

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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REGULAR MEETING

1165th MEETING SESSION (9th OF 2004)

+ + + + +

MONDAY,
JUNE 14, 2004

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The Regular Meeting of the District of Columbia Zoning Commission convened at 6:30 p.m. in the Office of Zoning Hearing Room 220 South at 441 4th Street, N.W., Washington, D.C., Carol J. Mitten, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

CAROL J. MITTEN	Chairperson
ANTHONY J. HOOD	Vice Chairperson
KEVIN L. HILDEBRAND	Commissioner
JOHN G. PARSONS	Commissioner
	(National Park Service)

OFFICE OF ZONING STAFF PRESENT:

Alberto P. Bastida	Secretary, ZC
Sharon Schellin	Zoning Specialist

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OFFICE OF PLANNING STAFF PRESENT:

Ellen McCarthy Deputy Director,
Arthur Jackson Office of Planning
Jennifer Steingasser Office of Planning

D.C. OFFICE OF CORPORATION COUNSEL:

Alan Bergstein, Esq.

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P R O C E E D I N G S

6:38 p.m.

CHAIRPERSON MITTEN: Good evening ladies and gentlemen. This is the June Public Meeting of the Zoning Commission of the District of Columbia. And today is June 14th, 2004.

My name is Carol Mitten. And joining me this evening are Vice Chairman Anthony Hood and Commissioners Kevin Hildebrand and John Parsons.

Commissioner Jeffries won't be joining us this evening.

I would just like to remind everyone present that we are being recorded by a court reporter but we're also being web-cast live so just take that into consideration in the way that you comport yourself in the hearing room.

And if you would like a copy of our agenda for today, it's in the wall bin near the door.

I am going to begin, unless Mr. Bastida has any preliminary matters, by rearranging a few things on the agenda.

MR. BASTIDA: The staff has no preliminary matters.

CHAIRPERSON MITTEN: All right. Thank you.

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1 We will just -- under final action, the
2 second case 02-26 will then -- will just be taken up
3 as the third case. So we'll do the Watergate Hotel,
4 W-0 Zone District. And then the Wellness Center will
5 be the third.

6 And under dismissal of cases, we'll only
7 take up Case No. 00-01 and 01-19C. The three other
8 cases will be considered at a future date.

9 And with that, I think we're ready to move
10 to the monthly status report from the Office of
11 Planning.

12 MS. STEINGASSER: Good evening Madam Chair
13 and Commissioners.

14 Our status report I put in front of you.
15 There are several new cases that have been filed that
16 we hope to bring to you in July. Most of them are
17 PUDs, Stage 2 for Florida Rock and Riverside will be
18 returning. And we also hope to bring forward the
19 Mount Vernon Overlay.

20 There's really not much else new on the
21 status report unless the Commissioners have some
22 questions.

23 CHAIRPERSON MITTEN: Okay, anyone have any
24 questions for Ms. Steingasser?

25 VICE CHAIRPERSON HOOD: Yes, Madam Chair.

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1 Ms. Steingasser or Ms. McCarthy or whomever wishes to
2 take this on.

3 I'm just noticing that we're starting to
4 have a number of cases which are asking us, I guess,
5 to go from industrial use and N-zones to residential
6 zones.

7 And I'm concerned about that because a
8 city needs it right. And I want to make sure the
9 Office of Planning, which I'm sure that you already
10 are doing this but, you know, all one concentration
11 with overflux to be in one particular ward, I think it
12 needs to be across the board.

13 So I don't know if you're looking into
14 that.

15 And I also note that you have a proposal
16 coming forward, a roundtable that we're supposed to be
17 having. First of all, when is the roundtable?

18 MS. STEINGASSER: On the industrial?

19 VICE CHAIRPERSON HOOD: Yes, on the
20 industrial.

21 MS. STEINGASSER: I would have to refer to
22 the Office of Zoning on that. I believe they have
23 scheduled it tentatively for September.

24 VICE CHAIRPERSON HOOD: September, okay,
25 okay. I'll go with that.

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1 CHAIRPERSON MITTEN: Can we just clarify
2 what's the subject of that roundtable?

3 VICE CHAIRPERSON HOOD: Go ahead.

4 MS. STEINGASSER: The one I'm referring to
5 is an extension of certain CBRF uses into the
6 industrial zones, CM zones.

7 CHAIRPERSON MITTEN: Okay.

8 VICE CHAIRPERSON HOOD: Yes, sorry about
9 that, Madam Chair. But I just see industrial uses --
10 us taking a lot of the industrial uses and M zones to
11 residential zones.

12 And then we're turning around and try to
13 put residential uses in the M zones. And I'm just
14 wondering where we're going here. I don't want us to
15 have a train wreck.

16 MS. STEINGASSER: I agree with your
17 concerns. The Office of Planning has been approached
18 over the last couple of months for several
19 residential projects in industrial zones. There's one
20 before you tonight, which is the Fort Totten.

21 That's covered by an overlay that actually
22 addresses the conversion of underused industrial zones
23 to residential. So it's a little bit more in keeping.

24 We've been approached by others that are
25 clearly in the middle of industrial zones. We've got

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1 an RFP out that is requesting a study of our
2 industrial land base so that we can get a better
3 understanding of the larger industrial questions of
4 what do we need.

5 Washington is obviously not an industrial
6 city so we have very limited industrial areas. And
7 how do we want to treat those in the future.

8 So we do hope in the next year to have a
9 land use analysis of those areas that have not already
10 been studied as industrial.

11 VICE CHAIRPERSON HOOD: Okay. All right.

12 CHAIRPERSON MITTEN: I'm sorry. When do
13 you think that the work will be completed by whoever
14 you will select to award that RFP to? Because, you
15 know, this conversation has been going on for most of
16 the time I've been on the Commission, which is a
17 number of years now.

18 And, you know, we've gradually been
19 rezoning industrial land throughout these years
20 without that background information.

21 MS. STEINGASSER: I don't know.

22 MS. MCCARTHY: I mean based on the
23 Commission's previously expressed concerns, we have
24 been very interested in doing an analysis of
25 industrial zones. The RFP was drafted. It's been

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1 submitted to the Office of Contracts and Procurement
2 to advertise and to procure those services.

3 And as you may be aware, that's not always
4 a predictable or a speedy process. So we're trying to
5 move ahead as quickly as we can to get that out on the
6 street, get the responses back, and get a consultant
7 underway.

8 But I can't tell you for sure what the
9 holdup seems to be at this point in time. It actually
10 was sent in a good three months ago.

11 COMMISSIONER HILDEBRAND: Would it be
12 possible to be in contact with them and get us an
13 update for the next hearing or meeting?

14 MS. MCCARTHY: We would be happy to do
15 that.

16 VICE CHAIRPERSON HOOD: I tell you why I
17 asked that, Madam Chair, I'm very concerned. While I
18 appreciate some of the projects and agree with some of
19 them, I'm very concerned about one side of this city
20 being influxed with the M zones and the uses that
21 nobody else wants. And I think it should be across
22 the board.

23 And I just hope that as we're planning and
24 looking at that, that that is something that is taken
25 into consideration.

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1 CHAIRPERSON MITTEN: Well, and I think
2 your point is well taken. I mean we'll -- there's a
3 case before us for set down today that would rezone
4 some industrial land Thursday night. That's the
5 subject of Thursday night's hearing.

6 And as we entertain these rezonings in
7 areas of the City that maybe where there's pockets
8 that exist, then it puts more pressure on those areas
9 where there is a higher concentration, which I know is
10 Ward 5. So there's actually, you know, greater
11 intensity of use targeted for what remains.

12 So I completely sympathize with the point
13 you're making and I would just urge the Office of
14 Planning, if there's anything that we can do to help
15 move the process along, let us know.

16 MS. McCARTHY: Thank you, Madam Chair.

17 CHAIRPERSON MITTEN: Any other questions?

18 (No response.)

19 CHAIRPERSON MITTEN: All right. Thank
20 you.

21 Then we're ready to move to the item that
22 is proposed on our consent calendar, which is Case No.
23 04-17/02-43/00-02, which is a proposed minor
24 modification to the MedStar Planned Unit Development.

25 Mr. Bastida?

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1 MR. BASTIDA: Madam Chairman, the staff
2 has provided you all the information that it required
3 from the consent calendar. And requests that you be
4 kind enough to make a decision on this matter.

5 CHAIRPERSON MITTEN: Thank you.

6 First let me ask, Mr. Bastida, was it
7 submitted as is required under the regulations, a memo
8 to us recommending that this be on the consent
9 calendar? And unless there's any objection from a
10 Commissioner, it will stay on the consent calendar.
11 Is there any objection?

12 (No response.)

13 CHAIRPERSON MITTEN: All right. Then
14 let's move to the merits of it.

15 The proposal is to allow construction of
16 an electrical switching facility that was not called
17 out separately when we took that MedStar PUD up. But
18 then would eventually be sort of incorporated into new
19 construction that we did contemplate through the PUD
20 that was approved.

21 So is there any questions or discuss?

22 VICE CHAIRPERSON HOOD: Madam Chair, I
23 think this falls definitely in line with being on the
24 consent calendar and also minor modification. So,
25 therefore, I would move Zoning Commission case for

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1 minor modification 04-17/02-43/00-02, the MedStar PUD.

2 COMMISSIONER PARSONS: Second.

3 CHAIRPERSON MITTEN: Any discussion?

4 (No response.)

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

7 (Chorus of ayes.)

8 None opposed, Ms. Schellin.

9 MS. SCHELLIN: The staff would record the
10 vote four to zero to one to approve Case No. 04-17,
11 Commissioner Hood moving, Commissioner Parsons
12 seconding. Commissioners Mitten and Hildebrand in
13 favor. Commissioner Jeffries not present, not voting.

