11 Kennedy Playground, Inc., and also a letter
12 from ANC-6E and we'd ask the Commission to
13 consider action this evening.

14 CHAIRMAN HOOD: Okay.
15 Commissioners, let's open it up for any
16 comments. Anybody have any? Okay.

17 Commissioner Miller.

18 COMMISSIONER MILLER: Thank you, Mr.
19 Chairman.

20 The Applicant has come back with
21 more details and the corrected figures that the
22 allocation of the \$22,500 for the different

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1 programs over a different number of years at the
2 Kennedy Recreation Center. And with those
3 additional details and with the letter that we
4 got which we requested from the ANC itself on
5 ANC stationary for support yesterday.

6 CHAIRMAN HOOD: Okay. Vice Chair
7 Cohen.

8 VICE CHAIR COHEN: I just want to
9 state that I think we - I won't object to this
10 but I think we need to tie up some of the
11 proffers and, you know, as Commissioner May had
12 said earlier, the holiday party and get
13 distribution. I don't now if this is the most
14 appropriate use of funds but I won't stand in
15 the way. I'd just like to be on the record
16 saying that in the future I think that that type
17 of ephemeral use of money, I'm not sure is the
18 best and most effective way of spending tight
19 dollars.

20
21 CHAIRMAN HOOD: I would associate
22 myself with the Vice Chair but I'll go another

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1 step further. I can tell you what I see here
2 in front of me Friends of Kennedy Playground,
3 Inc., Mr. Padro -- and also Chair of the ANC,
4 Mr. Padro, I know that when we heard this case
5 awhile back there were -- going back and looking
6 through the transcript there were civic
7 associations and other groups that
8 participated like East Central Civic
9 Association. My concern is in line with the
10 December holiday party that was mentioned
11 earlier. I think that the community as a whole
12 needs to be on board because my concern, and I
13 know Mr. Padro. He and I worked on committees
14 together and I'm not saying anything about him.
15 I'm just talking about perception here. When
16 I look and see and I appreciate his advocacy,
17 what he's done for Friends of Kennedy
18 Playground and also as the Chair of the ANC,
19 agree to this that I think it needs to be more
20 vetted. I am not ready to move with these
21 amenities.

22 I would like for the Applicant to go

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1 out and make sure that those other groups in
2 support of this application -- while I know that
3 the ANC and Friends of Kennedy Playground are
4 looking for these changes, but there were some
5 other groups that supported this application.
6 I am not in favor of moving forward with this
7 until it's well vetted because these are some
8 of the types of issues that have caused this
9 Commission problems or we heard about problems
10 in the past. And I don't want to be a creator
11 of issues.

12 Now, the architectural roof top
13 changes as one of my colleagues has mentioned,
14 some of that I don't have a problem with voting
15 for tonight and I would suggest that we do this
16 in two votes because I would like for them to
17 make sure. I would like something to come back
18 to this record that this has been vetted fully
19 with the community. Because when I look at Mr.
20 Padro, again, and I know him so I'm not saying
21 anything negative about him and I know the great
22 work that he does in this city. But when I see

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1 his name on both, I mean, also it says that he's
2 a very good community person. But also we got
3 to make sure the perception is clear and I think
4 this needs to be vetted through those other
5 supporters and the issue for me still is the
6 holiday party. The holiday party.

7 So, that's where I stand. I'm not
8 ready to move on this, this -- I'm not ready to
9 move, but I'm not sure, I know another one of
10 my colleagues -- we have an absentee ballot for
11 concern of the holiday party. But everything
12 else, I think, again, like I stated. The
13 acting and modeling program. I don't
14 necessarily have an issue with but I'm more
15 concerned about the holiday party and making
16 sure that it reaches where it's supposed to
17 reach and it's actually a viable way of doing
18 things is my colleague -- I think that's where
19 the Vice Chair was coming from.

20 COMMISSIONER TURNBULL: Mr. Chair, I
21 wonder would you be interested in splitting
22 approval between the rooftop changes and then

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1 looking at the proffers as a secondary item?

2 CHAIRMAN HOOD: I would like to give
3 the Applicant some certainty about the rooftop.

4 COMMISSIONER TURNBULL: Okay.

5 CHAIRMAN HOOD: I don't an issue with
6 that. I just have an issue with this holiday
7 --

8 COMMISSIONER TURNBULL: The
9 proffers, yes.

10 CHAIRMAN HOOD: -- and the way this
11 is going.

12 COMMISSIONER TURNBULL: yes.

13 CHAIRMAN HOOD: I don't want to be a
14 creator of problems. But I think Commissioner
15 Miller is fine with and, I think, Vice Chair,
16 you're fine with it as it is?

17 VICE CHAIR COHEN: Yes, I --

18 CHAIRMAN HOOD: Okay.

19 VICE CHAIR COHEN: To support the way
20 you are proceeding.

21 CHAIRMAN HOOD: Oh, okay. Okay.

22 COMMISSIONER TURNBULL: Yes, I'm in

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1 support of your method, too.

2 CHAIRMAN HOOD: Good. Commissioner
3 Miller, you have a problem with allowing a
4 little more time?

5 COMMISSIONER MILLER: No, I don't
6 have a problem but I would note just a few things
7 just for our record that I think the \$22,500 for
8 Friends of Kennedy Playground is just one
9 amenity out of a larger amenity package. I
10 don't have it in front of me right now but I
11 think there were other amenities that were
12 associated with this project.

13 In terms of being vetted with the
14 community both letters are signed by Mr. Padro
15 but the ANC letter states that it was a five to
16 zero vote by the unanimous vote by ANC-6E. So,
17 I think that is a vetting with the community.
18 He is Chair and is a single-member district with
19 the Friends of Kennedy.

20 And then the only other thing I
21 would note about the holiday party. It is to
22 serve low to moderate income children in Shaw

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1 and although there are other programs that
2 might be more beneficial, it does provide some
3 benefit to the surrounding communities.

4 CHAIRMAN HOOD: I think though it
5 goes back to what this Commission decided some
6 years ago about how things are being
7 administered. This puts us back I think to
8 what we got away from and that's why I checked
9 off and I have an issue with the December
10 holiday party and gift distribution.

11 So, anyway, not to belabor the
12 point. It just looks so typical of some of the
13 things some years ago that we got away from and
14 how things were administered. So, anyway, I
15 would like for them to go back and make sure that
16 some of those other civic associations and
17 other groups that were in support have all
18 worked on this about this holiday party and the
19 way it's administered. If you don't go back
20 and do all that you can come back and show us
21 how it's going to be administered other than to
22 -- the party includes a catered meal,

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1 entertainment. Okay. Is the Applicant going
2 to get the caterer? I mean, you know, how is
3 this going to be administered? Okay. That's
4 kind of where I am.

5 Ms. Giordano, we're not actually
6 turning you down. Okay. Can we finish the
7 action first because it's probably not going to
8 affect the way we're getting ready to move.

9 Come on to the table, Ms. Giordano.

10 MS. GIORDANO: Yes, I'm not here to
11 talk to the merits of the contribution, only
12 that the building it's finished and this is
13 going to hold up the Certificate of Occupancy
14 because it's a prerequisite to getting the
15 Certificate of Occupancy. There's a way to
16 sort of unleash that so that the building can
17 open and we'll, you know, take the time to vet
18 it further in the community or --

19 CHAIRMAN HOOD: How much longer?
20 It's already been vetted it shouldn't take --
21 what's today? Could we do it by the 28th?
22 Could you come back with some assurances of how

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1 this is going to be administered?

2 MS. GIORDANO: I probably could do
3 that but in terms of --

4 CHAIRMAN HOOD: So, that's okay. A
5 couple more days is not going to hurt.

6 MS. GIORDANO: Right.

7 CHAIRMAN HOOD: A couple more days
8 won't hurt.

9 MS. GIORDANO: Okay. In terms of
10 just contacting other civil associations, I
11 have no idea how long that could take and
12 whether they're, you know, during the summer
13 whether they're really available to take a
14 vote. That's the concern that I have.

15 CHAIRMAN HOOD: Well, if you try to
16 reach out to the Executive Board or whoever
17 maybe Mr. Padro could help assist with that.

18 And here's the other issue. We
19 need to re-look at how this holiday party and
20 gift donation is going to be administered. Who
21 is going to administer it? Because I know you
22 can't give it to the ANC. Is it going to

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1 Friends or who administers it now? Is it
2 Friends who does it and --

3 MS. GIORDANO: Yes, that's my
4 understanding.

5 CHAIRMAN HOOD: I think if you can't
6 reach out to everybody, I'd like for it to be
7 vetted. And also let's just itemize and show
8 how it's going to be administered and I think
9 that sets of the standard of what this
10 Commission is moved to.

