

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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REGULAR MEETING
1148th MEETING SESSION (6th OF 2003)

+ + + + +

MONDAY

MAY 12, 2003

+ + + + +

The Public Meeting of the District of Columbia Zoning Commission convened at 1:30 p.m. in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, Carol J. Mitten, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

CAROL J. MITTEN	Chairperson
ANTHONY J. HOOD	Vice Chairperson
JAMES H. HANNAHAM	Commissioner
PETER G. MAY	Commissioner
JOHN G. PARSONS	Commissioner

ZONING COMMISSION STAFF PRESENT:

ALBERTO BASTIDA	Secretary
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OFFICE OF PLANNING STAFF PRESENT:

ELLEN MCCARTHY	Deputy Director
STEPHEN COCHRAN	Office of Planning
ARTHUR JACKSON	Office of Planning
JENNIFER STEINGASSER	Office of Planning

D.C. OFFICE OF CORPORATION COUNSEL:

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

2:16 P.M.

CHAIRPERSON MITTEN: Good afternoon, ladies and gentlemen. This is the regular monthly meeting of the Zoning Commission of the District of Columbia for May 12th, 2003. My name is Carol Mitten. Joining me this afternoon are Vice Chairman Anthony Hood and Commissioners Peter May, James Hannaham and John Parsons.

Mr. Bastida is going to be putting out some additional copies of the agenda for those of you who would like to follow along so those will be on the table by the door if you'd like to look at that.

And I would just remind folks that during our regular meeting, we don't take any testimony unless you're invited to come forward.

Since we're starting late, and I apologize for that, we'll skip over the status report by the Office of Planning and go right into Hearing Action.

And the first thing that we need to do and I think we can just take both of these cases simultaneously, Zoning Commission Case No. 03-12 and then 03-13. These both are requests from the Capper/Carrollsborg Venture LLC and the D.C. Housing Authority. One is for a first stage PUD and related

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1 map amendment and the other is for a sub-set of that
2 area, a consolidated PUD.

3 But the first order of business is we need
4 to waive the late filings by the Office of Planning
5 through no fault of their own.

6 VICE CHAIRPERSON HOOD: No objection.

7 CHAIRPERSON MITTEN: Any objection?

8 VICE CHAIRPERSON HOOD: No.

9 CHAIRPERSON MITTEN: All right.

10 Without objection then I'll turn to Ms.
11 McCarthy for the Office of Planning.

12 DEPUTY DIRECTOR McCARTHY: Thank you,
13 Madam Chair.

14 Mr. Cochran will be presenting the case
15 for us today.

16 MR. COCHRAN: Madam Chair, because the
17 meeting is starting late, I believe that you have had
18 time to read both the Applicant's and the Office of
19 Planning's summary of what is being proposed with
20 respect to both a larger preliminary PUD application
21 and a smaller area of that preliminary PUD that would
22 be a consolidated PUD application.

23 Unless the Commission feels the need for
24 the Office to summarize how many housing units will be
25 constructed, the square footages of office space, the

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1 square footages of retail space, etcetera, I would
2 propose to skip over those.

3 CHAIRPERSON MITTEN: Okay. Perhaps what
4 you could do is walk us through the issues that you
5 have called out in --

6 MR. COCHRAN: Yes.

7 CHAIRPERSON MITTEN: -- your report in
8 terms of things because we want to be very clear about
9 what is required in the pre-hearing statement. So, if
10 you could walk through those --

11 MR. COCHRAN: Okay.

12 CHAIRPERSON MITTEN: -- and then answer
13 questions from the Commission.

14 MR. COCHRAN: That's fine.

15 Would you prefer that I organize them by
16 topic area or actually follow along with the text?

17 CHAIRPERSON MITTEN: The text is probably
18 better --

19 MR. COCHRAN: Okay.

20 CHAIRPERSON MITTEN: -- for us to follow
21 along.

22 MR. COCHRAN: In that case, let us look
23 from pages 2 through 5, the preliminary PUD boundary.

24 The Office of Planning suggested that the
25 Applicant agree to include Reservation 19 on the

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1 western side of Reservation 19 next to the Marine
2 Barracks in the application for the preliminary PUD.
3 The Applicant has agreed to that. The Applicant's
4 letter was attached to the Office of Planning's report
5 and that would then be included.

6 There were some questions about Federal
7 Reservation 17A through Federal Reservation 17C and
8 Square 39. This is going outside of the -- excuse me,
9 the pagination of organization and I think that we may
10 need to discuss whether, because those are under the
11 jurisdiction of the National Park Service, excuse me,
12 they're under the jurisdiction of the District, but
13 under the ownership of the Federal Government, we may
14 need to discuss whether they are actually
15 appropriately included in the PUD boundaries.

16 CHAIRPERSON MITTEN: I think Mr. Bergstein
17 can speak to that after you go through --

18 MR. COCHRAN: Okay. Fine.

19 CHAIRPERSON MITTEN: I'll follow up with
20 him on a few items.

21 MR. COCHRAN: All right. Then, we feel
22 that it's important -- we've addressed the one
23 question that we felt it was important to address
24 before -- we were pleased to recommend a set down of
25 the applications.

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1 Now, when we look at what else is going to
2 be needed by the Applicant prior to the pre-hearing
3 statement, rather in the pre-hearing statement, there
4 were some concerns about the alignment of Sixth
5 Street, the north/south block that's proposed between
6 L and M. There may be some store preservation of
7 considerations that need to be addressed.

8 The Applicant has expressed a willingness
9 to be flexible in this and perhaps have it considered
10 as a private street or an alley as opposed to a new
11 public street that did not appear in the L'Enfant
12 plan.

13 You've already mentioned that Mr.
14 Bergstein will address number 2 on page 3, Square 739
15 and the Reservations.

16 The public and private roadways. And let
17 me just give you an overview.

18 We feel that this is a very good app. We
19 feel that this is a very good project. In not all
20 instances did the application reflect the quality of
21 the project. That's why we're going through these in
22 some detail. Just because we may be pointing these
23 things out, it does not mean that we have reservations
24 about the project itself.

25 Public and private roadways. We need to

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1 be sure that the street and alley closings are
2 acceptable, not just to DDOT but also to the fire
3 department. There are some somewhat narrower streets
4 than the District government is used to but these will
5 be private streets. It would just need to check that
6 off.

7 We want to see what DDOT's plans are for
8 the construction of that east/west 100 block of I
9 Street. Although the traffic projections are based
10 both on that street being constructed and also
11 considered that street not being constructed and the
12 traffic projections are found to be acceptable, we
13 would still like to know what's being proposed for
14 over there for our 739 by the DDOT capital budget.

15 I'd like to bring up utility work later.

16 For the environmental impact, we've had a
17 couple of meetings with the Applicant and a good
18 presentation by the Applicant on low-impact
19 development. They are committed to that. We would
20 just like to see that included in the pre-hearing
21 statement.

22 For the public benefits and amenities,
23 again, as I think I indicated when I stated our
24 support for the project, the Applicant has a number of
25 public benefits and amenities. They are not always

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1 included in the application and we don't feel that
2 there's an adequate description of what the Applicant
3 is asking for in terms of zoning relief versus what
4 the Applicant will be giving back to the citizens of
5 the District of Columbia.

6 We think that there probably is more than
7 adequate balancing of the two, but the application
8 itself doesn't show this. Just saying that the
9 replacement of the public housing is going to be of a
10 significance above public benefit that they don't need
11 to go into the rest of the description, we don't find
12 to be appropriate.

13 For instance, what's the relationship
14 between the provision of 745,000 square feet of office
15 space and how will that help to pay for the
16 construction of the affordable housing? Let's look at
17 that in order then.

18 With respect to 5-B, the recreation and
19 open space needs, we feel that they need to be
20 described a bit more. You will be looking at a
21 significant increase in density here, not one that is
22 going to be excessive or anything more than the zoning
23 regulations allow but we want to be sure, particularly
24 because this is targeted to families, that there will
25 be adequate play space and adequate passive recreation

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1 space.

2 There certainly will be three blocks
3 between the two parts of Second Street that are
4 proposed and space at the Marine Barracks, but we want
5 that better described.

6 One of the very important elements is the
7 community center in Square 881. This will be the
8 place where so many of the benefits that actually are
9 described will be provided. We want to be sure that
10 the description of how that's going to be paid for is
11 included in there.

12 Let me skip onto page 4.

13 For the ground floor retail space, we're
14 starting to apply the same kinds of standards that
15 you've seen in some other cases. We want to be sure
16 that the first floor is tall enough to get quality
17 retail space. That's why we're proposing the
18 Applicant include 14 foot, 14 foot 8 minimum of floor
19 to finished ceiling heights. The Applicant has said
20 that that would be acceptable.

21 Again, the Applicant has said that there
22 would be a thorough mixing of incomes. The Applicant
23 has agreed as part of the pre-hearing statement to
24 give a breakdown percentage-wise block by block,
25 square by square of what the mix of incomes would be

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1 and so we're looking for that.

2 Minor design question; the senior housing;
3 the case re-frontage.

4 The Applicant is already looking at how
5 that can be enlivened because that will be the
6 principal entrance into the recreation fields at the
7 Marine Barracks Annex.

8 We've already alluded to number 9, Zoning
9 Relief, a balancing of exactly what kind of zoning
10 relief is needed versus what are the public benefits.

11 I'm not going to go into everything on this, but
12 there may be the need for a few theoretical lots or
13 maybe one or two variances but the Applicant will need
14 to include that in the pre-hearing statement.

15 We feel it's important to become more
16 explicit about first source agreements, construction
17 period training and apprenticeships. We know these
18 are going to happen, but other than what is required
19 under Hope 6, the Applicant doesn't actually list
20 them.

21 Some of the parking diagrams were
22 confusing, particularly the ones that show stacked
23 parking and what many would consider to be multi-unit
24 buildings and we want to be sure that everyone will
25 have access to their parking spaces.

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1 Traffic does not seem to be a significant
2 concern with respect to just this project, but when
3 we're looking at the larger context, as you know, for
4 the general southeast area, we want to be sure that
5 the assumptions for all of the background development
6 are correct. Some of them seem to be just a little
7 bit low, particularly on the Southeast Federal Center
8 build-up.

9 There is some re-zoning from R5B primarily
10 to CR and, again, we need to have a better explanation
11 of why that's necessary. We know from our meetings
12 why that's necessary, but it didn't make it into the
13 statement.

14 The Applicant has encountered some recent
15 requirements for new utility construction. That's
16 going to need to make it into the statement also.

17 And then finally OP and the Applicant will
18 be further discussing some of the design guidelines,
19 particularly with respect to the commercial buildings
20 between now and a hearing, if you schedule one, and
21 that would have to be included.

22 DEPUTY DIRECTOR MCCARTHY: So, basically,
23 Madam Chair, as Mr. Cochran said, the Office of
24 Planning strongly endorses this project. It's one of
25 the largest Hope 6's in the country. It's one of the

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1 only projects in the District that's been able to
2 achieve one-for-one replacement of the affordable
3 housing units with new affordable housing units and
4 it's a really crucial aspect of the Anacostia
5 Waterfront Initiative and will make a significant
6 contribution to the achievement of AWI goals.

7 And so we would be happy to answer any
8 questions the Commission may have.

9 CHAIRPERSON MITTEN: All right. Any
10 questions for the Office of Planning?

11 Mr. May?

12 COMMISSIONER MAY: Sorry if this is a bit
13 disorganized. I'll try to keep it as focused as I
14 can, but there are a number of questions that I had in
15 looking this over that make me somewhat, well, I
16 guess, skeptical about certain aspects of the project.

17 I think overall there is certainly a lot
18 here and a lot of value that we captured in the
19 project and it should be pursued vigorously, but I
20 guess my question, folks, is around the development of
21 all these row house units.

22 There is certainly a lot more density that
23 is going in here than was there before and I look at
24 things like the calculations and it raises some
25 questions for me about how some of these things are

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1 being done.

2 First of all, I guess, the question is,
3 all the alleys that are being created behind the row
4 houses primarily and then the new streets that I see,
5 you know, above and beyond I Street, it looks like
6 there's a north/south Half street in there as well
7 that's new.

8 Are those actually going to be dedicated
9 streets and alleys or is this all going to be private
10 streets and private space somehow?

11 MR. COCHRAN: The new streets would be
12 private streets with the possible exception of that
13 block of Sixth and the possible future construction of
14 the east/west block of I Street.

15 COMMISSIONER MAY: Oh, okay.

16 MR. COCHRAN: There's also Second Street.
17 We have envisioning the eastern part of Second Street
18 which some call Second Place, we're envisioning as
19 being a public street.

20 COMMISSIONER MAY: Okay.

21 MR. COCHRAN: Second Place.

22 COMMISSIONER MAY: All right. That's what
23 I was reading, for some reason, I saw it as Half
24 Street which didn't make any sense now that I look at
25 it, but Second Place, that makes sense.

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1 COMMISSIONER MAY: So, I guess what this
2 raises for me is that if these were public alleys, the
3 calculation of lot occupancy for many of these houses
4 would be essentially 100 percent lot occupancy. But
5 somehow because they are private alleys, and we look
6 at the conglomerate calculation for the project or for
7 the block, for the squares, that, you know, because
8 you look at that, it's adding up to be something in
9 the neighborhood of 60 percent lot occupancy which is
10 what is allowed.

11 MR. COCHRAN: I believe the total lot
12 occupancy averages out at a little over 53 percent.

13 COMMISSIONER MAY: Yes.

14 MR. COCHRAN: But, again, that assumes that
15 not included in that occupancy of a lot is the actual
16 alley space and in some cases --

17 MR. COCHRAN: I believe that that is
18 correct.

19 COMMISSIONER MAY: Okay. I'd like to see
20 that analysis very carefully because the concern that
21 this raises for me and this is something that has come
22 up before and I haven't really focused on it so
23 exactly, but it seems like because we are making this
24 distinction and these are being considered essentially
25 private spaces, that we're allowing private alley

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1 space basically to count against what should have been
2 your yard space in the zoning regulations the way they
3 exist.

4 And that's a bit of a concern here because
5 essentially what we have here is a whole bunch of
6 houses with no rear yards whatsoever. They have a
7 four-foot deep deck and they have an alley so that you
8 can get to your one or in most case, two parking
9 spaces, but you don't have a rear yard.

10 MR. COCHRAN: Yes. The Office of Planning
11 shares that concern. There actually are some rear
12 yards, but they are not necessarily rear yards that
13 would be accessible to all of the family units. That
14 is why we raised the question about how the open space
15 will be managed, what kinds of arrangements the
16 Applicant will have with the Marine Barracks, how
17 access to those very small open spaces, the half
18 circles at either end of the new private street will
19 be governed, etcetera. That is a concern.

20 DEPUTY DIRECTOR MCCARTHY: Should the
21 Commission set it down, we'll certainly work with the
22 Applicant on getting a further analysis of that issue.

23 COMMISSIONER MAY: Okay. It raises great
24 concern for me because of the way it looks. For
25 probably 60 or 70 percent at least of these lots

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1 there's no rear yard whatsoever and, you know, I know
2 it's been done before in the city. This is not the
3 first project where it occurs, but this is tantamount
4 for creating a new housing type that we're endorsing
5 very clearly with this project and before we do that,
6 we want to make sure that it is desirable.

7 That goes then to the question of the
8 density overall of these row house units. And there
9 becomes a certain point with row house units when you
10 try to pack them in so tightly that maybe you've not,
11 you know, you lose those benefits of having the row
12 house and the private entry and that maybe in order to
13 achieve the same density, there has to be more of a
14 mix of, I don't know, smaller apartment buildings or
15 something like that because this is, I mean, an
16 incredibly dense packing of row houses is what we wind
17 up with here.

18 MR. COCHRAN: We'll take that into
19 consideration.

20 COMMISSIONER MAY: I'm also very interested
21 in the parking quantities as you are, and not just,
22 you know, how the parking will work, not just the
23 number of spaces that are private but also, you know,
24 what's going to be available in the immediate vicinity
25 in the street. This is a highly automobile-focused

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1 development.

2 MR. COCHRAN: Let me be sure I understand
3 our concern is that the development is unoriented and,
4 therefore, there may need to be more parking spaces
5 than you're seeing?

6 COMMISSIONER MAY: No. What I'm saying is
7 that automobiles are winning and rear yards are
8 losing --

9 MR. COCHRAN: Okay.

10 COMMISSIONER MAY: -- and that's my
11 concern. It's how much parking do we reasonably need
12 or expect here? I don't know. I don't know what the
13 answer is here and, again, it goes to the type of row
14 house that's being constructed.

