

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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REGULAR MEETING
1168th MEETING SESSION (12th OF 2004)

+ + + + +

MONDAY
SEPTEMBER 13, 2004

+ + + + +

The Regular Public Meeting of the District of Columbia Zoning Commission convened at 6:30 p.m. in the Office of Zoning Hearing Room at 441 4th Street, NW, Washington, D.C. 20001, Carol J. Mitten, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

CAROL J. MITTEN	Chairperson
ANTHONY J. HOOD	Vice Chairperson
KEVIN L. HILDEBRAND	Commissioner
GREGORY N. JEFFRIES	Commissioner
JOHN G. PARSONS	Commissioner

OFFICE OF ZONING STAFF PRESENT:

ALBERTO P. BASTIDA,	Secretary
SHARON SCHELLIN,	Office of Zoning

OFFICE OF PLANNING STAFF PRESENT:

ELLEN MCCARTHY	Deputy Director
MAXINE BROWN-ROBERTS,	Office of Planning
JENNIFER STEINGASSER,	Office of Planning
JOEL LAWSON,	Office of Planning
STEPHEN MORDFIN	Office of Planning

OFFICE OF THE ATTORNEY GENERAL STAFF PRESENT:

ALAN BERGSTEIN, ESQ.

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MARY NAGELHOUT, ESQ.

This transcript constitutes the minutes from the
public meeting held on Monday, September 13, 2004

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

(6:39 p.m.)

CHAIRPERSON MITTEN: Good evening, ladies and gentlemen. This is the public meeting of the Zoning Commission of the District of Columbia for Monday, September 13, 2004.

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

The copies of our agenda for this evening are available to you. They're in the wall bins near the door. And before we get started, I'm going to change a few things around. So if you have an agenda, please follow along.

We will put off action on the Minutes and the Status Report from the Office of Planning until the end. We will begin with Hearing Action, and under Hearing Action we'll take the third case first, which is 04-19, which is a very exciting thing about egg digesters and -- or egg-shaped digesters.

(Laughter.)

And then, we'll pick up the Consent Calendar item and go through the rest of the agenda from there.

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1 Under Proposed Action, both of the cases
2 for Proposed Action, which Capital Gateway II in
3 Forest Hills will not be decided this evening. The
4 Capital Gateway II, the supplemental report that we
5 had asked for from the Office of Planning is not yet
6 finished, and I believe October is -- you can meet the
7 timeframe for our October meeting. If that's correct,
8 that will be on in October.

9 And then, in the Forest Hills transcope
10 overlay case we have two Commissioners who have a very
11 large volume of record to digest, speaking of
12 digestion, and we're going to give a couple more
13 months of additional time. So that will be
14 tentatively planned for decisionmaking in November.

15 And then, under Final Action, the
16 Case 91-2, which is proposed for dismissal, we will
17 also take up in October. And we're adding a case for
18 Final Action, which is Case Number 04-12, which is the
19 Carnegie Institute case.

20 So hopefully everybody got all that down,
21 and we will ask Mr. Bastida if there are any
22 preliminary matters before we begin.

23 SECRETARY BASTIDA: Madam Chairman, the
24 staff has no preliminary matters. Thank you.

25 CHAIRPERSON MITTEN: Thank you. And I

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1 would just remind everyone that we're being webcast
2 live and recorded by a Court Reporter. So I'd just
3 ask if everyone can turn off their beepers and cell
4 phones, so that we don't have any disruptive noises.
5 And just -- unless we ask you to come forward, we
6 don't take any public testimony at these meetings. So
7 just keep your seats.

8 All right. So we'll move to Hearing
9 Action, and the first case will be 04-19, which is the
10 WASA application for egg-shaped digesters at Blue
11 Plains. And I'll turn to Ms. McCarthy.

12 DEP. DIR. MCCARTHY: Thank you, Madam
13 Chair. The Office of Planning wants to communicate
14 our strong support of the project that is proposed.
15 It is a project that will have substantial
16 environmental and financial benefits to the District
17 of Columbia and to the ratepayers of WASA, will reduce
18 the number of trucks rumbling through the area around
19 Blue Plains with sludge, because it will further
20 digest that and digest that sludge in an enclosed
21 environment, which will contain odors and other
22 noxious -- potentially noxious byproducts of the
23 process.

24 And so with that as the prelude, let me
25 introduce Maxine Brown-Roberts, who will take us

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1 through the specifics of what the Office of Planning
2 is recommending with regard to setdown of that case.

3 Thank you.

4 MS. BROWN-ROBERTS: Good evening, Madam
5 Chairman, and members of the Commission. I am Maxine
6 Brown-Roberts for the record.

7 The subject property is part of a 159-acre
8 Blue Plain Advance Water Treatment Plant in Southwest
9 Washington, D.C. The facility is developed with a
10 number of buildings and facilities that are used in
11 wastewater treatment and processing.

12 This facility will consist of eight 145-
13 feet digesters, 44 feet of which is buried. On top of
14 each digester is a gas stone structure to support
15 mechanical equipment and provide access to the
16 interior of the digester for maintenance and
17 inspection.

18 The digesters are connected by above-
19 ground walkways, with three or four 180-foot towers
20 between the digesters to provide access from the
21 ground to the walkways. The walkways are at 101-foot
22 level.

23 Based on the information provided, the
24 applicant is proposing height relief and having
25 multiple buildings on a lot. Regarding the multiple

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1 buildings, the applicant has requested flexibility by
2 the Commission to have more than one principal
3 structure on a single lot.

4 Section 2517 permits more than one
5 principal building on a principal lot, as a matter of
6 right, if the applicant meets the criteria for this
7 section. OP, in fact, believes that that is what the
8 applicant is requesting. Regarding the height, the
9 subject property is in the CM-3 district that allows a
10 height of up to 90 feet, and the PUD regulation allows
11 the Commission to grant an increase in height of up to
12 five percent.

13 In the case of the elevator tower, the
14 applicant has applied the five percent to the top of
15 the structure, as well as another five percent to the
16 area classified as a roof structure. We are concerned
17 that there is not sufficient flexibility in the PUD
18 process to permit this and the height necessary for
19 the structures.

20 In order to minimize the relief needed for
21 height, the applicant has created an empty lot that
22 extends to the height elevation of the Anacostia
23 Freeway. That is approximately 6.6 feet higher than
24 the grade in front of the structures.

25 The only publicly-dedicated right of way

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1 for this site is I-295. However, we are concerned
2 about using I-295 as a measuring point for the
3 digesters, because it is in conflict with the
4 definition of building height and the recently-adopted
5 text amendment that defines natural grade, and, if
6 granted, could set a precedent for other projects to
7 try and follow.

8 In order for the applicant to obtain the
9 requested heights, the Commission would review the
10 variance simultaneously with the PUD, if the applicant
11 files a variance request with the BZA for the excess
12 height and demonstrates how the property meets the
13 variance test.

14 The applicant's representatives have also
15 suggested that the Zoning Commission approval of the
16 project as a whole could include any unspecified
17 relief that may be identified by the Zoning
18 Administrator during permit review. OP does not
19 believe that any time would be saved by pursuing this
20 assumption.

21 If the Commission decides to continue with
22 the case as a PUD, we strongly recommend that the
23 variance be considered simultaneously with the PUD to
24 avoid the unnecessary interpretation regarding how the
25 heights of the structures are measured.

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1 Thank you, Madam Chairman.

2 CHAIRPERSON MITTEN: Thank you, Ms. Brown-
3 Roberts.

4 I'd like to just begin by asking a
5 question, just to clarify. In your report, when you
6 talk about multiple buildings on a lot, that's the
7 theoretical lot provision, which can be accomplished
8 in 2517 as a matter of right for commercial use. But
9 my understanding is that the Blue Plains -- the
10 entirety of Blue Plains, there is not a record lot for
11 -- there's no record lot of any kind. So it itself is
12 a theoretical lot or something, or maybe it's just so
13 old that it, you know, predates all that.

14 But am I correct that there's not a record
15 lot?

16 DEP. DIR. MCCARTHY: Right. It's
17 apparently a something.

18 (Laughter.)

19 And --

20 CHAIRPERSON MITTEN: That's good to know.

21 DEP. DIR. MCCARTHY: And what kind of
22 something it is is not entirely clear, which is when
23 we became aware of just how irregular that situation
24 was, that's why the Office of Planning would not be
25 opposed to hearing this as a PUD with the variance

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1 being requested from the Zoning Commission as the
2 appropriate relief for height, but with the other
3 flexibility being considered as part of a planned unit
4 development.

5 And our assumption is that when the --
6 when WASA submits its fuller application, it will, at
7 that point in time in the prehearing statement,
8 explain more completely the relief that's necessary,
9 and in the meantime may go to the surveyor's office
10 and ask for a lot of record, if that is part of
11 helping to clarify that.

12 So at this point in time, given that it's
13 somewhat indeterminant, it would make sense to hear it
14 as a PUD and with the height relief being a variance
15 and the rest of the flexibility that's sought being
16 sought through the PUD mechanism.