11 MS. GIORDANO: Okay. I can just
12 tell you that it took a long time to get this,
13 I mean months.

14 CHAIRMAN HOOD: Okay.

15 VICE CHAIR COHEN: Can I just make a
16 suggestion.

17 CHAIRMAN HOOD: If it helps. Is it
18 going to help?

19 VICE CHAIR COHEN: Well --

20 CHAIRMAN HOOD: If not then --

21 VICE CHAIR COHEN: -- I don't have
22 the history that you have so you can respond

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1 because can we approve this subject to -- so
2 that all the processing of the voting order can
3 be done and then when the information is
4 provided to the Office of the Attorney General
5 we can release it so that they know the sense
6 of the Board is a little bit --

7 CHAIRMAN HOOD: Let me just say this.
8 I tried that once before as your recommendation
9 and I don't mean to bus you out, but that got
10 us in trouble once before. So, I think what we
11 need to do is stay in line with our procedures
12 and, Vice Chair, that was a good try. I
13 actually agreed with you the last time.

14 VICE CHAIR COHEN: You agreed the
15 last time?

16 CHAIRMAN HOOD: Yes, and I got
17 slapped on the wrist for that. So this time,
18 I think we need to stay in -- the 28th, a few
19 more days, Vice Chair, I don't think would hurt
20 us. I don't want to make it hectic. But a few
21 more days, Ms. Giordano.

22 Ms. Giordano, you didn't go away

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1 -- you're not mad are you?

2 MS. GIORDANO: No.

3 CHAIRMAN HOOD: Okay. We try to
4 make everybody happy. Okay.

5 So, what do we need to do, Ms.
6 Schellin?

7 MS. SCHELLIN: I think, Ms.
8 Giordano, you want them to go ahead and vote on
9 the rooftop. She would like for you to go ahead
10 and vote on that and then come back on the 28th
11 to vote on the proffer so they can go ahead and
12 move forward with the rooftop issue.

13 CHAIRMAN HOOD: And especially if we
14 can just point out how it's going to be
15 administered.

16 MS. SCHELLIN: Right.

17 CHAIRMAN HOOD: Okay. Any other
18 questions? Comments? Okay.

19 I would move that we separate the
20 votes, the amenities and the proposed
21 modification that we approve the proposed
22 modification to the rooftop structure changes

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1 and ask for a second.

2 COMMISSIONER TURNBULL: I would
3 second that, Mr. Chair.

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

6 Let me amend my motion that we will
7 take this up July the 28th.

8 MS. SCHELLIN: Yes, the rest of it.

9 CHAIRMAN HOOD: The rest of it on
10 July 28th.

11 MS. SCHELLIN: The proffers.

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

15 (AYES)

16 CHAIRMAN HOOD: Not hearing any
17 opposition, Ms. Schellin, please record the
18 vote.

19 MS. SCHELLIN: Yes, staff records
20 the vote five to zero to zero to approve the
21 requested rooftop changes and to take up the
22 requested proffers at the July 28th meeting.

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1 Commissioner Hood moving, Commissioner
2 Turnbull seconding, Commissioners Cohen and
3 Miller in support. Commissioner May in
4 support by absentee ballot.

5 CHAIRMAN HOOD: Okay. Next, let's
6 go to Final Action. Zoning Commission Case
7 Number 14-01, Jemal's Hecht's LLC,
8 Consolidated PUD and Related Map Amendment at
9 Square 4037.

10 Ms. Schellin.

11 MS. SCHELLIN: At Exhibit s 32
12 through 35 we have Applicant's post-hearing
13 submission and we ask the Commission to consider
14 Final Action this evening.

15 CHAIRMAN HOOD: Okay. Let's open it
16 up, colleagues. Any questions or comments?

17 We have some submissions which is
18 Exhibit 32. Did we get a NCPC Report? We
19 didn't get an NCPC? Okay.

20 I'm not sure who asked for some of
21 the drawings that we have showing some of the
22 changes and the union mix. I want to make sure

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1 everybody is satisfied.

2 COMMISSIONER TURNBULL: I think
3 Commissioner May may have asked for something
4 on green -- I'm not sure and on the roof units.
5 I can't remember how that fell out. But I think
6 we got everything that we asked for.

7 CHAIRMAN HOOD: Okay. No other
8 comments. I think it's pretty
9 straightforward. Again, I would have thought
10 that the Applicant and how they work with the
11 ANC and the community, they all come down
12 holding hands. And I mentioned that at the
13 meeting. So, I would move that we approve
14 Zoning Commission Case Number 14-01 and ask for
15 a --

16 COMMISSIONER MILLER: Second.

17 CHAIRMAN HOOD: Okay. Thank you,
18 Commissioner Miller.

19 All those in favor say aye.

20 (AYES)

21 CHAIRMAN HOOD: Not hearing any
22 opposition, Ms. Schellin, would you record the

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1 vote and the proxy.

2 MS. SCHELLIN: Yes, sir. Staff
3 records the vote five to zero to zero to approve
4 Final Action on Zoning Commission Case Number
5 14-01. Commissioner Hood moving,
6 Commissioner Miller seconding, Commissioners
7 Cohen and Turnbull in support. Commissioner
8 May in support by absentee ballot.

9 COMMISSIONER TURNBULL: Mr. Chair,
10 I'd just to add that more projects should go
11 forward like this when the Applicant is
12 involved in the community, I think was very
13 good.

14 CHAIRMAN HOOD: Right, I would agree
15 100 percent.

16 Let's go to Zoning Commission Case
17 Number 14-11. This is an Office of Planning
18 Text Amendment to Chapters 1 and 4, Definitions
19 and R-4 Zones.

20 Mr. Lawson? Oh, I'm sorry, Ms.
21 Steingasser.

22 MS. STEINGASSER: Thank you,

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1 Chairman Hood.

2 I'm going to step a little out of order
3 and ask if the Commission would consider the
4 next case first because it's going to be a much
5 small presentation than what we have coming for
6 R-4. And I know there's people in the
7 audience.

8 CHAIRMAN HOOD: That's a good idea.
9 I started to do that but I figured I would --
10 that was a good idea. Okay.

11 Let's go to Zoning Commission Case
12 Number 07-26F, City Market at O Condo, LLC,
13 Request for Minor Modification to PUD @ Square
14 398.

15 Ms. Schellin. I'm sorry, Ms.
16 Thomas.

17 MS. THOMAS: Good evening, Mr.
18 Chairman, Members of the Commission.

19 The O Street Market Project is
20 nearing completion and the final phase
21 represents the build-out of the west building
22 E as described in the plans and our report.

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1 The Applicant has made some changes
2 to the height and massing which we believe
3 should be reviewed by the Commission at a public
4 hearing. As you recall, concerns expressed by
5 the Commission in the original case regarding
6 height along the 9th Street frontage and really
7 into the row house district across the street.

8 That said, we requested the
9 Applicant to supplement the record with
10 additional plans and put us in for a better
11 perspective of what that addition may look like
12 at various locations along 9th Street in the
13 present day situation.

14 So, while we're not opposed to the
15 general direction of the modification, for the
16 reasons discussed in our report we're asking
17 that the Commission set this down for a public
18 hearing.

19 Thank you.

20 CHAIRMAN HOOD: Okay. Thank you.

21 I don't want to start this. Every
22 time I think about this case, this is the famous

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1 case that I think I mentioned where when things
2 didn't go exactly right for height someone in
3 that administration at that time called me --
4 well, they called Greg Jeffries and then called
5 me for my resignation. And every time I see
6 this case it doesn't irritate me because I think
7 it's going to turn out to be great. I think the
8 Commission made a good decision but I'm
9 concerned. And as you mentioned, Ms. Thomas,
10 in your report, it seems like we're creeping
11 back up. We haven't got to the height that was
12 proposed and the Commission asked them to bring
13 it down. It seems like every time we're
14 creeping back up some kind of way. So, I'm not
15 sure what my colleagues -- I don't have an issue
16 with setting it down, but I don't want us to
17 creep back up to where this Commission had --
18 I don't think we can at this point. Creep back
19 up to where this Commission had objected to to
20 begin with and then set it down and ask to reduce
21 the height.

22 I call this the famous resignation

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1 case. But anyway, let me open it up,
2 Commissioners. I probably always talk about O
3 Street when Roadside --

4 VICE CHAIR COHEN: Mr. Chairman?

5 CHAIRMAN HOOD: Oh, okay. Vice
6 Chair and then I'll go to Mr. Turnbull.

7 VICE CHAIR COHEN: Yes, I just want
8 to state that I concurred with OP's
9 recommendation and that it should go through a
10 public hearing.

11 CHAIRMAN HOOD: Mr. Turnbull?

12 COMMISSIONER TURNBULL: I would
13 agree with your comments entirely before. I
14 think this project has a lot of positive aspects
15 to it. I think we were thrilled to see it there.
16 We had some issues and that's part of our job
17 is to make sure that we feel that this from a
18 zoning standpoint and neighboring context
19 standpoint fits in and that the development we
20 see is worthy of going forward.

21 I'm in favor. I mean, I'm okay with
22 setting it down for a hearing. I really from

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1 the massive drawings that we got on P and H
2 Street and P and 9th Street, I'm a little
3 concerned with what I'm seeing. I'm seeing
4 these little orange bumps out there. To me it
5 just looks like they're not really thinking
6 about what they're really doing from the
7 standpoint of how the massing of this building
8 and what it really looks like. So, there's
9 going to be a lot of explanation going on here.
10 I'm not really satisfied with the way I'm seeing
11 this thing developing and how it's being
12 presented. But I'm in favor of setting it down.
13 Let's get it on the table. Let's talk about it.
14 But right now I have some issues with what I'm
15 seeing with these little bumps going on on the
16 roof or the setback and the development of the
17 extra floor and everything else. I just don't
18 like the -- and they've clearly illustrated
19 these little orange bumps sitting on the top of
20 the building which to me looked totally tacked
21 on and not thought out well at all.

