

## GOVERNMENT OF THE DISTRICT OF COLUMBIA

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## ZONING COMMISSION

## REGULAR MEETING

+ + + + +

Monday, December 8, 2003

+ + + + +

Office of Zoning Hearing Room  
 441 4<sup>th</sup> Street, NW, Suite 220  
 Washington, DC 20001

The above-entitled matter came on for public meeting, pursuant to notice, at 1:30 p.m., Carol Mitten, Chairperson, presiding.

## ZONING COMMISSION MEMBERS PRESENT:

Carol Mitten,	Chairperson
Anthony Hood,	Vice Chairperson
Peter May,	Commissioner (Architect of the Capital)
John Parsons,	Commissioner (National Park Service)

## OFFICE OF ZONING STAFF PRESENT:

Alberto Bastida,	Secretary, Zoning Commission
Sharon Schellin,	Zoning Specialist

## OFFICE OF PLANNING STAFF PRESENT:

Andrew Altman,	Director
Ellen McCarthy,	Deputy Director
Jennifer Steingasser,	Office of Planning
Maxine Brown-Roberts,	Office of Planning
Joel Lawson,	Office of Planning

## D.C. OFFICE OF CORPORATION COUNSEL:

Lori Monroe, Esq.  
 Mary Nagelhout, Esq.

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

1:40 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 Monday, December 8th, 2003.

My name is Carol Mitten. Joining me this afternoon are Vice Chairman Anthony Hood and Commissioner Peter May. Mr. John Parsons will be with us momentarily.

There's an agenda on the wall -- in the wall bin near the door for anyone who's interested. I would ask that you turn off all beepers and cell phones at this time so as not to disrupt our meeting and remind folks present that we only take testimony if the Commission invites someone forward.

We're -- we're going to begin by rearranging our agenda to accommodate various Commissioners' schedule.

What we will do first is -- there may be some additional cases that we don't get to today that will also go into a meeting -- a special public meeting on Thursday -- this Thursday, but for sure, we will take up under proposed action case number 02-31 and under final action case number 02-30, both related

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1 to the Georgetown Boat House. Those will take up at a  
2 special public meeting that will start at  
3 approximately 7:30 p.m. this Thursday, December 11th  
4 and as I said, any other cases that we don't get to  
5 today, we will take up on the 11th as well and we will  
6 defer action on the minutes and the status report  
7 until that time as well.

8 We will -- also as we move through the  
9 agenda, we'll take items A and B which are case number  
10 03-12 and 13 first under proposed action. Then we'll  
11 skip ahead to case number 02-42 which is the W-0 Text  
12 Amendment under final action. We'll take that next  
13 and then we'll go back to the schedule in the order  
14 that it's printed with the exceptions that I already  
15 stated.

16 And also while I'm making announcements,  
17 I'll announce that our monthly meeting for January  
18 will be January 5th at 6:30 p.m. That's a new time  
19 for us, 6:30 p.m.

20 All right. With that, we'll move directly  
21 into -- Mr. Bastida, are there any preliminary matters  
22 that I need to address first?

23 MR. BASTIDA: Madam Chairman, the staff  
24 has no preliminary matters at this time. Thank you.

25 CHAIRPERSON MITTEN: All right. Then

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1 we're ready to move to the first items -- first two  
2 items under proposed action which we'll discuss  
3 together which are case number 03-12 and 13 which  
4 relate to the Capper/Carrollsborg First and Second  
5 Stage PUD Applications.

6 Mr. Bastida, did you have anything that  
7 you wanted to say by way of introduction?

8 MR. BASTIDA: No -- well, the staff has  
9 provided you with all the correspondence that was  
10 added to the file and request that the Commission  
11 discuss the case and if they can make a -- take an  
12 action on such a matter. Thank you.

13 CHAIRPERSON MITTEN: Thank you.

14 I just remind everyone that we had -- we  
15 had begun deliberations on this at a previous meeting  
16 and there were a number issues that gave the  
17 Commission concern and we had asked for some  
18 additional submissions which we've received and those  
19 related to the inclusion of the Van Ness School,  
20 concern about reservations 17a and 19a which are Park  
21 Service properties, the mix of housing types and the  
22 height of the office building along M Street, concerns  
23 about the acquisition of private properties, lack of  
24 open space interior to the project, contributions to  
25 the canal blocks park, the jobs to be provided, and

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1 the use of the -- the shared use of the ball field.

2 So, we have additional submissions on --  
3 on those points and I just open it up for discussion  
4 of anyone who -- who has lingering concerns on any of  
5 those matters.

6 VICE CHAIRPERSON HOOD: Madam Chair,  
7 before we move on, we did have a request, I think,  
8 from the ANC.

9 CHAIRPERSON MITTEN: Yes, thank you for  
10 remembering that.

11 VICE CHAIRPERSON HOOD: We want to --

12 CHAIRPERSON MITTEN: Okay. Thank you very  
13 much.

14 So, we have a request from ANC 6D to  
15 postpone action because they have not -- they were not  
16 able to have a meeting timely to respond to the  
17 applicant's additional submissions and the applicant  
18 is opposed to us delaying that decision.

19 Mr. Hood.

20 VICE CHAIRPERSON HOOD: Madam Chair, I  
21 guess I remember when the applicant -- we had asked  
22 some questions and the applicant needed a little more  
23 time, but first, before I make a statement, I would  
24 just like to know who's -- is this in 6D or is it in 6  
25 -- what's the other ANC?

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1 CHAIRPERSON MITTEN: B.

2 VICE CHAIRPERSON HOOD: 6B. Which one is  
3 it in? Does anybody know right off?

4 MR. BASTIDA: It did say ANC 6D as in  
5 David.

6 VICE CHAIRPERSON HOOD: So, in 6D. So,  
7 that is the ANC in which this proposal is being  
8 offered.

9 CHAIRPERSON MITTEN: Yes.

10 VICE CHAIRPERSON HOOD: I guess I would  
11 not like to belabor it, but I would like to find out  
12 if there's another opportunity for us to consider what  
13 the ANC says I guess at a later date and I believe  
14 that maybe a final action -- final action hopefully is  
15 not too substantive, you know, whatever input they may  
16 have, but I just -- the -- the response from the ANC  
17 and I just found it. Kind of funny that the applicant  
18 would write back and say they had plenty of time when  
19 I always look at the ANC Commissions as being  
20 volunteers.

21 And I -- also unfortunately, we have quite  
22 a bit for our next meeting, that special public  
23 meeting. Because I was in favor of moving that to  
24 that point in time, but -- but since we already have  
25 enough, I would be reluctant really to move forward

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1 with this, Madam Chair.

2 I would be reluctant, but I wouldn't mind  
3 just moving forward with -- whatever deliberations  
4 we're going to have today, but I just believe that the  
5 ANC is not asking for no more than what the applicant  
6 asked for. When they asked for some of the  
7 questions, we asked for a little more time. Taking  
8 note that the ANC is a -- is a voluntary group.

9 CHAIRPERSON MITTEN: Thank you. Any other  
10 thoughts?

11 I'd be -- I would be interested in moving  
12 forward today, but also I'd be willing to reopen the  
13 record to receive a response from the ANC that we  
14 could consider before we take final action and I -- I  
15 would say that we've been aware of the concerns of the  
16 ANC and I don't think there is anything that has been  
17 done by way of a change that would exacerbate anything  
18 that they thought was a negative condition.

19 So, I don't think there's -- there's  
20 anything new that we're going to here from the ANC in  
21 response -- in -- in terms of new concerns.

22 So, is there anyone else wants to weigh  
23 in? Anyone opposed to moving forward?

24 Okay. So, by consensus, we will -- we  
25 will move ahead. Can I -- I would move also that we

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1 reopen the record to receive the submittal by the ANC  
2 in response to the applicant's submission.

3 VICE CHAIRPERSON HOOD: Second.

4 CHAIRPERSON MITTEN: Any discussion? All  
5 those in favor please say aye.

6 ALL: Ayes.

7 CHAIRPERSON MITTEN: Ms. Schellin.

8 MS. SCHELLIN: Yes, staff will record the  
9 verdict 4-0-1 to reopen the record in case numbers --  
10 is both case numbers? I'm sorry. Or just the one?

11 CHAIRPERSON MITTEN: Both.

12 MS. SCHELLIN: 03-12 and 03-13.  
13 Commissioner Mitten moving. Commissioner Hood  
14 seconding. Commissioners May and Parsons in favor.  
15 Commissioner Hannaham not present, not voting.

16 CHAIRPERSON MITTEN: Okay. And that's to  
17 reopen the record for one very narrow thing which is  
18 the ANC submission and then we would -- we would  
19 consider that before final action.

20 Thank you.

21 Thanks for reminding me about that, Mr.  
22 Hood.

23 Now, we're back to the issues that I  
24 outlined and any others that Commissioner would like  
25 to bring up.

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1 Mr. May.

2 COMMISSIONER MAY: Okay. Well, first of  
3 all, let me say that I'm -- I'm very pleased to see  
4 that the -- the Van Ness School has now been  
5 incorporated into the -- into the PUD. I think it's a  
6 -- a very important part of the planning for the  
7 remaking of this neighborhood and I'm just glad to see  
8 that the school get's considered in this -- in this  
9 process and I'm sure that the -- the city and the  
10 school system and the -- and the children will be  
11 better off for it.

12 With regard to some of the other concerns,  
13 I still have concerns about the -- primarily about two  
14 aspects of the design of the project. One of which is  
15 the height of the buildings on M Street as it  
16 approaches 8th. I guess it's the 600 block which is  
17 the -- the critical area where the -- where the height  
18 is an issue and I'm also concerned about the  
19 predominance of this single type of -- of housing for  
20 -- which is being used for so much of the market  
21 rate/affordable housing as well as some of the  
22 replacement public housing.

23 And we did receive some additional  
24 information on that. Basically, making the case that  
25 -- that this housing type isn't so different from what

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1 would be the norm in R5B in terms of matter of right.

2 I think the example is garden -- garden apartments  
3 with parking taking up basically the -- the bulk of  
4 the open space that's left after the lot occupancy is  
5 full.

6 I certainly see the -- the parallel to  
7 that housing type, but what essentially we're being  
8 asked to -- to bless here is a remaking of -- of the  
9 garden apartment type. Because like garden  
10 apartments, these are units that are not going to have  
11 any significant open space or ground level open space.

12 It'll be a -- a deck or a porch or something like  
13 that.

14 And there will be plenty of parking. In  
15 fact, far more parking than there is -- there is in a  
16 garden apartment.

17 And -- and essentially we're -- we're  
18 divvying up these apartments into little plots of land  
19 which, you know, based on rough calculations they're -  
20 - they're -- that have been provided by the applicant  
21 worked about to be about 1,000 square feet or less --  
22 or slightly less per unit and I'm just -- since this  
23 is something that is -- is not a type of housing that  
24 is readily recognized within the code and it isn't  
25 something that is so predominant within this

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1 development, I just -- it gives me pause to simply say  
2 that -- that this is the right thing to do in broad  
3 brush across the site and -- and that's why we have  
4 been pushing or I have been pushing previously to  
5 having to having -- for having some mixture of housing  
6 types and that's what I think R5 is really suppose to  
7 be about.

8           Instead, what we have is some large  
9 apartment buildings and they we have just these pseudo  
10 townhouses because I'm not sure what to call them.