17 CHAIRPERSON MITTEN: I have another
18 question. I'm just looking for the part.

19 MEMBER HILDEBRAND: Am I understanding
20 correctly that you're recommending that it -- the PUD
21 process is the correct process for this?

22 DEP. DIR. MCCARTHY: The PUD process is
23 not the correct relief for the height, because of the
24 reasons that we explained in the report. But the PUD
25 -- but the Zoning Commission is empowered to grant a

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1 variance, and it can do that as part of a PUD hearing.

2 So given the other kinds of relief that
3 may be necessary with regard to more than one
4 principal structure on the lot, and the area
5 requirements, and the fact that there is no record lot
6 at this point in time, the Office of Planning would
7 not be opposed to setting it down as a PUD and a
8 variance within that PUD.

9 And it seems like that's the way, as we've
10 discussed this with the Office of the Attorney General
11 -- and maybe they would like to weigh in as well --
12 but as we've discussed it with them, it seems like
13 that would be the best way of providing both kinds of
14 relief that are necessary.

15 MR. BERGSTEIN: If I could just --

16 CHAIRPERSON MITTEN: Please.

17 MR. BERGSTEIN: -- I think it's not so
18 much that if you decided, in fact, to agree with the
19 Office of Planning in terms of height measurement
20 methodology that the variance would be a relief within
21 the PUD. You'd had two applications. You would have
22 a PUD application that deals with those matters of
23 zoning flexibility, apart from height unless you felt
24 that you could also hear height up to 90 percent plus
25 the 5 percent.

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1 And then, there would be a separate
2 application that would be heard at the same hearing to
3 grant height relief. So it's two separate
4 applications that would be consolidated within a
5 single hearing, but would require two separate votes,
6 two separate approvals.

7 CHAIRPERSON MITTEN: Let me just ask you
8 as much about for -- this is for future reference. If
9 you have a -- am I correct in this statement? If you
10 have a variance request that's part of the PUD, the
11 burden of proof is different. Is that correct?

12 MR. BERGSTEIN: Well, again, I don't
13 consider that part of the PUD as being done
14 simultaneous with the PUD as a matter of
15 administrative efficiencies, if the PUD process can
16 take care of several aspects of zoning flexibility.

17 But, one, it cannot, because there is a
18 limit with respect to the amount of zoning flexibility
19 that you can be given with respect to height. Then,
20 both would be heard at the same time, separately
21 considered.

22 The zoning flexibility under the PUD
23 standard would require a showing that what is being
24 built is more -- becomes something more than could be
25 accomplished through matter of right, that the

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1 flexibility provides a superior project, either the
2 project itself or the amenities that flow from the
3 project. And that's the standard that will go to the
4 zoning flexibility requested under the PUD.

5 With respect to the variance, it's the
6 traditional variance standard -- that there must be
7 something unique and exceptional about the property or
8 flowing from the property. And that, as a result of
9 that exceptional condition, there's a practicable
10 difficulty in complying with the zoning regulations.
11 But there are two separate tests, two separate
12 applications, two separate votes.

13 CHAIRPERSON MITTEN: Okay. So unlike what
14 we would normally -- if we just roll in the variance
15 with other relief requested, and we don't go through
16 the three-prong test -- in this case, because it would
17 be a separate application, it would stand on its own.
18 They would have to go -- they would have to address
19 the three-prong test for the height.

20 MR. BERGSTEIN: Yes.

21 CHAIRPERSON MITTEN: Okay. Okay. I think
22 I have wrapped my brain around that. One of the
23 things that concerns me is that the idea that -- that
24 the approval of a project would include unspecified
25 relief, I'm very uncomfortable with that. I believe

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1 that that is the practice, that if a project gets past
2 the Zoning Commission and various things have not been
3 called out that the Zoning Administrator might see,
4 that it just keeps -- it keeps going, because it's
5 considered to be approved.

6 But it has never been my intention that if
7 there's any relief that hasn't been called out that we
8 don't call it out, if we see it, and that that
9 shouldn't be part of the degree of relief being
10 requested. So the idea that it's just kind of like,
11 well, whatever else we need is included in that, we --
12 I think we really need to know, to the extent
13 possible, what is the degree of relief being
14 requested.

15 So we would need to have more analysis
16 done, and it's a question of, you know, how to get
17 that done most efficiently.

18 Anyone else have questions or comments?

19 Okay. I guess what I would suggest -- did
20 you have something?

21 VICE CHAIRPERSON HOOD: No.

22 CHAIRPERSON MITTEN: Okay. What I would
23 suggest is that we -- I think we can set this down.
24 But before it could be advertised and then the clock
25 would start ticking for the hearing, is we really need

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1 to know what the degree of relief being requested is.

2 So we need to clarify that, so that the
3 public has ample opportunity to understand what the
4 real -- what relief is being requested and what will
5 have to be provided as amenities and benefits to weigh
6 against that.

7 So I think we can -- unless Mr. Bergstein
8 jumps on his microphone, I think we can set it down
9 with the proviso that the full extent of the relief
10 being requested would be submitted to the Commission,
11 to the Secretary for the Commission, before the case
12 will be advertised for public hearing, and that that
13 would include information regarding the balance of the
14 Blue Plains project.

15 Whether that needs to be constituted as a
16 record lot or just as a larger theoretical lot, I
17 think we need to know about density issues and
18 whatever other issues might result from drawing the
19 theoretical lots that affect the balance of the
20 project. And I would so move.

21 VICE CHAIRPERSON HOOD: I would second --

22 MR. BERGSTEIN: Okay. Let me -- this is
23 where I'm going to jump in.

24 CHAIRPERSON MITTEN: Oh, he's jumping in
25 now. Okay.

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1 MR. BERGSTEIN: I don't know if you are
2 going to reach the issue of variance later. But if a
3 variance is going to be heard --

4 CHAIRPERSON MITTEN: Okay.

5 MR. BERGSTEIN: -- it would need to be
6 advertised as well, and you can either make the
7 determination that you agree with the Office of
8 Planning and indicate that a variance will be needed,
9 or whether or not you want to, in essence, advertise
10 it as an as-needed basis.

11 CHAIRPERSON MITTEN: Okay. Well, thank
12 you. Thank you for clarifying that. So I will add to
13 my motion that we would advertise the variance for
14 height. And then, to the extent that we want to
15 debate that later, about whether it's actually needed,
16 we can do that.

17 VICE CHAIRPERSON HOOD: I'll second that,
18 Madam Chair. But I want to ask a question. Now, are
19 we saying that we're going to handle -- the Zoning
20 Commission is going to handle both instances -- the
21 height issue and the PUD? Or -- I'm confused on
22 exactly how we're going to proceed.

23 CHAIRPERSON MITTEN: Well, and I don't --

24 VICE CHAIRPERSON HOOD: Is the BZA going
25 to come into play?

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1 CHAIRPERSON MITTEN: No.

2 VICE CHAIRPERSON HOOD: Okay.

3 CHAIRPERSON MITTEN: No.

4 VICE CHAIRPERSON HOOD: That's all I
5 wanted to know.

6 CHAIRPERSON MITTEN: And just from a
7 technical perspective also, Mr. Bergstein, we have an
8 application, and it's for a PUD. Now, are you saying
9 we're going to need a separate application?

10 MR. BERGSTEIN: Well, I think you are,
11 because --

12 CHAIRPERSON MITTEN: Okay.

13 MR. BERGSTEIN: -- in essence, you can't
14 foist an application or relief upon the applicant.

15 CHAIRPERSON MITTEN: Okay.

16 MR. BERGSTEIN: So they would need to also
17 indicate that they, in fact, are seeking variance
18 relief.

19 CHAIRPERSON MITTEN: Okay. So I guess you
20 all can work that out. But --

21 MR. BERGSTEIN: In essence, you are
22 authorizing the advertisement of that relief if --

23 CHAIRPERSON MITTEN: Pending receipt.

24 MR. BERGSTEIN: -- an application is
25 submitted.

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1 CHAIRPERSON MITTEN: Okay. Okay.

2 SECRETARY BASTIDA: Madam Chairman, may I?

3 On your motion, you include for the staff to
4 accelerate the process and that way waive the 20 days'
5 requirement after they submit the prehearing
6 statement? That is a rule of the Commission, that the
7 Commission can waive the other 30 working days -- is
8 an action by the Council, and the Commission cannot
9 waive that.

10 So, still, the community will have ample
11 time of notice, because it will be -- it amounts to
12 about 45 calendar days --

13 CHAIRPERSON MITTEN: Okay.

14 SECRETARY BASTIDA: -- that it will be
15 advertised, so --

16 CHAIRPERSON MITTEN: Okay. So -- well,
17 let's have that as a separate issue.

18 SECRETARY BASTIDA: Okay, fine. Thank
19 you.

20 CHAIRPERSON MITTEN: Okay. So, did you
21 second it? Did we get the second in?

22 VICE CHAIRPERSON HOOD: Yes, I think I
23 did. Second.

24 CHAIRPERSON MITTEN: Okay. Mr. Hood has
25 seconded it at least once. Any discussion on the

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1 motion? Okay. All those in favor of setting this
2 case down, as well as the variance application, should
3 the applicant submit one, please say aye.