14 CHAIRPERSON MITTEN: Thank you.

15 Next we'll take the first case up under
16 hearing action, which is Case No. 04-11, which is
17 Rocky Gorge at Fort Totten.

18 And we'll turn to the Office of Planning.

19 Is it Mr. Jackson?

20 MR. JACKSON: Madam Chair and members of
21 the Commission, my name is Arthur Jackson with the
22 D.C. Office of Planning. And I'm going to briefly
23 summarize the report that you have before you
24 concerning the proposed planned unit development.

25 Subject property totals nearly six acres

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1 and was formerly occupied by a cement plant. The
2 eastern end is zoned R2, a 150-foot swath immediately
3 west of that is zoned CM1. And the balance of the
4 property is zone M1 zoned district.

5 Both industrial zones also fall under the
6 Fort Totten Overlay zone.

7 The applicant plans to construct 75 one-
8 family detached dwellings however residential uses are
9 not allowed in the M and CM1 zoned districts.

10 The Fort Totten Overlay District only
11 encourages residential development as allowed under
12 underlying CR and C3 M zoned districts. Therefore,
13 the proposed land use requires a zoning change.

14 The generalized land use map also
15 designates most of the property as medium density
16 commercial and technical employment land uses.
17 However, this site is also within the Fort Totten
18 metro rail development opportunity area.

19 Section 1122 of the Comprehensive Plan
20 states that these opportunity areas should be used, in
21 part, to develop surplus or model unused industrial
22 land for medium density residential and commercial
23 mixed uses, protect and preserve existing low scale
24 residences in the vicinity, and create a mini-in-town
25 community.

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1 So although the current zoning would
2 restrict residential development, the Comprehensive
3 Plan supports converting unused industrial land for
4 residential uses.

5 Based on differences between what was
6 proposed and allowed, the applicant submitted the
7 subject PUD and related plan map amendment to rezone
8 the entire site from -- to R4 district.

9 The R4 zoning district allows attached
10 dwellings and the proposed 18 to 20 feet wide and
11 areas in excess of 1,800 square feet.

12 Overall this proposal appears consistent
13 with the R4 zone district requirements, except for
14 some setback issues. This modern density zoned
15 district is also consistent with the Comprehensive
16 Plan goals cited for metro rail station special
17 treatment areas under Section 1122 of the
18 Comprehensive Plan.

19 The primary public benefits and amenities
20 associated with the PUD include housing, urban design,
21 landscaping, efficiency and economical use of land,
22 and effective and safe vehicular and pedestrian
23 access.

24 With regard to transportation, the
25 applicant proposes to improve the existing pedestrian

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1 trail across Fort Totten Park from 6th Street, N.E.
2 and a traffic study prepared for the applicant
3 concluded that the proposed PUD would not have a
4 significant impact on the study area traffic
5 congestion.

6 The proposal also furthers other
7 Comprehensive Plan themes by eliminating the
8 possibility of future industrial uses similar to the
9 previous ones that the community complains have had
10 negative impacts in terms of noise and traffic.

11 Converting underutilized industrial land
12 into new residential development, respecting adjacent
13 neighborhoods through dwelling unit designs of similar
14 height and scale and providing a significant private
15 sector investment in residential development near
16 Metro Station development area that is outside of the
17 central employment area.

18 The applicant held several meetings with
19 representatives with ANC 5A, most recently one on
20 March 16th, 2004. The ANC has requested additional
21 information.

22 Based on this information, the Office of
23 Planning recommends that the Zoning Commission
24 schedule this PUD for public hearing, knowing that the
25 following issues need to be addressed in greater

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1 detail.

2 We'd like to see clarification about the
3 amount of zoning relief that will be required, address
4 any issues that are raised by the Advisory
5 Neighborhood Commission, and refine the package of
6 amenities and benefits, particularly with regard to
7 the vision of affordable housing units.

8 That concludes the summary of the Office
9 of Planning report. And we are available to answer
10 questions.

11 CHAIRPERSON MITTEN: Thank you, Mr.
12 Jackson. Any questions for Mr. Jackson?

13 VICE CHAIRPERSON HOOD: I don't have any
14 questions, Madam Chair. I just want to make some
15 statements. I will be voting in support of setting
16 this down for hearing. But I just wanted to make a
17 few statements.

18 Mr. Jackson -- and actually if the
19 applicant is concerned about the railroad, the houses,
20 the proximity of the houses and the railroad tracks,
21 while I used to play on those railroad tracks when I
22 was a kid, I'm looking here at the rendering. And I
23 know that's pretty close. So that's something I'll be
24 looking at and asking when it comes down -- if it's
25 set down for hearing.

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1 Another thing is when I looked at the
2 amenities, and I'm just saying this so people will
3 take note, we do a lot of other projects in this city.

4 And it just looks like the amenities in this
5 particular case fall short. And I'll leave it at
6 that.

7 And I'll wait to see what comes down. And
8 -- well, let me just expound a little more. As far as
9 the ANC is concerned, it looks like it's not the same
10 type of discussion that's going on here. And I'm not
11 championing anybody's cause.

12 But I'm just saying I'm just looking at
13 what I see all over the city. And it looks like it's
14 a little different in the scale of amenities for this
15 PUD project. So maybe we'll want to look at that.

16 And I'm also concerned about the traffic
17 pattern. It looks like there's only one or two ways
18 out. And one is a private drive.

19 But those are some of the things that I
20 will be asking at the hearing. Other than that, I
21 guess everything else, if it's set down, I'll just ask
22 at the hearing.

23 Thank you, Madam Chair.

24 CHAIRPERSON MITTEN: Thank you, Mr. Hood.

25 Anyone else? Questions? Comments?

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1 (No response.)

2 CHAIRPERSON MITTEN: I would just want to
3 reiterate the concern that was discussed when we were
4 talking about the status report.

5 And I'm trying to keep an open mind about
6 this but I mean we have to ask ourselves when we're
7 sort of allowing this use to literally be inserted
8 between some industrially zoned properties, what kind
9 of expectations are we establishing for the balance of
10 the land around the Fort Totten Metro Station?

11 What kind of expectations are we
12 establishing for the people that would move into this
13 development, if it occurs?

14 And it just -- I find it very frustrating
15 that we're being asked to take this up without having
16 the benefit of, you know, the sort of larger
17 discussion being developed about where industrial
18 zones are appropriate.

19 So I just wanted to share that concern,
20 which will, I'm sure, play itself out as we move to a
21 hearing.

22 Anyone else?

23 (No response.)

24 CHAIRPERSON MITTEN: All right then. It's
25 been recommended that we set down Case No. 04-11 for

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1 public hearing. And I would so move.

2 VICE CHAIRPERSON HOOD: Second.

3 CHAIRPERSON MITTEN: Any further
4 discussion?

5 (No response.)

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

8 (Chorus of ayes.)

9 CHAIRPERSON MITTEN: None opposed. Mrs.
10 Schellin?

11 MS. SCHELLIN: Staff will record the vote
12 five to zero to zero to set down Case No. 04-11.
13 Commissioner Mitten moving. Commissioner Hood
14 seconding. Commissioners Hildebrand and Hood in
15 favor. Commissioner Jeffries in favor by absentee
16 ballot.

17 And just to confirm, this will be a
18 contested case.

19 CHAIRPERSON MITTEN: Thank you.

20 Next is Case No. 04-16, which is the
21 Takoma Neighborhood Commercial Overlay. Is that Mr.
22 Jackson again? We're keeping you busy tonight.

23 MR. JACKSON: Yes, Madam Chair, and
24 members of the Commission. Again, it's Arthur
25 Jackson, D.C. Office of Planning. And I'll briefly

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1 summarize the report before you concerning the
2 proposed Takoma Overlay amendment.

3 The proposed text amendment and map
4 amendments advance objectives identified in the
5 Implementation Summary of the Takoma Central District
6 Plan.

7 The Comprehensive Plan generalized land
8 use map designates the Central District of Takoma for
9 a mixture of low-density residential and low-density
10 commercial development.

11 The adopted Central District map offers
12 additional recommendations for a mixture of land uses
13 including single-family housing, garden apartments and
14 townhouses, mixed use retail, office, and residential,
15 and institutional office and open space uses.

16 This proposal, which is the second
17 implementation action recommended to the Zoning
18 Commission under the Central District Plan would
19 designate the properties along the central arteries in
20 the district for neighborhood ground serving retail --
21 I'm sorry, for ground floor retail that this
22 neighborhood is serving, would limit office-type uses
23 that would not add to the vitality of the district,
24 require a ground floor height sufficient to
25 accommodate designated neighborhood serving uses,

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1 limit restaurant uses, and prohibit drive-through
2 accessory uses, limit additional curb cuts that could
3 further disrupt the potential continuity of future
4 retail store fronts, and require new construction on
5 the individualized setback where rights-of-way are
6 insufficient to accommodate a 13-foot wide area of
7 pedestrian circulation outside the adjacent curb line.

8 Over time, this proposal will improve
9 changes for successful mixed-used development by
10 requiring a minimum ceiling height for ground floor
11 uses, increasing allowable building height so that the
12 residential potential of individual lots is not
13 reduced.

14 It would also increase the potential space
15 available for roadside commercial activity and
16 pedestrian circulation within the central district.

17 Contractors for the Department of
18 Transportation prepared a traffic study that provided
19 the basis for many of the transportation
20 recommendations in the Takoma plan.

21 The Department of Transportation
22 representatives have also been notified about the
23 proposed amendments and will be kept abreast of any
24 modifications.