11           And I -- I'm not sure that the rest of the  
12 Commission is as concerned about this as -- as I am.

13           I think part of the -- the concern that I  
14 also have with this and with the -- the arguments that  
15 were made in the most recent submission have to do  
16 with the economics of this and I'm simply not  
17 persuaded that -- that based on the evaluations that  
18 they've given to these different types and what the  
19 expected selling price is particularly for these  
20 townhouse units whether -- whether there isn't, in  
21 fact, more flexibility than the applicant states.

22           I mean the notion that these townhouses  
23 that are -- are all going to sell for -- for \$300,000  
24 it's -- it's interesting but doesn't seem to be what  
25 the market is showing us.

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1           So, if their -- their market rate then --  
2 well, I don't know. I mean maybe their -- their being  
3 billed as market rate/affordable. We don't have a  
4 definition of that, but -- but, at that price, it  
5 seems to me that in the current market that -- that  
6 probably is the definition of affordable.

7           But, I'm somehow -- I -- I'm skeptical  
8 that we're going to wind up seeing all of these lovely  
9 new townhouses being built and sold for \$300,000 when  
10 -- when they're built.

11           So, I'm -- I think that the applicant  
12 probably have more flexibility with regard to the  
13 density of the units and the possibility of mixing in  
14 other types.

15           I don't think -- you know, there were  
16 other suggested solutions such as roof decks and  
17 whatnot as ways of creating more private open space  
18 and I -- I don't -- I really don't find that  
19 particularly attractive, rough decks or -- and  
20 children are not a good mix and that's what my concern  
21 is for this particular housing type. That it just  
22 doesn't promote move up housing for families once they  
23 have outgrown their garden apartments if you will.

24           Anyway, that's the concern I have and I  
25 just -- I'm -- I'm interesting in hearing what the

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1 rest of the Commission has to say on -- on that  
2 concern.

3 CHAIRPERSON MITTEN: Mr. Parsons.

4 COMMISSIONER PARSONS: Well, I remember  
5 expressing Mr. May's concerns about the housing when  
6 we went through the PUD, the name of which I cannot  
7 remember, which is between 6th and 7th and just south  
8 of the southeast freeway. That is the real yards are  
9 asphalt and I -- I too amazed that people wanted to  
10 live there.

11 Those opened at 250 and sold out at 450 a  
12 piece. They weren't affordable. That's not the issue  
13 here, but here in Alexandria, people are living in  
14 these places even though you and I might not.

15 But, I'm not anymore persuaded about this  
16 being a current fad than I would be moved to develop a  
17 new category for this kind of housing in the District  
18 of Columbia. I think it's got to be done in the  
19 context of a PUD.

20 So, although I think it's a good idea to  
21 fence the front yards by the way which is something  
22 proposed here to give some sense of identity and --  
23 and ownership. I'm not as concerned about the rear  
24 yards, but maybe I got over -- got over it five years  
25 ago. I don't know. It is very strange.

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1 I agree with you on the building heights.  
2 I think 90 is -- is where it belongs. Now, where  
3 these buildings belong on M Street. Not 110 as it's -  
4 - as it's proposed.

5 And I could go onto another subject, but  
6 maybe we want to bat this one around a little bit.

7 CHAIRPERSON MITTEN: Okay. Let me just be  
8 clear. When you say 90 feet, do you just mean on the  
9 eastern portion of the site? Because we have some  
10 other --

11 COMMISSIONER PARSONS: Oh, 130 goes --  
12 goes up north.

13 CHAIRPERSON MITTEN: Right.

14 COMMISSIONER PARSONS: Mr. May was  
15 mentioning the -- the buildings on M Street.

16 CHAIRPERSON MITTEN: Okay. I guess -- let  
17 me -- let me just clarify. Because the -- I have been  
18 -- me personally, I have been preoccupied with the  
19 office buildings on square 880, but there is also a  
20 lot of building on square 769 which is closer to New  
21 Jersey Avenue, but not on New Jersey Avenue. Do you  
22 have the -- is your concern across the board or --

23 COMMISSIONER MAY: My concern is focused  
24 more toward the east than -- than along New Jersey  
25 Avenue because New Jersey Avenue is going to develop

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1 as a very tall block and so stepping down from that  
2 point toward 8th Street where, you know, by the time  
3 we reach 8th Street, we're at short buildings that are  
4 no more than 50 feet tall.

5 COMMISSIONER PARSONS: Yes, that's what I  
6 had --

7 CHAIRPERSON MITTEN: Okay. Well, I -- I  
8 agree with you. I've -- I've had the -- the same  
9 concern and I also agree with Mr. May that I don't  
10 find the financials convincing, but since I don't have  
11 anything else as an alternative, I just stopped  
12 frustrating myself and stopped trying to think about  
13 it. But, I agree with you that I think there's more  
14 flexibility in this -- in these numbers than we're  
15 being led to believe and I hope that the people who  
16 are in the position to know the numbers in more detail  
17 are properly examining that.

18 I guess I perhaps I'm in a little bit more  
19 of John's camp in terms of accepting this pseudo  
20 townhouse because there's no accounting for -- to --  
21 to my mind, there's no accounting what -- what some  
22 people will buy, but that's part of what makes --  
23 that's part of what makes a city interesting, too, is  
24 that we don't all want the same thing.

25 I think it's a little unfortunate that

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1 we're accommodating cars to the degree that we are in  
2 -- in the project, but that seems to be -- we haven't  
3 quite as a -- as a city divorced ourselves from the --  
4 the automobile to the degree that maybe we should.

5 So, my -- I have -- my greater concern is  
6 the height of the building, the office building on M  
7 Street in square 882 and I think I can be more  
8 accepting of the -- of the housing type given that it  
9 is R5B and there's a -- a lower expectation regarding  
10 open space that there might otherwise be.

11 Did you want to -- did you have other  
12 issues, Mr. May, or did you -- or shall let --

13 COMMISSIONER MAY: I'll let someone else  
14 take the lead on -- on the other issues.

15 CHAIRPERSON MITTEN: Okay.

16 COMMISSIONER MAY: But, I'm glad that we  
17 heard that one out particularly and I will -- I'll  
18 have my say on this at this point. So, I'll leave it  
19 at that.

20 CHAIRPERSON MITTEN: Mr. Parson, did you  
21 want to go to another issue?

22 COMMISSIONER PARSONS: Oh, why don't I  
23 turn on my mike? Yes, that would be good.

24 There seems to be some confusion about  
25 what is called reservation 17A which is in square 739

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1 and it might be helpful if I tried to clarify that,  
2 but I'll probably further confuse.

3           When the Federal Government transfers land  
4 to the District of Columbia, at least in the case of  
5 the National Park Service, they generally are specific  
6 about its use. In this circumstance, the transfer  
7 plat, the actual document that transfers which is  
8 approved by the Planning Commission, the Park Service,  
9 and the City Council does not say anything about use,  
10 but in the letter that transferred the document to the  
11 District, it said for trash disposal purposes and --  
12 and the preliminary opinion of my colleagues in the  
13 Park Service is that is binding -- as binding as the  
14 transfer plat.

15           So, when you go to the proposed order  
16 description, the components on page nine, number 31,  
17 it speaks to the issue of the plats themselves and is  
18 accurate to that degree, but needs to be fixed and I -  
19 - and I understand that the -- the attorney for the  
20 project is -- is well aware of this and I just want to  
21 let you know that 31 as it stands is -- is not the  
22 resolution.

23           It -- it may require City Council action.  
24           That is -- normally, you can't change the use of the  
25 Federal property unless you go back through the

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1 process to change that use and -- and I don't think  
2 that would delay what we're doing here at all.  
3 Certainly there's no objection to what is going on  
4 here. It seems to be more of a technicality. So,  
5 we're -- we'll be working on that.

6 CHAIRPERSON MITTEN: Okay. Can I just  
7 have a little -- pick up on that for a moment before  
8 you go to the next issue?

9 Which is I'd like to ask Corporation  
10 Counsel if given that we do have a piece of Park  
11 Service land included and there is some dispute about  
12 the use, but there should be no dispute about whether  
13 or not they have joined in the application and I'm --  
14 my understanding is they have not.

15 Can you speak to that requirement and how  
16 we might resolve this?

17 MS. NAGELHOUT: Well, 2406.5 says the  
18 name, address, and signature of each owner of property  
19 included in the area to be developed or the owner's  
20 authorized agent shall be included in the PUD  
21 application and if -- if you think you don't have  
22 that, then perhaps the record should be reopened to  
23 ask for that at this point.

24 CHAIRPERSON MITTEN: Well, I -- I guess,  
25 you know, we had accommodated the fact that the

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1 applicant intends to acquire certain -- certain  
2 properties from private property owners and those  
3 property owners have not joined in the application,  
4 but by the time we get to the second stage, they will  
5 and perhaps that's the same approach that we could  
6 take here since I -- I assume that because the  
7 District has some occupancy rights for reservation  
8 17A, they might consider themselves to be the agent of  
9 the owner.

10 MS. NAGELHOUT: In which case, you would  
11 want to clear up whether there's any limit on the --  
12 any restrictions on the use.

13 CHAIRPERSON MITTEN: Can we take the same  
14 approach as we have done with the -- the private  
15 properties that the applicant doesn't yet control and  
16 just ask for --

17 MS. NAGELHOUT: The other issue is that  
18 you have actually two PUD applications here and one is  
19 you're requesting preliminary review and the other is  
20 asking for consolidated. I think reservation 17A is  
21 in the consolidated review part. So, you don't have  
22 the same amount of time as you would for the -- for  
23 the -- the two stage which I think is where the  
24 private property owners are.

25 CHAIRPERSON MITTEN: I thought 17A was

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1 outside of the --

2 COMMISSIONER PARSONS: It's in and out  
3 actually. I'm -- a portion is in and a portion is out  
4 I think.

5 In other words, there's a portion north of  
6 I Street and south of I Street and the -- and the  
7 portion we're talking about is -- is south of I  
8 Street.

9 CHAIRPERSON MITTEN: And that's in the  
10 consolidated area?

11 MR. BASTIDA: No.

12 CHAIRPERSON MITTEN: Oh, it's not in the  
13 consolidated area. Okay.

14 COMMISSIONER PARSONS: Well, what if we --  
15 we did ask the Park Service for a letter before we  
16 took final action? Would that -- would that --

17 CHAIRPERSON MITTEN: Could we do that?  
18 Could we ask them for that?

19 COMMISSIONER PARSONS: We could. We could  
20 try that.

21 CHAIRPERSON MITTEN: Okay.

22 COMMISSIONER PARSONS: Because I --  
23 certainly, we don't want to set some precedent that  
24 the -- you know, anybody that comes along can take a  
25 piece of park land and come walking in here without --

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1 without a letter of concurrence. I don't want to get  
2 in that box.

3 CHAIRPERSON MITTEN: Okay. So, then --  
4 so, then we would take the recommendation to reopen  
5 the record to receive a letter from the National Park  
6 Service.