15 There are also issues that I would like to
16 have some clarification on the particulars of those
17 row houses. We have a lot of varied units and I think
18 for the most part, the street scapes that they create
19 are very attractive. There are some minor
20 inconsistencies that I assume will be addressed where
21 the look of the elevation is all about brick, yet the
22 materials as they are called out are a combination of
23 brick and some other materials and those need to be, I
24 think, flushed out.

25 Again, being first stage -- where it's

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1 first stage it's not an issue but we do have the
2 consolidated component here where I would expect it to
3 be worked out and fairly consistently.

4 We also have issues with widths of houses.

5 You know, I didn't know that -- maybe I've seen them
6 before but it's been awhile since I've seen a 14-foot
7 wide house and there are some that are proposed here.

8 Let's see. We'll get into, I think, the
9 eastern end of the PUD, on the other side of the
10 school at some point, but I have a particular question
11 about the school and that is that I didn't see any
12 reference to referring this to DCPS for their comment
13 and this is a PUD that surrounds the school. So, I'm
14 assuming that's some sort of oversight and you will,
15 in fact, contact DCPS?

16 MR. COCHRAN: Yes. We certainly we.

17 The Applicant has already been in
18 discussions with DCPS about several innovations it
19 might want to consider.

20 COMMISSIONER MAY: Okay. Of particular
21 interest to me and I would hope that we can make sure
22 that this time DCPS comments on it is where the Van
23 Ness School fits in the plan for rehabilitating or
24 replacing all of the schools in the District because
25 there is a plan. Not every school individually is

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1 addressed, but Van Ness may well be on the list to be
2 replaced in the next few years and maybe there's some
3 way to ride the wave of redevelopment here to the
4 benefit of the school system as well.

5 DEPUTY DIRECTOR McCARTHY: And in which we
6 did have preliminary discussion with DCPS about when
7 we met with them last week.

8 COMMISSIONER MAY: Very good.

9 Oh, you do make mention in your conditions
10 the distribution of the market rate units and the
11 affordable units and I'm very interested in seeing how
12 that actually works out in a given block and knowing,
13 you know, kind of which houses are which and just to
14 know that they're not obviously one or another and
15 it's that kind of -- you know, the difference should
16 be transparent.

17 MR. COCHRAN: I think it's there. It is
18 certainly not transparent. You have to infer it from
19 the apartment or the townhouse type.

20 COMMISSIONER MAY: Okay.

21 MR. COCHRAN: But the Applicant has said
22 that they will make it much more clear.

23 COMMISSIONER MAY: Okay. On the one hand
24 it needs to be clear to us how the distribution will
25 work, but the concern is that we don't -- I think we

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1 don't want to create blocks where it's very obvious --

2 MR. COCHRAN: Absolutely.

3 COMMISSIONER MAY: -- which ones are
4 affordable versus something else.

5 I also am a little bit confused by the
6 reference to "moderate and market rate units" and I
7 assume that that means that there's some sort of scale
8 that goes with it. Now, does moderate subsume the
9 assisted units or the public housing component or is
10 everything beyond the replacement market rate?

11 MR. COCHRAN: As I understand it, moderate
12 has a public assistance component but it's not public
13 housing so whereas market is what the market will
14 bear.

15 COMMISSIONER MAY: Okay. Is it in the 700
16 or so replacement units then if it's --

17 MR. COCHRAN: No. The 707 units are
18 replacement public housing.

19 COMMISSIONER MAY: Okay. So, there is some
20 kind of in between. Well, that's good to know as
21 well.

22 MR. COCHRAN: And I think that's --

23 COMMISSIONER MAY: I guess, you know,
24 going back to my original point with the row house
25 unit and the way this is being proposed, I guess I'm

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1 looking for more of an analysis that demonstrates that
2 this housing type which is -- I mean, it is a row
3 house, but it's a particular permutation of the row
4 house to know that it's something that is worthwhile
5 and useful and desirable for the city. And because
6 it's not something that explicitly allowed in the
7 regulations, I think, it's something that we need to
8 be able to prove, in essence, if it doesn't comply to
9 the letter of the regulations, it at least complies
10 with the spirit of the regulations. So, is this a
11 good housing project?

12 Okay. Thank you.

13 CHAIRPERSON MITTEN: Thank you, Mr. May.

14 Mr. Hannaham.

15 COMMISSIONER HANNAHAM: Thank you, Madam
16 Chairman.

17 After having watched this area for the
18 past several decades, you know, in utter decay, it's
19 really exciting to me to see this particular project
20 coming to be. I think it's really long over due and
21 I'm hopeful that the questions that we have and our
22 dialogue with regard to these PUDs will even, you
23 know, refine it further.

24 It also brings to mind the fact that D.C.
25 government, officialdom, has been criticized recently

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1 for high salary people who are being questioned in
2 terms of the number of people earning, you know, over
3 a \$100,000, etcetera, but I think this is an excellent
4 example of a kind of professionalism in the D.C.
5 government that has enabled us to come this far to
6 bring about this particular Hope 6 project.

7 I think it's about the fifth or sixth that
8 I'm aware of and that's quite an accomplishment, you
9 know, because the competition is nationwide in all the
10 major cities around the country. So, my hat is off
11 really to the fine work that was done by all the folks
12 in the agencies that were involved in this.

13 Commissioner May has touched on an area
14 that I'm very interested in too. I was looking at the
15 mix of housing by different types and I feel a little
16 better about it right now, but I recognize there's
17 more than just mixing incomes here. There's mixing
18 cultures. It's quite a melange of stuff that's coming
19 together and I just wondered whether consideration has
20 been given by the Applicants to get people to better
21 relate to each other.

22 Very often communities take generations to
23 bond and to really become whole and to have
24 identities, you know. So, what you're almost doing is
25 almost instantly creating a community and I think much

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1 more than just the bricks and mortar is involved here.

2 And I'd like very much to know whether the Applicant
3 is going to be addressing that.

4 MR. COCHRAN: That's an excellent
5 suggestion, Mr. Hannaham. I'm not aware of the
6 Applicant having proposed that but I should think it
7 would be part of what could go on with the community
8 center. The Applicant has been very focused on making
9 sure that the residents who are there now are able to
10 come back and have sufficient skill training, but
11 engaging in dialogue with the people who would amount
12 to the newcomers is an excellent idea and I'm sure
13 that they will address in their pre-hearing statement.

14 COMMISSIONER HANNAHAM: I hope that you
15 will. This came up before in an earlier PUD, if I
16 remember, Henson Ridge, as a very similar kind of a
17 spread of different kinds of models, different
18 economic levels, the same kind of basic human
19 relationship types of issues.

20 Grocery store. Is there any discussion or
21 thought about the inclusion among the retail entities
22 here of a grocery store? It's a good seven, eight
23 blocks away from Southwest Mall where there's a
24 Safeway. I'm not aware of anything serving this part
25 of the city even in Capitol Hill.

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1 MR. COCHRAN: Right. There's been some
2 discussion. I have not heard of anything larger than
3 a 25,000 square foot grocery store. Perhaps Office of
4 Planning should get back to you on what is being
5 considered in the area and also including the
6 Southeast Federal Center in terms of a larger market.

7 COMMISSIONER HANNAHAM: Because 25,000
8 square feet isn't very big.

9 MR. COCHRAN: Yes.

10 COMMISSIONER HANNAHAM: And the schools
11 have already been touched on but I really think that's
12 important and the fact that there is a dialogue going
13 on with the schools, not just in the immediate
14 neighborhood, but in the region too. I'm very happy
15 to see that you've gone that far.

16 There are more questions and they'll come
17 out as we develop this and I appreciate your
18 presentation.

19 Thank you very much, Madam Chairman.

20 CHAIRPERSON MITTEN: Thank you, Mr.
21 Hannaham.

22 Anyone else? Mr. Hood.

23 VICE CHAIRPERSON HOOD: Thank you, Madam
24 Chair.

25 I just have a few questions for you, Mr.

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1 Cochran.

2 First, I guess I would address this to Mr.
3 Bergstein. I'm also excited about it but what I'm not
4 excited about is on page 9 of the report where it says
5 that there's some homes within the PUD site that are
6 privately owned. This came up previously but one
7 thing that I'm happy about is that it's coming out now
8 as opposed to a previous case where it came out after
9 the fact.

10 My concern is you have homeowners who
11 survive through the downtime and then when things get
12 going good, then we find a way to excuse them to
13 Maryland or somewhere else.

14 Well, my question, Mr. Bergstein, is, is
15 this legal? Can we do this including those three
16 homes in this PUD site before it's actually owned by
17 the Housing Authority?

18 MR. BERGSTEIN: I guess it depends how you
19 want to interpret 2406.5. It requires the name,
20 addresses and signature of each owner of the property
21 including in the area to be developed or the onus
22 authorized agent shall be included in the PUD
23 application.

24 Now, the properties that you're
25 referencing are part of the first stage application

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1 which means that the approval itself does not allow
2 anything to actually go forward with respect to those
3 properties other than the ability of the Applicant to
4 file the second stage. And there's also no map re-
5 zoning that would be effectuated as part of the first
6 stage.

7 In addition, the Applicant is a government
8 entity which either itself or is part of the greater
9 municipal corporation, District of Columbia, can
10 exercise eminent domain with respect to those
11 properties and they could seek to acquire or condemn
12 those properties.

13 So, you could interpret the rule to
14 include this variable that where the application is a
15 first stage made by a government entity that intends
16 to exercise -- either acquire or exercise eminent
17 domain authority with respect to those property
18 owners, then at least a representation to do that
19 would be sufficient to go forward with four stage
20 approval with the understanding or the condition that
21 the second stage application can't be filed until
22 they've actually exercised that eminent domain
23 authority which would then -- or acquire the property.

24 It's an interpretation you can make but
25 you're not compelled to make.

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1 VICE CHAIRPERSON HOOD: Also, Mr.
2 Bergstein, I know we don't like to refer to other
3 cases, but just bear with me I'm trying to understand.

4 We had a case prior and this was not
5 mentioned to this Commission and I really think and
6 I've said this previously that I think there was a
7 misrepresentation.

8 I appreciate being notified of this on the
9 front end as opposed to after I've taken a vote and
10 then find out that people are going to lose their
11 homes. We do PUDs all over the city and I'm noticing
12 here and I understand it's for the common good and
13 imminent domain and everything else that goes along
14 with that, but now all of sudden, we're getting into
15 certain areas and it's like we're taking homes away
16 and I think this Commission has stayed away from that.

17 And I understand that maybe the three homes, I don't
18 now, maybe I'm speaking prematurely. Maybe the three
19 owners are glad that the city is coming to take their
20 homes away, but I just have a problem with what was
21 done prior.

22 When I saw this in this application, a
23 flag went up to me so I'm hoping that we can maybe,
24 Madam Chair, discover or find out what we did in that
25 previous case to see if we were within our rights

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1 because that was not brought to this Commission's
2 attention at the beginning. But I do appreciate this
3 Applicant bringing it to our attention.

4 But what I would like to find out, how the
5 three -- well, there's two actually. One person owns
6 two homes. How they are being dealt with? Were they
7 also in with the -- were they a part of the group and
8 I want to give the exact name of it. The relocation--
9 I'm asking the Applicant now in the audience.

10 There were a series of meetings that took
11 place and I want to know if the two owners of the
12 property, the properties that are still in question
13 that are not owned by the housing authority, were they
14 active in the relocation? And also what is being done
15 for them to be relocated? Are there some things that
16 the Applicant is offering and everything else?

17 I don't necessarily mean that I have to
18 have that preliminarily in the first stage if it's
19 approved, but I would like to know that before I take
20 a final vote on the second stage.

21 The other thing is -- back to Mr. Cochran.

22 Thank you, Mr. Bergstein.

23 You mentioned about the DOE and I think
24 you said LSDBE and the Office of Planning is asking
25 for some additional information. Am I correct?

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1 MR. COCHRAN: That's correct.

2 VICE CHAIRPERSON HOOD: Okay. Are we
3 asking -- I'm making sure we're asking for the same
4 additional information.

5 I actually didn't hear everything you
6 said, but I would hope that we would have the jobs
7 that are required or the businesses that may be able
8 to be used and have that up front so when it comes
9 time for this project to move forward more than what
10 it ahead has been, that those people will be
11 qualified. Those people who are supposed to have, I
12 think, it's 50 jobs, will be qualified and we won't
13 wait until the second stage and then we find out, hey,
14 look, they're not qualified. So, I hope that the
15 Applicant would provide that list to us so we can get
16 the folks ready.

17 MR. COCHRAN: Again, let me be clear, Mr.
18 Hood. Are you asking for more information both on --
19 I believe it's the Section 3 program that would be
20 ongoing after the project is either partially or fully
21 completed as well as what the Office of Planning was
22 referring to, which is programs during the
23 construction phase?

24 VICE CHAIRPERSON HOOD: I'm talking about
25 during the construction phase because I've learned in

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1 the past and under the Hope 6 grant, that that takes
2 care of itself. I'm just concerned about our end of
3 it. I think the grant includes that piece of the jobs
4 that are going to continue.

5 MR. COCHRAN: Right.

6 VICE CHAIRPERSON HOOD: So, I'm sure that
7 the Hope 6 Grant will take care of that. I'm just
8 making sure that we are straight on our end.

9 MR. COCHRAN: I think the answer to your
10 question is, yes. The OP and you are asking the same
11 questions.

12 VICE CHAIRPERSON HOOD: Okay. Good. Thank
13 you.

14 That's all I have, Madam Chair.

15 CHAIRPERSON MITTEN: Thank you.

16 Mr. Parsons.

17 COMMISSIONER PARSONS: Thank you.

18 Mr. Cochran you've been working with these
19 folks for a couple of years it says in your report and
20 I don't recall the Commission ever getting this kind
21 of a laundry list, if you will, of excellent points
22 that you've made in your report that you say need to
23 be addressed in the pre-hearing statement. So, given
24 your relationship with these folks, how long do you
25 think it would take to address these 15 issues with

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1 sub-parts? And if we set this down for a hearing --
2 what we don't want and I'm certainly not looking
3 forward to, is the night of the hearing rushing in
4 with amended pre-hearing statement saying, gee, we
5 solved all of them now.

6 I think you need an opportunity in your
7 final report at the hearing to be able to assess these
8 things. I was wondering if you could estimate the
9 amount of time needed for all of this?

10 DEPUTY DIRECTOR McCARTHY: I had a
11 conversation with my Michael Kelly, the director of
12 the Housing Authority, and indicated to him that it
13 was a bit of a stretch to get the set down report to
14 the Commission. They were very concerned about trying
15 to get the report set down today so that they could
16 have a public hearing before the August recess. And I
17 went over with him what that meant in terms of the
18 time frames that would have to be met for getting
19 reports in and he had addressed that issue with his
20 staff and felt comfortable that they would be able to
21 make those deadlines.

22 COMMISSIONER PARSONS: What is that
23 deadline to get their report to you so you can
24 evaluate it?

25 DEPUTY DIRECTOR McCARTHY: They would

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1 really need to have their pre-hearing statement in
2 within a matter of a couple of weeks.

3 COMMISSIONER PARSONS: That would be my
4 assessment. Yes. Okay. And they're okay with that
5 seemingly?

6 DEPUTY DIRECTOR MCCARTHY: Yes.

7 COMMISSIONER PARSONS: We'll see exactly.
8 I don't think you ought to question --

9 MR. COCHRAN: You can count on the Office
10 of Planning report not having what you referred to as
11 a laundry list of unresolved issues. Obviously, we
12 raised these so that they would be addressed and many
13 of them the Applicant has already on the way towards
14 addressing.

15 COMMISSIONER PARSONS: All right. Good
16 then.

17 I want to talk about the canal parks and
18 one of your recommendations to them is a commitment to
19 what are they going to do. I mean, it is the
20 signature on the cover that is this sketch which
21 really gives the only image of the project.

22 Is that your understanding of what they
23 mean as a commitment to the canal parks is what's
24 shown in this sketch, roughly decide that trees on
25 both curbs, benches and grass?

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1 MR. COCHRAN: Okay. First off, the project
2 area is at least 13 square blocks. We're looking at,
3 as I believe the Commission was told last month, when
4 you look at the combination of projects going on here,
5 we're looking at the largest redevelopment of the city
6 since the southwest. This is certainly larger than
7 any PUD that I've been familiar with.

8 The canal blocks are complicated both from
9 a jurisdictional and from an environmental standpoint.

10 There is more than enough opportunity for amenity to
11 go around among all of the PUDs that are being
12 suggested in this area.

