

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

+ + + + +

ZONING COMMISSION

+ + + + +

PUBLIC MEETING  
1226<sup>th</sup> MEETING SESSION (6<sup>th</sup> of 2007)

+ + + + +

MONDAY

MARCH 12, 2007

+ + + + +

The Public Meeting of the District of Columbia Zoning Commission convened in Room 220 South, 441 4<sup>th</sup> Street, N.W., Washington, D.C., 20001, pursuant to notice, at 6:30 p.m., Carol J. Mitten, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

CAROL J. MITTEN	Chairperson
ANTHONY J. HOOD	Vice-Chairperson
GREGORY JEFFRIES	Commissioner
JOHN PARSONS	Commissioner (NPS)
MICHAEL G. TURNBULL	Commissioner

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN	Secretary
DONNA HANOUSEK	Zoning Specialist
ESTHER BUSHMAN	General Counsel

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OFFICE OF PLANNING STAFF PRESENT:

HARRIET TREGONIG  
MAXINE BROWN-ROBERTS  
STEVE COCHRAN  
JOEL LAWSON  
TRAVIS BARKER  
JENNIFER STEINGASSER  
KAREN THOMAS  
DOUGLAS WOODS

OFFICE OF THE ATTORNEY GENERAL:

ALAN BERGSTEIN, ESQ.

This transcript constitutes the  
minutes from the Public Meeting held on March  
12, 2007.

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

2 (6:48 p.m.)

3 CHAIRPERSON MITTEN: Good evening,  
4 ladies and gentlemen. This is the March 12,  
5 2007, public meeting of the Zoning Commission  
6 of the District of Columbia.

7 My name is Carol Mitten, and  
8 joining me this evening are Vice Chairman  
9 Anthony Hood, and Commissioners Mike Turnbull,  
10 John Parsons, and Greg Jeffries.

11 Copies of our meeting agenda are  
12 available to you, and they're in the wall bin  
13 by the door.

14 I'd just like to remind folks that  
15 we don't take any public testimony at our  
16 meetings unless we specifically request  
17 someone to come forward. So that's to save  
18 anyone a trip to the table when they're not  
19 invited.

20 I'd like to remind you that we're  
21 being recorded by the Court Reporter, and  
22 we're also being webcast live, so I ask you to

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1 refrain from making any disruptive noises in  
2 the hearing room, so as not to disrupt the  
3 proceedings. And I'd ask you to turn off your  
4 beepers and cell phones for the same reason.

5 All right. Mrs. Schellin, any  
6 preliminary matters?

7 SECRETARY SCHELLIN: No.

8 CHAIRPERSON MITTEN: Okay. Then,  
9 the only thing that I want to change on the  
10 agenda is that we will put the first item  
11 under Proposed Action, which is Case Number  
12 06-33, on the agenda of a Special Public  
13 Meeting, the date for which is to be  
14 determined. But we had some late submissions,  
15 and we need a little bit more time to digest  
16 that.

17 So with that one change, then we  
18 will move to the consent calendar item, which  
19 is in Case Number 03-12D and 03-13D, which is  
20 the Capper/Carrollsborg series of PUDs that we  
21 have.

22 Mrs. Schellin, did you want to tee

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1       that up for us?

2                   SECRETARY SCHELLIN:   Yes.   This is  
3       a request for a minor modification from the  
4       applicant.   The Office of Planning has filed a  
5       report, and since that report was filed we  
6       also   received   another   letter   from   the  
7       applicant trying to clarify some issues.   But  
8       it's my understanding that the Office of  
9       Planning stands by their earlier submission  
10      that they would like for it to go forward with  
11      a hearing.

12                  CHAIRPERSON MITTEN:   Okay.   And I  
13      should just note that I skipped over the  
14      minutes and the status report from the Office  
15      of Planning.   But since we have a fairly full  
16      agenda, we'll take those up at the end.

17                  So, first, are there any questions  
18      for the Office of Planning before we proceed?

19      And is there a concern about this being on  
20      the consent calendar?   Mr. Hood, did you --

21                  VICE-CHAIRPERSON HOOD:   No.   You  
22      asked were there any questions for the Office

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1 of Planning.

2 CHAIRPERSON MITTEN: Yes. Did you  
3 have any questions?

4 VICE-CHAIRPERSON HOOD: On this --  
5 first, we -- Madam Chair, let me just -- I'm  
6 trying -- a procedural matter, trying to  
7 remember. We need to decide whether it's  
8 properly before us on the consent calendar  
9 first, right?

10 CHAIRPERSON MITTEN: Yes. And I  
11 just want to remind folks that all it takes is  
12 one Commission to decide that it's not  
13 appropriate for the consent calendar and it  
14 comes off.

15 VICE-CHAIRPERSON HOOD: Oh. Well,  
16 maybe I'd better be quiet for a few moments,  
17 because I think it's before us properly.

18 CHAIRPERSON MITTEN: Okay. Is  
19 there any concern about this item being a  
20 minor modification on the consent calendar,  
21 which is a concern of the Office of Planning?

22 VICE-CHAIRPERSON HOOD: Well, I

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1 guess I will ask the Office of Planning, and  
2 receiving their report I had a chance to  
3 glance over it, basically, what's going to  
4 come out of this -- saying that we're going to  
5 have a hearing? What's going to come out of  
6 it? Why is it just not simple enough to know  
7 that the applicant has said that they've  
8 already satisfied the requirement for the  
9 first senior building.

10 The second senior building has not  
11 been done apparently, and they don't have the  
12 demand for the second senior building. But  
13 seniors who were not able to get in the first  
14 senior building have first opt to be able to  
15 get into the second senior building. So I  
16 guess, what is the significance of having  
17 another hearing on this?

18 MS. STEINGASSER: Well, it's not  
19 necessarily that we are interested in holding  
20 another hearing. We'd like to have time to  
21 analyze what the proposal means. Seniors have  
22 different parking standards, and we're not

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1 aware of what that does to the parking ratio  
2 of the building and the site.

3 The two senior buildings were  
4 proffered together as part of the overall  
5 housing mix, and we want to make sure we  
6 understand what that does to the housing mix  
7 collectively on the site. And we just want to  
8 be able to meet with the Housing Authority  
9 prior to action being taken, and at least  
10 discuss that and figure out what the  
11 implications are to the PUD as a whole.

12 CHAIRPERSON MITTEN: So for the  
13 moment, you are really asking us to defer  
14 consideration of this at all, because you may  
15 not be recommending a hearing.

16 MS. STEINGASSER: We may not. We  
17 did not get an advance copy, so we were unable  
18 to really analyze the --

19 CHAIRPERSON MITTEN: So you didn't  
20 get this on the 26th of February?

21 MS. STEINGASSER: No.

22 CHAIRPERSON MITTEN: Okay. Why

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1 don't we do this, then -- put that on the  
2 agenda for our special public meeting on the  
3 26th, I believe it is, of March. And we'll  
4 take up whether or not -- if you all think you  
5 can have it analyzed by then, then it may  
6 actually be -- you may be comfortable as a  
7 consent calendar item. If not, we'll deal  
8 with whatever concerns you raise at that time,  
9 and make that decision.

10 Okay, great. Thanks. So for now  
11 we'll defer that until the 26th. Okay.

12 Under Hearing Act, the first item  
13 is Zoning Commission Case Number 07-01, which  
14 is a map amendment for the property at 208  
15 Massachusetts Avenue, N.E. And we have a new  
16 face.

17 MR. WOODS: Good evening, Madam  
18 Chair, members of the Commission. My name is  
19 Douglas Woods. I'm with the Office of  
20 Planning.

21 The Office of Planning recommends  
22 setdown on the proposed map amendment to

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1 change the zoning for the back portion of the  
2 property located at 208 Massachusetts Avenue,  
3 N.E. to CAPCHC C-2-A. The property is  
4 improved with an eight-story building, which  
5 was constructed in 1929. The back portion of  
6 the property is in the R-4 zoning district,  
7 but most of the property, approximately three-  
8 quarters of the site, is in the C-2-A  
9 district.

10 The proposed map amendment would  
11 allow for the zoning to be consistent with the  
12 comprehensive plan as amended.

13 This concludes our testimony, and  
14 OP is available for questions.

15 CHAIRPERSON MITTEN: Thank you.  
16 Any questions for Mr. Woods? Any questions  
17 from the Commission for Mr. Woods?

18 (No response.)

19 Have you, in making this  
20 recommendation, given thought to the fact that  
21 Lot 849, which is located at 214 Massachusetts  
22 Avenue -- and I, frankly, don't know what is

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1 -- what the improvements are to this lot. But  
2 on page 3 of your report it shows that that is  
3 also a split zone lot. And I think that it --  
4 it's probably in the same sort of abstract  
5 extension of the generalized land use map that  
6 exists that you -- that would apply if you  
7 apply a soft edge to the subject property in  
8 this case, the Lot 3. But I'm wondering if  
9 you gave any thought, since we have a similar  
10 condition at Lot 849.

11 MR. WOODS: That did not enter into  
12 the analysis, simply because in the amended  
13 comprehensive plan this particular site,  
14 208 Massachusetts Avenue -- let's see here.  
15 Oh, actually, it did. It states Massachusetts  
16 Avenue between Union Station and Stanton Park  
17 as areas -- I'm looking for the particular  
18 statement.

19 It seemed to call out this  
20 particular site as one where a map change  
21 would be relevant. In this case, the zoning  
22 line goes through the building, the back third

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1 portion.

2 CHAIRPERSON MITTEN: Well, that's  
3 what I'm wondering. I don't -- as I said, I  
4 don't know what improvements there are to  
5 Lot 849. But if it's a similar condition, I'd  
6 want to deal with them both at the same time.

7 MR. LAWSON: Madam Chair?

8 CHAIRPERSON MITTEN: Yes.

9 MR. LAWSON: Good evening.

10 CHAIRPERSON MITTEN: Hi.

11 MR. LAWSON: We're just looking at  
12 some of the survey information that was  
13 provided by the applicant. We actually think  
14 that it's not entirely clear on the map that  
15 was attached to the OP report, but Lot 837  
16 faces onto the avenue that's zoned C-2-A. The  
17 lot in behind that -- if we're looking at the  
18 same lot as you, it's actually a separate lot,  
19 which is in the R-4 district.

20 CHAIRPERSON MITTEN: So the --

21 MR. LAWSON: There's actually one  
22 lot facing onto 3rd Street, there's a property

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1 line separating the two, and then the lot  
2 facing onto C-2-A. We think they're separate  
3 lots.

4 CHAIRPERSON MITTEN: Okay.

5 MR. LAWSON: According to the  
6 survey plan.

7 CHAIRPERSON MITTEN: Let me just --  
8 okay. Well, let me tell you, it's a  
9 combination of -- if you look at Exhibit B  
10 from the applicant, it looks like what you  
11 described, which is that 837 is a separate lot  
12 on an old base plat, and that whatever  
13 extension onto 3rd Street in the old base plat  
14 looks like a separate lot.

15 But that's not what it looks like  
16 on your plat on page 3. It looks like 837 was  
17 combined with several lots fronting on 3rd to  
18 now be Lot 849. And I just don't know what  
19 the back of that looks like now. I just don't  
20 remember.

21 MS. STEINGASSER: We'll double-  
22 check the lot configurations and confirm this.

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1 If it needs additional setdown, we'll bring  
2 that to you at the special meeting on the 26th  
3 --

4 CHAIRPERSON MITTEN: Okay.

5 MS. STEINGASSER: -- as well, so  
6 that they can be advertised together.

7 CHAIRPERSON MITTEN: Yes.

8 MS. STEINGASSER: But I'm pretty  
9 sure the properties along 3rd Street are  
10 properly developed as an R-4.

11 CHAIRPERSON MITTEN: Okay. Any  
12 other questions?

13 (No response.)

14 I just want to have one hearing on  
15 this, if we're going to do more than one,  
16 that's all.

17 Okay. Then, we have a  
18 recommendation from the Office of Planning to  
19 set down Case Number 07-01, and I would so  
20 move.

21 VICE-CHAIRPERSON HOOD: Second.

22 CHAIRPERSON MITTEN: Thank you, Mr.

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1 Hood. Any discussion?

2 (No response.)

3 All those in favor, please say aye.

4 (Chorus of ayes.)

5 Those opposed, please say no.

6 (No response.)

7 Mrs. Schellin.

8 SECRETARY SCHELLIN: The staff  
9 would record the vote five to zero to zero to  
10 set down Zoning Commission Case Number 07-01.

11 Commissioner Mitten moving, Commissioner Hood  
12 seconding, Commissioners Jeffries, Parsons,  
13 and Turnbull in favor. And this will be set  
14 down as a contested case?

15 CHAIRPERSON MITTEN: Yes.

16 Next, we have Case Number 07-05,  
17 and this is a proposed text amendment to  
18 Section 2116 by the Office of Planning.

19 Ms. Brown-Roberts?

20 MS. BROWN-ROBERTS: Good evening,  
21 Madam Chairman, and members of the Commission.

22 This application was submitted on behalf of

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1 the Anacostia Waterfront Corporation.

2 As you know, the public  
3 reservation, which is also known as Hill East,  
4 is guided by a master plan that was approved  
5 by the District of Columbia City Council in  
6 October of 2002. Sometime a few years ago the  
7 Office of Planning also submitted a setdown  
8 report for the zoning on this property.  
9 However, we are still working on that plan.

10 In the meantime, AWC wants to  
11 proceed with getting information on the  
12 relocation or the construction of some of the  
13 streets, particularly Massachusetts Avenue and  
14 some of the other streets, such as Burke  
15 Street, C Street, 21st Street, that are  
16 proposed to go through the site.

17 Currently, there are no streets or  
18 lots and blocks on the site. And what they  
19 are proposing to do -- and as you know also,  
20 the site is also developed with the District  
21 of Columbia Correctional Facilities. In  
22 addition, there are other District uses that

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1 go on on the site.

2 In order to facilitate the  
3 extension of these streets through the site,  
4 these facilities now have their parking on the  
5 site also, and the parking lots currently  
6 cross over some of the areas where the streets  
7 are proposed to be located. And, therefore,  
8 what we are proposing is that an amendment be  
9 made to Section 2116 of the zoning regulations  
10 so that we -- they can construct some  
11 temporary parking lots to facilitate the  
12 extension of these streets through the site.

13 Thank you, Madam Chairman.

14 CHAIRPERSON MITTEN: Thank you. I  
15 also had posed a question earlier to Mr.  
16 Bergstein, and we determined that we need to  
17 add to this some language that says,  
18 "Notwithstanding the provisions of Section  
19 106.7, that the following provisions of 2116  
20 would apply," because 106.7 requires that a  
21 property be zoned in order to obtain a  
22 building permit. And the property is not

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1       zoned and won't be for some time, as you  
2       suggested.

3               So are there any questions for Ms.  
4       Brown-Roberts?

5               VICE-CHAIRPERSON HOOD:    Yes.

6               CHAIRPERSON MITTEN:    Mr. Hood?

7               VICE-CHAIRPERSON    HOOD:            Madam  
8       Chair, I wanted to -- Ms. Brown-Roberts, I  
9       noticed in the report -- and usually,  
10      typically in the OP reports we usually talk  
11      about community comments. I know that we are  
12      just getting out there and discussing this,  
13      but I want to know what is the community  
14      comment, because I didn't see the report.

15              MS. BROWN-ROBERTS:    AWC has had a  
16      number of community meetings with -- both with  
17      the ANC and the wider community, and they were  
18      made aware of this. And recently, we also  
19      sent out e-mails to a few of the community  
20      leaders to advise them of this, and we haven't  
21      gotten any negative feedback.

22              VICE-CHAIRPERSON    HOOD:            Good.

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1 Thank you.

2 CHAIRPERSON MITTEN: Anyone else?

3 (No response.)

4 We have a recommendation from the  
5 Office of Planning to set down Case Number 07-  
6 05, and I would so move and ask for a second.

7 COMMISSIONER TURNBULL: Second.

8 CHAIRPERSON MITTEN: Thank you, Mr.  
9 Turnbull. Any discussion?

10 (No response.)

11 All those in favor, please say aye.

12 (Chorus of ayes.)

13 Those opposed, please say no.

14 (No response.)

15 Mrs. Schellin.

16 SECRETARY SCHELLIN: Staff will  
17 record the vote five to zero to zero to set  
18 down Zoning Commission Case Number 07-05.  
19 Commissioner Mitten moving, Commissioner  
20 Turnbull seconding, Commissioners Hood,  
21 Jeffries, and Parsons in favor. And this is  
22 being set down as a rulemaking case.

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1 CHAIRPERSON MITTEN: Yes, thank  
2 you.

3 Now, the first item for us under  
4 proposed action, since 06-33 is being set off,  
5 is Case Number 05-39. And this is the PUD and  
6 related map amendment at 116 T Street, N.E.,  
7 which is the request from Catholic Charities,  
8 if you'll recall, and St. Martins.

9 I just want to recap a few things  
10 about the application, and then open it up for  
11 discussion, which, if you recall, the request  
12 in this case is to rezone a parcel of land  
13 that is currently zoned R-4 to R-5-B, and  
14 build a five-story apartment building with 2.6  
15 FAR, 178 units, and between 120 and 140  
16 parking spaces, and flexibility is being  
17 requested for the -- from the 55-foot loading  
18 berth, that they would provide a 30-foot  
19 loading berth, that there would be two  
20 principal buildings on a single lot, and that  
21 the parking will be made available to other  
22 users, and the benefits and amenities

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1 principally is housing, affordable housing.