7 COMMISSIONER PARSONS: Yes. Yes.

8 CHAIRPERSON MITTEN: Basically, joining in  
9 the application.

10 COMMISSIONER PARSONS: All right. I'll  
11 see what I can do about that.

12 CHAIRPERSON MITTEN: Okay. Well, I would  
13 move that we -- that we reopen the record for that  
14 purpose.

15 COMMISSIONER PARSONS: And I should second  
16 that.

17 CHAIRPERSON MITTEN: Excellent.

18 COMMISSIONER PARSONS: Show my enthusiasm  
19 for --

20 CHAIRPERSON MITTEN: Great. Any  
21 discussion on that? All those in favor please say  
22 aye.

23 ALL: Ayes.

24 MS. SCHELLIN: Staff will record the vote  
25 4-0-1 to reopen the record in case number 03-12 and

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1 03-13 for the letter from the National Park Service.  
2 Commissioner Mitten moving. Commissioner Parsons  
3 seconding. Commissioners May and Hood in favor.  
4 Commissioner Hannaham not present, not voting.

5 CHAIRPERSON MITTEN: Thank you.

6 Now, I interrupted you. Did you have  
7 another issue?

8 COMMISSIONER PARSONS: Yes, I wanted to  
9 talk about the river walk which is a -- oh, I'm sorry.  
10 Good grief. What am I -- unless they want to  
11 contribute to the river walk. Wait a minute. Wait a  
12 minute.

13 CHAIRPERSON MITTEN: This is Canal Blocks  
14 Park in this one.

15 COMMISSIONER PARSONS: Yes. Yes. I'm  
16 sorry. That's --

17 CHAIRPERSON MITTEN: Okay. Mr. Hood.

18 VICE CHAIRPERSON HOOD: I -- I just wanted  
19 to say that I look at the matrix on the role of -- of  
20 those who -- the jobs that -- that -- to be required  
21 and I think the applicant has definitely satisfied my  
22 issue while it's his evidence for the  
23 -- in the record. I just hope now that these things  
24 get carried through. It looks good here, but I just  
25 hope that these things get carried through.

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1           Also, I was looking for open space. There  
2 was an issue about more open space. I don't know  
3 about my other colleagues, but looking at the map that  
4 was provided, I think that it's sufficient from this  
5 Commissioner's perspective.

6           Now, the tickler for me has been the  
7 acquisition of homes and I know we're all over the  
8 place and -- and I tell you what gave me a confident  
9 level and still have an issue, but I see that the  
10 applicant has been working on it.

11           I think the suggestion was made at the  
12 hearing if we could re-look at that and from what it  
13 says here on page 11 of the post-hearing submission in  
14 this last -- I guess the third paragraph or second  
15 actually for that page. It's the latter part of the  
16 paragraph. It says the number of properties which  
17 need to be acquired may be reduced by further study.  
18 The applicants will continue to explore whether more  
19 of the existing buildings can be retained in private  
20 ownership.

21           I -- I just want to send another signal  
22 out because obviously we're declining in the amount of  
23 homes that we're going to acquire and -- and I would  
24 hope that there would be a lot more further study done  
25 by this applicant to salvage and save those homes for

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1 those residents who live in the city.

2 That's -- that's been a tickler for me and  
3 one of the things that I've asked the housing  
4 authority -- while I haven't seen any -- any evidence  
5 of it I remember asking in another hearing if they can  
6 show us or give us or submit something to the record  
7 of this case of how the people in other cases have  
8 been treated and done.

9 While I understand I'm going to hear this  
10 is not in our jurisdiction, but to some degree, I  
11 believe it is. I have not gotten that from the  
12 housing authority which leaves me a big question mark  
13 exactly on how people are actually being treated when  
14 their homes are being acquired.

15 But, to make a long story short, I just  
16 hope that they will continue to -- to reduce the  
17 number of homes and continue to a further study.  
18 Because if you get it down to zero, you will make this  
19 Commissioner very happy.

20 Thank you.

21 CHAIRPERSON MITTEN: Thank you, Mr. Hood.

22 The only thing I'd like to -- to add  
23 before we move a motion is I -- I also would like to  
24 commend the applicant and -- and I'm sure the Office  
25 of Planning was involved in this, too, persuading the

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1 school system to include Van Ness School in -- in the  
2 PUD site. That was something that I think everybody  
3 was interested in and I don't think there was any  
4 resistance on the part of anyone -- any of the parties  
5 to this. It was just maybe making the school system  
6 aware of the opportunity that -- that was available to  
7 them by joining in as opposed to not joining in. So,  
8 I think that was a big success for everybody that was  
9 involved.

10 At this point, what I would like to do is  
11 we have a proposed order which I don't want to go  
12 through in detail other than for proposed action I'd  
13 just like to address the spirit of it which there are  
14 a number of conditions that are proposed including  
15 some that apply exclusively to the -- to the first  
16 stage and on page 37 where the maximum permitted  
17 building heights are indicated, I would like to modify  
18 that so that the office building -- buildings in  
19 square 882 would have a maximum height of 90 feet and  
20 I would move approval with that change.

21 COMMISSIONER MAY: I would second that.

22 CHAIRPERSON MITTEN: Any further  
23 discussion?

24 We have a motion and a second to approve  
25 case numbers 03-12 and 03-13 modifying the building

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1 height on square 882.

2 All those in favor please say aye.

3 ALL: Ayes.

4 CHAIRPERSON MITTEN: Those opposed please  
5 say no.

6 Ms. Schellin.

7 MS. SCHELLIN: Yes, staff will record the  
8 vote 4-0-1 to approve case number 03-12 and 03-13 for  
9 proposed action. Commissioner Mitten moving.  
10 Commissioner May seconding. Commissioners Hood and  
11 Parsons in favor. Commissioner Hannaham not present,  
12 not voting.

13 CHAIRPERSON MITTEN: Thank you.

14 All right. As I said, we are now going to  
15 take out of order final action case number 02-42 which  
16 is the W-0 Text Amendment.

17 Okay. And Mr. May, you're -- you're going  
18 to have to probably leave in the middle of this  
19 discussion, but just stay with us as long as you can.

20 This had been advertized for the 30-day  
21 comment period and actually was longer than that I  
22 -- I -- as I recall and we received a number of  
23 comments back and I'll begin with the Office of  
24 Planning has recommended to us.

25 So, I think to keep things moving in a

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1 timely way that the substantive changes that had been  
2 -- had been incorporated at one point along with the  
3 W-0 text that would have affected the CRW-1, W-2, and  
4 W-3 zone districts, they're recommending that they be  
5 eliminated from the final order because we didn't  
6 advertize those originally and didn't -- they weren't  
7 -- and comments to -- on those were not included in  
8 the public hearing. So, I think that's -- and again,  
9 in order to keep things moving, that is sensible.

10 We've had -- actually, some folks have  
11 spent a good amount of time going through these regs  
12 and I think the comments deserve individual attention.

13 So, I'd like to do that now.

14 I'd like to begin with Mr. McKeon. Had a  
15 number of specific issues that he raised and the  
16 -- sort of the broad issue and then he has a number of  
17 specific issues, but the broad issue was the fact that  
18 floating homes were not permitted in yacht clubs, but  
19 they're only permitted as the text written in marinas  
20 and I honestly don't remember why that was. So, I'm  
21 hoping maybe we can get some assistance from Mr.  
22 Lawson from OP to tell us what was the thinking behind  
23 that.

24 MR. LAWSON: Madam Chair, members of the  
25 Commission, thank you.

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1 My name's Joel Lawson. Excuse me. My  
2 name's Joe Lawson. I'm with the Office of Planning  
3 and I have a bit of a cold, but I'll try to do this.

4 The -- there was originally a distinction  
5 between marinas and yacht clubs. Yacht clubs being  
6 written up and seen as being more of a private -- a  
7 private kind of a -- kind of a club type use as  
8 opposed to a marina which is a -- a more -- more of a  
9 public use kind of a situation.

10 It wasn't anticipated that a yacht club  
11 would include floating homes at the time. Because  
12 again, it's standard for floating homes when they  
13 exist to be within marinas. At least, that was our  
14 experience and research found that.

15 CHAIRPERSON MITTEN: From -- from a --  
16 from a land use perspective as opposed to an  
17 operational perspective, is there any reason why  
18 floating homes should be excluded from yacht clubs?

19 MR. LAWSON: Well, over the course of the  
20 development of the W-0 zone, of course, the -- the  
21 distinction between yacht clubs and marinas has  
22 actually diminished considerably. A number of  
23 regulations which distinguish the two are being -- are  
24 being removed or being modified. There's currently to  
25 be honest not a huge difference between the two uses.

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1           If the Zoning Commission wished to  
2 consider floating homes for yacht clubs, I -- I don't  
3 see there being a -- a huge problem with that anymore.

4           It does -- it does kind of get to is there much of a  
5 distinction between the two uses at all anymore.

6           CHAIRPERSON MITTEN:     That's true, too.  
7 Okay. Well, with Mr. Lawson's comments, I would -- I  
8 would want to advocate that we allow the flexibility  
9 in a yacht club to -- to include floating homes and  
10 not have it only in marinas.

11           Anyone else?

12           COMMISSIONER MAY:     I would agree.

13           COMMISSIONER PARSONS:   I would agree.

14           CHAIRPERSON MITTEN:     Okay. Well, then  
15 what I would like to do some of these individual  
16 McKeon has noted, then we might be able to move  
17 through rather quickly. So, what I'd like to do is  
18 just turn to page three of his letter and just go  
19 through these one at a time and decide which ones we  
20 will adopt and which ones we won't.

21           He's recommending that we strike the word  
22 recreational from yacht club. I really don't know  
23 what -- the whole overriding theme of the W-0 is -- is  
24 maximizing recreational opportunities, but anybody  
25 have any thoughts about that?

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1 COMMISSIONER PARSONS: Well, he's saying  
2 delete recreation as such a work may preclude floating  
3 homes and I don't see the relationship in  
4 -- in 900.6. I don't --

5 CHAIRPERSON MITTEN: Well, that's true.  
6 Okay. That's fine.

7 I think maybe that is why he wanted it  
8 stricken. I was looking at 199.12 which is his first  
9 reference.

10 COMMISSIONER PARSONS: Oh, I'm sorry. Is  
11 that where you were?

12 CHAIRPERSON MITTEN: Yes, but it's fine.  
13 It's the same thought. I don't know that -- that --  
14 perhaps you should say primarily. For primarily  
15 recreational use. I think he's worried about  
16 exclusions and specifically in his first point, he's  
17 saying that they have a restaurant tenant right now.

18 COMMISSIONER PARSONS: Yes.

19 CHAIRPERSON MITTEN: So, then it's a  
20 question of how does that fit in to the definition and  
21 how does that fit into the uses in 920. He's worried  
22 that we're creating an exclusion.

23 So, I think if we write primarily into the  
24 definition then that would be or principally and that  
25 won't exclude -- certainly won't exclude floating

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1 homes and won't exclude a restaurant tenant.

2 Anybody have any response?

3 COMMISSIONER MAY: Can the conflict or the  
4 -- the overlay between marina and yacht club be  
5 resolved essentially in the same time just by  
6 eliminating the word recreational? I mean doesn't to  
7 some extent yacht club then incorporate what is  
8 defined as marina? It's essentially just a boat dock  
9 or storage facility.

10 Now, don't yacht clubs -- wouldn't yacht  
11 club ordinarily include docks at least if not a  
12 storage facility.

13 COMMISSIONER PARSONS: Are you suggesting  
14 we meld the two definitions because --

15 COMMISSIONER MAY: I'm not saying that.  
16 I'm saying that a yacht club in effect includes  
17 marina-type use. Because marina-type use is  
18 essentially just storage and docking the way it's been  
19 defined.