13 What seems to be happening is an evolution
14 even as the report, both our and the Applicant's, was
15 being written where more and more clarity is coming to
16 how there might be a canal blocks association, how
17 might there be a memorandum of understanding, how
18 might there be a commitment of either action and/or
19 money.

20 There are certain things that still do
21 need to be worked out. We know that there is more
22 than a likelihood of environmental contamination on
23 the blocks. And there would at least have to be an
24 understanding, a memorandum of understanding, that
25 describes how the different parties to the canal block

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1 association would divvy up those responsibilities and
2 we are working with the Applicant on this and on other
3 projects to help to clarify that.

4 COMMISSIONER PARSONS: Well, let me try
5 this another way. Does Hope 6 have guidelines for the
6 amount of open space that should be included in a
7 project because this to me is so dense? There is no
8 open space for the inhabitants so they would be
9 relying on the rec center to the east and the canal
10 parks to the west and that's why I asked the question.

11 I'm trying to ask it a different way now.

12 Are there some guidelines to the Hope 6 project that
13 says you've got to provide so much space for active
14 recreation within the project?

15 MR. COCHRAN: I don't know the answer to
16 that. I do know that the Housing Authority worked
17 very closely with the Department of the Navy in the
18 redevelopment of the Marine Barracks site so that at
19 least part of that would be open to the public pretty
20 regularly.

21 There is the community center, but, yes,
22 just as the OP response to Mr. May's question was, we
23 are concerned about the amount of active, open
24 recreation space. I would have to respond to yours
25 that we are concerned about the amount of active open

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1 recreation space.

2 COMMISSIONER PARSONS: Now, you mentioned
3 something about reservation 17A but that was in your
4 verbal remarks. Is it here in your report?

5 MR. COCHRAN: Yes. It is.

6 COMMISSIONER PARSONS: And let me not have
7 to read. What are you proposing with 17A? It's
8 currently not part of this. Right?

9 MR. COCHRAN: No. Square 769 and 17A is
10 part of the application.

11 COMMISSIONER PARSONS: I'm confused. There
12 was another reservation you weren't sure about.

13 MR. COCHRAN: 19 was added. The Applicant
14 has submitted a letter to Mr. Altman stating that they
15 would agree to change the boundary to include the
16 western portion of Reservation 19 in this so that --

17 COMMISSIONER PARSONS: And where would that
18 be?

19 MR. COCHRAN: That's at the western side of
20 the parking garage that's now going up at the Marine
21 Barracks Annex.

22 COMMISSIONER PARSONS: Yes.

23 MR. COCHRAN: And this would be the new
24 community center with a small passive recreation area.

25 COMMISSIONER PARSONS: You mean by "new"

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1 they're going to demolish what's there?

2 MR. COCHRAN: That's correct.

3 COMMISSIONER PARSONS: Yi. Excuse me.

4 MR. COCHRAN: Mr. Parsons, it's always a
5 pleasure to be answering questions about your land.

6 COMMISSIONER PARSONS: Okay. That's all I
7 have. Thank you.

8 CHAIRPERSON MITTEN: Thank you.

9 I just wanted to start by following up on
10 a couple of issues with Mr. Bergstein and then going
11 back to Mr. Cochran for some answers.

12 Mr. Bergstein, you addressed Mr. Hood's
13 concern regarding our ability to proceed without the
14 signatures and participation of the individuals who
15 own the houses that are slated for acquisition. Could
16 you also speak to our ability to proceed without the
17 Park Service being explicitly on board as it relates
18 to Reservations 17A through D and Reservation 19?

19 MR. BERGSTEIN: Well, that would depend on
20 the nature of the interest that the District is
21 holding.

22 If there are transfers of jurisdiction in
23 place which allow for the District to use the property
24 in a manner that's being proposed here, then I think
25 that it can be said that they are an authorized agent

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1 or are like the owner in terms of their authority over
2 the property and, therefore, could proceed with the
3 application.

4 In the recent map amendment for Benning
5 Road, that's how we treated the District in that they
6 had a transfer of jurisdiction which authorized use of
7 the property for incinerator purposes and it was by
8 virtue of that that we presumed that they had the
9 power to seek the zoning relief that would be required
10 to effectuate that purpose.

11 CHAIRPERSON MITTEN: Okay. And I just want
12 to just take a moment to follow up on Mr. Hood's
13 comment about the issue regarding the houses to be
14 acquired.

15 If I understood you correctly, it's for
16 the Commission to exercise their discretion to allow
17 those houses to be included as opposed to what
18 happened in a previous PUD where we were not put on
19 notice that we were exercising that discretion. We
20 were not given the opportunity to exercise that
21 discretion.

22 MR. BERGSTEIN: What I'm suggesting is that
23 you can interpret the regulation to apply to a
24 variable that I don't think was envisioned at the
25 time, which is when the Applicant is a government

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1 entity that can exercise imminent domain and,
2 therefore, has the ability to acquire and control that
3 property at anytime.

4 I think the other thing that is important
5 is that they acquire it preferably before the second
6 stage because the PUD doesn't become effective without
7 a covenant and a covenant doesn't make any sense
8 without the owners that they have to sign.

9 CHAIRPERSON MITTEN: Yes.

10 MR. BERGSTEIN: So, it's important that the
11 Applicant have control over the entire PUD site so
12 they can make the type of promises and commitments
13 that are required by the covenant.

14 CHAIRPERSON MITTEN: Okay. Thank you.

15 Mr. Bergstein, can you explain to us from
16 a legal perspective. I think we sort of get it
17 conceptually so, if we proceed, the Commission knows
18 precisely what we have bought into as it relates to
19 the proposed senior housing that is proposed to
20 proceed as a matter of right and then be included in
21 the PUD.

22 MR. BERGSTEIN: As I understand it and
23 you're talking about what, I believe, is on Square
24 880. Reading the submittal of the Applicant from OP's
25 report, apparently, the Applicant is proceeding with

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1 the matter of right development with respect to this
2 building and that it meets all matter of right
3 requirements. However, there's apparently an
4 agreement to convey a portion of the parcel upon which
5 the building is to be constructed. And if that
6 conveyance occurred, the building would no longer be
7 in compliance with the zoning regulations with respect
8 to FAR.

9 What's being requested is that you include
10 the building within the PUD, even though the building
11 permit is going to be or has already been applied for
12 because as a result of the aggregation of FAR under
13 the PUD, once the conveyance takes place, the building
14 would remain in compliance with the matter of right,
15 or actually the matter of right PUD provisions.

16 So, what you're doing, at least it's the
17 first time I recall, is including a building within a
18 PUD which is proceeding to development before the PUD
19 is approved.

20 CHAIRPERSON MITTEN: All right. Thank you.

21 Mr. Cochran, I just want to double check.

22 Is the only aspect of the development of
23 the senior building on the western portion of Square
24 880, is the only aspect of it that will be
25 nonconforming later on after the subdivision from the

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1 balance of Square 880 density? There isn't going to
2 be anything else?

3 MR. COCHRAN: I'm not aware of any side
4 yard, rear yard, etcetera, questions. It was just the
5 question of density. Yes.

6 CHAIRPERSON MITTEN: Okay.

7 MR. COCHRAN: I don't want -- because this
8 is a complicated arrangement that's being proposed by
9 the Applicant, I wouldn't want my memory to be -- I'd
10 like to check my notes.

11 CHAIRPERSON MITTEN: Well, I guess the
12 reason I raise it is because, you know, it's much
13 easier in the abstract to decide about, you know,
14 aggregating density. But, if there is some other
15 issue that's going to involve, you know, the siting of
16 the building or lot occupancy or something like that,
17 you know, we might want to look at it more closely and
18 be unwilling to, you know, agree to the treatment.

19 MR. COCHRAN: In all of the conversations,
20 the only thing that we've referred to has been FAR.

21 CHAIRPERSON MITTEN: Okay. Okay.

22 Mr. Bergstein, I have another question for
23 you and one of our rules, 2401.3, says all the
24 property included in the planned unit development
25 shall be contiguous except that the property may be

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1 separated only by a public street, alley or right of
2 way. And when I look at Square 882, it doesn't appear
3 to meet that requirement.

4 MR. BERGSTEIN: Well, I understand that
5 both because, although literally speaking, it's
6 separated by a public street, that public street is
7 running perpendicular rather than parallel and, I
8 believe, that the common place interpretation of rules
9 of this kind is that the public street be separated as
10 a parallel to the two segments of the PUD.

11 In addition, it's also separated. That
12 portion is the first stage PUD. It's separated from
13 the remaining portions of the first stage PUD by the
14 area that's the consolidated site.

15 CHAIRPERSON MITTEN: Yes.

16 MR. BERGSTEIN: From reading the submittal
17 of the Applicant, they referred to the Commission's
18 approval of the entire PUD site and then approval of a
19 consolidated PUD, but in my mind, I see the two as
20 distinct. That is, when I looked at 2402.1, it says
21 the PUD process may be either a one stage or a two
22 stage process, not a one stage and a two stage
23 process. And even if these proceedings were
24 consolidated, even if they resulted in a unified order
25 with respect to both the consolidated and the first

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1 stage approval, if after assuming you used the
2 customary one-year time for the first stage to be in
3 existence, if after that one year period of time they
4 didn't present a second stage, then -- I'm sorry, let
5 me put it the other way.

6 If they didn't proceed with the
7 consolidated PUD, if they didn't commence a proper
8 building permit within the two years so that it
9 lapsed, all that you would be left with would be the
10 two portions of what is the first stage and,
11 therefore, they would be separated from each other by
12 the area that would be the consolidated PUD. So,
13 there is a possibility, based upon how it develops,
14 that these first stages would be fairly separated from
15 each other.

16 So, there's two contiguous issues. The
17 first is the public street issue and the second is
18 whether or not you consider this to be one unified
19 PUD, even though there's a first stage in a
20 consolidated proceeding or, if not, you see the two as
21 distinct. In that case, there would be a separate
22 contiguousness issue.

23 CHAIRPERSON MITTEN: Okay. So, what do we
24 do?

25 MR. BERGSTEIN: Well, one option is whether

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1 or not they can, the Applicant can proceed with that
2 area as a separate PUD, which could be considered in
3 tandem with this project or, of course, the Applicant
4 may have relied upon that area to aggregate density in
5 the other area or, I suppose, OP or the Applicant can
6 explain why there's not a noncontiguosness issue and
7 you can find that there is none.

8 CHAIRPERSON MITTEN: Okay.

9 Well, we'll give OP a stab at it then, if
10 you'd like to have a stab at it.

11 DEPUTY DIRECTOR McCARTHY: I think it would
12 be difficult to extemporize on that at the moment.

13 CHAIRPERSON MITTEN: Okay. Well, let's
14 just mull that one for a minute while I ask some other
15 question.

16 Mr. May.

17 COMMISSIONER MAY: While we're talking
18 about that, I would like to note that the separation
19 between the rest of the PUD and this extension of it
20 is actually that school.

21 MR. COCHRAN: It is.

22 DEPUTY DIRECTOR McCARTHY: You know, I
23 noticed that myself.

24 MR. COCHRAN: It is the school. You're
25 quite correct. It's also -- I believe it's actually

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1 the Park Service portion of that school that has been
2 given over for playground space.

3 If the Zoning Commission is looking for
4 precedence, we need to look at the boundary lines of
5 the city of Chicago as it heads towards O'Hare Airport
6 or the city of Los Angeles as it heads towards it
7 port.

8 DEPUTY DIRECTOR McCARTHY: By not
9 extemporizing I meant that I thought it would probably
10 make sense for us to confer with the Applicant because
11 I'm not sure what the Applicant --

12 CHAIRPERSON MITTEN: Right.

13 DEPUTY DIRECTOR McCARTHY: -- wants to do
14 with regard to that.

15 CHAIRPERSON MITTEN: Right. But I'll ask a
16 few more questions and then maybe we'll give you an
17 opportunity to do that while we move on to something
18 else and then we can revisit it, but I'd just like to
19 ask some more questions before we leave it.

20 On the subject of Square 882, we don't
21 seem to have what we usually have which is a color map
22 that shows the generalized land use map from the
23 comprehensive plan. We have one that seems to be sort
24 of an adapted one that's attachment 5 just to show
25 what's being proposed in this case. And on page 26 of

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1 the Applicant's submission, they mention that the
2 eastern portion of the site is designated for medium
3 density residential uses and it goes on from there.

4 I'm concerned about what the generalized
5 land use map designation for Square 882 is because we
6 will be introducing commercial use and I had a
7 recollection somehow that Fourth Street was the
8 boundary for the immediate area and I could be wrong
9 about that.

10 MR. COCHRAN: First off, I apologize for
11 not having that attachment in your report.

12 The text does note that the eastern
13 portion of the proposed PUD site is designated for
14 residential use.

15 CHAIRPERSON MITTEN: Okay. So, then how do
16 we reconcile introducing the office buildings in terms
17 of being not inconsistent with the Comprehensive Plan,
18 introducing the office buildings on the M Street
19 frontage in Square 882?

20 MR. COCHRAN: On the west side, when you
21 get to -- oh, on Square 882, not over near the canal
22 blocks?

23 CHAIRPERSON MITTEN: Correct.

24 MR. COCHRAN: Let me flip to my text,
25 sorry.

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1 On page 14 of your report, you'll see that
2 we discussed this issue that the area west of the
3 canal blocks is designated as suitable for medium
4 density commercial. The southern half of the squares
5 along M Street between New Jersey and Fourth Street
6 are also designated for medium, high density
7 commercial. The remaining area encompassed by the
8 proposed PUD is deemed suitable for medium density
9 residential uses.

10 And then we talk about the park's
11 recreation and open space. And our report simply
12 states that the aggregate, the proposal addresses all
13 of the uses contemplated by the generalized land use
14 map. At the square level there are differences
15 between the proposal and the map.

16 CHAIRPERSON MITTEN: That is all true.
17 Those are true statements.

18 I guess what I'm looking for is from a
19 policy perspective, it seems to be that the guidance
20 was, particularly, when we -- Fourth Street seemed to
21 be a division line. We have existing senior housing.
22 We have more proposed senior housing. We have the
23 school and it seemed like there was a decision made in
24 the past as reflected by the Comprehensive Plan that
25 we wouldn't be introducing office uses in this

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1 immediate area and it would be more residentially
2 oriented perhaps in deference to the school. I don't
3 know.

4 So, the things you just read are true, but
5 they don't really address if there's been a
6 philosophical change and to reconcile it, it's
7 especially important if we end up having to peel out
8 Square 882 as a separate PUD.

9 MR. COCHRAN: When the Applicant further
10 addresses the relationship between the added income
11 from the office structure and how that will help to,
12 in effect, cross subsidize housing structures, I think
13 that there will be more information about this.

14 Certainly, the Office of Planning and the
15 Applicant had numerous discussion about the
16 desirability and the feasibility of having more
17 housing along M Street, particularly in the block that
18 you're talking about.

19 We are looking forward to the Applicants
20 providing more information in their statement about
21 why that is not possible and just how the office use
22 will help to actually enable the fulfillment of the
23 Comprehensive Plan's objectives in a much larger area.

24 CHAIRPERSON MITTEN: All right. Well, then
25 we'll all look forward to that.

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1 One of the things I'd like to know and I
2 don't necessarily need to know it right now, but I
3 think it will help us understand the totality of this
4 better is, what is the extent of the Hope 6 project
5 boundary and are these boundaries identical to that or
6 is there some difference? I'd like to know, what are
7 the Hope 6 requirements?

8 I know we had this in another case where
9 there were requirements in another forum, in a bond
10 issuance, I think it was, and the Applicant was
11 seeking to count some of the things that they were
12 required to provide because of a bond that they got
13 and have those counted in the PUD. And I don't think
14 we ever really nailed down our treatment of that, but
15 we certainly were well aware of what the requirements
16 were on the one hand versus the other hand. So, in
17 this case, we'd like to know, what are the Hope 6
18 requirements in terms of affordability and so forth.

19 Mr. Parsons asked about open space
20 requirements. You mentioned in response to Mr. Hood's
21 question that there are requirements for LSDBEs and so
22 forth. So, you know, to understand what's being
23 proffered in the context of the PUD, I think we need
24 to know what the Hope 6 amenities are.

25 The community center -- you mentioned on

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1 page three of your report under Public Benefits and
2 Amenities under 5C, you raised the issue of who will
3 pay for it. And, I guess, I sense that you know
4 something about this now and I'm raising it because,
5 if it's going to be proffered as an amenity, then
6 there has be a commitment to deliver it by a certain
7 time, but it's saying, oh, but this other entity was
8 going to pay for it who maybe is not the Applicant
9 and, you know, we have to make sure that the amenity
10 can be delivered.