4 (Chorus of ayes.)

5 I believe we have none opposed. Ms.
6 Schellin?

7 MS. SCHELLIN: Staff will record the vote
8 five to zero to zero, to approve Case Number 04-19 for
9 setdown. Commissioner Mitten moving, Commissioner
10 Hood seconding, Commissioners Hildebrand, Jeffries,
11 and Parsons in favor.

12 COMMISSIONER PARSONS: I'm sorry. I did
13 have one question. Admittedly, we just got this over
14 the weekend here, but one of the statements in the
15 applicant's request has to do with the fact that they
16 will be able to use some of this gas to generate
17 electricity. And on the plan it -- I'm looking at
18 sheet -- it's called General Plan, Digester Area. It
19 says, "Future Co-generation Building, or Co-gen
20 Building," which seems to be outside this request.

21 But I wondered if there were other things
22 we should be dealing with, and I'm not sure the Office
23 of Planning can answer that. But is there something
24 yet to come that hasn't been designed? To me, this is
25 a major urban design issue, and I think this

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1 organization has done a real fine job of designing
2 this.

3 But if there's something directly in front
4 of it that we haven't yet seen, I'm wondering about
5 that. Maybe it's a very small building. Maybe it's
6 two stories. But do you know?

7 MS. BROWN-ROBERTS: The application did
8 not contain anything. It just --

9 COMMISSIONER PARSONS: Well, maybe that
10 could --

11 MS. BROWN-ROBERTS: It just stated that it
12 was going to be a future building.

13 CHAIRPERSON MITTEN: Good question.

14 All right. Then, to the issue of the
15 waiver of the notice period.

16 SECRETARY BASTIDA: The Commission
17 requirement for the waiting of 20 days after receiving
18 the prehearing statement, that means that you are
19 authorized to expedite the hearing, which, in fact,
20 will eliminate those 20 days that is part of the
21 zoning regulations.

22 CHAIRPERSON MITTEN: Okay. Does anyone
23 have any -- do we need to take a vote, or can we just
24 have a consensus? I think we can just have a
25 consensus. Consensus?

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1 VICE CHAIRPERSON HOOD: Madam Chair, how
2 many days in total will the ANC and the community have
3 to have input on this case?

4 SECRETARY BASTIDA: It will have the usual
5 45 days, because we do not send that out until the 20
6 days. That's what the regulations require, that we
7 hold that in the office for 20 days and then advertise
8 it. So the community will not be impacted because you
9 forfeit those 20 days. They --

10 VICE CHAIRPERSON HOOD: So they'll still
11 have 45 days to comment.

12 SECRETARY BASTIDA: Right. Correct.

13 VICE CHAIRPERSON HOOD: All right. I have
14 no problem.

15 SECRETARY BASTIDA: Thank you.

16 COMMISSIONER PARSONS: Can I ask, Mr.
17 Bastida, make sure a notice is sent to the National
18 Capital Planning Commission.

19 SECRETARY BASTIDA: Yes. We --

20 COMMISSIONER PARSONS: I know you do that
21 routinely.

22 SECRETARY BASTIDA: Yes, right. But we
23 will make sure that --

24 COMMISSIONER PARSONS: Thank you.

25 SECRETARY BASTIDA: -- it is done. Thank

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1 you.

2 CHAIRPERSON MITTEN: Yes, thank you. So
3 we have no objection to accelerating the hearing.
4 Okay. No objection. All right.

5 SECRETARY BASTIDA: Thank you, Madam
6 Chairman.

7 CHAIRPERSON MITTEN: Thank you, Mr.
8 Bastida.

9 Okay. Then, we'll take up the next case
10 for hearing action, which is Case Number 04-13, which
11 is the PUD and map amendment for 1200 R Street. And
12 if you'll remember, this is one that we took up in
13 July and did not set down because we requested some
14 changes from the applicant.

15 So maybe I'll just turn briefly to the
16 Office of Planning, if you have any little summary you
17 wanted to give, or we can go directly into -- anybody
18 want to say anything down there?

19 MR. MORDFIN: Good evening, yes, Chairman.

20 CHAIRPERSON MITTEN: Mr. Mordfin?

21 MR. MORDFIN: Yes. Good evening, Chair,
22 and members of the Commission. I'm Stephen Mordfin
23 with the Office of Planning.

24 And since this application was last before
25 the Commission, the applicant has significantly

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1 revised the application based on the concerns based --
2 expressed by the Commission at the July meeting.

3 Lot 45, the only lot within the subject
4 property that is located within the Greater 14th
5 Street Historic District, is now proposed to be
6 rezoned to the R-5-B zone, along with the rest of the
7 subject property. The total area of the subject
8 property is now 23,252 square feet, or 53 percent of
9 the minimum required.

10 However, the Commission is empowered to
11 reduce the area of a PUD by up to 50 percent if it
12 exhibits exceptional merit and at least 80 percent
13 residential gross floor area. The residential gross
14 floor area is approximately 94 percent, and the
15 project is of exceptional merit in that it will have a
16 green roof, which will reduce storm water runoff,
17 positively affect the heat island effect, and is
18 something that could not otherwise be required on this
19 building.

20 The architecture of the building now
21 positively relates to the existing architecture in the
22 neighborhood, while reflecting the greater importance
23 of avenues over streets within the city. Tree boxes
24 surrounding the site are proposed to be increased in
25 size, which will have a positive effect on the life

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1 and survival of the trees planted within them. And
2 this, combined with the green roof, will result in a
3 more environmentally sensitive development, which is
4 in the best interest of the city.

5 And amenity package has also been revised,
6 and these amenities will not be required if the
7 applicant chose to construct a buy-right building, and
8 that package now includes three affordable housing
9 units, consisting of the large units within the
10 building only, which are the ones that are the most
11 likely to attract families.

12 They've clarified some of the uses within
13 the community room. A substantial redesign exterior
14 of the building, creating a more interesting visual
15 experience reflecting the architecture of traditional
16 Washington houses, and reflecting the greater
17 importance of avenues over streets in Washington.

18 The rear of the building will now be
19 articulated, including the use of different materials,
20 and will include balconies. A detailed landscape plan
21 that includes the planting of shade trees within -- in
22 large tree boxes within the public space, and the
23 planting of ornamental and evergreen trees together
24 with shrubs, significantly will improve the appearance
25 of this corner.

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1 The green roof will consist of
2 approximately 50 percent of the roof of the building,
3 which is a superior architectural amenity, and the
4 number of historic district signs that are proposed
5 have increased from three to 20. And the applicant
6 will also make a \$20,000 contribution to DDOT's 11th
7 Street landscape plan in place of the \$8,500
8 contribution to the skate park that was previously
9 part of the amenity package, and also 20 offstreet
10 parking spaces for sale within the community.

11 The use of the community room is limited
12 to two days per month, with the additional times to be
13 worked out with the church. Therefore, the value of
14 this amenity still needs to be determined, and the
15 same applies to the 20 offstreet parking spaces,
16 because they will be sold to the community.

17 And also, the layout of the community room
18 must also -- must also be finalized before the total
19 number of parking spaces available to the community
20 can be determined, and the proposed church programs
21 proposed are permitted only by special exception
22 within the R-5-B district pursuant to Section 216 of
23 the zoning regs.

24 However, the Office of Planning believes
25 that these issues can be worked out prior to the

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1 public hearing. Therefore, the Office of Planning
2 recommends setdown of the proposed planned unit
3 development and map amendment to assign the R-5-B
4 zoning district to 1200 R Street, Northwest.

5 And that concludes the Office of
6 Planning's presentation.

7 CHAIRPERSON MITTEN: Thank you, Mr.
8 Mordfin.

9 Questions or comments? Mr. Hildebrand?

10 MEMBER HILDEBRAND: In looking through the
11 package, it is clear that the development team has
12 come a long way in improving the architectural
13 appearance of the project. There is -- one thing that
14 does cause me just a little bit of concern, though,
15 and that's in Elevation Drawing A-11, they've made an
16 effort to tie in the entrance, and to create this
17 sense of pediment over the central entrance piece,
18 which I think is a good step.

19 But, still, it seems to be floating a bit,
20 almost like an eyebrow that's disconnected from the
21 rest of the structure. It would be nice to see if
22 they could potentially continue to tweak that a little
23 bit to -- to sort of give it a sense of really being
24 positioned.

25 But I thought that the -- overall, it was

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1 nice to see that they had listened to our comments
2 before and had taken some positive steps with the
3 architecture.