20 COMMISSIONER PARSONS: Correct.

21 CHAIRPERSON MITTEN: So, what's your  
22 specific suggestion? I'm sorry.

23 COMMISSIONER MAY: My specific suggestion  
24 would be under yacht club is to delete the word  
25 recreational.

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1 CHAIRPERSON MITTEN: To delete it. Okay.

2

3 Just delete recreational and then under  
4 marina maybe add an or after the and for docking  
5 and/or storage facilities for boats.

6 CHAIRPERSON MITTEN: Okay. How do people  
7 feel about that?

8 COMMISSIONER MAY: And that way --

9 COMMISSIONER PARSONS: How is Mr. Lawson  
10 on this? Not -- not to make him a member of the  
11 Commission, but what's the genesis of this? I mean we  
12 -- we went out to -- originally I think we announced -  
13 - we advertised the case without the definition of  
14 yacht club and we filled the room with people that  
15 were -- were concerned they were going to be  
16 eliminated.

17 This -- why is this definition the way it  
18 is?

19 MR. LAWSON: I believe there was a  
20 definition of yacht club in the original -- in the  
21 original version, but the -- the definition was -- was  
22 again to distinguish a marina which was perceived as  
23 being a particular kind of use from a yacht club which  
24 was perceived as being a slightly different kind of  
25 use. A yacht club being a club with a clubhouse for

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1 private members and a marina having more of an  
2 operation as a facility for renting out more spaces  
3 for -- for boats, but serving less of a club type  
4 function than a yacht club. Again --

5 COMMISSIONER PARSONS: So, removing the  
6 work recreational wouldn't --

7 MR. LAWSON: I don't think it would  
8 diminish the definition.

9 COMMISSIONER PARSONS: Okay.

10 MR. LAWSON: No.

11 CHAIRPERSON MITTEN: Okay. Everybody --

12 COMMISSIONER PARSONS: Good.

13 CHAIRPERSON MITTEN: -- copesetic? Okay.

14 901.1W, add a phrase permitting floating  
15 homes. Okay. We're going to do that. As suggested.

16 Permitting floating homes at least to the same extent  
17 as floating homes are permitted in arena -- in the  
18 marina.

19 Okay. We had a couple of comments about  
20 this one. Section 917.4A and B, I think that this is  
21 maybe just an in-artfully worded sentence or  
22 sentences.

23 The focus is on the language. If the  
24 subject property is located within National Park  
25 Service lands. I think -- my recollection is not that

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1 it was National Park Service land but that it was  
2 surrounded by National Park Service land. So, the  
3 within was not that it -- that it was Park Service,  
4 but it was among Park Service lands.

5 Is that everyone else's recollection or is  
6 it anyone else's recollection?

7 COMMISSIONER PARSONS: You know, the  
8 Planning Commission weighed in on this as well.

9 CHAIRPERSON MITTEN: Right.

10 VICE CHAIRPERSON HOOD: And I can't put my  
11 finger on it, but I liked what they -- what they asked  
12 us to replace it with.

13 COMMISSIONER PARSONS: What they're  
14 talking about is formerly Park Service land.

15 CHAIRPERSON MITTEN: But, that doesn't get  
16 to the meaning of it.

17 COMMISSIONER PARSONS: No, it doesn't. It  
18 -- it just -- their -- their concern was it sounded as  
19 though we were -- we were zoning Park Service land  
20 with the word within.

21 CHAIRPERSON MITTEN: Right.

22 COMMISSIONER PARSONS: So, I would say  
23 surrounded by --

24 CHAIRPERSON MITTEN: Okay.

25 COMMISSIONER PARSONS: -- would get us

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1 there.

2 CHAIRPERSON MITTEN: Surrounded by instead  
3 of located within.

4 VICE CHAIRPERSON HOOD: Does anybody have  
5 any handwriting on what NCPC --

6 CHAIRPERSON MITTEN: Right here.

7 VICE CHAIRPERSON HOOD: Okay. Thank you.

8 CHAIRPERSON MITTEN: In the yellow.

9 CHAIRPERSON MITTEN: Okay.

10 COMMISSIONER PARSONS: I should point out  
11 that -- what those words mean that we just adopted.

12 CHAIRPERSON MITTEN: Okay.

13 COMMISSIONER PARSONS: Is it the -- the  
14 bottom of the Potomac and Anacostia Rivers is owned by  
15 the United States under the jurisdiction of the Park  
16 Service. So, for those who would wonder how we get  
17 four sides of the -- of the property, it would be --  
18 it would be that. That if we transferred right up to  
19 the shore line, we would still have the -- the bed of  
20 the river.

21 CHAIRPERSON MITTEN: Okay. Thank you.  
22 Okay. Then we have nine --

23 VICE CHAIRPERSON HOOD: What are we  
24 replacing that with again?

25 CHAIRPERSON MITTEN: In -- in 917.4A and

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1 B, we're replacing the words located within to  
2 surrounded by.

3 VICE CHAIRPERSON HOOD: Some of us don't  
4 move as fast as you do, Madam Chair.

5 CHAIRPERSON MITTEN: Sorry. 919. Oh, let  
6 me just give you a second to -- 919.2, the suggestion  
7 is to strike the word office and insert the word  
8 building. I think -- what -- there's a misplaced  
9 focus here. The focus in the -- in the sentence is on  
10 use and you can't substitute a reference to a building  
11 for focus on use. So, it's saying a marina may also  
12 include as accessory uses an office not a building.

13 COMMISSIONER PARSONS: Correct.

14 CHAIRPERSON MITTEN: So, I think that one  
15 we're going to have to keep as is unless someone has  
16 an alternative suggestion and --

17 COMMISSIONER PARSONS: No, you'd -- you'd  
18 have to start changing the whole thing. It's a --  
19 it's a launching ramp and office to sell marine fuels.  
20 All right. I mean a station to serve marine fuel.

21 CHAIRPERSON MITTEN: Mr. May.

22 COMMISSIONER MAY: I mean really it's just  
23 a language thing. It's -- you -- there's a -- an  
24 implied colon after uses. Right? They way -- what  
25 you're saying.

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1 COMMISSIONER PARSONS: Should we put in a  
2 colon?

3 CHAIRPERSON MITTEN: We can -- yes, we can  
4 actually insert.

5 COMMISSIONER MAY: I mean I don't know if  
6 that's proper the -- the right English, but the zoning  
7 reg --

8 CHAIRPERSON MITTEN: Well, why don't we --  
9 we can -- we want something that conveys --

10 COMMISSIONER MAY: We could do it -- then  
11 we should put in a colon and put in an A, B, C, D.

12 CHAIRPERSON MITTEN: Right. A, B, C.  
13 Right. Okay. That's good. All right. 919.4. Okay.

14 It says floating homes shall be permitted  
15 within an approved marina and first is to strike an  
16 approved and then later to put in a marina or yacht  
17 club. I think the -- I think they're concerned about  
18 grandfathering here. But, I don't -- I think we can  
19 leave in approved or maybe it's a permitted. Because  
20 it's --

21 COMMISSIONER PARSONS: Yes, approved.  
22 Goes to what?

23 CHAIRPERSON MITTEN: How about a  
24 permitted?

25 COMMISSIONER PARSONS: Yes.

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1 CHAIRPERSON MITTEN: And then we can have  
2 marina or yacht club.

3 Then it goes on -- and we would also have  
4 to put marina or yacht club at the end of that  
5 sentence and then there's a concern this percentage  
6 maybe increased or waived which suggests that there  
7 would be no floating homes if you waive it as opposed  
8 to just increasing it.

9 Mr. Lawson.

10 MR. LAWSON: Thank you. I would actually  
11 make a -- a different suggestion. Because of this  
12 Section 919 refers to marinas specifically.

13 CHAIRPERSON MITTEN: Oh, yes.

14 MR. LAWSON: And there's a separate  
15 section related to yacht clubs.

16 CHAIRPERSON MITTEN: Okay.

17 MR. LAWSON: But, instead of making the  
18 changes, a new clause should be added to 920 --

19 CHAIRPERSON MITTEN: Oh, that's good.

20 MR. LAWSON: -- related to floating homes.

21 CHAIRPERSON MITTEN: Okay. Thank you.  
22 Okay. We're going to add a parallel 920. -- 9 -- yes,  
23 920.4.

24 So, then it's -- how do we feel about  
25 deleting or waived?

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1                   COMMISSIONER MAY: I mean if we take out  
2 or waived, then it means that it can be increased.  
3 Doesn't say that --

4                   CHAIRPERSON MITTEN: That it could be --

5                   COMMISSIONER MAY: I mean it -- we're  
6 talking about having more floating homes rather than  
7 less.

8                   CHAIRPERSON MITTEN: Right. So, why don't  
9 we say maybe increased or decreased?

10                  COMMISSIONER MAY: Well --

11                  CHAIRPERSON MITTEN: That way --

12                  COMMISSIONER MAY: -- increased it doesn't  
13 need a special exception. It's a maximum.

14                  CHAIRPERSON MITTEN: Oh, that's right.  
15 Okay.

16                  COMMISSIONER MAY: So, it's just -- I  
17 think getting rid of or waived is -- is fine.

18                  CHAIRPERSON MITTEN: Or waived. Okay.

19                  COMMISSIONER MAY: I don't know --

20                  CHAIRPERSON MITTEN: Okay. Is it --

21                  COMMISSIONER PARSONS: Well, I certainly  
22 don't want to do anything that would make these  
23 predominately housing developments, floating.

24                  COMMISSIONER MAY: That's why it's special  
25 exception.

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1 CHAIRPERSON MITTEN: Yes, it would be a  
2 special exception --

3 COMMISSIONER PARSONS: Right.

4 CHAIRPERSON MITTEN: -- they'd have to go  
5 through.

6 Okay. The next concern is about home  
7 occupation and we probably also have to have a  
8 parallel paragraph in the yacht club that they would  
9 have to go for a special exception, but I -- I -- I  
10 think they don't understand that you can have a home  
11 occupation without getting a special exception. You  
12 just have to comply with the provisions of Section 203  
13 up to a certain point.

14 COMMISSIONER MAY: That's right. I -- I  
15 read it the same way.

16 CHAIRPERSON MITTEN: Okay. So, I think  
17 we're fine there.

18 920, he's asking for inclusions to provide  
19 for floating homes and we're going to do that.

20 923.3, this gave flexibility regarding  
21 parking spaces for a boat house only.

22 Mr. Lawson, he's suggesting that we insert  
23 boat house marina or yacht club and I'm not sure that  
24 I want to do that, but I'm -- I'll let you weigh in on  
25 this.

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1 MR. LAWSON: Well, I'm not sure I'd want  
2 to do that either. The reason being, you know, again  
3 a boat house has a very different kind of a use and  
4 purpose from marina or yacht club. The -- I would be  
5 uncomfortable providing this level of flexibility I  
6 guess in parking for marinas or yacht clubs.

7 COMMISSIONER PARSONS: I agree.

8 CHAIRPERSON MITTEN: Okay. And there's  
9 also in 923.1, there's flexibility regarding -- it  
10 doesn't have to be on-site. So, there -- there  
11 already is some flexibility there.