22 So, we're going to need some very

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1 good explanation at the hearing on this. I just
2 don't think it agrees with development.
3 They're getting away from what we talked about
4 earlier.

5 CHAIRMAN HOOD: Okay. Anything
6 else, Mr. Turnbull? Okay.

7 Commissioner Miller, any comments?

8 COMMISSIONER MILLER: Yes, I would
9 support setting it down for a public hearing.
10 I generally agree with OP's -- I agree with
11 Commissioner Turnbull's comment that this
12 project has a lot of positive aspects. It's
13 already bringing -- the completed portions are
14 bringing a lot of benefits to the community and
15 to the city as a whole. But I generally agree
16 with OP's comments in their report and then
17 would support a public hearing on it.

18 CHAIRMAN HOOD: Okay. And
19 Commissioner May -- Vice Chair, you already.
20 Okay. Commissioner May's comments, the
21 information provided for the request is really
22 quite minimal. I hope that in the hearing the

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1 Applicant will address the necessity of making
2 the changes that affect the height of the
3 building and roof structures and necessitate
4 setback relief. Again, we're kind of going
5 back to where we thought we were going away from.

6 Commissioner Miller?

7 COMMISSIONER MILLER: If I could add,
8 I think the Office of Planning stated this in
9 her presentation. One of the things they asked
10 for which might help us understand. They asked
11 the Applicant to provide additional information
12 including improved elevation drawing and photo
13 simulations of the proposed changes. And I
14 think if we see how it looks to the neighborhood
15 around it that might address or it may not. But
16 it may help us understand how that height does
17 bleed to the neighborhood.

18 CHAIRMAN HOOD: And just for the
19 record, the person who called and asked for my
20 resignation is a very good friend of mine. The
21 conversation went very well. We had a good
22 time. We laughed about it and kept moving.

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1 Okay. So, I move that we set down
2 Zoning Commission Case Number 07-26F. Set down
3 07-26F and ask for a second.

4 COMMISSIONER TURNBULL: Second.

5 CHAIRMAN HOOD: It's been moved and
6 properly seconded. Any additional comments?

7 All those in favor, aye?

8 (AYES)

9 CHAIRMAN HOOD: Not hearing any
10 opposition, Ms. Schellin, would you record the
11 vote and the absentee?

12 MS. SCHELLIN: Yes. Staff records
13 the vote five to zero to zero to set down Zoning
14 Commission Case Number 07-26F as a contested
15 case.

16 Commissioner Hood moving,
17 Commissioner Turnbull seconding, Commissioners
18 Cohen and Miller in support. Commissioner May
19 in support by absentee ballot. And I've
20 advised Mr. Glasgow that if this case were set
21 down that he should then initiate this case in
22 ISIS since it now considered a full modification

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1 and he stated he would do that.

2 CHAIRMAN HOOD: Okay. Thank you.

3 Let's go back to Hearing Action now
4 for Zoning Commission Case Number 14-11.
5 Office of Planning Text Amendment to Chapter 1
6 and 4, Ms. Steingasser.

7 MS. STEINGASSER: Thank you,
8 Chairman Hood Commissioners. We thought we'd
9 have a little PowerPoint to go along with this
10 presentation because there's so many nuances
11 and details that we just thought it would help
12 to keep it all straight of both what we're
13 proposing and why we're proposing and some of
14 the research behind it.

15 So, this case sprung from the ZRR
16 Public Hearings that were in both November and
17 then again in January and February of this year
18 where the issue of pop-ups kept being raised
19 before the Commission and the inappropriate
20 additions.

21 The Commission asked us to look at
22 the issue, no particular direction given but

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1 just that you would OP to investigate the issue
2 a little bit. As we did look at it we started
3 to focus in more on the R-4 Zone as we found these
4 pop-ups. The ones that were in commercial
5 zones seemed to be, while they are out of
6 character today, they were mid-block and the
7 expectation was that they would be developed
8 around it and then their context would be filled
9 in with future. So, we started looking at the
10 R-4 Zone which was raised during, especially the
11 hearings that involved Wards 1 and 2 as well as
12 some in Ward 6 where there is a real predominance
13 of the R-4 Zone.

14 So, our recommendations in summary
15 are on the slide and it proposes to change the
16 matter of right height in the R-4 for row houses.
17 And these are the residential structures, the
18 semi-detached, the row house, the flat from 40
19 feet to 35 feet and that's a reduction of five
20 feet.

21 We propose also that the Commission
22 set down a 40-foot be permitted as a special

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1 exception and the design criteria for that
2 analysis would be similar to what we call the
3 Section 222 -- 223 in the Zoning Regulations
4 right now which establish an issue more of
5 appropriate light and air privacy for
6 non-conforming addition.

7 We've also proposed a change to the
8 definition of mezzanines and that they would be
9 included in the number of stories.

10 And then finally, probably the most
11 controversial of the recommendations is to
12 limit conversions -- limit them to only
13 non-residential buildings in the R-4 Zone.

14 So, that's the summary.

15 So, we started looking at an
16 extensive sampling. We looked at a little over
17 10,000 R-4 row house structures. We did both
18 field surveys, GIS survey and tax record
19 surveys. So, as needed we could look at the
20 block faces. We were able to look especially
21 with the help of our historic preservation
22 office at some of the historic districts and we

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1 found that 94.4 of the 10,000 blocks that we
2 looks at were 35 feet or less.

3 We provided this table here. It's
4 also in the report that kind of breaks down the
5 number of stories that the row houses are also
6 built to. In the R-4 Zone right now you're
7 restricted by 40 feet and 3 stories. A
8 mezzanine does not count as a story. So, it's
9 three stories plus you can have a cellar, plus
10 you can have a mezzanine and then also the 40
11 feet. So this is an analysis of the number of
12 stories that we looked at. And, again, our
13 recommendation here is to maintain a by-right
14 of 35 feet with special exception for 40 feet
15 and keep the 3-story maximum.

16 This is just a picture of the
17 mezzanine and the reason I put it in here this
18 is not a mezzanine in D.C. We were careful not
19 to use D.C. examples because they are people's
20 homes and we didn't want to make any kind of
21 judgment on that. But this shows the issue of
22 the mezzanine. This, what you're looking at

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1 would be considered one story. And whether
2 that's the second or third story but it would
3 only be one story because the mezzanine floor
4 is less than one-third of the overall floor
5 space. And while from the inside that seems
6 comfortable, from the outside it clearly looks
7 as if it's two stories. There's windows and it
8 allows for the raising of the roof to create that
9 habitable space on that mezzanine. And so that
10 part gets to the issue of character and the
11 inappropriate height that can sometimes result
12 as buildings are popped up a little bit adjacent
13 to their neighbors and they're still consistent
14 with the three stores, it would appear very much
15 to be a four-story from the outside of the
16 property. So, the mezzanine definition as it
17 exists today limits it to one-third of the area
18 of the floor immediately below and it also says
19 it shall not be considered a story in
20 determining the maximum number of stories. So,
21 in the R-4 Zone where it's limited to three, the
22 mezzanine, although it maintains its smaller

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1 size we're proposing that it be considered a
2 story because it does affect the height and the
3 usability of the floor space.

4 The next slide that you'll see in
5 your document just kind of lays out the current
6 definition of stories. We're not proposing any
7 changes to this but it does explain why some of
8 the changes that we are proposing are necessary.
9 A story by definition does not include cellars.
10 It does not include penthouses or other roof
11 structures and it is limited -- I'm sorry. When
12 the roof structure shall not exceed one-third
13 of the total roof area. So, you have stories.
14 You have a mezzanine. You have a cellar and
15 then you can have roof structures. And while
16 this situation does exist in several locations
17 it's the most egregious and it's also the
18 rarest. It's not something we see where people
19 really layer it up like this but there are one
20 or two cases where it has been. And so we
21 thought to begin to reduce some of that pressure
22 would be through some of these changes to the

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1 definitions.

2 Which brings us to the roof
3 structure height. We're proposing that also be
4 limited. And this is what's proposed in the
5 zoning revisions as well that we've considered
6 under the ZRR that the roof structures for
7 single family and row house homes be limited to
8 10 feet. And that would only be for the
9 residential structures. Obviously, there are
10 a lot of non-conforming apartment buildings.
11 There are churches, schools, institutional
12 uses, commercial uses inside these zones and we
13 would propose that they maintain their 18.5 foot
14 permission which is what exist today. We don't
15 want to cause them to be non-conforming. We
16 also don't want to mess with the building code
17 that would apply differently to those type of
18 structures. But the 10 feet is what we are
19 proposing for the row house, the single-family
20 detached. And as part of this proposal we
21 thought we would bring it forward as part of the
22 R-4 changes as well.