4 CHAIRPERSON MITTEN: Thank you. Yes, I
5 agree with you. I mean, we're definitely moving in
6 the right direction here.

7 Mr. Parsons?

8 COMMISSIONER PARSONS: I would agree, and
9 I would just move that we set this down for hearing.

10 CHAIRPERSON MITTEN: Okay. I'll second.
11 Any further discussion?

12 VICE CHAIRPERSON HOOD: Madam Chair, I
13 just wanted to put on record I appreciate the
14 explanation about the community room, but I still have
15 a concern -- and I'm sure this project is set down --
16 but about this parking space issue. While I know we
17 did it with another case, I'm going to be looking to
18 hear more on that in this case.

19 And also, if the Office of Planning can
20 let us know how that piece is working, or is about to
21 work, in the other case at the time of this hearing,
22 so we'll know whether or not we can keep proceeding in
23 this fashion. And I'm speaking of the 20 parking
24 spaces that are being sold to people in the two-block
25 radius.

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1 Thank you, Madam Chair.

2 CHAIRPERSON MITTEN: Thank you, Mr. Hood.

3 I think there's sort of a managerial component to
4 that that we need to understand, too. How's that
5 going to be handled in perpetuity, or at least for the
6 life of the project?

7 All right. Any further discussion? Mr.
8 Hildebrand?

9 MEMBER HILDEBRAND: I did have one
10 question. I noticed in the roof plan that there was a
11 significant number of condensing units on the roof of
12 the penthouse. Has the Office of Planning looked at
13 those? Are those all below the required four-foot
14 height that require no screening in any way? They
15 don't show up on the elevations. We might want to
16 clarify that as part of --

17 MR. MORDFIN: We will have the applicant
18 clarify that for us.

19 CHAIRPERSON MITTEN: Thank you. Anyone
20 else? All those in favor of setting down Case
21 Number 04-13, please say aye.

22 (Chorus of ayes.)

23 MS. SCHELLIN: Staff will record the vote
24 five to zero to zero, to set down Case Number 04-13.
25 Commissioner Parsons moving, Commissioner Mitten

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1 seconding. Commissioners Hildebrand, Hood, and
2 Jeffries in favor.

3 And just to confirm, this, too, will be a
4 contested case.

5 CHAIRPERSON MITTEN: Yes. Thank you.

6 All right. Next, under Hearing Action
7 04-14, Florida Rock. Mr. Lawson is up next.

8 MR. LAWSON: Madam Chair, members of the
9 Commission, my name is Joel Lawson. I'm with the D.C.
10 Office of Planning. The case before you right now is
11 Case Number 04-14, which is a second-stage planned
12 unit development application for the 5.8-acre Florida
13 Rock property located on the Anacostia River.

14 The applicant is seeking second-stage PUD
15 approval for the construction of a mixed use
16 development of just over a million square feet in
17 area. Development will include two office buildings
18 on Potomac Avenue, a hotel, and a residential building
19 located closer to the waterfront. Another important
20 feature is a 75-foot minimum width Riverwalk Promenade
21 segregated by pedestrian pathways, seating, and
22 planted areas.

23 At its June 12th meeting, or at your
24 June 12th meeting, the Zoning Commission considered
25 setting down this application for a public meeting --

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1 public hearing.

2 Prior to doing so, the Commission
3 requested additional information regarding the
4 proposed design and materials, the proposed
5 development would -- how that would address the
6 potential bridge location, conformance to the AWI
7 plan, design and aesthetics that are proposed by
8 retention areas, and economic benefits to the
9 District.

10 The Office of Planning believes that the
11 information submitted by the applicant is sufficient
12 to address these concerns, and certainly for setting
13 down the application at this time.

14 And I think, with that, I'll leave it at
15 that. Thank you very much.

16 CHAIRPERSON MITTEN: Thank you, Mr.
17 Lawson.

18 Questions or comments? Has Florida Rock's
19 time come?

20 (Laughter.)

21 After all their hard work here for us?
22 Mr. Hildebrand?

23 MEMBER HILDEBRAND: I'm just curious, in
24 response to the potential movement of the bridge,
25 there was no material change in the building. Is that

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1 because of certain easements that would continue to
2 exist on the site?

3 MR. LAWSON: The applicant is actually
4 proposing changes to the building, if and when the
5 bridge moves. The building is being designed with,
6 for example, knockout panels, which will allow that
7 facade to open up to a greater degree to what would be
8 -- anticipated to be a green space.

9 In addition, they have situated the -- the
10 portion of the building directly adjacent to where the
11 bridge would be is hotel. They've anticipated that a
12 restaurant would be located at the -- essentially the
13 prowl of that building, and that that restaurant would
14 be able to open up as well onto the green space to
15 kind of integrate the green space better into the park
16 space along the waterfront.

17 CHAIRPERSON MITTEN: Anyone else? Mr.
18 Parsons?

19 COMMISSIONER PARSONS: Last time I asked
20 for some statement regarding the Anacostia Waterfront
21 Initiative plan -- and you've done that on page 3,
22 number 3, first paragraph, where you say at the end,
23 the last two sentences, "The target area plan of
24 Chapter 6 shows proposed development on the FRP site."

25 Other less site-specific chapters include

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1 more conceptual drawings that indicate new green space
2 and access to the waterfront are to be created in the
3 area which the FRP proposal provides. Could you
4 elaborate on that?

5 MR. LAWSON: Absolutely. The Anacostia
6 Waterfront Initiative fairly consistently, in its
7 detailed planning sections, shows development on the
8 Florida Rock property site as being a privately-held
9 property in which development is anticipated. Florida
10 Rock has responded to the AWI concerns and guidelines
11 and criteria by providing fairly significant access
12 through the site to the waterfront, as well as along
13 the waterfront through a linear park, a segregated
14 bikeway, as well as the creation of new green areas,
15 both along the waterfront and along Potomac Avenue.

16 If the bridges moves, as I said, it is
17 anticipated that an additional green space would be
18 created on the portion of the land below the bridge
19 which is Florida Rock Properties land. Not all the
20 land below where the bridge is now is Florida Rock
21 property. Some of it is in road right of way,
22 etcetera, and that would be assumed to be converted to
23 green space as well.

24 So we feel that they have responded to --
25 OP feels that they have responded to the guidelines of

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1 the AWI by providing this access and by providing this
2 green space, as well as by providing an important
3 influx of development at this location in Buzzard
4 Point.

5 COMMISSIONER PARSONS: So, to your
6 knowledge, there are no documents in the Anacostia
7 Waterfront Initiative that shows this property is open
8 space?

9 MR. LAWSON: No. I think I say in our
10 report that there are a number of conceptual drawings
11 that do show a green space in this location. The more
12 detailed drawings, both in the AWI and in the near
13 southeast plan, show the Florida Rock property site as
14 development. Some of the more conceptual drawings in
15 the more general areas of the plan do show this as
16 green space. It's the sections that are dealing with
17 the southeast area and with development in specific
18 that show this as a development site.

19 COMMISSIONER PARSONS: So has the City
20 Council adopted any of these plans?

21 MR. LAWSON: I don't believe that the plan
22 is being adopted by Council. Council is certainly
23 aware of the plans, but I don't think they're being
24 officially adopted.

25 COMMISSIONER PARSONS: Well, maybe we

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1 could have some clarification of that at the hearing,
2 as to what the status of those plans are. Okay?

3 MR. LAWSON: Absolutely. I'd be happy to
4 provide that.

5 COMMISSIONER PARSONS: Now, I'm referring
6 to -- we have so much paper, and I'm sure there will
7 be more to come.

8 (Laughter.)

9 I'm actually look at a book of May 20th.
10 Do you have that? It's the lightest one, so I chose
11 it. It's this one. No? It's not over there? Well,
12 let me find another one.

13 I'm trying to determine --

14 MR. LAWSON: I'm sorry. Actually, I do
15 have that --

16 COMMISSIONER PARSONS: Do you? Good,
17 okay. Page 7 or circle 7. And we dealt with this
18 last time, but it becomes more important now I think.

19 There is some property shown under the bridge. It's
20 kind of stippled or -- remember Zipatone? Do you
21 remember that stuff?

22 MEMBER JEFFRIES: Yes.

23 COMMISSIONER PARSONS: Do you?

24 MEMBER JEFFRIES: Yes.

25 COMMISSIONER PARSONS: Good. I'm not as

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1 old as I thought.

2 CHAIRPERSON MITTEN: Yes, you are.

3 (Laughter.)

4 COMMISSIONER PARSONS: That property
5 underneath the bridge Florida Rock has some interest
6 in, or claims ownership to, or something.

7 MR. LAWSON: My understanding is that
8 Florida Rock Properties owns that piece of land.

9 COMMISSIONER PARSONS: Yes.

10 MR. LAWSON: They own additional land in
11 the southeast area as well.

12 COMMISSIONER PARSONS: So knowing that the
13 bridge is going away, or we -- we certainly are
14 encouraged of the news that that will happen, is this
15 part of the PUD? Is this something that could be
16 considered as part of the park in the future? In
17 other words, that this would be donated to any -- any
18 park that might occur in the future as a public
19 amenity? Is that something we could explore?