12 Okay. 925.3, this would be C. There's  
13 concern that having to submit a parking management  
14 plan for special events is going to eliminate the  
15 possibility of hosting certain events that -- that  
16 already go on.

17 One of the things that -- and we're moving  
18 into this -- into a series of issues that I think  
19 they're trying to deal with some very specific issues  
20 to the way they operate, the way that the Capital  
21 Yacht Club operates under the assumption that they  
22 will be zoned W-0 and so, they're -- they're trying to  
23 make sure that they don't get foreclosed and I -- and  
24 I -- I'm not sure that that's a correct assumption for  
25 them to make. Because these -- these restrictions

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1 only apply in W-0. So, I don't --

2 COMMISSIONER MAY: And only for new  
3 applications. Right. New special exceptions.

4 CHAIRPERSON MITTEN: Right. So --

5 COMMISSIONER MAY: I think the provision  
6 here is perfectly reasonable that there would be a  
7 -- a requirement to provide a parking plan for special  
8 events. I mean regattas are an -- an exceptional  
9 amount of -- of people and -- and traffic and cars and  
10 you -- you ought to have a plan to manage that as part  
11 of the special exception.

12 CHAIRPERSON MITTEN: Yes.

13 COMMISSIONER MAY: Makes sense.

14 CHAIRPERSON MITTEN: Yes. Section 930.1,  
15 there's a concern about the height of sailboats  
16 relative to the maximum heights of buildings or  
17 structures and I did find out before this meeting that  
18 a floating home would constitute a building under the  
19 -- under the ordinance or that's the -- what  
20 corporation counsel says.

21 Correct? That's your -- okay. Getting a  
22 nod from corporation counsel.

23 So, I think what we need to do is we need  
24 to make -- insert some language here that says that it  
25 doesn't include the -- the mast of a sailboat and I

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1 hope that that's sufficient or maybe it's the mast of  
2 a boat. The height limitation.

3 Is everyone okay with that?

4 COMMISSIONER PARSONS: Yes.

5 CHAIRPERSON MITTEN: Okay. They're  
6 suggesting that Sections 931 which relates to floor  
7 area ratio and 932 which relates to percentage of lot  
8 occupancy are too burdensome and again, they're  
9 thinking of themselves and that presumes that they  
10 would be zoned W-0 at some point in the future and I'm  
11 just not sure that that's a -- or that they would be  
12 relocated to a site that would be zoned W-0 and I  
13 think it's premature at this point to be anticipating  
14 that and changing W-0 to accommodate that. All right.

15 Okay. 933 which relates to rear yards

16 Mr. May?

17 COMMISSIONER MAY: The version I have  
18 doesn't have a 933.

19 CHAIRPERSON MITTEN: I know what you mean.

20 If you look at the version that's got the NCPC --

21 COMMISSIONER MAY: Right.

22 CHAIRPERSON MITTEN: -- thing on it, it's  
23 got -- it's got 933 included in it.

24 COMMISSIONER MAY: Oh.

25 CHAIRPERSON MITTEN: It's basically the

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1 same language from the W zone other than says that the  
2 rear yard requirement doesn't apply for a floating  
3 home. Again, I think the issue here relates to a  
4 concern on their part that they would be zoned W-0 at  
5 some point in the future as does 934 and does -- as  
6 does 935, his number 15. Same with the next -- number  
7 16 also applies. His number 17. His number 18. His  
8 number 19.

9 So, I would say that those really don't  
10 relate to W-0, but those relate to specific concerns  
11 that they have in anticipation that they would be  
12 zoned W-0 and they need to be concerned about that at  
13 the moment.

14 I would just skip down now to number 20,  
15 Section 3203.3 which relates to record lots.

16 I think maybe the issue here could be  
17 solved by -- the inserted language says:  
18 Notwithstanding the foregoing, a building permit may  
19 be issued for a boat house or marina to be constructed  
20 on a lot that is not a lot of record. Any  
21 concern, Mr. Lawson, if we were to change that to boat  
22 house, marina or yacht club?

23 MR. LAWSON: No concerns.

24 CHAIRPERSON MITTEN: Okay. I think that  
25 takes care of all of his issues.

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1           Then we also had a submission from Mr.  
2 Williams about the fact that -- that we do have  
3 jurisdiction over -- over land that is under water and  
4 I don't know exactly what could be -- if there was a  
5 specific change that were being proposed, I could  
6 respond to it, but I -- I don't know exactly what to  
7 craft. I don't know if anybody has given this one any  
8 thought.

9           I guess we could ask corporation counsel  
10 to look into it and if there were something to be done  
11 in the future, to clarify it, we could take that up.

12           And I think his other point is also  
13 perhaps for future discussion which is that we've  
14 confined ourselves to -- to taking up the issues of  
15 floating homes but not floating businesses and that's  
16 probably something that we need to address in the  
17 future and there are some government uses that also  
18 are over water.

19           And then the final or I guess the third  
20 suggestion is to allow the opportunity for a  
21 caretaker's residence as a matter of right rather than  
22 through special exception.

23           COMMISSIONER PARSONS: Well, let me talk  
24 about this for a minute.

25           CHAIRPERSON MITTEN: Okay.

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1                   COMMISSIONER PARSONS:   The -- I mentioned  
2 earlier that the Anacostia and Potomac Rivers are  
3 owned by the Federal Government.   However, as I  
4 understand it and I haven't -- I'm -- I'm winging it  
5 here, but when RLA was established for the -- the  
6 urban renewal area for southwest was established, I  
7 believe it was done by the Congress and they gave  
8 jurisdiction over the -- the area from the bulkhead  
9 line 250 feet into the Washington Channel.

10                   So, a lot of these uses that Mr. Williams  
11 is talking about are theoretically not under the  
12 jurisdiction of the Federal Government as far as the  
13 river bottom is concerned.

14                   So, the Zoning Commission's authority may  
15 extend in the southwest water front 250 feet river  
16 water.   As a manager of the -- the property, the mud  
17 below I'll call it and I really didn't think about  
18 this during the hearing or I would have brought it up,  
19 but the -- the -- and whether the fish market is  
20 included in that which are the businesses he may be  
21 referring to, I'm not sure.   Whether they are within  
22 that 250 feet from the bulkhead, I don't think they  
23 are, but I don't know quite how to deal with that.  
24 But --

25                   CHAIRPERSON MITTEN:       I think he's

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1 suggesting that that's something that we need to think  
2 about for the future. Not necessarily as part of  
3 this --

4 COMMISSIONER PARSONS: I think so. No,  
5 this actually brings up a separate -- we've been  
6 talking about W-1 a lot here in the last few minutes  
7 and we separated that out to -- to get to this issue.

8 Is it our intent then to visit -- revisit W-1 and --  
9 and talk about some of these uses in that context in a  
10 separate hearing?

11 CHAIRPERSON MITTEN: Mr. Lawson, what were  
12 you planning on doing with all of the changes that --  
13 that you are recommending that we sort of pull out of  
14 -- of what we had -- what we had added regarding CR  
15 and W-1 through 3?

16 MR. LAWSON: Well, the -- first of all, I  
17 guess the Office of Planning feels that W-1, 2, and 3  
18 and the CM zones, you know, function perfectly well  
19 the way they are, but the reason the changes were  
20 recommended in the first place was for consistency.  
21 So, that W-0 was consistent with these other zones.

22 If the Zoning Commission wished to, the  
23 Office of Planning could look into recommending  
24 changes to the other zones to make them consistent. I  
25 think that will actually be a much larger and

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1 potentially more -- potentially more controversial  
2 process because we would dealing with existing lands.

3 In that case, we would be changing the  
4 regulations for existing buildings, existing uses as  
5 opposed to establishing regulations for hypothetical  
6 future uses and lands.

7 COMMISSIONER PARSONS: Well, for instance,  
8 there's no provision now in W-1, 2 or 3 for a boat  
9 house. Right?

10 MR. LAWSON: Well, there is this general  
11 use that's provided for which I believe is boat club  
12 or marina. It's -- it's -- it's our feeling that the  
13 term boat club would include a boat house. Although  
14 the term boat club is not defined anywhere. It's  
15 broad enough that it could -- we feel it could include  
16 a boat house.

17 COMMISSIONER PARSONS: Oh.

18 MR. LAWSON: But, it would mean that the  
19 regulations pertaining specifically to a boat house  
20 for W-0 would not apply and the general -- more  
21 general regulations of the W-1 or whatever zone would  
22 apply to that structure.

23 COMMISSIONER PARSONS: All right. Fine.  
24 I'll agree with that because it's easy. Easier than  
25 the alternative.

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1 CHAIRPERSON MITTEN: Okay. So, maybe what  
2 we need to do is just suggest that some of these  
3 things that have been raised are for future  
4 consideration including the issue of the caretaker's  
5 residence unless we want to add that now.

6 Anybody want to add that now? Okay. I'll  
7 take that as a no.

8 COMMISSIONER PARSONS: Adding -- adding it  
9 as a matter of right the caretaker's --

10 CHAIRPERSON MITTEN: Up to a -- within  
11 certain --

12 COMMISSIONER PARSONS: 750 square feet.

13 CHAIRPERSON MITTEN: Yes, within certain  
14 parameters.

15 COMMISSIONER PARSONS: Well, I guess the  
16 reason we folded it in there is -- is most of these  
17 boat houses are going to come as a special exception  
18 anyway.

19 CHAIRPERSON MITTEN: That's true enough.  
20 I think it should -- we can just take that --

21 COMMISSIONER PARSONS: Leave it as it is.

22 CHAIRPERSON MITTEN: -- as for future  
23 reference and then there is a -- he does point out a  
24 technical little change that needs to take place  
25 regarding a special exception in the chart in 3101.4.

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1 All right. We've made a number of  
2 suggested changes as we've gone along that I am now  
3 going to attempt to repeat.

4 Does anyone else have any changes that  
5 they would like to suggest?

6 All right. Then I would move approval of  
7 case number 02-42 with the changes to the text as  
8 noted.

9 COMMISSIONER PARSONS: Second.

10 CHAIRPERSON MITTEN: Any further  
11 discussion? All those in favor please say aye.

12 ALL: Ayes.

13 CHAIRPERSON MITTEN: Those opposed say no.

14 Ms. Schellin.

15 MS. SCHELLIN: Yes, staff would record the  
16 vote 4-0-1 to approve with changes final action in  
17 case number 02-42. Commissioner Mitten moving.  
18 Commissioner Parsons seconding. Commissioners Hood  
19 and May in favor. Commissioner Hannaham not present,  
20 not voting.

21 CHAIRPERSON MITTEN: Thank you. What I'd  
22 like to do is to -- to move to the DOT headquarters  
23 PUD and ask -- give Mr. May the first opportunity to  
24 give his comments because I think he's going to have  
25 to leave us.

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1           We had held off taking -- having a bench  
2 decision at the -- at the additional hearing that we  
3 had and specifically to allow Mr. May to weigh in.  
4 So, let me give you that opportunity right now.

5           COMMISSIONER MAY: Okay. Thank you very  
6 much and thank you for your consideration. I  
7 apologize for not being here at the hearing and -- and  
8 for having to be so quick about this now, but I did  
9 read the record of the hearing the other night and I  
10 was glad to see the issue of the closure of 3rd  
11 Street. Is that right street?