2 If you recall, 50 units were going  
3 to be made available to folks that make 30  
4 percent of the AMI or less, and most of those  
5 would be formerly homeless individuals, and  
6 the balance of the project, 128 units, would  
7 be made available to individuals making 60  
8 percent or less of the area median income.

9 And some of the excess parking, to  
10 the extent it's available, would be made  
11 available for lease to local residents and the  
12 faculty and staff of adjacent schools, some of  
13 whom are using the surface parking lot that  
14 currently exists on the site.

15 We had a party in opposition,  
16 Eckington Citizens for Responsible  
17 Development, and also we had the Eckington  
18 Civic Association in opposition. The ANC was  
19 in support of the project.

20 Some of the issues that I'll just  
21 mention -- and this is not meant to be a  
22 detailed recital, but the design issue --

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1 there were design issues related to the scale  
2 of the project, that it was too dense and too  
3 tall for this -- what was considered by the  
4 opponents to be predominantly rowhouse  
5 neighborhood, that it's an unnecessarily  
6 complex facade, and there was a concern about  
7 the use of inferior materials, and we had an  
8 additional submission on the hardy plank -- or  
9 not the hardy plank, the vinyl that was being  
10 proposed and the quality of the vinyl that was  
11 being proposed. Hardy plank is another case.

12 That the project was too inwardly  
13 focused. If you recall, there are interior  
14 courtyards that would not be made available to  
15 the general public.

16 There was concern about the loading  
17 and whether the shorter berth would force  
18 residents to use a driveway and block public  
19 space. And the use -- the provision for  
20 loading for City Lights School, which will be  
21 altered because of the development of the  
22 site.

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1 Fairly significant concerns about  
2 traffic, and the fact that there is -- at  
3 certain times of day there is an immense  
4 amount -- immense volume of traffic because of  
5 children being dropped off for Hyde and  
6 McKinley and the City Lights School on the  
7 subject property.

8 And there was also an issue about  
9 historic preservation and the relocation of  
10 the convent currently on the site to another  
11 portion of the site.

12 We also heard about concerns  
13 regarding excavation and construction  
14 management, which is really outside the  
15 purview of the Commission. So with that  
16 overview, I'd ask for comments from the  
17 Commission on the proposal.

18 VICE-CHAIRPERSON HOOD: Madam  
19 Chair, I --

20 CHAIRPERSON MITTEN: Mr. Hood,  
21 thank you.

22 VICE-CHAIRPERSON HOOD: I'm not

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1 going to comment on the architecture as of  
2 yet, but I will tell you that this project for  
3 me is one that will -- especially when we're  
4 dealing with the IZ of trying to reach a  
5 certain percentage of AMI, when I was asking  
6 that question at the IZ hearings, I was told  
7 it could not be done.

8 Well, I know this may be a  
9 different vehicle, different motor, but this  
10 is something I think this city has been trying  
11 to accomplish, and I believe we're getting to  
12 those -- reaching down to those folks, not  
13 down, but reaching to folks who make in the  
14 \$16,000 to I think maybe \$22,000 range as far  
15 as annual income.

16 And this is something that  
17 especially during the IZ hearings that I was  
18 pushing for, and I'm glad to see this project  
19 come. Now, I know it needs some tweaks and  
20 some fine-tuning, especially when it comes to  
21 land use and maybe traffic mitigation measures  
22 that we may need to fine tune, and maybe some

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1 architectural issues.

2 But with those adjustments, I'm  
3 glad to see this in front of us. If that can  
4 start the conversation.

5 CHAIRPERSON MITTEN: Thank you, Mr.  
6 Hood. I mean, I think -- I think you're  
7 right. This is one of the things that at  
8 least -- first of all, we struggled with IZ  
9 about the fact that, you know, we're not being  
10 -- we're not able to go as deep as we would  
11 like, and certainly not as deep as the need  
12 is.

13 And also, you know, we did express  
14 through IZ our willingness to grant additional  
15 height and density in exchange for affordable  
16 housing. And I think that's part of what has  
17 been captured in this application.

18 Any other thoughts, concerns?

19 (No response.)

20 I think as to the design, I mean, I  
21 -- I don't have any strong feelings about the  
22 design, although I do understand what the

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1 opponents are expressing in terms of having a  
2 sort of busy facade. And in doing that I  
3 think that by addressing the building this way  
4 they're really trying to -- the applicant is  
5 trying to be responsive to the fact that they  
6 do face row dwellings, and so those are larger  
7 -- those are smaller divisions of buildings  
8 than if you have a large structure.

9 But I just would remind folks that  
10 they're not proffering high-quality design as  
11 an amenity. So, you know, I think the  
12 standard is somewhat more what's typical in  
13 the neighborhood as opposed to what might be  
14 typical for a planned unit development.

15 I am generally in support of the  
16 project. There is a few things that I would  
17 like to have studied further, and I'm willing  
18 to go forward on proposed action and have  
19 these items dealt with for final action. And  
20 they relate to a couple of issues that the  
21 opponents raised, and I want to make sure that  
22 I make it clear which elements I'm focusing on

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1 and some that I think were not appropriately  
2 assigned to the applicant to deal with.

3 So what I think they need to do a  
4 better job with is that we had some additional  
5 submissions from the opponents about the  
6 actual use of the City Lights School and that  
7 there may be a lot of coming and going at the  
8 City Lights School, and the parking need that  
9 is being addressed by the applicant for the  
10 City Lights School is really based on they  
11 queried the school and said, "What do you need  
12 in terms of faculty and staff parking?" but I  
13 think there is reason to believe that that's  
14 not the entire need of the school.

15 And particularly in light of the  
16 fact that the City Lights School is part of  
17 the PUD site, we really need to look at the  
18 operation of the school to make sure that the  
19 operation in its entirety is dealt with from a  
20 parking standpoint.

21 So I'd like the applicant's traffic  
22 expert to actually analyze the operation of

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1 the City Lights School to make sure that the  
2 traffic that's generated by the PUD site,  
3 notwithstanding the fact that they have a --  
4 that they don't have a legal parking  
5 requirement, because it's grandfathered, that  
6 we understand what that operation is and that  
7 the need is met.

8 Also, I'd like them to revisit  
9 their assumption that the formerly homeless  
10 residents who would occupy the 50 units don't  
11 drive cars, because we had testimony -- and I  
12 don't think it was disputed -- that the 17  
13 individuals who were formerly homeless who  
14 reside in -- I think in the convent building  
15 now, at least a handful of them drive, so I  
16 think we need to make sure that the needs of  
17 the operation of the site are met, before we  
18 make other parking available.

19 And I think we need to ensure that  
20 there -- that that will be met, you know, for  
21 the City Lights School, that that's being met  
22 with parking that they either don't pay for or

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1 are willing to pay whatever the rate is. But  
2 like I said, I think that's something that  
3 could be dealt with on an additional  
4 submission before final action.

5 Anyone else?

6 COMMISSIONER TURNBULL: Madam  
7 Chair?

8 CHAIRPERSON MITTEN: Mr. Turnbull.

9 COMMISSIONER TURNBULL: I'm  
10 generally in favor of the project. I think --  
11 the only thing I think that still sort of is a  
12 little bit light is I think -- is the amount  
13 of vinyl in that courtyard area. I just think  
14 it's -- although it's not "affecting the  
15 neighborhood," I think it's affecting the  
16 neighborhood of the building, the people that  
17 are going to be living there.

18 I just -- I think on some of those  
19 bays I think if they had introduced some brick  
20 to offset the sort of monotonous feeling of  
21 the vinyl in the courtyard, I think it would  
22 -- might have alleviated or given some

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1 character to the space.

2 But I think in general I'm in favor  
3 of it; I just think that it's a little short  
4 on some architectural elements that could have  
5 enhanced the project a little bit. And as you  
6 say, architecture high design was not being  
7 proffered, but I think there could have been a  
8 couple little more elements added into it.

9 CHAIRPERSON MITTEN: Anyone else?

10 VICE-CHAIRPERSON HOOD: Also, Madam  
11 Chair, and I don't see it right here in front  
12 of me, but I -- does anybody recall seeing a  
13 picture on Todd Street with snow on it and --

14 CHAIRPERSON MITTEN: Yes.

15 VICE-CHAIRPERSON HOOD: Okay. I  
16 know I wasn't dreaming then. So I want to  
17 make sure that it -- it depends on how this is  
18 going to move, that we revisit the analysis  
19 coming off of Todd Street. I think the  
20 opposition -- I think it came from the  
21 opposition -- submitted some pictures that  
22 were very compelling dealing with -- okay,

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1       there it is.    Okay, thank you.    Which were  
2       very compelling about traffic back on Todd  
3       Street, and I think they even went as far as  
4       to mention how people had to put their windows  
5       in.

6                       So there's a tight piece, and I'm  
7       sure that the traffic consultant had looked at  
8       that, but I would ask, depending upon how this  
9       moves forward, that we revisit that.

10                   CHAIRPERSON       MITTEN:               What  
11       specifically would you like to have revisited  
12       on Todd Place?

13                   VICE-CHAIRPERSON HOOD:   Well, from  
14       looking at what I see here, how the impact is  
15       --because I think the testimony -- and I may  
16       be incorrect, and if I'm incorrect I stand to  
17       be corrected.   The testimony said that there  
18       would not be any impact, but from looking at a  
19       visualization of this picture -- and I'm not  
20       sure what the count was, but it looks like  
21       that we're proposing -- or we may run into  
22       some issues, and what kind of mitigation

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1 efforts from what has been submitted can we  
2 put in place.

3 And also, the \$45 -- I'm concerned  
4 about if we're trying to meet the 30 percent  
5 -- I know I'm jumping all over the place, but  
6 if we're trying to meet the 30 percent of the  
7 AMI, and they're going to be charging \$45 a  
8 space, do you have that option? I believe you  
9 have an option to either purchase space, or do  
10 you not have the option, or do you have to  
11 purchase a space?

12 CHAIRPERSON MITTEN: Okay. Let me  
13 just go back to the Todd Place for a second,  
14 which is -- I think maybe your concern with  
15 Todd Place is related to the operation of the  
16 City Lights School, because the project -- the  
17 new development has its access points from T.

18 But then, we raised the issue about  
19 the -- how will the loading and trash removal  
20 for City Lights be handled, and they said that  
21 they were going to be accessing that from Todd  
22 Place, I believe. Let me just find that. And

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1 I think maybe -- to be more specific, that's  
2 where your concern is.

3 VICE-CHAIRPERSON HOOD: I thought  
4 that -- again, I stand to be corrected, this  
5 is a voluminous record. I thought that  
6 someone was recommending the entrance be off  
7 of -- what was it, Todd Place, or has that  
8 been pulled back?

9 CHAIRPERSON MITTEN: That was  
10 pulled back. The --

11 VICE-CHAIRPERSON HOOD: Okay.

12 CHAIRPERSON MITTEN: -- DDOT was  
13 concerned about the access to the parking  
14 garage on T near the Hyde School.

15 VICE-CHAIRPERSON HOOD: So the  
16 issue on T Street, then, was I think the kids  
17 and, what, between three and -- okay.

18 CHAIRPERSON MITTEN: At the pickup  
19 and dropoff times.

20 VICE-CHAIRPERSON HOOD: Let me  
21 withdraw what I said about Todd Place, since  
22 the entrance -- the access is not there

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1 anymore.

2 CHAIRPERSON MITTEN: Okay. Anyone  
3 else? Mr. Jeffries.

4 COMMISSIONER JEFFRIES: Well,  
5 probably if you'd look over the transcript, I  
6 probably had a number of concerns initially  
7 around the development program in general.  
8 But I think I've taken a second look and just  
9 really looked at really the deep level of  
10 affordability and just -- not just that  
11 portion but the overall project.

12 I think that that proffer alone is  
13 just -- I think just outweighs all of the  
14 concerns that I have, and also some of the  
15 compelling arguments that I thought the  
16 Eckington Citizens Association made. I  
17 thought they put -- they put forward a very  
18 good case as to their concerns about this  
19 development.

20 But I think at the end of the day,  
21 in totality, it just couldn't really take on  
22 this whole notion of the development program

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1       that I think is absolutely needed in the  
2       District, not just in this area but in the  
3       District.

4               In addition to the deep levels of  
5       affordability that's being achieved, it's also  
6       some of the supportive aspects of the program  
7       that I think are noteworthy, and I think some  
8       of that really drives the overall site plan  
9       design, or just the overall design of the  
10      building.

11             I think that sort of drives the  
12      concern that it's like a fortress. I think,  
13      you know, there needs to be some inward  
14      aspects of it, because there are going to be  
15      populations within this development that will  
16      need some more supportive services and things  
17      of that sort. So it's a different animal of  
18      sorts.

19             So I am willing to go forward with  
20      this. And also, Commissioner Turnbull, I,  
21      too, had those concerns about the vinyl until  
22      the applicant, you know, in their Attachment B

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1 took us through all of the projects that had,  
2 you know, fairly significant vinyl.

3 And in these projects -- they are  
4 all -- you know, I think a good deal -- a  
5 great deal of them, you know, have either 100  
6 percent affordability or close to. I think it  
7 just sort of comes part and parcel of just --  
8 I mean, the development program I think is  
9 really driving that decision. So, anyway, so  
10 I am supportive.

11 CHAIRPERSON MITTEN: Thank you, Mr.  
12 Jeffries.

13 VICE-CHAIRPERSON HOOD: With that,  
14 Madam Chair, I will move approval of Zoning  
15 Commission Case Number 05-39, with the  
16 comments so noted.

17 CHAIRPERSON MITTEN: Thank you.  
18 And I'll second that. And I just wanted to  
19 address a couple more things.

20 The first is I -- I'm going to take  
21 the liberty of presuming that I know something  
22 that's in your mind that didn't get expressed,

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1 so tell me if I'm wrong when I say this, which  
2 is the Commission has a very strong desire to  
3 support affordable housing, and we're not  
4 willing to do that inappropriately.

5 But while this may be -- you know,  
6 this may be a struggle for some in the  
7 community to accept in terms of height and  
8 density, it hasn't crossed the line into  
9 excessive, so that there is a limit. You  
10 know, it's not that we'll do anything to get  
11 affordable housing. It's that, you know, this  
12 -- that they have attempted, and I think  
13 successfully, to fit the context, even though  
14 it's not specifically a rowhouse project  
15 facing rowhouses across the street.

16 And I think the PUD is an  
17 appropriate vehicle for getting in this kind  
18 of affordable housing, as opposed to other  
19 vehicles, because the affordability can be  
20 ensured through a PUD condition, which brings  
21 me to another point that I think we need to  
22 have clarified.

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1           And if you recall, we had testimony  
2           from the -- I forget the gentleman's name now,  
3           the applicant's representative, and he was  
4           talking about how they operate these sorts of  
5           projects and then showed us in the interior  
6           and showed -- and talked to us about the  
7           supportive services, and so on, and then I  
8           asked -- I said, "Well, you know, what are you  
9           going to do to ensure that the affordability  
10          reaches the right people?" and all this.

11           And we didn't really get a good  
12          response on that, and that's item that I'd  
13          like to have addressed in an additional  
14          submission between now and final action, which  
15          is, how will the affordability be administered  
16          in terms of making the units affordable to the  
17          individuals in question?       And then, the  
18          services that are being provided that, you  
19          know, there is -- there is density being  
20          occupied to provide these services.   What  
21          assurance do we have in the long term that  
22          they will be provided?

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1           So I think we need more than we got  
2       on the additional submission from the  
3       applicant about the ongoing operation, whether  
4       it's Catholic Charities operating it or some  
5       other entity. So those are the two items that  
6       I would just like to add, so dealing with the  
7       parking onsite, both for City Lights and the  
8       project, revisiting the aspect related to the  
9       formerly homeless individuals, and then the --  
10      just the operation of the facility and how  
11      will these units be made affordable and how  
12      will these services be provided in the long  
13      term.

14                   COMMISSIONER   JEFFRIES:       Madam  
15      Chair, actually, I appreciate you -- you're  
16      right. You knew what was in my mind. I  
17      didn't express it, but I do think it's  
18      important that the development community and  
19      their attorneys note that, you know,  
20      affordable housing -- just to say "affordable  
21      housing" is not going to always be a  
22      showstopper. I mean, there are other --

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1 CHAIRPERSON MITTEN: Right.

2 COMMISSIONER JEFFRIES: -- policy  
3 initiatives that are important to the  
4 District, important to this Commission. We  
5 can't have a situation where, you know, our  
6 zone plan is being compromised, because we  
7 have to get 100 percent affordability. That  
8 might not be the appropriate location.

9 I do think this applicant has done  
10 a fairly good job, given all of the  
11 programmatic requirements of this project, in  
12 terms of trying to address some of the  
13 concerns of how it sits within the context of  
14 this neighborhood. But I just -- you know, I  
15 do not want my comments to mean that, you  
16 know, you bring forward 100 percent  
17 affordability, and, you know --

18 CHAIRPERSON MITTEN: Have at it.

19 COMMISSIONER JEFFRIES: Yes, have  
20 at it. That is not the case.

21 CHAIRPERSON MITTEN: That's what I  
22 thought, so I'm glad we got that clarified.

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1 All right. Any other discussion?  
2 Any further discussion?

