

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

+ + + + +

REGULAR MEETING

+ + + + +

MONDAY

DECEMBER 10th, 2012

+ + + + +

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 6:30 p.m., Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairman
MICHAEL G. TURNBULL, FAIA,
Commissioner (OAC)
PETER G. MAY, Commissioner (NPS)
ROBERT MILLER, Commissioner

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary

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OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER, Deputy Director,
Development Review & Historic
Preservation

STEPHEN GYOR

JOEL LAWSON

STEPHEN MORDFIN

MAXINE BROWN-ROBERTS

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALAN BERGSTEIN, ESQ.

DISTRICT DEPARTMENT OF TRANSPORTATION STAFF
PRESENT:

N/A

The transcript constitutes the
minutes from the Regular meeting held on
December 10th, 2012.

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

2 5:38 p.m.

3 CHAIRMAN HOOD: This meeting will
4 please come to order.

5 Good evening, ladies and gentlemen.

6 This is the December 12, 2012 public meeting
7 of the Zoning Commission for the District of
8 Columbia.

9 My name is Anthony Hood. And I
10 think what I'm going to do this evening is ask
11 the dias if they would introduce themselves.
12 I will start to my far left and come right on
13 down to my right.

14 MR. BERGSTEIN: That's me. Far
15 left.

16 My name is Alan Bergstein, and I am
17 with the Office of the Attorney General for the
18 District of Columbia.

19 MS. SCHELLIN: Sharon Schellin,
20 Secretary to the Zoning Commission for the

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1 Office of Zoning.

2 COMMISSIONER TURNBULL: Michael
3 Turnbull representing the Architect of the
4 Capitol.

5 COMMISSIONER MILLER: Robert
6 Miller, Mayoral Appointee.

7 COMMISSIONER MAY: Peter May
8 representing the National Park Service.

9 MS. STEINGASSER: Jennifer
10 Steingasser, D.C. Office of Planning.

11 MR. LAWSON: Joel Lawson, D.C.
12 Office of Planning.

13 MR. GYOR: Stephen Gyor, D.C.
14 Office of Planning.

15 MR. GOLDSTEIN: Paul Goldstein,
16 D.C. Office of Planning.

17 MR. MORDFIN: Stephen Mordfin, D.C.
18 Office of Planning.

19 CHAIRMAN HOOD: Okay. Thank you,
20 everyone.

21 Copies of today's meeting agenda are

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1 available to you and are located in the bin near
2 the door.

3 We do not take any public testimony
4 at our meetings unless the Commission requests
5 someone to please come forward.

6 Please be advised this proceeding
7 is being recorded by a court reporter. It's
8 also webcast live.

9 Accordingly, we must ask you to
10 refrain from any disruptive noises or actions
11 in the hearing room. Please turn off all
12 beepers and cell phones.

13 Does the staff have any preliminary
14 matters?

15 MS. SCHELLIN: No, sir.

16 CHAIRMAN HOOD: If not, let us
17 proceed with the agenda.

18 Mr. Gyor, no, I did not forget your
19 name. I knew it. I just felt like everybody
20 could introduce themselves this evening. So
21 I don't want you to think I forgot your name.

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1 MR. GYOR: Thank you, sir.

2 CHAIRMAN HOOD: Okay. Let's go to
3 the Consent Calendar item.

4 Zoning Commission Case -- actually
5 what I would like to do is to move Zoning
6 Commission Case 03120-03130 and consolidate it
7 with the Final Action under A of the Final Action
8 if that's okay with everyone. Okay.

9 First, let me ask this. Does anyone
10 see any reason of the remaining Consent Calendar
11 items to come off of the Consent Calendar?

12 COMMISSIONER MILLER: Yes, Mr.
13 Chairman. I think Item B, Zoning Commission
14 Case No. 05-30C, Minor Modification to PUD at
15 Square 3719. The Office of Planning has
16 recommended that this is not a minor
17 modification and is recommended that it be set
18 down. So I think it should come off Consent
19 and be placed on the Hearing Action part of our
20 agenda.

21 CHAIRMAN HOOD: Okay. I would

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1 actually agree. We will make that D under
2 Hearing Action.

3 Any time we've been through this
4 before about what is a minor modification, I
5 don't think the issue about use here is not a
6 minor modification, and I think we need to have
7 a hearing on it. And I would agree with the
8 recommendation of the Office of Planning and
9 my colleague, Commissioner Miller.

10 Anyone else?

11 (No audible response.)

12 CHAIRMAN HOOD: Do we need to make
13 a motion to do that or just automatic?

14 MR. BERGSTEIN: That's automatic.

15 CHAIRMAN HOOD: Okay. So that will
16 be D under Hearing Action.

17 Okay. Next let's go to Zoning
18 Commission Case No. 06-11I/06-12I, George
19 Washington University Minor Modification to
20 PUD. This is the Campus Plan Advisory
21 Committee.

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1 Ms. Schellin?

2 MS. SCHELLIN: Yes, sir. This is
3 the request for a modification to Condition P-7
4 of Zoning Commission Order No. 06-11/06-12,
5 regarding the Campus Plan Advisory Committee.

6 At Exhibit 5, there's an Office of Planning
7 report which recommends approval of this
8 request.

9 CHAIRMAN HOOD: Okay. Thank you,
10 Ms. Schellin.

11 Commissioners, I look at Exhibit No.
12 1 in this particular Calendar item and how the
13 negotiation between the Chair of the ANC as well
14 as the University. And I read some of it and
15 I think as long as everyone's agreeable and the
16 parties think it will work in this manner, I
17 don't want to get down in the weeds and interfere
18 with it.

19 So I would recommend that we approve
20 -- unless there's some different discussion --
21 that we approve Consent Calendar item Zoning

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1 Commission Case No. 06-11I/06-12I, George
2 Washington University Minor Modification to the
3 PUD Campus Plan Advisory Committee and ask for
4 a second.

5 COMMISSIONER TURNBULL: Second.

6 CHAIRMAN HOOD: It's been moved and
7 properly seconded.

8 Any further discussion?

9 (No audible response.)

10 CHAIRMAN HOOD: Are you ready for
11 the question?

12 All those in favor?

13 (A CHORUS OF AYES.)

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

17 MS. SCHELLIN: Yes. Staff records
18 the vote four to zero to one to approve Final
19 Action on Zoning Commission Case 011I-012I.
20 And Commissioner Hood moving; Commissioner
21 Turnbull seconding; Commissioners May and

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1 Miller in support; Commissioner Cohen not
2 present, not voting.

3 CHAIRMAN HOOD: Okay. Thank you.

4 Let's go right into Final Action.

5 And I'm going to call both cases together.

6 Zoning Commission Case No. 09-03B,

7 Skyland Holdings, LLC, Two-Year PUD Time

8 Extension at Square 5632. And do you know what?

9 We're going to deal with this at the Hearing
10 Action. Okay? Is that okay?

11 (No audible response.)

12 CHAIRMAN HOOD: Okay. Now let me

13 go to Zoning Commission Case No. 10-12A, Tiber

14 Creek Associates, LLC, Two-Year Time Extension

15 for Projects at Square 601.

16 Ms. Schellin?

17 MS. SCHELLIN: Yes, sir. As you

18 stated, it is a Two-Year Time Extension to

19 November 12, 2014, in which to file a building

20 permit. At Exhibit 4, there's an Office of

21 Planning report which recommends approval.

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1 CHAIRMAN HOOD: Okay.

2 Commissioners, would you like to get us started?

3 Any comments?

4 COMMISSIONER MAY: Mr. Chairman, I
5 think it's a reasonable request, given the
6 explanation for why they need more time. And
7 the ANC supports it. So I would be ready to
8 vote in favor of this.

9 COMMISSIONER MILLER: I would
10 agree, Mr. Chairman.

11 CHAIRMAN HOOD: It looks like we
12 have three that agree. Somebody like to make
13 a motion?

14 COMMISSIONER MAY: I will make a
15 motion that we approve Zoning Commission Case
16 No. 10-12, Tiber Creek Associates, Two-Year Time
17 Extension for a Project at Square 601.

18 COMMISSIONER MILLER: Second.

19 CHAIRMAN HOOD: Okay. It's been
20 moved and properly seconded.

21 Any further discussion?

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1 (No audible response.)