12           CHAIRPERSON MITTEN: Yes.

13           COMMISSIONER MAY: Has been addressed in a  
14 way that -- that is more readily -- well, it just --  
15 the suggestions that had -- had come out of the -- the  
16 previous information we had gotten from DDOT was -- I  
17 didn't think was very helpful. I think what we have  
18 now is -- is more helpful in terms of ways of  
19 mitigating it.

20           It's not clear to me how the whole  
21 donation scheme is going to work and I would like to  
22 see that clarified, but otherwise I'm ready to move  
23 forward.

24           CHAIRPERSON MITTEN: Can I get your  
25 thoughts on whether or not you think this is two

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1 buildings or one?

2 COMMISSIONER MAY: Oh, absolutely. Thank  
3 you. I had forgotten about that one.

4 There's no doubt in my mind that this is  
5 two buildings and realistically speaking, it's two  
6 buildings on -- one on New Jersey and one on M Street.

7 Now, if there's some way for them to draw  
8 the lot lines so that they get enough frontage on New  
9 Jersey to do something, I mean that's just -- it's  
10 kind of flies in the face of the intent of the  
11 regulation and I would rather not see that. I would  
12 rather see the building adjusted and just leave it at  
13 that, but I'm not sure -- that's not what we're voting  
14 on right here and now. But, it's -- it's clear to me  
15 that it's two buildings. There's just no -- no two  
16 ways around it.

17 CHAIRPERSON MITTEN: Thank you.

18 MR. BASTIDA: Madam Chairman, before Mr.  
19 May leaves, a procedural issue.

20 He read the transcript and -- he read the  
21 record but also the transcript of the meeting -- of  
22 the hearing. Correct?

23 COMMISSIONER MAY: Yes.

24 MR. BASTIDA: Thank you.

25 CHAIRPERSON MITTEN: Anyone else? We had

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1 sort of narrowed the issues in the DOT case down to a  
2 very few.

3 Let me -- let me just ask corporation  
4 counsel to weigh in on the issue of the donation. I  
5 know that there's some constraints on making direct  
6 donation to the D.C. Highway Trust Fund. Can you give  
7 us some direction there?

8 MS. MONROE: Yes, we -- there's some  
9 problems because DOT can't accept it as a gift to DOT  
10 because it's going to be a condition and an order.  
11 So, it's no longer a gift.

12 And the Highway Trust Fund, you can't put  
13 money directly into. It would end up going into the  
14 general fund, the D.C. general fund and then there  
15 would be no way of being sure that it was going to be  
16 used specifically for this river walk within this ANC  
17 which is what the regs say has to be done.

18 One way to do it would be to put it in the  
19 general fund conditioned on specific use. Being used  
20 only for the river walk within this area or something  
21 like that. But, you would need an appropriations for  
22 that in the general fund.

23 Otherwise, you could get the council to  
24 allow it to go to the trust fund.

25 So, there's one way or the other, but you

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1 have to be careful that it is used for what it's  
2 suppose to be used for. That seems to be the  
3 lingering issue and I guess the river walk is -- is  
4 being -- being built currently, but isn't complete and  
5 you won't know, you know, when it's going to be used  
6 and has to make sure -- we have to make sure it goes  
7 to the right thing.

8 CHAIRPERSON MITTEN: Okay. So, given that  
9 DDOT is very involved in this, we can at least assure  
10 ourselves that they would request the appropriation of  
11 the money. I -- I think we can assure ourselves of  
12 that.

13 I guess it's just a measure of our degree  
14 of confidence as to whether we think that after having  
15 received the money for one reason and if DDOT requests  
16 that the money be transferred for that reason, whether  
17 the council will actually go ahead and do that and I  
18 don't think we have any reason to think that they  
19 wouldn't.

20 Is anyone concerned that they wouldn't?

21 COMMISSIONER PARSONS: No, I'm sure they  
22 will. It's -- it's part of this overall Anacostia  
23 initiative. It's two sections that are already  
24 constructed. I understand that money is -- is  
25 expected in this year's budget to fund at least half

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1 of it. I think we can count on it.

2 CHAIRPERSON MITTEN: Okay. So, there --  
3 there needs to be some change to the language just to  
4 accommodate that change and then I would agree with  
5 Mr. May that notwithstanding whatever has gone on in  
6 the past that this is clearly two buildings and if we  
7 need to clarify the zoning regulations so that it's  
8 clear going forward what the interpretation of -- I've  
9 lost track of what the section number is -- if we need  
10 to clarify that, then we can do that.

11 COMMISSIONER PARSONS: I agree.

12 VICE CHAIRPERSON HOOD: I would -- I would  
13 -- I would also agree with Mr. May about there being  
14 two buildings and also with the AWI. The ways things  
15 are moving forward, I would have the confidence in  
16 everyone acting and governing themselves accordingly.

17 So, with that, Madam Chair, if you're  
18 ready for a motion.

19 CHAIRPERSON MITTEN: Yes, sir.

20 VICE CHAIRPERSON HOOD: I'm ready to  
21 approve Zoning Commission case 03-05C with the  
22 necessary comments of the members that were stated  
23 here on the record.

24 CHAIRPERSON MITTEN: Second. Any further  
25 discussion? All those in favor please say aye.

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1 ALL: Aye.

2 CHAIRPERSON MITTEN: And Mr. -- Mr. May  
3 votes aye as well by absentee ballot.

4 Ms. Schellin.

5 MS. MONROE: Madam Chairman, can I just  
6 bring up two things?

7 CHAIRPERSON MITTEN: Sure.

8 MS. MONROE: We need to make sure the --

9 CHAIRPERSON MITTEN: Can we get the vote  
10 recorded first or not?

11 MS. MONROE: Oh, well --

12 MS. SCHELLIN: Yes, staff will record the  
13 vote 4-0-1. Commissioner Hood moving. Commissioner  
14 Mitten seconding. Commissioner Parsons in favor and  
15 I'm sorry. Commissioner May in favor by absentee  
16 ballot. Commissioner Hannaham not present, not voting  
17 and this is to take proposed action on case number 03-  
18 05.

19 CHAIRPERSON MITTEN: I'm sorry. Ms.  
20 Monroe, go ahead.

21 MS. MONROE: Just we need to have the  
22 order redrafted to reflect the two buildings and there  
23 was a request by the applicant for the memo. I don't  
24 know if you want to address that.

25 CHAIRPERSON MITTEN: Mr. Hood was just

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1 reminding me of that as well.

2 MS. MONROE: Okay. Okay. Sorry.

3 CHAIRPERSON MITTEN: I'd -- I'd prefer  
4 that the substance of the memo be reflected in the  
5 order since the -- the -- it's the order that has  
6 weight and if -- if anyone --

7 VICE CHAIRPERSON HOOD: I would agree.

8 CHAIRPERSON MITTEN: -- feels differently.

9 VICE CHAIRPERSON HOOD: I would agree.

10 CHAIRPERSON MITTEN: Okay. Great. Then I  
11 think we're ready to move to case number 03-04 and  
12 this is the Belmont Partners PUD.

13 MR. BASTIDA: Madam Chairman, you had  
14 receive all the package and you have an illustration  
15 of the materials that are going to be used in the  
16 project. I have a large board that, in fact, has the  
17 specific materials in case you would like to take a  
18 look at it.

19 CHAIRPERSON MITTEN: Thank you. Does  
20 anyone want to see the board right now?

21 I just want to review a couple of things.  
22 We -- there was -- there were a few amendments to the  
23 relief that was being sought. Originally, the  
24 application indicated they needed relief from the  
25 minimum lot area requirement for a PUD in the R5B

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1 district, relief from the lot occupancy requirement,  
2 relief from the roof structure requirements and then  
3 approval of a consolidated planned unit development.

4 In response to some questions at the  
5 hearing, it was also determined that they need relief  
6 from the side yard requirement. Twelve feet are bring  
7 provided, 13 feet 9 inches is required, and from the  
8 loading berth size requirement, 35 feet is being --  
9 has been included and the requirement is for a 55 foot  
10 deep loading berth.

11 They made a -- an accommodation to  
12 recommission regarding the roof deck and the Office of  
13 Planning has indicated that they would like the deck  
14 to be larger and there's also been submissions and big  
15 debate on -- we have folks on both sides of the  
16 parking issue in this one. It's either too much  
17 parking or not enough parking depending on your  
18 perspective.

19 Anyone like to start off.

20 I think what some of the -- other areas of  
21 concern that -- that have been raised relate to  
22 requiring as much loading to take place at the rear as  
23 -- as possible to keep trucks off of Belmont Street  
24 because there is a loading dock at the rear and all  
25 but the largest trucks will be able to be accommodated

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1 there and then there's -- there's a fairly large area  
2 of concern regarding the adequacy of the affordable  
3 housing component.

4 I think we need to be mindful of the fact  
5 that's -- this is being proffered as an amenity and we  
6 haven't quite graduated to inclusionary zoning yet.  
7 So, this is -- this is -- there's no minimum required  
8 for this amenity. This is just the way they choose to  
9 package it.

10 VICE CHAIRPERSON HOOD: Madam Chair,  
11 speaking of that, didn't we have a -- we had a request  
12 and I can't put my hands on it right now. There was a  
13 request I believe from -- oh, is this it? Okay.  
14 ACORN. About opening up the record. Well, I forgot  
15 exactly what --

16 CHAIRPERSON MITTEN: They had some  
17 additional submissions?

18 VICE CHAIRPERSON HOOD: They missed the  
19 date. Yes, and -- and opening up the record.

20 CHAIRPERSON MITTEN: Well, they -- they  
21 missed the -- they didn't -- I don't know that they  
22 missed the date, but the -- the date -- the  
23 submissions were only for parties and they're -- ACORN  
24 is not a party and --

25 VICE CHAIRPERSON HOOD: Okay.

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1 CHAIRPERSON MITTEN: -- so this doesn't  
2 really rise to a motion to reopen the record or a  
3 request to reopen the record because only a party  
4 could make such a request.

5 VICE CHAIRPERSON HOOD: Well, I just felt  
6 that we needed to say something for the record.

7 CHAIRPERSON MITTEN: Sure.

8 VICE CHAIRPERSON HOOD: Period on that.

9 CHAIRPERSON MITTEN: Well, inasmuch as  
10 they -- they were not a party, I would be disinclined  
11 to reopen the record to receive the materials.

12 COMMISSIONER PARSONS: I agree.

13 CHAIRPERSON MITTEN: And I -- and I don't  
14 think there was any lack of clarity on our part about  
15 who was allowed to make submissions and when the  
16 record would be closed.

17 VICE CHAIRPERSON HOOD: But, I would agree  
18 with your -- your statement about the -- we're --  
19 we're not at the point of inclusionary zoning. Well,  
20 I'm definitely willing and able and want to look and  
21 investigate it more. I don't think -- this applicant  
22 at this point in time was just proffering it and --  
23 and he didn't necessarily have to put that even on the  
24 table. So.

25 CHAIRPERSON MITTEN: I'd -- I just would

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1 also remind you too that the applicant reworked their  
2 penthouses in response to concerns that we had raised  
3 which I think has improved the design considerably.