3 (No response.)

4 Okay. So all those in favor of  
5 approving Case Number 05-39 with the  
6 additional items requested, please say aye.

7 (Chorus of ayes.)

8 Those opposed, please say no.

9 (No response.)

10 Mrs. Schellin.

11 SECRETARY SCHELLIN: The staff will  
12 record the vote five to zero to zero to  
13 approve proposed action in Zoning Commission  
14 Case Number 05-39. Commissioner Hood moving,  
15 Commissioner Mitten seconding, Commissioners  
16 Jeffries, Parsons, and Turnbull approving.

17 CHAIRPERSON MITTEN: Thank you.

18 SECRETARY SCHELLIN: And I just  
19 wanted to ask, did you want to set a schedule  
20 for when these documents are due, or will that  
21 --

22 CHAIRPERSON MITTEN: I was just

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1 going to move to reopen the record to --

2 SECRETARY SCHELLIN: Okay.

3 CHAIRPERSON MITTEN: -- accept the  
4 additional documents. So can you give me a  
5 date that's two weeks out? Is that the 26th?

6 SECRETARY SCHELLIN: Yes. Well,  
7 wait a second. Two weeks, 26th.

8 CHAIRPERSON MITTEN: Okay. So I  
9 move that we reopen the record in Case Number  
10 05-39 to accept the requested items from the  
11 applicant, and then to allow for a week for  
12 comment.

13 SECRETARY SCHELLIN: April 2nd.

14 CHAIRPERSON MITTEN: April 2nd. So  
15 comments from the party in opposition, the  
16 ANC, and the Office of Planning, should they  
17 choose to weigh in.

18 VICE-CHAIRPERSON HOOD: Second.

19 CHAIRPERSON MITTEN: Thank you, Mr.  
20 Hood. Any discussion on reopening the record?

21 (No response.)

22 Then, all those in favor, please

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1 say aye.

2 (Chorus of ayes.)

3 Those opposed, please say no.

4 (No response.)

5 Mrs. Schellin.

6 SECRETARY SCHELLIN: Staff will  
7 record the vote five to zero to zero to reopen  
8 the record to accept the requested documents  
9 on March 26th, with responses being due April  
10 2nd. Commissioner Mitten moving, Commissioner  
11 Hood seconding, Commissioners Jeffries,  
12 Parsons, and Turnbull in favor.

13 CHAIRPERSON MITTEN: Thank you.  
14 Next case for proposed action is Case Number  
15 05-42, and this is the PUD and related map  
16 amendment for Sibley Hospital.

17 If you remember, the request in  
18 this case is for a PUD-related map amendment  
19 to rezone the site for a medical office  
20 building from R-5-A to SP-1, and there is also  
21 a parking garage that would be built as part  
22 of this project overall, and the parking

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1 garage would contain five levels and have 750  
2 spaces.

3 The overall FAR of the project is  
4 2.15 FAR. The height requested is 77 feet,  
5 four inches, which exceeds the PUD guideline  
6 for the SP-1 zone by two feet, four inches.  
7 Lot occupancy of 62 percent is requested.

8 In addition to the flexibility  
9 regarding height, the applicant is requesting  
10 special exception approval for office and  
11 parking uses in SP-1 zone and multiple  
12 structures on a single record lot.

13 As represented by the applicant,  
14 the benefits and amenities include their  
15 willingness to pay for 100 percent redesign  
16 and reconstruction of the Loft-Burroughdale-  
17 Carlia intersection, including the provision  
18 of a bus layover area; a transportation  
19 management plan that includes, among other  
20 things, routing -- providing signage to route  
21 the traffic to the Sibley Hospital campus on  
22 Little Falls Road; the provision of a shuttle

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1 bus to the Metro; incentives for carpooling;  
2 and so on.

3 In this case, they are proffering  
4 high quality design and enhanced landscaping,  
5 increased -- among the benefits are increased  
6 quality of ambulatory care, and they believe  
7 that the medical office building will help  
8 draw and retain physicians. They have  
9 proffered a \$140,000 donation to Iona Senior  
10 Services for -- is it just the three of us?

11 PARTICIPANT: Four.

12 VICE-CHAIRPERSON HOOD: I think  
13 I'll leave, and then it will be two.

14 (Laughter.)

15 CHAIRPERSON MITTEN: Okay.

16 SECRETARY SCHELLIN: Only Mr.  
17 Parsons is not participating.

18 CHAIRPERSON MITTEN: Okay. Okay.  
19 A \$140,000 donation to Iona Senior Services  
20 for transportation for seniors. And some low  
21 impact design features.

22 Now, in this case, we have

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1 objections from two parties. The ANC objects  
2 to certain aspects of the project and has  
3 proposed a compromise that would involve  
4 reducing the height and just general size of  
5 the medical office building, but they're not  
6 opposed in principle to the medical office  
7 building.

8 And then, we have the Sibley  
9 Neighbors for Responsible Growth that are  
10 opposed in principle to the rezoning and the  
11 medical office building. Among the concerns  
12 that they raise are that the SP zone is not  
13 appropriate in this case because it's not for  
14 -- it doesn't further the purposes of the SP  
15 zone, including being a buffer to -- between  
16 residential and other commercial uses.

17 They're concerned about the  
18 speculative nature of the medical office  
19 building, that there are mitigation measures  
20 that have been represented by Sibley that they  
21 would pursue in other cases that they have not  
22 pursued, and that includes rerouting the bus

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1 behind the hospital. And they have  
2 significant concerns about traffic and the  
3 volume of traffic that would be generated by  
4 this proposed use.

5 There is an existing concern about  
6 cut-through traffic in the neighborhood that  
7 they believe would be exacerbated, and there  
8 is I think a certain degree of skepticism  
9 about the effectiveness of the proposed  
10 transportation management plan.

11 So with that as background, then I  
12 would just take note that Mr. Parsons is not  
13 participating in this case. I'd open it up  
14 for discussion. Mr. Jeffries?

15 COMMISSIONER JEFFRIES: I think I  
16 was struck with just the intensity of the  
17 office use at this location. Being somewhat  
18 familiar with the area, and recognizing that  
19 it is adjacent to an R-2 zone, and recognizing  
20 that use could clearly, you know, be part of  
21 the zone but I've always had concerns about  
22 the intensity of the office use in this

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1 location.

2 I'm concerned about the cut-through  
3 traffic. Some of the testimony that we  
4 received -- I thought the Sibley Neighborhood  
5 Neighbors for Responsible Growth, I think they  
6 made a number of compelling arguments as to  
7 really making a case for why we should  
8 probably reject this outright.

9 I am not at that place, but I am  
10 probably in favor of taking this building down  
11 some. So I'd probably like to hear from my  
12 fellow Commissioners and see where they are.

13 I am always very supportive of an  
14 institution being able to sustain itself, and  
15 so forth, and to remain competitive. So I  
16 will certainly tip my hat to that.

17 But, again, we're back at that same  
18 place where, you know, it has to make sense in  
19 the context. You know, we have to maintain,  
20 you know, the zone plan as it sits. So if we  
21 can hear from other Commissioners.

22 CHAIRPERSON MITTEN: Thank you, Mr.

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1 Jeffries.

2 Anyone else want to wade in right  
3 now? Mr. Turnbull?

4 COMMISSIONER TURNBULL: Yes. Thank  
5 you, Madam Chair. I agree with Commissioner  
6 Jeffries. I think that we're all -- that  
7 there's a lot of pluses to the medical  
8 building being built, but I think -- I mean,  
9 I'm troubled by the whole way it is gone  
10 about, and I think there is something that is  
11 missing from -- that the community is not  
12 being listened to.

13 The simple -- I mean, I thought it  
14 was a very -- the idea of the bus route,  
15 getting rid of the helipad from the street,  
16 seemed to be very practical ideas that the  
17 community were looking for. I think that kind  
18 of a gesture would have gone a long way, I  
19 think, in helping mitigate some of their  
20 concerns.

21 The height issue I'm not sure. The  
22 height issue is problematic. You know, when

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1 does it -- when do you sort of hit the balance  
2 as to when it's going to be successful, when  
3 it can -- when it's going to work and when  
4 it's not.

5 So while I'm just concerned that  
6 the applicant really didn't come back and  
7 listen to some of the comments of the  
8 community. And I think that's troubling to  
9 me. I'm not ready to reject it, but I think  
10 that there needs to be something else done for  
11 the community to address some of their  
12 concerns, which I don't see happening right  
13 now.

14 CHAIRPERSON MITTEN: Thank you.

15 Mr. Hood?

16 VICE-CHAIRPERSON HOOD: I would  
17 agree with both of my colleagues, Madam Chair,  
18 and we have much discussion with doctors, and  
19 I think we have a variety -- a cadre of  
20 different people coming in to speak on the  
21 subject.

22 But when I was looking at this --

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1 reviewing this case this weekend, I said my  
2 point of start for this was the ANC  
3 compromise. And I don't know how much more I  
4 can elaborate what my other two colleagues  
5 have said, but that was my point of start for  
6 me was the ANC compromise.

7 CHAIRPERSON MITTEN: Thank you.

8 I don't disagree with anything that  
9 I've heard so far, and I think Mr. Jeffries  
10 captured it best, which is, you know -- it's  
11 kind of peculiar for me to be saying this, but  
12 I'm going to say it anyway. The density of  
13 the project doesn't trouble me, and the height  
14 of the project doesn't trouble me. But the  
15 use and the intensity that is associated with  
16 this use, the intensity of the use, is what  
17 troubles me.

18 And it was interesting because the  
19 neighbors contrasted the -- I think it's the  
20 Grand Oaks -- the retirement community or the  
21 -- whatever, the assisted living part of it,  
22 and that's a use that you can -- you know, you

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1 can create the zoning box, and you can put a  
2 not intense use in that box, or you could put  
3 a very intense use in that box.

4 And I find this to be too intense  
5 for the box. So there's different ways to  
6 deal with that. One is to reject it outright,  
7 which I'm not prepared to do, and I'll speak a  
8 little bit more about that in a second. But I  
9 don't know any other way to reduce the  
10 intensity, other than to scale back the box.

11 So if somebody has other ideas, I'm  
12 open to them. But I'm -- but I just want to  
13 be clear, I'm not uncomfortable with the  
14 height that's being proposed. And I think  
15 that, you know, in siting it at the back of  
16 the lot it certainly does -- it certainly does  
17 produce the least visual intrusion on the  
18 community.

19 I think Mr. Turnbull made a very  
20 good point about, you know, we can't tell  
21 Metro where to put the bus, but there are some  
22 things that Sibley could do to make that

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1 decision very easy for Metro. And one would  
2 be to upgrade the road back there, which is  
3 what we were told was a prerequisite for the  
4 bus route to go there, and also just to do the  
5 simple thing of relocating the helipad.

6 And I'd like to see those things  
7 done, because I think in the long run -- and I  
8 believe we're going to see more from Sibley  
9 because we were told that there was a master  
10 plan that they were developing, and this is,  
11 you know, the first component of it -- that,  
12 you know, this is an ongoing issue and good  
13 faith is required in these kinds of  
14 circumstances.

15 But I do want to address the issue  
16 about the SP zone not being appropriate here,  
17 because the -- I think that if -- in the  
18 context of a PUD, if one focuses too much on  
19 the purpose of a given zone, as if we were  
20 mapping it, just straight up mapping it, and  
21 then it's -- you care very much about the  
22 purposes of a zone in terms of buffering, and

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1       so on.

2                       But in the context of a PUD I think  
3       we are a little more pragmatic about the zones  
4       that we select, because they are -- in the  
5       context of a PUD, they tend to be a means to  
6       an end. So they're a means to accommodating  
7       certain uses, and they're a means to getting a  
8       certain height, and they're a means to getting  
9       a certain density. But all of the extra --  
10      what do I want to say? Purposes of that zone  
11      don't necessarily apply in the context of a  
12      PUD, and I think that the opposition was  
13      getting distracted by that.

14                     And so I'm not troubled by the --  
15      by zoning the SP as long as whatever we put in  
16      that -- as long as whatever we're providing  
17      for is not -- doesn't overwhelm the community.

18      So I think that can be done, and, as I said,  
19      I think the intensity needs to be scaled back.

20                     I also wanted to comment on the  
21      fact that a number of the benefits and  
22      amenities that were proffered by the applicant

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1 in my mind are mitigation of the traffic  
2 issues that would be generated. So, for  
3 instance, the transportation management plan  
4 -- quite a bit of that is to deal with the  
5 volume of traffic that is being generated, and  
6 so I wouldn't count that as an amenity. And  
7 the shuttle bus is in that category.

8 And then, you know, they talked  
9 about the provision of ample parking. Well,  
10 unless you're going to provide extra parking  
11 that someone would be able to use, all they're  
12 doing is satisfying their parking demand.

13 So I think they need to revisit  
14 this from a couple of angles, and that would  
15 be that those really need to be treated as  
16 mitigation measures. And depending on what  
17 they come back with, there may need to be  
18 additional benefits or amenities. But this  
19 needs to be -- the intensity of this needs to  
20 be scaled back. And if the ANC compromises  
21 something that people can be comfortable with,  
22 you know, that's fine.

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1           The applicant -- I was a little bit  
2       disappointed when the applicant said that the  
3       project is not feasible if it's smaller, but  
4       then they really didn't say why. And even  
5       when I asked some specific questions, they  
6       never really explained that.

7           So on land -- and I know that they  
8       have -- you know, they have certain things  
9       they have to do. They have to relocate  
10      certain uses out of other buildings and  
11      demolish other buildings. But presumably that  
12      would all be part of a longer range plan. So  
13      to weigh that against the economics of this  
14      building is probably not appropriate to do.

15           So I think they have to make a  
16      choice, and we'll see what choice they make.  
17      But I don't want to deny this outright  
18      tonight. I want to give them a chance to come  
19      back. Mr. Jeffries?

20           COMMISSIONER JEFFRIES: And, Madam  
21      Chair, thank you for bringing up this whole  
22      notion of proffers, because I think I had

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1 written that down somewhere. I called it  
2 mitigation. But it seemed as if all of the  
3 things that were being proffered were just  
4 sort of to address, you know, traffic issues  
5 and it seemed to, you know, really not go  
6 well beyond that.

7 So I would echo and just for the  
8 applicant in earshot to understand that that's  
9 also a concern of mine, and that if they  
10 choose to come back that they really should  
11 look at beefing up their amenities package.

12 CHAIRPERSON MITTEN: Thank you. So  
13 we will defer --

14 COMMISSIONER TURNBULL: Madam  
15 Chair?

16 CHAIRPERSON MITTEN: Yes. Oh, I'm  
17 sorry.

18 COMMISSIONER TURNBULL: I just  
19 wanted to get in on your -- with your question  
20 of intensity. Not only the office building,  
21 but I'm assuming you're carrying it over with  
22 the parking structure also, or no? Or is that

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1 a separate facet?

2 CHAIRPERSON MITTEN: Well, the  
3 intensity is really the intensity of the use  
4 of the site. So it's the medical office  
5 building that is drawing all --

6 COMMISSIONER TURNBULL: Right.

7 CHAIRPERSON MITTEN: -- that is  
8 causing all of this activity. And the parking  
9 is just to satisfy that demand. If they want  
10 to build a parking structure of that size  
11 because they want to accommodate the need of  
12 future buildings that they might build, I  
13 don't have an issue with that myself.

14 COMMISSIONER TURNBULL: So you're  
15 not opposed to the intensity of the garage.

16 CHAIRPERSON MITTEN: No, I'm not.

17 COMMISSIONER TURNBULL: Okay.

18 CHAIRPERSON MITTEN: I'm not -- I  
19 personally am not.

20 COMMISSIONER TURNBULL: Okay.

21 COMMISSIONER JEFFRIES: I do think  
22 it's -- it works hand in hand with the office.

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1 COMMISSIONER TURNBULL: If you  
2 build it, they will come.

3 COMMISSIONER JEFFRIES: Yes. I  
4 mean, it all works around just, you know, the  
5 intensity of that type of operation.

6 COMMISSIONER TURNBULL: Yes.

7 COMMISSIONER JEFFRIES: You know,  
8 so the garage -- I mean, everything is  
9 interconnected. So --

10 CHAIRPERSON MITTEN: Mr. Hood?

11 VICE-CHAIRPERSON HOOD: I'm not  
12 understanding something, Madam Chair. We  
13 talked about the intensity, and you said you  
14 didn't have a problem with the height, you  
15 didn't have a problem with the density, but  
16 you said within the box -- and I probably  
17 should wait until the submittal, I don't want  
18 to question you, put you on the witness stand.

19 CHAIRPERSON MITTEN: No, that's  
20 okay. I'll try to explain it if you'd like.

21 VICE-CHAIRPERSON HOOD: But within  
22 the box -- yes, I just don't want us to get to

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1       that point and then we may have a problem.  
2       Within the box, it's what's being used in the  
3       box.

4                   CHAIRPERSON MITTEN:       Right.     I  
5       mean, let me give you an extreme example.  
6       Remember when we did the electronic equipment  
7       facilities and --

8                   VICE-CHAIRPERSON   HOOD:           Don't  
9       mention that.

10                   (Laughter.)