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1 So, the conversions in R-4 we want
2 to talk a little bit about the R-4 Zone itself.
3 There are currently about 37,600 R-4 record
4 lots. These are not tax lots or condominium
5 lots. It's a rough estimate that we've gotten
6 using the Office of Tax and Revenue in our GIS
7 computer systems to figure out -- to give us a
8 count. These include detached, semi-detached
9 and attached. And I call those for the sake of
10 these DSA lots. And there's about 35,600 of
11 those.

12 Now, in the R-4 there's also a lot
13 of small walk-up apartments building in the late
14 18 up to the 1920s. You'll see those. There's
15 also school lots. There's properties that are
16 built on more than one lot. So, these really
17 are focused on what we typically think of as a
18 residential row house detached or
19 semi-detached. The other lots there's about
20 1,250 properties on about 2,000 additional lots
21 and these again especially with schools and
22 churches they will be built on multiple lots but

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1 they would still be within the R-4 Zone. These
2 lots represent about 22 million square feet of
3 land. So, there's quite a bit of that land in
4 the R-4.

5 As an alternative to the
6 recommendation, because we are proposing that
7 the conversions be restricted only from the
8 detached, semi-detached and attached lots, but
9 those that are not, these larger institutional
10 lots, these larger lots that do exist that the
11 Commission might consider in the alternative
12 that it be advertised simultaneously with our
13 proposal that that minimum land area of 900
14 square feet be removed or reduced. We'll talk
15 about that again in a second.

16 So, how does this recommendation fit
17 in with the zoning context and with the housing
18 context and the efforts that we are all very
19 supportive of creating more housing? And
20 what's really important here to realize what is
21 the R-4 and what is its intent? So, I'm kind
22 of set up here -- this is straight out of the

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1 zoning regulations. The R-1 is supposed to be
2 a one-family detached dwelling and we allow
3 accessory apartments. They are a very limited,
4 internal type of apartment. They're
5 definitely subservient to the main dwelling.
6 They're limited by size. They do not have their
7 own entrance. The R-2 is a semi-detached.
8 It's developed with one-family detached and
9 semi-detached dwelling. The R-3 Zone then goes
10 to row house dwelling, again, with only one
11 single principal dwelling unit. And through
12 the ZRR we are proposing that that be expanded
13 to allow also accessory apartments in those
14 zones.

15 Now, the R-4 Zone is rally a hybrid
16 zone. It's kind of a lynch-pin between the
17 single-family detached, whether it's R-1, 2 or
18 3 in the multi-family zone. And it recognizes
19 its position both in the zoning regulation,
20 especially the second -- it's primary purpose
21 is to be the stabilization of the remaining
22 one-family dwelling. And we've seen a whole

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1 lot of pressure on this zone to become a small
2 type of apartment zone. And the regs are very
3 clear that the R-4 shall not be an apartment
4 zone. We've tried various ways to limit how the
5 apartments and the conversions take place but
6 when we look at the issue of the conversion in
7 the context of pop-ups and the pressures of what
8 those -- that is putting on those building to
9 become more than just a flat, that's where it
10 all kind of came together and we started to say,
11 okay. Maybe that is really the relief route we
12 need to take a look at.

13 So, the regs are very clear that the
14 R-4 shall not be an apartment district.
15 There's the R-5 districts which talk about the
16 conversions and so we started to focus more on
17 how do we look at the R-4, how do we distinguish
18 out those properties that should be converted
19 and redeveloped and that have the capacity to
20 carry multi-family and those that are
21 stabilized and serve stabilizing fact and then
22 we've talked loud in our report about what we

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1 think to be the economics of preserving
2 family-size housing. And the R-4 we're not
3 saying is a single-family zone, but it is one
4 of the few zones that by its nature has larger
5 family-sized units that a family can get into
6 that's not a single-family detached with a large
7 7,500 square foot or 5,000 square foot lot. And
8 that ability to have flats whether it's an
9 English basement or an equal sized second
10 principal unit allows the type of affordability
11 to the homeowner that we see now has become
12 competitive with they're competing against
13 developers for those same properties.

14 So, we've done a quick -- this is
15 just a quick analysis that kind of lays out what
16 the different zone groups. There are one, two,
17 three, four and the R-5 lumped together, the
18 amount of principal units that are allowed and
19 the amount of accessory units. And, again,
20 this is to clarify that the R-4 is not the same
21 as the single-family detached R-1, 2 and 3 with
22 an accessory apartment. It is intended to have

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1 two principal units. And the R-5 can have any
2 number of principal units. So, you go from an
3 R-4 to the R-5 there's absolutely no limit. And
4 the amount of residentially zoned land, the R-4
5 represents 15-1/2 percent, whereas the R-5
6 which is the apartment zones and that's R-5A,
7 B, C and D and E represents almost 30 percent.

8 And then in addition to that,
9 there's 3,500 acres of mixed-use zone, also that
10 either permits or incentivizes residential
11 zones. So, taking efforts to maintain and
12 protect the character of the R-4 still allowing
13 the flats does not, we don't feel and should the
14 Commission set this case down, does not diminish
15 the amount of housing that will be produced in
16 the District with a Capital "D".

17 So then we also went to the
18 Comprehensive Plan and the Comprehensive Plan
19 gives very clear direction about the protection
20 of the row-house neighborhoods, the heights,
21 the scales being consistent with the pattern,
22 all of which we think we've addressed through

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1 the recommendations to lower the height. It
2 also talks about the subdivision of the row
3 house and the multiple dwellings and taking
4 steps to consider additional efforts towards
5 that and how the design and scale should be
6 discouraged and so we feel these
7 recommendations in total address not only this
8 comp plan recommendation but also the issue of
9 inappropriate pop-ups that we heard about in the
10 residential zones.

11 We also looked at the additional
12 floors and roof structures, again, a policy
13 right out of the Comprehensive Plan that talks
14 very directly to these row houses and how they
15 go up and how they go out.

16 We have also looked at the variety
17 of neighbor types which is another policy in the
18 comp plan that talks how the single-family
19 neighborhoods and maintaining that variety of
20 neighborhoods and the positive elements that
21 create those characters. And, again, that was
22 something we looked at. And, you know, we have

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1 to recognize that zoning is a very heavy tool
2 for this kind of character protection.
3 Historic preservation is a much better tool, but
4 there's limits to how much historic
5 preservation can take on and how much a
6 neighborhood wants to subject itself to
7 historic preservation. So, we tried to look
8 at reducing that development box that created
9 the incentive and reducing the pressure that was
10 put on that develop box in this particular zone
11 since this is where we were hearing the main
12 concern from residents about the inappropriate
13 additions.

14 And then housing for families and we
15 discussed this in our report about, you know,
16 the pressure we see on families. Again, we'll
17 provide additional information should the
18 Commission set this down. Again, the people
19 working on our inclusionary zoning are looking
20 at this issue, provided a lot of background to
21 us about how to protect family size units.
22 We're not seeing the creation of three-bedroom

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1 units and apartments. We're not seeing
2 affordable housing built in the R-1-A and R-1-B.
3 We're seeing a real focus in the R-4. And
4 that's where that confluence of events starts
5 to happen.

6
7 So, proposals are before you. We do
8 recommend that they be set down for public
9 hearing. We've heard a lot. We actually filed
10 this report a week earlier so it was filed I
11 think 17 days ahead as opposed to 10. We heard
12 a lot of concern in the meantime. A lot of
13 support from residents. A lot of concern from
14 some of the smaller developers. So, regarding
15 the issue of affordability, one of the
16 alternatives that we're suggesting be
17 advertised along with our recommendation is
18 that these R-4 conversions be subject to IZ.
19 They're not subject to IZ. So, the argument of
20 affordability is really one based on price per
21 square footage. They're not part of the IZ
22 program, but if we want to really look at the

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1 issue of conversion and its value for affordable
2 units, let's put it into the IZ mix. And so
3 we've proposed some additional language that we
4 would work with the Office of the Attorney
5 General to refine and advertise in the
6 alternative. And that would be looking at two
7 different standards in the R-4. There's not a
8 right conversion. And those are for properties
9 that are 2,700 square feet, 3,600 square feet
10 or more, you know, that have a matter of right
11 ability under the current regulations to go
12 forward and provide, you know, a multiple number
13 of units. And if we went forward with that we
14 would say at that fourth unit. So, you would
15 have your two units by right now. If you had
16 more than 2,700 square feet you would have a
17 third unit. But if you provided a fourth unit
18 even as a matter of right that fourth unit would
19 be subject to the inclusionary zoning and it
20 would have a 60 percent AMI. Obviously, we
21 would have to also amend the IZ regulation.

22 If it's a conversion by variance

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1 which we're seeing a lot of and we're seeing a
2 lot of this that begins to concern us because
3 there's beginning to be a mathematical
4 equation. Density in the R-1 through R-4 zones
5 is based on units per lot area. It's not an FAR
6 and we're starting to see cases where people are
7 coming in saying, well, if I maxed out and I did
8 all the development standards to what would be
9 the maximum matter of right it would give me this
10 FAR, therefore, I want to take that FAR and apply
11 it to a conversion. As part of that conversion
12 I'm going to demolish most of the principal
13 building and put an addition on to the garage
14 and that will be considered the conversion.
15 And that's really an R-5 operation. That is an
16 apartment operation. That is not what we would
17 consider an appropriate application of the way
18 low and moderate density residential is
19 calculated or expected to be calculated both
20 under the comp plan and under the zoning
21 regulations.