4 COMMISSIONER PARSONS: I'm afraid for some  
5 reason and maybe it was because I didn't look  
6 thoroughly enough, this -- this roof plan, I -- I did  
7 not get a copy of. I don't know if the rest of you  
8 did or not. Help me if you --

9 CHAIRPERSON MITTEN: Okay.

10 COMMISSIONER PARSONS: -- find them.

11 CHAIRPERSON MITTEN: If you look on A-8.  
12 That's not -- that's not a roof plan, but this shows  
13 the elevation.

14 COMMISSIONER PARSONS: This deals with the  
15 penthouse.

16 CHAIRPERSON MITTEN: In A-7. Oh, you mean  
17 you're looking for the -- the --

18 COMMISSIONER PARSONS: The revised roof  
19 plan.

20 CHAIRPERSON MITTEN: Ah.

21 COMMISSIONER PARSONS: Shows a deck.

22 CHAIRPERSON MITTEN: Okay. A-6.

23 COMMISSIONER PARSONS: Oh. I agree with  
24 the Office of Planning that this isn't -- I've seen  
25 quite enough.

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1                   Your recommendation is to extend it to the  
2 west.

3                   CHAIRPERSON MITTEN: Right. That's --

4                   COMMISSIONER PARSONS: Along the deck.  
5 More than doubling its size. Correct?

6                   CHAIRPERSON MITTEN: That's correct.

7                   COMMISSIONER PARSONS: Still -- still 22  
8 feet wide.

9                   CHAIRPERSON MITTEN: That's correct.

10                  COMMISSIONER PARSONS: But, all the way to  
11 the north/south walkway.

12                  MS. BROWN-ROBERTS: Right. Since -- since  
13 our submission to the Zoning Commission, they have  
14 submitted a plan -- they did submit a plan to us that  
15 shows an extension of that area not all the way to the  
16 passage, but they were concerned that -- about how the  
17 roof would be able to support additional persons up  
18 there. So, they did -- they did increase the -- the  
19 roof area, the patio area.

20                  CHAIRPERSON MITTEN: Did you bring that  
21 with you?

22                  MS. BROWN-ROBERTS: I have it right here.

23                  CHAIRPERSON MITTEN: Can you make sure  
24 that Mr. -- well, can we get a copy of that right now?

25                  Because --

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1 MS. BROWN-ROBERTS: Okay.

2 CHAIRPERSON MITTEN: -- if we don't have  
3 it in front of us, then we won't be able to vote on  
4 it.

5 MS. BROWN-ROBERTS: Right. I did  
6 recommend to them to get a copy to you.

7 CHAIRPERSON MITTEN: Okay.

8 VICE CHAIRPERSON HOOD: Madam Chair, while  
9 we're waiting on that, I don't remember seeing any  
10 agreements. I know there's a lot of benefits to them  
11 being put on the minutes. I don't remember seeing.  
12 Don't we normally get agreements?

13 CHAIRPERSON MITTEN: They --

14 VICE CHAIRPERSON HOOD: I know we had a  
15 number of attachments and I might have looked -- over  
16 looked it, but --

17 CHAIRPERSON MITTEN: In -- in attachment  
18 number four which has a red sticker on it.

19 VICE CHAIRPERSON HOOD: Yes. Yes, I see  
20 that. That's --

21 CHAIRPERSON MITTEN: Right.

22 VICE CHAIRPERSON HOOD: -- Garnett-  
23 Patterson.

24 CHAIRPERSON MITTEN: Right.

25 VICE CHAIRPERSON HOOD: The police

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1 department, but I thought normally, we're seeing  
2 agreements between both parties.

3 CHAIRPERSON MITTEN: I think that what we  
4 should do is -- I think we need to reopen the record  
5 between now and the time of the final action to  
6 receive the -- well, we'll just make it subject to  
7 receipt of the written agreements that accept these  
8 proffered donations.

9 MS. BROWN-ROBERTS: Ms. Mitten?

10 CHAIRPERSON MITTEN: Yes.

11 MS. BROWN-ROBERTS: Can you -- you think  
12 that they didn't submit the signed agreement? Because  
13 I think they did in -- at the last hearing.

14 CHAIRPERSON MITTEN: Oh, they did.

15 MS. BROWN-ROBERTS: They did submit a  
16 package.

17 CHAIRPERSON MITTEN: From Garnett-  
18 Patterson and --

19 MS. BROWN-ROBERTS: Yes, it was signed by  
20 the principal and --

21 CHAIRPERSON MITTEN: Oh. Okay.

22 MS. BROWN-ROBERTS: -- it came from  
23 someone from the Boys and Girls Club.

24 CHAIRPERSON MITTEN: Okay. Okay. Great.

25 VICE CHAIRPERSON HOOD: So, this already a

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1 part of the record.

2 CHAIRPERSON MITTEN: We do have that.  
3 Okay.

4 MS. BROWN-ROBERTS: I think it's upon the  
5 record. Yes.

6 VICE CHAIRPERSON HOOD: Okay.

7 CHAIRPERSON MITTEN: Okay. Thank you.  
8 Okay. So, we now have in front of us a revised A-6  
9 which shows a larger roof deck.

10 COMMISSIONER PARSONS: But, that would  
11 only appear to be halfway to where you're recommending  
12 they go.

13 MS. BROWN-ROBERTS: They had an  
14 explanation saying that they had some problems with  
15 the weight on the roof.

16 COMMISSIONER PARSONS: Structurally.

17 MS. BROWN-ROBERTS: Yes, why they weren't  
18 -- they weren't able to extend it as far as we had  
19 recommended.

20 COMMISSIONER PARSONS: So, it's about 22  
21 by 50 I guess. Hum? I'm -- I'm guessing.

22 CHAIRPERSON MITTEN: I would just remind  
23 you that inasmuch as it's an amenity that's being  
24 proffered, we're really not at -- we're only at  
25 liberty to evaluate the amenity as proffered and not

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1 to adjust it.

2 COMMISSIONER PARSONS: So, what we should  
3 do then is refer to A-6 with the date 12/3 on it? The  
4 date is part of a fax machine.

5 CHAIRPERSON MITTEN: It's actually  
6 November 12th of '03.

7 COMMISSIONER PARSONS: Oh, thank you.

8 CHAIRPERSON MITTEN: Yes.

9 COMMISSIONER PARSONS: All right.

10 CHAIRPERSON MITTEN: I -- I don't mean to  
11 rain on your parade, but I just didn't want you to  
12 spend a lot of time.

13 COMMISSIONER PARSONS: Just soaking wet.  
14 The rain has stopped.

15 CHAIRPERSON MITTEN: Okay. I think what  
16 we -- what we need -- I mean I'm satisfied that the --  
17 that what -- that what is being proffered by way of  
18 amenities and commitments are sufficient for the  
19 degree of relief being sought, but I think there's  
20 been representations made that just need to be  
21 incorporated into the conditions regarding the owner-  
22 occupancy presence, the way that the parking spaces  
23 will be sold and managed, and that loading along the  
24 alley will be maximized so as to keep trucks off of  
25 Belmont Street and I think we're going -- we can add

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1 some conditions to reflect those commitments.

2 Those are not new commitments. Those are  
3 just incorporating the commitments that they've made  
4 into the language of the order.

5 Anyone has any additional concerns they  
6 wanted to raise?

7 COMMISSIONER PARSONS: No.

8 VICE CHAIRPERSON HOOD: Madam Chair, you  
9 mentioned the alley and I hope I'm talking about the  
10 right case. I remember it was a turnaround. I think  
11 -- is that what you -- you were going on when you was  
12 talking about the alley? Loading. Loading. Using  
13 the alley, I think to excess.

14 This may not even have been the case. I  
15 believe it was.

16 CHAIRPERSON MITTEN: They have -- let me  
17 find a --

18 VICE CHAIRPERSON HOOD: And I'm trying to  
19 recall it.

20 CHAIRPERSON MITTEN: Site plan.

21 VICE CHAIRPERSON HOOD: I know that was an  
22 issue.

23 They had -- they had a rendering in the --  
24 I thought. No, that's not it.

25 CHAIRPERSON MITTEN: That's not it.

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1 VICE CHAIRPERSON HOOD: That's the color.  
2 I'll withdraw my comment. Maybe it was another case.

3 CHAIRPERSON MITTEN: Okay. Well, I think  
4 -- I think the primary concern was that, you know,  
5 they're asking for relief from the maximum or from the  
6 required size for the loading berth and so, there's  
7 the concern that there will be trucks that couldn't  
8 fit in the loading berth that would use Belmont Street  
9 and -- and they said that, in fact, no, that wouldn't  
10 be the case because most of the trucks would be  
11 relatively small and so, we want a -- we -- we just  
12 want to insure through the conditions at the order  
13 that all trucks that are able to use the berth that  
14 they are proposing would be directed to -- to do so.  
15 That the trucks would use what's being made available.

16 VICE CHAIRPERSON HOOD: I -- I would  
17 agree, Madam Chair. I think this is the case, but I  
18 would agree with you. I'll be happy with that being  
19 in the order.

20 CHAIRPERSON MITTEN: Okay. Well, then I  
21 would move approval of case number 03-04 with those  
22 additional conditions and incorporating the revised  
23 drawing A-6.

24 VICE CHAIRPERSON HOOD: Second.

25 CHAIRPERSON MITTEN: Any further

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1 discussion? All those in favor please say aye.

2 ALL: Aye.

3 CHAIRPERSON MITTEN: Mr. May votes aye by  
4 absentee vote.

5 Ms. Schellin.

6 MS. SCHELLIN: Yes, staff will record the  
7 vote 4-0-1 to approve proposed action in case number  
8 03-04 with the changes discussed. Commissioner Mitten  
9 moving. Commissioner Hood seconding. Commissioner  
10 Parsons in favor. Commissioner May in favor by  
11 absentee ballot and Commissioner Hannaham not present,  
12 not voting.

13 CHAIRPERSON MITTEN: Thank you. And I  
14 just want to state for the record as well that Mr. May  
15 said that he had read the record of the hearing and he  
16 was also in favor of any change that would improve the  
17 roof plan. So. Thank you.

18 Next we're moving to final action case  
19 number 03-10 which is the text amendment for the  
20 public libraries.

21 MR. BASTIDA: Madam Chair, this project  
22 was referred to the National Capital Planning  
23 Commission and they review it and it stated that they  
24 would not have a negative impact on the Federal  
25 interest. The same is true on 03-24 which is Kalorama

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1 D.C. Group.

2 CHAIRPERSON MITTEN: Okay.

3 MR. BASTIDA: Thank you.

4 CHAIRPERSON MITTEN: Thank you. All  
5 right. We have a notice of final rule making that was  
6 published for the public libraries and I myself just  
7 have some editorial changes that need to take place  
8 before we move to the final order, but I don't have  
9 any substantive changes.

10 Does anyone have any substantive changes?

11 VICE CHAIRPERSON HOOD: I have none. No.

12 COMMISSIONER PARSONS: No changes.

13 VICE CHAIRPERSON HOOD: With -- with that  
14 I would approve Zoning Commission case number 03-10  
15 with an substantive changes as noted by the Chair and  
16 with that, I'll move for approval.

17 COMMISSIONER PARSONS: Second.

18 CHAIRPERSON MITTEN: I would just note  
19 that it's not a substantive change, but it just says a  
20 distinction was added to clarify that the -- that the  
21 existing references to library were not references to  
22 public library. So, we've added some text whenever  
23 the word library was used to distinguish it from a  
24 public library.

25 Any discussion? All those in favor please

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1 say aye.