2 CHAIRMAN HOOD: All those in favor.

3 (A CHORUS OF AYES.)

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

7 MS. SCHELLIN: The staff records
8 the vote four to zero to one to approve Final
9 Action of Zoning Commission Case No. 10-12A.
10 Commissioner May moving; Commissioner Miller
11 seconding; Commissioners Hood and Turnbull in
12 support; Commissioner Cohen not present, not
13 voting.

14 CHAIRMAN HOOD: Okay.

15 What I want to do is call both cases
16 at this time. I want to call Zoning Commission
17 Case No. 03-120/03-130, DCHA Minor Modification
18 at Square 767, 768 and 882.

19 Also I want to call Zoning
20 Commission Case No. 07-08B, Office of Planning
21 Text Amendments, Ballpark Parking Lots.

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1 Ms. Schellin?

2 MS. SCHELLIN: Yes, sir. With
3 regard to 03-120 and 03-130 being a contested
4 case, this is a carryover case from November
5 19th in which I believe it was Commissioner Cohen
6 asked for some additional information. At
7 Exhibit 8, there's a letter from the Applicant
8 advising that neither HUD nor the Steering
9 Committee is required to approve the Authority's
10 request under any of the governing documents
11 for the project. However, the Authority has
12 made both parties aware of its actions and
13 neither has any objections to the modification
14 request.

15 And then with regard to Case No.
16 07-08B, which is a rulemaking case, I don't think
17 I have anything -- oh, Exhibit 13, NCPC filed
18 a report and found that the text amendment would
19 not be inconsistent with the comp plan for the
20 National Capitol.

21 CHAIRMAN HOOD: Okay,

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1 Commissioner, let's open up any comments.

2 I guess we can do this all in one
3 motion as long as we consider both.

4 MR. BERGSTEIN: There's no reason
5 not to.

6 CHAIRMAN HOOD: Okay. Any
7 comments? Any additional comments?

8 Do we have a proxy on this? Okay.

9 I know that our colleague brought up the issue
10 which Ms. Schellin just spoke about. And I also
11 read it and I know we read it in our submissions.

12 But other than that, I was ready to
13 move. Would somebody like to make a motion on
14 both of them?

15 COMMISSIONER TURNBULL: Mr. Chair,
16 I would move that we approve Zoning Case 07-08B,
17 Office of Planning Text Amendment regarding
18 Ballpark Parking Lots, and Zoning Case No.
19 03-120/03-130, DCHA Minor Modification to PUD
20 at Squares 767, 768 and 882, and look for a
21 second.

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1 COMMISSIONER MILLER: Second.

2 CHAIRMAN HOOD: Okay. It's been
3 moved and properly seconded.

4 Any further discussion?

5 (No audible response.)

6 CHAIRMAN HOOD: All those in favor?

7 (A CHORUS OF AYES.)

8 CHAIRMAN HOOD: Not hearing any
9 opposition, Ms. Schellin, would you please
10 record the vote?

11 MS. SCHELLIN: Yes. Staff would
12 record the vote four to zero to one to approve
13 Final Action in Zoning Commission Case Nos.
14 07-08B and 03-120/03-130. Commissioner
15 Turnbull moving; Commissioner Miller seconding;
16 Commissioners Hood and May in support;
17 Commissioner Cohen not present, not voting.

18 CHAIRMAN HOOD: Okay.
19 Commissioners, what I would like to do is to
20 call D, E and F together, unless someone has
21 any objections.

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1 (No audible response.)

2 CHAIRMAN HOOD: Okay. Let me call
3 Zoning Commission Case No. 12-06, Case No.
4 12-12, Case No. 12-13.

5 Ms. Schellin?

6 MS. SCHELLIN: Staff has nothing
7 further to add on these and just ask that the
8 Commission consider action.

9 CHAIRMAN HOOD: Okay,
10 Commissioners, any comments?

11 (No audible response.)

12 CHAIRMAN HOOD: I would like to move
13 approval of Zoning Commission Case Nos. 12-06,
14 12-12 and 12-13, and ask for a second.

15 COMMISSIONER MILLER: Second.

16 CHAIRMAN HOOD: It's been moved and
17 properly seconded.

18 Any further discussion?

19 (No audible response.)

20 CHAIRMAN HOOD: All those in favor?

21 (A CHORUS OF AYES.)

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1 CHAIRMAN HOOD: Not hearing any
2 opposition, Ms. Schellin, would you please
3 record the vote?

4 MS. SCHELLIN: I'm sorry. I have
5 an absentee ballot for two of the three cases.
6 So I will call the vote separately for each
7 of the cases.

8 Staff calls the vote five to zero
9 to zero to approve Final Action of Zoning
10 Commission Case No. 12-06. Commissioner Hood
11 moving; Commissioner Miller seconding;
12 Commissioners Cohen, May and Turnbull in
13 support.

14 Staff records the vote four to zero
15 to one in Zoning Commission Case No. 12-12.
16 Commissioner Hood moving; Commissioner Miller
17 seconding; Commissioners May and Turnbull in
18 support; Commissioner Cohen not present, not
19 voting.

20 Staff records the vote five to zero
21 to zero in Zoning Commission Case No. 12-13.

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1 Commissioner Hood moving; Commissioner Miller
2 seconding; Commissioners Cohen, May and
3 Turnbull in support; Commissioner
4 Cohen voting in both of those cases by absentee
5 ballot.

6 CHAIRMAN HOOD: Okay. Are we
7 ready, Ms. Schellin? Are we ready? Okay.

8 Let's go to Zoning Commission Case
9 No. 12-09, NJA Associates and St. Matthews
10 Church, Capitol Gateway Overlay Review -- CG
11 Overlay Review -- at Square 743N.

12 Ms. Schellin?

13 MS. SCHELLIN: Yes, sir. I think
14 on this one there were some additional documents
15 that came in that the Commission left the record
16 open for. There was a post-hearing submission
17 in Exhibit 21. And then ANC-6D made a
18 submission actually the record was asked to be
19 re-opened for and the Commission did grant that
20 request. And you have that Exhibit 23 and 24.

21 CHAIRMAN HOOD: Okay.

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1 Commissioners, any response to what we received
2 -- Exhibit 21 or the ANC 6D letter at 24?

3 Did anyone bring up the issue about
4 the elm tree? I'm just trying to think, was
5 that --

6 COMMISSIONER MAY: About the what?

7 CHAIRMAN HOOD: The elm tree.

8 COMMISSIONER MAY: Oh. Hadn't
9 heard that before.

10 CHAIRMAN HOOD: I'm not sure what
11 we think or I'm not sure where this came from
12 other than the ANC letter. I'm not sure if it
13 was part of testimony.

14 I know we're perusing those items.
15 But also the ANC, I'm just looking here about
16 the elm tree. "We asked the development team
17 to take care to save the large elm tree currently
18 located in a treebox strip on New Jersey Avenue
19 near the intersection with M Street, SE."

20 COMMISSIONER TURNBULL: Mr. Chair

21 --

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1 CHAIRMAN HOOD: Okay. I'm sorry.

2 COMMISSIONER TURNBULL: I guess I
3 was jumping ahead to Exhibit 24, the ANC's letter
4 with the vote.

5 CHAIRMAN HOOD: Okay. I went back
6 to the vote.

7 COMMISSIONER MAY: Yes. And it's
8 confusing. To me, it's no action. There's
9 nothing you can get from this voting that tells
10 you anything other than whatever they had done
11 before stays the same.

12 It's like we have a tie up here.
13 There's no action.

14 CHAIRMAN HOOD: So what we have here
15 -- and I guess Mr. Bergstein is in the record
16 -- what we have here, Mr. Turnbull is exactly
17 right. There's no action from the previous
18 opposition.

19 COMMISSIONER TURNBULL: That's my
20 take on this.

21 MR. BERGSTEIN: I'd agree. In

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1 other words, the characterization in the letter
2 that the ANC voted against returning our present
3 position, I don't think that's a fair
4 characterization of a three, three, one vote.

5 In essence, whatever motion there was did not
6 carry. And that's the only relevance of the
7 vote.

8 COMMISSIONER MAY: I think what we
9 can take out of what the ANC has provided is
10 that while before they were strongly opposed,
11 the second time around when they voted on it,
12 they were not as strongly opposed. But what
13 we received most recently doesn't significantly
14 change anything because their official vote in
15 the record is in opposition.