22 So, if you get this conversion

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1 through a variance process we would say all the
2 units that you get through the variance process
3 should be subject to IZ because we're really
4 asking a lot of the Board of Zoning Adjustment
5 and a lot of the city's regulations to allow that
6 kind of variance outside of what's expected in
7 the zoning. So, if that's going to be the case,
8 then the balance to that would be that all of
9 those units beyond 2 which would be the matter
10 of right would be subject to IZ.

11

12 And then the other alternative is
13 what we mentioned earlier that the conversion
14 for these non-residential lots which there are
15 quite a few of them. Some of them are very
16 large. These would be things like converting
17 schools, fire houses, institutional uses. We
18 even see a lot of embassies that are in these
19 zones that are no longer used for those
20 purposes. The developers have a hard time
21 converting those structures, especially if
22 they're in a historic district. The schools

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1 are built with a very different floor plate.
2 They are usually pre-air conditioning so
3 they've got thick walls. It's hard to maneuver
4 that. So, the layout becomes very defined by
5 the structure. Often times there's
6 playgrounds or parking lots. We want to
7 encourage the in-fill of that space to maintain
8 that street wall and that neighborhood
9 character. So, they end up having to get a
10 variance. It's often very difficult to make
11 which requires them to have more units to have
12 an appropriately designed and neighborhood
13 character structure than the zoning allows. So,
14 we would propose that that minimal of 900 square
15 feet either be reduced significantly and we did
16 a survey of the cases we were aware of for the
17 last four or five years and it was around 300
18 or 400 square feet per unit. And, again, it's
19 because of those institutional buildings and
20 how they have to -- or that it just be removed
21 altogether since the project would be going
22 through a special exception. And that would

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1 allow the developer to or the builder to work
2 with the neighborhood and figure out what is the
3 best design that the site would yield. So,
4 those two alternatives we're proposing that
5 they be included in the advertisement and then
6 we are recommending these be set down for public
7 hearing.

8 CHAIRMAN HOOD: Thank you, Ms.
9 Steingasser, and Mr. Lawson for being the male
10 version of the Vanna White, I think. So, thank
11 you.

12 I really appreciate the effort that
13 went into this, Ms. Steingasser, and I really
14 appreciate the presentation. I know this
15 hasn't been easy and I'm sure I see some
16 controversial issues but I'm actually looking
17 forward to having the hearing. But let's open
18 it up and see what my colleagues have.

19 Commissioner Miller?

20 COMMISSIONER MILLER: Thank you, Mr.
21 Chairman. I have a lot of concerns with this
22 particular proposed text amendment. Let me ask

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1 a question first. I know I've sat on several
2 cases -- at several BZA cases where the BZA has
3 approved a variance to allow an additional of
4 one or two units in the R-4 Zone. I can't
5 remember the number of cases but I wonder if you
6 have data on that. But in all the cases though
7 that I recall the OP Office of Planning was
8 opposed. The ANC was for it and the neighbors
9 were for it. And so in terms of neighborhood
10 character, the neighbors weren't concerned
11 about neighborhood character nor was the ANC.

12 Do you know how many cases there have
13 been in the last two years or whatever time
14 period that -- where the BZA has approved
15 variances to allow for these additions of one
16 or two units in the R-4?

17 MS. STEINGASSER: We do have that
18 count and you are right. The Office of Planning
19 recommends almost unanimously in opposition and
20 the ANC almost always supports until something
21 gets built that they don't like and then we have
22 a pop-up issue. So, you know, we didn't get

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1 here by going after preserving the R-4. We got
2 here by looking at what was the pressure causing
3 the pop-ups. But we do have those statistics
4 and your anecdotal memory is absolutely spot on.

5 COMMISSIONER MILLER: Do we have a
6 number of how many were done in the last year
7 or two years, just a ballpark figure? I think
8 I sat on five or six and multiply that by five.

9 MS. STEINGASSER: I don't have it
10 right on my finger tip, no.

11 COMMISSIONER MILLER: I don't know if
12 I'm getting the disproportionate share.

13 CHAIRMAN HOOD: Here's another
14 thing. I think we should also look at how the
15 Commissioners who sit and vote, because I don't
16 think we always -- I know I don't always vote
17 for them. So, I think if we're going to get the
18 data, let's see how we vote so we make sure that
19 we're consistent with the regulation. I mean,
20 I know, that's not the territory we really need
21 to be going down, but it's there.

22 MS. STEINGASSER: It is there and you

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1 have no idea how many hours we sat wringing our
2 hands at the office going, okay. All these
3 Commissioners voted for these so now we're
4 recommending something opposite of that.

5 When you're sitting on the BZA you're
6 seeing a lot more information than just the
7 zoning regulations, right. You are seeing the
8 unique character of the case. You are seeing
9 what the ANC had. So, these regulations are not
10 as uniquely focused as what you would see on a
11 BZA case.

12 COMMISSIONER MILLER: So, I recognize
13 the problems because we were having so many of
14 these cases and the variance test is a very
15 difficult test and the BZA was struggling how to
16 get the conversion to meet that variance test.
17 But I was hoping that you were going to come back
18 with something that was going to make it easier
19 to do these conversions by a special exception
20 process so that the issue would be whether there
21 are adverse impacts in the neighborhood, whether
22 it is changing the character of the

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1 neighborhood. But if you have a case where the
2 adjoining neighbors and the surrounding
3 neighbors and the ANC are for it, the special
4 exception process would bring that out and you
5 could either go for it or against it based on
6 that. So, you're running in the opposite
7 direction as to what I was expecting you might
8 come up with but you can react. But I would like
9 answers to further, that's why I'm concerned
10 about this direction.

11 MS. STEINGASSER: Okay. And that's
12 certainly something we can go back and look at.

13 COMMISSIONER MILLER: Okay. My
14 concern is that I think this proposal
15 significantly constrains the ability of our
16 existing housing stock, the buildings that we
17 have in the R-4 Zones and the existing zoning
18 code to accommodate a growing population,
19 including a growing proportion of smaller
20 household sizes. We are very fortunate to have
21 an existing housing stock that can partially
22 accommodate this change in growth in our city.

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1 And cities are dynamic and we need to
2 manage the change and make sure it doesn't change
3 the residential character of the neighborhood
4 but I think we should do more to manage the change
5 rather than just throw out additional
6 roadblocks. As I said, I thought that we might
7 be getting a proposal that would move in the
8 opposite direction such as reducing or
9 eliminating the minimum 900 square foot land per
10 unit regulation that the BZA has been jumping
11 through various hoops to bring it in the row
12 houses in those immediate neighbors in affected
13 ANC have no objection.

14 MS. STEINGASSER: And we could
15 certainly write that as yet another alternative.
16 I mean, our stance was based on looking at the
17 comp plan and the zoning regs. How do we protect
18 the row houses while encouraging that
19 development into the -- still in the R-4 but into
20 properties that really could handle it as
21 opposed to a mid-block row house because, I mean,
22 our experience has been that with this market,

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1 you know, it's been 30 years since someone has
2 bought a rooming house and turned it back into
3 a single-family detached. The market is such
4 that once it converts to a two bedroom or a one
5 bedroom it doesn't convert back in the row
6 houses. Not in those zones. And so that's why
7 we thought, okay. We have zones where we want
8 that growth to go. We want it to be in the R-5
9 Zones. We want it to be in the C Zones. We want
10 a lot of these areas to be, you know, to have that
11 kind of smaller unit. That's where we want to
12 reduce all our parking standards and protect the
13 character. But we can, if that's the direction
14 the Commission wants to go, we could create a
15 third option that addressed smaller than the 900
16 square feet. I don't know what we would do but
17 if that's what you want us to do --

18 COMMISSIONER MILLER: No, I'm just
19 one Commissioner and I don't know if my
20 colleagues would agree with me. I mean, I just
21 think it's really not exactly ready for prime
22 time. This is a major significant down zoning

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1 and it would go into effect immediately, right,
2 upon set down?

3 MS. STEINGASSER: No, it's a text
4 amendment. So, it would not be vested --

5 COMMISSIONER MILLER: Okay.

6 MS. STEINGASSER: -- onto property
7 owners.

8 COMMISSIONER MILLER: Okay.

9 MS. STEINGASSER: I mean, I'm not sure
10 I think it's a down zoning. It's a diminution
11 of certain uses based on that. But how that 900
12 square feet when you look at the history of the
13 zoning regs it was never intended to allow for
14 all this new construction. It was meant to
15 allow for the conversion of truly large older
16 buildings. And now what we're seeing is, the
17 Washington Post asked me about today. The
18 building is demolished down to four feet and then
19 it's being reconstructed as a conversion with
20 shipping crates. It's hard to think of that as
21 a conversion the way we think of the conversion
22 of a school or an old embassy. But I understand

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1 and that's why we wanted to put in the context.
2 If that's how we want to proceed we can certain
3 provide those options and hear from citizens and
4 here from the Commission on how you want us to
5 look at that because there's -- we got rings of
6 data that we can tell us all kinds of things on
7 this.