25 Staff presented this proposal to the

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1 planned Takoma organization where interest was
2 expressed in reviewing the overall list of land uses
3 allowed within neighborhood commercial overlay
4 districts.

5 No issues were raised during a
6 presentation to area property owners, however. On
7 this basis, the Office of Planning would continue to
8 work with the community to address any issues raised.

9 We, therefore, recommend the Zoning
10 Commission schedule this proposal for a public hearing
11 that includes a proposed text amendment to create a
12 new neighborhood commercial overlay for a portion of
13 the Takoma Central District and a proposed map
14 amendment to map the overlay on specific lots and
15 squares within the C2A zoning district.

16 I would also note, Madam Chair, that the
17 Office of Planning submitted a supplemental report
18 today which essentially addresses some issues that
19 were raised by the Office of Corporation Counsel with
20 regard to the wording of the proposed amendment.

21 The report is before you. And I would
22 just highlight that we're essentially just changing
23 the wording of Section -- proposed Section 1310.2A to
24 say encourage outdoor commercial activity and
25 pedestrian circulation adjacent to referenced public

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1 rights-of-way.

2 And proposed Section 1310.5 to state that
3 the street wall of each building or addition to an
4 existing building within the district along Blair
5 Road, Cedar Street, and Carroll Street, N.W., shall be
6 set back for its entire height and frontage not less
7 than 13 feet measured from the adjacent curb line.

8 With that, that concludes the Office of
9 Planning's summary. And we are available for
10 questions.

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

13 Any questions or comments for Mr. Jackson?

14 (No response.)

15 CHAIRPERSON MITTEN: I have a question
16 about what's intended by 1310.7. Is it the intent
17 that it would be the portion of the property that's
18 within the district that is limited to a 55-foot
19 height? Or is it if the property -- any part of the
20 property is within the district that the entire
21 property is limited to being developed to a height of
22 55 feet?

23 MR. JACKSON: It's the intent of the
24 portion of the property within the district.

25 CHAIRPERSON MITTEN: Okay. I think that

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1 probably needs a little clarification, too. And I
2 would suggest that we need to give Office of Planning
3 some flexibility to continue to work with the Office
4 of the Attorney General to refine the language for
5 advertisement.

6 Anyone else?

7 (No response.)

8 CHAIRPERSON MITTEN: All right. Then we
9 have a recommendation to set down Case No. 04-16 for
10 public hearing. And I would so move. Is there a
11 second? Anybody?

12 COMMISSIONER PARSONS: I'll second.

13 CHAIRPERSON MITTEN: Okay, we've got Mr.
14 Parsons.

15 Any discussion?

16 (No response.)

17 CHAIRPERSON MITTEN: All those in favor,
18 please say aye.

19 (Chorus of ayes.)

20 CHAIRPERSON MITTEN: None opposed. Ms.
21 Schellin?

22 MS. SCHELLIN: Yes, staff will record the
23 vote as five to zero to zero to set down Case No. 04-
24 16. Commissioner Mitten moving. Commissioner Parsons
25 seconding. Commissioners Hildebrand and Hood in

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1 favor. Commissioner Jeffries in favor by absentee
2 ballot. And this will be a rulemaking case.

3 CHAIRPERSON MITTEN: Yes, thank you.

4 All right. The first case under final
5 action is. And they did that in actually two
6 submissions.

7 And I would ask if there is a motion to
8 reopen the record to accept their submission?

9 (No response.)

10 CHAIRPERSON MITTEN: Or I will move to
11 reopen the record to accept their submissions.

12 VICE CHAIRPERSON HOOD: Is this one from
13 the Watergate East?

14 CHAIRPERSON MITTEN: Watergate East,
15 right.

16 VICE CHAIRPERSON HOOD: I'll second that.

17 CHAIRPERSON MITTEN: Any discussion?

18 (No response.)

19 CHAIRPERSON MITTEN: All those in favor of
20 reopening the record please say aye.

21 (Chorus of ayes.)

22 MS. SCHELLIN: Staff will record the vote
23 four to zero to one to reopen the record in Case No.
24 03-16 to accept the filings mentioned. Commissioner
25 Mitten moving. Commissioner Hood seconding.

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1 Commissioners Parsons and Hildebrand in favor.
2 Commissioner Jeffries not present, not voting.

3 CHAIRPERSON MITTEN: Okay. Thank you.

4 Now we have the proposed order before us.

5 And among the things included in the proposed order
6 that I would just want to call out are the fact that
7 if approved as written, the order would require that a
8 covenant be recorded.

9 And if you recall, there was no -- because
10 of the time at which the original PUD was approved,
11 there was no requirement to record a covenant but
12 inasmuch as this modification has been processed as a
13 second stage application, there would be the
14 requirement to record a covenant. And that's what has
15 been included in the order.

16 So is there any discussion about the
17 order? Any comments on the order? Mr. Hildebrand?

18 COMMISSIONER HILDEBRAND: Madam Chairman,
19 in looking through the PUD modifications, I know they
20 mentioned very specifically certain things that were
21 included in the documents that were changes to the
22 existing building, the rooftop additions, the stair
23 towers.

24 There are several things that they left
25 out, however. The changes to the window wall at the

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1 balconies where they're taking out induction units and
2 putting in new continuous material to make the facade
3 whole.

4 And also there are certain landscape
5 walls, I think, at the ground plane that aren't part
6 of the carport that possibly should be mentioned and
7 documented somewhere in the language of the order.

8 CHAIRPERSON MITTEN: Okay. We can add
9 that if you want to be explicit. In Condition No. 2
10 on page 26, it says that the conversion should be
11 accomplished substantially in accordance with the
12 plans and computations dated February 17, 2004.

13 We have to, I guess, verify that on
14 Exhibit 55, that it reflects those items that you just
15 mentioned. But I think that's something we could
16 refine as an editorial change.

17 I agree with you that we would want, you
18 know, whatever had been proposed and discussed at the
19 public hearing to be what would be executed.

20 COMMISSIONER HILDEBRAND: Yes, I think
21 where I noted that it seemed to be missing was in Item
22 30 under the PUD modification discussions on page 6.

23 CHAIRPERSON MITTEN: Yes, yes.

24 Did you have any specific language
25 prepared today?

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1 COMMISSIONER HILDEBRAND: No, I just was
2 going to suggest that perhaps we ask that that
3 language be addressed and --

4 CHAIRPERSON MITTEN: Yes.

5 COMMISSIONER HILDEBRAND: -- amended to
6 that item.

7 CHAIRPERSON MITTEN: And I have a number
8 of editorial changes to suggest also. But I would
9 support an addition to the effect of what you had
10 suggested.

11 COMMISSIONER HILDEBRAND: The other
12 question, and this might just be a question of my
13 memory, in Item 27, is it that they're actually
14 providing the health club and restaurant or are they
15 providing just the space for --

16 CHAIRPERSON MITTEN: I believe --

17 COMMISSIONER HILDEBRAND: -- so the
18 building would continue to contain a restaurant and
19 health club. Or would it just be -- would it continue
20 to have space for a restaurant and health club?

21 CHAIRPERSON MITTEN: They -- and anyone
22 else can jump in, according to the condition, which is
23 consistent with my recollection, that Condition No. 4
24 says that they'll designate space on the B1 level for
25 the restaurant. And then Condition No. 5 is that the

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1 health club, which would be on the B3 level, would be
2 -- they would provide the equipment and so on.

3 COMMISSIONER HILDEBRAND: Okay.

4 CHAIRPERSON MITTEN: But then it would be
5 up to the -- it would be up to the folks that would
6 become the cooperative owners to determine how those
7 two facilities would be operated.

8 COMMISSIONER HILDEBRAND: Excellent. That
9 was my memory as well.

10 VICE CHAIRPERSON HOOD: Also, Madam Chair,
11 I was wondering if anyone can point me to the
12 direction of where it speaks to the affordable
13 housing.

14 CHAIRPERSON MITTEN: It discusses it at
15 one point but there is a condition.

16 PARTICIPANT: No. 7.

17 VICE CHAIRPERSON HOOD: No. 7? Okay.

18 PARTICIPANT: No. 7 on page 26.

19 VICE CHAIRPERSON HOOD: Okay, 27 on mine.
20 Okay.

21 Again this is my issue, I think that
22 affordable housing that we usually do is onsite. And
23 I have a problem with this being offsite. And I will
24 be voting against this.

25 CHAIRPERSON MITTEN: Okay.

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1 COMMISSIONER PARSONS: Madam Chair, I want
2 to go back to the previous discussion you had about
3 No. 30, which is a finding. Were you quarreling with
4 the word significant in the first sentence? Or were
5 you just saying that this isn't as descriptive as it
6 should be?

7 COMMISSIONER HILDEBRAND: I guess in
8 various places I noted that specific changes were
9 itemized. And I thought that both of these were
10 fairly significant changes and that they should be
11 included as well.

12 COMMISSIONER PARSONS: But you're not
13 asking that the word significant be taken out of the
14 first sentence?

15 COMMISSIONER HILDEBRAND: No.

16 COMMISSIONER PARSONS: Oh, okay. Thank
17 you.

18 CHAIRPERSON MITTEN: Anyone else?

19 MR. BASTIDA: Madam Chairman, before you
20 take a vote, I would like to put on the record that
21 this proposal was referred to the National Capital
22 Planning Commission and the National Capital Planning
23 Commission has determined that there is not any
24 adverse -- it doesn't adversely effect the federal
25 interest.

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1 Thank you.