20 MR. LAWSON: Yes. Again, I think our
21 anticipation is that it would certainly be enhanced as
22 publicly accessible landscaped green area. We could
23 certainly have additional discussions with the
24 applicant on the detailed design of what that area
25 might be prior to the public hearing.

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1 COMMISSIONER PARSONS: Well, I'm not as
2 interested in the design of it, which I think would be
3 taken care of by others --

4 MR. LAWSON: Okay.

5 COMMISSIONER PARSONS: -- in the
6 development of a major park here, if that's to occur,
7 but it certainly should not remain here as something
8 that would be potential FAR in the future to add to
9 the hotel. I just -- I mean, if your statement about
10 the park of the future is here at this edge, then we
11 should recognize that I think.

12 And I have one other --

13 DEP. DIR. MCCARTHY: Right. I think also
14 that, clearly, the applicant would need to come back
15 to the Commission with a modification of the PUD if
16 they plan to do anything different than what was
17 contained in the application.

18 COMMISSIONER PARSONS: Okay. I'm just
19 trying to discourage that.

20 (Laughter.)

21 DEP. DIR. MCCARTHY: Okay.

22 COMMISSIONER PARSONS: I know this
23 probably was in the part of the first stage, and you
24 probably don't know the answer to this. But, again,
25 just to clarify it for the hearing, they've proposed

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1 to adopt Reservation 247 or to enhance it with a
2 stormwater retention system that will collect
3 stormwater off the streets. And I think that's a good
4 idea, whether it's five years or perpetuity. I'm glad
5 you pointed that out.

6 But there was a companion Reservation
7 across the street. It's actually underneath the west
8 office tower -- Number 246, which isn't shown in any
9 of the documentation before us today. And I just --
10 as I understand it, that was transferred along with
11 247 to the District of Columbia in 1944, and somehow I
12 guess Florida Rock has come to gain control of that in
13 some fashion. So I'd just like to see if we could
14 clarify how they came to own that.

15 MR. LAWSON: I'll certainly clarify the
16 status on 246, you know, and make sure -- figure out
17 exactly where it is --

18 COMMISSIONER PARSONS: All right.

19 MR. LAWSON: -- and the exact status of
20 it.

21 COMMISSIONER PARSONS: Thank you.

22 CHAIRPERSON MITTEN: Anyone else? Mr.
23 Jeffries?

24 MEMBER JEFFRIES: Yes. I just wanted to
25 know if it's customary, as it relates to economic

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1 benefits tied to PUD projects, that there could be
2 some -- major this is typical, I don't know. Whether
3 there could be some delta that sort of determines what
4 the benefits would be under sort of a matter of right,
5 and then what those increased benefits, economic
6 benefits, would be upon a PUD.

7 Can we get something -- is that typical?
8 Can we get something like that here?

9 DEP. DIR. MCCARTHY: Yes, Mr. Jeffries.
10 That would definitely be part of our report for the
11 hearing. In the prehearing statement, the applicant
12 will outline specifically the areas of flexibility and
13 then what it is providing in the way of benefits and
14 amenities that would not have been the case were the
15 project to be processed as a matter of right project.

16 MEMBER JEFFRIES: So in terms of benefits,
17 employee --

18 DEP. DIR. MCCARTHY: Right, right.

19 MEMBER JEFFRIES: All right. Thank you.

20 DEP. DIR. MCCARTHY: Right.

21 CHAIRPERSON MITTEN: Anyone else? All
22 right. Then, I would move that we set down Case
23 Number 04-14, which is the second-stage PUD for
24 Florida Rock. And I would ask for a second.

25 MEMBER HILDEBRAND: Second.

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1 CHAIRPERSON MITTEN: Any further
2 discussion? All those in favor, please say aye.

3 (Chorus of ayes.)

4 We have none opposed, Ms. Schellin.

5 MS. SCHELLIN: Staff will record the vote
6 five to zero to zero, to set down Case Number 04-14.

7 Commissioner Mitten moving, Commissioner Hildebrand
8 seconding. Commissioners Hood, Jeffries, and Parsons
9 in favor. Again, a contested case.

10 CHAIRPERSON MITTEN: Yes, thank you.

11 All right. Now we'll jump back on the
12 original sequence, and I will ask Mr. Hood to take
13 over briefly for the consent calendar item. I have to
14 recuse myself, because of my current role as the
15 Director of the Office of Property Management, and
16 this affects a Government agency.

17 VICE CHAIRPERSON HOOD: Okay. Thank you,
18 Madam Chair.

19 Colleagues, we have in front of us on the
20 consent calendar Zoning Commission Case Number 04-08A,
21 St. St. Elizabeths PUD. They're asking for minor
22 modification. Mr. Bastida?

23 SECRETARY BASTIDA: Mr. Vice Chairman, the
24 applicant, at the request of the Office of Planning,
25 has proposed to increase the property size by 5.19

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1 acres, and that portion will be dedicated to the
2 roadway point of access to the hospital, the
3 gatehouse, and open space to the overall site, which
4 increased the property to 54.59 acres.

5 The Office of Planning has proposed you
6 with a review of this as requested -- as required by
7 the Zoning Commission by the zoning regulations, and
8 find no objectionable conditions regarding that and
9 recommend that the Commission approves the proposed
10 minor modification.

11 The only party involved in this hearing
12 was ANC-A6. They did not provide any written comments
13 on this matter, but in a telephone conversation that I
14 had with the Secretary, the ANC expressed no objection
15 to the proposal. On the contrary, they seem to be in
16 favor of it.

17 That concludes the presentation of the
18 Office of Zoning. If you have any questions, I will
19 try to answer them.

20 Thank you.

21 VICE CHAIRPERSON HOOD: Thank you, Mr.
22 Bastida.

23 Colleagues, we have in front of us a
24 request for minor modification. Any comments? If
25 not, I'll entertain a motion.

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1 COMMISSIONER PARSONS: Well, I would move
2 that we grant this request. It's certainly important
3 that a roadway get to the property.

4 (Laughter.)

5 I hope in this statement we -- it talks
6 about open space along Alabama Avenue. I hope there
7 will be a landscape plan or something to accompany
8 this to show how it's going to be treated. That's
9 good frontage on Alabama Avenue. I think it's a good
10 addition.

11 SECRETARY BASTIDA: Mr. Parsons, that will
12 be --

13 VICE CHAIRPERSON HOOD: We have a motion,
14 Mr. Bastida, on the table.

15 SECRETARY BASTIDA: Sorry.

16 VICE CHAIRPERSON HOOD: Let me obtain a
17 second, and then we'll -- if you have something you
18 can add, you can do it at that time. With that, I'll
19 second it.

20 Mr. Bastida, you wanted to add something?

21 SECRETARY BASTIDA: Yes. This is a minor
22 modification to the first stage. On the second stage,
23 they will have to address all of the points that Mr.
24 Parsons has made.

25 VICE CHAIRPERSON HOOD: Right.

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1 SECRETARY BASTIDA: Thank you.

2 VICE CHAIRPERSON HOOD: Thank you for that
3 clarification.

4 It has been moved and properly seconded.
5 All those in favor?

6 (Chorus of ayes.)

7 Any opposition?

8 (No response.)

9 So ordered. Staff, would you record the
10 vote?

11 MS. SCHELLIN: Yes. Staff will record the
12 vote four to zero to one, to approve the request in
13 Case Number 04-08A. Commissioner Parsons moving,
14 Commissioner Hood seconding. Commissioners Hildebrand
15 and Jeffries in favor; Commissioner Mitten not voting,
16 having recused herself.

17 VICE CHAIRPERSON HOOD: Now I will turn it
18 back over to the Chair.

19 CHAIRPERSON MITTEN: Thank you, Mr. Hood.

20 All right. We postponed the decisions on
21 the proposed action items, so we'll move to the final
22 action for Case Number 02-22, which is a map amendment
23 in Square 754. And I'll just begin by asking
24 Commissioners Hildebrand and Jeffries whether they
25 have read the record and plan to participate in the

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1 vote.

2 MEMBER HILDEBRAND: Yes, Madam Chair, I
3 have read the record.

4 CHAIRPERSON MITTEN: Thank you.

5 MEMBER JEFFRIES: I have not read the
6 record.

7 CHAIRPERSON MITTEN: Okay. All right. So
8 this has been kicking around for a little while. This
9 is a rezoning of a few lots along 2nd Street, if you
10 all will remember, and we have the draft order before
11 us. And I would move approval of the map amendment
12 for Square -- the specified lots in Square 754,
13 Lots 103 through 106 and 109.

14 MEMBER HILDEBRAND: I would second.

15 CHAIRPERSON MITTEN: Thank you.

16 And I have a few editorial changes, but no
17 substantive changes for the order. Does anyone have
18 any substantive changes for the order?

19 All right. Then, I will ask for all those
20 in favor, please say aye.

21 (Chorus of ayes.)

22 Ms. Schellin, we have none opposed.

23 MS. SCHELLIN: Staff will record the vote
24 four to zero to one, to approve Case Number 02-22.
25 Commissioner Mitten moving, Commissioner Hildebrand

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1 seconding. Commissioners Hood and Parsons in favor;
2 and Commissioner Jeffries not voting, having not
3 participated.