11 So, is there an issue in terms of who will
12 pay for it? Is this some outside entity?

13 MR. COCHRAN: The Office of Planning was
14 being cautious in including this. Of course, the
15 Applicant has said that they will be providing the
16 amenity.

17 We wanted to be sure that should it get to
18 the point where you are actually imposing conditions
19 as part of the final order, that there would be
20 language that would preclude any additional costs that
21 the Applicant might be encountering for say utilities
22 by cutting of some of the amenities. That's why we
23 wanted it included at the boundary. That's why we had
24 that language in there.

25 CHAIRPERSON MITTEN: Okay. I also just

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1 want to call out. I think it's a good inclusion that
2 you were able to convince the Applicant that the
3 community center site should be part of the PUD, but I
4 would just mention and we'll have to deal with it at
5 some point, but if it's a public community center,
6 then it would be permitted by the zoning. If it's a
7 private community center, I don't believe it would be
8 permitted by the zoning and that would be into a use
9 variance which is -- that's not something that is
10 normally -- we'd have to treat it -- we'd have to have
11 the burden of proof for a use variance. That's not
12 something that we can just sort of finesse through
13 PUD.

14 So, I just want to call that out at this
15 point and I think those are all the issues that I
16 have. I just want to follow up on what Mr. Parsons
17 was asking about in terms of the list of additional
18 information that you're requesting for the pre-hearing
19 statement, which I think is terrific and we ordinarily
20 probably wouldn't proceed until this was flushed out
21 better, but I understand there are extenuating
22 circumstances here and, certainly, this is a very
23 important project and we will do everything that we
24 can to keep the momentum up, but I think the Applicant
25 needs to understand that we need this information to

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1 proceed.

2 So, you know, a hearing won't be scheduled
3 unless the pre-hearing statement is complete. So, I
4 just want to make that point very clear.

5 Let me see if there are any other
6 questions at this point and maybe what we will do is
7 give you a chance to -- I was going to say something
8 to OP.

9 DEPUTY DIRECTOR McCARTHY: I'm sorry.

10 CHAIRPERSON MITTEN: For your benefit
11 anyway.

12 Just set that issue aside for now so you
13 can confer with the Applicant about the continuity
14 issue and then we'll come back to hearing action and
15 so we don't have to delay the agenda.

16 All right? Okay.

17 VICE CHAIRPERSON HOOD: May I ask a
18 question?

19 CHAIRPERSON MITTEN: Yes.

20 VICE CHAIRPERSON HOOD: With this laundry
21 list that we have, I mean, what we have here from OP
22 and also some of the things that we discussed here
23 this morning, I mean, this afternoon, I guess a
24 realistic time -- I know we're trying to get a time
25 frame.

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1 So, hopefully -- I know you said we
2 wouldn't have a hearing until the pre-hearing
3 statement is complete. I'm just curious what will be
4 the time frame. Maybe in the discussion they're
5 having with the other issue, maybe they can kind of
6 come back to us with a time frame. I know that time
7 is of the essence, but I don't see us rushing and then
8 we come back and all of our concerns are not addressed
9 to the fullest extent that they can be. So, I would
10 rather see them take time and address the issues as
11 opposed to coming back with half answers. So, just
12 wanted to put that out there.

13 CHAIRPERSON MITTEN: Well, and I think Mr.
14 Cochran, you know, addressed this earlier, but since
15 he will be speaking to the Applicant now, we can just
16 reaffirm that they are committed to working in the
17 time frame of the next couple of weeks to get this in.

18 Okay. So, we'll set that aside for the
19 moment and we move to Proposed Action.

20 The first case under Proposed Action is
21 Zoning Commission Case No. 02-45 which is the request
22 for a first stage PUD approval and map amendment for
23 St. Elizabeth's Hospital. And I would note that we
24 have received a resolution from ANC-8E which is -- the
25 nature of it is untimely. The resolution is that the

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1 commissioners of ANC-8E, namely, Sandra Siegers,
2 Kenneth Johnson, Sandra Williams and Melvin Simms,
3 that they are requesting party status and that that
4 party status be granted. That's something that's
5 conducted in the beginning of the hearing, so at this
6 point, it's untimely. And ANC-8E was a party as the
7 affected ANC and they were able to participate in that
8 capacity.

9 So, we have a proposed order, Order Number
10 02-45, and I would ask the Commissioners if there are
11 any concerns that they would like to raise or
12 questions. And as I said, this is a first stage
13 approval.

14 VICE CHAIRPERSON HOOD: Madam Chair.

15 CHAIRPERSON MITTEN: Mr. Hood.

16 VICE CHAIRPERSON HOOD: I would move
17 approval of the Zoning Commission Case No. 02-45,
18 which is the first stage PUD of St. Elizabeth's.

19 CHAIRPERSON MITTEN: I'll second.

20 I would just like to note in the order
21 something that I think has been pointed out as an
22 error on page 10, number 6. I believe that's the
23 approval. They're not really asking for it for three
24 years or staged approval. It's the typical one-year
25 first stage approval that we give.

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1 Oh, Mr. Hannaham, I'm sorry.

2 COMMISSIONER HANNAHAM: Madam Chair, I just
3 have a small question on page 2 and paragraph 10.

4 The last sentence says that an existing
5 antenna tower in the triangular wooded area reference
6 below includes antennas that serve District of
7 Columbia police and fire departments as well as other
8 District and Federal agencies.

9 That brought to mind the UCC development
10 which is just to the north of it. I just wanted to
11 make it clear or just a clarification as to whether
12 this would continue on even after the UCC is developed
13 fully, which is primarily to provide communications
14 for those agencies, or it's just an interim thing
15 until such a time as the UCC is completed.

16 CHAIRPERSON MITTEN: We can --

17 COMMISSIONER HANNAHAM: It's a statement of
18 the way things are now.

19 CHAIRPERSON MITTEN: Right. Right.

20 COMMISSIONER HANNAHAM: I understand that.

21 CHAIRPERSON MITTEN: I think that inasmuch
22 as UCC doesn't have any antenna towers. It has lots
23 of antennas and dishes, but this was a tower, just a
24 single tower.

25 COMMISSIONER HANNAHAM: Just a -- right.

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1 CHAIRPERSON MITTEN: And I think they used
2 -- they need tall structures so that they can get the
3 line of sight that they need and I don't know if Ms.
4 McCarthy or Ms. Steingasser might recall -- maybe Ms.
5 Steingasser since she's our expert on antennas.

6 Mr. Hannaham was asking a question about
7 the existing antenna tower at St. Elizabeth's near the
8 hospital and whether that was going to continue to be
9 used after the UCC is constructed?

10 MS. STEINGASSER: Yes, it is.

11 COMMISSIONER HANNAHAM: It would be?

12 CHAIRPERSON MITTEN: Yes.

13 COMMISSIONER HANNAHAM: Okay. Thank you.

14 CHAIRPERSON MITTEN: Mr. Parsons? No.
15 Okay.

16 I just wanted to point out that on number
17 25 it discusses parking and, perhaps, we could add a
18 sentence. It deals with -- one of the sentences is,
19 "Because the majority of parking will be located
20 approximately at the location of the existing John
21 Howard Pavilion" one of the things that we were told
22 is that they won't close the John Howard Pavilion
23 until the new hospital is built. So, that means that
24 there's going to be a period of time where the
25 required parking can't be in use because the John

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1 Howard Pavilion will still e there. And there's a
2 sentence that says "This will require phase completion
3 of the new parking after completion of the majority of
4 the project." I think we would just need to need
5 something that we would expect to see a phasing plan
6 or temporary parking plan as part of the second stage
7 approval.

8 And I did want to just mention the issues
9 that had been raised by the folks from ANC-8E. They
10 were very supportive of a new hospital, but they were
11 fearful about residential construction because of the
12 nature of the zone and, I think, that we clarified for
13 them, I hope, sufficiently that what's being
14 authorized is only the hospital. There's not an
15 opportunity for matter of right development in the
16 context of the PUD site, except because there is no
17 existing zoning.

18 COMMISSIONER HANNAHAM: Madam Chair.

19 CHAIRPERSON MITTEN: Yes, sir.

20 COMMISSIONER HANNAHAM: Can I ask another
21 question?

22 CHAIRPERSON MITTEN: Uh-huh.

23 COMMISSIONER HANNAHAM: We also expressed
24 concern during the consideration of the UCC and the
25 hospital project about the coordinated access to both

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1 of these facilities in the Metro on Congress Heights
2 Station.

3 CHAIRPERSON MITTEN: Yes.

4 COMMISSIONER HANNAHAM: I don't see any
5 reference to that here and we were promised that that
6 would be the case.

7 CHAIRPERSON MITTEN: We could add that as
8 something that we would --

9 COMMISSIONER HANNAHAM: Right.

10 CHAIRPERSON MITTEN: -- expect to see in
11 the second stage --

12 COMMISSIONER HANNAHAM: Okay.

13 CHAIRPERSON MITTEN: -- application.

14 COMMISSIONER HANNAHAM: Okay. That's
15 right, we do have another shot.

16 Thank you.

17 CHAIRPERSON MITTEN: All right. Is there
18 any further discussion?

19 Then all those in favor of approval of
20 Zoning Commission Order No. 02-45 with the amendments
21 that we articulated. All those in favor please say
22 aye.

23 (Ayes)

24 CHAIRPERSON MITTEN: Those opposed please
25 say no.

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1 I probably didn't say anything, but I
2 meant to say aye.

3 Mr. Bastida.

4 SECRETARY BASTIDA: Madam Chairman, the
5 staff would record the vote five to zero to zero. Mr.
6 Hood moving, Ms. Mitten seconding, Mr. Hannaham, Mr.
7 May and Mr. Parsons voting in the affirmative.

8 CHAIRPERSON MITTEN: Thank you.

9 All right. The next case under Proposed
10 Action is Zoning Commission Case No. 02-38, which is
11 the first stage planned unit development for the
12 Waterfront Project now known as Waterside Mall.

13 The way I would like to proceed through
14 this discussion -- we received a number of submissions
15 before the record was closed but after the hearing and
16 we've reviewed those. We also have a proposed order
17 from the Applicant, Proposed Findings of Fact and
18 Conclusions of Law.

19 I would like to use the letter from ANC-6D
20 since it includes many of the issues raised by members
21 of the community that we proceed through the issues
22 that ANC-6D has raised and discuss those and then any
23 additional issues that members of the Commission would
24 like to raise, we can talk about those as well.

25 Okay. The first issue we'll just -- I'm

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1 literally just going to use the points that they have
2 articulated.

3 The first one is project height and
4 there's a concern that Fourth Street is -- I guess I
5 can't fully sort out whether they're concern is the
6 height or whether their concern is the width of Fourth
7 Street. They talk about the height and yet they don't
8 endorse the re-zoning from C3B to C3C because that's
9 what enables the additional height but then they also
10 talk about the canyon effect along Fourth Street. So,
11 there's sort of two aspects together.

12 So, if anyone would like to address that
13 particular concern or endorse it.

14 VICE CHAIRPERSON HOOD: Let me catch up
15 with you, Madam Chair.

16 Which ANC letter are we referencing?

17 CHAIRPERSON MITTEN: I'm using the April
18 14th letter. That's just a guide. The same issues are
19 -- they've articulated these issues in prior
20 resolutions and so forth. It's Exhibit Number 106.

21 VICE CHAIRPERSON HOOD: Unfortunately,
22 Madam Chair, I don't keep my stuff in that good of an
23 order so just bear with me.

24 CHAIRPERSON MITTEN: It's that one. No.

25 Okay. So, the issue is height and the

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1 issue is a canyon effect along Fourth Street.

2 Well, perhaps, I'll begin.

3 One of the things when we first started on
4 discussing Fourth Street and the width was that it
5 would have a minimum width of 90 feet and just from
6 what height restrictions we typically have along
7 streets, the buildings that -- the east/west buildings
8 that would be the principal buildings along Fourth
9 Street are going to be 79 feet in height. So,
10 normally we would allow a building of at least 90 feet
11 on a street that's 90 feet in width. So, I don't know
12 that the canyon effect -- perhaps they're having
13 difficulty visualizing what Fourth Street will look
14 like, but we have a number of streets downtown that
15 are 90 feet in width and I guess I wouldn't quite
16 characterize it as a canyon effect myself, certainly
17 not out of character with what's typical.

18 And the issue of the height relief, that
19 is the area of relief that's being sought in the
20 context of the PUD. So, it's a question of whether or
21 not everything else balances against the height that's
22 being requested.

23 COMMISSIONER MAY: Madam Chair, I would
24 echo your point. I think that along Fourth Street,
25 that's where height probably is not an issue because I

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1 think it is a well-proportioned street section that we
2 have here with the heights of the buildings and the
3 width of the street and the formation of the street
4 itself actually makes it a lot more interesting and a
5 lot less relentless than some of the more canyon-like
6 streets in the city can be and then relieving it at
7 the one end of the plaza, you know, also I think
8 contributes significantly to mitigating the "canyon
9 effect."

10 I think there I still overall an issue
11 with the height of the project and whether the trade-
12 off that we have is appropriate or not but I think
13 that the -- I would be less concerned about the
14 "canyon effect" per se than, you know, height of some
15 of the other towers within the project.

16 CHAIRPERSON MITTEN: Well, then perhaps we
17 need to return -- we will return to it then when we
18 discuss the amenities and benefits because that is at
19 the point where we have to decide if they're
20 sufficient.

21 Anyone else want to weigh in on this
22 point?

23 COMMISSIONER PARSONS: Well, if I
24 understand the ANC, they oppose the PUD.

25 CHAIRPERSON MITTEN: Yes. They do.

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1 COMMISSIONER PARSONS: Clear and simple.

2 There's no --

3 CHAIRPERSON MITTEN: For a variety of --

4 COMMISSIONER PARSONS: -- other way to read
5 this.

6 CHAIRPERSON MITTEN: Right. That's right.

7 COMMISSIONER PARSONS: So, that's the end
8 of their statement.

9 CHAIRPERSON MITTEN: No. There's a variety
10 of reasons why --

11 COMMISSIONER PARSONS: Yes.

12 CHAIRPERSON MITTEN: -- and I wanted us --

13 COMMISSIONER PARSONS: All right.

14 CHAIRPERSON MITTEN: -- to walk through
15 those reasons because we are required to give great
16 weight to their concerns --

17 COMMISSIONER PARSONS: Okay.

18 CHAIRPERSON MITTEN: -- and to address
19 each of the issues individually. And since they
20 embody the concerns of most of the other opponents, I
21 thought it was a good --

22 COMMISSIONER PARSONS: All right. --

23 CHAIRPERSON MITTEN: -- sort of surrogate
24 for going letter by letter from the opponents.

25 All right. The next issue is size and

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1 density.

2 I think the biggest concern under the
3 paragraphs labeled "Size and Density" seems to be a
4 concern about surface packing actually and they are
5 concerned about removing the existing or some of the
6 existing surface parking and that it is less desirable
7 to park in a garage than surface parking.

8 Now, I may be oversimplifying that that's
9 what I read their concern to be.

10 VICE CHAIRPERSON HOOD: Madam Chair, I hate
11 to -- I'm going to have to get another copy of that.

12 I know I've seen it and I've read it, but I cannot
13 find my copy up here on the dias.

14 CHAIRPERSON MITTEN: Okay.

15 VICE CHAIRPERSON HOOD: So, I'll need
16 another case.

17 CHAIRPERSON MITTEN: Well, perhaps Mr.
18 Bastida would be willing to make you a copy of that.

19 VICE CHAIRPERSON HOOD: I appreciate Mr.
20 May letting me share with him but I don't want to
21 overcrowd him using his own copy.

22 CHAIRPERSON MITTEN: Exhibit 106.

23 COMMISSIONER MAY: I think I'd like to add
24 something under the size and density issue, which, I
25 mean, the way this is written, I'm not sure that size

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1 and density is really the right way to sum it up. You
2 raise the surface parking issue, which I think is
3 certainly a key point, but the other thing that I get
4 hung up on is the whole feasibility of maintaining the
5 current grocery store or the potential for a future
6 grocery store if that were to occur. And they get
7 into some fairly complicated calculations of how to
8 main this as some sort of benefit to the project and
9 which I don't find particularly helpful, but I think
10 of the notion that the supermarket itself is a vital
11 service that they would like to see maintained, to me
12 that rises to the surface a lot more than the idea of
13 the surface parking itself which is, I think, kind of
14 a subservient to that need for supermarkets. I mean,
15 supermarkets want to have surface parking wherever
16 they can. I know it can work in different ways, but
17 it's difficult to prescribe that.