16 CHAIRMAN HOOD: Okay. That's one
17 way of looking at it. I didn't look at it that
18 way. It just looked like there was no movement.

19 But that is one way. I guess three
20 Commissioners changed the view with some of the
21 things that have been proposed from the

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1 additional comments.

2 Commissioner Miller?

3 COMMISSIONER MILLER: I would just
4 note, Mr. Chairman, that the Applicant did
5 submit revised architectural plans which
6 responds to some of which the response to the
7 ANC's concerns but also responds to the concerns
8 of the rest of my fellow Commissioners. There's
9 more detail on the rooftop landscaping, for
10 example.

11 COMMISSIONER MAY: I would agree.
12 They addressed a number of the issues and
13 provided clarity where things were a little bit
14 vague or inconsistent in the drawings
15 previously. And they addressed a number of the
16 comments that OP had raised that were
17 particularly relevant to this type of review
18 since it's just a Gateway Overlay review.

19 There is one issue that they
20 responded to which I found completely
21 unconvincing. And that was the accessory use

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1 question. And I wrote a note in my records that
2 the Office of Planning was going to work with
3 the Applicant and with DCRA to try to find
4 greater clarity on that because it seems like
5 it's a lot more accessory use on a rooftop
6 structure than we ordinarily see. I mean, I'm
7 accustomed to seeing restrooms and a corridor
8 that leads to an elevator, not a party room in
9 a penthouse. Not that I'm opposed to such
10 things, it's just that I'm not sure that the
11 zoning regulations allow that or the height for
12 that matter. So I was hoping to get greater
13 clarity on that from the Office of Planning,
14 and I didn't see a submission that addresses
15 that. I just see what the Applicant submitted,
16 which as I said before, is unconvincing.

17 COMMISSIONER TURNBULL:
18 Commissioner May, I would go along with your
19 comments.

20 I don't object to activities on the
21 roof. I mean I think we all want to see the

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1 roofs of our buildings become better used,
2 become more attractive, become an integral part
3 of the building itself. And I'm not objecting
4 to it. I guess what I'm concerned about is
5 there's clarity in trying to determine -- I
6 really love the ziggurat effect where we have
7 our setbacks by the zoning regs, but we also
8 have these mini platforms which develop which
9 can be three feet, four feet, five feet. So
10 we have this stepping of the roof at different
11 levels. And we didn't cover that anywhere as
12 how far you can create artificial levels on the
13 roof for use and which goes into party rooms
14 and more activity which I think somehow we need
15 to look at that at some point and just clarify
16 for not only developers, Applicants coming, but
17 for ourselves as to how far you go in developing
18 the roof and to what extent, what setbacks and
19 what levels you can create.

20 I think we all want to see use on
21 the roof. I don't think we want to inhibit it

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1 as per the regulations. But we need to be clear
2 on what we actually allow up on the roofs.

3 COMMISSIONER MAY: I guess I'm not
4 as troubled by having those raised platforms
5 that make some portions of the roof a little
6 bit more usable when it allows a rooftop pool
7 or something like that. It does raise a
8 question to whether that's a rooftop structure
9 that needs relief, not necessarily because it
10 doesn't meet setback requirements but because
11 it does create multiple rooftop structures of
12 varying heights.

13 And I don't know that we've ever
14 really looked at it that way, but I think it
15 has to be considered that way.

16 COMMISSIONER TURNBULL: And I'm not
17 arguing with you. I'm just saying how many of
18 those can you have.

19 COMMISSIONER MAY: Yes. And I
20 think the really -- the bigger issue here is
21 that there's a large party room and yet they're

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1 asking for setback relief on part of the
2 mechanical penthouse. It seems to me the first
3 thing that you should be doing is meeting the
4 setback requirements, and then if there's room
5 left over for accessory use --

6 COMMISSIONER TURNBULL: You can
7 then --

8 COMMISSIONER MAY: -- you can live
9 with them.

10 But again, I still don't have
11 comfort with the notion of having this large
12 a community room or party room on the roof when
13 we're not allowed habitable space there. And
14 I don't think -- again, what the Applicant
15 submitted to address the habitable space issue
16 I found unconvincing.

17 COMMISSIONER TURNBULL: Well,
18 maybe we can ask the Office of Planning to weigh
19 in on this.

20 COMMISSIONER MAY: I would be very
21 pleased to hear from the Office of Planning on

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1 this topic.

2 CHAIRMAN HOOD: Let me ask. Is
3 this something that we want? Because here's
4 what I'm trying to go at. I kind of like the
5 way this conversation's going even though I
6 don't necessarily go along with everything about
7 the architecture because what I would like for
8 us to do -- you're always trying to bridge the
9 gap a little bit and bring it closer together
10 -- and I'm just concerned about a few things
11 here with the ANC has for us to look at, and
12 in particularly the last one.

13 And if we're going to ask for the
14 Office of Planning to give us comments, I would
15 also like to ask the Applicant, or somebody,
16 to clarify what's going on with this tree --
17 this large tree that's being asked by the
18 community to be preserved. And it may be a later
19 point where that happens. But I think they're
20 asking us, and I'd like to just go down the road
21 and try to see if that is a possibility.

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1 And I don't even want to go back to
2 have a hearing to see whether or not the ANC
3 has already asked the Applicant. But I just
4 would be curious.

5 So I guess what I'm saying is I'm
6 more in tune to find that out as opposed to some
7 of the discussion I have. So I would like for
8 us -- if you all don't mind -- to maybe hold
9 this off and get those responses.

10 Commissioner Miller, you look like
11 you're ready to move forward.

12 COMMISSIONER MILLER: I was ready
13 to move forward. But I think it would be helpful
14 to have probably more information from the
15 Office of Planning in general on what was
16 provided by the Applicant in terms of the legal
17 argument saying that it was permissible.

18 I think it's a very attractive roof.

19 I hope I get invited up there someday.

20 CHAIRMAN HOOD: I actually like the
21 roof. But I'm trying to get to this other point.

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1 COMMISSIONER MILLER: And this is
2 a project that has a significant amount of
3 residential housing and retail. It is very
4 attractive and will help the continuing
5 revitalization of this neighborhood.

6 But I'm prepared to go along with
7 holding off for more information if that's the
8 desire of the Commission.

9 CHAIRMAN HOOD: And can we get that
10 information by Thursday?

11 MR. BERGSTEIN: Probably not.

12 But I just would remind the
13 Commission that historically it hasn't involved
14 itself in Height Act issues unless there's a
15 fairly blatant violation shown, that the issue
16 of whether or not the space is permitted under
17 the Height Act and whether or not it violates
18 the prohibition of human occupancy for roof
19 structures that are subject to Height Act
20 waivers is really within the exclusive domain
21 of the Zoning Administrator. It's not governed

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1 by the zoning regulations. And even if I were
2 to say it's okay, it doesn't mean the Zoning
3 Administrator would disagree.

4 So generally speaking, Height Act
5 issues often get raised in planning developments
6 usually by NCPD. And the general response --
7 which I can share with you if I could find that
8 orders is that unless there's an absolute
9 blatant Height Act violation, you defer to the
10 Zoning Administrator.

11 So before you ask something of
12 myself and the Office of Planning, I just want
13 to point out that precedent to you.

14 COMMISSIONER MAY: I think I
15 understand that, but obviously there's a
16 relationship between our regulations and
17 penthouses and use of penthouses and the Height
18 Act. There is a relationship there.

19 And we did ask for just clarity from
20 DCRA on whether this is something that they would
21 ordinarily permit. And that's really all I was

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1 trying to find out because I do not recall us
2 voting to approve a rooftop structure with this
3 much habitable space in it. I don't see any
4 other way around it.

5 So that's what I'm seeking clarity
6 on. I don't know that I could get it from you.

7 That's why I thought the Office of Planning
8 was working on it. That's what my notes
9 indicated.

10 MR. BERGSTEIN: Then I guess
11 perhaps you could ask the Office of Planning
12 if they have the materials to provide to you
13 because it'd be very difficult for me to start
14 that from scratch and provide it to you by
15 Thursday.

16 CHAIRMAN HOOD: Well, because I
17 think Thursday is our last hearing date, I was
18 just trying to accommodate so we wouldn't carry
19 anything over to the new year.