8 COMMISSIONER MILLER: Including data
9 where you are showing, I mean, your report
10 mentions that it's driving up the price. That was
11 an aspect of the report which is was, you know,
12 a fact which I had -- which I could see was a very
13 good point, if it's true. You're saying that
14 the R-4 Zones, the row house zones are tripling
15 or increasing in value more than the rest of he
16 city. That you have data that actually shows
17 that that would be helpful and shows that it's
18 not because for other reasons maybe because, you
19 know, they're a close-in neighborhood that are
20 desirable. That's where a lot of -- and because
21 the growing population is disproportionately a
22 smaller household, that's where the demand is.

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1 So, I was concerned, you know, your
2 report says that two aspects where your office
3 is not concerned about two aspects in ZRR which
4 your office mitigates against the turnabout of
5 affordable housing or the fact that ZRR is
6 aligned for accessory apartments in matter of
7 right. But you backed away from that in
8 accessory buildings. And the other aspect in
9 ZRR that you are that you created these two new
10 zones in the residential fact district to
11 accommodate three or four unit which I think is
12 a good proposal but as far as I know you haven't
13 evaluated what neighborhoods might be
14 appropriate to go into that. When I asked you
15 about this last week, you said we'll wait, you
16 know, we'll see if the neighborhoods want to go
17 into a three or four unit zone. But I think it
18 would be helpful for the office to do an
19 evaluation of which area. If we're going to go
20 with this kind of proposal, we should know where
21 -- which row house neighborhoods might be
22 appropriate to have that three or four unit.

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1 Certainly, the BZA's finding with the ANC and
2 neighbors support that it's appropriate to have
3 it in particular neighborhoods, maybe not
4 unanimously, Mr. Chairman. But in many cases
5 there's been support for it.

6 But we don't have the data on which
7 row house neighborhoods might be appropriate.
8 The row house zones are very different in their
9 character and so it's good. You're creating
10 those two zones that would accommodate the three
11 or four units which to me doesn't create, and
12 that's just me, a tipping point that if somebody
13 in an apartment house district because it has
14 three units.

15 MS. STEINGASSER: Under the current
16 zoning regulations an apartment house is defined
17 as three units or more. We're proposing that
18 that be slightly changed. And I wasn't here
19 last week and I apologize because I really wanted
20 to talk about the accessory apartments. And I
21 want -- this is a really important nuance.

22

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1 The R-4 allows two principal units.
2 It's very different than an accessory apartment.
3 But the proposal to look at and there's only 19
4 squares that could accommodate -- 19 squares in
5 the entire city that could accommodate the
6 external accessory apartment as a matter of
7 right. We coupled that. That doesn't stand
8 alone. It is part of the overall alternative
9 that also removed the 4,000 square foot lot
10 requirement from the R-2 and R-3 Zones which
11 freed up now probably about 90 percent of those
12 zones to have a matter of right and it also worked
13 in concert with the reduction in the minimum
14 house requirement which is also currently in the
15 regs. You have to have a 2,000 square foot house
16 and a 4,000 square foot lot to have an accessory
17 apartment. Those were brought forward and as
18 part of our alternatives, we're like. Okay.
19 Everybody seems very comfortable with the
20 internal. Let's get rid of that burden. That
21 created an enormous amount of opportunity for
22 accessory small apartments balanced against the

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1 19 squares that have that opportunity. So,
2 overall that has created much more opportunity
3 than what we had existing before. And, I mean,
4 you can go back through the reports and see the
5 number of -- the different lots that are
6 available.

7 So, we do look at it as part of an
8 overall continuum of how do we accommodate -- how
9 do we accommodate Stanley Hub? Do we
10 accommodate the growth and how do we do it where
11 it's all we want it to be? Obviously, the R04
12 is some of the most districts in the city and,
13 of course, that's where people want to live and
14 you're spending your money on a building as
15 opposed to land. You know, if I were to buy in
16 Cleveland Park I'd be paying millions and I'd end
17 up with a really large lot of, you know, parts
18 of Chevy chase. If all I have is enough to be
19 a structure then I would look in these R-4 zones.
20 And that's what we want to make sure we protect.
21 It's much more efficient and we put some of those
22 numbers in. We can get them for you again. To

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1 take a row house and convert it into three or four
2 units then it is -- and for developers and to sell
3 those four units as four separate households
4 than for a family to have to buy them and compete
5 against those prices and make a single family
6 house. So, that's what we're trying to
7 preserve. But, you know, we were very aware of
8 the Commission's concern about what this would
9 do. And so it is part of a larger continuum of
10 how all these things work together.

11 COMMISSIONER MILLER: I know I've
12 monopolized a lot of time but I'd just like to
13 conclude, Mr. Chairman, with two things.

14 One specific thing in the OP report
15 you say that this would help address the concerns
16 that we did hear during the ZRR hearing from
17 residents of Mount Pleasant and Trinidad. If
18 that does address that then I would suggest that
19 maybe we should be proposing an overlay for Mount
20 Pleasant or Trinidad and not the entire city. I
21 think that was a particular problem because as
22 I said there are dozens cases where the neighbors

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1 don't have a problem.

2 And the other thing is, you said this
3 came out of the public hearing testimony in the
4 ZRR and we're now pulling it out and may get on
5 a track even faster than ZRR. There's a lot of
6 testimony on a lot of topics that -- there's a
7 lot of testimony on inclusionary zoning, for
8 example, that they wanted a deeper affordability
9 level which I think many of the commissioners
10 have agree with, we're not pulling that out to
11 do that except as an alternative that you're
12 proposing here which looks like it's a good
13 alternative, although I don't support the
14 overall proposal. But I would support the
15 inclusionary zoning requirements triggering in
16 and overall in the IZ that it should go
17 immediately from 80 percent to 60 percent. We
18 are losing the opportunity to have affordable
19 housing during this building boom that the city
20 is fortunate enough to experiences and 80
21 percent AMI in that particular proposal is the
22 market rate. It's not the affordable housing

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1 that we want to see.

2 So, I just think that if there's a
3 crisis of affordable housing I don't see this as
4 being the thing that pulls out to try to address
5 it to the exclusion of something else that had
6 a lot more public hearing testimony, concern
7 about the IZ affordability levels. So, in its
8 current form I would just not support setting it
9 down at this time, Mr. Chairman.

10 MS. STEINGASSER: Well, if I could
11 just say. The reason that we pulled it out is
12 because it is so different than anything that was
13 heard and because we felt it was too dramatic to
14 be considered a slide amendment to the ZRR. It
15 needed the passion with which you're talking
16 about it, the passionate head nodding I'm seeing
17 from Commissioner Cohen. We knew this was an
18 issue that needed focus attention. We're not
19 trying to rush it. We're just trying to isolate
20 it so that the Commission can consider it
21 separately. And you guys control the vote. If
22 you don't -- you could go forward with all the

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1 hearings and still not vote on it. But we're not
2 trying to rush it. We're just trying to isolate
3 it so that it gets the focus and attention that
4 we think you guys need. Obviously, it would
5 have to be in partnership with the IZ and that
6 we hope to get to you now in September. They've
7 been working with the development community to
8 look at that AMI issue, to look at the production
9 issue. They've done some spreadsheets.

10 So, I apologize if you thought we
11 were trying to rush it. We weren't. We were
12 just trying to allow you to focus on it
13 separately because we know it is of importance.

14 COMMISSIONER MILLER: I agree with
15 you that it does need a separate focus and I'm
16 focused against it right now.

17 CHAIRMAN HOOD: Okay. Any other
18 comments?

19 Vice Chair Cohen?

20
21 VICE CHAIR COHEN: Thank you, Mr.
22 Chairman. Everybody recognizes that I support

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1 much of what Commissioner Miller has said. When
2 I read the Office of Planning report I too
3 thought it was down zoning. One thing that
4 confused me that you might be able to explain is
5 the chart on row house height and I believe you
6 stated that 94.4 percent of the inventory is 35
7 feet or less, 94.4. So, I'm looking at that
8 number and saying, well, what is the problem, you
9 know? It's a much less number that seemed to
10 have height issues. And, again, as a proponent
11 of affordable housing, the one piece of
12 information that you provided is, again,
13 competing for a large, single family house. And
14 I guess my concern is that I don't think the city
15 has appropriate housing policies that deal with
16 such issues and the we should be allowing the
17 continuum as you say of R-1 through R-5 A and B
18 that that to me provides a guideline of what we
19 could have in a neighborhood, that we already
20 have that type of guidance and that an R-4 would
21 be more of an opportunity to have denser houses.

22 So, if we have issues in a few

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1 neighborhoods let's deal with that but not move
2 ahead and I don't see us providing density and
3 any kind of multi-family areas other than
4 density of small units. I just don't think we
5 have a comprehensive housing policy in the city.
6 So, I'm worried about all the unintended
7 consequences that put, you know, setting down
8 this particular recommendation I personally
9 prefer the alternative that you have in the back.
10 And maybe I'm not visualizing it properly but I
11 really do believe that we must have
12 opportunities that are as Commissioner Miller
13 said, supported by an ANC and supported by a
14 neighborhood and the BZA to move ahead with
15 higher density in an R-4 district. I sat on a
16 BZA case or two as well that allowed for that.