18 CHAIRPERSON MITTEN: Well, you're right in
19 that there are a number of layers to the issue of the
20 grocery store.

21 COMMISSIONER MAY: Right.

22 CHAIRPERSON MITTEN: There's the issue of
23 the design of the interim design while Safeway is
24 through the end of their lease. There's the issue of
25 having as it is expressed in the size and density

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1 discussion about having a continuous grocery facility
2 even in the event that there would be a transition
3 from Safeway to another operator, in the event that
4 there would be an expansion by Safeway and so forth.
5 That has the potential in terms of continuous grocery
6 store services, that can be very problematic because
7 it could require that they actually have two grocery
8 stores operating at the same time on the site.

9 And then there's the other layer in the
10 more general sense of this functioning, operating as a
11 town center and whether the uses that are
12 appropriately included in that and should that include
13 a grocery store or should that at least include a
14 facility that's configured so that it could
15 potentially be occupied by a grocery store rather than
16 piece-mealed up into smaller shops and so forth.

17 So, any aspect of that that you'd like to
18 take on at this point, I'd welcome it.

19 COMMISSIONER MAY: Well, I think that --
20 I'm less concerned about things like continuity of
21 operations because the supermarket that's there right
22 now, if they wind up having some new quarters, I mean,
23 I know that there's always a way to make things work
24 in an interim situation and I would think that
25 something like that could be worked out. The real

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1 question is whether the conditions, once this
2 construction gets underway and they start to do the
3 version of the supermarket that's going to work for
4 the next 17 years, in theory, that is a big
5 consideration.

6 I don't know that from what I've seen in
7 the back and forth between the developers and Safeway
8 that there has been enough given and take because it
9 seems like they are at an impasse and I certainly
10 would be a lot more comfortable at this point if we
11 knew, in fact, that Safeway was going to be able to
12 continue to operate. And that's not clear at all from
13 the information that we have right now. That makes me
14 very uncomfortable.

15 And then the notion of, you know, what
16 ultimately with the redevelopment of a property and
17 whether it can accommodate a grocery store. Well, I
18 think a grocery store is something that it's either
19 designed in or it's not going to happen because it's
20 not something you can retrofit into an office building
21 or even into retail space with a 14 foot ceiling.
22 There's just not enough there. You have to deal with,
23 you know, the difficulties of people taking large
24 amounts of stuff in and out and they need to have cars
25 or access to cars or what have you.

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1 I mean, it's conceivable that 15 years in
2 the future the whole model for how we shop at
3 supermarkets may be completely different, so maybe
4 it's conceivable that there would be some other
5 version of this that will work but, you know, that's
6 entirely speculative at this point.

7 In order to consider this, I mean, I
8 really think that the supermarket is one of the key
9 benefits to the community from the existing
10 development. And it would make me a lot more
11 comfortable to proceed with this development if we
12 knew that in the long term there was going to be a
13 supermarket here or even, frankly, in close proximity
14 as a replacement, but I don't see that happening. And
15 that in the interim, the current Safeway can continue
16 to operate because the last thing we want to do is to
17 have that supermarket close up and shut down and move
18 away.

19 I don't know that the discussion that's
20 occurred between the developer and Safeway is --
21 whether everyone has put all their cards on the table
22 yet, but it's very difficult to say yes to this at
23 this point without that supermarket -- knowing what's
24 going to happen to the supermarket.

25 VICE CHAIRPERSON HOOD: Madam Chair, I

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1 would concur with the comments that I've heard from
2 Commissioner May. I think that that supermarket is
3 definitely a vital piece to the surrounding area and I
4 recall in the ANC letter they mentioned about benefits
5 to the neighborhood and I think that is the major --
6 one of the major benefits as far as retail to that
7 community. And I would hope to see that the
8 developer would, not necessarily increase the square
9 footage for Safeway but for any retail status grocery
10 store chain that would come down. I think that's very
11 vital to that area and I know that the people in the
12 area use that Safeway constantly. They definitely
13 support that and that would be a travesty --
14 devastating for a food chain, whether it be Safeway or
15 whoever.

16 I'm not promoting Safeway. I think that
17 the allowable square footage that the chain that's
18 there now is asking for, I would like to see that
19 happen because as we shop now, we're not all doing it
20 on the Internet. As we shop now, we are -- people go
21 to the store and they should have the right to a deli
22 and a bakery and some of the things that, I believe,
23 we cited in the submittals. But I would like to see
24 that increase and like I said, it would be a travesty
25 if that food chain was eventually squeezed out of

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1 there in 17 years, 27 years or whatever.

2 CHAIRPERSON MITTEN: Thank you, Mr. Hood.
3 Mr. Hannaham.

4 COMMISSIONER HANNAHAM: I concur with my
5 colleagues on the necessity of having a food service--
6 a grocery service in this particular project. And we
7 have it under Proposed Action. I would not be able to
8 vote for any further processing of this particular
9 proposal until this aspect of it has been resolved.

10 CHAIRPERSON MITTEN: Okay. Seems like we
11 have a -- moving towards a majority of people that are
12 endorsing some assurances that there will be a grocery
13 store or -- well, I'll say a grocery store because
14 that's what's been articulated.

15 Inasmuch as that is an amenity that's
16 being proffered, and I take it from your comments that
17 you believe that the amenity as it stands is
18 insufficient at this point, that we would need to send
19 this back to the Applicant to take another look and
20 revise their proposal or be in danger of having the
21 PUD denied.

22 So, we have one issue which is that we
23 would like the Applicant to address the long-term
24 viability for a food service or grocery store and
25 encompassed in that would be the viability of the

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1 existing Safeway, given the concerns that have been
2 addressed back and forth between the Applicant and
3 operator and beyond the term of Safeway providing for,
4 you know, designing that into the project as you said,
5 Mr. May, so that -- okay.

6 Mr. Parsons, you want to get on?

7 COMMISSIONER PARSONS: I concur with that.

8 CHAIRPERSON MITTEN: Okay.

9 COMMISSIONER PARSONS: Did you want to
10 specify square footage --

11 CHAIRPERSON MITTEN: I think --

12 COMMISSIONER PARSONS: -- as no less than
13 the existing?

14 CHAIRPERSON MITTEN: Well, I think what we
15 want is -- well, you can suggest whatever you want to
16 suggest. I think that we have the evaluate the
17 amenity as it is proffered to us.

18 So, if anyone would like to make a
19 suggestion about what they would like to see, I'm sure
20 the Applicant would be interested.

21 VICE CHAIRPERSON HOOD: Well, Madam Chair,
22 I think right now what they're calling for in this
23 site is 75,000 square feet for retail.

24 CHAIRPERSON MITTEN: Total.

25 VICE CHAIRPERSON HOOD: Total retail. And,

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1 I believe, Safeway, and I had this written down
2 somewhere, but, I believe, Safeway is asking --
3 Safeway right now uses 30,000.

4 CHAIRPERSON MITTEN: Yes.

5 VICE CHAIRPERSON HOOD: So, again, that --
6 on the numbers, it validates the ANC's concern.

7 The other, whatever the difference is,
8 would go towards uses for whatever the tenant is in
9 the neighborhood. So, I don't necessary know what
10 amount and I would take that up -- I might want to
11 leave that to the subject matter experts. I can come
12 up with anything, but I would think it would be better
13 suitable for the subject matter experts to come back
14 to the Commission with an adequate and up-to-date,
15 modernized grocery store chain square footage.

16 COMMISSIONER PARSONS: We know that they're
17 40,000 square feet or more.

18 CHAIRPERSON MITTEN: I believe that -- you
19 mean new?

20 COMMISSIONER PARSONS: New.

21 So, I just wanted to make sure they didn't
22 say, well, you can have grocery or retail. In other
23 words, we're offering you 75,000 square feet of
24 retail. That's where we'll put your grocery store.
25 Or go the other way and say, well, we'll give you a

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1 mom and pop grocery store inside the retail, you know,
2 something -- an up-scale 7-Eleven. So, I think we
3 ought be specific, as a minimum, and I'm trying to
4 find desperately in my materials here what the square
5 footage of the existing Safeway is.

6 CHAIRPERSON MITTEN: 30,000.

7 COMMISSIONER PARSONS: Is it 30 -- thank
8 you.

9 CHAIRPERSON MITTEN: Yes.

10 COMMISSIONER PARSONS: So, I would say that
11 would be a minimum knowing that Safeway is desirous of
12 larger stores, whether they can do it here or not, I
13 don't know.

14 VICE CHAIRPERSON HOOD: But I think that
15 the issue is bringing it, and I don't necessarily want
16 to confine this to Safeway. I'm saying grocery chain.
17 Safeway may not even need it. I don't know. But a
18 grocery chain, I think, in modernizing it, we would
19 need to add some, increase. I think they have a
20 problem now where they can't expand and bring some of
21 the things that most grocery stores in other
22 jurisdictions or surrounding areas have and that goes
23 back to what was in the submittal. I think it was a
24 bakery, a deli and some other things. At least that's
25 what was submitted to us.

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1 So, to say 30,000, what they have now,
2 will not give them any room for expansion. So, I --

3 CHAIRPERSON MITTEN: Well, there's a little
4 difference of opinion about what's necessary versus
5 what's desired so --

6 COMMISSIONER MAY: Absolutely. I mean
7 there are some statements in the materials that we
8 received about Safeway's desire to have, you know, a
9 pharmacy or be the exclusive pharmacy --

10 CHAIRPERSON MITTEN: Right.

11 COMMISSIONER MAY: And, I mean, I don't
12 think we want to get into that area.

13 CHAIRPERSON MITTEN: No.

14 COMMISSIONER MAY: And, I think, you know,
15 as much as we want this to be as convenient as
16 possible, for the neighbors, we also have to be
17 realistic in recognizing that in an urban context you
18 don't get the giant super, supermarket that you would
19 get in a Greenfield 100 miles out of the city or 50
20 miles out of the city.

21 So, there is certain revised expectations,
22 I think, when it comes to this and I, you know, I
23 would hope that the bakery issue, I mean, that's a
24 good thing to address. But I don't think it has to be
25 the dream supermarket but it does need to be

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1 functional and profitable and profitable for a major
2 chain because, I think, that the city has already, you
3 know, gone down the road of trying to promote
4 supermarkets in a variety of circumstances. And,
5 frankly, the District knows a lot about what works and
6 what doesn't work.

7 CHAIRPERSON MITTEN: Right.

8 COMMISSIONER MAY: More probability
9 already. At least certain people within the city
10 officials would know.

11 CHAIRPERSON MITTEN: Well, and certainly, I
12 mean, the Applicant can work with the Office of
13 Planning to try and, you know, devise a proposal to
14 address the concern.

15 Let's talk about some of the other issues
16 so if there is anything else that we would like the
17 Applicant to revisit, they can do so.

18 VICE CHAIRPERSON HOOD: Let me just clarify
19 something. I'll ask for clarification so we're going
20 to just leave it up to the Office of Planning and the
21 subject matter experts or are we going to give them
22 some guidance as Mr. Parsons said about the square
23 footage?

24 CHAIRPERSON MITTEN: Well, if I were the
25 Applicant what I would take away from everything that

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1 they've heard is that we're looking for a minimum of
2 at least as much as is there now. We know that works
3 and we know that there's a desire for a larger store,
4 at least among some people, so it seems like at a
5 minimum, what exists now makes sense as the basis.

6 VICE CHAIRPERSON HOOD: Yes. We should
7 also hope that since they're listening that we hope
8 that they leave room for expansion. So, that's just
9 kind of why -- why should this neighborhood have less
10 than the rest of us? Okay. That's just where I am on
11 that.

12 CHAIRPERSON MITTEN: Okay.

13 Mr. Hannaham, did you --

14 COMMISSIONER HANNAHAM: Yes. Madam Chair,
15 that also concerns me. We're asking for several
16 linear scale, a time line of the development. It
17 turns out that the Safeway is the thing that drags it
18 out to 17 years, the fact that they have a lease.

19 CHAIRPERSON MITTEN: Yes. Yes.

20 COMMISSIONER HANNAHAM: But I wouldn't want
21 to limit their ability to grow in the community if
22 economics indicates that that's possible. So, I'd
23 like to give them some latitude as well. Although we
24 have a minimum, I'd like to make it understood that we
25 would expect that the negotiations would be flexible.

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1 -- allow some flexibility on the part of Safeway to
2 expand.

3 CHAIRPERSON MITTEN: I think that they have
4 to be clear going in, at least, about, you know,
5 there's going to be a certain degree of flexibility
6 when the final design comes through, you know, whether
7 Safeway is there or whether -- you know, however it's
8 accommodated, but they need to be able to plan because
9 we're talking about very large spaces. And so when
10 they start designing, you know, the core of their
11 building and so forth --

12 COMMISSIONER HANNAHAM: Right.

13 CHAIRPERSON MITTEN: -- that's not
14 something that's readily moveable. So --

15 COMMISSIONER HANNAHAM: They put this to
16 the tail end of their development. I don't think this
17 is one of the early --

18 CHAIRPERSON MITTEN: Well, I don't think
19 it's by choice. It's because of the nature of the
20 lease with Safeway.

21 COMMISSIONER HANNAHAM: Oh, okay. Okay.
22 Thank you.

23 CHAIRPERSON MITTEN: Mr. May.

24 COMMISSIONER MAY: I think we need to -- I
25 don't want to make -- give the impression that we're

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1 just all coming down on the side of, you know, getting
2 the Safeway what they want because, again, there's a
3 difference between what they may desire and what's
4 really necessary in this circumstance.

5 CHAIRPERSON MITTEN: Absolutely.

6 COMMISSIONER PARSONS: And I would hope
7 that Safeway takes this to heart as well and comes to
8 the table in the spirit of trying to work something
9 out that works for everybody in the neighborhood and
10 allows for this development to be profitable for all
11 those involved.

12 CHAIRPERSON MITTEN: Absolutely.

13 COMMISSIONER MAY: Because that's what
14 really will help the neighborhood the most in the end
15 is having a successful project.

16 CHAIRPERSON MITTEN: Well, you know, in
17 this -- you know, I think what this project in its
18 former life as Waterside Mall and then its future life
19 as Waterfront, really is the town center for southwest
20 and not in the sense of like a Reston Town Center
21 where there's a lot of high-end shops and places to
22 eat. This is where, you know, people get their
23 essential services. And that's why it's so important
24 that those essential services continue to be met and
25 so there's sort of a -- there's a different -- seems

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1 to me there's a little bit different level of
2 responsibility when you buy into a project like this
3 because of its, you know, critical importance to the
4 totality of the community.

5 Okay. A couple of other issues that I
6 wanted to go through so we can make sure we have
7 everything covered when we give the Applicant some
8 direction.

9 Another of the issues that was raised by
10 the ANC and was raised by some of the community folks
11 that testified is the fact that the proposed buildings
12 along M Street are not going to be set back from the
13 property line. And we heard testimony from the Office
14 of Planning, as well as from the Applicant, about how
15 important that was to defining the -- I forget what
16 the exact terminology was, but to defining the edges
17 of the project and so forth.

18 And, I believe, that there's a couple of
19 concerns that the ANC has raised.

20 One is, although I can't believe they're
21 serious, is that they want to be sure there's room to
22 widen M Street at some point, but I don't think that's
23 in the cards, but also I would be troubled if they
24 were actually endorsing that.

25 There is an issue regarding the proposed

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1 tram that Metro would operate, although I think we had
2 some testimony at the hearing that the operation of
3 that tram would not be impaired by the positions of
4 these buildings along M Street.

5 And then there was the final issue is that
6 the greater setback would allow for more surface
7 parking.

8 And so I'd like to hear if anyone has any
9 concerns about the position of the two buildings along
10 M Street on the property line or if anyone is
11 endorsing the setback.

12 Anyone? Just say something.

13 Mr. May.

14 COMMISSIONER MAY: Okay. I'll always talk.
15 Let's see.

16 I think it is important to have the
17 building actually front well onto M Street and I think
18 pushing it too far back is -- well, that's probably
19 and it probably works with the rest of the context of
20 the southwest area where there are a lot of setbacks
21 and tall buildings. I think that that's what -- part
22 of the design intent is to move away from that.

23 So, I'm, you know, I'm not particularly
24 swayed by this notion of it being simply too close to
25 M Street. I mean, M Street is a very wide street

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1 there and I guess I just don't see the importance of
2 this particular issue in the broader context of the
3 development.

4 CHAIRPERSON MITTEN: I agree with you. I
5 mean, M Street is a very wide street and another
6 aspect of it that people were concerned about the fact
7 that having the building in the way was going to
8 eliminate that visual connection with the waterfront
9 and your view of the Washington channel and we got an
10 additional submission from the Applicant that shows
11 that you really can't see anything from that point.