11                   CHAIRPERSON MITTEN:   But it's not  
12       an intense use, because nobody goes there. It  
13       was just for equipment. So it's a box that  
14       doesn't have an intense amount of activity  
15       generated as a result of it. So that's at one  
16       extreme. And at the other extreme is  
17       something like a medical office building where  
18       there's people coming and going all the time.

19                   VICE-CHAIRPERSON   HOOD:       So I'm  
20       still -- I understand this extreme to that  
21       extreme.

22                   CHAIRPERSON MITTEN:   Right.

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1 VICE-CHAIRPERSON HOOD: But I still  
2 don't understand where you were going. What  
3 --

4 CHAIRPERSON MITTEN: Well, where  
5 I'm going is -- so I said there is a very  
6 intense use that's going to go on in the box,  
7 so I would be comfortable with something that  
8 was less intense. Well, the use itself is  
9 that intense, so how do we make it less  
10 intense is you make the box smaller, so that  
11 --

12 VICE-CHAIRPERSON HOOD: Right. So  
13 we cut down the height, we cut down the square  
14 footage.

15 CHAIRPERSON MITTEN: Right.

16 COMMISSIONER JEFFRIES: I mean,  
17 Madam Chair, what you're -- if it were  
18 residential or something, you would -- in a  
19 larger box where the box is the size that it  
20 is might be fine because that means a certain  
21 kind of activity use of that particular box.

22 And I think by default, because I

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1 don't know how else the applicant can do it --  
2 by default, I guess what we're saying is that  
3 the box has to go down, although for Madam  
4 Chair, I sort of think that the box needs to  
5 go down no matter what.

6 But I think for Madam Chair it's  
7 more an issue of she's more focused on the  
8 intensity of the office piece. And I have a  
9 concern about the office -- I mean the  
10 intensity of the office use as well. So I  
11 think at the end of the day this applicant  
12 probably needs to bring this building down.

13 CHAIRPERSON MITTEN: Right. I  
14 think that's the --

15 COMMISSIONER JEFFRIES: That's it.

16 CHAIRPERSON MITTEN: Yes, we all  
17 come at that from different --

18 VICE-CHAIRPERSON HOOD: Okay.

19 CHAIRPERSON MITTEN: -- directions,  
20 but yes.

21 VICE-CHAIRPERSON HOOD: Okay.

22 Thank you.

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1 CHAIRPERSON MITTEN: Okay? So  
2 we'll allow the applicant to revisit this, and  
3 we'll just accept their filing whenever it  
4 comes in and put it on the schedule.

5 SECRETARY SCHELLIN: Are we going  
6 to allow the parties to respond to --

7 CHAIRPERSON MITTEN: Oh,  
8 absolutely. And so we'll just have to  
9 schedule --

10 SECRETARY SCHELLIN: Another week  
11 for them?

12 CHAIRPERSON MITTEN: -- that. Yes.

13 SECRETARY SCHELLIN: Okay.

14 CHAIRPERSON MITTEN: Whenever that  
15 comes in.

16 Okay. Next is Case Number 04-24A,  
17 and this is the second stage PUD application  
18 for the Mid-City Urban Project at Rhode Island  
19 Avenue.

20 And I have a little summary of  
21 that, too.

22 COMMISSIONER JEFFRIES: I thought

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1       that Vice Chair Hood was going to do that.

2                   VICE-CHAIRPERSON HOOD:   Well, give  
3       me summaries.

4                   (Laughter.)

5                   CHAIRPERSON MITTEN:    Okay.   Well,  
6       just to remind folks, when we approved the  
7       first stage, we approved a PUD-related map  
8       amendment for this site to C-2-B, and now in  
9       the second stage we have a proposal from the  
10      applicant to build 274 apartment units and  
11      roughly 320,000 square feet, and there would  
12      be 70,000 square feet of retail space, 10  
13      percent of which would be reserved for local  
14      businesses.   The density is 1.52 FAR, and  
15      there is two parking garages, if you remember,  
16      one on each side of the main street, and they  
17      contain -- they collectively contain a total  
18      of 469 spaces.

19                   And among the benefits are that  
20      this is -- you know, this is transit-oriented  
21      development at the Rhode Island Avenue Metro,  
22      and that there is an affordable housing

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1 proffer in this application for 20 percent of  
2 the units would be reserved for 20 years for  
3 individuals making 50 percent or less of the  
4 area median income.

5 And then, we have -- in addition to  
6 just providing a fairly significant amount of  
7 retail near the Metro, we do have the set-  
8 aside for the local businesses that are maybe  
9 not credit tenants. And then, there's green  
10 building elements included and the memorial  
11 for the Harmony Cemetery, and then the first  
12 source and LSDBE requirements that have also  
13 been proffered.

14 And we -- the principal concern in  
15 -- there wasn't any significant opposition,  
16 but the principal concern had to do with the  
17 adequacy of the parking that was being  
18 required. And if you remember, this applicant  
19 was being as creative as any that we've seen  
20 in trying to not overpark the site and yet  
21 accommodate this mix of uses. And it was  
22 quite something. So a side benefit is they're

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1 studying a new standard for transit-oriented  
2 development and parking.

3 So with that, I'll open it up for  
4 Commission discussion. Mr. Hood.

5 VICE-CHAIRPERSON HOOD: I would  
6 say, Madam Chair, as I said at the hearing,  
7 this project has come a long, long way. I  
8 know there have been some tweaks and some  
9 adjustments, but I appreciate the applicant  
10 listening to the dias and I believe working  
11 hard with the community and making sure that  
12 this -- well, at first I -- frankly, to be  
13 honest, I didn't think this was an appropriate  
14 site for a TOD, in the way it was being  
15 proposed.

16 But there have been many, many  
17 changes to make the adjustment to make this  
18 suitable for that particular area, because,  
19 you know, for example in some areas of the  
20 city you can walk right out of the top and  
21 there are homes right there. But this site I  
22 believe is unique. The majority of people who

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1 go to this area who use the Home Depot and the  
2 Giant usually drive, and they usually come  
3 from other areas blocks and blocks away, which  
4 you normally wouldn't walk to.

5 And even the ones in the  
6 neighborhood, it's not -- it's like right on  
7 the outside of the outskirts of a Metro. It  
8 takes some effort to get there, and most of  
9 the people who use this usually drive. And I  
10 know we're trying to make areas around Metro  
11 stations to the point where, you know, they  
12 are TODs, but this site I think was unique.

13 I think with the efforts of the  
14 applicant and tweaking it, and what comments  
15 came from the dias, I think it really made  
16 this a suitable site to move forward with this  
17 project, at least I will be voting in support  
18 of it. And that -- hopefully, that takes care  
19 of -- Commissioner Jeffries wanted me to  
20 expound on that.

21 CHAIRPERSON MITTEN: Thank you, Mr.  
22 Hood. Anyone else?

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1 COMMISSIONER PARSONS: I'm going to  
2 comment on Mr. Hood's support, because it has  
3 been a long time coming.

4 (Laughter.)

5 CHAIRPERSON MITTEN: It sure has.

6 COMMISSIONER PARSONS: But, you  
7 know, this is five years of work and effort  
8 that they have put into this, as I recall, and  
9 you're absolutely right, Madam Chairman, about  
10 the creativity of solving this parking  
11 problem. And I sure hope it works, but I  
12 guess we're all familiar with those garages  
13 that are technologically advanced today that  
14 tell you where spaces are, and they work.  
15 They work, you know? And so I would urge  
16 approval of this.

17 CHAIRPERSON MITTEN: Thank you.  
18 Anyone else? Mr. Jeffries?

19 COMMISSIONER JEFFRIES: Hardy  
20 plank.

21 CHAIRPERSON MITTEN: Hardy plank.

22 (Laughter.)

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1                   COMMISSIONER PARSONS:    I saw it,  
2    yes.    I saw it.    I saw hardy plank, hardy  
3    plank, hardy plank, hardy plank.    Yes, I'm  
4    fine.

5                   CHAIRPERSON MITTEN:    Okay.

6                   (Laughter.)

7                   Okay.    Well, I mean, I think that  
8    certainly this is an appropriate use at a  
9    Metro station, and I think our biggest  
10   concerns had to do with parking -- well, they  
11   were traffic-related, they were parking and  
12   traffic-related, and I think the applicant,  
13   after they kind of started to understand where  
14   we were coming from, was very accommodating of  
15   the concerns that we raised.

16                   And this really will set a new  
17   standard for how we handle -- how we manage  
18   the -- you know, sort of these -- in a mixed  
19   use project how we possibly can manage parking  
20   in the most efficient way.    And I'm really  
21   looking forward to watching them execute this.

22                   So I would like to move approval of

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1 Case Number 04-24A, and request that a few  
2 things come into the record in order to -- for  
3 us to take final action. And those would be I  
4 think we need to get a submission, not unlike  
5 we did in the Case Number 05-39 on exactly how  
6 these units will be made affordable to the  
7 target population, we don't have that per se.

8 The applicant in their proposed  
9 order condition number 10 included a condition  
10 that we hadn't discussed at the hearing, which  
11 is that the project may be developed in  
12 phases. I think we need more information  
13 about what they have in mind. And I think we  
14 need to add the commitment to building the  
15 memorial for Harmony -- the former Harmony  
16 Cemetery as a condition.

17 And I'd also like to add a  
18 condition that reflects the applicant's  
19 agreement to a question that I posed at the  
20 hearing, which was that only trucks shall be  
21 permitted to exit garage number 2 at Main  
22 Street, and all other traffic from garage

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1 number 2 has to exit to the -- at the west  
2 exit. And that's a long motion, but that's  
3 it.

4 VICE-CHAIRPERSON HOOD: I'll second  
5 it.

6 CHAIRPERSON MITTEN: Thank you, Mr.  
7 Hood. Is there any further discussion?

8 (No response.)

9 Then, all those in favor please say  
10 aye.

11 (Chorus of ayes.)

12 Those opposed, please say no.

13 (No response.)

14 Mrs. Schellin.

15 SECRETARY SCHELLIN: Staff will  
16 record the vote four to zero to one, to  
17 approve proposed action in Zoning Commission  
18 Case Number 04-24A. Commissioner Mitten  
19 moving, Commissioner Hood seconding,  
20 Commissioners Jeffries and Parsons in favor,  
21 Commissioner Turnbull not voting, having not  
22 participated.

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1 CHAIRPERSON MITTEN: Thank you.

2 Now we're ready for final action,  
3 and the first case is a technical correction  
4 in Case Number 95-04. There were a few lot  
5 references that needed to be amended in the  
6 Union Station area rezoning.

7 And, Mrs. Schellin, did you have  
8 anything that you wanted to share with us, or  
9 should we just --

10 SECRETARY SCHELLIN: No. It was  
11 more or less just a technical correction  
12 listing the corrects lot.

13 CHAIRPERSON MITTEN: Okay. Are  
14 there any questions?

15 (No response.)

16 Then, I would move approval of the  
17 technical correction in Case Number 95-04.

18 COMMISSIONER TURNBULL: Second.

19 CHAIRPERSON MITTEN: Thank you, Mr.  
20 Turnbull. Any discussion?

21 (No response.)

22 All those in favor, please say aye.

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1 (Chorus of ayes.)

2 Those opposed, please say no.

3 (No response.)

4 Mrs. Schellin.

5 SECRETARY SCHELLIN: Yes. Staff  
6 will record the vote five to zero to zero to  
7 approve final action in Zoning Commission Case  
8 Number 95-04. Commissioner Mitten moving,  
9 Commissioner Turnbull seconding, Commissioners  
10 Hood, Jeffries, and Parsons in favor.

11 CHAIRPERSON MITTEN: Thank you.

12 Okay. Now, I think we will just  
13 talk about the next two together as we have  
14 from time to time, which is Case Number 06-12,  
15 which is the PUD and related -- first stage  
16 PUD and related map amendment for the GW  
17 campus, and then we have the campus plan,  
18 which is Case Number 06-11.

19 And if you remember, because of the  
20 procedural differences, we took proposed  
21 action in the first stage PUD and then,  
22 because there's only a single vote required

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1 for the campus plan, we didn't take that up  
2 yet. And there are a series of conditions  
3 that have been proposed for the campus plan.

4 But the first thing I want to deal  
5 with is the fact that we have received a  
6 request to reopen the record from a party  
7 represented -- or some folks represented by  
8 Holland & Knight, and it's related to the  
9 historic district.

10 And I just would note that we have  
11 received that piece of correspondence that the  
12 folks that are represented by Holland & Knight  
13 are not a party, and so I'm just going to ask,  
14 is there anyone on the Commission who would  
15 like to vote to reopen the record, or to move  
16 to reopen the record?

17 (No response.)

18 Okay. Then, we'll just proceed to  
19 discuss the first stage PUD and the campus  
20 plan together. So if you remember, in  
21 approving the -- taking proposed action on the  
22 first stage PUD, we said we were comfortable

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1 with the rezonings that were -- the PUD-  
2 related map amendments that were proposed, the  
3 heights, the densities, and so on. And there  
4 are a series of conditions that were proffered  
5 as a part of that, and I'm not going to go  
6 through all that again, but I'll just touch on  
7 a few.

8 That there's a series of  
9 development sites that have been identified  
10 and only those would be eligible for second  
11 stage approval with -- under this existing  
12 first stage; that there will be an Advisory  
13 Committee, you know, involving the university  
14 and the neighborhood; that there is a --  
15 there's been a proffer of -- a series of  
16 proffers, and among them are removing  
17 undergraduate students from various  
18 university-owned properties that are not  
19 within the campus boundaries; that the  
20 applicant -- the university has proposed to  
21 pay for the preparation of individual landmark  
22 applications and a historic district landmark

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1 application; and then to maintain their  
2 historic buildings within that defined area in  
3 accordance with guidelines that will be  
4 established by the -- with the Office of  
5 Planning.

6 They have proffered a streetscape  
7 plan. They have proffered a retail corridor  
8 along I Street, which we asked them for a  
9 little bit more -- to make that a little bit  
10 more concrete, which they have done in terms  
11 of the uses that would be permitted, and also  
12 that there would be minimum street frontage  
13 requirements for that retail, so we would be  
14 assured that we would achieve the critical  
15 mass of retail.

16 And then, they have also proffered  
17 to meet certain minimum number of lead points  
18 in new construction. And I guess those are  
19 basically the proffered conditions, and so  
20 now, before we move into the discussion of  
21 conditions for the campus plan, which I think  
22 we might not have expressly indicated our

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1 willingness to take up the campus plan as  
2 proposed, the new campus plan, but I think in  
3 approving the first stage PUD we certainly  
4 implied that that was our intention, if we  
5 didn't state it explicitly.

6 So I think it's fair to say that we  
7 intend to approve a new campus plan with  
8 certain conditions. And if you remember, the  
9 general intent was to have the campus plan and  
10 the -- the campus plan extend until 2025, so  
11 that will be a 20-year plan, and that the PUD  
12 should basically be coterminous with that,  
13 because they are wedded together.

14 So I wanted to start this evening  
15 with a discussion about the length of the plan  
16 that's being proffered. And, you know, we did  
17 have -- we had testimony from -- I distinctly  
18 remember the testimony from West End Citizens  
19 Association regarding, you know, that we  
20 hadn't approved any other PUDs with that  
21 length of time, although the waterfront PUD  
22 certainly extends for 17 years, or something

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1       like that.

2                       And also, you know, what guarantees  
3       does the community have that the university  
4       won't amend the PUD or amend the campus plan?

5       And, you know, I mean, the fact is there are  
6       no guarantees, so -- but I think what it does  
7       is it establishes -- a longer term establishes  
8       that there was a consensus on the part of the  
9       Commission, the Office of Planning, the  
10      university at a point in time that this was a  
11      direction that we all agreed was appropriate.

12                     And I think it does more to give  
13      certainty to the community than a shorter term  
14      plan that doesn't sort of in a more concrete  
15      way express what the long-term buildout of the  
16      campus might look like. So I would be in  
17      favor of the 20-year term, 20 or so years at  
18      this point I guess to expire June 30, 2025,  
19      which is not really 20 years anymore, but I'd  
20      be in favor of that, and I would be interested  
21      in hearing what my colleagues have to say.  
22      Mr. Parsons?

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1                   COMMISSIONER PARSONS:       Well, I  
2       would concur. I think this is a new day for  
3       campus plans, and I hope we can, frankly,  
4       establish this as a precedent for how we're  
5       going to proceed with others in the future.

6                   Somehow the 10-year proviso that  
7       we've been working under has been clumsy and  
8       unpredictable. And if we can deal with the  
9       development that's going to take 20 and maybe  
10      even more years in this fashion, I think it's  
11      hopefully something we can be doing in the  
12      future for other campuses. So this is  
13      technicality. Are we talking about 2025, or  
14      are we talking about 2026?

15                  CHAIRPERSON MITTEN: I think that  
16      what -- at least the Office of the Attorney  
17      General has suggested that we have -- rather  
18      than say what -- that we have a date on which  
19      it will expire as opposed to saying 20 years  
20      and what's being suggested is June 30, 2025.

21                  MR. BERGSTEIN: Can I just clarify  
22      that?

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1 CHAIRPERSON MITTEN: Yes, I'm  
2 sorry.