4 CHAIRPERSON MITTEN: Thank you.

5 All right. Next regards Case Number
6 04-07, and this is a request from WASA to withdraw,
7 without prejudice, their request for a special
8 exception that we heard and took proposed action on
9 regarding their facility -- the Maine and O Street
10 pumping stations.

11 VICE CHAIRPERSON HOOD: Do we need a
12 motion, or can we just do it by general consensus?

13 CHAIRPERSON MITTEN: I think we probably
14 need a motion, because this is sort of an official
15 action.

16 VICE CHAIRPERSON HOOD: Sure. I would
17 move that we grant WASA the request for withdrawal of
18 Zoning Commission Case 04-07, pumping station.

19 CHAIRPERSON MITTEN: Second. Is there any
20 discussion? All those in favor, please say aye.

21 (Chorus of ayes.)

22 Those opposed, please say no.

23 (No response.)

24 COMMISSIONER PARSONS: Abstaining. I
25 didn't participate in the case.

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1 CHAIRPERSON MITTEN: Okay. Thank you.

2 Ms. Schellin?

3 MS. SCHELLIN: Yes. Staff will record the
4 vote four to zero to one, to approve withdrawal in
5 Case Number 04-07. Commissioner Hood moving,
6 Commissioner Mitten seconding. Commissioners
7 Hildebrand and Jeffries in favor; Commissioner Parsons
8 not voting, have not participated.

9 CHAIRPERSON MITTEN: Thank you.

10 And as I said at the beginning, we're
11 postponing the decision on the dismissal of Case
12 Number 91-2. And now we will take up final action for
13 an item that was not on the agenda until we commenced,
14 which is Case Number 04-12, which is the Carnegie
15 Institute case that we had taken up. We had a public
16 hearing and had a -- took proposed action as a bench
17 decision.

18 So what's left outstanding here is that we
19 just need to settle on what the conditions will
20 actually be, because we had the conditions from the
21 Office of Planning, and the applicant was in support
22 of those. But we also intended to incorporate any
23 other conditions from the prior order that were
24 relevant, but we really didn't specify what those
25 were. So we just need, at this point, to clarify what

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1 the conditions will be.

2 COMMISSIONER PARSONS: Madam Chair, I've
3 looked at these and find that very few of them have
4 any relevance to what we just decided. I think the --
5 many of them can be included in the findings of fact,
6 you know, what the maximum floor area ratio will be
7 and how many parking spaces, and so forth, and the
8 maximum floor area ratio -- well, I'm being redundant,
9 because I'm reading two. I'm reading this and the
10 prior order.

11 I think it would be well if we included
12 the campus population, which shall not exceed 99
13 persons. Although we have included an approval for a
14 100-seat or a 110-seat auditorium, I don't think that
15 goes to increasing the campus population. I mean,
16 it's a facility that will be used for purposes beyond
17 that. So I don't think that's in conflict with that.

18 And it goes on to say there should be no
19 more than 34 students or fellows, there should be no
20 more than 30 faculty, technical -- 15 technical
21 support and 20 administrative. So I think that
22 condition bears repeating and inclusion in our order.

23 But the others that have been suggested or have been
24 reviewed, I guess we could say existing landscaping
25 should be maintained in a healthy state. I think

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1 that's something that the community was interested in.

2 CHAIRPERSON MITTEN: But not include the
3 second sentence of that.

4 COMMISSIONER PARSONS: Yes, because there
5 was no --

6 CHAIRPERSON MITTEN: Okay.

7 COMMISSIONER PARSONS: -- plan. It was
8 the existing landscaping.

9 CHAIRPERSON MITTEN: Okay.

10 COMMISSIONER PARSONS: And I think that
11 would accommodate the need.

12 CHAIRPERSON MITTEN: Okay. I guess we did
13 have the -- a condition that was one of the OP
14 conditions that I think is probably unnecessary, which
15 was that excavation and construction -- well, this is
16 -- this was a variation of what had been in a prior
17 order, I think, which was that it was going to be on
18 weekdays.

19 But what Office of Planning had proposed
20 was that excavation and construction shall occur on
21 days and during hours that are required by other codes
22 and regulations of the District. We typically don't
23 have to call that out as a separate condition. We
24 take that for granted.

25 So could we just run them down?

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1 Construction shall be in accordance with the plans
2 submitted into the record, and we could say "at
3 Exhibit blank."

4 COMMISSIONER PARSONS: I wasn't even going
5 to include those.

6 CHAIRPERSON MITTEN: You weren't? Oh,
7 okay. Well, I think typically we do.

8 COMMISSIONER PARSONS: All right.

9 CHAIRPERSON MITTEN: And including the
10 condition about the maximum floor area shall not
11 exceed .882, and then the condition regarding the
12 campus population shall not exceed 99 persons, and the
13 other provisions below that that you stated. And
14 perhaps we should say that 99 persons, and then in
15 paren "not including attendees at the auditorium," or
16 something like that --

17 COMMISSIONER PARSONS: Yes, I guess that
18 would be --

19 CHAIRPERSON MITTEN: -- for the
20 clarification. And then the paragraph about the use
21 of the campus that would then include the auditorium
22 seating approximately 120 people. I think we do
23 typically have the parking spaces called out, too, so
24 a minimum of 67 offstreet parking spaces shall be
25 provided. And then that would be it, I think. And

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1 the existing landscaping shall be maintained in a
2 healthy state, I think.

3 COMMISSIONER PARSONS: I guess now that
4 I've reviewed number 7, I don't see any objection to
5 that. I just -- if the community is asking for that
6 kind of support, maybe we should give it to them.

7 CHAIRPERSON MITTEN: Okay.

8 COMMISSIONER PARSONS: The applicant shall
9 make every effort to facilitate an orderly phasing of
10 the construction to minimize any impacts on the
11 neighborhood.

12 CHAIRPERSON MITTEN: Okay.

13 COMMISSIONER PARSONS: All right. You've
14 persuaded me to expand significantly.

15 CHAIRPERSON MITTEN: Okay, sorry.

16 COMMISSIONER PARSONS: That's all right.
17 So that's a motion.

18 CHAIRPERSON MITTEN: Is that sufficiently
19 clear? Thanks. That's your motion. Is that your
20 motion?

21 COMMISSIONER PARSONS: Yes.

22 CHAIRPERSON MITTEN: With a little help.

23 COMMISSIONER PARSONS: Sounds like it.

24 CHAIRPERSON MITTEN: Okay. Since Mr.
25 Parsons kindly moved, I will kindly second. And is

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1 there any discussion on the proposed conditions? And
2 this is a final action with the conditions that we
3 just outlined. All those in favor, please say aye.

4 (Chorus of ayes.)

5 None opposed, Ms. Schellin.

6 MS. SCHELLIN: Staff will record the vote
7 five to zero to zero, to approve Case Number 04-12,
8 with the conditions discussed.

9 MEMBER HILDEBRAND: One correction.

10 MS. SCHELLIN: I'm sorry.

11 MEMBER HILDEBRAND: I wasn't --

12 MS. SCHELLIN: Four to zero to one.

13 CHAIRPERSON MITTEN: I'm sorry. Mr.
14 Hildebrand was not in attendance that night.

15 MS. SCHELLIN: That's right.

16 CHAIRPERSON MITTEN: My mistake.

17 MS. SCHELLIN: Four to zero to one.
18 Commissioner Mitten -- excuse me, Commissioner Parsons
19 moving, Commissioner Mitten seconding. Commissioners
20 Hood and Jeffries in favor; Commissioner Hildebrand
21 not voting, having not participated.

22 CHAIRPERSON MITTEN: Thank you.

23 I'll make one note about the
24 correspondence before we move ahead to the minutes.
25 That we have a letter from the Park Service basically

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1 asking that the letter that they submitted be included
2 in the public file.

3 And unless there's an objection, I would
4 just suggest that the letter be included in the file,
5 but that it be stamped to make it clear that it's not
6 part of the public record, just so that anyone reading
7 it would understand that.

8 Is there any objection? All right.

9 Okay. Then, let's head back up to --
10 well, let's let the Office of Planning go next,
11 because the minutes -- the minutes can wait. Who is
12 going to make the report. Ms. McCarthy?

13 DEP. DIR. MCCARTHY: Thank you, Madam
14 Chair.

15 Let me skip down to the fourth item on the
16 list, since we've dealt with the first three. Capital
17 Children's Museum PUD, we would ask that the
18 Commission, because there were some legal problems
19 with them getting their application in, but this
20 project and its related new construction in southwest
21 are important projects for the city.

22 We would like to keep expediting that, and
23 we would ask the Commission if it could possibly
24 schedule a consideration of setting this down at their
25 hearing at the end of the month on September 30th.