2 CHAIRPERSON MITTEN: Thank you.

3 COMMISSIONER PARSONS: Madame Chairman, I
4 vote -- I vote -- I move --

5 CHAIRPERSON MITTEN: We'll get there.

6 COMMISSIONER PARSONS: -- that we take
7 final action to approve this application, as we've
8 amended the draft order here tonight.

9 CHAIRPERSON MITTEN: I now second that.

10 Any further discussion?

11 (No response.)

12 CHAIRPERSON MITTEN: All those in favor,
13 please say aye.

14 (Chorus of ayes.)

15 CHAIRPERSON MITTEN: None opposed. Ms.
16 Schellin.

17 VICE CHAIRPERSON HOOD: Opposed.

18 CHAIRPERSON MITTEN: Oh, I'm sorry. I'm
19 sorry. I'm sorry. I usually ask for that.

20 Okay, all those opposed, please say no.

21 VICE CHAIRPERSON HOOD: Opposed.

22 CHAIRPERSON MITTEN: Now, Ms. Schellin, we
23 do have someone opposed.

24 MS. SCHELLIN: Yes, staff would record the
25 vote three to one to one to approve the order, as

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1 amended, in Case No. 03-16. Commissioner Parsons
2 moving. Commissioner Mitten seconding. Commissioner
3 Hildebrand in favor. Commissioner Hood opposed. And
4 Commissioner Jeffries not present, not voting.

5 CHAIRPERSON MITTEN: Thank you.

6 Next we'll take up Case No. 02-42, which
7 is the technical corrections to the order for the
8 Waterfront Open Space District.

9 Mr. Bastida?

10 MR. BASTIDA: Madam Chairman, the Office
11 of Planning have received two requests to open the
12 record and admit into the record --

13 CHAIRPERSON MITTEN: I think you're not on
14 the right case.

15 MR. BASTIDA: Oh, I'm sorry. I was
16 distracted. Oh, I'm sorry.

17 These are some old cases that have been
18 lingering and we have issued --

19 CHAIRPERSON MITTEN: No, you're still not
20 with us. Final action --

21 MR. BASTIDA: Oh, I'm sorry. There were
22 some technical issues, Madam Chairman, that required
23 to renumber the subsections that were used. They were
24 using -- the same numbers were used for the W-0 and
25 the police department.

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1 And the language has not changed. The
2 only revision is the change of the subsection number.

3 So there is not any conflict between the two order.

4 We proceeded in this fashion in order to
5 have a complete new order for the W-0. In that way,
6 we didn?t have to issue an errata sheet that then it
7 will be cumbersome for people to follow. And we
8 decided to go this route because it would be simpler
9 and more expeditious for the general public using the
10 order.

11 Thank you.

12 CHAIRPERSON MITTEN: Okay. Thank you.

13 Are there any questions, motions?

14 (No response.)

15 CHAIRPERSON MITTEN: All right. Then I?ll
16 move approval of the corrected order for Case No. 02-
17 42.

18 VICE CHAIRPERSON HOOD: I?ll second.

19 CHAIRPERSON MITTEN: Any discussion?

20 (No response.)

21 CHAIRPERSON MITTEN: All those in favor,
22 please say aye.

23 (Chorus of ayes.)

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

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1 We have none opposed this time.

2 MS. SCHELLIN: Staff will record the vote
3 four to zero to one to make the technical changes in
4 Case No. 02-42. Commissioner Mitten moving.
5 Commissioner Hood seconding. Commissioners Hildebrand
6 and Parsons in favor. Commissioner Jeffries not
7 present, not voting.

8 CHAIRPERSON MITTEN: Thank you.

9 Then the last case under final action is
10 Case No. 02-26, which is the Wellness Center at George
11 Washington University.

12 Now, Mr. Bastida, you can go back to where
13 you left off a minute ago.

14 MR. BASTIDA: Thank you, Madam Chairman.

15 The Office of Zoning has received two
16 letters requesting the reopening of the record both
17 from the law firm of Thompson, Darnell, Markham,
18 Norton & Hannan referring to Mr. Kruser's desire to
19 have participated and pointing some procedural matters
20 that he was not notified of the proceedings.

21 The Office of Zoning has determined that
22 Mr. Kruser's property is not within a 200-foot radius
23 and requests from the Commission to see how you want
24 to proceed on this matter. If you want to open the
25 record or not.

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1 COMMISSIONER PARSONS: Madam Chair, I'd
2 just like to note that I didn't participate in this
3 case and I'm going to be leaving you for the evening.

4 CHAIRPERSON MITTEN: Okay. Well --

5 COMMISSIONER PARSONS: Thank-you.

6 CHAIRPERSON MITTEN: -- drive safely.

7 COMMISSIONER PARSONS: Thank you.

8 CHAIRPERSON MITTEN: Mr. Bastida, just to
9 be clear. You said you have two requests. And
10 they're both from Dr. Kruser's attorney?

11 MR. BASTIDA: Correct. One is --

12 CHAIRPERSON MITTEN: Would you turn on
13 your mic? Would you turn on your mic?

14 MR. BASTIDA: Oh, sorry.

15 One is dated June the 8th and one is dated
16 June 14.

17 CHAIRPERSON MITTEN: Okay.

18 MR. BASTIDA: They're from the same law
19 firm.

20 CHAIRPERSON MITTEN: Okay. I just want to
21 note that we also have a request from the ANC to waive
22 the rule to allow the late submission of their
23 findings of fact and conclusions of law. I just want
24 to be --

25 MR. BASTIDA: Yes, you are correct. I was

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1 going to do it in two separate motions.

2 CHAIRPERSON MITTEN: Okay.

3 MR. BASTIDA: But it is easier and more
4 expeditious to do it all in one.

5 CHAIRPERSON MITTEN: Well, I just wanted
6 to make sure everyone understood we had multiple
7 requests.

8 MR. BASTIDA: Right.

9 CHAIRPERSON MITTEN: All right. So to the
10 issue of Dr. Kruser's request to reopen the record,
11 Mr. Bastida has noted that Dr. Kruser was not within
12 the 200 feet to be notified. And I would -- and he
13 does not have standing to make a motion for the record
14 to be reopened.

15 So unless someone wants to make a motion
16 on his behalf, we can move on.

17 VICE CHAIRPERSON HOOD: And there was a
18 notice posted. There was a notice posted on the
19 property.

20 CHAIRPERSON MITTEN: I don't think we had
21 any issues about notice at the time.

22 VICE CHAIRPERSON HOOD: Okay. So we
23 didn't have no notices. I would deny -- I would not
24 be in favor of opening the record for his letter.

25 CHAIRPERSON MITTEN: All right. I don't

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1 think we need to take a vote --

2 VICE CHAIRPERSON HOOD: Okay.

3 CHAIRPERSON MITTEN: -- unless someone
4 cares to make a motion.

5 And then we have the request from the ANC
6 that we waive our rules to take in their findings of
7 fact and conclusions of law after the deadline that we
8 had set.

9 And I would move that we waive our rules
10 to accept the submission of the ANC.

11 VICE CHAIRPERSON HOOD: I would also
12 agree, Madam Chair.

13 CHAIRPERSON MITTEN: All right. Do we
14 need to vote on that or can we do that by consensus?

15 MR. BASTIDA: I believe you can do it by
16 consensus.

17 CHAIRPERSON MITTEN: I think you're right.
18 Okay. So we have a consensus there.

19 All right. Then to the merits of it -- of
20 the proposal -- this has been with us for a little bit
21 of time because we had some issues with the campus
22 plan order itself. And if you recall we had a
23 discussion at the most recent hearing about whether or
24 not the university was in compliance with Condition
25 10.

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1 And I don't -- I'll spare everyone the
2 sort of tortured history of this. But basically
3 Condition 10 went back into effect on April 26, 2004,
4 which was when the remand order was issued by the BZA.

5 And the stay of Condition 10 was lifted.

6 And I would -- the position I would take
7 at this time is that because Condition 10 became
8 effective late in the year and there was little
9 opportunity to accommodate the requirements of
10 Condition 10, which states that the housing for
11 freshmen and sophomores, they'll be required to live
12 in university housing to the extent that such housing
13 is available.

14 It's not reasonable to expect that such
15 housing would be available so late in the academic
16 year.

17 And so I think that it's fair to
18 determine, at least as it relates to the academic year
19 2003/2004 that the university was in substantial
20 compliance with Condition 10 as well as the other
21 conditions of the campus plan.

22 So I don't know if anyone else had a
23 concern about that. But after reading everything that
24 has been submitted, that's the position I would take.

25 VICE CHAIRPERSON HOOD: Madam Chair, can I

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1 have one second --

2 CHAIRPERSON MITTEN: Yes.

3 VICE CHAIRPERSON HOOD: -- so I can get
4 that document in front of me? Thank you.

5 CHAIRPERSON MITTEN: So are there any
6 concerns about lack of compliance with the conditions
7 of the campus plan before we move ahead?

8 VICE CHAIRPERSON HOOD: I have no
9 concerns, Madam Chair.

10 CHAIRPERSON MITTEN: All right.

11 Then if you'll recall, we have a proposal
12 to amend a couple of conditions for BZA Order 16276
13 that relate to the hours of operation of the Wellness
14 Center. And then the classes of individuals that can
15 use the facility.

16 We had the -- again I won't go back over
17 all the history of the case, but at our most recent
18 hearing, we had the university modifying the request
19 that they had originally made to limit the new users
20 to a smaller group, which I would be happy to review
21 here.

22 It would include the students, faculty,
23 and staff of the Mount Vernon campus, the immediate
24 neighbors to the center, the friends and supporters of
25 the university who are members of the President's

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1 Club, students and faculty of the School Without
2 Walls, and then guest members with certain
3 limitations.