3 MR. BERGSTEIN: The applicant, for  
4 its campus plan, used a date certain.

5 CHAIRPERSON MITTEN: Okay.

6 MR. BERGSTEIN: For the first stage  
7 PUD it used 20 years.

8 CHAIRPERSON MITTEN: Okay.

9 MR. BERGSTEIN: I chose  
10 specificity, but you could do either way. I  
11 just wanted both to end on the same date,  
12 whatever that might be.

13 CHAIRPERSON MITTEN: Thank you, Mr.  
14 Bergstein. So if you feel like you want to  
15 cross out that 2025 and put 2026, I don't  
16 think --

17 COMMISSIONER PARSONS: How about  
18 2027?

19 (Laughter.)

20 I don't know. I mean, it's a 20-  
21 year plan. Ought to be 20 years from the date  
22 we take action, shouldn't it?

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1 CHAIRPERSON MITTEN: We can do  
2 that.

3 MR. BERGSTEIN: If it's -- 20 years  
4 is 20 years from the effective date of the  
5 order. That's how --

6 CHAIRPERSON MITTEN: Okay. That's  
7 fine, 20 years from the effective date of the  
8 order.

9 VICE-CHAIRPERSON HOOD: Let me just  
10 comment, Madam Chair. Early on I was --

11 CHAIRPERSON MITTEN: Thank you.

12 VICE-CHAIRPERSON HOOD: -- not in  
13 favor of this amount of time. But I'm going  
14 to have to go along and yield to Mr. Parsons,  
15 because 2027, in those years he'll be the only  
16 one still here on this Commission.

17 (Laughter.)

18 So he'll have to deal with that.  
19 But I will tell you I was -- I was not in  
20 favor of -- I really was not in favor of a 20-  
21 year plan. And I'm just joking, Mr. Parsons.  
22 I was really just not -- I was not in favor

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1 of the 20-year plan. But as Mr. Parsons  
2 stated, and I look at the first stage PUD and  
3 this new precedent that's being set on campus  
4 plans, I will have to yield to his comments  
5 and agree to it.

6 But early on, I grappled with that  
7 20 years or whatever -- how many years you all  
8 -- we put into it, because I didn't think that  
9 it gave any predictability to the  
10 neighborhood. But then, when I revisited it  
11 and looked at the first stage PUD, I think it  
12 does. And maybe this is a new era, and maybe  
13 this will accomplish some things that have not  
14 been accomplished in that neighborhood.

15 Thank you.

16 CHAIRPERSON MITTEN: Mr. Jeffries?

17 COMMISSIONER JEFFRIES: Yes. I  
18 think there is just general practicality  
19 around, you know, a campus plan term that's 20  
20 years plus or so. I mean, with the vision of  
21 the university set forth, I mean, that's going  
22 to require a lot of thoughtfulness in terms

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1 of, you know, planning that -- I mean,  
2 executing on that vision, particularly in the  
3 context of, you know, a neighborhood.

4 And with all the other constraints  
5 that will be upon GW, I think it really makes  
6 sense that, you know, they be afforded, you  
7 know, enough time in which to sort of, you  
8 know, work through this pretty bold plan that,  
9 again, is in the context of a neighborhood.  
10 It's not in a field where you can just build.

11 I mean, there's lots of things that bear down  
12 on being able to execute something that's  
13 bold, so --

14 CHAIRPERSON MITTEN: Anyone else?  
15 Mr. Turnbull?

16 COMMISSIONER TURNBULL: Yes, Madam  
17 Chair. I would agree with all the other --  
18 with all the rest of the Commissioners. I  
19 think when you look at a business plan for a  
20 campus and what they have to do, by the time  
21 you've programmed a building -- first of all,  
22 you have to have the endowment, you have to

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1 have the money there to build it.

2 But you have to have -- you have to  
3 do the programming, you have to do the design  
4 work, and then you're getting construction,  
5 and before long -- it could take three or four  
6 years before you've got something, if that  
7 sometimes.

8 So I think by the time they've  
9 planned two or three buildings, 10 years will  
10 have gone by. So depending upon -- I think it  
11 gives a rational approach on how to  
12 strategically do their mission and build a  
13 significant program. And I'm going to be  
14 looking forward to the greening of their  
15 campus.

16 CHAIRPERSON MITTEN: Thank you.  
17 Okay. So I think we have -- we have a  
18 consensus about 20 years, that it will be --  
19 the approval will be for 20 years from the  
20 effective date of the order.

21 Okay. So now we have a series of  
22 conditions, and I'm just going to walk us

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1 through, starting on page 16 of the draft that  
2 we have in front of us.

3 And that this will replace the  
4 existing campus plan, and the -- we'll have to  
5 modify the first campus plan condition, just  
6 to reflect the 20 years. And then --

7 MR. BERGSTEIN: Just so the  
8 audience isn't confused, the draft you're  
9 working from is a draft I provide to you,  
10 which is a confidential document, so page 16  
11 has no reference to anything that the audience  
12 might have.

13 CHAIRPERSON MITTEN: Okay. Then,  
14 I'll try and tie it to something that they  
15 might have.

16 Okay. So this -- the first  
17 condition relates to what was proffered  
18 condition number 1 by the applicant, which  
19 relates to just the duration of the plan.  
20 Then, the second condition that was proffered  
21 by the applicant was that they would not  
22 initiate litigation challenging the Zoning

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1 Commission action.

2 And while I would just as soon they  
3 not do that, I don't think we want to be  
4 incorporating -- I don't think we want to be  
5 giving the appearance of trading our approvals  
6 for a lack of -- or, you know, a willingness  
7 not to litigate.

8 So, you know, bring it on, whatever  
9 you've got.

10 So we'll eliminate condition  
11 number 2. The boundary would remain unchanged  
12 from that that is specified in the existing  
13 campus plan. That's condition number 3, and  
14 there's no change proposed there.

15 What had been proffered as the  
16 applicant -- by the applicant as condition  
17 number 4 has now been incorporated into the  
18 PUD portion of the approval, which relates to  
19 any development or redevelopment other than a  
20 minor change or a project that's being done to  
21 conform with the building code, or one that  
22 does not affect a building's size. Any new

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1 development would come back as a second stage  
2 PUD and only for those designated development  
3 sites.

4 Condition number 5 has to do with  
5 -- again, with redevelopment, and it has been  
6 incorporated as a condition of the PUD, and it  
7 is basically giving adequate notice to the  
8 parties that would be affected of an intent to  
9 redevelop a specific site on the campus. So  
10 that is now becoming a PUD condition.

11 What was proffered as condition  
12 number 6, which relates to the submission for  
13 a second stage PUD, has also been incorporated  
14 into the PUD conditions.

15 What was condition number 7  
16 proposed by the applicant, which has to do  
17 with compliance, sort of checking in for  
18 compliance upon submission of a second stage  
19 approval is now being dealt with as a  
20 condition of the PUD, and it incorporates the  
21 provisions that were proffered by the  
22 applicant.

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1                   What    had    been    proffered    as  
2   condition number 8 by the applicant is now  
3   dealt with in condition number 1 of the PUD,  
4   which relates to the university, because it's  
5   a proffer as opposed to a campus plan  
6   condition, which relates to their proffer not  
7   to purchase additional residentially zoned  
8   properties outside of the campus, if you  
9   recall that.

10                  And then, we get to condition  
11   number 9, which has to do with the campus  
12   population. And that's on page 19 for us now,  
13   and it's -- it was condition number 9 proposed  
14   by the applicant. It's now C10 on your list  
15   and -- oh, I take it back, that's not right.  
16   That's not right. I'm sorry. The Advisory  
17   Committee is number 9, I'm sorry. It's still  
18   number 10.

19                  The Advisory Committee is now a PUD  
20   condition, and condition number 10 is now  
21   condition number 10 on page 19. And that --

22                  VICE-CHAIRPERSON HOOD:    I have a

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1 question.

2 CHAIRPERSON MITTEN: Yes, sir.

3 VICE-CHAIRPERSON HOOD: Did we deal  
4 with that at the -- when we approved the first  
5 stage PUD? We dealt with that, didn't we, the  
6 Advisory Committee?

7 CHAIRPERSON MITTEN: Yes, I believe  
8 we did.

9 VICE-CHAIRPERSON HOOD: Okay.

10 CHAIRPERSON MITTEN: It was  
11 proffered. It was proffered as a condition,  
12 so that they would form this. We can't make  
13 them form it. They're proffering that they  
14 will create this. They can't compel these  
15 other groups to participate or anything.

16 VICE-CHAIRPERSON HOOD: Right, I  
17 understand that. But at least the intent --  
18 at least from the Commission, the direction is  
19 that this will be -- at least there will be a  
20 good faith effort to make this happen.

21 CHAIRPERSON MITTEN: Yes.

22 VICE-CHAIRPERSON HOOD: That's

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1       okay.

2                   CHAIRPERSON MITTEN:   Yes.

3                   VICE-CHAIRPERSON HOOD:       And I'm  
4       sure we hashed it out during the first stage  
5       PUD. Thank you.

6                   CHAIRPERSON MITTEN:   So now we're  
7       to condition number 10, and this has to do  
8       with campus population. And I think -- and  
9       this is being preserved from the existing  
10      campus plan, and I don't think there are any  
11      changes that are being suggested, apart from  
12      one minor thing that was suggested by the West  
13      End Citizens Association in C.

14                   And it says -- in C it talks about  
15      the audit, and it -- about halfway through it  
16      says "by a firm previously approved by the  
17      Zoning Administrator and the Advisory  
18      Committee" is what it says in the condition.  
19      And the West End Citizens Association said the  
20      Zoning Administrator and the D.C. Inspector  
21      General.

22                   So I don't know about that. I

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1       assume it's the same. I don't know that we  
2       can compel the Inspector General, but the  
3       Zoning Administrator is somebody that we do  
4       deal with, so I don't think there's anything  
5       to be gained by adding the Inspector General  
6       there. So I would advise against that  
7       addition.

8                   COMMISSIONER TURNBULL: So you  
9       would leave it in and report it to the  
10      Advisory Committee.

11                   CHAIRPERSON MITTEN: Yes.

12                   COMMISSIONER TURNBULL: Okay.

13                   CHAIRPERSON MITTEN: Condition  
14      number 11 deals with the faculty and staff  
15      head counts. Now, in this condition -- and  
16      these are unchanged from the existing campus  
17      plan. The difference for West End Citizens  
18      Association is they want the faculty and staff  
19      head counts to be separated, and which there  
20      are numbers that exist.

21                   But I think, you know, we had some  
22      -- we had a fair amount of testimony on some

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1 sort of fine tuning of trying to calculate the  
2 number of employees in different categories.  
3 And my concern is that I think the impact on  
4 campus -- at least the testimony that we have,  
5 there is no -- there has been no distinction  
6 made about the impact of faculty versus staff.

7 And I think that by -- if we  
8 separate them out, that makes -- potentially  
9 makes for more area of contention, so between  
10 how did you count faculty and how did you  
11 count staff, that it serves no purpose if in  
12 the aggregate they haven't exceeded the  
13 number.

14 So I don't -- I wanted to remind  
15 folks that West End Citizens had suggested  
16 that we separate it out. I don't advocate for  
17 that myself, so I just wanted to see if  
18 there's any support for separating those out.

19 Okay. Then, there's a litany in  
20 11A of what the faculty and staff head count  
21 will include, and to that list the West End  
22 Citizens had suggested that we add after the

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1 last item, which is visiting instructional and  
2 research faculty, "and contracted employees  
3 providing services within the campus plan  
4 boundaries."

5 Now, I don't know exactly what a  
6 contracted employee would be in this context,  
7 because we have -- in the next sentence we're  
8 not including the last -- the last set of  
9 individuals, we wouldn't include our  
10 contractors that provide ancillary campus-  
11 related service functions who are not  
12 employees of the university.

13 So I don't know what a contract  
14 employee is exactly and whether or not we  
15 wouldn't have captured them elsewhere. I'm  
16 just a little leery about including that one,  
17 because I don't know what it means.

18 And also, we had from the -- I  
19 think it was from the university that they had  
20 suggested that if these folks aren't employees  
21 but they're employees of contractors that they  
22 really -- it's very difficult for them to

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1 track these numbers. So from an  
2 administrative standpoint, I'm not sure that  
3 that's going to be beneficial, but I'd like to  
4 know what the consensus of the group is.

5 VICE-CHAIRPERSON HOOD: Madam  
6 Chair, where did we cite you believe that  
7 we've already captured that about the contract  
8 employees?

9 CHAIRPERSON MITTEN: Well, I just  
10 don't know -- well, if we run through -- we  
11 have regular full-time faculty and staff,  
12 regular part-time faculty and staff, wage  
13 account staff that are not Foggy Bottom  
14 students, temporary part-time faculty,  
15 visiting instructional and research faculty.  
16 I don't know what a contract employee is that  
17 would not have been captured above. If  
18 they're an employee, wouldn't they have been  
19 captured?

20 VICE-CHAIRPERSON HOOD: Well, they  
21 may be contracted for a special project for a  
22 certain amount of time. You may have a

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1 contract employee -- and I know you know this.

2 You probably know it better than I do. You  
3 may have a contract employee who was not  
4 employed by GW who may come on site and may be  
5 under a contract to do some kind of -- I'm not  
6 sure what type of work, and they may be  
7 contracted for a year.

8 And I think that's where they're  
9 going -- West End was going. And that means  
10 that would be more I guess intensity use or  
11 more people coming to the site.

12 CHAIRPERSON MITTEN: Well,  
13 actually, maybe what it is -- maybe what it is  
14 is like say it's cleaning or something, and so  
15 they have -- they hire -- they say, you know,  
16 Joe's Cleaning Company cleans the campus, and  
17 those are not employees of the university, but  
18 they're employees of a contractor.

19 VICE-CHAIRPERSON HOOD: Right.

20 CHAIRPERSON MITTEN: But I think  
21 the problem for the university is they find it  
22 difficult to find out, well, how many

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1 employees do you have? And that could change  
2 from time to time. They've contracted for a  
3 service, not necessarily a specific number of  
4 bodies to provide the service. So I just --  
5 I'm just concerned about the --

6 COMMISSIONER PARSONS: I had a  
7 different take on this.

8 CHAIRPERSON MITTEN: Okay.

9 COMMISSIONER PARSONS: And maybe  
10 our confusion is apparent here. But I didn't  
11 think these were contractors who were  
12 providing services.

13 CHAIRPERSON MITTEN: Okay.

14 COMMISSIONER PARSONS: Rather, an  
15 employee who is under contract to the  
16 university to teach a certain class as opposed  
17 to a full-time employee. That's what I --

18 CHAIRPERSON MITTEN: But we --

19 COMMISSIONER PARSONS: I didn't  
20 sense that there were significant enough  
21 numbers to even worry about it.

22 CHAIRPERSON MITTEN: Well, the

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1     thing is it says regular full -- what's  
2     already included, regular full-time faculty,  
3     regular part-time faculty and staff. So I  
4     think we've captured it. I don't -- does  
5     anyone feel strongly about adding it?

6                   COMMISSIONER PARSONS: No.

7                   CHAIRPERSON MITTEN: Because  
8     otherwise --

9                   VICE-CHAIRPERSON HOOD: Does it  
10    hurt?

11                   CHAIRPERSON MITTEN: I don't --  
12    see, that's my concern is that the -- without  
13    really knowing what it is, if we put -- if we  
14    tell the university, okay, you've got to keep  
15    track of this, and it's something that we  
16    don't even know exactly what it is, that's not  
17    --

18                   VICE-CHAIRPERSON HOOD: Okay.  
19    Thank you.

20                   CHAIRPERSON MITTEN: -- that's not  
21    fair.

22                   Okay. And then, we also had --

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1 let's see, along the same lines, we also have  
2 the -- another addition that would be at the  
3 end, and maybe this helps to clarify what was  
4 intended by those words. "The annual report  
5 shall indicate each company with a contract to  
6 provide services in whole or in part within  
7 the campus plan boundaries and the number of  
8 employees providing services associated with  
9 each contractor."

10 So that -- maybe that's what that  
11 was intended to capture, but this is exactly  
12 what the university in their response had said  
13 that they find it hard to administer or to  
14 track.

15 So I need --

16 COMMISSIONER PARSONS: I was not  
17 persuaded that contractors should be included,  
18 if that's what you want.

19 CHAIRPERSON MITTEN: Okay. Anybody  
20 else feel strongly about that?

21 (No response.)

22 Okay. 11B is unchanged. And then,

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1 condition number 12, which has to do with the  
2 number of beds provided within the --  
3 university-controlled beds provided within the  
4 campus plan. That was so important to the  
5 last campus plan, that's unchanged. And  
6 condition number 13 is also unchanged. That  
7 requires freshman and sophomore students to  
8 reside in housing within the campus boundary.

9 Condition number 14, which has to  
10 do with housing where the university was  
11 proffering that they would bring undergraduate  
12 students back on campus out of university-  
13 controlled properties that were off campus.  
14 That's now a PUD condition.

15 Condition number 15, which relates  
16 to advising students who are eligible to live  
17 off campus with information about housing  
18 opportunities that are outside of Foggy Bottom  
19 West End, so the -- with the intent that they  
20 wouldn't be concentrating students who could  
21 live off campus in the immediate neighborhood.

22 And then, there was a proposal by

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1 West End Citizens that we should add the  
2 following language. "The university shall not  
3 collect referral fees for properties in which  
4 it holds a direct or indirect financial  
5 interest." And, frankly, I think that's  
6 beyond our purview, so I don't recommend  
7 adding that.