12 So, I'm with you. I don't think there's
13 any compelling reason to have those buildings setback
14 and, conversely, I think there are compelling reasons
15 to have them on the property line there.

16 Anyone else? Mr. Hood?

17 VICE CHAIRPERSON HOOD: Madam Chair, I also
18 think that the newer buildings that are further on
19 down M. Street are kind of consistent to this model
20 what we see here.

21 While I think the testimony, and I still
22 am trying to picture coming out of the Metro. The
23 testimony was given to us to come out of Metro you
24 should be able to see the waterfront. And I have come
25 out of the Metro many days and I'm still trying to

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1 remember if I could ever see down because of things
2 across the street that were already blocking my view.

3 So, that's already been taken care of so I don't
4 think that's an issue for me either, Madam Chair.

5 CHAIRPERSON MITTEN: Thank you.

6 Anybody else? Okay.

7 COMMISSIONER MAY: Can I mention one thing?

8 CHAIRPERSON MITTEN: Sure.

9 COMMISSIONER MAY: I do want to say that --
10 I was reminded of this by Commissioner Hood's
11 testimony here or his statement here, is that I do
12 appreciate the fact that the Applicant did show them
13 examination of shifting Fourth Street to a different
14 alignment which might have addressed some of these
15 questions and that was part of those additional
16 submissions. And it's obvious that there's only one
17 way that Fourth Street can run but, I do appreciate
18 having that demonstrated on paper.

19 CHAIRPERSON MITTEN: Okay.

20 There is quite a bit of discussion about--
21 this is about the public amenities, community
22 involvement and jobs and, I think, where the ANC is at
23 on this is that there's a number of suggestions that
24 they had made to the Applicant and I'm not going to
25 read them, but there are six specific ones.

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1 And we've actually discussed -- we've
2 discussed some of them sort to tangentially. For
3 instance, one is a significant increase in the square
4 footage of retail space.

5 Now, we haven't discussed that per se, but
6 we have discussed insuring that there be a food store.

7 I know that the ANC wanted, I believe, 200,000 square
8 feet of retail space.

9 And then there's issues about insuring
10 participation in the community in terms of jobs in the
11 project and so forth. They wanted an account to be
12 created, a fund to be created. They want a community
13 center and so forth. And I think some of this is the
14 ANC -- they made suggestions and not all those
15 suggestions were embraced by the Applicant in favor of
16 other things.

17 So, I guess, I would just ask if there's
18 any direction that anyone wants to give to the
19 Applicant, if any of these resonate -- any of these
20 concerns of the ANC resonate or not?

21 VICE CHAIRPERSON HOOD: No more than what I
22 typically do, Madam Chair, and that's to make sure
23 that the surrounding neighborhood works with the
24 Office of -- well, the Applicant and Office of
25 Planning make sure that they know what jobs may be

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1 available early enough in advance so, again, we won't
2 run into that, I'm not qualified or we don't have any
3 qualified Applicants.

4 CHAIRPERSON MITTEN: Okay. Okay.

5 Then the final issue is the timetable and
6 the position of the ANC is that the timetable of 17 or
7 more years is unacceptable and that they think that
8 the construction of the residential component should
9 be first and be done in a single stage. And I don't
10 know if that means that the entire project should be
11 done -- I guess I have to interpret that that would be
12 the entire project would be done in a single stage.

13 We already know why the project is going
14 to extend or has been proposed to extend as long as 17
15 years from the date of approval, which is related to
16 the existing Safeway lease and the desire of, I think,
17 everyone involved to allow Safeway to continue to
18 operate there. But, it does get rather complex in
19 terms of the proposal for phasing.

20 In the proposed order, there's a couple of
21 places where the phasing is discussed. One is finding
22 of fact number 26 on page 5. In that, the specific
23 phases are articulated. And then later in the
24 decision portion, there's number 7 on page 13 talks
25 about the sequence of development and then there's

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1 also number 14 deals with the length of time that the
2 first stage would be valid and when the second stage
3 applications would be filed.

4 What I would like to see is a
5 simplification of this. I think of the first stage as
6 not -- I think the first phase, maybe I should say, of
7 the redevelopment of this project as the matter of
8 right construction and then there would be one or more
9 phases following that and each of those phases would
10 require a second stage PUD application.

11 I would like to see, myself, the -- and I
12 would like if we're having the Applicant revisit
13 things, I'd like the Applicant to revisit whether or
14 not what are listed as B and C, which would be the
15 second stage PUD for the east and west Fourth Street
16 buildings and the second stage PUD for the northwest
17 residential and southwest tower, if those can be
18 consolidated into a single stage so that it would be
19 more -- instead of making this accessibly complex,
20 that we design the last stage as a function of this --
21 we have to have that go out a rather lengthy period
22 because of the Safeway. And the rest of it we really
23 don't have to extend out in terms of making the
24 application and designing the project. We might end
25 up in the second stage approval having a phasing for

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1 development of the individual buildings within that
2 second stage, but I think there's some merit to
3 confronting that at the time the application is made
4 and then making a reasonable timetable based on market
5 conditions and so forth.

6 So, what I would like to see is a
7 simplification where there would be basically --
8 number 26 would just be A; B and C would be
9 consolidated into one and then there would be D would
10 be sort of the third component of it. And the stuff
11 that's discussed in number 7, all of the, you know,
12 certificates of occupancy and so forth, would be --
13 that would be dealt with in the second stage
14 application in order where when we have specific
15 buildings that we have approved, we will put them on a
16 schedule as we have done in other multi-building
17 planned unit developments. And then we could revisit
18 number 14 based on a consolidation of the phases.

19 That's what I would like to see to
20 simplify it. It will make it easier for the
21 Commission in terms of processing. Hopefully, make it
22 easier for the community, in terms of dealing with the
23 design and also, you know, hopefully, when we get it
24 all approved, construction phasing, make it easier for
25 the zoning administrator to administer the terms of an

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1 eventual covenant and so forth.

2 Anybody have any thoughts about the
3 phasing component? But, you know, we could ask the
4 Applicant to respond to that, if there's a consensus
5 that's sensible.

6 COMMISSIONER HANNAHAM: I would concur with
7 that --

8 CHAIRPERSON MITTEN: Mr. Hannaham.

9 COMMISSIONER HANNAHAM: -- simplification,
10 Madam Chair. I've been confused by this process from
11 the very beginning and I think that from our point of
12 view it does make it far more simple.

13 As far as the Applicant, I'd like to get a
14 response from the Applicant with regard to that
15 proposal.

16 CHAIRPERSON MITTEN: I think the spirit,
17 not to interrupt you, Mr. Hood, but I think the spirit
18 of what they were trying to accomplish through this,
19 you know, phased certificates of occupancy and stuff
20 is to give some assurances that the residential
21 component would be built in a, you know, relatively
22 timely manner and I think we don't necessarily have to
23 deal with all of that right now, but we certainly
24 would want to see that not put off until the end of
25 the project.

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1 Mr. Hood, I'm sorry, I cut you off.

2 VICE CHAIRPERSON HOOD: I just want to echo
3 your comments, Madam Chair, making it a little more
4 simpler because when I read -- actually 7 on page 13,
5 7A, B, C -- A, B and C actually, it left me so much
6 room for legal argument so I would agree that we need
7 a more specific and we'd exactly pinpoint exactly
8 what we're trying to accomplish.

9 CHAIRPERSON MITTEN: Okay.

10 Anybody else? Anybody else have any other
11 concerns that they would like to raise?

12 Mr. Parsons.

13 COMMISSIONER PARSONS: First, I would say
14 that I was amused in reading the transcript of the
15 hearing that I missed that some of you thought I might
16 be here 17 years now. And for that reason, I'm glad
17 you focused on A, B and C because I'd probably be in
18 the position of trying to explain this so I'm glad.

19 What were you thinking, John?

20 Perpetuity is a long time, but I think
21 number 11 on 14 where they're taking over the park to
22 the north, there's no term to that. And, certainly,
23 we don't need for them to give up after five years
24 because it's so expensive. So, I would insert the
25 word "for the duration of the PUD" or in "perpetuity,"

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1 one or the other. We'll leave it up to the
2 Applicant.

3 CHAIRPERSON MITTEN: Okay.

4 COMMISSIONER PARSONS: That's all I have.

5 CHAIRPERSON MITTEN: Okay.

6 Anyone else?

7 COMMISSIONER HOOD: Just one clarification,
8 Madam Chair. I'm responding actually to -- I wouldn't
9 want to do this, but I'm responding to a letter about
10 clarification of something that I believe -- was
11 something that I asked at the hearing. I'm trying to
12 recollect and I have a transcript here in front of me.

13 It was a question. The way I understood,
14 there were some recommendations about some parking on
15 Fourth Street and we were trying to mitigate and come
16 up with the traffic issues and there was going to be
17 parking on both sides. It was never, I don't believe,
18 intended to be a one-way -- while it may have been a
19 recommendation, I don't think that was what the
20 Applicant was proposing.

21 So, I say that to say this, that at no
22 time was I trying to mislead anybody. I specifically
23 asked that question. I really don't feel like I need
24 to address this, but I am because I want to make sure
25 I understand. I'm not addressing because it was

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1 written, but I want to make sure that I understand
2 what the Applicant was actually proffering and I
3 thought that they were saying that it was going to be
4 parking on both sides of the street and they were
5 going to have one lane running north and south.

6 Did I get that correct?

7 CHAIRPERSON MITTEN: I think so. Is that
8 everyone else's recollection?

9 VICE CHAIRPERSON HOOD: Okay.

10 CHAIRPERSON MITTEN: Yes.

11 VICE CHAIRPERSON HOOD: Thank you.

12 So, I would encourage, well, anyway, I'll
13 leave it at that. Thank you.

14 CHAIRPERSON MITTEN: All right. Anyone
15 else?

16 So, we've given the Applicant some
17 direction and we would look forward to their response
18 for our June meeting.

19 Mr. Bastida, I'm going to need some dates.

20 We need a response -- we need a time for
21 the Applicant to respond and then we need a time for
22 the parties to be able to respond to the Applicant's
23 submission.

24 SECRETARY BASTIDA: I need a minute to go
25 and get a calendar, Madam Chairman.

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1 VICE CHAIRPERSON HOOD: I did have one
2 other thing, Madam Chair.

3 There was an issue in the Findings of
4 Facts that on page 14, number 12, it said the second
5 stage PUD application shall reflect traffic mitigation
6 measure.

7 I don't know if it's appropriate, but some
8 of the measures that I thought if the first stage was
9 approved and were contained within the matter of
10 rights, some of those things I thought they could put
11 in place a lot sooner than waiting for the second
12 stage.

13 I don't know if I'm out of order for
14 asking for that, but some things I think they can put
15 in place a little earlier.

16 CHAIRPERSON MITTEN: Well, I think one of
17 the things that we don't have a full understanding
18 about is that, you know, there's a side agreement
19 about the reopening of Fourth Street. You know, the
20 reopening of Fourth Street is a separate negotiation
21 and so forth. So, hopefully, some of that is
22 addressed in that separate agreement with the
23 Department of Transportation.

24 Mr. Bastida?

25 SECRETARY BASTIDA: Yes, Madam Chairman I

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1 would like to ask the Applicant how soon they think
2 that they can address the issues raised by the
3 Commission this afternoon.

4 MS. GIARDANO: I apologize. Could you
5 repeat that?

6 SECRETARY BASTIDA: Yes. How soon can you
7 address the issues raised by the Commission this
8 afternoon?

9 MS. GIARDANO: I think if we had two weeks
10 and then there was a seven-day response time, would
11 that be enough time to meet the June agenda?

12 SECRETARY BASTIDA: That means that you can
13 submit by the 23rd of June which is a Friday?

14 CHAIRPERSON MITTEN: You mean of May?

15 SECRETARY BASTIDA: I mean, I'm sorry, of
16 May. And then the ANC will have by May 30th to
17 address, and actually I can give the ANC until Monday,
18 June the 2nd to address the Applicant's proposal and in
19 that way we could have it on the Monday, June the 9th
20 agenda.

21 CHAIRPERSON MITTEN: Okay. Just serve the
22 ANC by hand please.

23 MS. GIARDANO: Oh, sure.

24 CHAIRPERSON MITTEN: Yes, thanks. That
25 sounds good. Thank you.

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1 Are we ready to go back to Arthur Capper
2 or should we keep going?

3 SECRETARY BASTIDA: Madam Chairman?

4 CHAIRPERSON MITTEN: Yes, sir?

5 SECRETARY BASTIDA: The ANC is advising me
6 that they are not going to have a public meeting in
7 that time frame.

8 Can you have a special meeting?

9 CHAIRPERSON MITTEN: I would just ask Mr.
10 Johnson, right --

11 MR. JOHNSON: Yes.

12 CHAIRPERSON MITTEN: -- okay, that you
13 consider what's being offered in the spirit in which
14 it's being offered, which is we're trying to
15 accommodate some of the concerns. So, if you could
16 work with us by having a special public meeting or
17 authorizing someone to act on behalf of the ANC, we
18 would appreciate it.

19 MR. JOHNSON: Well, I --

20 CHAIRPERSON MITTEN: Well, I don't need you
21 to -- okay, grab Mr. Bastida's mike.

22 Identify yourself for the record and
23 respond. Just grab Mr. Bastida's --

24 MR. JOHNSON: Okay. For the record, Ed
25 Johnson, ANC-6D. If it's acceptable to the

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1 Commission, I'm sure we can appoint a committee to
2 write a response.

3 CHAIRPERSON MITTEN: Okay. That's great.
4 That's great. Thank you.

5 Okay. We're ready to move on to Final
6 Action and the first case for final action is Zoning
7 Commission Case. No. 02-20, which is the Catholic
8 University Campus Plan. And we are taking this up
9 using BZA rules, so there's only one vote on the
10 campus plan and it is a final action.

11 Now, we received a couple of submissions
12 that were essentially comments on the applicant's
13 proposed Findings of Fact and Conclusions of Law that
14 came after the closing of the record.

15 The BZA rules do not allow for comments on
16 the proposed Findings of Fact and in each case we have
17 a request to reopen the record. We have a submission
18 from Dino Drudi and we have a submission from ANC-5A.

19 Is there anyone who would want to
20 entertain either of these submission, in which case I
21 would need a motion to reopen the record?

22 All right. Then I would ask Mr. Bastida
23 to advise Mr. Drudi and Ms. Broadnax that these
24 submissions were not timely filed under the BZA rules
25 and were not accepted into the record.

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1 SECRETARY BASTIDA: Thank you, Madam
2 Chairman, the staff will do so.

3 CHAIRPERSON MITTEN: Thank you.

4 All right. We have a -- we have the
5 Applicant's proposed Findings of Fact and Conclusions
6 of Law to consider. There were really not a lot of --
7 there was not a variety -- broad variety of issues
8 that were raised. They were fairly narrow issues that
9 were raised.

10 One revolves around John McCormick Drive
11 and the proposed cul de sac -- reconfiguration of John
12 McCormick Drive.

13 Another has to do with the enforcement of
14 the Code of Conduct and the discipline property
15 programs which we heard about at length during the
16 hearing and I think some members of the community were
17 looking for a little bit more teeth in that.

18 And then we also in one of the post-
19 hearing submissions, we had what I thought we had
20 raised by -- let me find this fella's name. Mr.
21 Wilson. Jeff Wilson, what I thought was a very good
22 point which addressed the fact that for the south
23 campus there is no landscaping plan included for the
24 south campus and there's going to be demolition --
25 potential demolition of three buildings in the south

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1 campus and his concern is about what the status of
2 that property will be, you know, from an esthetic
3 standpoint until that area is reprogrammed.

4 So, I was just going to point out where
5 the landscaping plan is. I guess it's on 18. No.

6 Well, at any rate, we don't have a
7 landscaping plan for the south campus.

8 So, to the first issue, I had asked just
9 to verify that John McCormick Drive is a public street
10 and it is, in fact, a public street. So, what's
11 proposed in the order in terms of us sort of
12 overriding DDOT, I guess, as a matter of fact, isn't
13 going to do any good because if it's a public street
14 and DDOT say, no, then it's no. It's not going to be
15 reconfigured and at the moment, they are saying that
16 they don't endorse that reconfiguration.

17 As to the issue of public safety, I think
18 that there's sort of a mixed bag of information in the
19 record. We have the Applicant representing to us that
20 there is a pedestrian safety issue and we have from
21 DDOT that they don't believe that to be the case. So,
22 I don't know that we could conclude definitively that
23 there is a potential adverse impact related to
24 pedestrian safety that needs to be resolved.