17 The documentation I think I was very
18 comfortable with when it was submitted probably
19 maybe even before OP got an opportunity to look
20 at it. But there are areas that, I think, are
21 separate from and lower density than the R-4. I
22 mean, R-4 to me provides a continuum of size

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1 housing. And 40 feet is not that tall although
2 it has stuck out. And that's another thing.
3 That's kind of what everybody brings to our
4 attention, the unique and unfortunate examples.
5 You know, the Post will sensualize that.
6 Whereas, I don't think it's based on your own
7 calculations. It doesn't seem to be a major
8 issue.

9
10 MS. STEINGASSER: Well, we didn't
11 approach this, these recommendations to control
12 density. We approached this to look at the
13 issue of pop-ups. That's what we heard at all
14 the meetings. And where we started looking at
15 the relationship between the amount of feet so
16 94 percent are 35 feet or less but if you also
17 look at the chart, you know, 84 percent of our
18 row houses are only two stories. And that's two
19 stories, typically there's a half cellar as well
20 underneath that doesn't quite pop up more than
21 the four feet. So, we started having to look at
22 that dichotomy and that delta between what the

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1 zoning regs allow at 40 feet and what the built
2 environment is at, you know, predominately two
3 or three stories created that opportunity for
4 that extra story, often times two stories, that
5 would then aggrieve the neighborhood. And so
6 then that led us to the question well, what's
7 causing that and seldom is it a single-family
8 that's deciding to put two stories on stop of
9 their row house. It's somebody who is doing it
10 to convert it for sale. And so that's how we got
11 there. We didn't sit down one day and say, you
12 know, what, we're going to go after density in
13 R-4. We started looking at the issue of pop-ups
14 as they were being testified to the Commission
15 during the public hearing. It kind of led to
16 looking at the development. Started with the
17 development standards, what's out there, what
18 are we seeing. Obviously, there are easy
19 boundaries. We started looking at Mount
20 Pleasant in terms of it as a historic district.
21 It's a well-defined area. It's historic
22 district. The pressure on Mount Pleasant was

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1 resulting from conversions. So, we started
2 looking at that, working with them on, okay.
3 Well, maybe that area gets limited to two. So,
4 we could go back to looking at discreet
5 neighborhoods.

6 Trinidad was one we looked at. The
7 interesting thing about Trinidad is it has the
8 potential for over 20 percent of its lots to be
9 converted. It has one of the highest large row
10 house lots, concentrations in the city. So, if
11 that's the way the Commission wants us to go,
12 we're happy to go there but, you know, we didn't
13 go at this looking at it as a housing policy. We
14 tried to look at it. Once we realized there were
15 housing policy implications then we also tried
16 to balance some of those. And then after we
17 filed it that's why we were focusing on the
18 larger lots, the institutional lots and then we
19 started thinking since we filed this also about,
20 you know, well, why don't we make these projects
21 subject to IZ, because they're not subject to IZ.
22 IZ doesn't kick in at any AMI until there's 10

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1 units and we seldom see that in these zones, but
2 we're happy to --

3 VICE CHAIR COHEN: Well, you talked
4 about Wards 1 and 2 where this conditions exists.
5 Both of those wards are very, very dense wards.

6 MS. STEINGASSER: Yes, they are.

7 VICE CHAIR COHEN: And so again I know
8 that there are issues and as I said I was appalled
9 at seeing the one that, you know, was in the
10 paper, every paper, but I don't know if it's a
11 problem that this is going to solve. I mean, it
12 will solve it but I don't know how extensive it
13 is. I mean, I just didn't get that impression
14 that we should set this down, have public
15 hearings without knowing a fuller idea of what's
16 happening in our city regarding the cost of
17 housing, the cost of affordability and I don't
18 want to see unintended consequences with regard
19 to making a change that I don't feel comfortable
20 with.

21 CHAIRMAN HOOD: Okay. Mr. Turnbull?

22 COMMISSIONER TURNBULL: Thank you,

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1 Mr. Chair. I want to thank Mr. Lawson and Ms.
2 Steingasser for an excellent presentation.
3 Very clear, very concise and I don't think this
4 is down-sizing. I think this is right-sizing.
5 I had a look on you very first page, change the
6 R-4 by right height for detached summary,
7 detached row house, blah, blah, blah from 40 feet
8 to 35 feet. You clearly show that 94 percent of
9 the stock is 35 feet and under. I don't see
10 anything wrong with setting that down. That's
11 a clear relevance that shows what the character
12 of the row house district is. I think it ought
13 to be set down. It's closing a loophole.

14 I think allows up to 40 feet by
15 special exception subject to conditions. I
16 don't see a problem with that either. I think
17 that's a very clear -- it's a very standard
18 procedure we always do.

19 Include Mezzanine in the number of
20 stories. That's also closing a loophole. I
21 think you're right on. I think you've hit the
22 high points that we've talked about with pop-ups

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1 in preserving the character of row house area.
2 I think you're right on. I see nothing wrong
3 with this. This is very clear.

4 From an architect standpoint, this
5 is what we should be doing to preserve housing
6 stock and looking at it and avoiding pop-ups and
7 destroying the architectural character of these
8 neighborhoods.

9 Now, forget about density. If you
10 want density it's going to come, but you want to
11 preserve the character of these building areas,
12 the neighborhood that these people grew up in and
13 I think that's key. And I think you've hit right
14 on it. I think this is a part of zoning. And
15 as you said, HPRB can't cover all of this but
16 through zoning if we can put a little bit in there
17 to help protect these areas and the character of
18 these neighborhoods, again, you're right on.
19 This hits the point.

20 Limit conversions to
21 non-residential buildings. I can set that down
22 too. Only one of the questions I would have,

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1 lost alternative. Allow conversion of
2 non-residential lots with no minimum land area
3 pre -- what's the possible blow back on that?

4 MS. STEINGASSER: I don't think any.
5 We haven't seen any in the cases that we have
6 processed. We've seen difficulty from the
7 developers trying to make the case why they
8 should be granted, you know, it basically
9 becomes an area or a use variance that when
10 they're trying to fill in the open space or
11 connect the school to the row houses that would
12 be on the other side of a parking lot. And
13 there's a lot of struggle in how to make that fit
14 into the technical zoning regs and then that 900
15 square feet often is not possible because the
16 case I'm thinking about on Capitol Hill they
17 really struggled with how to retrofit the
18 interior of the building. And because that wall
19 it ate almost all of the nine united per 900
20 square feet and then they were still left with
21 this big open space where everybody agreed from
22 an urban design standpoint the street wall

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1 needed to be connected. And they wanted to
2 build row houses and they couldn't.

3 So, we have found no blow back in
4 terms of not having it because they usually get
5 approval. It usually creates a better design.
6 It's the 900 square feet that makes it really
7 difficult to get that better design.

8 COMMISSIONER TURNBULL: Okay. And
9 I've sat on just like the others, a lot of BZA
10 cases. I've come close to sea sponge in a lot
11 of cases because I thought they were not done
12 appropriately. Yes, I've sat on cases where
13 some neighbors were okay for it. Maybe it's
14 been an abandoned row house that's been there for
15 awhile or vacant and they want to see it
16 developed so they're very much in favor of doing
17 it. I got people down the street then were
18 saying, oh, my God. It's going to add now all
19 those extra traffic and parking. So, I've sat
20 on these cases where I've had some people in
21 support but I got a lot of neighbors down the
22 street very concerned about what it's going to

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1 do with the character. But why can't you
2 develop -- and I understand, oh, well, give these
3 marketing studies, these real estate studies and
4 say, well, you can't develop a three to four
5 bedroom house anymore in that area. It's got to
6 be, you know, a single family. It's got to be
7 a one bedroom or studios and like this and that
8 and that's what sells.

9
10 And so I'm a little bit -- I'm not
11 really convinced a lot of these marketing
12 studies. For every marketing study that says
13 one thing you can get another marketing study
14 that comes back and say, well, you really can,
15 we can sell a two bedroom unit in this area. So,
16 it's a little bit self-serving to have some of
17 these things. So, I always look askance at some
18 of these things. I look at the area when I sit
19 on a BZA case what's the impact, if there are any
20 height changes. It's very difficult. But I
21 think what you've done here by trying to define
22 this more and putting the characteristics of it

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1 down is very good. And I think you've done an
2 excellent job and I would be in favor of setting
3 it down and going at it because I think we need
4 to talk about this. We need to get it out on the
5 street and have feedback on it. So, I think the
6 alternatives and I like the IZ alternatives. I
7 think you're right on with the IZ and putting
8 those in. I'm 100 percent in favor of that
9 especially at the 60 percent level. So, I think
10 from this Commissioner's standpoint when you're
11 redefining or your better defining the R-4
12 neighborhood and the characteristics of it I
13 think you've clearly shown that there's evidence
14 out there that at least I could support this.
15 And at least get the input from the public on
16 this.

17 So, thank you again.

18 CHAIRMAN HOOD: Mr. Turnbull, I could
19 stand up and applaud you because I would ditto
20 98 percent, no, 100 percent of what you said.