8 Condition number 16 relates to  
9 disciplinary matters, and the West End  
10 Citizens Association has -- okay, first, it  
11 says that the university shall use  
12 disciplinary interventions for acts of  
13 misconduct by students living off campus in  
14 the Foggy Bottom West End area, even if the  
15 students are not in properties owned or  
16 controlled by the university.

17 Then, West End Citizens suggested  
18 that we add, "The university shall maintain  
19 records for each such event for a minimum of  
20 five years, regardless of the disposition." I  
21 don't --

22 COMMISSIONER JEFFRIES: Regardless

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1 of disposition, what does that mean?

2 CHAIRPERSON MITTEN: Whether or not  
3 there was any action taken.

4 COMMISSIONER JEFFRIES: Oh.

5 CHAIRPERSON MITTEN: I mean, I  
6 think, you know, if there's a requirement for  
7 them to report in this annual reporting that  
8 that requirement be met. But unless it's  
9 otherwise required by the zoning order, I  
10 wouldn't -- I don't think we should require a  
11 separate maintenance of incidents that we  
12 haven't expressed an interest in elsewhere in  
13 the order.

14 COMMISSIONER JEFFRIES: I agree.

15 CHAIRPERSON MITTEN: I'm relying on  
16 you guys to speak up if you disagree.

17 And then, we just would want to  
18 change I think to clarify -- and this is a  
19 suggestion that West End Citizens made --  
20 where it says that the university shall act on  
21 incident reports by residents, and so on, and  
22 police. And I think, just to clarify, that

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1 would be Metropolitan Police Department.

2 Condition 17 relates to the  
3 university maintaining a hotline, and then a  
4 log of the calls that come into the hotline,  
5 and so on. And then, near the end, prior to  
6 the last sentence, the West End Citizens has  
7 suggested that this process shall be fully  
8 described, so it's the reporting process --  
9 reporting of incidents.

10 This process shall be fully  
11 described on the university website, published  
12 catalogues, and student handbooks. I think  
13 that's an acceptable suggestion, so that it's  
14 clear to folks what the process is and how  
15 they can avail themselves of that.

16 Condition number 18, which has to  
17 do with a program for students that they have  
18 to participate in called the good -- you know,  
19 where they explain good neighbor issues and  
20 how to be a good neighbor I guess.

21 The West End Citizens has suggested  
22 that in the middle of that condition that it's

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1 a -- this program will especially emphasize  
2 objectionable noise, both inside and outside  
3 of buildings, restricted parking in the Foggy  
4 Bottom West End area, illegal underage  
5 drinking, and respect for personal and real  
6 property of the residential and private  
7 business communities. So that's sort of  
8 getting at what constitutes good neighbor  
9 issues, which I think is fine clarification.

10 COMMISSIONER PARSONS: Okay.

11 CHAIRPERSON MITTEN: Okay?  
12 Condition number 19, there's no suggestions  
13 for that one. That has to do with the  
14 university maintaining local -- a list of  
15 local addresses.

16 Conditions number 20 and 21, which  
17 relate to the historic preservation proffer  
18 and the streetscape proffer have now been  
19 moved to the PUD section, as I discussed  
20 earlier. Then, we have the transportation  
21 measures, minimized adverse impacts associated  
22 with parking and traffic. And I don't think

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1       there are any suggestions until we get to D,  
2       which is student vehicles.

3               Now, there's the proffer -- or  
4       there's the proposed condition that you see on  
5       D that includes, I would note, "In particular,  
6       freshmen and sophomores who are not exempted  
7       from the Foggy Bottom campus housing  
8       requirement are prohibited from bringing  
9       vehicles to the campus other than in  
10      exceptional circumstances," and then it goes  
11      on.

12              We have a proposal from West End  
13      Citizens that would sort of turn the condition  
14      around and model it on other campus plans,  
15      including Mount Vernon and Georgetown. And so  
16      this is what they've proffered as a sort of  
17      lead-in to condition number 22.

18              The university shall prohibit  
19      freshmen and sophomores from bringing cars to  
20      the Foggy Bottom West End area. Notice of  
21      this restriction will be included in at least  
22      one written document -- for example, the

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1 college catalogue mailed to parents of  
2 prospective freshmen and returning sophomores.

3 In addition, each freshman and  
4 sophomore must provide a signature to indicate  
5 he or she has read and understands this  
6 parking policy, regardless of whether he or  
7 she drives to school or is eligible to have a  
8 car on campus. And there's a note that AU's  
9 parking policy includes this provision.

10 Failure to comply is a violation.  
11 The university shall appropriately sanction  
12 any discovered violators and keep a full  
13 accounting of all violations and sanctions.  
14 In addition, the university shall notify all  
15 undergraduate and graduate students that  
16 parking is prohibited on the streets adjacent  
17 to and surrounding the Foggy Bottom campus.

18 So this is a more -- I guess it's a  
19 more aggressive policy that's being proposed,  
20 as opposed to -- it's just a more aggressive  
21 expression of it, and it requires some  
22 overaction on the part of the university to

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1 sort of say to the student not just it's  
2 prohibited, but here's a document that you  
3 have to sign that says you understand this.

4 So what's the pleasure of the  
5 Commission on that point?

6 COMMISSIONER JEFFRIES: It sounds a  
7 bit prescriptive to me, but I'm willing to go  
8 along with it.

9 CHAIRPERSON MITTEN: It's been used  
10 before, and also I think it's adding -- it's  
11 not that the adverse impact hasn't been  
12 acknowledged by the condition that exists.  
13 It's just I think an improvement to the  
14 condition, so if there's a consensus that  
15 that's --

16 COMMISSIONER TURNBULL: Is that  
17 eliminating the sentence about exceptional  
18 circumstances?

19 CHAIRPERSON MITTEN: Just a second.  
20 It would. It does. It does.

21 COMMISSIONER TURNBULL: I  
22 personally think that ought to still be in

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1       there. I mean, there are times when someone  
2       -- when a student may need, just like it says  
3       here, you know, for a health condition or  
4       whatever, for his family, her family, or  
5       whatever.

6                       CHAIRPERSON MITTEN: Okay.

7                       COMMISSIONER TURNBULL: I would say  
8       that the exceptional circumstances ought to  
9       remain in there.

10                      CHAIRPERSON MITTEN: Okay. Let's  
11       -- okay, so we can do a hybrid. We can add  
12       what -- there's another section that West End  
13       Citizens suggested, so we can add the section  
14       that I read, and then we can retain from the  
15       condition "other than in exceptional  
16       circumstances," and then what goes on to  
17       describe exceptional circumstances and how  
18       that can be invoked.

19                      Then, we had -- another part of D  
20       was this notion of the university maintaining  
21       a record of license plate numbers and that the  
22       university directs students to register their

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1 vehicles. And the West End Citizens suggested  
2 that after the sentence "or obtain a  
3 reciprocity sticker" that it says, "Further,  
4 the university shall require documentation for  
5 current licenses, inspection stickers, and  
6 vehicular insurance. Failure to register  
7 student vehicles in the District or to obtain  
8 reciprocity stickers shall constitute a  
9 violation of the Code of Student Conduct."

10 And I guess that was contained  
11 elsewhere. Let me just doublecheck that.

12 (Pause.)

13 Mr. Hood is pointing out to me that  
14 there is already language in the proposed  
15 condition that says that any violation of this  
16 policy shall be grounds for discipline under  
17 the university's Code of Student Conduct. So  
18 I guess we've actually captured most of that.

19 But the difference is that this goes further  
20 and has -- basically has the university  
21 enforcing District law, which -- I think  
22 that's a little over the top myself.

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1                   Let me just see how this reads.

2                   (Pause.)

3                   I think -- I mean, I think I can go  
4           along with everything that West End Citizens  
5           suggested, with the exception of basically  
6           putting the university in the shoes of the  
7           government and saying that if you don't follow  
8           the District law as it relates to documenting  
9           your vehicle that you violated the Code of  
10          Student Conduct.

11                  I would hope the student -- Code of  
12          Student Conduct would already say that  
13          violations of District law are violations of  
14          the Code of Conduct, and so we don't need to  
15          get into the -- sort of the fine tuning of it.

16          That's me, but what do other people think?

17                  COMMISSIONER PARSONS: I'm a little  
18          confused. You said this was stated earlier?

19                  CHAIRPERSON MITTEN: This -- what's  
20          the "this"? I'm sorry. I was looking -- it  
21          says here in a note that it was currently  
22          already in another condition, but I did not

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1 find it when I looked.

2 COMMISSIONER PARSONS: Oh, okay.

3 CHAIRPERSON MITTEN: So --

4 COMMISSIONER PARSONS: Well, I  
5 certainly wouldn't want to pull it out of one  
6 and leave it in another.

7 CHAIRPERSON MITTEN: Right. So  
8 right now we have that the university  
9 prohibits freshmen and sophomores driving to  
10 campus. They are put on notice of that, and  
11 they're required to sign a -- they're required  
12 to acknowledge their understanding of the  
13 parking policy.

14 And the university will notify all  
15 undergraduate and graduate students that  
16 parking is prohibited on the streets adjacent  
17 to and surrounding the Foggy Bottom campus. I  
18 think -- I really want to -- on that one, I  
19 mean, I really want to review the other orders  
20 that are being referenced to get that right.

21 COMMISSIONER PARSONS: Do you mean  
22 with regard to the disciplinary action?

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1 CHAIRPERSON MITTEN: Well, I mean,  
2 if you can park at a two-hour meter and put  
3 money in it, I mean, I don't know that -- if  
4 you're a student that your -- all of a sudden  
5 your right to park at a two-hour meter has  
6 somehow been abridged because of the campus  
7 plan.

8 COMMISSIONER PARSONS: Yes. Well,  
9 let's take it out.

10 CHAIRPERSON MITTEN: Okay. So I'd  
11 also like to take out, then, what's being  
12 suggested. "Further, the university shall  
13 require documentation for current licenses,  
14 inspection stickers, and vehicular insurance,"  
15 because that puts them in -- I mean, then  
16 they're in the business of enforcing all that,  
17 and I don't think that that's their role,  
18 because that implies they're going to enforce  
19 on that. Okay? That wasn't an addition that  
20 was suggested by West End Citizens.

21 So anything else on the student  
22 vehicles?

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1           MR. BERGSTEIN: Can I just clarify  
2           that you're, in essence, expanding the  
3           condition so that it applies both to  
4           sophomores and freshmen who are required to  
5           live on campus, but also applies to sophomores  
6           and freshmen who are exempt from that  
7           requirement because they're commuters,  
8           married, etcetera, because that was the carve-  
9           out that the university had proposed in terms  
10          of its prohibition.

11                 So apart from how you're stating  
12          the requirement, you're also applying it not  
13          just to students who are living on campus in  
14          terms of bringing vehicles into the campus but  
15          also saying, in essence, the only way you can  
16          commute is by means other than vehicular  
17          transportation.

18                 CHAIRPERSON MITTEN: Yes, I think  
19          -- right.

20                 MR. BERGSTEIN: Okay.

21                 CHAIRPERSON MITTEN: And then, but  
22          we -- then, we do have the provision where

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1       they can -- if there's an exceptional  
2       circumstance, that they can make application  
3       for an exception.

4               Okay. Condition number 23. Under  
5       23B, the condition that has been proposed is  
6       -- okay. These are provisions of the  
7       transportation management plan, and it  
8       includes the following provisions. So the  
9       provision B is "measures to discourage travel  
10      by private automobile and encourage travel by  
11      public transportation."

12              And then, it says -- so West End  
13      Citizens is just expanding that, which I think  
14      is actually redundant with condition number  
15      22, but I'll mention it anyway -- measures to  
16      restrict freshmen and sophomores from bringing  
17      cars to the Foggy Bottom West End area and to  
18      discourage travel by private automobile by  
19      upper classmen, graduate students, and  
20      university faculty and staff, and encourage  
21      travel by public transportation.

22              I think that B captures all of

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1     that, and that just adds more specificity.  
2     But if the specificity isn't in -- I mean,  
3     it's already in condition number 22, so I  
4     don't know that adding it really adds  
5     anything.

6             Condition number 24 has to do with  
7     the periodic reporting that's required, and  
8     there's a couple of suggestions. One is --  
9     oh, I'm sorry. Sorry. Oh, I think the  
10    reporting -- oh, the reporting requirements  
11    are in R25. It's on page 31. It was  
12    proffered as -- yes, it was proposed as 24,  
13    and now it's R25.

14            So the first thing is that West End  
15    wanted the distinction between faculty and  
16    staff reported in B, which we're aggregating  
17    those, so we don't -- we need not make that  
18    change.

19            Under C, they were saying that  
20    under C, little I, that full-time Foggy Bottom  
21    undergraduate students shall be defined as the  
22    number of students in the Foggy Bottom Mount

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1 Vernon campus total student body, minus  
2 graduate students, first professionals --  
3 which are J.D.s and M.D.s -- and here's the  
4 part where there's a change proposed --  
5 undergraduates taking fewer than 12 credit  
6 hours at the Foggy Bottom campus.

7 And we have a suggestion from West  
8 End that we change the 12 to 9. And I'm -- I  
9 guess I'm not comfortable with that, just  
10 because that -- I don't recall testimony on  
11 the distinction between 12 versus 9, and I  
12 think if that's what the university thinks is  
13 a full credit load, then -- if 12 is a full  
14 credit load --

15 COMMISSIONER PARSONS: Absolutely.  
16 I don't recall any testimony about this at  
17 all.

18 CHAIRPERSON MITTEN: Okay. Does  
19 anybody want to change the 12 to a 9?

20 (No response.)

21 Okay. Okay. So now we're still in  
22 the minus category, and they've -- they want

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1 to delete from the -- from what's subtracted  
2 -- West End Citizens wants to delete  
3 "undergraduate continuous enrollment students  
4 and full-time undergraduate students that  
5 reside at the Mount Vernon campus."

6 Okay. So keep in mind that this  
7 section is about calculating the on-campus  
8 undergraduate student housing requirement. So  
9 people that are living at Mount Vernon, I  
10 don't know why you would count them in the  
11 Foggy Bottom campus housing requirement.

12 And the undergraduate continuous  
13 enrollment students, my recollection is those  
14 were people that they were going to -- they  
15 really had finished all of their credits, but  
16 they were going to graduate later, so they  
17 were really not attending school. Do you  
18 remember that? Mr. Bergstein, do you remember  
19 that, what -- no.

20 I'm pretty sure that they were  
21 people that were no longer actually actively  
22 attending classes. So I don't know why they

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1 would be counted either.

2 So I think we -- I'm not in favor  
3 of making the deletions that are recommended  
4 by West End Citizens to that section.

5 And then, at the end of that -- at  
6 the end of letter C, so here's the data for  
7 the campus housing requirement -- oh, it's  
8 after that. It's after -- this has to do with  
9 the first sentence that's not lettered, but  
10 it's still in C. It says, "All data shall be  
11 reported for each individual semester, and  
12 also as an average." Okay?

13 And West End Citizens wants us to  
14 put the period -- and then it goes on to talk  
15 about averaging, and West End Citizens wants  
16 us to put a period after "all data shall be  
17 reported for each individual semester."

18 So we confronted this, if you  
19 recall, when we -- when we did -- we took  
20 something up, some case up related to  
21 Georgetown where the applicant was using --  
22 this was in a further processing case. The

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1 applicant was using averaging, and we said  
2 that that wasn't -- that's not what we would  
3 advocate for, and then they went back and had  
4 the BZA take the opposite position from what  
5 we had said. But that notwithstanding.

6 So the proposed condition says that  
7 the data is reported for each individual  
8 semester and then also as an average. And  
9 then, it says compliance with the on-campus  
10 undergraduate student housing requirement set  
11 forth in condition 12 shall be based on the  
12 average of the reported fall and spring  
13 semesters until the fall 2010 semester, or  
14 until the completion and occupancy of the next  
15 GW residence hall project proposed in  
16 accordance with the Foggy Bottom or Mount  
17 Vernon campus plans, whichever occurs first.

18 And, again, we didn't hear any  
19 testimony about that. So I'm in favor -- I'm  
20 not in favor of averaging, and I'm in favor of  
21 putting the period where West End Citizens has  
22 suggested that we just end it and we don't

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1 accommodate the averaging

2 VICE-CHAIRPERSON HOOD: So what  
3 would it read, Madam Chair?

4 CHAIRPERSON MITTEN: It would just  
5 read at the end of C, so after that long list,  
6 "All data shall be reported for each  
7 individual semester."

8 COMMISSIONER PARSONS: So you'll  
9 get a different count in the fall than you  
10 will in the spring.

11 CHAIRPERSON MITTEN: Right. But  
12 that the requirement is not to exceed -- the  
13 requirement is to be in compliance without  
14 averaging I guess, and I guess the -- we did  
15 not -- and, Mr. Bergstein, correct me if I'm  
16 wrong, but we did not allow averaging up to  
17 this point in the GW campus plan.

18 MR. BERGSTEIN: That's correct, but  
19 there was a condition in a former plan that  
20 indicated the date upon which the actual  
21 number would be based upon, which I think was  
22 in the compliance reports that were due in

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1 August.