20 COMMISSIONER MAY: Well, were
21 you're trying to get clarity on the ANC's issues

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1 as well?

2 CHAIRMAN HOOD: Yes, I actually
3 did. And --

4 COMMISSIONER MAY: I don't see how
5 that can happen by Thursday. I mean, does that
6 not require the ANC providing something in
7 addition?

8 CHAIRMAN HOOD: Well, let me ask
9 this. Does anybody else feel that strongly
10 about the ANC's letter? I mean, we want to
11 address the rooftop and what's going on up there.

12 I don't need comments from the ANC. It's
13 already here. I just need comments from the
14 Applicant if we were going to do that.

15 COMMISSIONER MAY: I understood the
16 concerns of the ANC. I wasn't sure that they
17 were really that relevant because we were going
18 beyond what would ordinarily be required for
19 a capitol gateway overlay issue.

20 CHAIRMAN HOOD: Okay.

21 Let me ask this. Does anyone --

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1 because I'm the only one and I can count -- does
2 anyone else have any issues what I'd like to
3 see or stay within the realms of the CG overlay?

4 Does anybody else share that issue?

5 (No audible response.)

6 CHAIRMAN HOOD: Okay.

7 COMMISSIONER MAY: I do still have
8 -- I mean, I have an open issue on the accessory
9 use question. And I'd like to hear from the
10 Office of Planning.

11 CHAIRMAN HOOD: On that issue, yes.

12 COMMISSIONER MAY: Yes.

13 CHAIRMAN HOOD: That issue is still
14 in the parking lot.

15 COMMISSIONER MAY: Okay.

16 CHAIRMAN HOOD: Okay.

17 COMMISSIONER MILLER: If we're
18 going to hold a delay for that issue, I don't
19 see why we can't get something from the Applicant
20 saying what their response is to the elm tree
21 issue.

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1 COMMISSIONER MAY: We could ask the
2 Office of Planning if they're prepared to
3 respond to it right now. If they're not, then
4 they can delay.

5 CHAIRMAN HOOD: See, I don't want
6 to respond right now. But see, I don't want
7 to predicate my issue on whether they respond
8 tonight or not. I think either this is an issue
9 that we need to deal with. If not -- if
10 everybody's not where I am on this -- and the
11 Office of Planning's satisfied on the issues,
12 then we can move forward.

13 This is not a showstopper for me.
14 I just need to know where the Applicant is.

15 Okay. Am I to proceed and ask the
16 Office of Planning, Ms. Steingasser or Mr.
17 Lawson?

18 MS. STEINGASSER: I'm not sure
19 we're going to cast any light on this issue.

20 Unfortunately we have to apologize.
21 We did not understand that you were waiting

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1 for that kind of response from the Office of
2 Planning. So we did not reach out to DCRA on
3 the issue.

4 COMMISSIONER MAY: So, can I just
5 ask you whether -- I think it might have been
6 mentioned in your report. In any case, I made
7 a note in the front of your report. It says,
8 "define accessory recreational use area" in the
9 heading of your report. And we're not going
10 into to that reading through it.

11 What is your level of comfort with
12 the accessory use or the extent of the accessory
13 use? Is this something that seems perfectly
14 consistent with past projects to you?

15 MS. STEINGASSER: It is something
16 we've seen consistently used in past projects.

17 I don't have the sense of how large this is
18 compared to others in the past.

19 COMMISSIONER MAY: All right. If
20 you could have said yes, this is consistent with
21 what we've seen in other projects that have been

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1 approved, I would be more comfortable. But I'm
2 not comfortable, particularly, since they're
3 asking for relief having to do with setbacks.

4 If they weren't asking for setback relief, my
5 first reaction to this is well, shrinking the
6 recreational space and don't ask for relief on
7 that. Why are we allowing them to have relief
8 from setback requirements when it seems like
9 there's ample space on the roof to be able to
10 accommodate the mechanical equipment?

11 CHAIRMAN HOOD: Ms. Schellin,
12 should I call on legal proxy on this case?

13 MS. SCHELLIN: Not on this case.

14 CHAIRMAN HOOD: All right. So why
15 don't we try to -- I know with the holiday season
16 coming, I guess it wouldn't do any good to have
17 a special public meeting. So it looks like
18 we're going to have to carry this over into
19 January, unfortunately. And I do apologize.

20 But since we're doing that, giving
21 some Office of Planning some time as well as

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1 maybe give the Applicant a little time to maybe
2 -- we don't need a whole dissertation or a whole
3 lot -- just a little bit of responding necessary
4 to some of the concerns if they have it.

5 Mainly for me, it's this last one.

6 I'm not sure if the record even talked about
7 that. I don't know if we're going out of our
8 way. But since we're going down that road, I
9 would just ask the Applicant to respond. If
10 I don't see anything, then I'll understand.
11 Okay?

12 MS. SCHELLIN: We don't need
13 anything from the ANC?

14 CHAIRMAN HOOD: No.

15 MS. SCHELLIN: So they could just
16 provide something by January 7th and we can put
17 it on the January 14th agenda -- the first
18 meeting. Even though that's kind of full, we
19 can accommodate them.

20 CHAIRMAN HOOD: Yes. We can start
21 five minutes early to accommodate them. It will

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1 be done.

2 Okay. So that's where we are. Any
3 other questions on this? Mr. Miller?

4 COMMISSIONER MILLER: I would just
5 add that as long as the Applicant now is having
6 to provide something, maybe the Applicant can
7 also respond to the question Commissioner May
8 was asking about whether there are other similar
9 size party rooms that have been part of rooftop
10 structures elsewhere so that we can have that
11 context.

12 CHAIRMAN HOOD: Okay. I think
13 we're all on the same page. And we have the
14 dates.

15 Do we need to do anything else on
16 this? Okay.

17 We're going to take this up January
18 14th.

19 Okay. Let's go into Proposed
20 Action, Zoning Commission Case No. 12-10. This
21 is an Office of Planning Text Amendment for the

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1 GAR.

2 Ms. Schellin?

3 MS. SCHELLIN: Yes, sir.

4 The only thing I have to add is that
5 there's a supplemental OP report at Exhibit 10.

6 CHAIRMAN HOOD: Okay.

7 Commissioners, we have a supplemental report
8 from the Office of Planning with the new
9 revisions that were proposed. And I think a
10 lot of discussion has been had, but I'll open
11 it up for comments. Any additional discussion?
12 And I can wait a moment.

13 COMMISSIONER TURNBULL: Mr. Chair,
14 just as a preliminary matters, I need to point
15 out that although I wasn't here for the hearing,
16 I did read the record on this. So I will be
17 voting.

18 CHAIRMAN HOOD: Okay.

19 Did we say anything bad about this?
20 Anybody say anything bad about this?

21 COMMISSIONER TURNBULL: I don't

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1 think so. I think the transcript was pretty
2 clear. I don't think anybody really made any
3 offensive remarks about me. And I appreciate
4 that.

5 COMMISSIONER MILLER: Mr.
6 Chairman, I would move approval of Zoning
7 Commission Case 12-10, the Office of Planning
8 text amendments regarding green area ratio and
9 pervious surface parking lots landscaping
10 standards, and with the provisions that OP had
11 provided in their supplemental report.

12 CHAIRMAN HOOD: Okay. It's been
13 moved. Do we have a second?

14 COMMISSIONER TURNBULL: Second.

15 CHAIRMAN HOOD: It's been moved and
16 properly seconded.

17 Any further discussion?

18 (No audible response.)

19 CHAIRMAN HOOD: All those in favor?

20 (A CHORUS OF AYES.)

21 CHAIRMAN HOOD: Not hearing any

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1 opposition, Ms. Schellin, would you please
2 record the vote?

3 MS. SCHELLIN: Yes. I'll record an
4 absentee ballot from Commissioner Cohen. So
5 the vote would be five to zero to zero to approved
6 Proposed Action of Zoning Commission Case No.
7 12-10. Commissioner Miller moving;
8 Commissioner Turnbull seconding; Commissioners
9 Cohen, Hood and May in support.

10 CHAIRMAN HOOD: Okay. Next is
11 Zoning Commission Case No. 12-11. This Office
12 of Planning text amendments offers various
13 administrative amendments to our current
14 regulations.