2 ALL: Aye.

3 CHAIRPERSON MITTEN: Mr. May votes aye.  
4 Those opposed would say no. No -- no one said no. No  
5 one said no.

6 Ms. Schellin.

7 MS. SCHELLIN: Yes, staff will record the  
8 vote 4-0-1 to approve case number 03-10 with changes  
9 as discussed. Commissioner Hood making the motion.  
10 Commissioner Parsons seconding. Commissioner Mitten  
11 in favor and Commissioner May also in favor by  
12 absentee ballot. Commissioner Hannaham not present,  
13 not voting.

14 And I -- I would just like to state that  
15 Sherry Glazer from corporation counsel has been  
16 notified to come down for the next case.

17 CHAIRPERSON MITTEN: Okay. Can -- can I  
18 get you to just go back and tell me what the vote was  
19 on 03-04? I didn't get that.

20 MS. SCHELLIN: 4-0-1. Mitten moving.  
21 Hood seconding. Parsons in favor. May in favor by  
22 absentee ballot.

23 CHAIRPERSON MITTEN: Thank you.

24 MS. SCHELLIN: And Hannaham not present.

25 CHAIRPERSON MITTEN: All right. Next is

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1 case number 03-24. This is the Kalorama D.C. Group.

2 If you remember when we took proposed  
3 action, we unfortunately couldn't accept the open-  
4 ended proffer from the ANC or that -- that -- from the  
5 applicant that the ANC would guide the distribution of  
6 the \$90,000 contribution to the community and it looks  
7 like the -- the ANC stepped right up and accelerated  
8 the -- the process for deciding on the projects that  
9 would receive the money and we have an additional  
10 submission that clarifies that the \$90,000 will be  
11 distributed to the Friends of Mitchell Park for -- in  
12 the amount of \$75,000 and the Sheridan Kalorama Call  
13 Box Restoration Committee in the amount of \$15,000.

14 And I think we just need to make sure that  
15 it's clear in the order that the applicant shall  
16 contribute these amounts to these entities for the  
17 specific purposes that are outlined in the November 26  
18 submission by the applicant. So, they are making a  
19 conditional donation. Conditional on it being spent  
20 for the proffered use.

21 And I think that we had fleshed out our  
22 other concerns when we took proposed action.

23 Is there anyone else who has any  
24 additional concerns?

25 Then I would move approval of case number

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1 03-24 with the more detailed information regarding the  
2 donation of the \$90,000.

3 Is there a second?

4 COMMISSIONER PARSONS: Second.

5 CHAIRPERSON MITTEN: All those in favor  
6 please say aye.

7 ALL: Aye.

8 CHAIRPERSON MITTEN: And Mr. May votes aye  
9 and there are no opposed.

10 MS. SCHELLIN: Yes, staff will record the  
11 vote 4-0-1 taking final action in case number 03-24.  
12 Commissioner Mitten moving. Commissioner Parsons  
13 seconding. Commissioner Hood in favor. Commissioner  
14 May in favor by absentee ballot and Commissioner  
15 Hannaham not present, not voting.

16 CHAIRPERSON MITTEN: Thank you. So, for  
17 anyone that's still here that didn't hear in the  
18 beginning, we'll -- we will take up case number 02-30,  
19 the Georgetown Boat House - Map Amendment and Special  
20 Exception and the Georgetown Boat House text amendment  
21 02-31 on this Thursday at a special public meeting at  
22 7:30 p.m. after our -- after our public hearing that  
23 evening.

24 And I guess we now have -- we have time to  
25 go back and pick up the -- the minutes and the Office

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1 of Planning Status Report.

2 So, the minutes. We have the minutes from  
3 November 12th in our packet.

4 VICE CHAIRPERSON HOOD: I will move  
5 approval of any necessary corrections of the minutes  
6 of November 12th.

7 COMMISSIONER PARSONS: Second.

8 CHAIRPERSON MITTEN: Any discussion? All  
9 those in favor please say aye.

10 ALL: Aye.

11 CHAIRPERSON MITTEN: There are no opposed  
12 -- none opposed and Mr. May did not leave an absentee  
13 vote for his.

14 MS. SCHELLIN: Okay. Staff would record  
15 the vote 3-0-2 to approve the November 12th, 2003  
16 meeting minutes with any necessary changes.  
17 Commissioner Hood moving. Commissioner Parsons  
18 seconding. Commissioner Mitten in favor and  
19 Commissioners Hannaham and May not present, not  
20 voting.

21 CHAIRPERSON MITTEN: Thank you. And now,  
22 we can have a leisurely Office of Planning Status  
23 Report. Feel free to take all the time that you need.

24 MS. MCCARTHY: I was going to say oh, no,  
25 you mean I can't just skip through it quickly by

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1 saying in the interest of time? Okay. I still could  
2 do it? Huh.

3 A couple of things of note, the east --  
4 near southeast area map amendment is noted as the  
5 first item on your chart which was we had spoken to  
6 you before about the rezoning for 1333 M Street, S.E.  
7 and the Commission urged us instead of simply doing  
8 that parcel to look at a rezoning of the entire area  
9 which attached to your status report is a memo from  
10 Mr. Lawson.

11 He's done some additional research. It  
12 turns out that some of the property and parcel  
13 ownership in that area is a tad complex.

14 So, we have spoken to the owner of the  
15 property or the -- at least the developer of the  
16 property at 1333 M Street. He is willing to wait  
17 until January although he asks if we could work with  
18 the Commission staff to reserve a hearing date so that  
19 he's not unduly delayed by accommodating us for an  
20 additional month to try to get the -- the rest of the  
21 land in ownership.

22 So, that is -- that is the path we are  
23 pursuing unless the Commission has some additional  
24 guidance or comments that they wanted to make about  
25 that.

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1 CHAIRPERSON MITTEN: No, that's fine.

2 MS. MCCARTHY: With regard to reservation  
3 13, we had indicated to you before we were looking at  
4 a new code based approach for that parcel because of  
5 the difficulty in making the plan that was approved by  
6 the counsel fit within our existing zoning regulations  
7 and we presented that preliminarily to the steering  
8 committee on -- on Friday, got some good feedback, are  
9 presenting it tomorrow night to the ANC along with the  
10 design -- draft design guidelines and our audit  
11 trajectory that we still feel that we can bring that  
12 to the Commission for a set down in January.

13 Perhaps now that the Commission is -- now  
14 that the Commission has moved the date to January 5th,  
15 perhaps not by the January 5th date, but maybe we  
16 could find a -- another date at a hearing that month  
17 that we could still get that in by the January date.

18 The Dorchester apartment -- Dorchester is  
19 a large apartment in -- on the edge of the Reed-Cooke  
20 area and they have come to us with a proposal for an  
21 addition and we will be looking -- there is several  
22 issues yet to be worked out and a considerable amount  
23 of community meeting and discussion that needs to take  
24 place. So, they will be accomplishing all of that and  
25 we are looking to do a set-down report sometime in

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1 February or March.

2 CHAIRPERSON MITTEN: Can I just interrupt  
3 you? Is that on the edge as in it's within or on the  
4 edge being outside?

5 MS. MCCARTHY: It's on -- it is within the  
6 Reed-Cooke special treatment area as defined in the  
7 comprehensive plan, but it is outside of the Reed-  
8 Cooke overlay.

9 CHAIRPERSON MITTEN: Okay. Thank you.

10 MS. MCCARTHY: The two projects on  
11 Wisconsin Avenue, 4800 and 4600, we have -- the Office  
12 of Planning was requested strongly by Council Member  
13 Patterson that we wait for a full 90 days from the  
14 time that the upper Wisconsin plan was released and we  
15 were measuring that from the time it was on our  
16 website which was November 20th. So, there will be at  
17 least a 90-day period which would expire I think  
18 February 18th during which time there will be no set-  
19 down reports for either of those projects and we have  
20 so informed the applicants.

21 And with regard to the second stage of the  
22 Mental Health Hospital at St. Elizabeth's, we expect  
23 to move forward with that as soon as we get the  
24 application from Department of Mental Health, but  
25 we've not received that yet.

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1                   And I think that's -- I think that's  
2 basically it in terms of anything new and exciting.

3                   And I'd be happy to answer any questions  
4 that the Commission might have.

5                   CHAIRPERSON MITTEN:     Okay.     Anyone have  
6 any questions?

7                   The list just keeps getting longer.     But,  
8 that means we're all busy.

9                   COMMISSIONER PARSONS:     Let's -- let's go  
10 to the attached memo if we could where we had asked  
11 you to take a look at the area around case 03-22.

12                  MS. MCCARTHY:     I'm sorry.     Mr. Lawson just  
13 -- just left.

14                  COMMISSIONER PARSONS:     That's okay.

15                  MS. MCCARTHY:     But, I can --

16                  COMMISSIONER PARSONS:     Probably you've  
17 concluded even though you have -- you're not ready to  
18 talk about it until January that the W-2 is the  
19 direction you're going and that -- that, of course,  
20 the applicant had originally come to us with an R5  
21 proposal.     Wasn't it?

22                  MS. MCCARTHY:     Yes.

23                  COMMISSIONER PARSONS:     R5B.

24                  MS. MCCARTHY:     R5B.

25                  COMMISSIONER PARSONS:     So --

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1 MS. MCCARTHY: Rich wasn't really --

2 COMMISSIONER PARSONS: Right.

3 MS. MCCARTHY: As I recall, that zoning  
4 category wasn't really in anyplace adjacent to the  
5 area. So, that was one reason why we were looking for  
6 something --

7 COMMISSIONER PARSONS: Right.

8 MS. MCCARTHY: -- like CR.

9 COMMISSIONER PARSONS: Well, assume a W-2  
10 seems better than W-3. I'm glad that's where you're  
11 leaning and -- and you're talking about properties --  
12 other private properties adjacent up against the  
13 railroad.

14 MS. MCCARTHY: Yes.

15 COMMISSIONER PARSONS: The railroad or the  
16 freeway.

17 MS. MCCARTHY: Yes, this -- there was some  
18 land that appears to be owned by CSX. A long skinny  
19 piece surrounded by, I believe, National Park Service  
20 land and then the Maritime Plaza --

21 COMMISSIONER PARSONS: Yes.

22 MS. MCCARTHY: -- as well.

23 COMMISSIONER PARSONS: All right. Well,  
24 we'll talk about that in January. Good.

25 CHAIRPERSON MITTEN: Okay. Anyone else

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1 have questions?

2 MS. MCCARTHY: I believe we were  
3 discouraged by the National Park Service from putting  
4 any zoning on land that is owned by the National Park  
5 Service. So, we've just been pursuing private land.

6 COMMISSIONER PARSONS: Yes, we tend to  
7 have a weird opinion about that.

8 MS. MCCARTHY: Yes.

9 CHAIRPERSON MITTEN: Is there anything  
10 else, Mr. Bastida?

11 MR. BASTIDA: Madam Chairman, the staff  
12 has no other matters. The calendar speaks for itself.

13 CHAIRPERSON MITTEN: Okay. Thank you.

14 MR. BASTIDA: And thank you.

15 CHAIRPERSON MITTEN: I just would remind  
16 folks that our next meeting will be January 5th at  
17 6:30 p.m. That's our January public meeting and this  
18 meeting is now adjourned. Thank you.

19 (Whereupon, the meeting was concluded at  
20 3:24 p.m.)

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