4 And then we had the alternative proposals
5 from the Office of Planning that are included on page
6 2 of their May 6th report.

7 So with that as background, I would ask if
8 there is any discussion that anyone would like to
9 initiate.

10 VICE CHAIRPERSON HOOD: Madam Chair, one
11 thing I would say and I'm looking at the order, one of
12 the proposed orders on page 25 -- I think it's the
13 applicant's. They do mention Trustees.

14 And I found at the hearing -- and I
15 thought -- while I'm just speaking on Trustees only,
16 I'm not talking about the rest of them because when I
17 look here and see friends and contributors of the
18 university, I have a problem with that language, but I
19 do think if we get into that point, get down to the
20 point of who should be allowed, I think the Trustees -
21 - I think some things go with the territory.

22 And I think that the Trustees should be
23 able to utilize the facility. And I think there are
24 just 44 of them from what was discussed at the
25 hearing.

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1 If that will start the discussion.

2 CHAIRPERSON MITTEN: Although actually
3 that was not -- that was not in their submission as of
4 our last hearing, although that may have come up in
5 the discussion at the hearing.

6 VICE CHAIRPERSON HOOD: Maybe we're
7 looking at something -- I'm looking at --

8 CHAIRPERSON MITTEN: No, I see what you're
9 looking at.

10 VICE CHAIRPERSON HOOD: Now what are you
11 looking at?

12 CHAIRPERSON MITTEN: I'm looking at the
13 submission that they made --

14 VICE CHAIRPERSON HOOD: The revised?

15 CHAIRPERSON MITTEN: -- before our hearing
16 in May --

17 VICE CHAIRPERSON HOOD: Oh.

18 CHAIRPERSON MITTEN: -- which is their
19 March 11th submission.

20 VICE CHAIRPERSON HOOD: So which one are
21 we going to --

22 CHAIRPERSON MITTEN: Well, we can -- I
23 mean we can mix and match and --

24 VICE CHAIRPERSON HOOD: So we really -- do
25 they have -- and I don't have that right in front of

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1 me. What I do have is here.

2 But the issue I have though is with
3 friends and contributors to the university. Who is
4 that? I mean is that in that submission?

5 CHAIRPERSON MITTEN: What we had talked
6 about and in some detail, particularly when they cross
7 examined the Office of Planning, was that those
8 individuals who are members of the President's Club,
9 that's how they would identify which friends and
10 supporters of the university would be allowed to be
11 members.

12 VICE CHAIRPERSON HOOD: Oh. I guess my
13 point -- the language I'm looking at in the order --
14 well, the proposed -- one of the orders from the
15 applicants, is if I give them five dollars, then I
16 guess I would be a friend of the university and be
17 able to utilize the facility.

18 And I think that either needs to come out
19 or we need clarification, like you said, the
20 Presidential Club, if that's the way the Commission is
21 going to move.

22 CHAIRPERSON MITTEN: Well, go ahead --

23 COMMISSIONER HILDEBRAND: Well, I kind of
24 agree with what Mr. Hood is suggesting. It seems to
25 me that the original order by the Board was very clear

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1 that it limited membership to students and faculty.
2 And that was a very clear body of people.

3 And now we seem to be muddying the waters
4 a bit with these suggestions, well, some residents
5 from here will be able to use it. Students from this
6 public high school will be able to use it. People who
7 contribute and are members of the President's Club can
8 use it.

9 It's just -- it's become a very broad and
10 in some ways unfocused group of people. And I think
11 that causes me a little concern.

12 I'm also concerned about the concept of
13 mixing a high school student population with the
14 college-aged student population in a somewhat
15 unsupervised manner. And I guess I was a little
16 surprised that the university had suggested that.

17 But my fear is that if we muddy the waters
18 with this interpretation or this modification, that it
19 almost becomes unenforceable to a certain extent. How
20 do you sort of -- I don't want to use the word police,
21 but how do you monitor it to make sure that it is
22 enforceable?

23 CHAIRPERSON MITTEN: I agree with your
24 concern and I also -- because it does -- and I think
25 that the -- at least from some of the feedback we've

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1 been getting, the university has been very effective
2 at enforcing the condition as it exists because we
3 were getting some negative feedback from people who
4 couldn't use the facility. So they're clearly
5 effectively enforcing the conditions of the order as
6 it exists.

7 But once you do start to open up to these
8 different classes of people, then it's a question of
9 where, you know, where is an appropriate -- the basic
10 question is where is it appropriate to draw the line?

11 COMMISSIONER HILDEBRAND: Yes.

12 CHAIRPERSON MITTEN: The reason this
13 facility exists at all in this zone is because of the
14 university. And it is an outgrowth of the campus
15 plan.

16 So it seems to me that there has to be a
17 very definite relationship between the user of the
18 facility and the university. And that's the way I
19 think we -- you know to the extent that we'd want to
20 broaden the number of users at all, there has to be a
21 very prominent connect.

22 COMMISSIONER HILDEBRAND: Yes.

23 CHAIRPERSON MITTEN: Otherwise it just
24 becomes -- it starts to transition, I think, into, you
25 know, a facility that really wouldn't have been

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1 permitted in this particular zone without this sort of
2 really broad interpretation of what's university
3 related.

4 So -- and I share -- you know, and you can
5 make a good case for -- there's a good argument, you
6 know, there's a sympathetic argument that could be
7 made, for instance, letting the School Without Walls
8 use the facility because they're nearby, they're
9 actually, you know, within the boundaries of the
10 campus.

11 COMMISSIONER HILDEBRAND: Yes.

12 CHAIRPERSON MITTEN: And they don't have
13 facilities of their own. But then, you know, you go
14 to, well, on a practical level, mixing the age groups.

15 But also what is their real relationship with the
16 university?

17 Now I think that some of the kids take
18 university --

19 COMMISSIONER HILDEBRAND: Classes.

20 CHAIRPERSON MITTEN: -- classes but, you
21 know, if they become enrolled, then they could use it.

22 But they couldn't use it as, you know, just as a
23 group. So I don't know what that does for anybody. I
24 don't have --

25 VICE CHAIRPERSON HOOD: If the school --

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1 and I don?t know if this was flushed out, but if the
2 School Without Walls was able -- they don?t have a
3 facility and they were able to use it, I?m sure -- I
4 would hope it would be in a controlled manner, a
5 supervised manner. I would think -- I don?t think
6 they?d just haphazardly be able to go in there. They
7 would go over there as a class and use the facility.

8 Did that come out during the hearing?

9 COMMISSIONER HILDEBRAND: I don?t think it
10 was generally discussed to a great detail. I think it
11 was one of the things that was mentioned in more of a
12 this is a possibility that could grow from this
13 extended use.

14 CHAIRPERSON MITTEN: And to the extent
15 that we thought that that was an important distinction
16 to make, we can make that distinction.

17 Anybody have anything specific that they?d
18 like to propose?

19 VICE CHAIRPERSON HOOD: Well, other than
20 the 44 Trustees, Madam Chair, I really think that --
21 like I said, that goes with the territory. That?s my
22 part to the discussion.

23 Whether you call them Presidential Club or
24 whatever, as long as it?s Trustees. And when one
25 comes off, then, I guess, but that?s really micro

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1 management. If one is -- you have to be a Trustee,
2 period. If you're not a Trustee, then it's not your
3 Trustee Emeritus and all that other stuff. You have
4 to be a Trustee, a current Trustee.

5 CHAIRPERSON MITTEN: Okay. I think that
6 there is a direct, you know, connection between a
7 Trustee and the university. So I could support that.

8 I could also support student, faculty, and
9 staff of the Mount Vernon campus, because I think what
10 we heard was notwithstanding that it has been
11 suggested that that would result in, you know, over
12 500 new memberships, that the people that --

13 And I think the vast majority of students
14 on the Mount Vernon campus are enrolled in at least on
15 class on the Foggy Bottom campus and, therefore, are
16 eligible now to be members of the Wellness Center.

17 So, okay, we have Trustees and we have
18 students, faculty, and staff of Mount Vernon campus.

19 Do we have objections to that? Additions
20 to that?

21 VICE CHAIRPERSON HOOD: What about the
22 neighbors? How are we going to deal with that because
23 --

24 CHAIRPERSON MITTEN: I'm suggesting that -
25 - I would not support that for the main reason that

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1 you start to go into territory that you cannot -- you
2 can?t a bright line.

3 COMMISSIONER HILDEBRAND: I would also
4 agree with that. Again, and I think for me the
5 distinction is it is a university function. And as
6 long as we can define it as a university function,
7 then that would exclude other people from being able
8 to use the facility.

9 VICE CHAIRPERSON HOOD: This town is a
10 trip. Because there are some universities where, you
11 know, other -- not -- I guess it depends on what
12 university because some universities -- anybody
13 actually -- I?m not going to call their names. I
14 don?t want to get them in trouble.

15 But anybody can actually go over there and
16 join if you want to. And actually they don?t really
17 have a big problem. They really don?t have a problem.

18 Well, I?d better not say that. I don?t
19 know if they have a problem or not. I don?t see a
20 problem from the outside.

21 CHAIRPERSON MITTEN: And I think as we
22 know from now dealing with at least a half a dozen
23 campus plans is that each university has its unique
24 relationship with its surrounding community. And
25 there is no single solution, there is no one-size-

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1 fits-all kind of campus plan order or further
2 processing conditions that deal with, you know, what
3 happens in each different place.

4 And as we know from the many months of
5 time that we spent on various things related to GW
6 that, you know, it's a challenge for the university to
7 exist in this urban environment, where they're, you
8 know, right up against a struggling residential
9 community.