25 COMMISSIONER PARSONS: I agree. I think

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1 the statement number 15 on page 7 and 8 where we are
2 disagreeing with DDOT is something we should strike,
3 but I don't feel that the condition in number 19 -- on
4 page 19 on number 7, simply urges them to work it out
5 and we would approve the concept if it is worked out.

6 CHAIRPERSON MITTEN: Yes.

7 COMMISSIONER PARSONS: That seems all right
8 to me.

9 CHAIRPERSON MITTEN: Yes. Yes.

10 COMMISSIONER PARSONS: Maybe this should be
11 a finding. It's not really a condition, that is
12 number 7 on 19.

13 CHAIRPERSON MITTEN: Yes. I think that's
14 right.

15 COMMISSIONER PARSONS: Maybe that could
16 replace the one that argues with DDOT.

17 CHAIRPERSON MITTEN: Okay. I also just
18 wanted to point out something. It seems, although
19 we've talked about having -- striving for some kind of
20 uniformity, I think we need to do it when we revise
21 the campus plan regulations. Unlike other campus plan
22 orders, the proposed order, and I just want to make
23 sure we're all on-board with this, on number 9 on page
24 5.

25 In the case of Catholic University, the

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1 FTEs in terms of determining compliance with the
2 enrollment cap, are based on fall enrollment numbers.
3 And in other cases, we have the enrollment there
4 being a requirement at the time of further processing
5 to submit the enrollment figures as of 30 days prior
6 to the application. And I think that's actually been
7 applied in a couple of cases now.

8 And the fall enrollment numbers, as I
9 think we learned the first time, tend to be actually
10 higher than spring, so this is probably the most
11 onerous requirement in terms of getting the fattest
12 number during the year. So, I just want people to be
13 aware of that.

14 COMMISSIONER PARSONS: You want to change
15 the word -- insert the word "fall" between current and
16 enrollment?

17 CHAIRPERSON MITTEN: No. It says it
18 already. Oh, I'm sorry. In the second sentence, it
19 says --

20 COMMISSIONER PARSONS: Oh, I'm sorry.
21 Okay.

22 CHAIRPERSON MITTEN: Specifically, FTEs are
23 being -- yes.

24 VICE CHAIRPERSON HOOD: And you said that's
25 normally done on other -- typically done anyway?

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1 CHAIRPERSON MITTEN: No. It's not.

2 VICE CHAIRPERSON HOOD: It's not?

3 CHAIRPERSON MITTEN: No. This number is
4 going to be, if they are typical of other
5 universities, that's going to be a bigger number than
6 they --

7 VICE CHAIRPERSON HOOD: In the spring.

8 CHAIRPERSON MITTEN: Than would be the case
9 in the spring. So, they're committing themselves to a
10 higher standard. I just wanted people to be aware of
11 that.

12 VICE CHAIRPERSON HOOD: Oh, okay. Okay.

13 And then does anyone have any concerns
14 about the landscaping for the south campus because I
15 think that giving some direction is not uncalled for
16 and, in fact, that's what Mr. Wilson -- that's what he
17 was suggesting. Since we -- I don't know that we want
18 to necessarily have them go into a full-blown
19 landscape, you know, having a landscape plan because
20 this is going to be sort of an interim area
21 potentially. But, we certainly don't want it to be
22 sitting there looking unattractive, especially since
23 it's on Michigan Avenue.

24 VICE CHAIRPERSON HOOD: Yes. I think he's
25 just asking it to be kept up.

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1 CHAIRPERSON MITTEN: Right.

2 VICE CHAIRPERSON HOOD: Yes. I would agree
3 that we would need to mention that in the order.

4 CHAIRPERSON MITTEN: So, since Mr. Parsons
5 is our unofficial landscape expert --

6 COMMISSIONER HANNAHAM: Madam Chairman, is
7 there any reference to a plan, I mean, in the campus
8 plan itself is there a landscape component?

9 CHAIRPERSON MITTEN: Not for the south
10 campus.

11 COMMISSIONER HANNAHAM: For the north
12 campus is there one?

13 CHAIRPERSON MITTEN: I don't know that
14 there's anything that's specifically --

15 COMMISSIONER HANNAHAM: Nothing addressing
16 landscaping?

17 CHAIRPERSON MITTEN: Not specifically.

18 COMMISSIONER HANNAHAM: Okay.

19 CHAIRPERSON MITTEN: I think it's
20 incorporated into some of the other drawings but I
21 don't know that they go in and they talk about what
22 kind of plants or anything like that.

23 COMMISSIONER HANNAHAM: Right. Because if
24 there was, it would be easy just to add it.

25 CHAIRPERSON MITTEN: Let's take a look.

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1 There's just three paragraphs that deal
2 with it on page 53.

3 Well, Mr. Parsons, if you'll look at
4 what's been suggested here, the areas where, you know,
5 where there maybe demolition, that he's proposing that
6 they be landscaped in a professional manner in a park-
7 like setting now. I don't know exactly what that
8 means, but is there some kind of language that, you
9 know, maybe just plant some grass or something like
10 that? These are for building sites where the
11 buildings are yet to be demolished.

12 Okay. Okay. So, I think what we've
13 devised is that there would be a condition that says
14 for the sites on the south campus where buildings may
15 be demolished, that within six months of the
16 demolition, the site shall be graded and landscaped in
17 a professional manner in a park-like setting; e.g.,
18 seeded or sodded?

19 COMMISSIONER PARSONS: Seeded.

20 CHAIRPERSON MITTEN: Seeded; e.g., seeded.

21 Okay.

22 COMMISSIONER MAY: You realize that's, I
23 mean, just seeding it was one of the things that Mr.
24 Wilson was objecting to in his letter.

25 CHAIRPERSON MITTEN: Oh, it doesn't grow

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1 necessarily?

2 COMMISSIONER MAY: Well, no, he said that
3 it's, you know, just putting up a chain-link fence
4 around a grassed in area was not acceptable.

5 CHAIRPERSON MITTEN: Oh. But it's probably
6 the chain-link fence part that's the --

7 COMMISSIONER PARSONS: I find this very
8 difficult to deal with. We didn't deal with it in the
9 hearing.

10 CHAIRPERSON MITTEN: Right.

11 COMMISSIONER PARSONS: We don't know the
12 site. Is it going to be open and available to public
13 play? That's why I'm hesitating on this. I mean,
14 they're responsible citizens in the community. If
15 they're going to have their front yard look like a
16 dump, I can't believe they're going to do that. But,
17 that's about as far as I would go is take out how
18 they're going to do it but it's unenforceable. I
19 mean, and they will mow the grass every 10 days during
20 the spring and early summer.

21 CHAIRPERSON MITTEN: Right. Right.

22 COMMISSIONER PARSONS: Whoa.

23 CHAIRPERSON MITTEN: I get the idea it's
24 just not to have a big dirt pile sitting there.

25 COMMISSIONER PARSONS: It's their front

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1 yard.

2 CHAIRPERSON MITTEN: I agree. Okay.

3 So, are we going to add what I mentioned
4 earlier or are we going to not have that? Are we just
5 going to be silent about it?

6 COMMISSIONER PARSONS: I just think be
7 landscaped in a professional manner in a park-like
8 setting. To start specifying how they're going to do
9 that --

10 CHAIRPERSON MITTEN: That's fine.

11 VICE CHAIRPERSON HOOD: I would agree.

12 CHAIRPERSON MITTEN: Okay. That's fine.

13 COMMISSIONER MAY: And I think that's --

14 CHAIRPERSON MITTEN: It gives some
15 direction.

16 COMMISSIONER MAY: It's just a dirt pile
17 and, frankly, I mean, seeding and fencing it is not
18 going to -- this is one of the things that concerned
19 me about the south campus during the hearing is that
20 there was not anything being said about what was going
21 to happen --

22 CHAIRPERSON MITTEN: Right.

23 COMMISSIONER MAY: -- there and, you know,
24 it was a cause for great concern because, I mean, if
25 they do -- you know, if they do grass it over, then

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1 the neighborhood is going to claim it and they are
2 going to have an issue if they try to build a building
3 there or, you know, alternatively, they have to invest
4 a lot of money into occupying it temporarily somehow
5 either with nicer landscape or something. I mean,
6 there's got to be some kind of plan for what's going
7 to happen with the space and, you know, I think a
8 fenced in grassy area can be just as objectionable as
9 a pile of dirt.

10 CHAIRPERSON MITTEN: Okay. There was a
11 discussion, you know, people from the community --
12 some of the folks wanted better enforcement of the
13 Code of Conduct in the Discipline Properties Program.

14 What we don't have because I think they
15 very much endorse that is -- what I had written down
16 during the hearing was that the Applicant had agreed
17 during the hearing to make the Code of Conduct and the
18 Discipline Property Program, conditions of the plan,
19 which they didn't. So, I think we should since they
20 agreed to do it.

21 Basically to just incorporate those into
22 the order and, perhaps, as attachments to the campus
23 plan, but these are things that they are doing and
24 they are committed to. I think we just need to say,
25 you know, we want this to be permanent and, as such,

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1 we're incorporating that into the order.

2 And there's another thing that I just want
3 to make sure. There was an appendix to that was --
4 there was supposed to be an appendix to the campus
5 plan itself, the Transportation Management Program.
6 It was discussed in the traffic study and, I think,
7 they were being quite successful with it, but that has
8 never, I don't think, trickled into the actual record.

9 So, I would want to be sure that we incorporate the
10 Transportation Management Plan as well because they
11 would be bound by that as part of their campus plan,
12 but I just want to make sure that that's accessible in
13 the record.

14 So, other than that, with those items,
15 just want to --

16 VICE CHAIRPERSON HOOD: Madam Chair, the --
17 under the Conclusions of Law, the last paragraph on
18 page 16.

19 CHAIRPERSON MITTEN: Yes. Sixteen.

20 VICE CHAIRPERSON HOOD: I don't know if I
21 want to see all that -- Commission includes the
22 Applicant's proposed plan is a modest update. It was
23 earlier planned and goes on and then it ends. And I
24 don't know if we noticed or not, and I would like to
25 see especially this last line, if not the whole

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1 paragraph, come out of the order. "The university
2 conducted adequate discussions with the affected ANCs
3 and community organizations before submitting this
4 proposed plan for approval."

5 I don't know if that should -- I don't
6 know if that's the proper place for that to be. I
7 don't know if that's a conclusion we can conclude.

8 CHAIRPERSON MITTEN: Mr. Bergstein -- is he
9 there? No.

10 Ms. Nagelhout, is there any -- I don't
11 know that we routinely assess the adequacy unless we
12 determine, you know, I mean if it's clear that there's
13 been a lack of communication, we often will send folks
14 away for a period of time, but do we really need to
15 make a conclusion about that?

16 MS. NAGELHOUT: No. You don't need to make
17 a conclusion about that. It's not one of the factors
18 listed in 210.

19 CHAIRPERSON MITTEN: Okay. So, we could
20 take that out if it gives you concern, Mr. Hood.

21 VICE CHAIRPERSON HOOD: Yes. I would like
22 to see that.

23 CHAIRPERSON MITTEN: Okay.

24 VICE CHAIRPERSON HOOD: Not the whole
25 paragraph, but just the last line?

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1 CHAIRPERSON MITTEN: Just that line. Just
2 that line.

3 VICE CHAIRPERSON HOOD: I would ask my
4 colleagues to look at the whole paragraph.

5 CHAIRPERSON MITTEN: Okay. No. I mean, I
6 agree with the rest of it and I think it's true that
7 it is a modest update. They are required to make some
8 of these other -- the parking and traffic assessments.

9 Now, maybe you object to them saying that
10 or us saying that they articulated their visions
11 successfully.

12 VICE CHAIRPERSON HOOD: Well, they're also
13 saying that the university articulated it's vision for
14 the campus environmentally successful. I don't know.

15 You know, I'm not going to push that as along as we
16 took the last line out.

17 CHAIRPERSON MITTEN: Okay.

18 VICE CHAIRPERSON HOOD: I just think that
19 whole paragraph should come out.

20 CHAIRPERSON MITTEN: Anybody else want to
21 take the whole paragraph out or just the last
22 sentence?

23 COMMISSIONER MAY: The last sentence.

24 CHAIRPERSON MITTEN: Just the last
25 sentence. Okay.

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1 Then the last thing that I wanted to
2 address is that on page 19, the last condition. This
3 has to do with the historic preservation element
4 which, you know, I think we all are very happy that
5 the study is going to be undertaken and so forth.

6 I don't know that we can incorporate it
7 into our approval given that we wouldn't have seen it,
8 but what I would like to suggest is that the first
9 sentence be modified to say that, CUA, must submit to
10 the HPO, the Historic Preservation Office, and the
11 Zoning Commission, an historic preservation element to
12 the campus plan within one year of the effective date
13 of this order and until the element is submitted to
14 the Commission, CUA will not so we can't do anything
15 more than that I don't think.

16 COMMISSIONER PARSONS: I move that we
17 approve this campus plan with the amendments we've
18 made here today to the draft order.

19 VICE CHAIRPERSON HOOD: Second.

20 CHAIRPERSON MITTEN: Any further
21 discussion?

22 All those in favor, please say aye.

23 (Ayes)

24 CHAIRPERSON MITTEN: Those opposed, please
25 say no.

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1 Mr. Bastida.

2 SECRETARY BASTIDA: Madam Chairman, the
3 staff would record the vote five to zero to zero. Mr.
4 Parsons moving, Mr. Hood seconding and Mr. Hannaham
5 and Mr. May and Ms. Mitten voting in the affirmative.

6 CHAIRPERSON MITTEN: Thank you.

7 All right. The next case is Zoning
8 Commission Case No. 02-09, which is a re-zoning for a
9 parcel of property by Sibley Hospital. And we have a
10 proposed order, also order number 02-29. Okay.

11 Mr. Parsons is leaving us for a moment
12 inasmuch as he did not participate in this case.

13 I have a few editorial changes for the
14 order but nothing substantive so I would move approval
15 of Zoning Commission Order No. 02-29.

16 VICE CHAIRPERSON HOOD: Madam Chair, I'll
17 second that and also I don't know if you mentioned
18 that we did receive a letter from the National Capital
19 Planning Commission.

20 CHAIRPERSON MITTEN: Oh, thank you. I
21 didn't mention that.

22 Is there any discussion?

23 All those in favor, please say aye.

24 (Ayes)

25 CHAIRPERSON MITTEN: Those opposed please

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1 say no.

2 Mr. Bastida.

3 SECRETARY BASTIDA: The staff would record
4 the vote four to zero to one. Ms. Mitten moving, Mr.
5 Hood seconding and Mr. Hannaham and Mr. May voting in
6 the affirmative. Mr. Parsons recusing himself not
7 having participated in the hearing.

8 CHAIRPERSON MITTEN: Okay.

9 Then the last case for final action is
10 Zoning Commission Case No. 02-17, which is the planned
11 unit development at 5401 Western Avenue and we,
12 speaking of NCPC reports, we received that report
13 today. That's referenced on page 3.

14 And, again, I have some editorial changes
15 for the proposed order.

16 Is there any comments?

17 VICE CHAIRPERSON HOOD: With that, Madam
18 Chair, I move approval of Zoning Commission Case No.
19 02-17C.

20 COMMISSIONER MAY: Second.

21 CHAIRPERSON MITTEN: Thank you. Is there
22 any discussion?

23 SECRETARY BASTIDA: Madam Chairman, could I
24 see if Mr. Parsons wants to vote on this case?

25 CHAIRPERSON MITTEN: If you'd like.

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1 SECRETARY BASTIDA: Madam Chairman, he's
2 not presently available, sorry.

3 CHAIRPERSON MITTEN: Thank you.

4 Any discussion?

5 All those in favor of approving Zoning
6 Commission Order No. 02-17 please say aye.

7 (Ayes)

8 CHAIRPERSON MITTEN: Those opposed please
9 say no.

10 Mr. Bastida.

11 SECRETARY BASTIDA: The staff would record
12 the vote four to zero to --

13 CHAIRPERSON MITTEN: I know you're going to
14 turn on your microphone for me.

15 SECRETARY BASTIDA: Sorry. The staff
16 would record the vote four to zero to one. Mr. Hood
17 moving and Mr. May seconding. Mr. Hannaham and Ms.
18 Mitten voting in the affirmative. Mr. Parsons not
19 voting, not being present at this time.

20 VICE CHAIRPERSON HOOD: Madam Chair, I've
21 just been informed Mr. Parsons I don't think
22 participated in this case.