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1 CHAIRPERSON MITTEN: So just before you go
2 off of that, so the request is for a public meeting on
3 the 30th to --

4 DEP. DIR. MCCARTHY: Yes, Madam Chair.

5 CHAIRPERSON MITTEN: Okay. Okay. So that
6 would I think -- okay. If we could schedule a public
7 meeting for 6:00 p.m. on the 30th, because I don't
8 think there's going to be -- I don't think it will
9 take more than 30 minutes to decide the setdown.

10 So when Mr. Bastida comes back, we can
11 inform him that unless there's a -- I will not be in
12 attendance at the St. Elizabeths Hospital PUD. I will
13 recuse myself on that. But is there any problem?
14 Will people be able -- will we be able to get a quorum
15 for that?

16 MEMBER JEFFRIES: The 30th?

17 CHAIRPERSON MITTEN: The 30th at 6:00 p.m.

18 MEMBER JEFFRIES: No problem.

19 CHAIRPERSON MITTEN: Okay. Mr. Bastida,
20 we scheduled a public meeting, special public meeting,
21 for Thursday, the 30th of September at 6:00 p.m. to
22 consider the setdown of a case number that I don't
23 have, the Capital Children's Museum.

24 SECRETARY BASTIDA: Yes. That has not
25 been filed yet. As soon as I -- it's filed, I will

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1 advise the Commissioners of that, and we'll, you know,
2 set it for the 6:00 time of that prior to the hearing.

3 CHAIRPERSON MITTEN: All right.

4 SECRETARY BASTIDA: And I would like a
5 little flexibility, just in case it's a little more
6 complex than it appears, maybe to start a little
7 earlier if -- if we determine that it's needed to
8 start a little before 6:00. Or would you rather --

9 CHAIRPERSON MITTEN: Well, how many days
10 ahead of time do you have to advertise that?

11 SECRETARY BASTIDA: I need to advertise it
12 four days.

13 CHAIRPERSON MITTEN: Okay. Okay. Well,
14 we can talk about that if it seems more complicated.

15 SECRETARY BASTIDA: Okay.

16 CHAIRPERSON MITTEN: Okay. Thank you.

17 SECRETARY BASTIDA: You're welcome.

18 CHAIRPERSON MITTEN: I'm sorry to
19 interrupt. We just wanted to handle that.

20 DEP. DIR. MCCARTHY: Oh, no problem.
21 Thank you, Madam Chair, and members of the Commission.

22 The H Street plan has been adopted by the
23 City Council. It proposed some changes in zoning, so
24 the Office of Planning expects to bring to the
25 Commission for consideration in October a new overlay

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1 and some map amendments to implement the
2 recommendations of the H Street plan.

3 The Diplomatic Overlay Text Amendment
4 relates to changes in the diplomatic overlay that have
5 been recommended as part of the Foreign Missions Task
6 Force and the foreign missions -- the new foreign
7 missions element of the federal elements of the
8 comprehensive plan. And we expect to bring a text and
9 map amendment to the Commission in October to
10 implement those changes.

11 The next two, the DMV facility text
12 amendment and the Fire Department text amendment,
13 relate to the fact that 10 years ago the regulations
14 were changed to require D.C. Government facilities to
15 have zoning, but there is no use in the zoning
16 regulations that relate to these two uses. So we have
17 text amendments that create use categories for both of
18 those that we will bring to the Commission in October.

19 The Dorchester Apartment PUD is a major
20 addition to the Dorchester. But we had been expecting
21 to bring that in October, however, the application has
22 not yet been filed. So unless it's filed in the next
23 few days, we won't have sufficient -- we won't have
24 enough time to get a setdown report written. So that
25 may -- you may or may not see that in October.

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1 The Rhode Island Avenue WMATA site planned
2 unit development, that also has not yet been filed, so
3 that also may or may not be in October.

4 With regard to the 200 K Street PUD
5 extension and modification, we have asked the
6 applicant -- the applicant filed a modification
7 application, but it was missing a considerable amount
8 of information, which we have requested in writing
9 from the applicant. And inasmuch as this modification
10 has been kind of in abeyance for quite a while, we
11 would hope to bring a finalized version of that
12 application and a setdown report on it, or setdown
13 recommendation on it, to the Commission in October.

14 And then, the Stewart Investment --
15 Stewart Investment had filed a separate request for a
16 map amendment for Square 483, actually that is, and
17 515, but the Commission incorporated that in the
18 overlay on Mount Vernon Triangle. So that has really
19 been superseded by the Commission's action on Mount
20 Vernon Triangle, and we're not expecting to provide
21 the Commission with a setdown report on that.

22 And, last, as Ms. Steingasser indicated
23 earlier, we do expect to get back to the Commission
24 with the final language on the Capital Gateway II map
25 amendment at the October meeting of the Commission.

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1 CHAIRPERSON MITTEN: Can I just ask you to
2 refresh my memory about 200 K Street? Because I
3 remember that that came to us, and perhaps we -- it
4 was the extension request. I'm just trying to
5 remember what -- we did something with it, but I don't
6 remember what it was.

7 DEP. DIR. MCCARTHY: It had come to the
8 Commission quite some time ago as an extension of the
9 time limit on the PUD, except that when the Office of
10 Planning reviewed the application for time extension
11 we discovered that there were some substantial
12 modifications of the PUD as approved. So we notified
13 the applicant that they were going to have to modify
14 the PUD, not simply extend the time limit.

15 At that point, the applicant decided that
16 they -- the PUD originally included a substantial
17 office building and two apartment towers, and the
18 applicant then decided that the market for an office
19 tower wasn't there, but the market for residential had
20 strengthened considerably.

21 So they wanted originally to do an all
22 residential project; then they changed and indicated
23 maybe they still wanted some commercial as part of it.

24 And we've had many, many meetings with the applicant
25 on the design of Stage I of that. There are also

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1 issues with regard to alley closings and others. So
2 we've worked with the applicant for a considerable
3 period of time on modifying the PUD.

4 And all of that, then, was a prelude to
5 them having finally filed the application for the PUD
6 modification, where we then notified them they were
7 still missing several pieces of that application.

8 CHAIRPERSON MITTEN: So you're confident
9 that that's going to get finalized and come to us?
10 Because, I mean, it seems to have been hanging out
11 there for quite a while.

12 DEP. DIR. MCCARTHY: Confident --

13 CHAIRPERSON MITTEN: No, not confident.
14 Okay.

15 DEP. DIR. MCCARTHY: We're hopeful. We're
16 hopeful.

17 CHAIRPERSON MITTEN: Okay. Because, I
18 mean, having an extension request just sort of
19 pending, if they're not serious, then we should just
20 find that out and vote it up or down. Okay.

21 DEP. DIR. MCCARTHY: We'd be happy to
22 communicate that to the applicant, that the Commission
23 would like to see a definite action one way or the
24 other within -- by October?

25 CHAIRPERSON MITTEN: Yes, that's -- that

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1 would be fair to say. Before my memory fades
2 completely, I want to --

3 (Laughter.)

4 Okay. Any questions for the Office of
5 Planning?

6 VICE CHAIRPERSON HOOD: The only other
7 thing, Madam Chair, we have a roundtable coming up on
8 September 23rd. And I was just wondering -- I don't
9 know whether this goes to Mr. Bastida or Office of
10 Planning. What the response has been from the people
11 who have been invited -- are we getting a good
12 response, no response, or it seems to be empty that
13 night, or what?

14 MS. STEINGASSER: I don't expect it will
15 be empty. We've gotten a good response from the city
16 agencies that want to speak and make their case, and
17 help the Commission understand what they're trying to
18 achieve. I've not gotten any comments from anyone
19 else, but that's not to say they're not out there.
20 They may have contacted Office of Zoning.

21 DEP. DIR. MCCARTHY: Right. Because the
22 invitation does come from the Office of Zoning, so
23 they probably have heard more up-to-date responses
24 than we have.

25 VICE CHAIRPERSON HOOD: Mr. Bastida, can

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1 you help me with that?

2 SECRETARY BASTIDA: Yes. We have had
3 three requests for testifying.

4 VICE CHAIRPERSON HOOD: My concern is if
5 we -- well, if we don't respond now, we will respond
6 later. So we want to do everything we can to get the
7 people in here on the 23rd. I don't even know if that
8 means send out another invitation. Okay. Thank you.

9 CHAIRPERSON MITTEN: Fortunately, we have
10 some representatives from the press in the audience,
11 so perhaps they can let their readers know that this
12 is really an important roundtable on changes in the
13 zoning regulations to accommodate community-based
14 residential facilities in industrial zones, and that
15 the Commission would really like to have a widespread
16 response and commentary from the public to give
17 guidance to them on -- and to the Office of Planning
18 on formulating a text amendment, to consider that in
19 the future.

20 VICE CHAIRPERSON HOOD: And one other
21 question -- thank you. One other question, Madam
22 Chair. On the Fort Totten case, which I think is
23 coming up on the 14th, does it look like that case is
24 going to go ahead? Is there any sign that it may be
25 postponed?

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1 DEP. DIR. MCCARTHY: The Rocky Gorge
2 application?