15 Ms. Schellin?

16 MS. SCHELLIN: Yes, sir. On this
17 case, we also have an OP supplemental report
18 at Exhibit 13.

19 CHAIRMAN HOOD: Okay,
20 Commissioners, Exhibit 13. I think we hashed
21 out a number of issues, but let's re-visit that

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1 and refresh our memories.

2 Any comments right off?

3 And Ms. Steingasser, can I ask you
4 the public benefits criteria? To make a long
5 story short, is this achieving what we talked
6 about over the years as far as the public
7 benefits and how monetary gifts are given to
8 certain organizations or not given to
9 organizations and how it's being administered?

10 Do we feel confident that this will take care
11 of some of that?

12 MS. STEINGASSER: Yes, sir, we do.

13 CHAIRMAN HOOD: All right. Okay.

14 Any other questions, Commissioners?

15 COMMISSIONER MAY: Are we
16 considering -- under 2403.6, it seemed like
17 there was some alternative language having to
18 do with monetary contributions. CHAIRMAN HOOD:

19 CHAIRMAN HOOD: I don't know. And
20 my colleagues, I'm not sure how we got to that
21 point. And I would agree with Commissioner May,

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1 and I appreciate him bringing up that point.

2 One of the issues is are we going
3 to advertise one -- if you look at 243.6C, we
4 have "or," which is the advertise. I don't
5 know. Can we advertise both? Or is there a
6 reason we're not going to do that?

7 MR. BERGSTEIN: One suggestion that
8 I've heard from one of the Commissioners is to
9 modify this so that it's basically not an
10 alternative anymore but in the affirmative,
11 basically monetary contributions would be
12 permissible under two circumstances: one,
13 where they would go to a government program;
14 and two, where the Applicant agrees that they
15 cannot seek or obtain a certificate of occupancy
16 unless they prove that the monetary contribution
17 has actually resulted in a deliverable item
18 promised.

19 So rather than being the
20 alternative, we can actually combine the
21 concepts into one consistent phrase, if that

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1 would work for the Commission.

2 COMMISSIONER MILLER: Mr.
3 Chairman, I would support that combination for
4 the monetary contributions to make them
5 permissible but only under those certain
6 circumstances.

7 CHAIRMAN HOOD: And we're standing
8 on both -- both of the ors.

9 COMMISSIONER MILLER: Either/or.
10 Yes.

11 CHAIRMAN HOOD: Okay. Either/or.
12 Okay. I can agree with that. Okay. The way
13 it's stated here now, it has some problems.
14 But I can agree with the way it is now.

15 Any other concerns or questions,
16 comments?

17 (No audible response.)

18 CHAIRMAN HOOD: Okay. So I guess
19 it's ready. I would move to approve Zoning
20 Commission Case 12-11, Office of Planning text
21 amendment with the caveat of the discussion just

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1 had up here by my colleagues. And ask for a
2 second.

3 COMMISSIONER MILLER: Second.

4 CHAIRMAN HOOD: It's been moved and
5 properly seconded.

6 Any further discussion?

7 (No audible response.)

8 CHAIRMAN HOOD: Are you ready for
9 the question?

10 All those in favor?

11 (A CHORUS OF AYES.)

12 CHAIRMAN HOOD: Not hearing any
13 opposition, Ms. Schellin, would you please
14 record the vote?

15 MS. SCHELLIN: Yes. Staff records
16 the vote five to zero to zero to approve Proposed
17 Action of Zoning Commission No. 12-11.
18 Commissioner Hood moving; Commissioner Miller
19 seconding; Commissioners Cohen, May and
20 Turnbull in support. Commissioner Cohen voting
21 by absentee ballot.

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1 CHAIRMAN HOOD: Okay. Next,
2 Zoning Commission Case No. 11-03A, the
3 Hoffman-Struever Waterfront, LLC, 2nd-Stage PUD
4 at Southwest Waterfront. This is only Parcels
5 11A, 11B and Waterfront Park.

6 Ms. Schellin?

7 MS. SCHELLIN: Yes, sir. There was
8 a request to re-open the record that was filed
9 by Mr. Solon which was denied. However, Mr.
10 Solon did ask that the Commission reconsider
11 his request. So I asked Chairman Hood if that
12 request would be reconsidered.

13 CHAIRMAN HOOD: Ms. Schellin, I
14 will not reconsider that request. But I will
15 see if my colleagues want to do something
16 different. But no, I'm not going to reconsider
17 that.

18 Anybody else like to open it?

19 (No audible response.)

20 CHAIRMAN HOOD: Okay.

21 MS. SCHELLIN: Okay. As you'll

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1 recall, this was the fourth part of this case.

2 And the Commission did not take action at the
3 last meeting. They asked for some additional
4 information from the Applicant, and the parties
5 had an opportunity to respond to that
6 information only. Their submittals are before
7 you. And your consideration on Proposed Action
8 on this portion of the case would be appreciated.

9 CHAIRMAN HOOD: I just want to
10 comment on a few of the submissions that we got
11 that I think went I think far beyond what we
12 asked for. And we do that because the other
13 issues -- traffic -- we've exhausted up here
14 on how we want to deal with the traffic and other
15 issues. And to rehash the case sometime is a
16 missed opportunity because we have fully vetted,
17 what we think, and with the evidence and the
18 merits of the record.

19 I was just kind of disappointed.
20 I'm not going to say with all. I think the ANC
21 6D letter was in line with what we asked for.

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1 But I'm not going to call other organizations.

2 But this went well above the scope.

3 And the way this proceeded, if folks
4 are upset with this, I understand. We didn't
5 do it exactly the way that you presented it.
6 We do try to mitigate it to make it work, and
7 we go by the evidence. So some of this I think
8 went well beyond the scope. And I'll open it
9 my colleagues if they want to comment. But some
10 of this went well above what we asked for.

11 So I'll just leave it at that.
12 Enough said.

13 Okay. Let me open it up.
14 Comments? Commissioner May?

15 COMMISSIONER MAY: Yes. I would
16 say that what the Applicant submitted was
17 absolutely a very positive step. It's what I
18 had in mind I think when we first talked about
19 making that particular facade more friendly and
20 comfortable within the context. And what we
21 saw last time was an effort but I didn't think

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1 a very successful effort to do that. So what
2 we see now I think is very successful. It did
3 involve moving the building five feet to the
4 west -- west, right? And that constricted Water
5 Street a bit, but I think it's still reasonable
6 and street width and I think the net result is
7 a significant improvement, and the ANC clearly
8 recognized that.

9 So I'm pleased with this result, and
10 I agree with the rest of what we had received
11 in the further submissions, while most all of
12 them acknowledged this change and some thought
13 it was a positive step, no one though it was
14 really great. I don't know whether it's really
15 great. But I think it was a very, very positive
16 thing. And so I'm now comfortable moving ahead
17 with this portion of the project.

18 CHAIRMAN HOOD: Okay. Any other
19 comments? Commissioner Turnbull?

20 COMMISSIONER TURNBULL: I would
21 just echo the comments of my colleague,

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1 Commissioner May, and look at the letter from
2 ANC 6D from Chair Andy Litsky. And they of
3 course had been commenting upon the same issue.

4 And his letter says, "The addition
5 of the entrances to the second-floor units do
6 not provide the appearance of a more
7 townhouse-condo development that had been
8 promised rather than the flat face of a
9 five-story apartment building. This will
10 contribute mightily toward the enhancing the
11 building's overall aesthetic appeal as well as
12 the ANC's goal of more activity and more eyes
13 on the street. The ANC 6D encourages the
14 Commissioners to support the inclusion of these
15 newest design elements within the plans for
16 Parcel 11A and request that you continue to
17 provide our advice great weight in this matter."

18 CHAIRMAN HOOD: Okay. And I also
19 am prepared to do just that.

20 Any further discussion?

21 COMMISSIONER MILLER: I would just

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1 note, I am not a participant in this particular
2 case as it started before my time here, and I
3 have not reviewed the hearing record.

4 CHAIRMAN HOOD: All right. Any
5 other comments?

6 (No audible response.)

7 CHAIRMAN HOOD: Okay. Would
8 somebody like to make a motion?

9 COMMISSIONER TURNBULL: Mr. Chair,
10 I would move that we approve Zoning Case No.
11 11-03A, Hoffman-Struever Waterfront, LLC,
12 2nd-Stage PUD at Southwest Waterfront, Parcel
13 11A, Parcel 11B and Waterfront Park.