2 And I can't remember when the --  
3 whatever six months from that was, and I don't  
4 know if there's a -- my question to you was  
5 what, then, will compliance be based upon if  
6 not averaging? Is it going to be based upon  
7 enrollment as of a date certain? And then,  
8 what is that date?

9 And I can't recall if there is a  
10 provision in here -- OP has a better  
11 recollection than I do -- that indicates that  
12 there is a date -- a particular compliance  
13 report that would specify what that particular  
14 date would be. Otherwise, there is an issue  
15 of when do you actually -- what date do you  
16 select.

17 I remember the university feeling  
18 that the August date was too early, because  
19 their enrollment did not solidify until later  
20 into the fall semester.

21 CHAIRPERSON MITTEN: Okay.

22 MR. BERGSTEIN: And there was

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1 probably a similar consideration with respect  
2 to the spring semester. So if you're not  
3 going to use averaging, then I think you need  
4 to determine what would be the date upon which  
5 an actual number would be judged.

6 CHAIRPERSON MITTEN: Okay. Well,  
7 see, here -- it goes on -- and I'm not  
8 disputing your point. Your point is a fine  
9 point. It is a very good point. But at the  
10 end, after they say -- because they want an  
11 average until fall of 2010, or until they  
12 build a new residence hall.

13 But then they say, "After the  
14 occurrence of the aforementioned event, and  
15 for the remainder of the term of this plan,  
16 compliance with the on-campus undergraduate  
17 student housing requirement shall be based on  
18 the data reported for each individual  
19 semester." No date -- no date specified.

20 Mr. Parker, do you have anything  
21 you want to add?

22 MR. PARKER: Yes. I was involved

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1 with creating the averaging for the next three  
2 years, and what we've done with these -- we've  
3 changed the definitions of a lot of things in  
4 here that changes the head count requirement  
5 and the bed requirement from the current plan.

6 And right now they have produced  
7 beds based on the current campus plan  
8 requirement. This change would put them out  
9 of compliance until they have another dorm.  
10 So this was based -- this new counting was  
11 based on the next dorm or this new way of  
12 requiring residency on campus. So --

13 CHAIRPERSON MITTEN: Would you say  
14 one more time what would -- what is the thing  
15 that puts them out of compliance now?

16 MR. PARKER: We have changed how  
17 students are counted on campus or on -- and  
18 it's what would be required. Let me see --

19 CHAIRPERSON MITTEN: In what way?

20 MR. PARKER: That's an excellent  
21 question. One minute.

22 I don't have the old data in front

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1 of me. I'd have to get back to you on that.

2 CHAIRPERSON MITTEN: So let me just  
3 try and get at it this way, which is, are you  
4 saying that we are -- relative to the existing  
5 campus plan that what is proposed here is that  
6 we're counting a group that we didn't formerly  
7 count?

8 MR. PARKER: I believe so, yes.

9 CHAIRPERSON MITTEN: I mean, I  
10 would rather say that they don't count those  
11 people until 2010 than average, to be honest  
12 with you, because I don't want --

13 MR. PARKER: We can do that.

14 CHAIRPERSON MITTEN: -- averaging  
15 to -- averaging is bad. I think it's bad.

16 MR. PARKER: We can absolutely do  
17 that.

18 CHAIRPERSON MITTEN: Okay. But we  
19 still have the open question of what is that  
20 group.

21 MR. PARKER: I believe it has to do  
22 with we've taken some of the Mount Vernon

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1 campus -- we've changed how Mount Vernon  
2 campus students are counted. Under the  
3 existing plan, they're not counted at all.  
4 And under this plan, we're counting any that  
5 take some classes, take a certain percentage  
6 of the classes on --

7 CHAIRPERSON MITTEN: I see.

8 MR. PARKER: -- Foggy Bottom, to  
9 the best of my recollection.

10 CHAIRPERSON MITTEN: Mr. Bergstein?

11 MR. BERGSTEIN: It has been pointed  
12 out to me that the current condition you're  
13 looking at indicates that the information at  
14 the end of the introductory paragraph to 25 is  
15 based upon a Census date, which is defined in  
16 the footnote.

17 CHAIRPERSON MITTEN: It's the date  
18 that the report is due. Where is the Census  
19 date? Oh, I see, Census date. Oh, I'm sorry.

20 MR. BERGSTEIN: As of the Census  
21 date, so that is the date that any firm  
22 numbers --

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1 CHAIRPERSON MITTEN: Okay. Okay.  
2 So we've got that nailed down, so now we have  
3 this other issue about what is this new group.

4 MR. PARKER: As you were saying, we  
5 could certainly have a provision to have the  
6 existing 2000 campus plan counts completed on  
7 an individual semester basis until 2010, or  
8 until the first storm.

9 CHAIRPERSON MITTEN: So I'm just  
10 trying to not leave this open issue, Mr.  
11 Bergstein. So can we do it this way, can we  
12 say that whatever -- as Mr. Parker said, and  
13 you'll change the phraseology but not the  
14 meaning, which is we will count undergraduate  
15 students, or the on-campus students for the  
16 housing requirement the same way as we do now  
17 until fall of 2010 or until the completion and  
18 occupancy of the next GW residence hall  
19 proposed in accordance with the Foggy Bottom  
20 or Mount Vernon campus plans, after which time  
21 we'll count them as we're saying here, and  
22 that will all be written nicely.

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1           MR. BERGSTEIN:   And I'll work with  
2   OP to get more specifics in terms of how we do  
3   now, so we can write that in, too.

4           CHAIRPERSON MITTEN:   Great.   Okay.

5           MR. BERGSTEIN:   Okay.

6           CHAIRPERSON MITTEN:   Is everybody  
7   okay with that?

8           (No response.)

9           I just don't want to get into the  
10   averaging thing, because I think it's fraught  
11   with problems.

12           Okay.   Then, I think the only thing  
13   left is that we -- I just want the Commission  
14   to know that West End Citizens also proposed  
15   condition number 26 and 27.   And 26 has to do  
16   with   the   compliance   with   the   D.C.  
17   Environmental Policy Act and submission of an  
18   environmental impact statement, which we've  
19   said repeatedly is beyond our purview.   So I'm  
20   not advocating that that be incorporated.

21           And then, there was also another  
22   condition, number 27, that they had proposed

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1 that is short enough that I'll just read it.  
2 "The university shall fully comply with each  
3 federal cross-cutting requirement that  
4 conditions receipt of federal funds,  
5 including, but not limited to, the Americans  
6 with Disabilities Act of 1990 and the National  
7 Environmental Policy Act of 1969. ADA  
8 compliance shall include elevator and bathroom  
9 access before any further use of the Lisner  
10 Downstage space."

11 And, again, you know, that is  
12 Building Code compliance type stuff, and other  
13 -- compliance with other requirements that are  
14 not within the control of the Commission. So  
15 I would not advocate adding that either.

16 So is there anything else that you  
17 feel that I have -- Mr. Bergstein, is there  
18 anything that you think I've overlooked?

19 MR. BERGSTEIN: I just want to  
20 confirm with you that I added the provision  
21 for the Human Rights Act, which because there  
22 are two separate applications I wanted to

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1 repeat it in each set of conditions.

2 CHAIRPERSON MITTEN: That's fine,  
3 and that's standard condition for us, right?

4 MR. BERGSTEIN: That's it, Madam  
5 Chair.

6 CHAIRPERSON MITTEN: Okay. So with  
7 those changes, which I have documented in my  
8 notes, Mr. Bergstein and Mrs. Schellin, if you  
9 need -- so with the changes to those proposed  
10 conditions, I would move approval of Zoning  
11 Commission Cases Number 06-11 and 06-12.

12 COMMISSIONER PARSONS: Second.

13 CHAIRPERSON MITTEN: There's a lot  
14 of eagerness there. Thank you, Mr. Parsons.

15 Any further discussion?

16 VICE-CHAIRPERSON HOOD: Yes, I just  
17 have a question. Why are we doing 06-11?

18 CHAIRPERSON MITTEN: All the  
19 provisions that we just went through are the  
20 provisions for the case.

21 VICE-CHAIRPERSON HOOD: No, wait.  
22 Okay. We're doing 11 and 12?

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1 CHAIRPERSON MITTEN: Yes, together.  
2 They have now become wedded. We just went  
3 through the campus plan conditions when we did  
4 the first --

5 VICE-CHAIRPERSON HOOD: Right.

6 CHAIRPERSON MITTEN: -- stage.

7 VICE-CHAIRPERSON HOOD: Okay.  
8 Well, I know why we're doing 11, then.

9 CHAIRPERSON MITTEN: Okay.

10 VICE-CHAIRPERSON HOOD: I guess my  
11 question is, why are we doing 12? We've  
12 already done that?

13 CHAIRPERSON MITTEN: We have to  
14 take final action on the PUD, so that's now  
15 part and parcel of this.

16 VICE-CHAIRPERSON HOOD: So we're  
17 doing 06 for the special exception, the campus  
18 plan, and 06-12 is now final action.

19 CHAIRPERSON MITTEN: Yes.

20 VICE-CHAIRPERSON HOOD: The first  
21 stage.

22 CHAIRPERSON MITTEN: Yes.

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1 VICE-CHAIRPERSON HOOD: Okay. I  
2 didn't hear that in the motion, but that's  
3 fine, Madam Chair.

4 CHAIRPERSON MITTEN: No, it --

5 VICE-CHAIRPERSON HOOD: Maybe it's  
6 getting late.

7 CHAIRPERSON MITTEN: I did not  
8 clarify that. So the approval in 06-12 is  
9 final action for the first stage PUD. So  
10 thank you for clarifying that. Any further  
11 discussion?

12 (No response.)

13 All those in favor, please say aye.

14 (Chorus of ayes.)

15 Those opposed, please say no.

16 (No response.)

17 Mrs. Schellin?

18 SECRETARY SCHELLIN: Staff will  
19 record the vote five to zero to zero to  
20 approve Zoning Commission Case Number 06-12  
21 for final action and the campus plan case in  
22 06-11. Commissioner Mitten moving,

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1 Commissioner Parsons seconding, Commissioners  
2 Hood, Jeffries, and Turnbull in favor.

3 CHAIRPERSON MITTEN: Thank you.

4 Okay. We have several pieces of  
5 correspondence. First is from Holland &  
6 Knight on behalf of Florida Rock, which is  
7 Case Number 04-14C. And they listened to our  
8 conversation at our February 12th meeting, and  
9 I'm sure they heard the need for, what was it,  
10 major surgery on their proposal, and they're  
11 asking if in their letter have they captured  
12 the issues that -- adequately captured the  
13 issues that they heard from the Commission.

14 And so I'd just ask, is there  
15 anything anyone would like to add to what they  
16 have articulated in the letter, or do you  
17 think the letter captures --

18 COMMISSIONER PARSONS: I think they  
19 did an excellent job of consolidating our  
20 remarks.

21 CHAIRPERSON MITTEN: Okay.

22 COMMISSIONER JEFFRIES: And in some

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1 places probably a better job of --

2 (Laughter.)

3 -- articulating. So thank you.

4 CHAIRPERSON MITTEN: Okay.

5 COMMISSIONER JEFFRIES: But, yes, I  
6 think it's not necessary to have a meeting or  
7 anything. I mean, I think we're set.

8 CHAIRPERSON MITTEN: Okay.

9 COMMISSIONER JEFFRIES: So --

10 CHAIRPERSON MITTEN: Okay. Anybody  
11 else?

12 (No response.)

13 All right. Then, we have a letter  
14 from Holland & Knight. This was a -- there's  
15 a modification request for the project at  
16 100 M Street, S.E., and they're requesting to  
17 be put on the meeting agenda for March 26th  
18 special public meeting. Is there any  
19 objection to doing that?

20 (No response.)

21 That's going to be a long special  
22 public meeting. And I appreciate the fact

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1       that the Commission is sensitive to trying to  
2       get as much done while all of us who have  
3       participated in these cases are still in  
4       attendance.

5               So we have another request, then,  
6       for -- related to Square 54, which is to put  
7       that on, since we now have a submission in  
8       response to our discussion on Square 54, to  
9       put that on the agenda for our special public  
10      meeting on the 26th. Does anyone have any  
11      objection to that?

12             (No response.)

13             Okay, great. Then, I think before  
14      we go to the action on the minutes and the  
15      Office of Planning report, I'd like to give  
16      Mr. Jeffries an opportunity to take up the sua  
17      sponte review under other business of the BZA  
18      Case 17553.

19             COMMISSIONER JEFFRIES: Thank you,  
20      Madam Chair.

21             SECRETARY SCHELLIN: Excuse me.  
22      Chairman Mitten, before we move on, the

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1 attorney for WECA has asked when they can  
2 respond to the filing in Case Number 06-27,  
3 the Square 54 case. They would like to be  
4 able to respond to what they have submitted.

5 CHAIRPERSON MITTEN: Oh. Okay.  
6 Didn't we set a schedule for that? Oh, we  
7 probably didn't because we --

8 SECRETARY SCHELLIN: No, because it  
9 was done when you talked about -- I mean, a  
10 week -- want to do a week from today?

11 CHAIRPERSON MITTEN: A week, yes.

12 SECRETARY SCHELLIN: Okay. That  
13 would make it the 19th.

14 CHAIRPERSON MITTEN: Okay. So --

15 SECRETARY SCHELLIN: March 19th.

16 CHAIRPERSON MITTEN: So just to be  
17 clear, why don't I just -- why don't we  
18 formalize this, which is that we'll reopen the  
19 record in Case Number 06-27, to accept the  
20 filing from -- that we requested from the  
21 applicant as well as the responses from West  
22 End Citizens Association, I guess Foggy Bottom

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1 --

2 SECRETARY SCHELLIN: And ANC.

3 CHAIRPERSON MITTEN: -- and the ANC  
4 by --

5 SECRETARY SCHELLIN: That would be  
6 March 19th.

7 CHAIRPERSON MITTEN: By March 19th,  
8 okay. Is there -- you have to direct your  
9 inquiry through the staff, so I would ask for  
10 a second. Is there a second to reopen the  
11 record?

12 COMMISSIONER TURNBULL: Second.

13 CHAIRPERSON MITTEN: Any  
14 discussion?

15 (No response.)

16 All those in favor, please say aye.

17 (Chorus of ayes.)

18 Those opposed, please say no.

19 (No response.)

20 And Mrs. Schellin can record that  
21 vote later.

22 Okay. Mr. Jeffries, you have the

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1 floor.

2 COMMISSIONER JEFFRIES: Thank you,  
3 Madam Chair, and members of the Commission.  
4 I'm proposing that the Commission take sua  
5 sponte review of BZA Case 17553, Segovia. The  
6 application involves an existing three-story,  
7 20-unit apartment building located on the  
8 north side of the 1300 block of Euclid Street,  
9 N.W., in Columbia Heights.

10 The applicant was seeking variance  
11 approval to increase the height of the  
12 building from I believe 41 feet, which is  
13 three stories, to 59 feet, which is six  
14 stories including the penthouse, in an R-4  
15 residential zone.

16 BZA voted three to two to grant  
17 variance relief, with myself and NCPC's  
18 representative voting to deny. The Office of  
19 Planning submitted two memos strongly  
20 encouraging the BZA to deny the application.

21 While the development program set  
22 forth by the applicant is noteworthy -- and by

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1       that I mean setting aside seven of the units  
2       out of 34 for some of the existing low-income  
3       families, I strongly feel the applicant did  
4       not clear any of the variance test hurdles.  
5       Namely, the applicant did not make a  
6       compelling case to assert an extraordinary or  
7       exceptional condition at the site.

8               The applicant did not provide  
9       enough evidence to establish a practical  
10      difficulty related to an extraordinary  
11      condition at the site. And, finally, I just  
12      think granting this variance relief to the  
13      applicant would be very much in opposition or  
14      contrary to the intent of the R-4  
15      residentially zoned district, and absolutely  
16      inconsistent with the character of the  
17      neighborhood.

18             And I have passed out a pictorial  
19      elevation that was submitted by the applicant  
20      showing the north side and the south side of  
21      the 1300 block of Euclid. And if you look at  
22      the bottom, you see the three-story, three and

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1 a half story, 1327 Euclid Street, and you see  
2 the dashed representation of what is to be.

3 So it just speaks to me sort of the  
4 character of the neighborhood. I think the  
5 existing building is not immediately adjacent  
6 to the C-2-B district, but, as you can see,  
7 it's more to the center of the block.

8 As a Zoning Commissioner, I am very  
9 appreciative and respectful of the hard work  
10 and dedication of the BZA board members.  
11 However, in this instance, I feel compelled to  
12 have the Zoning Commission weigh in on this  
13 very important matter.

14 As you all know, this Commission  
15 recently took up proposed action on Zoning  
16 Case Number 06-26, which was a map amendment  
17 in Ward 1, which is in the area that this  
18 particular site is located. Different issues  
19 in that in that case there was clearly concern  
20 about the medium density developments  
21 encroaching on the R-4 zone, but I think it's  
22 really incumbent upon this Commission to

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1 continue to protect the R-4 zone, which is  
2 what I think the end result will be as it  
3 relates to this Commission taking a look at  
4 this particular case.

5 So that's it. I am -- you know,  
6 any questions? But I really do feel strongly  
7 that this is something that we really should  
8 take up. I think the sua sponte review is a  
9 very serious matter, and it's something that I  
10 certainly don't take lightly. But I think we  
11 need to protect -- I mean, it's our job to  
12 protect the zone plan, and this is what the  
13 Zoning Commission has to do.