3 VICE CHAIRPERSON HOOD: Is that -- no, I
4 was --

5 DEP. DIR. MCCARTHY: In Fort Totten? Are
6 you talking about -- oh, you're talking about the
7 DPW --

8 VICE CHAIRPERSON HOOD: Yes, DPW. Right.
9 It's been around for a while.

10 DEP. DIR. MCCARTHY: Yes. DPW has not
11 indicated to us that they've changed their plans at
12 all, but we still don't have a final application or
13 final design from them on that project.

14 VICE CHAIRPERSON HOOD: Okay. Thank you.
15 Thank you, Madam Chair.

16 DEP. DIR. MCCARTHY: Oh, I'm sorry. Ms.
17 Steingasser corrects me. We did just receive one on
18 Friday.

19 VICE CHAIRPERSON HOOD: Oh, okay. Good.
20 Thank you.

21 CHAIRPERSON MITTEN: Anyone else? Mr.
22 Parsons?

23 COMMISSIONER PARSONS: Ms. McCarthy, as
24 you probably noted earlier, we didn't move forward
25 with Forest Hills this evening. We now have two

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1 members who have not participated and enjoyed the fun
2 and trauma of this case.

3 I was wondering if you could assist them
4 and all of us, and have an analysis or an evaluation
5 of kind of a side by side of what the Forest Hill
6 citizens are proposing, what the ANC is proposing, and
7 what the Office of Planning is proposing. I don't
8 mean in an extensive way, but I think it would be --

9 MS. STEINGASSER: We do have --

10 COMMISSIONER PARSONS: And maybe even the
11 existing overlay that's in place on the community as a
12 fourth -- I'm not proposing it as an option, but
13 something to help them through this.

14 MS. STEINGASSER: We have that exact
15 thing, because we needed it to --

16 (Laughter.)

17 -- do our hearings, as to where we were
18 and which elements were still in play. And it is all
19 four. It starts with the -- it's an --

20 COMMISSIONER PARSONS: Oh, good.

21 MS. STEINGASSER: -- it's printed in
22 color, and we will make sure that you have a copy of
23 that. We have copies here tonight in case you needed
24 it, and we'll make sure --

25 COMMISSIONER PARSONS: Oh.

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1 MS. STEINGASSER: -- well in advance,
2 because --

3 COMMISSIONER PARSONS: Yes. Well in
4 advance, please.

5 MS. STEINGASSER: We all share the
6 confusion -- the complexities of what's been --

7 MEMBER HILDEBRAND: It might even help us
8 in reading the record, too, if we had it in advance.

9 MS. STEINGASSER: Okay.

10 MEMBER HILDEBRAND: At least we could --
11 it might eliminate some confusion as we're reading
12 through it.

13 MS. STEINGASSER: Okay.

14 MEMBER HILDEBRAND: In some of the
15 hearings.

16 MS. STEINGASSER: We can e-mail a copy to
17 you tomorrow, and then we can get you a paper copy as
18 well.

19 CHAIRPERSON MITTEN: Do you have one that
20 shows the changing positions of each party as the case
21 has progressed?

22 (Laughter.)

23 Because that will really be -- show the --

24 DEP. DIR. McCARTHY: That would be a four-
25 dimensional matrix.

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1 (Laughter.)

2 CHAIRPERSON MITTEN: Okay. One question
3 about Trenton Terrace PUD. That's another one that's
4 been kind of hanging around a while. Is that really
5 going to go forward, do you know, or is that something
6 that we should be pursuing a dismissal of?

7 DEP. DIR. MCCARTHY: We'll check with the
8 applicant and see what their plans are at this time.

9 CHAIRPERSON MITTEN: And maybe Eastgate
10 would be in that category as well.

11 DEP. DIR. MCCARTHY: Right. We know when
12 Eastgate was originally filed with us it was being
13 submitted as an application for HOPE VI to the
14 Department of Housing and Urban Development. It was
15 unsuccessful that round, but it was just selected on
16 the last round. So I believe it will be coming back,
17 but we will be happy to check with the Housing
18 Authority on both of those and update the Commission
19 in next month's status report.

20 CHAIRPERSON MITTEN: Okay. Thank you.

21 Anybody else, questions for Office of
22 Planning?

23 All right. Now we're ready to take up
24 those pesky minutes. Let me just see -- okay. We
25 have -- we can take these in two batches, I think.

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1 The April 12th meeting minutes and the May 10th
2 meeting minutes -- we had full attendance, so we're
3 all in a position to vote. And I would move approval
4 of the April 12th and May 10th meeting minutes,
5 subject to any editorial changes.

6 VICE CHAIRPERSON HOOD: Second.

7 CHAIRPERSON MITTEN: Any substantive
8 changes, comments? All right. Then, all those in
9 favor, please say aye.

10 (Chorus of ayes.)

11 We have none opposed, Ms. Schellin.

12 MS. SCHELLIN: Staff will record the vote
13 five to zero to zero, to approve Zoning Commission
14 meeting minutes of April 12, 2004, and May 10, 2004.
15 Commissioner Mitten moving, Commissioner Hood
16 seconding. Commissioners Hildebrand, Jeffries, and
17 Parsons in favor.

18 CHAIRPERSON MITTEN: Okay. And then we
19 have the minutes -- if they are correct, we have the
20 minutes of the June 14th public meeting, the June 17th
21 special public meeting, and the July 12th public
22 meeting, which had all of us in attendance except Mr.
23 Jeffries, and so you would not be eligible to vote, if
24 that's correct.

25 MEMBER JEFFRIES: I recall the 14th

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1 Monday --

2 CHAIRPERSON MITTEN: Would you turn on
3 your microphone, please?

4 MEMBER JEFFRIES: I recall Monday,
5 June 14th. I just -- Thursday, June 17th is escaping
6 me. Not present, not voting. Okay.

7 CHAIRPERSON MITTEN: Actually, it looks
8 like, as I read through the minutes, now that I've
9 lumped them in these categories, on July 12th it shows
10 -- it shows you voting, and not by absentee ballot.
11 So I'm thinking that the attendance part of that is
12 not correct.

13 So let's take the June 14th and June 17th
14 minutes together, and then, Mr. Jeffries, you can vote
15 on the last one, because it looks like you were
16 actually there.

17 MEMBER JEFFRIES: Okay.

18 CHAIRPERSON MITTEN: All right?

19 VICE CHAIRPERSON HOOD: Madam Chair, I
20 would move approval of our June 14th minutes and our
21 June 17th minutes, with any necessary corrections.

22 CHAIRPERSON MITTEN: Thank you. I'll
23 second.

24 Anyone have any substantive corrections?

25 All those in favor, then, please say aye.

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1 (Chorus of ayes.)

2 And then, Ms. Schellin, Mr. Jeffries did
3 not attend, so he didn't vote on those. If you'd
4 record the vote.

5 MS. SCHELLIN: Okay. Staff will record
6 the vote four to zero to one, to approve Zoning
7 Commission meeting minutes of June 15, 2004, and
8 June 17, 2004. Commissioner Hood moving, Commissioner
9 Mitten seconding. Commissioners Hildebrand and
10 Parsons in favor; Commissioner Jeffries not voting,
11 having not participated.

12 CHAIRPERSON MITTEN: Thank you.

13 And then we have our editorial change for
14 the July 12th minutes, which is that Mr. Jeffries was
15 in attendance. And I would move approval of the July
16 12th minutes, with any necessary corrections. And I
17 would love it if someone would second it.

18 VICE CHAIRPERSON HOOD: Second.

19 COMMISSIONER PARSONS: The Vice Chairman
20 has taken up the role of seconding --

21 VICE CHAIRPERSON HOOD: Is that --

22 COMMISSIONER PARSONS: -- for the past two
23 or three months, and I just thought it --

24 VICE CHAIRPERSON HOOD: Oh, okay.

25 CHAIRPERSON MITTEN: Okay.

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1 VICE CHAIRPERSON HOOD: Just trying to --
2 it's about 8:00. There's 9:00 Monday Night Football.

3 CHAIRPERSON MITTEN: Oh, okay. Then, all
4 those in favor, please say aye.

5 (Chorus of ayes.)

6 Ms. Schellin?

7 MS. SCHELLIN: Staff will record the vote
8 five to zero to zero, to approve Zoning Commission
9 meeting minutes of July 12, 2004. Commissioner Mitten
10 moving, Commissioner Hood seconding. Commissioners
11 Hildebrand, Jeffries, and Parsons in favor.

12 CHAIRPERSON MITTEN: Thank you.

13 COMMISSIONER PARSONS: With the
14 correction.

15 CHAIRPERSON MITTEN: With the correction,
16 which she will pick those up on the back side.

17 All right. Anything else, Mr. Bastida,
18 that you think we need to do today?

19 SECRETARY BASTIDA: No, Madam Chairman.
20 The staff has no other matters. Thank you.

21 CHAIRPERSON MITTEN: All right. Thank
22 you, all, and we are now adjourned.

23 (Whereupon, at 7:56 p.m., the proceedings
24 in the foregoing matter were adjourned.)

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