14 CHAIRMAN HOOD: Okay. I'll second
15 that.

16 Any further discussion?

17 (No audible response.)

18 CHAIRMAN HOOD: All those in favor?

19 (A CHORUS OF AYES.)

20 CHAIRMAN HOOD: Not hearing any
21 opposition, Ms. Schellin, would you please

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1 record the vote?

2 MS. SCHELLIN: Yes. Staff records
3 the vote three to zero to two to approve Proposed
4 Action in Zoning Commission Case No. 11-03A with
5 regard to Parcel 11A, Parcel 11B and the
6 Waterfront Park. Commissioner Turnbull
7 moving; Commissioner Hood seconding;
8 Commissioner May in support; Commissioner Cohen
9 not present, not voting; Commissioner Miller
10 not voting having not participated.

11 And if the parties are in the
12 audience, if they would please come forward,
13 I have a procedural order to give them a copy
14 of.

15 CHAIRMAN HOOD: Are we ready, Ms.
16 Schellin? Okay.

17 And again, I'm going to be calling
18 -- we had a Final Action. I'm going to call
19 both of the cases together. Let's call under
20 Hearing Action Zoning Commission Case No.
21 09-03A, Skyland Holdings, LLC, PUD Modification

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1 at Square 5632, 5633, 5641, 5641N and various
2 parcels.

3 Also Zoning Commission Case No.
4 09-03B, Skyland Holdings, LLC, Two-Year Time
5 Extension at Square 5632, et cetera. So I guess
6 all the other parcels are included.

7 So let's do that and let's go to Ms.
8 Brown-Roberts.

9 MS. BROWN-ROBERTS: Good evening,
10 Mr. Chairman and Members of the Commission.
11 Again, I'm Maxine Brown-Roberts.

12 Skyland Holdings on behalf of the
13 District of Columbia requests various
14 modification to Zoning Commission 09-03. The
15 proposed town center consists of five district
16 blocks, and the modifications proposed
17 generally include a reassessment of the parking
18 needs which has resulted in a reduction in the
19 number of parking spaces from approximately
20 1,698 to 1,406 spaces, with a reduction of
21 approximately 300 spaces.

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1 A specific retailer, which is
2 Walmart, has been identified for block 1 where
3 big-box retail is proposed. And they requested
4 modification to the architecture of the
5 below-grade parking, the placement of in-line
6 retail uses.

7 The Office of Planning has some
8 concerns about the changes to the screening of
9 the rooftop garage which would now allow
10 vehicles to be seen from the pedestrian level
11 and also reduction in the in-line retail along
12 Naylor Road which reduces the street activation.

13 The Office of Planning will work with the
14 Applicant to address these issues.

15 Block 2 has been reconfigured to
16 have a centralized retail parking for Blocks
17 2, 3 and 4, a new private alley, improvement
18 to pedestrian access and additional green roofs.

19 On Block 3, there has been a change in the
20 townhouse units to provide duplex units instead.

21 And also on Block 5, there's been a reduction

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1 in the number of townhouses in order to
2 accommodate a realignment of the residential
3 road and the replacement of townhouses with
4 duplex units on Block 3.

5 There's also been the RCN cable
6 facility which has been removed as it is no
7 longer needed. And this has allowed some
8 opening up of some open space between the
9 residential use and Akron Place.

10 The landscaping of the air between
11 the buildings and adjacent residences to the
12 east and north have been greatly enhanced and
13 improved with redesigned retaining walls and
14 provision of green screens and additional
15 vegetation.

16 The only flexibility that the
17 Applicant has requested is to allow retail
18 parking that was required for Blocks 3 and 4
19 are now going to be accommodated on Block 2.

20 The Applicant continues to be
21 committed to all the benefits and amenities

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1 approved, and there are no changes are proposed.

2 With the proposed modification, the proposal
3 will continue to meet the policies and
4 objectives of the Comprehensive Plan and
5 therefore, the Office of Planning recommends
6 that the requested modification of the Zoning
7 order be set down for public hearing.

8 Thank you, Mr. Chairman.

9 CHAIRMAN HOOD: Okay, Ms.
10 Brown-Roberts.

11 Commissioners, any questions for
12 Ms. Brown-Roberts?

13 (No audible response.)

14 CHAIRMAN HOOD: I do have a question
15 for Mr. Bergstein.

16 We're setting this down, and then
17 are we're not setting down the two-year time
18 limit?

19 MR. BERGSTEIN: No. What you would
20 be doing is basically granting the Applicant's
21 request to defer consideration of the time

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1 extension until you take final action on the
2 modification.

3 CHAIRMAN HOOD: Got you. Okay.

4 So now depending upon what happened
5 at the hearing, there actually may not be an
6 issue to deal with the two-year time extension
7 until a later time?

8 MR. BERGSTEIN: Only if you denied
9 it.

10 CHAIRMAN HOOD: Okay. All right.

11 Okay.

12 Commissioners, any comments?

13 Thank you, Mr. Bergstein?

14 Any comments or questions --
15 comments or questions of Ms. Brown-Roberts?

16 COMMISSIONER MILLER: I have a
17 question, Mr. Chairman.

18 The reduction of the in-line retail
19 that you're expressing concern about, that's
20 because they've reconfigured where the loading
21 is for the retail for the WalMart, and so it's

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1 going to be underneath that area?

2 MS. BROWN-ROBERTS: Yes. There
3 has been some reconfiguration of that building.
4 Yes.

5 COMMISSIONER MILLER: And so have
6 you had opportunity to have discussions with
7 the Applicant about whether they --

8 MS. BROWN-ROBERTS: I have told
9 them about that we have some concerns about it.
10 But we haven't had a discussion on how to
11 rectify that situation.

12 COMMISSIONER MAY: Right. So we
13 don't know whether or not if it could be moved
14 further back and then still be able to have the
15 retail?

16 MS. BROWN-ROBERTS: Right. We
17 haven't had that discussion.

18 COMMISSIONER MILLER: And did they
19 have any reaction to your concern about being
20 able to see the cars on the roof now from the
21 pedestrian level because of a reduction in the

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1 height of the screening? Why was the screening
2 height reduced?

3 MS. BROWN-ROBERTS: I don't know.

4 Again, I told them about it, but we haven't
5 had any response on it as yet.

6 COMMISSIONER MILLER: That seems
7 like it might be more easily rectified.

8 Mr. Chairman, at the appropriate
9 time, I'm prepared to move that we setdown this
10 case for hearing.

11 CHAIRMAN HOOD: Any other comments?

12 COMMISSIONER TURNBULL: I want to
13 say that Ms. Brown-Roberts that you're going
14 to continue to work with the Applicant on those
15 issues.

16 MS. BROWN-ROBERTS: That's
17 correct.

18 COMMISSIONER TURNBULL: Okay.

19 Thank you.

20 CHAIRMAN HOOD: Good.

21 Commissioner Miller, we'll take a motion.

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1 COMMISSIONER MILLER: I would just
2 move to set down for hearing Zoning Commission
3 Case No. 09-03A, Skyland Holdings, LLC, PUD
4 Modification at Squares 5632, 5633, 5641, 5641
5 North and various other parcels. That would
6 be my motion. Within that is deferral of the
7 -- or we don't have to reference the two-year
8 extension?

9 MR. BERGSTEIN: I was going ask that
10 you add that in deferral of the time extension
11 until final consideration.

12 COMMISSIONER MILLER: So I move we
13 set down the case and defer the action on the
14 two-year extension of the PUD.

15 CHAIRMAN HOOD: Okay. I will
16 second that.

17 It's been moved and properly
18 seconded.

19 Any further discussion?

20 (No audible response.)

21 CHAIRMAN HOOD: All those in favor?

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1 (A CHORUS OF AYES.)

2 CHAIRMAN HOOD: Not hearing any
3 opposition from those present, Ms. Schellin,
4 would you please record the vote?

5 MS. SCHELLIN: Yes. Staff would
6 record the vote four to zero to one to set down
7 Zoning Commission Case No. 09-03A as a contested
8 case and to defer Zoning Commission action in
9 the two-year time extension request in Zoning
10 Commission Case 09-03B. Commissioner Miller
11 moving; Commissioner Hood seconding;
12 Commissioners May and Turnbull in support;
13 Commissioner Cohen not present, not voting.