23 CHAIRPERSON MITTEN: No. I believe he did.

24 COMMISSIONER MAY: Yes. He did.

25 CHAIRPERSON MITTEN: He's shown on the

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1 first vote.

2 VICE CHAIRPERSON HOOD: He's saying he
3 didn't. Oh, I'm sorry, he's -- wrong case.

4 CHAIRPERSON MITTEN: Okay. Now, before I
5 forget, let's go back to Hearing Action, if we're
6 ready.

7 Ms. McCarthy, do you have something for
8 us?

9 DEPUTY DIRECTOR McCARTHY: Yes, Madam
10 Chair.

11 Yes, I think and Mr. Cochran may have this
12 worked out in somewhat more detail, but I think that
13 we were -- I think there were several point that were
14 important to consider. And one was as Mr. Bergstein
15 pointed out to me earlier today when we were talking
16 about this case, and his comment was something along
17 the line of, gee, at last you guys finally have a PUD
18 that's actually a PUD. And by that, I believe, he
19 meant it's more in the classic spirit of what a
20 Planned Unit Development was supposed to be, a
21 development of a large parcel of land with many sub-
22 pieces that needed some overall flexibility in order
23 to make the entire project work better.

24 And so I think it's important to keep that
25 in mind when we look at this issue that this is a PUD

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1 in the spirit of a PUD and that it's only the presence
2 of some publicly owned facilities which keep it from
3 being immediately contiguous.

4 In fact, originally all of the property
5 that we are talking about that surrounds this on the
6 north was all Housing Authority land. It was just a
7 timing issue but some of that has already been
8 transferred to the Department of Navy for the Marine
9 Barracks.

10 So, with that as the context, I think our
11 feeling was that this is only -- it is separated by a
12 street and, although it is perpendicular and not
13 parallel as would typically be our understanding in
14 PUD cases, the two parcels are about 160 feet away
15 from each other, which is less than what would be the
16 right of way distance for a number of major streets in
17 the District. But the right of way distance is
18 typically 160 feet for any of our major boulevards.
19 So, at 150 feet in between the two technically non-
20 contiguous segments, they're still separated.

21 If the spirit of the zoning regulations
22 was that parcels should be roughly contiguous to each
23 other, separated by no more than the width of the
24 street, then, in fact, these are separated by no more
25 than what would typically be the width of a major

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1 street in the District.

2 And so our suggestion would be for the
3 Commission to set it down with the additional
4 understanding that, in addition to the points that
5 I've just made, the additional understanding that the
6 Applicant will undertake discussions with the D.C.
7 Public Schools and the Department of Parks and
8 Recreation, which own the two parcels. Van Ness
9 School, it was explained to me, is partially owned by
10 DCPS, but then the eastern portion of that is a Parks
11 and Recreation facility.

12 So, the applicant will also have
13 discussions with those property owners to see if they
14 would be willing to be part of the PUD. But,
15 regardless of what happens with those discussions, I
16 think that the distance between the two parcels is no
17 further away than was contemplated by the Commission
18 as still being contiguous enough to be considered as
19 part of the PUD.

20 CHAIRPERSON MITTEN: Okay. So, you're
21 asking us to interpret the rule rather than to waive
22 the rule?

23 DEPUTY DIRECTOR MCCARTHY: That would be my
24 suggestion.

25 And, Mr. Bergstein, I know you were -- I

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1 had to leave the discussion a little bit early. Was
2 there anything that I left out from what you have been
3 discussing with the Applicant?

4 MR. BERGSTEIN: No. Not with respect to
5 contiguity issue number one. No. And I think the
6 interpretation -- but, in essence, this is -- yes. If
7 you decide this, this does establish a precedent and
8 what you'd be establishing is that public street means
9 either a parallel public street or a perpendicular
10 segment of a public street that is no greater than, in
11 essence, the maximum width of what would have been a
12 parallel public street.

13 So, I don't have major legal issues with
14 that if you're comfortable with, in essence, the
15 precedent you'd be setting.

16 CHAIRPERSON MITTEN: Okay. Well, let's
17 hear what folks have to say.

18 Mr. May.

19 COMMISSIONER MAY: Well, I think it's very
20 clever.

21 CHAIRPERSON MITTEN: Yes. It is.

22 COMMISSIONER MAY: It makes me a little bit
23 nervous because the, I mean, we're essentially taking
24 this regulation and putting a number on it, saying,
25 okay, well, it can be down the street, but only 160

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1 feet down the street or whatever.

2 CHAIRPERSON MITTEN: Right.

3 COMMISSIONER MAY: I'm not entirely
4 comfortable with that. I would be much more
5 comfortable with it if it were, in fact, contiguous or
6 if there were some other way. I mean, if it were a
7 sufficient size of property and flexibility for it to
8 be considered as a separate PUD, but heard all at the
9 same time. That might be a cleaner way to consider
10 it.

11 CHAIRPERSON MITTEN: I'm going to be just
12 really frank about my view.

13 I would prefer not to make this
14 interpretation and, in part, because I believe that
15 we're trying to rationalize the office use on Square
16 882 by including it because it wouldn't fly on its
17 own. So, I'm willing to go along with it, but I'm not
18 going to be real supportive of what I think is the
19 sort of underlying agenda.

20 DEPUTY DIRECTOR McCARTHY: And your
21 comments reminded me that there is an element that I
22 left out, which is that were it not for this being
23 included as part of the PUD, we'd have to be looking
24 for a C3C designation on that building in order to
25 accommodate the height and density that is proposed,

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1 which the Office of Planning would be opposed to.

2 As you know, we've been trying along M
3 Street to have mixed use zoning designation so the CR
4 that was on there was on there at the behest of the
5 Office of Planning. And I think that -- the most
6 important thing rather than think of it in terms of
7 saying 150 feet of 160 feet is to step back and say,
8 what was the intention of the Zoning Commission when
9 they passed the -- when they included the contiguity
10 language?

11 I can probably turn to Mr. Parsons. Tell
12 me precisely and let me see if I'm conveying it right
13 which is basically -- the Zoning Commission did not
14 want to create the opportunity for people to willy-
15 nilly include parcels that had no relationship with
16 each other and call it a Planned Unit Development as a
17 way of getting around minimum PUD sizes or whatever.
18 And my guess is also wanting to be sure that private
19 property owners did not find themselves sandwiched in
20 between elements of something that was being called a
21 PUD that had no relationship to their property.

22 But I think in this instance, as something
23 which is only separated by a public facility, which is
24 for all intents and purposes, part of a coherent
25 whole, a project that works together and for which

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1 that office building plays an extremely important role
2 in the cross subsidy of the housing.

3 They are -- there is a relationship
4 between all those pieces. It's just not something
5 that's willy-nilly, created to get around some other
6 requirements. And, in addition to that, it stays
7 within, at least the letter. So, I think it's in the
8 spirit of a PUD. It's also within at least one letter
9 of the PUD regulations which is no more than the width
10 of a right of way for a major street.

11 COMMISSIONER PARSONS: I think Ms.
12 McCarthy's interpretation is correct.

13 Ms. McCarthy, do you know in your tenure
14 here how many potential PUDs said, oh, we can't do
15 that because we've got to be contiguous? I mean, do
16 people walk away from PUDs routinely because of this
17 regulation or is it such a fluke that we'll never see
18 it again?

19 This concern about precedent, should we
20 really be concerned about that or next week are you
21 going to have five applications filed for PUDs that
22 are not on the same block, in the same contiguous
23 parcel?

24 DEPUTY DIRECTOR McCARTHY: I would say
25 certainly in the three and a half years that I've been

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1 with the Office of Planning, your latter concern has
2 not been an issue. When people have come to us with
3 Planned Unit Developments, they have been an integral
4 whole or we wouldn't have entertained them.

5 But, I can't recall anybody coming to us
6 and saying, well, I sort of like the corner over here
7 and this piece over there and this piece over there
8 and can't we just call that all a PUD. No. We've not
9 had that issue come up.

10 COMMISSIONER PARSONS: I certainly can't
11 remember this either. So, I'm not as worried about
12 the precedent myself.

13 CHAIRPERSON MITTEN: Oh, go ahead, Mr.
14 Hood.

15 VICE CHAIRPERSON HOOD: Madam Chair, I'm
16 just also going to echo. That gives me a little
17 concern but if -- for the simple fact that, I believe,
18 we're going to have applicants come down -- Mr.
19 Parsons will probably still be here so he can justify
20 it, what this Commission did.

21 The same block, Rhode Island Avenue and it
22 would be six blocks away, so that gives me concern,
23 but, I guess, if we expound upon our intent, which I
24 find in the past is only Commission sometime hasn't
25 done. It depends on the case you're on. We expound

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1 upon what we're trying to accomplish here and our
2 intent and then I would feel more comfortable.

3 CHAIRPERSON MITTEN: Oh, I'm sorry.

4 MR. COCHRAN: Did the Commission -- I don't
5 know if Alan --

6 CHAIRPERSON MITTEN: Mr. Cochran.

7 MR. COCHRAN: -- mentioned. I'm sorry,
8 Ms. Mitten.

9 That when the Hope 6 project started, you
10 did, okay it. Right? And it's usually OP and the
11 Zoning Commission that encouraged PUDs to get more
12 design and other control.

13 CHAIRPERSON MITTEN: Mr. May, did you want
14 to add something?

15 COMMISSIONER MAY: I'm just really
16 skeptical of an interpretation. I mean, I don't
17 recall the exact wording of the regulation with regard
18 to being contiguous here, but as I recall, it says
19 something about properties being separated. I mean,
20 it's okay if they are separated by a street.

21 CHAIRPERSON MITTEN: Right.

22 COMMISSIONER MAY: That doesn't talk about
23 length or, I mean --

24 CHAIRPERSON MITTEN: Right.

25 CHAIRPERSON MITTEN: -- you know, what

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1 distance away is really appropriate. And I think for
2 us to impose that on it, I mean, I feel like we're
3 looking for a way to get around what's in the
4 regulations and I think that that's a little too far
5 for my comfort.

6 VICE CHAIRPERSON HOOD: Madam Chair, I
7 don't really see any -- too much of a different. I
8 really just don't see too much of a difference in what
9 we're discussing now and also including homes that are
10 not owned in the PUD. So, you know, I think it just
11 goes with the course. I mean, that's the way we've
12 been moving alone. We moved past that point without a
13 problem, so I don't know that I would think that this
14 is going to be that much of a problem, again, if we
15 just reiterate what the Zoning Commission's intent was
16 in this particular case.

17 CHAIRPERSON MITTEN: Okay. From my
18 perspective, I guess I don't have as much trouble with
19 the interpretation as I do with the motivation behind
20 the interpretation. And I'm going to keep an open
21 mind because of what Ms. McCarthy said, which is that,
22 you know, that somehow these office buildings are
23 integral to the ability to, you know, put as much
24 affordable housing in the totality of the PUD site.
25 But, you know, this building is going to be an anomaly

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1 for where it is on Square 882, the office building.
2 And so I'm going to take a lot of convincing that that
3 amount of density is essential.

4 So, if the argument is an economic
5 argument, and, Mr. Cochran, in your report you pointed
6 this out, which you want to see more discussion about
7 the relationship. I'm just going to need a lot of
8 convincing.

9 I just want to say that and so everybody
10 knows that up front. So, the interpretation doesn't,
11 as I said, doesn't bother me as much as what's
12 motivating it.

13 MR. COCHRAN: We are looking at that area
14 being, as I recall, the only residentially zoned block
15 along that portion of M Street at it is.

16 CHAIRPERSON MITTEN: But it isn't.

17 MR. COCHRAN: I checked over the break. I
18 could pull in my map.

19 CHAIRPERSON MITTEN: I mean, the block
20 where the senior housing is now is residentially
21 zoned. The block where the school is is residentially
22 zoned, which, I mean, doesn't matter from the use
23 perspective, but in terms of the density perspective.
24 I mean, its use and its density and its height, you
25 know. I mean, think of all those things together.

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1 And then keep going, keep going to the east. You
2 might get commercial use, but you don't get that kind
3 of height and density.

4 MR. COCHRAN: Until we get to what,
5 Maritime Plaza?

6 CHAIRPERSON MITTEN: Right.

7 MR. COCHRAN: Yes.

8 CHAIRPERSON MITTEN: That's a long way.
9 So, anyway, I --

10 MR. COCHRAN: Okay.

11 CHAIRPERSON MITTEN: -- said my piece.
12 I've gotten it off my chest and so -- okay.

13 So, we have the opportunity to -- oh, I'm
14 sorry, Mr. Hood. We have the opportunity to make an
15 interpretation that would allow Zoning Commission Case
16 No. 03-12 and 03-13 to be set down. Well, actually,
17 it's just 12 that it impacts at the moment.

18 So, we can do these together or separately
19 depending. Well, let me try them together then.

20 I move that we set down Zoning Commission
21 Case No. 03-12 and 03-13 for a public hearing.

22 COMMISSIONER PARSONS: Second.

23 CHAIRPERSON MITTEN: Any further
24 discussion?

25 All those in favor please say aye.

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1 (Ayes)

2 CHAIRPERSON MITTEN: Those opposed please
3 say no.

4 Mr. Bastida.

5 SECRETARY BASTIDA: Madam Chairman, the
6 staff will record the vote for these contested cases
7 as Ms. Mitten moving and Ms. Parsons seconding. Mr.
8 Hood, Mr. May and Mr. Hannaham voting in the
9 affirmative.

10 CHAIRPERSON MITTEN: Thank you, Ms.
11 Bastida.

12 Now, I'm going to ask for an ever-so
13 abbreviated Office of Planning report or you can just
14 -- if there's anything you want to call out, do so.
15 Otherwise, we'll just take note of it.

16 Is there anything you wanted to call out
17 for us?

18 DEPUTY DIRECTOR McCARTHY: Just one thing I
19 wanted to call out that's not in the report is that we
20 have been notified by St. Coletta's that they intend
21 to file their Planned Unit Development as of the 16th
22 of May and have asked us whether it would be possible
23 for us to do a set down report in time for the June
24 meeting. So, we are working on that, depending on
25 what the submission is and how well it meets the

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1 standards.

2 CHAIRPERSON MITTEN: Okay. Thank you.

3 Anybody have any questions for the Office
4 of Planning?

5 COMMISSIONER PARSONS: I just want to
6 extend my apologies to Mr. Cochran. The reason he was
7 not in the room at the beginning of the discussion on
8 the last case was, I told him we probably wouldn't get
9 to it for half an hour.

10 CHAIRPERSON MITTEN: Well, I guess that's
11 because you weren't here that we got there --

12 VICE CHAIRPERSON HOOD: I was thinking the
13 same thing, I just didn't want to say it.

14 DEPUTY DIRECTOR McCARTHY: It does seem
15 like he should be able to rely on the word of an
16 established veteran.

17 COMMISSIONER PARSONS: I mean, when I
18 stepped out of the room, and you were working on
19 Sibley Hospital. What did you do with Western Avenue?

20 CHAIRPERSON MITTEN: We approved it. Gave
21 it final approval and we're sorry that you weren't
22 here. I think we --

23 COMMISSIONER PARSONS: Could I add my name
24 to that vote please?

25 CHAIRPERSON MITTEN: I don't see why not.

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1 COMMISSIONER PARSONS: Well, good.

2 There were no changed conditions or
3 circumstances?

4 CHAIRPERSON MITTEN: No.

5 COMMISSIONER PARSONS: How could you have
6 done that in five minutes?

7 CHAIRPERSON MITTEN: I'm not sure, but --

8 COMMISSIONER PARSONS: It's amazing.

9 CHAIRPERSON MITTEN: -- we had some
10 momentum going.

11 COMMISSIONER PARSONS: Maybe it's late.

12 CHAIRPERSON MITTEN: Okay.

13 Mr. Bastida, we're amending the vote on
14 Zoning Commission Case No. 02-17 to be five to zero to
15 zero. Mr. Parsons would like to be recorded as voting
16 in favor.

17 SECRETARY BASTIDA: Okay. The staff has
18 made the amendment --

19 COMMISSIONER PARSONS: Thank you.

20 SECRETARY BASTIDA: -- in recording the
21 vote for Zoning Commission Case No. 02-17, five to
22 zero to zero. Mr. Hood moving, Mr. May seconding and
23 Mr. Hannaham, Mr. Parsons and Ms. Mitten voting in the
24 affirmative. Thank you.

25 CHAIRPERSON MITTEN: Thank you.

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1 Is there anything else, Mr. Bastida?

2 SECRETARY BASTIDA: No, Madam Chairman.

3 CHAIRPERSON MITTEN: Thank you. Then, this
4 public meeting is adjourned.

5 (The meeting was adjourned at 5:04 p.m.)

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