10 So, you know --

11 VICE CHAIRPERSON HOOD: Yes, I understand
12 your point.

13 So are we saying that no neighbors and no
14 School Without Walls? Or can we relook at School
15 Without Walls and say in an organized or constructive
16 setting where they have the instructors that go over
17 as a group or how?

18 I just hate to see the district students
19 be cut out of an opportunity to recreate. I mean some
20 kind of physical training or whatever they're doing
21 over there. Hopefully it would be in an organized
22 manner.

23 COMMISSIONER HILDEBRAND: That's my only
24 fear is that it be done in such a way -- and I'm sure
25 there would be parental consent and all other aspects

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1 that would have to occur in order for the city to do
2 that.

3 But -- and I certainly didn't mean to
4 suggest that the city would be negligent in that
5 obligation. But it just is something when I was
6 thinking of that particular use, that it caused me
7 pause to make sure that some kind of precautions were
8 in place to safeguard the children.

9 Not to disparage any of the character of
10 any of the university students or staff. It's just --

11 CHAIRPERSON MITTEN: It's just an
12 incompatible mix --

13 COMMISSIONER HILDEBRAND: Right.

14 VICE CHAIRPERSON HOOD: And I think your
15 point --

16 CHAIRPERSON MITTEN: -- potentially.

17 VICE CHAIRPERSON HOOD: -- is definitely
18 well taken. I would hate to see them just go over
19 there haphazardly when they get ready. I think that
20 would cause a lot of detriment to the neighborhood
21 actually.

22 But if it's a controlled, if it's physical
23 education time and it's controlled, I don't see that
24 as being that much of an issue.

25 COMMISSIONER HILDEBRAND: Well, I think

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1 that -- and possibly, too, if the university's intent
2 is to take a more active role in the development of
3 the School Without Walls and it becomes almost like a
4 big brother role to the school, then that might be an
5 idea in allowing the students more access.

6 Because then it becomes sort of the
7 tangential part of the university community as opposed
8 to a standalone piece.

9 CHAIRPERSON MITTEN: Well, we did hear
10 testimony in the campus plan proceeding that the
11 university and the D.C. Public School System have, you
12 know, they have ongoing discussions about figuring out
13 a way for the university to capture some of the excess
14 development rights on the site where the school
15 exists.

16 And then to provide an opportunity for
17 the, you know, redevelopment that would include, you
18 know, enhancement to the school.

19 VICE CHAIRPERSON HOOD: Yes.

20 CHAIRPERSON MITTEN: All right. Let me
21 see if I can -- let me put a proposal out and we'll
22 see if -- where we get with it.

23 That we would revise Condition 1 of the
24 order to allow students, faculty, and staff of the
25 Mount Vernon campus to become members.

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1 That we would allow the trustees of the
2 university to become members.

3 And that we would allow the students of
4 the School Without Walls to utilize the facility in an
5 organized and controlled fashion.

6 And we'll let the Office of the Attorney
7 General figure out what we mean exactly in crafting
8 the order.

9 And that we would revise Condition 2 of
10 the order to allow the Wellness Center to remain open
11 until 11:30 p.m. on all days.

12 VICE CHAIRPERSON HOOD: Let's -- maybe
13 we'd better get --

14 COMMISSIONER HILDEBRAND: I was just going
15 to say, I actually agree with the idea of extending
16 the hours somewhat. I know my own particular health
17 club, which is in the middle of a residential
18 community, is open until eleven at night.

19 CHAIRPERSON MITTEN: Yes.

20 COMMISSIONER HILDEBRAND: And there hasn't
21 been a large adverse impact by that. I was actually
22 surprised to see that this facility closed so early.

23 But on the other hand, too, I thought that
24 the request to extend until one-o'clock, particularly
25 weekdays and Sundays was a little bit too aggressive.

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1 And it caused me concern that at that late an hour,
2 it could become objectionable.

3 CHAIRPERSON MITTEN: So do you support
4 11:30?

5 COMMISSIONER HILDEBRAND: Actually I would
6 support 11:30. I was thinking eleven o'clock. But
7 I'm certainly not opposed to 11:30.

8 CHAIRPERSON MITTEN: Eleven-thirty was
9 what OP had proposed in response to what the
10 university had requested.

11 VICE CHAIRPERSON HOOD: Madam Chair, I was
12 also thinking of eleven o'clock. Are we dealing with
13 the hours of opening? We're not --

14 CHAIRPERSON MITTEN: Closing.

15 VICE CHAIRPERSON HOOD: Just closing.

16 CHAIRPERSON MITTEN: Well, we --

17 VICE CHAIRPERSON HOOD: What time do they
18 open anyway?

19 CHAIRPERSON MITTEN: Well, that's --

20 VICE CHAIRPERSON HOOD: Six o'clock?

21 CHAIRPERSON MITTEN: That's not ever been
22 tied down in the order. But there's two other things
23 that we need to pick up that were not specifically --
24 revisions to conditions. And the opening hour is one
25 of those.

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1 VICE CHAIRPERSON HOOD: Well, let me just
2 say I was -- and I'm open now but I was thinking five-
3 thirty to eleven.

4 CHAIRPERSON MITTEN: Okay.

5 VICE CHAIRPERSON HOOD: And I will tell
6 you that where I go closes at eight. But anyway,
7 that's another story.

8 The other thing is I wanted to make sure -
9 - we were talking about relationships between the
10 neighborhood and the college, university. I want to
11 make sure that even though we're now, it seems like
12 we're going to delete the neighbors -- not delete
13 them.

14 But take them out from being able to use
15 the facility, are we, as a Commission, then, because
16 there are some who in that neighborhood would like to
17 use that facility. And I'm just throwing this out
18 here. I'm not an proponent or opponent on it right
19 now.

20 But are we causing a problem here as far
21 as bridging the gap between George Washington and the
22 surrounding neighborhood because I think they had 50
23 at St. Mary's according -- 25 somewhere else. Are we
24 now, those people most effected, are we now excluding
25 them the equation?

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1 And are we also contributing to the wide
2 gap that exists down there in Foggy Bottom West End?
3 And I just threw that out there for conversation if
4 somebody wanted to conversate on it.

5 CHAIRPERSON MITTEN: Well, I understand
6 your point and that was the point that was raised by
7 some of the people that testified in support that were
8 neighbors. And it was also the university.

9 They'd like to be able to give something
10 back to people in the immediate neighborhood and those
11 who might stand to be the most impacted if, in fact,
12 there was any adverse impact, this would, at least
13 offset that.

14 I guess I'm concerned about opening it up,
15 you know, once you start to open it up to people that
16 are not related to the University, then, you know, a
17 couple of years from now, they come back and say oh
18 this is working fine. Let's just add more, add more,
19 add more.

20 And I guess I would hope that the issues
21 that divide the university and the community,
22 particularly with some of the passion that we've seen,
23 could not be so readily, you know, satisfied by a
24 membership in a health club. You know, I mean if they
25 have real issues, they have issues.

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1 So I take your point but I think it's a
2 relatively small concession.

3 VICE CHAIRPERSON HOOD: Well, Madame
4 Chair, sometime when you work out that frustration and
5 you're tired.

6 (Laughter.)

7 VICE CHAIRPERSON HOOD: Okay. I just
8 wanted to throw that out for discussion.

9 MR. BERGSTEIN: Madam Chair, could I ask
10 for a clarification on the condition, the first
11 condition?

12 I understand what you're trying to
13 accomplish in terms of the students of the School
14 Without Walls. The original condition discussed the
15 use of the facility by both the students and the
16 faculty. And I read those to be separate. That is,
17 it's almost an amenity to the faculty that they'd be
18 able to use the facility.

19 CHAIRPERSON MITTEN: Right.

20 MR. BERGSTEIN: Do you still intend to, as
21 we rewrite this, allow the faculty, in essence, that
22 amenity, or would the use of the facility by the
23 faculty be only in connection with that organized
24 environment that you're discussion?

25 CHAIRPERSON MITTEN: What I was

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1 recommending was the latter. So was everybody clear
2 about that?

3 That to the extent that anyone, students
4 or faculty, used the facility, it would be in this
5 organized environment --

6 COMMISSIONER HILDEBRAND: Yes.

7 CHAIRPERSON MITTEN: -- not that the
8 faculty could just become members.

9 COMMISSIONER HILDEBRAND: Yes.

10 CHAIRPERSON MITTEN: Okay. Mr.
11 Hildebrand, did you have any reaction to Mr. Hood's,
12 you know, concern about including the immediately
13 adjacent neighbors and so on? Since we have three of
14 us and we sort of need to pull together here.

15 COMMISSIONER HILDEBRAND: Right. My
16 thought has always been is that I can appreciate the
17 concern of reaching out to the community and trying to
18 engender good will.

19 I think reaching out to the community on
20 this block and not that block is not the way to do it.

21 And that if the facility was going to take a broader
22 role in the community, then the breakdown that's been
23 proposed is not the way to do it -- to achieve that
24 goal of engendering good will with the entire Foggy
25 Bottom community.

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1 I don't think it's substantive enough.
2 And that's why -- one of the reasons I think that
3 keeping it to a defined user group of students,
4 faculties, the Trustees, and people associated more
5 closely with the university, is a clearer definition.

6 And one less likely to engender ill will from some
7 members of the community and not others.

8 CHAIRPERSON MITTEN: Okay. I think we're
9 moving towards something.

10 The one thing I forgot is to -- what's our
11 feeling about guests of members. If we limit it to
12 the groups that I suggested, what's your feeling about
13 guests? And as it was proposed by the university, it
14 would be limited to no more than 25 guests on a
15 weekday and no more than 50 guests on weekends.