14 CHAIRMAN HOOD: Okay. Let's go to
15 Zoning Commission Case No. 12-20. This is the
16 13th and & Lessee, LLC, Consolidated PUD and
17 Related Map Amendment at Square 237.

18 Mr. Gyor?

19 MR. GYOR: Good evening, Mr.
20 Chairman, Members of the Commission.

21 OP recommends setdown for a public

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1 hearing of the application for a consolidated
2 PUD and PUD-related map amendment to facilitate
3 re-development of the property at the southwest
4 corner of 13th and U, NW.

5 The Applicant proposes to replace
6 a one-story retail structure with an eight-story
7 mixed-use building dedicated to residential
8 uses and ground-floor retail use fronting U
9 Street. The project would include a maximum
10 height of 86 feet at the U Street frontage,
11 stepping down in height towards the lower-scale
12 rowhomes across the alley to the south. It
13 would also include between 134 and 138
14 residential units and would meet the District's
15 inclusionary zoning program. The project would
16 include approximately 48 parking spaces below
17 grade and loading access from 13th Street and
18 the alley.

19 The application requests
20 flexibility from the size of the rear yards,
21 loading features, roof structure heights and

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1 setbacks, required public space at ground level,
2 lot occupancy and arts overlay setback
3 requirements.

4 Concerning specific benefits and
5 amenities, the Applicant lists items such as
6 community education and recreational facilities
7 and programs, creation of a business improvement
8 district, funding for Capitol Bikeshare and
9 public space improvements. OP encourages the
10 Applicant to continue to clarify the specific
11 amenities and benefits and to work with the ANC
12 to ensure that the benefits and amenities
13 package is sufficiently robust.

14 The Applicant previously worked
15 with OP including historic preservation as well
16 as the community to address the height, massing
17 and design of the building prior to filing this
18 application. In particular, the Applicant was
19 responsive to OP's suggestions regarding the
20 high-quality materials selected for the facade
21 and the massing articulation.

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1 The proposal for the mixed-use
2 residential retail project is not inconsistent
3 with the Comprehensive Plan's objectives for
4 the area and the generalized land-use and policy
5 maps. In general, the project would better
6 utilize available space in close proximity to
7 transit.

8 The Office of Planning recommends
9 that the Commission set down the application
10 for a public hearing.

11 I would be happy to take any
12 questions. Thank you.

13 CHAIRMAN HOOD: Okay. Thank you,
14 Mr. Gyor.

15 Commissioners, any questions of the
16 Office of Planning?

17 Mr. Turnbull?

18 COMMISSIONER TURNBULL: The only
19 comment I have is I was wondering, Mr. Gyor,
20 if you could work with the Applicant on maybe
21 just getting a little bit better quality of

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1 drawing as far as the streetscape. We've got
2 some elevations here, but I'd really like to
3 see a better view what it would look like looking
4 down the street. I mean, from the plans it looks
5 like there's a pharmacy proposed. And knowing
6 how pharmacies can somehow be a very blank
7 looking design, I'm just wondering what they're
8 going to do with the windows and activate. I
9 mean, sometimes you simply see very high windows
10 and you just walk by a blank part of the street.

11 So I'm just as concerned about what that will
12 look like. So maybe a better street-side view
13 of what you're actually going to see walking
14 along there.

15 And some articulation of the
16 balconies, I'd like to see some views of what
17 those are going to look like close up -- some
18 close-up views of some of those -- the
19 appertances that are on the side of the building,
20 and a better roof plan that would describe
21 exactly what's going up there.

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1 MR. GYOR: We will work with the
2 Applicant to refine all those elements.

3 COMMISSIONER TURNBULL: Okay,
4 great. Thank you.

5 COMMISSIONER MAY: I have a
6 question, too.

7 My gut reaction to this is that this
8 is all -- I know that there are tall buildings
9 across the street, but it's surround on most
10 sides by much lower-rise development even to
11 the east on the Metro and by the Metro there.

12 It's not quite as tall a building. And then
13 you've got basically it's C2A and R4 in the
14 immediate vicinity. And I don't know. Maybe
15 it has to do with the narrowness of the site.

16 I'm not sure what. But it just feels just
17 uncomfortably massive to me.

18 So I'm wondering, is this one of the
19 issues that you were trying to deal with? Or
20 were you fully comfortable with pumping this
21 thing up all the way to what you can get out

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1 of CR and all this height and this level of
2 density?

3 MR. LAWSON: Joel Lawson with the
4 Office of Planning.

5 We did work with the Applicant a lot
6 on that issue. And the Applicant made a number
7 of revisions to previous proposals that have
8 been shown to the community and to the Office
9 of Planning.

10 We're comfortable with the height
11 as it's sculpted on the property. One of the
12 things the developer has done we think well is
13 to step some of the massing down as it gets
14 towards the lower-density residential to the
15 south. We feel that a prominent building at
16 this location is actually appropriate and that
17 90 feet or 86 feet is consistent with some of
18 the newer development in the area, including
19 development across the street. And so, we're
20 reasonably comfortable. But we're certainly
21 happy to pass on additional comments and

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1 concerns or requests for more information to
2 help clarify their proposal from the Commission.

3 COMMISSIONER MAY: Of course, I
4 don't know where you started with them on it,
5 but it does feel kind of like it's so far been
6 nipping at the edges, not necessary getting the
7 meat of the matter which is that maybe it's just
8 too large. I mean, I certainly understand
9 wanting to have that kind of density in close
10 proximity to Metro. From an overall planning
11 perspective, that makes a great deal of sense.

12 But we have Metros that are located in or next
13 to R4 neighborhoods which are much lower in
14 scale. So it just feels a little uncomfortable
15 there.

16 So short of recommending that it
17 come down a floor, which I'm not quite prepared
18 to do, I'm not sure what you can do. But I'd
19 be happy if you would pass on the concern.

20 I'm also quite curious about the
21 style of this. I mean, this is unusually

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1 historicist. And I'm wondering what's driving
2 that and what your reaction has been to that.

3 MS. STEINGASSER: I think our
4 reaction has been fairly positive. The
5 building has gone through several different
6 design scenarios. They've been working very
7 closely with the Historic Preservation staff
8 and are going to the Historic Preservation
9 Review Board. Everybody seems to have
10 responded fairly positively to this design.

11 COMMISSIONER MAY: Okay. Are they
12 seeing better drawings than we are because maybe
13 it's maybe just like the drawings aren't really
14 --

15 MS. STEINGASSER: I think when you
16 get to the hearing, you'll be surprised.
17 There's actually a model and that's very
18 compelling.

19 COMMISSIONER MAY: Okay. All
20 right. Well, that's encouraging because to say
21 that it didn't wow me would be an understatement.

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1 Okay. I look forward to seeing more and seeing
2 the model.

3 I don't have any other comments.
4 Thanks.

5 CHAIRMAN HOOD: Any other comments
6 or questions?

7 (No audible response.)

8 CHAIRMAN HOOD: Okay. Would
9 someone like to make a motion?

10 COMMISSIONER TURNBULL: Mr. Chair,
11 I would move that we set down Zoning Case No.
12 12-20, 13th and U Lessee, LLC, Consolidated PUD
13 and Related Map Amendment at Square 237 and look
14 for a second.

15 COMMISSIONER MILLER: I would
16 second it, MR. Chairman.

17 CHAIRMAN HOOD: Okay. It's been
18 moved and properly seconded.

19 Any further discussion?

20 (No audible response.)

21 CHAIRMAN HOOD: All those in favor?

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1 (A CHORUS OF AYES.)

2 CHAIRMAN HOOD: Not hearing any
3 opposition, Ms. Schellin, would you please
4 record the vote?

5 MS. SCHELLIN: Yes. Staff records
6 the vote four to zero to one to set down Zoning
7 Commission Case No. 12-20 as a contested case.
8 Commissioner Turnbull moving; Commissioner
9 Miller seconding; Commissioners Hood and May
10 in support; Commissioner Cohen not present, not
11 voting.

12 CHAIRMAN HOOD: I'm sorry. If the
13 model can't get in the room, let us know so we
14 can get here a little earlier. We'll stand
15 outside like we did previously.