14 I'm really concerned -- I look at  
15 this and I think of the King's Creek case and  
16 some different issues. But I'm just concerned  
17 about if this was to go through, the impact it  
18 would have on this R-4 district.

19 Thank you.

20 CHAIRPERSON MITTEN: Thank you, Mr.  
21 Jeffries. Questions or comments for Mr.  
22 Jeffries?

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1 COMMISSIONER TURNBULL: Mr.  
2 Jeffries, the top of the page, what is that  
3 showing? That's the other side of the street?

4 COMMISSIONER JEFFRIES: Yes,  
5 absolutely. That's across the street on the  
6 south side of the street.

7 CHAIRPERSON MITTEN: What is the  
8 south side zoned?

9 COMMISSIONER JEFFRIES: It's R-5-B.

10 CHAIRPERSON MITTEN: Okay.

11 COMMISSIONER TURNBULL: So it's  
12 split right down the street, then.

13 COMMISSIONER JEFFRIES: Absolutely.

14 COMMISSIONER TURNBULL: Okay.  
15 Thank you.

16 COMMISSIONER JEFFRIES: But you can  
17 see just between the two street -- I mean,  
18 what's on one side versus the other side.

19 COMMISSIONER TURNBULL: Well, I  
20 note at the right end of the top elevation  
21 there is a rather substantial building.

22 COMMISSIONER JEFFRIES: And, you

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1 know, if you look to your -- at the top, to  
2 the right, that is actually a C-2 -- I think  
3 that's a C-2-B district, which is facing on  
4 14th Street.

5 CHAIRPERSON MITTEN: Thank you.  
6 You know, I'm very glad that you brought this  
7 to us, because, you know, one of the things  
8 that -- first of all, the variance test is  
9 very important, and, you know, if there -- if  
10 the variance test hasn't been met, then this  
11 is a non-starter from the word "go."

12 But there is also -- there is also  
13 a point at which even if the variance test is  
14 being met, that the BZA exceeds its authority  
15 when the relief that's granted is tantamount  
16 to a rezoning, which is what you're expressing  
17 about protecting the zone plan.

18 And, you know, it's just not  
19 appropriate to do, especially when it sounds  
20 like part of the argument was because of the  
21 degree of affordability, which in a variance  
22 case is not even guaranteed. I mean, at least

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1 in the context of a PUD like we were talking  
2 about in several cases earlier, that is a  
3 condition.

4 But that condition -- there is no  
5 requirement that that condition even be  
6 preserved in a case like this, so I -- I  
7 support your concerns and I would be happy to  
8 second a motion to take this up on sua sponte  
9 review, if you care to make that motion.

10 VICE-CHAIRPERSON HOOD:  
11 Commissioner Jeffries, I just wanted to ask  
12 you, what height is this? We have a diagram.  
13 What is that height?

14 COMMISSIONER JEFFRIES: It is to be  
15 about 59 feet.

16 VICE-CHAIRPERSON HOOD: Fifty-nine  
17 feet.

18 COMMISSIONER JEFFRIES: Including  
19 that penthouse, yes.

20 VICE-CHAIRPERSON HOOD: And an R-4,  
21 what is it, 40?

22 COMMISSIONER JEFFRIES: Forty.

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1 VICE-CHAIRPERSON HOOD: Forty feet.

2 COMMISSIONER JEFFRIES: So it just  
3 -- you know, it leaps a zone effectively. And  
4 so it is -- it looks almost like de facto  
5 rezoning of the site, you know, and I think  
6 this sheet that we have here just sort of  
7 captured it for me. I'm like, wow, so --

8 VICE-CHAIRPERSON HOOD: Because  
9 when I look at the gray house next door, and I  
10 know that has nothing to do with the case --  
11 I'm just curious as to the house next door,  
12 and I don't have enough information to even  
13 really talk intelligently, but I'm going to  
14 talk anyway. The gray house next door, was  
15 that ever discussed?

16 COMMISSIONER JEFFRIES: Oh, yes,  
17 absolutely. That was part of what -- their  
18 feeling was that that building, you know,  
19 being adjacent to the referenced property,  
20 gave them some comfort that the character of  
21 the block was not being at all altered in  
22 that.

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1           But personally, I think -- and this  
2           is something that one of the Commissioners is  
3           always saying about the R-4 zone is that so  
4           much -- so many of the buildings are already  
5           non-conforming, the peaks and different things  
6           that go above, but I just think this  
7           particular building goes just a bit too far  
8           beyond, because I think if you look at these  
9           buildings they're all somewhere between 45,  
10          43, 45 feet.

11                 But 59 feet -- it just seems like  
12           there's a problem with proportionality, in  
13           terms of what is being -- what is being  
14           requested in terms of relief, it just seems  
15           the end result is just beyond -- well beyond  
16           what has been requested.

17                 VICE-CHAIRPERSON HOOD: Let me just  
18           ask this, and I know this is not a PUD or in  
19           line with the Chair's remarks, the seven  
20           affordability homes that were being --  
21           apartments that were being -- apartments,  
22           condos, or whatever this is, what was the

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1 percentage of the AMI? And I know this  
2 doesn't -- the issue is whether they meet the  
3 variance test. That's the issue. But I was  
4 just curious.

5 COMMISSIONER JEFFRIES: I want to  
6 say -- I think I have this here.

7 VICE-CHAIRPERSON HOOD: If you  
8 don't know right off, was it like 30? Were we  
9 getting down to those depths?

10 COMMISSIONER JEFFRIES: No. No, I  
11 don't think it was that. I want to say 60,  
12 but hold it. Let me see.

13 (Pause.)

14 VICE-CHAIRPERSON HOOD: That's  
15 okay.

16 COMMISSIONER JEFFRIES: If I come  
17 across it, I'll let you know.

18 VICE-CHAIRPERSON HOOD: Okay. Yes,  
19 just let me know. Okay. Thank you.

20 COMMISSIONER JEFFRIES: But I  
21 didn't -- but, again, as Madam Chair has said,  
22 I mean, you know at some point -- I mean,

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1 again, the development program is absolutely  
2 -- you know, I mean, it's laudable. I don't  
3 -- I just don't know if this is the  
4 appropriate location for it, you know, I mean,  
5 in terms of what they're trying to do in an R-  
6 4 zone. And that's my concern.

7 And, again, I think, you know,  
8 we'll get the information, we'll look --  
9 review it, and we'll be able to, you know,  
10 discuss the merits or lack of. So --

11 CHAIRPERSON MITTEN: You know, you  
12 made another point that I think bears  
13 discussion is -- which is when we -- when --  
14 the Office of Planning in recent years has  
15 been especially sensitive to this, but I think  
16 they've always been sensitive to it.

17 But in mapping any zone, we seek to  
18 minimize the number of non-conformities. And  
19 so there is clearly non-conformities here in  
20 the R-4 zone. But in seeking to minimize the  
21 number of non-conformities we don't intend  
22 that the non-conformities actually then work

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1 to undermine the underlying zone. I mean, it  
2 was put in consciously.

3 So I think that's another point  
4 that our colleagues should be aware of.

5 So if you would like to --

6 COMMISSIONER JEFFRIES: So I make a  
7 motion that we take sua sponte review of BZA  
8 Case -- oh, I just had it here -- 17553,  
9 Segovia.

10 CHAIRPERSON MITTEN: And I second  
11 that motion. Any further discussion on it?

12 (No response.)

13 All those in favor, please say aye.

14 (Chorus of ayes.)

15 Those opposed, please say no.

16 (No response.)

17 Mrs. Schellin.

18 SECRETARY SCHELLIN: Yes. Staff  
19 will record the vote five to zero to zero to  
20 take sua sponte review of BZA Case Number  
21 17553. Commissioner Jeffries moving,  
22 Commissioner Mitten seconding, Commissioners

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1 Hood, Parsons, and Turnbull in favor.

2 And since this will be under the  
3 Zoning Commission review, I'm going to assign  
4 Zoning Commission Case Number 07-06.

5 CHAIRPERSON MITTEN: Thank you.

6 MR. BERGSTEIN: May I ask this  
7 question of the Commission? It's not  
8 expressly stated whether or not a decision to  
9 take sua sponte review stays the BZA order,  
10 although it's sort of implicit because the BZA  
11 order becomes final upon filing, doesn't  
12 become effective for 10 days, which is the sua  
13 sponte period for the Commission.

14 But I would ask the Commission  
15 whether or not it's its intent that the BZA  
16 order be stayed pending the Commission's sua  
17 sponte review.

18 CHAIRPERSON MITTEN: I would say  
19 absolutely. And if you -- do you want that  
20 expressed in a motion?

21 MR. BERGSTEIN: I would prefer it,  
22 yes, ma'am.

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1 CHAIRPERSON MITTEN: Okay. Then, I  
2 move that we stay the effectiveness of BZA  
3 Order 17553 pending our --

4 COMMISSIONER JEFFRIES: Second.

5 CHAIRPERSON MITTEN: -- sua sponte  
6 review.

7 COMMISSIONER JEFFRIES: Second.

8 CHAIRPERSON MITTEN: Thank you.  
9 All those in favor, please say aye.

10 (Chorus of ayes.)

11 Those opposed, please say no.

12 (No response.)

13 Mrs. Schellin.

14 SECRETARY SCHELLIN: Staff will  
15 record the vote five to zero to zero to stay  
16 the provisions of BZA Order Number 17553.  
17 Commissioner Mitten moving, Commissioner  
18 Jeffries seconding, Commissioners Hood,  
19 Parsons, and Turnbull in favor.

20 CHAIRPERSON MITTEN: Thank you.  
21 And thank you, Mr. Bergstein.

22 Okay. We have action on the

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1 minutes. We have two sets of minutes in front  
2 of us. We have the regular public meeting  
3 minutes of January 8, 2007, and the special  
4 public meeting minutes of January 17, 2007.  
5 And I would move approval.

6 COMMISSIONER PARSONS: Second.

7 CHAIRPERSON MITTEN: Any  
8 discussion?

9 VICE-CHAIRPERSON HOOD: Madam  
10 Chair, again --

11 CHAIRPERSON MITTEN: Mr. Hood?

12 VICE-CHAIRPERSON HOOD: -- I'm  
13 going to say this until eventually I figure  
14 out how we can -- how to do this with staff,  
15 and that is to do away with the minutes.

16 CHAIRPERSON MITTEN: Absolutely.

17 (Laughter.)

18 VICE-CHAIRPERSON HOOD: I don't  
19 know what else to do. Are we working on it?  
20 I know we're swamped. Do I need to write out  
21 a line or something, or what do I need to do?  
22 Again, I know we've mentioned this at every

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1 meeting, about doing away with the minutes.

2 MS. BUSHMAN: Staff is still in --

3 CHAIRPERSON MITTEN: Can we put  
4 that on the record, please?

5 MS. BUSHMAN: Staff is still in the  
6 process of studying this issue, and we'll get  
7 back to you shortly.

8 VICE-CHAIRPERSON HOOD: Oh, okay.  
9 I thought it was something that we just needed  
10 to do here. Okay. Thank you.

11 CHAIRPERSON MITTEN: Well, just to  
12 clarify, it's not that you're studying this in  
13 isolation, because this is a very simple  
14 issue. You're doing something broader than  
15 that, is that not true?

16 SECRETARY SCHELLIN: The whole  
17 section.

18 CHAIRPERSON MITTEN: Right.

19 SECRETARY SCHELLIN: I believe it's  
20 33 --

21 CHAIRPERSON MITTEN: We don't want  
22 it to appear that you guys have to study

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1 whether or not --

2 SECRETARY SCHELLIN: No, no, no.  
3 It's much more than that, because there are  
4 some other issues. We thought we'd hit them  
5 all at once.

6 CHAIRPERSON MITTEN: Okay.

7 VICE-CHAIRPERSON HOOD: Thank you.  
8 And I will not ask that question anymore.

9 CHAIRPERSON MITTEN: All right.  
10 Then, last but not least, the status report  
11 from the Office of Planning.

12 SECRETARY SCHELLIN: Chairman  
13 Mitten, I'm sorry. We only got the motion and  
14 the second. We didn't vote on that yet.

15 CHAIRPERSON MITTEN: Oh, we didn't?

16 SECRETARY SCHELLIN: No, you didn't  
17 call for all in favor.

18 CHAIRPERSON MITTEN: Oh, yes,  
19 that's right. I'm sorry. Just one second.  
20 All those in favor of approval of the minutes,  
21 please say aye.

22 (Chorus of ayes.)

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1 Any opposed?

2 (No response.)

3 SECRETARY SCHELLIN: Staff will  
4 record the vote five to zero to zero to  
5 approve the Zoning Commission minutes from  
6 January 8th and January 17th. Commissioner  
7 Mitten moving, Commissioner Parsons seconding,  
8 Commissioners Hood, Jeffries, and Turnbull in  
9 favor.

10 CHAIRPERSON MITTEN: Thank you.  
11 Now, Ms. Tregonig, we're ready for the  
12 exciting report from the Office of Planning.

13 MS. TREGONIG: Thank you, Madam  
14 Chairwoman. I'm Harriet Tregonig, Office of  
15 Planning, and the status report is before you.

16 The only other thing I wanted to  
17 mention is that I know the Commission has been  
18 concerned about issues of traffic and parking,  
19 and how difficult it is to address these  
20 issues in the context of a single given  
21 development or PUD.

22 So I want to propose some work

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1 sessions that I would schedule with the Office  
2 of Zoning to kind of go over some policy  
3 program engineering tools that might help us  
4 to better address these issues, whether they  
5 come up in the context of a PUD or a map  
6 amendment or in other contexts.

7 CHAIRPERSON MITTEN: Did you intend  
8 to include DDOT in those conversations?  
9 Because that's where it turns; it turns on  
10 DDOT.

11 MS. TREGONIG: Yes, of course.

12 CHAIRPERSON MITTEN: Okay. Thanks.

13 COMMISSIONER PARSONS: Madam Chair,  
14 I'm aware, of course you are as well, that the  
15 Planning Commission is taking a look at the  
16 issue of what I'll call horizontal  
17 embellishments on the tops of buildings. And  
18 they have now taken that study a little  
19 further into talking about the Heights of  
20 Buildings Act.

21 And I want to make sure that our  
22 staff here is working with them and not

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1 waiting for their report, but it -- what  
2 circumstance are we under? Not that it would  
3 be in this sheet, but is there camaraderie  
4 here?

5 MS. STEINGASSER: Yes, there is.

6 COMMISSIONER PARSONS: Oh, good.

7 MS. STEINGASSER: Yes, we've  
8 reviewed the questions that they're asking the  
9 consultants to look at. We've given them some  
10 ideas, and we plan to work in partnership on  
11 that question.

12 COMMISSIONER PARSONS: Okay.  
13 Thanks.

14 The Planning Commission -- Mr. Mann  
15 has been assigned the task.

16 MS. STEINGASSER: Yes.

17 COMMISSIONER PARSONS: So at least  
18 he knows, you know, how to get here and those  
19 kinds of things. I don't mean that  
20 sarcastically, but this has got to be a joint  
21 effort.

22 Thank you.

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1 CHAIRPERSON MITTEN: Anyone else?  
2 Question? Mr. Hood?

3 VICE-CHAIRPERSON HOOD: Madam  
4 Chair, I don't know, this may have already  
5 been done, but I wanted to welcome Ms.  
6 Tregonig and looking forward to working with  
7 her and the Office of Planning. The Office of  
8 Planning has definitely been an instrument to  
9 us in helping us. We might not always agree  
10 with them, but they definitely provide us --  
11 they do great, detailed work to make sure that  
12 we can make a good and informed decision. And  
13 I wanted to welcome you.

14 And I don't need any brownie  
15 points. So if anybody thinks I'm up here  
16 getting brownie points, I was not doing that.

17 Okay. Thank you.

18 CHAIRPERSON MITTEN: We're not  
19 giving you any brownie points.

20 (Laughter.)

21 VICE-CHAIRPERSON HOOD: Somebody  
22 would say, "Yes, why is he doing that? He's

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1       being political." But no, that's not it.

2                   COMMISSIONER   JEFFRIES:       Well,  
3       Commissioner Parsons and I had not heard the  
4       term "brownie points" in a long time.

5                   (Laughter.)

6                   VICE-CHAIRPERSON   HOOD:       Oh, you  
7       haven't?

8                   COMMISSIONER JEFFRIES:   No.

9                   VICE-CHAIRPERSON   HOOD:       That's  
10      dating me.

11                  CHAIRPERSON   MITTEN:    Does anybody  
12      else have any questions on the Office of  
13      Planning --

14                  VICE-CHAIRPERSON HOOD:   Shows who I  
15      hang around with. It's getting late, too.

16                  CHAIRPERSON   MITTEN:    -- report?  
17      Any questions or comments on the Office of  
18      Planning report?

19                  (No response.)

20                  Okay. Thank you very much.

21                  MS. TREGONIG:    Thank you, Madam  
22      Chair.

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1 CHAIRPERSON MITTEN: And I think,  
2 if we don't have any more business before us,  
3 we are adjourned.

4 Thank you.

5 (Whereupon, at 9:20 p.m., the proceedings were  
6 adjourned.)

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