16 VICE CHAIRPERSON HOOD: I don't
17 understand. Each person -- maybe I need to go back
18 and read it. But each person would be able to bring
19 in 25 guests?

20 CHAIRPERSON MITTEN: No, the total number
21 of guests for the facility.

22 VICE CHAIRPERSON HOOD: Oh, I was going to
23 say we might as well open it back up to the community.

24 CHAIRPERSON MITTEN: No.

25 VICE CHAIRPERSON HOOD: Okay. The total

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1 guests to the facility is 25?

2 CHAIRPERSON MITTEN: On any given day --

3 VICE CHAIRPERSON HOOD: On a given day.

4 CHAIRPERSON MITTEN: -- it would be 25.

5 And on the weekend, would be 50 -- up to 50. It's

6 almost like they would have -- okay, they have so many

7 passes a day. However many you get.

8 VICE CHAIRPERSON HOOD: And they

9 recommended 25 because normally you have a one-day

10 pass --

11 CHAIRPERSON MITTEN: Right.

12 VICE CHAIRPERSON HOOD: -- in most places.

13 The question is what happens when you get

14 to that 25, that limit, when you get to 25? How is

15 that enforceable? How would we know? Is that a good

16 faith on the university? Or nobody says anything so,

17 you know, you have 50 guests and then nobody knows.

18 How is it enforced?

19 CHAIRPERSON MITTEN: Well, I mean, you

20 know, there's a lot of -- there is actually a lot of

21 good faith in the enforcement of our orders I think.

22 But, you know, right now they're saying zero. And

23 they're enforcing zero.

24 So if they can enforce zero, they can

25 enforce 25 or 50.

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1 COMMISSIONER HILDEBRAND: I guess my
2 general feeling on that issue is I'm sympathetic to
3 the university wanting students to be able to take
4 family with them when they go to exercise. I can
5 understand that.

6 But again, the flavor of the facility is
7 for student use. And my concern is that students will
8 begin to bring a larger number of friends from outside
9 the community in to use the facility.

10 And personally, I think that the cutoff
11 point of 25 or 30 or whatever that number is is going
12 to be a hard thing to enforce. And it's very hard to
13 stand there with five people in front of you who are
14 coming in as guests for someone and you've reached 20.

15 And you have to say no to those four
16 because you only have space for one more.

17 CHAIRPERSON MITTEN: So you're against
18 guests? And Mr. Hood are you against guests?

19 VICE CHAIRPERSON HOOD: I'm not
20 necessarily against guests but I think one way we can
21 really kind of keep an eye on this is if we permit the
22 university to have five guests a day. That way you
23 can keep control.

24 If you see a whole influx of all these
25 different people going in, you know hey, something is

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1 wrong. So if we -- I just hate shutting off the
2 person from Wyoming that comes up here and maybe wants
3 to do something with their son or daughter.

4 And after that quota of five is met, then
5 that's it for that day. But I can go to zero. But I
6 just was throwing that out there.

7 COMMISSIONER HILDEBRAND: Right. Well, I
8 guess the question then comes up is how do you handle
9 the squash issue because if that's an intramural
10 thing, then there will be a group of students who are
11 coming to play squash matches who are not students or
12 faculty. And would not have access to the facility
13 unless there was such a thing as a guest pass.

14 And would those positions be taken by the
15 guest passes?

16 CHAIRPERSON MITTEN: Yes.

17 COMMISSIONER HILDEBRAND: Or is there a
18 special exception made for those kind of sports
19 activities specific to squash?

20 COMMISSIONER HILDEBRAND: I thought that
21 we heard testimony -- and I'm not too familiar with
22 the game of squash. All I do is eat squash.

23 (Laughter.)

24 CHAIRPERSON MITTEN: It's not at all like
25 eating squash.

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1 (Laughter.)

2 VICE CHAIRPERSON HOOD: I was under the
3 impression that there weren't any spectators.

4 CHAIRPERSON MITTEN: That's very limited
5 because you know what a handball, like a handball
6 court, it's the same kind of thing.

7 VICE CHAIRPERSON HOOD: Okay.

8 CHAIRPERSON MITTEN: You're just standing
9 up looking at the top.

10 COMMISSIONER HILDEBRAND: It's not so much
11 a spectator sport but it's a participant sport. So
12 you might have a team of 12 squash players come in
13 from another university to play against your 12
14 university players.

15 VICE CHAIRPERSON HOOD: But is that taking
16 place now?

17 COMMISSIONER HILDEBRAND: Yes.

18 VICE CHAIRPERSON HOOD: I thought there
19 was testimony that it was not taking place.

20 CHAIRPERSON MITTEN: No, it's not.

21 COMMISSIONER HILDEBRAND: It should not be
22 taking place now according to the -- no intramural
23 activity, it's my understanding, is supposed to be
24 taking place there now. And this would be an
25 exception because the current squash courts at the

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1 Smith Center are not of regulation size.

2 And they would like to transition their
3 players from a non-conforming court to a conforming
4 court in the Health and Wellness Center.

5 CHAIRPERSON MITTEN: Well, I guess since
6 we're now transitioning into the squash discussion, I
7 mean I do want us to reach consensus, you know, so we
8 can move forward tonight. So, I mean, I would be
9 willing to just, you know, go to -- abandon the guest
10 pass thing for the time being.

11 And the squash, if we allow it, it would
12 be understood that, you know, visiting teams would be
13 allowed to play, you know, at those matches. And I
14 don't think we need to have a, you know, separate sort
15 of provision for that.

16 And I have no objection to having the
17 intercollegiate squash team play.

18 COMMISSIONER HILDEBRAND: Well, it has
19 nothing to do with the fact that I'm a squash player.
20 That I understand that and can appreciate that.

21 CHAIRPERSON MITTEN: Maybe you can teach
22 Mr. Hood how to play.

23 And then we have the issue about opening
24 time. And I think what had been -- what is the
25 practice and what had proposed to be just included in

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1 the order, is that the opening time is 6:00 a.m. And
2 now I hear Mr. Hood suggesting 5:30 although no one on
3 the record proposed 5:30.

4 VICE CHAIRPERSON HOOD: I would be most
5 prone to say, Madam Chair, to say five-thirty to
6 eleven o'clock.

7 CHAIRPERSON MITTEN: Oh.

8 VICE CHAIRPERSON HOOD: And I don't know
9 what time -- that's just what I was figuring on.

10 CHAIRPERSON MITTEN: Okay, Mr. Hildebrand,
11 what's your preference for hours of operation?

12 COMMISSIONER HILDEBRAND: I guess in my
13 mind I'd always assumed the six o'clock based on what
14 was presented to us and the way the facility is
15 currently being used. And I didn't see a need to
16 change that.

17 Six to eleven, six to eleven-thirty, five-
18 thirty -- five-thirty seems early in the morning to me
19 without the neighbors having a chance to comment on
20 making the hour of opening earlier than it currently
21 it is. I mean I would feel more comfortable if we
22 kept it at six.

23 CHAIRPERSON MITTEN: Okay.

24 COMMISSIONER HILDEBRAND: And perhaps
25 extended the opening time a little longer to give the

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1 same amount of time as Mr. Hood is suggesting.

2 CHAIRPERSON MITTEN: So just tell me -- so
3 you're currently at six until --

4 COMMISSIONER HILDEBRAND: Six to eleven-
5 thirty.

6 CHAIRPERSON MITTEN: Okay. And Mr. Hood,
7 you're at --

8 VICE CHAIRPERSON HOOD: I think due to the
9 testimony, I think there was concern about young
10 folks, those late hours, adverse impacts for the
11 neighborhood. And I believe in the morning time,
12 that's why I pushed it up to five-thirty.

13 I can go either way. But I'm not going to
14 make a big deal over it. But I think the earlier, at
15 five-thirty, if you're doing something and you're
16 running -- you're going to the gym at that time of the
17 morning, actually you're very quiet.

18 And that issue about all that noise at
19 eleven, eleven-thirty or so, is out the door because
20 they have been there in the morning. They just got
21 up. They're going to have a workout before they go to
22 class.

23 And I think that would also give the
24 university the same amount of time without going to
25 the testimony that we heard after eleven they are

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1 worried about the students and the adverse impacts
2 that may pose to the neighborhood. That's why I
3 proposed that.

4 CHAIRPERSON MITTEN: Okay. Could we talk
5 you into six to eleven-thirty?

6 VICE CHAIRPERSON HOOD: Six to eleven-
7 thirty?

8 CHAIRPERSON MITTEN: Yes.

9 VICE CHAIRPERSON HOOD: Six to eleven?

10 CHAIRPERSON MITTEN: Well, Mr. Hildebrand
11 said six to eleven-thirty. And I'd be inclined to six
12 to eleven-thirty. So --

13 VICE CHAIRPERSON HOOD: I'm just going by
14 the testimony that we -- well, six to eleven-thirty is
15 fine. But I just think that they need to close at
16 eleven o'clock. I mean if something goes wrong with
17 you two guys, I would go along --

18 CHAIRPERSON MITTEN: In that last half
19 hour, it's on us, Mr. Hildebrand.

20 VICE CHAIRPERSON HOOD: You all go and
21 patrol and police from eleven to eleven-thirty.

22 COMMISSIONER HILDEBRAND: And I would not
23 oppose five-thirty to eleven-thirty if there was a
24 consensus on that -- five-thirty to eleven if there
25 was a consensus on that time as well.

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1 VICE CHAIRPERSON HOOD: I think there is
2 consensus from six to eleven-thirty. And I will go
3 with that.