16 COMMISSIONER MAY: Mr. Chairman,
17 Can I ask one more question of the Office of
18 Planning?

19 CHAIRMAN HOOD: Sure.

20 COMMISSIONER MAY: I assume there
21 have been a number of community meetings

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1 already. Do you have any sense at this point
2 what the reaction has been?

3 MS. STEINGASSER: WE don't have any
4 official feedback. We've heard a lot of
5 positives. There's one or two neighbors that
6 are concerned about the height. But we've also
7 heard a lot of positive reports from
8 individuals and ANC members about the project.
9 But there's no official action at this point.
10 And I don't want to get into trouble by
11 representing.

12 COMMISSIONER MAY: That's fine. I
13 understand you can't represent any sort of
14 position, but to understand what kind of
15 feedback you've heard is good.

16 MS. STEINGASSER: And I will say the
17 Applicant has been meeting with the community
18 probably for the last five years on this project
19 back and forth over time.

20 CHAIRMAN HOOD: Okay. Anything
21 else?

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1 (No audible response.)

2 CHAIRMAN HOOD: Okay. Let's go to
3 Zoning Commission Case No. 07-18D, Jemal's Up
4 Against the Wall, PUD Modification at Square
5 347.

6 Mr. Mordfin?

7 MR. MORDFIN: Good evening, Mr.
8 Chairman and Members of the Commission. I'm
9 Stephen Mordfin with the Office of Planning.

10 And the Applicant request
11 modification to an approved consolidated PUD
12 located in the southwest corner of 10th and F
13 Streets, NW. The application proposes to
14 reduce the number of parking spaces available
15 including zoning and nonzoning compliance
16 spaces and also to increase the number of bicycle
17 parking spaces, increase the amount of retail
18 street frontage and allow for either retail or
19 office views on the second floor of the historic
20 structure at the corner of 10th and F. The
21 application also proposes to replace a

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1 car-sharing space with a space reserved for a
2 hybrid, a change to the benefits and amenities
3 package as approved under the original PUD.

4 Consistent with the proposed
5 modifications, the Office of Planning
6 recommends that the Applicant consider making
7 the hybrid space a charging station for electric
8 vehicles and also providing shower and changing
9 facilities for those that would bicycle to the
10 site. Reducing the number of parking spaces
11 and increasing the number of bicycle parking
12 spaces is not inconsistent with the
13 Comprehensive Plan including the transportation
14 and land-use elements. Therefore, the Office
15 of Planning recommends that the Commission set
16 down the application for public hearing.

17 Thank you, and I'm available for
18 questions.

19 CHAIRMAN HOOD: Okay.

20 Commissioners, any questions or comments?

21 Mr. Turnbull?

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1 COMMISSIONER TURNBULL: Thank you,
2 Mr. Chair.

3 Mr. Mordfin, how much of the design
4 of the original building from the exterior has
5 changed?

6 MR. MORDFIN: The change is very
7 minor. It just has to do with shifting some
8 doors along F Street. There were two double
9 doors on F Street that went into the office
10 building lobby. Now there's going to be one
11 set of double doors, and they're going to add
12 another entrance into the retail space to the
13 east of the lobby.

14 COMMISSIONER TURNBULL: Okay.

15 MR. MORDFIN: That's I think most
16 of what the changes are to the exterior of the
17 building.

18 COMMISSIONER TURNBULL: We didn't
19 get any elevations or street drawings. I would
20 assume we'll get some at the hearing then?

21 MR. MORDFIN: We will request that

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1 from the Applicant and make sure that is part
2 of the package.

3 COMMISSIONER TURNBULL: Okay.
4 Thank you.

5 CHAIRMAN HOOD: Any other comments
6 or questions?

7 Commissioner Miller?

8 COMMISSIONER MILLER: I would just
9 comment that I think it is a positive development
10 that there is I think it's 13 linear feet --
11 more feet of retail frontage replacing some of
12 the lobby entrance. So I think that's a
13 positive development. And the reduction of
14 parking is not unusual at this kind of
15 transit-oriented site.

16 COMMISSIONER MAY: Isn't it unusual
17 for this Applicant to actually have parking?

18 COMMISSIONER TURNBULL: I assume
19 you remember I was a very young man when this
20 project started.

21 (LAUGHTER.)

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1 CHAIRMAN HOOD: Okay. Any other
2 comments?

3 (No audible response.)

4 CHAIRMAN HOOD: I would move that
5 we set down Zoning Commission Case No. 07-18D
6 and ask for a second.

7 COMMISSIONER MILLER: Second.

8 CHAIRMAN HOOD: It's been moved and
9 properly seconded.

10 Any further discussion?

11 (No audible response.)

12 CHAIRMAN HOOD: All those in favor?

13 (A CHORUS OF AYES.)

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

17 MS. SCHELLIN: Yes. Staff records
18 the vote four to zero to one to set down Zoning
19 Commission Case No. 07-18D as a contested case.

20 Commissioner Hood moving; Commissioner Miller
21 seconding; Commissioners May and Turnbull in

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1 support; Commissioner Cohen not present, not
2 voting.

3 CHAIRMAN HOOD: Okay. The last
4 case that we moved from the Consent Calendar
5 to the Hearing Action is Zoning Commission Case
6 No. 05-30, Karajoel, LLC, Minor Modification.

7 Hopefully I pronounced that correctly. It's
8 a PUD at Square 3719.

9 Mr. Lawson? He's always ready.

10 MR. LAWSON: Sure. Thanks, Mr.
11 Chair.

12 I'll just simply note that as you
13 pointed out earlier, the Office of Planning did
14 recommend that this be set down for a hearing
15 rather than being reviewed as a minor
16 modification. So I'll leave it at that, stand
17 on the record and be available if you have any
18 questions.

19 Thank you.

20 CHAIRMAN HOOD: Okay.

21 Commissioners, any questions? Comments?

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1 Okay. Commissioner Miller?

2 COMMISSIONER MILLER: I would just
3 reiterate that I think a hearing is appropriate
4 if the ANC has recently weighed in with some
5 concerns as well. They were concerned that it
6 was going to be treated as a minor modification.

7 The fact that we're setting it down should give
8 them the opportunity to express what other
9 additional concerns they have.

10 CHAIRMAN HOOD: Okay. Anybody
11 else?

12 (No audible response.)

13 CHAIRMAN HOOD: I would move that
14 we set down for hearing Zoning Commission Case
15 No. 05-30C, and ask for a second.

16 COMMISSIONER MILLER: Second.

17 CHAIRMAN HOOD: It's been moved and
18 properly seconded.

19 Any further discussion?

20 (No audible response.)

21 CHAIRMAN HOOD: All those in favor?

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1 (A CHORUS OF AYES.)

2 CHAIRMAN HOOD: Not hearing any
3 opposition, Ms. Schellin, would you please
4 record the vote?

5 MS. SCHELLIN: Yes. Staff records
6 the vote four to zero to one to set down Zoning
7 Commission Case No. 05-30C as a contested case.

8 Commissioner Hood moving; Commissioner Miller
9 seconding; Commissioners Turnbull and May in
10 support; Commissioner Cohen not present, not
11 voting.

12 And staff would just like to make
13 an administrative note for this case asking that
14 the Applicant -- this would now be an
15 electronically-filed case -- ask that they now
16 go into IZIS and file a modification
17 application. And of course, I will issue the
18 same case number. This will still file as the
19 05-30C, and that all future filings will be
20 electronic.

21 CHAIRMAN HOOD: Okay. Do we have

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1 any other reports -- anything else the Office
2 of Planning would report?

3 (No audible response.)

4 CHAIRMAN HOOD: Okay. Ms.
5 Schellin, do you have anything else?

6 MS. SCHELLIN: No, sir.

7 CHAIRMAN HOOD: Okay. I want to
8 wish everyone a happy holiday or however you
9 celebrate.

10 We do have a hearing coming up on
11 Thursday, and I think that's our last one for
12 the year. Okay. And then we've got two more
13 weeks, and then we'll be right back.

14 Okay. So with that, appreciate all
15 the hard work of the Office of Zoning, Office
16 of Planning, citizens of the city and everybody
17 and my colleagues and all, and continue to try
18 to put our best effort forward and continue to
19 make good decisions for the city.

20 So with that, this meeting is
21 adjourned.

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(Whereupon, at 7:51 p.m., the hearing was adjourned.)

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