21

22 One of the things that I am concerned

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1 about, again, in this city's pop-ups and one of
2 the things that I heard mentioned earlier is
3 about well, if it's only do for here or we should
4 just do it for here or there. I'm not a zoning
5 commissioner for Ward 1. When I took the oath
6 I was sworn in to be a zoning commissioner for
7 the city. And I think what we need to do is stop
8 -- that's what got us in some of the trouble we're
9 having now with another issue about doing
10 certain areas, doing something for certain
11 areas. I think the comments we heard were
12 resounding about do something with it. I'm also
13 even in favor of if Commissioner -- because one
14 thing about a Chair you have to be considerate
15 of all the Commissioners even though I don't
16 necessarily agree with everything I heard is if
17 some of those amendments or some of the
18 alternatives that were mentioned by
19 Commissioner Miller could be incorporated in
20 whatever public notice we do. I'm not saying I
21 agree with it. I agree with Mr. Turnbull. I
22 think we're going in the right direction, but for

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1 me it's about putting it out in front of the city
2 as a whole and coming back with the best possible
3 issues, especially the pop-ups. We've heard
4 about po-ups. We've heard it, we've heard it,
5 we've heard it and we didn't just hear it from
6 one particular area. And if we're going to be
7 zoning commissioners for Ward 1 then that's
8 maybe the mayor should have sworn us in to be
9 zoning commissioners for Ward 1. But we are
10 city-wide and I think that, say we just treat it
11 where we hear the different issues, no. Zoning
12 is about across the city. We don't just do an
13 R-1 Zone in Ward 5. R-1 Zone goes across the
14 city. So, I would suggest that we set this down.
15 It's a start unless Mr. Turnbull and others and
16 Vice Chair want to incorporate some of the
17 alternatives that Commissioner Miller
18 mentioned. But I'm trying to be the Chair and
19 be considerate of it but if that would change him
20 to vote for the set down. If not, then we'll set
21 it down as is. Let me yield to Commissioner
22 Miller.

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1 COMMISSIONER MILLER: Thank you, Mr.
2 Chairman.

3 I think the only -- well, one
4 alternative if it was added to the proposal that
5 could lead me to support the set down would be
6 if you look on the back of the OP Report where
7 it has a section 401.12. I'm just using that
8 because that would have -- that language I can
9 use to structure my alternative which would be
10 a special exception alternative for what
11 currently requires a use or area variance to add
12 a third or fourth unit to an R-4 Zone.

13 So, one alternative that I could
14 support is in the advertisement if that read, any
15 structure in R-4 district maybe converted to an
16 apartment house. I would say to a three or four
17 unit building. Any structure in the R-4
18 district may be converted to an apartment house
19 with only three or four units by special
20 exception subject to the following conditions.
21 And then I would eliminate the first three and
22 you can go with the remainder. And that would

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1 be the alternative, if you included that as well
2 as the alternatives that OP recommended in terms
3 of inclusionary zoning for its proposal is that
4 can some how be incorporated into this
5 alternative as well, I would be able to support.
6 I think that would put all the issues out there
7 in a way that gives people -- the special
8 exception process would allow the community and
9 the Board of Zoning Adjustment with one of us
10 sitting on there to take an assessment whether
11 there are adverse impacts upon the neighborhood.
12 Whether the neighborhood character -- there's a
13 lot of language here about neighborhood
14 character. So, that would be one of the things
15 that would be looked at. If that's what we're
16 really concerned about these conditions will
17 mitigate -- will allow the board to say no and
18 allow neighbors to say no and there would still
19 be that public hearing process. Wouldn't be a
20 matter of right.

21 So, I don't know if I made clear what
22 the alternative. I was trying to do it on the

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1 fly right up here but if that were included I
2 still would be more comfortable if this waited
3 until we had our IZ recommendation from you
4 because to me that was -- people were clamoring.
5 I think there was a lot more clamor about the IZ
6 for affordability levels during the ZRR and by
7 this Commission than there was about pop-ups.
8 So, I'd be comfortable putting it off but in an
9 effort to be accommodating, if that works for my
10 fellow Commissioners and for OP that would work
11 for me.

12 CHAIRMAN HOOD: Okay. Ms.
13 Steingasser, is that doable? And, again,
14 that's advertising, not that we agree with it but
15 that's advertisement so we can put it all on the
16 table.

17 MS. STEINGASSER: I think it's an
18 excellent alternative because it does. It puts
19 all options out there, more or less variance,
20 special exception, matter of right. They're
21 all being considered.

22 And the idea, I know we've been

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1 saying, been going on almost a year, that we're
2 bringing you the idea in a few months. Bringing
3 you an idea in a few months. It is extremely
4 complex as you know and the staff has been
5 working with the development community running
6 all kinds of pro formas and different types of
7 spreadsheets to make sure as they deal with
8 different development sizes that they are
9 hitting the right mark and making it better and
10 not more onerous and what is the AMI. So, the
11 last date we got because we knew we would asked
12 about that this evening as well was that it would
13 be filed in -- it will be filed for the first
14 September meeting -- be set down for the first
15 September meeting.

16 CHAIRMAN HOOD: Okay.

17 COMMISSIONER TURNBULL: I just got
18 one question. Are we saying then that this, a
19 nonresidential structure in the R-4 may be
20 converted to an apartment house? Are we calling
21 it an apartment house?

22 MS. STEINGASSER: Three to four

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1 units.

2 COMMISSIONER TURNBULL: Three to four
3 unit building? Three to four? Four units, are
4 we allowing up to four? I just want to clarify
5 this.

6 MS. STEINGASSER: My understanding
7 was that there would be -- it would almost be like
8 a 401.13 and it would address any residential
9 structure or any structure could be converted to
10 three or four units and we would not have the --

11 CHAIRMAN HOOD: First three.

12 MS. STEINGASSER: -- residential
13 three, but it would be standard of adverse
14 impact.

15 CHAIRMAN HOOD: Well, Mr. Turnbull,
16 that's an alternative.

17 COMMISSIONER TURNBULL: That's in the
18 alternative.

19 CHAIRMAN HOOD: It's not that we're
20 doing away with it.

21 COMMISSIONER TURNBULL: Right,
22 right. Okay.

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1 CHAIRMAN HOOD: We're just trying to
2 accommodate --

3 COMMISSIONER TURNBULL: Yes, okay.
4 And are the special exception guidelines being
5 expanded or they're the same as they are now or
6 what?

7 MS. STEINGASSER: They would near or
8 reflect what's shown as .12.

9 COMMISSIONER TURNBULL: Okay.

10 MS. STEINGASSER: It say one of
11 nonresidential buildings and one for any
12 structure.

13 COMMISSIONER TURNBULL: Okay. All
14 right. Okay.

15 CHAIRMAN HOOD: Okay. Anything
16 else?

17 All right. Colleagues, I would move
18 that we set down Zoning Commission Case Number
19 14-11 with the comments the discussion had with
20 the amendment, as Commission Miller had
21 requested along with also being advertised as
22 proposed by the Office of Planning in its

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1 submission presented tonight and ask for a
2 second.

3 VICE CHAIR COHEN: Second.

4 CHAIRMAN HOOD: It's been moved and
5 properly seconded. All those in favor, aye?

6 (AYES)

7 CHAIRMAN HOOD: Any opposition? So
8 ordered.

9 Staff, would you record the vote.

10 MS. SCHELLIN: Yes. Staff records
11 the vote five to zero to zero to set down Zoning
12 Commission Case Number 14-11 as a rule-making
13 case.

14 Commissioner Hood moving,
15 Commissioner Cohen seconding, Commissioners
16 Miller and Turnbull in support. Commissioner
17 May in support by absentee ballot.

18 COMMISSIONER MILLER: Mr. Chairman,
19 thank you very much for inviting that
20 alternative so we could get a consensus of
21 getting this issue out there and with the whole
22 range of options.

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1 CHAIRMAN HOOD: Okay. Great. Thank
2 you. Thank you all for the input and we're
3 looking forward to the hearing, believe me.

4 Do we have anything else, Ms.
5 Steingasser? Do you have anything else?

6 MS. STEINGASSER: No, sir.

7 CHAIRMAN HOOD: Again, I thank you for
8 all the work that you all do in the Office of
9 Planning. I know the ask gets larger and larger
10 so I'm thanking you because it's probably going
11 to get larger and larger. Okay. And also the
12 Office of the Attorney General and the Office of
13 Zoning all the work that you all do to help us.
14 I never want to leave you out. Ms. Meyers and
15 Mr. Ritting, Bergstein, everybody and Ms.
16 Schellin, Ms. Barton, everybody.

17 Okay. I'm sure I left somebody out
18 but the whole staff of all those respective
19 offices.

20 Ms. Schellin, do we have anything
21 else?

22 MS. SCHELLIN: No, sir.

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1 CHAIRMAN HOOD: We're going to meet
2 about five minutes for the next hearing.

3 MS. SCHELLIN: yes, we just need to
4 make a switch in the technical room.

5 CHAIRMAN HOOD: Okay. So, we'll be
6 back in about six or seven minutes.

7 (Whereupon, the above-entitled
8 matter went off the record at 6:41 p.m.)

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