4 CHAIRPERSON MITTEN: Thank you. Okay,
5 that's great.

6 VICE CHAIRPERSON HOOD: But I won't be
7 there from eleven to eleven-thirty with you two.

8 CHAIRPERSON MITTEN: Okay. That's great.
9 And we won't be there waiting outside at five-thirty
10 running around the neighborhood.

11 Okay. So here we are. We have revised
12 Condition 1 to allow students, faculty, and staff from
13 the Mount Vernon campus to use the facility. We have
14 the Trustees. We have the students and faculty of the
15 School Without Walls in an organized, coordinated
16 fashion, not just individual members.

17 We have the hours of operation 6:00 a.m.
18 to 11:30 p.m. And we have the intercollegiate squash
19 team using the facility for their matches.

20 VICE CHAIRPERSON HOOD: One other
21 question. I'm looking here at the D.C. -- how are the
22 students from the School Without Walls -- isn't that
23 right around the corner somewhere?

24 CHAIRPERSON MITTEN: It's very close by.

25 VICE CHAIRPERSON HOOD: So they wouldn't

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1 need to take buses or anything.

2 CHAIRPERSON MITTEN: No, no, walk.

3 COMMISSIONER HILDEBRAND: They'll walk,
4 walking distance.

5 VICE CHAIRPERSON HOOD: Okay.

6 CHAIRPERSON MITTEN: Now so we have --
7 we'll take a vote but we certainly -- we're all on
8 board with that.

9 COMMISSIONER HILDEBRAND: Yes.

10 CHAIRPERSON MITTEN: And then I guess the
11 final thing is the Office of Planning, although they
12 had a more broad membership proposal, had voted to put
13 a limitation on the -- on this new order for three
14 years basically to see how it goes.

15 And do we want to propose any kind of
16 limitation -- time limit?

17 COMMISSIONER HILDEBRAND: I guess the part
18 for me is that it seems now that the majority of the
19 students at the Mount Vernon campus are already using
20 the facility.

21 CHAIRPERSON MITTEN: Yes.

22 COMMISSIONER HILDEBRAND: And successfully
23 using the facility. So I don't see that other than
24 the Trustees and the students who are going to use it
25 at off-peak hours that the population is growing

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1 extensively.

2 I'm certainly not against a time period of
3 review. But I'm not sure it's as important as it
4 might have been before.

5 CHAIRPERSON MITTEN: I think what we gain
6 at this point is, you know, I mean I think what we an
7 anticipate is that if things go as we hope they will
8 and as they have gone so far, you know, lo and behold
9 the conditions that were put in place have been
10 effective.

11 That's why -- you know, that's part of why
12 the university has come back to us is because they
13 haven't had a lot of problems. So they say hey, this
14 is working great. Give us some more.

15 And I think we have every reason to
16 anticipate that, you know, the conditions that we put
17 in place here will be effective. And that they will
18 be inclined to back again in the future.

19 And if we put a time limit it, that sort
20 of says what we think -- when we think they should be
21 coming back, you know, give it another, you know,
22 don't come back until this time has expired because we
23 want to give it a change to work.

24 COMMISSIONER HILDEBRAND: I would support
25 that, absolutely.

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1 VICE CHAIRPERSON HOOD: I'm not following.
2 So it was a proposal for a three-year time limit.
3 What are you -- as the alternative, what are you
4 proposing?

5 CHAIRPERSON MITTEN: Well, I would suggest
6 that we have a time limit.

7 VICE CHAIRPERSON HOOD: Oh, yes.

8 CHAIRPERSON MITTEN: And that I don't know
9 if three years is -- I think by putting a time limit
10 in it, we're at least -- we can't prevent the
11 university from seeking a further modification in the
12 future.

13 But it sends, I think, a message that
14 says, you know we want this scenario to stay in place
15 for a certain period of time to give it a chance to,
16 you know, to work. And see -- and, in fact, see if
17 there's any adverse impacts that result.

18 COMMISSIONER HILDEBRAND: Will a large
19 portion of the new student housing be built by that
20 three-year period and occupied? And I know several of
21 the facilities are coming online in a couple of years.

22 CHAIRPERSON MITTEN: I would think so
23 although I don't know what's going to happen with the
24 old hospital site. But I would hope that part of that
25 site would be housing. So I don't know what the time

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1 frame for that is but, you know, three years, four
2 years, something like that.

3 COMMISSIONER HILDEBRAND: Right. Yes.

4 CHAIRPERSON MITTEN: So I guess I could go
5 for three.

6 COMMISSIONER HILDEBRAND: Yes.

7 VICE CHAIRPERSON HOOD: Yes, three is
8 fine.

9 CHAIRPERSON MITTEN: Okay. All right. So
10 without reiterating everything, I kind of -- I just
11 laid out the conditions and the expanded membership,
12 the hours of operation, the opportunity for the squash
13 team to play. And then we would have a three-year
14 time limit on this expanded membership.

15 And then at that point, they'd have to
16 come back to us for, you know, an extension. And if
17 they wanted to promote further modification at that
18 point, they could do that.

19 VICE CHAIRPERSON HOOD: Now, let me ask a
20 question. If there's a problem, will then people be
21 able to come in to advocate for taking something away?

22 CHAIRPERSON MITTEN: At the three-year
23 point, yes.

24 VICE CHAIRPERSON HOOD: After three years?

25 VICE CHAIRPERSON HOOD: Okay.

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1 CHAIRPERSON MITTEN: Yes, sir.

2 All right. So I would move approval with
3 the conditions that I articulated.

4 COMMISSIONER HILDEBRAND: I would second
5 that.

6 CHAIRPERSON MITTEN: All right. Is there
7 any further discussion?

8 (No response.)

9 CHAIRPERSON MITTEN: All those in favor,
10 please say aye.

11 (Chorus of ayes.)

12 CHAIRPERSON MITTEN: We have none opposed.
13 Mrs. Schellin.

14 MS. SCHELLIN: Okay. Staff would record
15 the vote four to zero to one to approve Case No. 02-26
16 with the conditions discussed. Commissioner Mitten
17 moving. Commissioner Hildebrand seconding.
18 Commissioner Hood in favor. Commissioner Jeffries in
19 favor by absentee ballot. And Commissioner Parsons
20 not present, not voting.

21 Or rather -- I'm sorry -- not present and
22 having not participated in that voting.

23 CHAIRPERSON MITTEN: Okay. Thank you.

24 COMMISSIONER HILDEBRAND: Would that be
25 three? She said four.

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1 CHAIRPERSON MITTEN: It's four to zero to
2 one because Mr. Jeffries left an absentee ballot.

3 COMMISSIONER HILDEBRAND: Thank you.

4 CHAIRPERSON MITTEN: Okay. I think we're
5 ready to move to the dismissal of the two cases that
6 we have on for tonight with the first being Case No.
7 00-01, the Yale Steam Laundry air rights.

8 Mr. Bastida?

9 MR. BASTIDA: Correct, Madam Chairman.
10 And at the same time, I think that we can also include
11 01-19C, Trenton Terrace PUD.

12 CHAIRPERSON MITTEN: Oh, you want them
13 done together?

14 MR. BASTIDA: Basically it's the same
15 reason we did the same identical letters. But if you
16 want to do it in two parts, it's fine.

17 CHAIRPERSON MITTEN: So you sent letters -
18 - basically these are cases that we had set down --

19 MR. BASTIDA: Correct.

20 CHAIRPERSON MITTEN: And that they never
21 pursued the cases?

22 MR. BASTIDA: Correct.

23 CHAIRPERSON MITTEN: All right.

24 MR. BASTIDA: And that they were
25 forewarned that otherwise we'll ask for their

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1 dismissal.

2 CHAIRPERSON MITTEN: Okay.

3 MR. BASTIDA: In the June regular meeting.

4 CHAIRPERSON MITTEN: Okay. Then I would
5 move that we dismiss Case No. 00-01 and 01-19C for
6 basically for the failure of the applicants to pursue
7 their cases.

8 COMMISSIONER HOOD: Second.

9 CHAIRPERSON MITTEN: Any discussion?

10 (No response.)

11 CHAIRPERSON MITTEN: All those in favor,
12 please say aye.

13 (Chorus of ayes.)

14 CHAIRPERSON MITTEN: Ms. Schellin?

15 MS. SCHELLIN: Staff will record the vote
16 three to zero to two to dismiss Case Nos. 91-2 and 01-
17 19C --

18 CHAIRPERSON MITTEN: Nope, sorry. Not 91-
19 2. It's 00-01.

20 MS. SCHELLIN: I'm sorry, 00-01 and 01-
21 19C. Commissioner Mitten moving. Commissioner Hood
22 seconding. Commissioner Hildebrand in favor. And
23 Commissioners Jeffries and Parsons not present, not
24 voting.

25 CHAIRPERSON MITTEN: Thank you.

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1 Then the last piece on our agenda is a
2 piece of correspondence that we have from George Keys
3 that requests that the case that is on for hearing on
4 Thursday night, the 17th, Case No. 04-02, that that be
5 heard as a contested case.

6 And I think that is most appropriately
7 taken up as a preliminary matter to our hearing on
8 Thursday night.

9 And if there is no objection, we will do
10 that then.

11 COMMISSIONER HILDEBRAND: Okay.

12 CHAIRPERSON MITTEN: All right. Anything
13 else, Mr. Bastida?

14 MR. BASTIDA: No, Madam Chairman. That
15 concludes basically the agenda for today. And it's
16 your pleasure to bring the meeting to a conclusion if
17 you so desire.

18 CHAIRPERSON MITTEN: Thank you. That will
19 be my pleasure. This meeting is adjourned.

20 (Whereupon, the above-entitled meeting was
21 concluded at 7:58 p.m.)
22
23

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